

**AMERICAN ARBITRATION ASSOCIATION
Home Construction Arbitration Tribunal**

In the Matter of the Arbitration between:	:	
	:	
JULIAN RAMIREZ	:	
	:	
Claimant	:	
	:	
v.	:	Case No. 01-23-0001-9603
	:	
ANDRADE CONSTRUCTION, LLC	:	
	:	
Respondent	:	

EX-PARTE FINAL AWARD OF ARBITRATOR

I, **THE UNDERSIGNED ARBITRATOR**, having been designated in accordance with the arbitration agreement entered into between the above-named parties and dated April 6, 2021, (last executed July 28, 2021), and having been duly sworn, and having duly heard the allegations and proofs of the Claimant, represented by Julian Ramirez, and the Respondent, having failed to appear after due notice by mail in accordance with the Rules of the American Arbitration Association, hereby **FIND** as follows.

This matter arises out of a "Service Contract" (the "Contract") between Julian Ramirez (the "Claimant") and Andrade Construction LLC (the "Respondent") for the construction of an in-ground pool, coping, patio, pool deck, self-supporting wooden deck, and related construction (the "Work"). Although the Respondent was named in the Demand as Orestes Andrade, the only evidence presented established that the contracting party was Andrade Construction, LLC.

The Claimant's demand sought the sum of \$30,000.00 together with "Attorney's Fees", and "Arbitration Costs", and the matter proceeded as a Level 2 Dispute under the Home Construction Arbitration Rules. Prior to the commencement of the hearing, the Claimant submitted an amended claim in the amount of \$111,077.77, which exceeds the jurisdictional

limit of \$100,000 for a Level 2 dispute. There is no counterclaim.

The Arbitrator heard the sworn testimony of Julian Ramirez on behalf of the Claimant. The Arbitrator also admitted into evidence Claimants' Exhibits C-1 through C-27. The Arbitrator has had an opportunity to review the exhibits and testimony, to assess the credibility of the witness during his testimony, to give the testimony and the documentary evidence the weight that each are due, and to hear and consider the arguments on behalf of the Claimant.

The work was to be completed within 75 days from the commencement thereof. The commencement date was "following receipt of an approved Building Permit", which approval occurred on July 20, 2021. Work actually commenced without objection on September 13, 2021; accordingly, the latest completion date was December 27, 2021. Nonetheless, the parties agreed that work would be suspended during the winter months. Although Respondent alternately promised re-commencement of the Work in March and completion in April and May, Respondent had not re-commenced the Work by mid-June, never achieved substantial completion, and abandoned the Work without justification.

The Arbitrator finds that Andrade Construction, LLC materially breached the Contract 1) by failing to achieve substantial completion, and 2) by abandonment of the work. Accordingly, the Claimant was justified in obtaining bids for correction and completion of the Work and entering into a completion contract with BR Design/Build, LLC for correction and completion of the Work.

The Arbitrator further finds on the merits that the Claimant 1) is entitled to recover under Md. Code Ann., Bus. Reg. §8-405(a), 2) has suffered an "actual loss" as defined by Md. Code Ann., Bus. Reg. §8-401, and 3) that the computation of the "actual loss" pursuant to Code of Maryland Regulations (COMAR") #09.08.03.03(B)(3) is as follows:

Amount paid to or on behalf of Andrade Construction, LLC	\$70,450.77
Reasonable amount to correct and complete the Work	<u>\$116,725.00</u>
Subtotal:	\$187,175.77
Less original Contract price	<u>\$76,098.00</u>
Actual Loss:	\$111,077.77

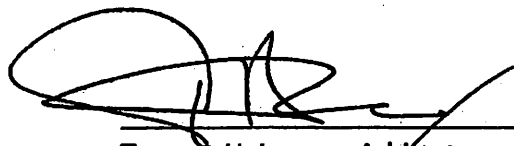
Notwithstanding the actual loss of \$111,077.77, the maximum allowable in a Level 2 dispute under the Home Construction Arbitration Rules is \$100,000.00.

The Contract also provides for an award of reasonable attorney's fees to the prevailing party and that the costs and fees associated with arbitration shall be shared equally by the parties. The Arbitrator finds that the sum of \$2,500.00 paid by the Claimant to his attorney is fair and reasonable.

The Arbitrator has reviewed in detail the evidence submitted with respect to the issues of liability, as well as the damage claims. The Arbitrator has applied the legal principles applicable to this dispute, including the burden of proof, has considered the contractual obligations of the parties and applicable law, and has considered the fairness and reasonableness of the damages submitted. Based upon that detailed review, and as set forth above, the Arbitrator **DETERMINES AND AWARDS**, as follows:


1. The claim of the Claimant Julian Ramirez is allowed against Andrade Construction, Inc. in the amount of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00), being the "actual loss" incurred by the Claimant as capped by the Rules.
2. The claim of the Claimant Julian Ramirez for an award of attorney's fees is allowed against Andrade Construction, Inc. in the amount of TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$2,500.00).
3. The administrative fees and expenses of the American Arbitration Association totaling \$1,770.00 shall be borne equally, and the compensation of the arbitrator totaling \$1,250.00 shall be borne equally. Therefore, Orestes Andrade shall pay Julian Ramirez the amount of \$1,510.00.
4. The above sums are to be paid on or before thirty (30) days from the date of this Award.
5. All claims and counterclaims not otherwise provided for herein are denied.

Dated: August 27, 2023


Tarrant H. Lomax, Arbitrator

I, Tarrant H. Lomax, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument which is my Final Award.

Dated: August 27, 2023



Tarrant H. Lomax

**IN THE MATTER OF
THE CLAIM OF JULIAN RAMIREZ
AGAINST THE
MARYLAND HOME IMPROVEMENT
GUARANTY FUND ON ACCOUNT OF
ALLEGED VIOLATIONS OF
ORESTES ANDRADE AND
ANDRADE CONSTRUCTION, LLC**

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**MARYLAND HOME
IMPROVEMENT COMMISSION**

Case No. 1392-2022

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FINAL ORDER

On this 17th day of October 2023, Panel B of the Maryland Home Improvement Commission ORDERS that:

1. Pursuant to Business Regulation Article, §8-408(b)(3)(i), Annotated Code of Maryland, the Claimant has provided the Commission with a copy of a final arbitrator's decision dated August 27, 2023, in which the arbitrator found on the merits that the conditions precedent to recovery, as set forth in Business Regulation Article, §8-405(a), Annotated Code of Maryland, have been met, and found that the Claimant sustained an actual loss of \$111,077.77.
2. The Commission advised Respondent in writing that the Commission intended to award the Claimant \$30,000.00 and that the Respondent had 21 days to submit to the Commission any reasons why the Commission should not pay the award to the Claimant.
3. The Respondent did not reply to the Commission's letter.
4. The Commission directs payment from the Home Improvement Guaranty Fund of \$30,000.00 to the Claimant, Julian Ramirez.
5. Pursuant to Business Regulation Article, §8-411(a), Annotated Code of Maryland, any home improvement licenses held by the Respondent, Orestes Andrade and Andrade Construction, LLC, shall be suspended, and the Respondent shall be ineligible for any home improvement

licenses until the Respondent has repaid any money paid from the Home Improvement Guaranty Fund pursuant to this Order, with 10 percent annual interest.

6. The records and publications of the Maryland Home Improvement Commission shall reflect this decision.

Joseph Tunney
Chair