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Leaky lanais will cost two contractors over \$1.2M

Premium content from Pacific Business News by Vanessa Van Voorhis, Reporter

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[Vanessa Van Voorhis](#)

Reporter- *Pacific Business News*

[Email](#) | [Twitter](#)

Claims of leaky lanais are costing a Big Island general contractor and its subcontractor big money.

On May 4, Honolulu arbitrator [Keith Hunter](#) ordered Kailua-Kona general contractor [Terry Metcalf](#), owner of Metcalf Construction Co. Inc., and Waikoloa tile subcontractor [Norman Wiberg](#), owner of Waikoloa Tile, to pay more than \$1.2 million in damages and fees to the Association of Apartment Owners of The Fairways at Mauna Lani.

Metcalf was ordered to pay \$465,740 and Wiberg \$578,770 for Pearl Contracting's repairs, plus more than \$200,000 in legal fees and arbitration costs.

[Jerry M. Hiatt](#) of Hiatt & Hiatt in Honokaa, the AOA's attorney, argued on behalf of his client that Waikoloa Tile failed to properly waterproof the concrete lanais of the two-story condos. The result, according to The Fairways' inspector [Alex Woodbury](#), was water leakage and related damage of varying degrees impacting 84 of the 126 lanais at the high-end condominium complex.

Metcalf was found liable for failing to properly supervise its subcontractor, according to legal documents provided by Hiatt.

"Responsible contractors take their jobs very seriously and meet their duty to fix this type of problem before it gets to this stage, so it's a real shame that did not happen much earlier here," Hiatt said in a press release.

Metcalf said he has been building condos in Hawaii for more than 25 years and is proud of his company's work on The Fairways, a Stanford Carr Development project completed in 2007 that won first place in the Building Industry Association's Parade of Homes. He repeatedly called Hiatt's statements "inaccurate."

"The arbitrator dismissed most of the association's claims as without merit," Metcalf told PBN in a written statement. "MCCI was found to be responsible for the acts of its subcontractor and not for any work it performed on the project ..."

Metcalf said this type of litigation is not uncommon and is an example of a trend started by ambitious attorneys about 10 years ago.

"That is when litigation began to be generated by forensic 'experts' and pursued by attorneys hired by associations," he said.

Wiberg did not respond by PBN's press time Wednesday to a request for comment.

"I thought that this case was a tempest in a teapot," [Roy Hughes](#), the attorney for Wiberg, told PBN. "It's unfortunate because there may have been some technical problems with the contract documents. A lot of things are different than what the outcome would seem to indicate."

Vanessa Van Voorhis covers tourism, hospitality, health care, law and advertising for Pacific Business News.