

CALIFORNIA LIEN LAW AND COLLECTION PROCEDURES

AUTHOR
FRANK L. ROWLEY
ATTORNEY AT LAW

This manual is not intended for the practice of law. Every effort has been made to assure that all information contained herein is current. Because the law changes without notice, through legislation and/or Court decisions, portions of this manual may no longer be current. Unless you are assured that the law has not changed, you should not rely on the material contained herein, but should consult an attorney.

Copyright © 1984 - V.F.R., Inc. All Rights Reserved

Copyright © 1987 - V.F.R., Inc. All Rights Reserved

Copyright © 1995 - V.F.R., Inc. All Rights Reserved

Copyright © 2003 - V.F.R., Inc. All Rights Reserved

Published and Distributed by
V.F.R., INC.
P.O. Box 7 • Loomis, California 95650
(916) 652-7237

©2003

5th Edition
2003

TABLE OF CONTENTS

GENERAL COLLECTION PROCEDURES

Common Sense vs. Business System	1
Lien Laws as Collections devices	1

MECHANICS' LIEN LAW - PRIVATE WORKS

Overview	2
Application	2-3
Persons Entitled to File	3-4
Materials Suppliers	4
Laborers	5
Steps Required to File	5
Preliminary 20-Day Notice	
Original Contractor	5-6
Preliminary 20-Day Notice	
Subcontractors and Material Suppliers	6-7
Rules for Condominiums	7
Express Trust Funds	8
Assignments	8
Waiver and Release Procedure	
Original Contractors	8
Assignment of Debt and Lien Form	9
Waiver and Release Procedure	
Sub-contractor/Material Supplier	10
When and How to File a Mechanics' Lien	
Original Contractor	11
When and How to File a Mechanics' Lien	
Sub-contractor/Material Supplier	11
Mechanics' Lien as a Collection Device	12
Perfection of Mechanics' Lien	12
Extension of Credit-Caution	13
Lis Pendens	13
Payment After Recording Lien and Before Lawsuit	13
Stop Notices Original Contractor	13
Stop Notices Subcontractor and Material Supplier	13
Stop Notices vs. Mechanics' Lien Cumulative Remedies	14
Stop Notices Demand by Owner	14
Bonded Stop Notice	14
Procedure for Obtaining Bonded Stop Notices	14
Objection to Sureties by Lender	15
Stop Notices How to File	15
How to Release a Stop Notice	15

PAYMENT BONDS

Definition	16
Surety's Obligation	
Eligible Claimants	16
Breach of Contract	
Contractor vs. Owner	
Effect on Bond	16

PAYMENT BONDS (Continued)

Cumulative Remedies17
Owner’s Right to Bond17
How to File17
Service of Notice on Surety18
Statute of Limitations18

SCHEDULE OF NOTICES: FILINGS, RECORDINGS-PRIVATE WORKS .19,20,21

PRIVATE WORKS - FORMS

California Preliminary Notice22
Cover Letter Preliminary Notice23
Mechanics’ Lien24
Notice of Recordation of Mechanics’ Lien25
Release of Mechanics’ Lien26
Stop Notice27
Release of Stop Notice28
Extension of Credit29
Private Works Bond Claim46
Credit Invoice30

MECHANICS’ LIEN LAW-PUBLIC WORKS

Qualifying for Lien Rights31
Illustrative Graph31

STOP NOTICES - PUBLIC WORKS

How to File32
Preliminary Notice32
Where to Serve32
When to Serve32
Request For Notice of Completion “Two-Dollar” Notice33
Time Required to File Action to Enforce33
Notice of Action to Public Entity33
Stop Notice Release Bond33
False Stop Notices34
Rights Separate from Other Actions34
Affidavit and Counter Affidavit34

PAYMENT BONDS - PUBLIC WORKS

Requirement to Bond35
Bond Amount35
How to File35
When to File36

FEDERAL

Miller Act36
Bond Amount37
How to File37
When to File37

PUBLIC WORKS - FORMS

Preliminary 20-Day Notice41
Cover Letter - Releases42
Stop Notice43
Cover Letter - Stop Notices44
Demand Letter45
Public Works Bond Claim46
Counter Affidavit47
Release of Stop Notice48
Miller Act Notice49
Cover Letter - Miller Act50

CONTRACTOR'S LICENSE BOND

Amount of Bond51
Beneficiaries of Bond51
How to File Claim51
Time Limitation to File52

WAIVERS AND RELEASES

Types53
Effect of Using Wrong Form - Contractor/Owner/Lender53
Effect of Using Wrong Form - Subcontractor/Material Supplier53

WAIVER AND RELEASE FORMS

Conditional Progress54
Conditional Final55
Unconditional Progress56
Unconditional Final57

OWNER FORMS

Notice of Completion58
Notice of Cessation59
Notice of Nonresponsibility60

CONTRACTS

Types of Clauses61
Proof of Supplies62
Modification of Terms62
Prerequisite for Filing a Lawsuit62

COURT ACTIONS

Jurisdiction63
Small Claims Actions63
How to Collect a Small Claims Judgment64
Appeal From a Small Claims Judgment65

MISC. FORMS

Explanations66
Partial Release of Mechanics' Lien67
Withdrawal of Mechanics' Lien68
Partial Release and Partial Satisfaction of Stop Notice69
Design Professional's Lien70