

HONORABLE ROBERT S. LASNIK

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

UNITED STATES OF AMERICA, for the
Use and Benefit of ARRIBA
CONSTRUCTION, INC., and ARRIBA
CONSTRUCTION, INC., a Washington
corporation;

Plaintiffs,

vs.

ACTIVE CONSTRUCTION, INC., a
Washington corporation, and LIBERTY
MUTUAL INSURANCE COMPANY, Miller
Act Performance and Payment Bond No.
023028040,

Defendants.

No. 2:16-cv-00300-RSL

~~PROPOSED~~ ORDER ON
DEFENDANTS' POST-
ARBITRATION MOTIONS TO LIFT
STAY, CONFIRM AWARD, ENTER
JUDGMENT, AND DISMISS
PLAINTIFF'S CLAIMS WITH
PREJUDICE

THIS MATTER having come on for hearing before the undersigned Judge of the above-entitled Court on Defendant's Motions to lift stay, to confirm arbitration award, to enter judgment on arbitration award, and to dismiss Plaintiff's claims with prejudice.

The Court, having considered the motions and the documents on file and being otherwise fully advised in the premises, finds that Plaintiff Arriba Construction, Inc's construction contract provided for binding arbitration of its claims with Defendant Active Construction, Inc.; that Plaintiff and Defendant Active Construction, Inc. asserted claims and counter-claims against each governed by the arbitration agreement; that the parties stipulated to the entry of a stay in this action pending completion of arbitration of their claims; that that arbitration has been completed and an award rendered; that

~~PROPOSED~~ ORDER ON
DEFENDANTS' POST-ARBITRATION
MOTIONS - 1

MARSTON LEGAL
A PROFESSIONAL LIMITED LIABILITY COMPANY
11400 98TH AVENUE NE, SUITE 201
KIRKLAND, WA 98033-4306
PHONE: 425.861.5700 • FAX: 425.861.6969

1 Defendant Active Construction, Inc. was the prevailing party in the arbitration, receiving a total award
2 of \$95,934.26 (consisting of a principal amount of \$92,034.26 plus \$3,900.00 for AAA administrative
3 and arbitrator's fees); that Plaintiff received nothing on its claim(s); and that Defendants are entitled
4 to have the stay lifted, the arbitration award confirmed, judgment entered on the arbitration award; and
5 dismissal with prejudice of Plaintiff's claims against Active Construction, Inc. and Liberty Mutual
6 Insurance Company. Now, therefore, it is HEREBY

7 ORDERED, ADJUDGED AND DECREED that the Motions of Defendants are GRANTED
8 and

- 9
- 10 1) the stay in this action is vacated;
 - 11 2) the 11/6/17 AAA arbitration award (Appendix A here) is confirmed;
 - 12 3) Defendant Active Construction, Inc. is granted judgment against Plaintiff Arriba
13 Construction, Inc. in the amount of \$95,934.26; and
 - 14 4) the claims of Plaintiff Arriba Construction, Inc. against Active Construction, Inc., and
15 against Liberty Mutual Insurance Company (and its Bond No. 023028040) are
16 dismissed with prejudice.

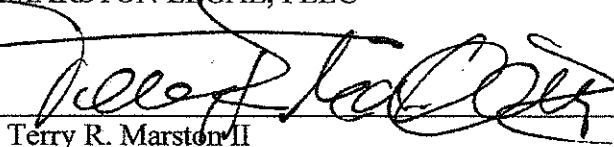
17 Dated this 23rd day of March, 2018.

18 

19 Robert S. Lasnik
20 United States District Judge

21 Presented by:

22 MARSTON LEGAL, PLLC

23 
24 Terry R. Marston II
25 WSBA No. 14440
26 Attorneys for Defendants
Active Construction, Inc. and Liberty Mutual
Insurance Company

Appendix A

AMERICAN ARBITRATION ASSOCIATION
Construction Industry Arbitration Tribunal

In the Matter of the Arbitration between

Re: ACTIVE CONSTRUCTION, INC.,
Claimant

And

ARRIBA CONSTRUCTION, INC.,
Respondent

Case No. 01-15-0002-6348

AMENDED AWARD OF ARBITRATOR

This Amended Award of Arbitrator is by the direction of the American Arbitration Association (AAA) to clarify and reduce the administrative fees of the AAA in this matter. THEREFORE, I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into between the above named parties and signed by them on April 14 and 30, 2014 and having been duly sworn, and having duly heard the proofs and allegations of the Claimant, and the Respondent having failed to appear after due notice by mail in accordance with the Rules of the American Arbitration Association, hereby AWARD as follows:

RECITALS.

1. This dispute arises out of a sub-contract given by Claimant to Respondent for a portion of a Federal Highway Project for the Middle Fork Snoqualmie Bridge.
2. On August 16, 2017 a preliminary hearing was held telephonically in this matter to set a schedule for case events. Notice of the hearing was previously sent to both parties. Respondent by its President, Ben Cook did not participate in this hearing although once again contacted by Lupe Gonzalez-Baca, AAA Manager of Case Services at the commencement of the hearing. Mr. Cook stated he/Arriba Construction, Inc. would not be participating. Mr. Cook had previously filed for Bankruptcy in the United States District Court. The Arbitrator's Order on Preliminary Hearing dated August 17, 2017 is incorporated by reference as though fully set forth herein. A copy of this Order was sent to Respondent.
3. The above referenced Order set forth deadlines for submissions by the parties of their proofs in support of or defense of any claims. The Order provided hearings by written submissions would be closed on October 18, 2017. Claimant has fully complied with the Order submitting a Motion for Summary Judgment together with the Declaration of Mark Andrews and his attached exhibits (199 pages) Exh. A through F detailing every pertinent aspect of Claimant's claim. Respondent has failed to appear or make any submissions.

AWARD.

NOW THEREFORE Claimant is awarded against Respondent the following sums which shall be paid by Respondent:

1. The sum of \$92,034.26.
2. The Administrative fees and expenses of the AAA heretofore paid by Claimant totaling \$2,950.00 are to be borne in the sum of \$2,950.00 by Arriba Construction, Inc. . The Compensation and expenses of Arbitrator heretofore paid by Claimant totaling \$950.00 are to be borne in the sum of \$950.00 by Arriba Construction, Inc.. Therefore, Arriba Construction, Inc. shall pay to Active Construction, Inc., the amount of \$3,900.00 for administrative fees and arbitrator's compensation.
3. All the foregoing sums awarded Claimant shall bear interest from the date of this Award at the rate authorized by law.
4. This award is in full and complete settlement of all claims and issues arising between Claimant and Respondent, including any claims Respondent might have had against Claimant arising out of or related in any way to its sub-contract with Claimant in this matter. All claims not expressly granted herein are hereby, denied.

Dated this 6TH Day of November, 2017.



J. RICHARD MANNING, ARBITRATOR