

Angeles Contractor, Inc. v. Mt. San Antonio College - Case No. 72 110 0308 13 SCH

4/08/2015

Attached is the ruling by the Arbitrator on the issue of costs and attorneys' fees. We did great! The bottom line is that ACI owes the District \$398,333.55. This is obviously a terrific result!

As you may recall, both Mt SAC and ACI filed post-arbitration motions claiming entitlement to attorneys' fees and costs of the arbitration. The motions were heard on March 23, 2015. We got the Arbitrator's written ruling last night. Mt SAC was awarded \$654,764.10 in attorneys' fees and costs(!), which includes \$461,820.50 in attorneys' fees, \$157,803.96 in expert fees (Paul Makris/PRCI), \$26,250.00 in fees for the Arbitrator, and \$8,889.64 in other miscellaneous costs (service of process, witness fees, exhibits).

The Arbitrator awarded ACI \$125,717.25, consisting of \$106,012.25 in attorneys' fees, nothing for expert fees (Carl LaFraugh), \$11,005.00 in fees for the Arbitrator, and \$8,700.00 for filing fees.

The discussion and rulings concerning the costs and attorneys' fees starts on page 10 of the attached Award. In a nutshell, the Arbitrator found that ACI was the "prevailing party" under CCP 1032 in that it received an award of \$130,713.30 (\$106,951 plus \$23,762.30 in interest), representing a portion of the retention withheld by the District. On the other hand, the Arbitrator found that Mt. SAC was the "prevailing party" under CCP 998 after it presented its pre-arbitration 998 settlement offer to ACI in May 2014. As such, the Arbitrator awarded ACI 100% of its pre-offer costs (excluding expert fees) and awarded Mt. SAC 100% of its post-offer costs (including expert fees) for making a settlement offer (\$338k) that was not accepted by ACI and which exceeded ACI's recovery (\$130k) in the arbitration. The Arbitrator ruled that Mt SAC was well within its rights in withholding the retention. Also, while the Arbitrator was required to award some amount of post-offer attorneys' fees and costs to Mt SAC under CCP 998, the award of expert fees was not required, but lies within the Arbitrator's discretion. The Arbitrator exercised his discretion in including the full amount of Mt SAC's post-offer expert fees (\$157,803.96) in the Award.

All of these rulings are summarized on page 14. Specifically, ACI was awarded \$106,951 (the retention of \$338,951 less Mt SAC's liquidated damages award of \$232,000) plus interest of \$23,762.30, plus attorneys' fees and costs totaling \$125,717.25. Mt SAC was awarded \$654,764.10 in attorneys' fees, expert fees and costs. The Arbitrator then netted the two awards to result in a net award to Mt SAC in the amount of \$398,333.55. This amount accrues interest at the legal rate of 10% per annum, so ACI will further owe Mt SAC \$109.13 per day until the award is paid.

So, the overall result is that Mt SAC is entitled to keep the \$338,951 in retention and will receive \$398,333.55, plus interest, from ACI on top of that.

The next step is for us to file the Award with the Superior Court to confirm the Award, then have judgment entered in accordance with the Award. This is all strictly procedural and should take around 60 to 90 days to complete. In the meantime, it is in ACI's best interests to pay the Award as soon as possible to avoid the interest accrual.

We are extremely pleased with this phenomenal result and hope you are too.

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