
Dispute Resolution Provision, in AIA 201-1997 General Conditions, Narrowly Construed by Trial Court

By Mark A. Nasr / Dec 05, 2016

A federal trial court in New Jersey narrowly interpreted the AIA general conditions (Form A201-1997) relating to dispute resolution. Specifically, the court in *Blackman Co. v. GE Bus. Fin. Servs.*, U.S. Dist. LEXIS 87904 (July 7, 2016), analyzed whether a party contractually waived its right to a jury trial for claims that were discovered three years after construction was completed. The dispute resolution provisions provided that: "Any Claim arising out of or related to the Contract...shall, after decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to arbitration." The court ruled that the language used in the dispute resolution provision electing binding arbitration in lieu of trial by a jury was "established to resolve disputes between the owner of the property and the contractor that arose during construction," not to claims that followed completion of the construction. Further, the court noted that selection of the architect as the arbiter of disputes dispelled the notion that the arbitration provision applied to post-construction defects, and that it "would not make any sense for the architect to be designated as the first-line arbiter in the sequential dispute resolution procedures if those procedures applied to post-construction claims." This ruling, although lacking appellate review, makes clear that if the parties agree that all disputes - whether they arise during construction or post construction - should be resolved through binding arbitration, the parties should clearly and unmistakably establish that the parties waive their right to a trial in favor of binding arbitration for all disputes, no matter when the dispute arises. The court's analysis was limited to AIA General Conditions Form A201-1997. However, that form remains a widely used construction document and anyone using that form (or one with similar language) should be cautious based upon this ruling.

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