

## NORTHEAST/CENTRAL

**DEFENSE****EXPERT(S)** None reported

**POST-TRIAL** Plaintiff's counsel intends to file motions for a new trial, contending that the judge should have allowed the jury to hear evidence about Amador's impending jail sentence.

-Mike Amon

**CENTRAL****WILLIAMSON CO.****CONTRACTS****Breach of Contract — Equitable Relief — Quantum Meruit**

## Developer claimed contract was fixed-price

**VERDICT** **\$83,628**

**CASE** Cascade Development, Inc. v. Carol Meadows, Inc., Austin Rowe Lane, LLC, CMSAL-1, LLC, CMSAL-2, LLC, and Choice Homes, Inc., No. 03-1103-C277

**COURT** Williamson County District Court, 277th, TX

**JUDGE** Ken Anderson

**DATE** 12/14/2005

**PLAINTIFF**

**ATTORNEY(S)** Andrew Traub (lead), The Traub Law Office, Austin, TX  
Brent Devere, Law Office of Brent Devere, Austin, TX

**DEFENSE**

**ATTORNEY(S)** Michael M. Probus, Jr., Attorney at Law, Austin, TX  
Paul Pruitt, Irving, TX

**FACTS & ALLEGATIONS** Plaintiff Cascade Development, a general contractor in Round Rock, was hired by property owner Austin Rowe Lane LLC to complete the build-out of a subdivision. The work was completed in late 2001, but Austin Rowe refused to pay Cascade's final retainage, on the grounds that Cascade had overbilled.

Cascade sued Austin Rowe, Austin, along with several companies to which Austin Rowe had transferred interests in the

property while the work was being done. Only Austin Rowe was submitted to the jury. The plaintiff alleged breach of contract and quantum meruit. Several subcontractors, said Cascade, were paid behind its back.

The defendants counterclaimed that Cascade had breached the contract by overbilling.

There had been change orders reducing the number of units, and in an industry-standard, fixed-price contract, the owner and not the contractor bears that risk. Cascade maintained that its contract was fixed-price, but the jury was instructed that the contract had been modified into unit-price.

**INJURIES/DAMAGES** Cascade claimed to be owed a final retainage of about \$88,000, plus attorney fees.

Austin Rowe claimed to be owed an overpayment of about \$18,000, plus attorney fees.

**RESULT** The jury found that Cascade, not Austin Rowe, breached the contract and that Austin Rowe's damages were about \$18,000, but that the plaintiff was entitled to about \$88,000 for quantum meruit. Also, the jury gave Cascade about \$2,000 more than Austin Rowe in attorney fees, and prejudgment interest for Cascade was about \$13,000. The net was an \$83,628 judgment for Cascade.

After the verdict, Austin Rowe settled for \$62,250.

**TRIAL DETAILS** Trial Length: 3 days  
Trial Deliberations: 4 hours

**POST-TRIAL** Defendants' motion for new trial was denied.

**EDITOR'S NOTE** Defense counsel did not respond to a faxed draft of this report and a phone call.

-John Schneider

Showcase your firm's unique position  
in the legal market by becoming a  
preferred advertiser of VerdictSearch.

**Don't be left out. Call VerdictSearch  
now regarding advertising today!**

To advertise or to obtain more information, contact:  
Kevin Harris toll free at 1 (866) 546-0564  
or email: [Kharris@alm.com](mailto:Kharris@alm.com)