

## **CONTRACTOR’S LACK OF LICENSE IS AN AFFIRMATIVE DEFENSE SUBJECT TO WAIVER IN ARBITRATION PROCEEDINGS**

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*Smith v. Pinnamaneni*

Ct. Appeals, Div. One, April 28, 2011

Authored by the [JSH Appellate Team](#)

Pioneer contracted with W Inc. to build a home. Pinnamaneni, its managing member, signed the contract for Pioneer. The contract contained an arbitration clause, which W invoked when a dispute arose. Pinnamaneni, however, did not appear at the arbitration, and the arbitrator issued an award to W against Pioneer and Pinnamaneni.

Shortly before the arbitration, Pinnamaneni discovered that W was not licensed when the parties signed the contract. Pinnamaneni opposed confirmation of the arbitration award, citing the licensure statute. W argued that Pioneer/Pinnamaneni waived the licensing argument by failing to appear at arbitration. The superior court agreed and confirmed the award.

The court of appeals affirmed, holding that a contractor’s lack of licensure is an affirmative defense subject to waiver. The contractor’s contracts are not void, but voidable. Further, the only objections to confirmation of an arbitration award are those listed in A.R.S. § 12-1512.