

**Kureha Am., LLC (U.S.A.) v Mercer Tech., Inc.
(U.S.A.)**

2016 NY Slip Op 30361(U)

February 23, 2016

Supreme Court, New York County

Docket Number: 653783/15

Judge: Kathryn E. Freed

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: Part 2

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KUREHA AMERICA, LLC (U.S.A.),

Petitioner,

-against-

DECISION/ORDER
Index No. 653783/15
Seq. No. 001

MERCER TECHNOLOGIES, INC. (U.S.A.),

Respondent.

-----X
KATHRYN E. FREED, J.S.C.:

RECITATION, AS REQUIRED BY CPLR 2219 (a), OF THE PAPERS CONSIDERED IN THE REVIEW OF THIS PETITION.

PAPERS	NUMBERED
NOTICE OF PETITION AND PETITION	1, 2 (Exs. A-C)

UPON THE FOREGOING CITED PAPERS, THIS DECISION/ORDER ON THE PETITION IS AS FOLLOWS:

Petitioner Kureha America, LLC (U.S.A.) moves, pursuant to CPLR 7510, for an order confirming an award issued on September 29, 2015 in an arbitration proceeding between it and respondent Mercer Technologies, Inc. (U.S.A.). In that proceeding, the arbitrator awarded petitioner the amount of \$60,954.00, plus interest from July 4, 2014 at 18% per annum and arbitration costs and fees in the amount of \$19,132.79. After a review of petitioner’s papers and the relevant statutes and case law, the petition, which is unopposed, is **granted**.

FACTUAL AND PROCEDURAL BACKGROUND:

In its verified petition, petitioner asserts that it was hired by respondent to provide carbon

insulating material. Petitioner thereafter provided carbon insulating material to respondent and respondent failed to pay for the same. The contract between the parties provided for the binding arbitration of all disputes. Ex. A to Petition, at par. 14. Although petitioner served respondent with a request for arbitration, respondent replied that it did not have the funds to pay the arbitration costs or the funds owed. Ex. B to Petition.

On July 23, 2015, an arbitration hearing was held before arbitrator Caline Mouawad. On September 29, 2015, a decision was rendered in favor of petitioner against respondent in the sum of \$60,954.30. Ex. C to Petition. The arbitrator also awarded petitioner interest at a rate of 18% per annum running from July 4, 2014 and arbitration costs in the amount of \$7,000, counsel fees of \$11,400, and \$732.79 in other expenses, for a total of \$19,132.79 in arbitration costs. Ex. C to Petition, at p. 20-21. Thus, the arbitrator awarded a total of \$80,087.09 plus interest, none of which has been paid by respondent.

POSITION OF THE PETITIONER:

Petitioner asserts that the award of the arbitrator should be confirmed. It asserts that respondent agreed to arbitrate any dispute with petitioner by entering into a contract of sale with it but failed to appear for the arbitration and now owes petitioner \$80,087.09.

LEGAL CONCLUSIONS:

CPLR 7510 provides that a “court shall confirm an arbitration award upon application of a party made within one year after its delivery . . . unless the award is vacated or modified upon a ground specified in section 7511.” CPLR 7514 provides that “[a] judgment shall be entered upon

the confirmation of an award.” Arbitration awards are accorded “substantial deference” and are provided extremely limited judicial review. *Wien & Malkin LLP v Helmsley-Spear, Inc.*, 6 NY3d 471, 475 (2006). An arbitration award will be upheld provided there is “even a barely colorable justification for the outcome reached.” *Wien & Malkin LLP v Helmsley-Spear, Inc.*, 6 NY3d at 479, *supra* at 479, quoting *Andros Compania Maritima, S.A. v Marc Rich & Co, A.G.*, 579 F2d 691 (2d Cir 1978). Here, it is evident from the arbitration award that arbitrator who rendered the award carefully analyzed the law governing the dispute, as well as liability and damages. Ex. C to Petition, at p. 12-21. Therefore, the conclusion reached by the arbitrator was well-reasoned and justified.

CPLR 7510 provides that “[t]he court shall confirm an [arbitration] award upon application if made within one year after its delivery to him [or her], unless the award is vacated or modified upon a ground specified in section 7511.” Here, since respondent did not move to vacate or modify the award, the instant petition to confirm the award has been made well within one year of September 29, 2015, the date of the arbitrator’s award (Ex. C to Petition), and the petition is unopposed, the petition to confirm must be granted.

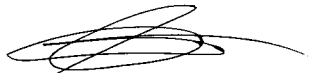
Therefore, in accordance with the foregoing, it is hereby:

ORDERED that petitioner’s notice of petition to confirm the arbitration award in the amount of \$80,087.09, plus interest at a rate of 18% per annum running from July 4, 2014 is granted; and

ORDERED that this constitutes the decision and order of the Court.

DATED: February 23, 2016

ENTER:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Hon. Kathryn E. Freed, J.S.C.
HON. KATHRYN FREED
JUSTICE OF SUPREME COURT