

Contractual Pitfalls - How to Avoid Them



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Deal Breakers

- **Pay when Paid**
- **One Way Fees**
- **Indemnity for Whole Project**
- **No Damages for Delay**
- **No Payment for Stored Materials**
- **Artificial Claim Limits**



Pay When Paid

Two Types of Pay when Paid:

Enforceable: “Pay IF Paid”

- Payment by Owner/GC a *prerequisite*
- Example: Sub is paid *only if* GC is paid.

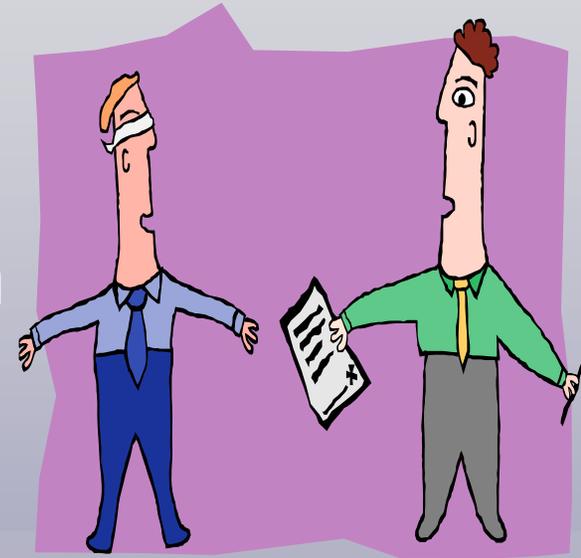
Unenforceable: “Pay **WHEN** Paid”

- Time Frame for payment after GC is paid
- Example: Sub paid 15 days after GC paid



Negotiable Items

- Mandatory Arbitration
- “Satisfaction”
- Location, Location, Location
- Payment = Waiver
- Shorter SOL than Statutes



Get Paid



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Bonds, Payment Bonds

- Government versus Private
- Miller v. “Little Miller”
- Timing
- Claims



MECHANIC'S LIENS



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Requirements

- 90 Day Rule
- 150 Day “Look back”
- 6 Month SOL
- Notice on Residential Projects



Keep Your Rights Alive

- 30, 60 and 90
- MLA Notices
- Clear Old Invoices First



Dispute Resolution



- Arbitration v. Mediation
- Courts
- Claims, Change Orders, and Delay



Liquidated Damages

- Check Reasonableness
- Good For Owners and GC's
- Check Circumstances are Reasonable



Statute of Limitations



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Green is Good



- USGBC/LEED
- Green Globes
- Government Mandates and Incentives

Why Else?

- Owner's want it, easier to sell
- Growth Potential

What This Means for You



- Strike While Iron is Hot
- Catch Up on Green Building
- Get Out There!

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