

## VERDICTS & SETTLEMENTS

### BUSINESS LAW

#### Breach of Contract

##### Construction Defect

**BINDING ARBITRATION:** \$109,743.03 (in favor of defendant on cross-complaint, including defendant's costs and attorney fees on the complaint).

**CASE/NUMBER:** Ideal 2000 v. Michael Blum / BC164829.

**COURT/DATE:** Case Not Filed / Sept. 18, 1997.

**ARBITRATOR:** Stephen Schneider, Esq. Arbitration Mediation International.

**ATTORNEYS:** Claimant - James G. Morris (Morris & Associates, Sherman Oaks).

Respondent - Jonathan B. Cole, David B. Owen (Nemecek & Cole, Sherman Oaks).

**TECHNICAL EXPERTS:** Claimant - Shawn Azarfar, cabinetry, Northridge

**FACTS:** On Aug. 1, 1996, claimant agreed to provide custom cabinets to a residence being constructed by respondent. Claimants were to be paid a total of \$53,000 with 50 percent due on signing the contract, 25 percent upon delivery and the final 25 percent upon completion. Prior to full delivery, claimant demanded the second progress payment. When respondents refused, claimant walked off the job. The claimant brought this action against the defendant based on a breach of contract theory of recovery. The respondent cross-complained, alleging construction defect and breach of contract.

**CONTENTIONS:** The claimant contended that the cabinets delivered exceeded 25 percent of the contract amount, and therefore, respondent breached the contract by refusing to make the second progress payment.

The respondent contended that claimant had only delivered cabinet "boxes" without the finished doors or drawers and the value of the boxes was only 10 percent of the total contract price. Additionally, respondent claimed the boxes were poorly installed. After claimant walked off the job, respondent claimed he was required to hire replacement cabinet makers at nearly twice the amount of the contract.

**DAMAGES:** Claimant claimed damages of \$18,000 based on the cost of materials provided to the job. Respondent claimed damages of \$109,743.03 based on the overpayment to claimant, cost of hiring replacement cabinet makers, delay to the project and costs and attorney fees.

**ARBITRATION:** Length three days. An arbitration was held on Sept. 18, 1997 before Stephen Schneider, Esq. of Arbitration Mediation International resulting in the reported award.

**SETTLEMENT DISCUSSIONS:** No settlement offers were made.

**OTHER INFORMATION:** The award was reached approximately four and one half months after the case was filed.

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