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Saddleback district ordered to pay \$1.4 million to contractor

Mepco Services of Downey was hired three years ago to renovate a Mission Viejo special education school.

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MISSION VIEJO – The Saddleback Valley Unified School District has been ordered to pay about \$1.4 million to a construction company and its attorneys for a troubled renovation project at a special education school, the culmination of a two-year legal battle that the victorious party called an "unfortunate waste" of precious school funds.

Mepco Services, a Downey-based general contractor hired to renovate Esperanza Special Education School in Mission Viejo, was awarded about \$765,000 in legal fees today by San Diego County Superior Court Judge Frederic Link. The exact amount will be determined at a subsequent date because the judge struck some attorney photocopying fees today.

The settlement comes on top of a jury verdict in February that found Saddleback liable for \$681,087 in back pay and damages to Mepco owner Elie Abinader.

"It's a rip-off of our tax dollars and a needless attempt to adversely affect an honest businessman," Mepco attorney Andrew Carlton said. "The school district literally forced Mepco to go to trial for something that should have been resolved even before lawyers got involved."

The \$1.4 million will be paid out of Saddleback's facilities improvement fund, money that cannot be used to pay for things like teacher salaries or classroom supplies, said Stephen McMahon, assistant superintendent for business services.

Saddleback has not yet paid any of the money and is considering an appeal, he added.

"We just don't believe it was a just verdict given the facts of the case," McMahon said. "We feel that the facts of the case were manipulated by the other side and they made a very emotional appeal of the big bad school district taking on the poor little contractor."

Saddleback Valley Unified officials characterized Mepco's owner as a sloppy, scheming contractor who sought to bilk the school district for thousands of dollars in additional construction expenses.

The renovation project, which included gutting much of the interior of the school, was supposed to have taken place over a three-month period in summer 2006 at a cost of \$1.64 million, but Mepco's owner filed 43 change orders, insisting additional work

needed to be performed. Then, Abinader asked for a five-month extension around the time the project was supposed to be wrapping up, McMahon said.

Saddleback approved 19 of Mepco's 43 change orders, but as friction began building over the remaining disputed work, McMahon said Mepco walked off the job in early 2007, leaving an estimated \$378,000 in uncompleted work – allegations Mepco denied.

"He asked for more time on the job than he did on the original work for the whole project," McMahon said. "This contractor was looking for things he could use to his advantage. The plans weren't perfect, but they were definitely buildable. There's never a perfect set of plans."

Mepco maintained it completed the project and offered to settle the case with Saddleback for \$474,000, which represented the cost of the disputed change orders and the portion of the original \$1.64 million contract Saddleback hadn't yet paid.

But district officials rejected the offer and instead filed a countersuit against Mepco for not finishing the project on time as Mepco was contractually obligated to do, McMahon said.

The case was moved to San Diego to ensure an impartial jury. At trial, Saddleback argued Mepco submitted frivolous change order requests, such as requesting more compensation to demolish a ceiling when the original architectural plan only called for installing a new one.

But Mepco's attorneys successfully countered that the architect's plans were flawed, causing delays and the need for additional work.

The attorneys said Mepco had budgeted for the \$1.64 million project based on just what was in the plans, not additional work such as demolishing a ceiling.

The jury rejected Saddleback's arguments in full and sided completely with Mepco, awarding the company everything it asked for after a three-week trial – back pay, damages, legal fees, expert fees and interest.

"The district wasted a lot of money trying to defend this case," Mepco attorney Anna Carno said. "I don't believe many people understand how a school district makes its decisions. They just assume they're being made by people who have experience and are being advised by the right people. Clearly this case showed that this is not reality."