

ARBITRATION AWARD

ANKENY V. RICK HAMM CONSTRUCTION

BY: SARITA T. PATEL, ESQ.

Plaintiff Attorneys

Anderson & Kriger, APC
Clayton M. Anderson, Esq.
Sarita T. Patel, Esq.

TORTS: Negligence

VERDICT: \$15,201.13 in favor of Claimants

ARBITRATOR: David N. Hoadley
American Arbitration Association

ATTORNEYS: Claimants Counsel- Sarita T. Patel of Anderson & Kriger
Respondent- Rick Hamm Construction

CASE NAME: Ankeny v. Rick Hamm Construction

TECHNICAL EXPERTS: Dennis Hannan of Hannan Geotechnical

FACTS: Homeowners/Claimants contracted with Respondent Rick Hamm Construction to build a concrete deck around their pool and install drains. A dispute arose when yard flooded during rain and the deck began to lift around the pool.

CLAIMANT CONTENTION: The Ankenys contracted with Rick Hamm Construction to build a concrete deck around their pool at their property in Mission Viejo. Claimants contend that Rick Hamm never required or insisted on having a soils report prior to commencing work. Although Rick Hamm acknowledged that Mission Viejo was full of expansive soils, proper drainage and pre-saturation of the soil was never done when installing the concrete deck. Within three months of completion, the side yard had flooded during the rain and the deck had lifted over an inch around the pool. Rick Hamm, on a number of occasions, insisted that the Contractor's State License Board had made a determination in writing relinquishing him of all liability, but was never able to produce such a letter or the name of the individual at the CLSB who made the

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determination. In fact, Claimants produced a letter from the CSLB indicating that the file was closed due to a private arbitration clause in the contract, NOT because of a finding of no liability on the part of Rick Hamm Construction, thus necessitating the filing of the arbitration. Respondent also insisted that his crew had pre-saturated the soils and properly connected the drains during construction, but produced no evidence or witnesses at arbitration.

RESPONDENT CONTENTION: Rick Hamm contended that since he knew Mission Viejo was known for having expansive soils, he insisted on having a soils report done. Respondent also insisted that the soils were pre-saturated.

DAMAGES: Claimants pool deck had lifted over an inch around the pool and required a complete removal and replacement.

RESULTS: The arbitrator found in favor of Claimants in the amount of \$15,201.13.