

IN THE SUPREME COURT OF THE STATE OF FLORIDA

CASE NO. SC 05-1417
Lower Tribunal No. 05-651

O'KEEFE ARCHITECTS, INC.,

Petitioner,

v.

CED CONSTRUCTION PARTNERS, LTD.,

Respondent.

ON CERTIFICATION OF CONFLICT BY
THE FIFTH DISTRICT COURT OF APPEAL

AMENDED SUPPLEMENTAL ANSWER BRIEF OF RESPONDENT,
CED CONSTRUCTION PARTNERS, LTD.

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TABLE OF CITATIONS

<u>CASES:</u>	<u>PAGE(S)</u>
<u>CED Construction, Inc. v. Kaiser-Taulbee Assoc., Inc.,</u> 816 So. 2d 813 (Fla. 5 th DCA 2002)	1
<u>Reuter Recycling of Florida, Inc. v. City of Dania Beach,</u> 859 So. 2d 1271 (Fla. 4 th DCA 2003)	1
 <u>OTHER AUTHORITIES:</u>	
Federal Arbitration Act, 9 U.S.C. § 1, <i>et seq.</i>	1, 2
Florida Arbitration Code, <i>Fla. Stat.</i> § 682.01	1, 2

STATEMENT OF CASE

Respondent, CED Construction Partners, Ltd. (hereinafter “CED”) filed an arbitration claim against Petitioner, O’Keefe Architects, Inc. (hereinafter “O’Keefe”), on two contracts arising out of two construction projects in Florida. O’Keefe responded by filing a complaint for declaratory relief. In response, CED filed a motion to stay the circuit court action and to compel arbitration. The trial court granted CED’s motion to compel and to stay the circuit court action, which gives rise to this appeal.

This case is on appeal based on a certification from the Fifth District Court of Appeal of a conflict between two cases:

- CED Construction, Inc. v. Kaiser-Taulbee Assoc., Inc., 816 So. 2d 813 (Fla. 5th DCA 2002).
- Reuter Recycling of Florida, Inc. v. City of Dania Beach, 859 So. 2d 1271 (Fla. 4th DCA 2003).

The parties have already filed briefs with this court regarding their core arguments related to the aforementioned conflict. However, this court has asked the parties to file supplemental briefs to address the issue of which statute governs the underlying contracts, the Florida Arbitration Code, Florida Statute § 682.01 *et seq.*, or the Federal Arbitration Act, 9 U.S.C.A § 1 *et seq.* This court ordered CED to file an amended supplemental brief.

SUMMARY OF ARGUMENT

CED agrees with O'Keefe that the Florida Arbitration Code applies to the resolution of this case. The transactions between O'Keefe and CED did not involve interstate commerce.

ARGUMENT

After conducting research and reviewing the Supplemental Brief of Petitioner, O'Keefe Architects, Inc., filed on March 24, 2006, Respondent, CED Construction Partners, Ltd., agrees that the contracts underlying this dispute are governed by the Florida Arbitration Code, *Fla. Stat.* § 682.01. CED's silence on the assertions of O'Keefe beyond the scope of this Court's request for supplemental briefs should not be inferred as agreement with those assertions.

CONCLUSION

By reason of the foregoing, Respondent respectfully requests that this Court apply the Florida Arbitration Code, Florida Statute. § 682.01 *et seq.*, for the resolution of this dispute.

CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct copy of Respondent's Amended Supplemental Reply Brief has been served via facsimile and United States First Class Mail this _____ day of April, 2006, to: Lee L. Haas, Esq., Haas & Castillo, P.A., Arbor Shoreline Office Park, 19321-C U.S. 19 North, Suite 401, Clearwater, Florida 33764, facsimile: 727-535-1855, and Deborah A. Gibson, Esq., The Marks Law Firm, P.A., 605 East Robinson Street, Suite 510, Orlando, Florida 32801-2045, facsimile: 407-872-3211 (Attorneys for Petitioner).

Respectfully submitted,

/s/ Amanda G. Simmons

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CERTIFICATE OF COMPLIANCE

I HEREBY certify that the foregoing Amended Supplemental Answer Brief has a typeset of Times New Roman 14.

/s/ Amanda G. Simmons

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