

California Court Sends Solar Contractor's Bond Claims to Arbitration

Article By:

John Mark Goodman

A California federal court ruled last week that a surety can enforce an arbitration clause in a contract to which it is not a party. The dispute involves performance and payment bond claims brought by solar contractor Swinerton Builders, Inc. Swinerton brought the claims in California federal court against Argonaut Insurance, the surety of a mechanical subcontractor who defaulted after its owner and license qualifier passed away. The surety moved to compel arbitration pursuant to the dispute resolution provision of the underlying subcontract.

The court recognized that generally only parties to an arbitration agreement may invoke the right to compel arbitration. The court nevertheless held that where a surety bond incorporates an underlying contract that contains an arbitration provision, the surety agrees to be bound by – and may therefore invoke – that provision. Furthermore, because the provision at issue adopted the AAA's Construction Industry Rules, any dispute as to arbitrability of the claims at issue must be decided in the first instance by an arbitrator. The court therefore entered an order compelling arbitration and staying the court action pending final resolution of the arbitration.

A full copy of the court's decision is available [here](#).

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National Law Review, Volume XIV, Number 81

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