
SUCCESSFUL PARTY IN REGISTRAR OF CONTRACTOR'S APPEAL IS NOT ENTITLED TO ATTORNEYS' FEES

July 2, 2009 | Law Alerts

Keystone Floor & More, LLC v. Arizona Registrar of Contractors
Ct. Appeals, Div. One, July 2, 2009

Authored by the [JSH Appellate Team](#)

Contractor performed tile install work for Customer via oral contract. When the tiles began to crack, Customer filed a complaint with the Registrar of Contractors ("ROC") for "bad workmanship." Contractor argued it was an unsettled foundation issue, not a workmanship issue. Upon recommendation by an Administrative Law Judge, the ROC sided with Customer and not only gave Contractor a citation, but also filed a complaint against the Contractor pursuant to A.R.S. § 32-1154(A), for violating the ROC Workmanship rule. The ROC ordered Contractor's license revoked. Contractor timely appealed the decision to the Superior Court in accordance with the Administrative Review Act. The superior court affirmed. Customer asked for an award of attorney's fees because it was a contested action, in which he was the successful party, and it arose out of contract. The court granted the fee request and Contractor appealed, arguing the action arose out of statutory claims, not contract.

The court of appeals agreed with Contractor and reversed the award of attorney's fees. This was not an action arising out of contract, because the basis of the action was purely statutory. The issue on appeal was whether the sanction for violating the statutory Workmanship Rule was appropriate, not whether there was a contract violation by Contractor.