

GETTING PAID!

9 Differences Between Mechanic's Liens And Stop Payment Notices

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California statues provide for different types of collection remedies on construction projects. Below is a comparison of the Mechanic's Liens and Stop Payment Notices remedies, both of which are used when contractors, subcontractors, and/or material suppliers remain unpaid for work performed.

| Mechanic's Liens | Stop Payment Notices |
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| A Mechanic's Lien is an involuntary encumbrance on the chain of title and provides the lien claimant an ownership interest in the property that was improved. It binds the available value in the property, but it is not directed at an owner or an owner's other assets. | A Stop Payment Notice ties up a portion of the construction funds or money earmarked for the construction project. It does not attach to the property that was improved. |
| Available on private construction projects only. | Available on private and public construction projects. |
| A valid Preliminary 20 Day Notice is a prerequisite to a Mechanic's Lien action. | A valid Preliminary 20 Day Notice is a prerequisite to a Stop Payment Notice action. [Minor exceptions may apply to listed subcontractors on public projects] |
| A Mechanic's Lien must be recorded <i>after</i> all work is completed. | A Stop Payment Notice may be served during construction, it is not necessary to wait until completion |
| A Mechanic's Lien is "perfected" by filing a lawsuit to foreclose upon the Mechanic's Lien. | A Stop Payment Notice is enforced by filing a lawsuit to "Enforce" the Stop Notice. |
| A Mechanic's Lien must be served on the project owner/contractor/lender and it must also be recorded in the County Recorder's office. | A Stop Payment Notice must only be served on the necessary parties such as the owner/contractor/subcontractor/lender. It is not necessary to record it. |
| A Mechanic's Lien <i>expires</i> within 90 days from the date it was recorded. It is null and void, and unenforceable if not "perfected" within the 90 days. | A Stop Payment Notice does not expire in 90 days, but a lawsuit enforcing the Stop Payment Notice must be filed within the statutory deadline which is contingent on, and runs from the date the project is completed. |
| A Notice of Lis Pendens must be filed in court and recorded with the County Recorder's office after a Mechanic's Lien foreclosure action is filed. | A Notice of Commencement of Action must be filed in court after a Stop Payment Notice Action is filed. It does not need to be recorded. |
| Attorney fees are not recoverable on a lawsuit foreclosing upon a Mechanic's Lien. | Attorney fees may be recoverable on a lawsuit enforcing a <i>bonded</i> Stop Payment Notice on a private job only. |

For a detailed comparison of the various collection remedies or an understanding of the statutory requirements impacting your collections, you may contact Milene C. Apanian.



Milene Apanian assists contractors, subcontractors, material suppliers, and owners prevent and resolve disputes on public and private projects. Prior to practicing law, she worked for architects and contractors, gaining valuable knowledge and experience in construction. Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients and it does not establish an attorney-client relationship with the reader. This document is of a general nature and is not a substitute for legal advice. Since laws change frequently, contact an attorney before using this information. Milene Apanian can be reached at Abdulaziz, Grossbart & Rudman, (818) 760-2000 or by E-Mail at mca@agrlaw.com or at www.agrlaw.com.

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