



VONLEMBKE

FALERIS, P.C.

RONALD E. VONLEMBKE
LICENSED IN NC & CO

BETH A. FALERIS
LICENSED IN NC & HI

From: Ron vonLembke
Beth Faleris

To: General Contractors and Subcontractors

Subj: Mechanics Liens; Questions Pertaining to

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Question: Do I need an attorney to file a lien in order to get paid?

Answer: It depends.

Analysis: All things being perfect and equal, you should not have to hire an attorney to obtain funds that you are rightfully owed for services performed as a general contractor or subcontractor. The problem, of course, is that things are rarely perfect and equal when it comes to construction projects. While some contractors have good success in filing their own liens, other contractors – particularly those who don't file liens on a regular basis – are frustrated by the process.

Sometimes the biggest question is where to start. Is your project under the Miller Act? Little Miller Act? North Carolina lien law? Are you a first-tier subcontractor? Second? Who is the owner? Is there a payment bond? How do you determine whether the owner has been paid for your services? Where do I file the lien? How do I serve it?

As shown in the attached list, questions related to the notification, perfection, and collection of liens are as diverse and various as the types of contractors and construction projects. The firm of vonLembke-Faleris maintains a concentration in the arena of lien law and can help provide the answers needed to protect your right to obtain payment for work performed on private, state, and federal contracts. We work contractor's hours, give us a call at your convenience.

Frequently Asked Questions (FAQs)

Can an Owner demand that I submit a full lien waiver even though I haven't been paid in full?

How much retainage can an Owner keep in a state construction project? (Hint: It is less than you think)

What is the difference between a lien on funds and a lien on property?

Do I have the right to file a lien on funds as a second-tier subcontractor?

How do I determine the priority of my lien against other general contractors?

Do I have to wait until the Owner pays a general contractor before I can file a subcontractor's lien on the owner's real property?

Can I file lien on funds if I don't know the general contractor's last date of furnishing?

Can I amend a lien if I didn't initially fill it out correctly?

What is the difference between the Miller Act and the Little Miller Act?

Can an Owner protect its property from liens by posting? What should I do as a first-tier subcontractor if I see that a project has been posted?

How do I count the days from the date of my last furnishing?

Can I count punch-list work for purposes of the date of my last furnishing?

As a subcontractor, how do I get a copy of the general contractor's contract with the Owner?

How long can a first-tier subcontractor take to file a lien on funds?

What is the last day a general contractor can file on lien on real property?

What does it mean for a subcontractor to "step into the shoes" of a general contractor? Why would you want to?

How do I know whether I'm a second or third tier subcontractor? Does it make a difference?

Can I file a lien even though I only supplied materials to the site through a first-tier subcontractor?

Why do I have to know my first date of furnishing labor or supplies to the project?

How do I describe the real property where I furnished labor or materials?

Can I file a lien on funds even though the general contractor has given the Owner a full release and waiver for the project?

Who do I name as the “Owner” if the tenant contracted with me to perform work?

How can an Owner “bond off” a lien? What does that mean?

What does it mean to “perfect” a lien?

How do I collect a money judgment awarded under the lien statute?

Can I file a lien if my construction contract has an arbitration clause?

Can I file a lien as a first-tier subcontractor if the general contractor failed to possess the appropriate building license?

How do I get the surety to pay where the general contractor had a payment bond?

Can I place a lien on property owned by a municipality?

How can I get a copy of the general contractor’s payment bond?

What is the relationship between the Prompt Pay Act and the Miller Act? What are the federal government’s obligations to subcontractors under the Prompt Pay Act?

Can a third-tier subcontractor file a notice of lien against a bond on a federal contract?

Can I get interest on the amount that I am owed?

How do I get paid if the owner files bankruptcy?