

- [No. 53635-4-I. Division One. January 24, 2005.]
- GROACH ASSOCIATES #5 LIMITED PARTNERSHIP, *Plaintiff*, v. TITAN CONSTRUCTION CORPORATION, *Appellant*, MIKE PURCELL, ET AL., *Respondents*.
- [1] **Contracts — Construction — Intent of Parties — In General.** A court's purpose in interpreting a contract is to ascertain the parties' intent.
- [2] **Contracts — Construction — Legal Effect — Question of Law or Fact — Review.** Absent disputed facts, the legal effect of a contract is a question of law that is reviewed de novo.
- [3] **Contracts — Construction — Meaning to All Provisions.** A contract is construed as a whole, with each provision given effect.
- [4] **Contracts — Construction — Ambiguity — Resolution — Against Drafter.** Contract language is not necessarily construed against the drafter absent ambiguity in the contract language or a conflict in contract terms.

- [5] **Contracts — Construction — General and Specific Provisions.** A specific contract provision does not necessarily control over a general provision absent ambiguity in the contract language or a conflict in contract terms.
- [6] **Contracts — Construction — Old and New Provisions.** A later-added contract term does not necessarily prevail over a preexisting term absent ambiguity in the contract language or a conflict in contract terms.
- [7] **Contracts — Construction — Unambiguous Language.** In construing the terms of a contract, a court will not ignore the contract's plain language.
- [8] **Contracts — Construction Contracts — Subcontract — Incorporation of Prime Contract — Effect.** Where the terms of the prime contract between a developer and a general contractor are incorporated by reference in a contract between the general contractor and a subcontractor, a time-limited workmanship and repair warranty in the subcontract that does not purport to be an exclusive remedy and that does not disclaim other warranties or waive other claims does not prevent the general contractor from seeking damages from the subcontractor on an independent claim for breach of contract based on terms in the prime contract requiring that all work be of good quality, free from fault and defects, and in conformance with the general contract documents.

Nature of Action: The developer of an apartment complex sought damages from the construction general contractor for defective construction. The general contractor, in turn, filed third party complaints against several subcontractors, seeking indemnification for breach of contract, negligent performance of work, and equitable subrogation or indemnity. After the developer and the general contractor settled their dispute, a judgment was entered dismissing all of the general contractor's third party claims. The judgment was affirmed in part and reversed in part by the Court of Appeals in an unpublished opinion noted at 115 Wn. App. 1021 (2003). The court ruled that the general contractor's contract claims were not statutorily time barred.

Superior Court: On remand, the Superior Court for King County, No. 00-2-01921-1, James A. Doerty, J., on December 15, 2003, entered a summary judgment dismissing the general contractor's breach of contract claim against one of the subcontractors, ruling that the action was barred

