

In the Matter of the Private Arbitration between

SPG Construction, LLC

-vs-

National Partitions, Inc.

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Oct 09 2026

SC Court of Appeals

FINAL AWARD OF ARBITRATOR

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement and scheduling order dated January 19, 2026 and Consent Order dated December 4, 2025 and having been duly sworn, and having duly heard the proofs and allegations of the Parties, hereby issue this **FINAL AWARD** as follows:

1. OPENING

a. Parties

SPG Construction, LLC (SPG) started in 1985 as a family-owned parts and systems provider and has grown into a heavy industrial contractor. It is employee owned and licensed as a General Contractor in 23 states.

National Partitions, Inc. (NP) is a Tennessee corporation that has designed and manufactured modular cleanroom and secondary-structure systems since 1995.

b. Brief Case Summary

This case involves the conversion of an existing warehouse facility in York, South Carolina into a solar panel manufacturing facility. Silfab is the owner of the manufacturing facility. Silfab began the procurement process in late 2022 and SPG was invited to submit a proposal. Silfab independently met with NP and decided that NP was to design, supply and install the Cleanroom and Secondary structures in the new facility. Once Silfab selected SPG to be the general contractor, it directed SPG to contract with NP for the design, supply and installation of the Cleanroom and Secondary structures. SPG signed a construction services agreement with Silfab in late March 2024 which included the design, supply and construction of the Cleanroom and Secondary structures.

SPG subcontracted the design, supply and installation of the Cleanroom and Secondary structures to NP by contract dated May 6, 2024. NP subsequently contracted with DSI Spaceframes, Inc. (DSI) for the design, supply and installation of the spaceframe for the Cleanroom.

Issues arose during the design, material supply and installation phases of the work. SPG supplemented NP's installation forces almost from the beginning of the installation phase of the project. Eventually, NP stopped work on April 2, 2025 citing non-payment as the reason for leaving the project. NP later filed a mechanic's lien for over \$3 million. SPG submitted a

deductive change order relating to the work it performed for NP and completion of the project. Attorneys for the parties exchanged letters in April 2025 but were unable to resolve the issues.

SPG filed its summons and complaint on July 1, 2025 seeking damages of approximately \$1.3 million from NP for breach of contract. SPG also moved to compel arbitration. NP filed a counterclaim seeking recovery of amounts owed in excess of \$3 million. By consent order dated December 4, 2025, the matter was referred to arbitration. The undersigned was retained as the arbitrator on December 23, 2025.

c. Hearing

The arbitration hearing was held on May 19 and 20, 2026 at the offices of Kenison Dudley & Crawford in Greenville, SC.

SPG presented the following witnesses:

Jared Dobbs- SPG Project Manager

Kendall Wood- SPG piping and mechanical superintendent

David Masterson- SPG Project Manager

Ray Curry- DSI Structural superintendent (via zoom)

Elijah Ballard- SPG Chief Operating Officer

Jim Short – SPG Executive VP (rebuttal witness)

SPG presented Exhibits SPG 1-174

NP presented the following witnesses:

Elder Aquilar- owner of Terra, a labor subcontractor for NP

Derek Lowe- NP Installation Manager

Julie Barrett- NP Operations Manager

Joey D'Andrea- NP President

NP presented Exhibits NP 1-101, 109, and 116 and Elder Exhibit 1

d. Relief Sought

SPG contends that NP breached its contract by failing to provide proper design, adequate labor and timely performance of its obligations. SPG seeks damages of \$1,671,579 plus interest and costs.

NP contends that it performed its obligations timely and provided adequate labor. NP contends that SPG breached its obligations by improperly contacting NP's subcontractor, by imposing unreasonable schedule requirements on NP and failing to pay NP as required by the contract. NP contends that when it left the job on April 2, 2025, it was owed \$2,307,950. In addition to the amount owed, NP seeks attorney fees and interest.

e. Issues

The disputes relate primarily to who breached their contractual obligations. There is disagreement on NP's responsibilities for its subcontractor DSI, responsibility for additional materials relating to design changes and use of materials on site during installation, SPG's right to supplement NP's forces and the costs of that supplementation.

2. SUMMARY OF FACTS

In 2022 Silfab began discussions with various contractors relating to the design and construction of a solar panel manufacturing facility in York, SC. Silfab had direct discussions with NP regarding the design, supply and construction of the cleanroom. Silfab also had discussions with various contractors to serve as the general contractor for the overall project. SPG submitted a proposal to Silfab in May 2023. Silfab continued discussions with other contractors including NP.

In late February 2024, NP submitted a revised proposal to Silfab for the cleanroom. Silfab negotiated terms with NP and then on March 1, 2024 Silfab sent NP's proposal to SPG with directions for SPG to use NP as a subcontractor. SPG began reviewing the NP proposal and raised an issue regarding the existing concrete slab on March 11, 2024. SPG noted the substantial amount of steel that would be placed on the 7" thick unreinforced concrete slab and asked if that was a concern. NP's President noted that it was a lot of steel but was not a problem. He stated "everything looks great from what you sent. Our service to you does include PE calcs and stamps to confirm these conditions."

On March 28, 2024, Silfab and SPG entered into their Target Price Contract. The Target Price was \$58,600,000.00. The contract provided that once the Target Price was reached, assuming no design or Silfab requested changes to modify the Target Price, the next 3% of costs would be absorbed by SPG. After this 3% was paid by SPG, Silfab would pay actual cost with no additional markup, until the project was completed. NP's scope which included the design, supply and construction of the Cleanroom and Secondary structures made up about 30% of the Target Price and SPG's markup on these costs were limited to 10%.

On April 3, 2024, DSI Spaceframes provided a quote to NP for the "engineering, manufacturing, delivery, and installation of the spaceframe for the cleanroom. The material costs were \$2,923,000 (spaceframe and columns) and installation costs were \$963,382.

On April 29, 2024, SPG executed a purchase order with NP for the materials only for the cleanroom and secondary structures. The amount was \$12,228,265.00.

On May 2, 2024, NP contracted with DSI for the spaceframe materials only for \$2,673,800.

On May 6, 2024, SPG contracted with NP for the installation of the cleanroom and secondary structures for \$5,116,574.

In May 2024, SPG, NP and DSI began work. In early May, the project was delayed by issues with the County Zoning Board. Permits had not yet been issued because the permit drawings were not complete but SPG, NP and DSI continued their work on engineering and supplying materials. The zoning issues were resolved in late June and NP submitted preliminary drawings in early July. SPG filed its Notice of Project Commencement on

August 7, 2024. Permits were issued in September and SPG applied epoxy to the concrete slab. DSI submitted preliminary plans on September 16, 2024 showing the truss system supported by the existing slab. Due to the earlier delay, NP's revised installation start date was Mid-November.

An issue arose on October 16, 2024 when DSI submitted revised drawings showing the installation of footers in the existing slab. This was a surprise to SPG. Based on emails from March 2024, SPG believed that there would be no footers added to the slab. SPG advised NP that footers were not acceptable because it would cost over \$1 million to install the footers and these costs were not included in the contract because SPG and Silfab had been advised in March 2024 that the trusses would bear on the existing slab with no footers. NP also indicated surprise at the design change but NP asserted that it had no choice but to accept the engineer's decision that the footers were needed. After SPG stated on October 25, 2024 that the design was not acceptable, DSI revised the design to avoid adding footers and this redesign was completed on November 11, 2024. Costs for the design change were not specifically addressed at that time.

The redesign to eliminate footers delayed material delivery; thereby delaying the planned installation start. After those delays, issues began to arise frequently. Silfab was constantly asking for schedule updates after the redesign and SPG was becoming increasingly concerned about the performance of NP and DSI. DSI expressed concern about SPG's lack of safety concerns for lifting procedures, SPG's lack of experience in installing its spaceframe and unnecessary acceleration of the schedule. NP complained that SPG improperly contacted its subcontractor DSI, and SPG was trying to take over the installation of the spaceframe. Silfab was the primary driver of the schedule pressures. Since this was a revenue producing facility, it is no surprise that Silfab wanted it completed as soon as possible.

On December 4, 2024, NP contracted with DSI for the installation of the spaceframe for \$1,044,382.

Spaceframe materials began arriving in mid-December and SPG provided labor to receive and sort the materials because neither NP nor DSI sent anyone to the site to perform that work. It quickly became clear that DSI was not prepared to install the spaceframe and NP was not prepared to step in and perform the spaceframe work that it had subcontracted to DSI. NP agreed to paint some of the columns and base plates to help out DSI but this did not resolve the labor shortage on site for installation of the spaceframe. By late December, DSI admitted that it needed help in performing its work and because of this NP was not meeting its contractual obligations to SPG.

In January 2025, SPG continued providing labor and equipment for the spaceframe installation because of DSI's failure to arrange for a crane, provide labor and other necessary

activities. Issues arose between NP and DSI regarding additional costs for the redesign to eliminate the footings. DSI submitted a change order for the slab redesign and other items but NP refused to accept responsibility for these additional costs. This became a big issue and eventually DSI threatened to stop shipment of materials if the change order was not paid. SPG paid DSI under duress in early February so that the work could continue. While DSI shipped materials, it never provided labor for installation of the spaceframe. It provided two “instructors” to train the laborers on site to install the spaceframe. SPG and NP provided labor to complete the spaceframe and they disagree on how much work each provided.

By early February 2025, SPG had paid NP the entire material contract of \$12,228,250 and had paid \$2,580,787 on the installation contract. NP submitted another installation invoice on February 12 and SPG did not pay it because of its concerns over the supplementation costs it had incurred.

Silfab was concerned about NP’s progress in the installation of the wall partitions which was work that NP was performing directly and Silfab asked SPG to consider taking over the partition installation. SPG decided not to take over that installation because it was already stretched thin handling the spaceframe work. SPG asked NP to provide more supervision and manpower on the work but NP contended that there was enough manpower and the problem was lack of coordination between the SPG and NP crews.

On February 28, 2025, SPG notified NP that SPG had incurred approximately \$2,188,462 in labor and equipment costs related to NP’s scope of work. NP accepted some responsibility for the spaceframe costs but refused to accept responsibility for decking costs and told SPG that it never approved SPG to install any decking. NP contends that this was the first time that SPG notified it that SPG was seeking backcharges for the decking.

In March 2025, issues arose relating to decking material. SPG contended that NP had not provided decking materials timely and in order to meet schedule it was required to use decking on site that was for other areas. SPG obtained decking material from other sources when NP could not provide it timely. NP contends that SPG installed decking in the wrong location, did not need to install decking in areas where the decking was not intended to be used and SPG should have coordinated with NP for the delivery of decking for specific areas.

According to NP, SPG did not meet its payment obligations and on April 2, 2025, NP left the jobsite citing failure to receive payment as the justification. SPG continued work and completed the project.

On May 1, 2025, NP sent an SC Code Ann. 27-1-15 demand for payment of \$2,307,949.86 to SPG.

SPG filed its lawsuit against NP on July 1, 2025. The parties eventually consented to

arbitration.

3. DISCUSSION

The primary issue in this case is who materially breached their contractual obligations. As discussed below, I find that NP materially breached its contractual obligations to SPG. SPG did not owe any amounts to NP when NP left the site on April 2, 2025 and SPG was not in breach of its obligations when NP left the site. Due to contract terms discussed below, NP's abandonment of the project will be treated as a termination for convenience.

Silfab contracted with SPG for the "engineering, procurement..., construction, management, installation... of the Facility. SPG subcontracted the engineering, procurement and installation of the cleanroom and secondary structures to NP. While NP subcontracted the engineering, procurement and installation of the spaceframe to DSI, NP remained responsible to SPG for these services regardless of DSI's performance. NP contends that DSI became SPG's subcontractor when SPG began communicating directly with DSI; however, there is no evidence to support this contention. DSI was NP's subcontractor and NP was and is responsible for DSI's failures to perform.

The redesign of the spaceframe to avoid using footers is a significant issue because SPG paid DSI over \$655,000 for those costs. NP contends that it is not responsible for these costs because it did not accept the costs and SPG paid DSI directly without NP's consent. Based on NP's contract with SPG, it is clear that NP is responsible for these costs. Prior to contracting with SPG, NP advised Silfab that "base plate sizing can be increased to further offset point load in order to avoid having to demo/dig new slab footers for the truss columns". It appears that this information was not conveyed to DSI when NP subcontracted the engineering, procurement and installation of the spaceframe to DSI. When the redesign costs arose, NP contended that SPG and Silfab must accept the costs because "you cannot argue with the engineering"; however, it was NP's responsibility when it signed its contract with SPG to ensure that the spaceframe could be installed on the unreinforced slab without adding footers. This was specifically discussed in the emails in March 2024 and NP should have ensured that DSI was aware of this requirement. This was simple lack of coordination on NP's part. Further, paragraph 6 of NP's subcontract with SPG provides that "At Contractor's sole discretion, all or any part of any payment due to the Subcontractor may be paid... directly to Subcontractor's subcontractors or suppliers, in such amount as may be claimed by Subcontractor's subcontractors or suppliers." Therefore, SPG was allowed by the subcontract to pay DSI directly. Moreover, the payment made by SPG was "under duress" and was only made because NP's subcontractor was refusing to provide materials that NP was responsible for providing. SPG was mitigating further damages that NP might have suffered by avoiding further delay on the project. The record is devoid of evidence to show that SPG should be responsible for these costs. Therefore, NP is responsible for the extra costs that SPG paid to DSI for the redesign and materials.

The subcontract between SGP and NP was negotiated and some important provisions were deleted. Paragraph 8e was deleted in its entirety except for the last sentence. NP contends that because of this deletion, it cannot be liable for delays caused by its failure to prosecute the Work as directed by SPG. NP's contention that the deletion of the paragraph 8e language eliminates any liability for NP's failure to meet its contractual obligations is without merit. The 8e language addresses some specifics relating to damages for breach relating to delays; however, the deletion of that language does not operate as a waiver

of damages or a limitation of liability. NP still had contractual obligations to perform its work timely (see subparagraphs 8 a, b, c and d)

Paragraph 17a relating to supplementation and termination for default was deleted in its entirety. NP contends that based on the deletion of this subparagraph, SPG is not entitled to terminate NP for default or to supplement its work and charge NP for that supplementation. Arguably, the deletion of the default provisions prevents SPG from terminating for default; however, deletion of language relating to supplementation does not mean that SPG is prevented from taking reasonable action to mitigate damages caused by NP's breach of contract. NP clearly breached its contractual obligations to timely provide its services. The fact that the most egregious breach was caused by its subcontractor does not relieve NP of the breach.

The only remaining termination clause after the deletion of 17a was paragraph 17b relating to termination for convenience. Paragraph 17b provides that "Contractor may terminate Subcontractor's Work for any reason and at any time. **Subcontractor shall be paid for work performed prior to termination**, and Subcontractor shall not be entitled to any lost profits or any damages that may arise from a termination for convenience. Based on the contract terms in the light most favorable to NP, SPG did not have the right to terminate NP for default; however, SPG could terminate NP at any time for convenience and NP would only be entitled to recover for "work performed prior to termination". It is undisputed that NP walked off the job on April 2, 2025. Based on the contract terms, it is irrelevant whether NP was justified in walking off the project, NP was in essence terminated for convenience when it left the project and it is only entitled to recover for work performed.

Therefore, the issue to be decided is what is the value of the work NP performed before it left the project. By necessity, we must determine what work NP performed on its scope of work as opposed to work performed by SPG or its subcontractors on NP's scope of work.

VALUE OF WORK PERFORMED ON NP'S SCOPE OF WORK

NP had a lump sum contract for materials and installation but it did not provide monthly updates showing percentage complete on a schedule of values. The schedule of values for the installation contract required two payments of 25% each and then payments for the 50% balance based on "completion progress". There were no completion progress reports; however, NP estimated that it had completed 85% of its scope and SPG adopted this percentage in its damage calculations. Therefore, since both parties used 85% as the percentage complete, I find that 85% of NP's scope of work had been completed as of April 2, 2025.

VALUE OF WORK PERFORMED BY NP

Based on the contract terms, the default termination provisions were deleted and both parties were working under a termination for convenience clause only. Therefore, regardless of the additional costs after April 2, 2025, SPG would not be entitled to recover those costs. Therefore, I find that the damages should be calculated based on the 85% complete as of April 2, 2025 which is SPG's "scenario 2".

Determining the value of work performed by NP is difficult because SPG contributed labor and paid for cranes that were used to complete NP's scope of work. NP contends that SPG cannot "recover" for the work it performed because the contract does not allow for it; however, in addition to the

justifications above it would be inequitable to allow NP to benefit from work performed by SPG when calculating the value of the work NP performed on the project. Therefore, I find that SPG's work performed on NP's scope can be considered in calculating the value performed by NP.

Without a detailed schedule of values, it is difficult to determine the value of work performed in each area of work. In an effort to overcome this difficulty, SPG argues that the value of its services should be calculated by adding the crane costs it incurred to the percentage of labor it performed on the work through April 2, 2025. (See SPG's Exhibit A Scenario 2). While this method has some weaknesses and limitations, it provides a reasonable approximation of the work performed by the NP and SPG based on the evidence presented.

Regarding the "non-labor" costs, I find that the crane cost of \$1,000,616 was paid by SPG and was used for performing the NP scope of work. I find that there was insufficient evidence to attribute the painting costs of \$46,248 to the NP scope of work.

Regarding labor provided on the project, I accept SPG's calculations under "Scenario #2" and find that the value of NP's labor on the project was **\$2,005,377**. This amount takes into consideration the "non-labor" costs provided by SPG and it is slightly different from the amount in SPG's Exhibit A because I deleted the \$46,248 relating to painting.

Regarding the amount paid to NP, in addition to the \$2,580,787 that SPG paid NP, SPG paid \$655,365 to DSI in order to get spaceframe materials delivered to the site. As discussed above, NP argues that it did not agree to this payment and that SPG should be responsible for it since it paid it directly to DSI. I find that considering the totality of the evidence, SPG's acted prudently in making this payment to DSI. In essence, SPG was mitigating damages. If SPG had relied on NP to deal with DSI, it is likely that the materials would have been delayed substantially longer than they were. NP demonstrated that it had no control over its subcontractor and SPG had little choice but to pay the amount "under duress". Based on this, I find that the total that SPG paid to NP was **\$3,236,152**.

Regarding other outstanding change orders, SPG agreed that it owed \$125,640 for CCO#4 north wall shifting material, roll up doors, Hushcore Adder locker and CCO#1 MCA design error. Regarding NP's claim of \$101,369 for roof decking material, the evidence is conflicting on the decking issue and it appears that both parties were at fault in failing to properly handle that issue. Accordingly, I find that SPG is responsible for 50% of the decking material costs (\$50,685). Therefore, the total SPG owes NP for these items is **\$176,324**.

Based on these findings, the amount awarded to SPG is \$1,054,451 based on the following calculations:

Total Amount paid by SPG to NP (includes the payment to DSI)	\$3,236,152
Value of work provided by NP	(\$2,005,377)
Amount due to NP from SPG for misc. items	<u>(\$176,324)</u>
Damages awarded to SPG	\$1,054,451

4. AWARD

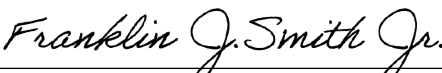
Based on the findings above, **I find that SPG's claim is GRANTED. SPG is entitled to recover from NP the amount of \$1,054,451.** SPG's claim for pre-judgment interest is denied.

The funds placed in escrow shall be released to SPG.

I find that all of **NP's affirmative claims are DENIED** as discussed above.

This Award is in full settlement of all claims and counterclaims submitted to this Arbitration. All claims not expressly granted herein are hereby denied. The award shall be paid within 30 days of the date of this award.

July 3, 2026



Franklin J. Smith, Jr., Arbitrator

