

The Virgin Islands Consortium

ABC Construction and Principal Sued Over Unfinished St. John Home; Complaint Alleges Double-Billing and Fraud

Dogwood Asset and Danny Jones accuse ABC Construction and Andrew Barlas of missing a two-year completion target, overbilling labor and materials, withholding paid-for materials and fraud. The defendants had not responded to the lawsuit as of press time.

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ST. JOHN — A St. John construction company and its principal are facing a civil lawsuit alleging they failed to complete a residential project within the agreed timeframe while engaging in improper billing practices, including alleged labor double-billing, unauthorized

wage markups and charges for costs that had already been eliminated from the project.

Dogwood Asset STJ 6-3 Estate Contant and its principal, Danny Jones, contracted ABC Construction Corporation and its principal, Andrew Barlas, to construct a single-family residence with a basement garage, detached guest house, driveway and swimming pool.

The contract listed an approximate completion date of Aug. 21 and included several provisions governing the project, including compensation on a “cost-plus” basis, established wage and equipment-use rates and cost-control requirements.

According to the complaint, Barlas represented that ABC could complete the construction within two years even though he allegedly knew the project would require three years or longer.

The lawsuit alleges that he agreed to the shorter timeframe because he believed Jones would not accept a longer construction period.

Plaintiffs Say Scope Reductions Did Not Produce Matching Bills Cuts

The complaint alleges that problems continued after construction began.

Several reductions in the project's scope lowered anticipated material costs by almost \$1 million, according to the lawsuit.

Despite those reductions, plaintiffs allege that ABC continued billing as though the original work remained in place, “treating the Exhibit A estimates as fixed entitlements rather than estimates of actual cost.”

The lawsuit contends that the same type of billing problems extended to labor.

Under the contract, labor charges were required to be itemized, but plaintiffs say ABC instead submitted lump-sum labor invoices.

When questioned, Barlas allegedly acknowledged marking up contractor wages by 25 percent, which the lawsuit says was prohibited under the agreement.

Lawsuit Alleges Employees Were Billed to Multiple Projects

The complaint further alleges that ABC double-billed employee labor by charging multiple clients for the same or overlapping work hours.

“ABC's lump-sum labor invoicing was designed to conceal this practice by omitting the per-worker hours and rates that would have revealed that the same labor hours were billed to more than one job,” the complaint states.

Plaintiffs also allege that ABC billed Dogwood for work unrelated to the St. John project.

The complaint identifies at least one personal charge that “which ABC credited back only after” the discrepancy was brought to the company's attention.

The lawsuit characterizes those “admitted misbillings” as evidence of deficient cost-accounting practices.

Complaint Says Required Cost Controls Were Never Implemented

Over the course of the project, ABC allegedly failed to establish the cost-control system required under the contract.

Plaintiffs further allege that the company failed to provide a clear construction schedule and did not produce the reconciliation repeatedly requested by Dogwood and Jones.

By July of this year, the complaint says, both the main residence and guest cottage remained unfinished.

ABC then issued Jones a notice terminating the contract on the grounds of owner default.

The lawsuit disputes that basis for termination.

Jones alleges that ABC and Barlas continue to possess construction materials that have already been paid for. He is also contesting amounts ABC claims remain due because of the alleged breach.

Plaintiffs Seek Full Accounting and Punitive Damages

Dogwood and Jones have asserted their own breach-of-contract claims against ABC.

They also accuse the defendants of breaching the implied covenant of good faith and fair dealing, conversion, unjust enrichment and three counts of fraud.

Among the relief requested is a full accounting of the project so ABC's actual costs can be compared with the labor charges submitted to the plaintiffs.

The lawsuit also seeks damages, including punitive damages related to the alleged illegal conduct.

Plaintiffs are further asking the court to pierce ABC Construction's corporate veil and hold Barlas personally responsible for any damages ultimately assessed.

As of press time, the defendants had not filed a response to the complaint.