

CompDigest

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of California Workers' Compensation Defense Community™

In This Issue



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From the Desk of...

**Unlicensed
Contractors beware.**

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From the Desk of...

The case of Esaul Alatrisme v. Cesar's Exterior Designs, Inc. 183Cal. App. 4th 656, while not necessarily a workers' compensation case, is a very interesting case all the same. In this case an unlicensed contractor had agreed to perform landscape work at the Alatrisme residence. It was understood that the contractor was not licensed. The contractor's son was in the process of obtaining his contractor's license. In fact, part way through the project the son did obtain a state contractor's license which was required for the work that was being done. Unfortunately, a dispute arose and Alatrisme claimed that "substandard" work had occurred. The contractor refused to do anymore work without payment. Alatrisme then commenced a legal proceeding for reimbursement for all amounts paid to date to the contractor which totaled \$57,500.00. The contractor argued that the contract should be enforced because Alatrisme knew when he hired him that he did not have a state contractor's license. Even if this argument was not accepted the contractor argued that he should be paid for the dates when he did have a license. The contractor also claimed that he should at least be paid for materials which he had provided the homeowner.

The case went before a Judge in the Superior Court of San Diego County. The Judge ruled in favor of Alatrisme on all accounts. He ordered reimbursement of all amounts paid to date which totaled \$57,500.00. The judgment was appealed.

The Court of Appeal reviewed Business and Professions Code Section 7031(b). It agreed with the Superior Court Judge and affirmed his ruling. The court stated that homeowners who have not paid an unlicensed contractor are protected from being sued for payment and those who have paid may recover all compensation delivered. The court noted that the legislature specifically intended to permit full recovery even if the hiring party had actual knowledge the contractor was unlicensed. Section 7031(b) provides a reimbursement right for all amounts paid to an unlicensed contractor if the contractor was unlicensed at any time during the performance, unless the statutory substantial compliance rules are met. In this case, the substantial compliance rules were not satisfied.

The contractor is ineligible to recover any compensation if, at any time during the performance of an agreement for contractor services, he or she was not duly licensed (unless substantial compliance per the code is shown). With regards to reimbursement for materials used on the project, the court dismissed that argument as well. The court indicated that their use of the plain and usual meaning of "all" is consistent with the reference to off-sets. If reductions for off-sets were allowed, deterrents of unlicensed work would be diminished. In this case, the contractor was not allowed payment for any of his work, or any of the materials used on the project. All monies paid to the contractor were ordered reimbursed.

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This case stands as a very severe warning to unlicensed contractors. This wasn't a situation where a licensed contractor had a temporary lapse of his license. In such a situation most probably "substantial compliance" can be proven. When this particular project was started the contractor had never before had a state contractor's license. Besides the civil remedies noted in Business and Professions Code Section 7031, California provides for criminal penalties for contractors who do work without the necessary state contractors licenses.