

**RELEASE, REMOVAL, EXPUNGE, VOID, UN-PERFECTED OR
WRONGFULLY RECORDED MECHANIC'S LIENS**

Civil Code Section 3154 et. seq.

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Subject to certain restrictions just about anyone who provides labor, materials and/or supplies to a construction project can record a Mechanic's Lien against that project. The problem arises when someone either records a Mechanic's Lien when they have no legal right or entitlement to record the Mechanic's Lien, or when the person or entity that recorded the Mechanic's Lien fails to file a lawsuit to perfect or foreclose its Mechanic's Liens.

When a Mechanic's Lien is recorded against your property, it acts as a cloud on title. Once a Mechanic's Lien has been recorded the Mechanic's Lien claimant has 90 days to perfect the Mechanic's Lien by filing a lawsuit to perfect or foreclose the Mechanic's Lien. If the lien claimant fails to file a lawsuit to perfect or foreclose the Mechanic's Lien within 90 days of the recording of the Mechanic's Lien, the Mechanic's Lien becomes legally null and void. Although a Mechanic's Lien which has not been timely perfected is legally null and void, the Mechanic's Lien still acts as a cloud and slander on the title the subject property.

California Civil Code Section 3154, provides an owner of property a legal means to have a null and void Mechanic's Lien expunged from their property.

The steps to expunge a null or void Mechanic's Lien are as follows:

- 1.) You must send a written demand to the lien claimant demanding that they immediately release the Mechanic's Lien.
- 2.) If the lien claimant refuses to release the Mechanic's Lien you can file a verified petition to expunge the Mechanic's Lien with a Superior Court located in the County and venue where the Mechanic's Lien was recorded.
- 3.) The petition must contain the following:
 - a.) The date of recording the Mechanic's Lien.
 - b.) A legal description of the property.
 - c.) A declaration that no action to foreclose the Mechanic's Lien has been commenced.
 - d.) A declaration that the Mechanic's Lien claimant has refused to release the Mechanic's Lien.
 - e.) A declaration that the owner of the property has not filed for any relief under any law governing bankruptcy and that there exist no other restraint to prevent the lien claimant from perfecting the Mechanic's Lien.

Once the petition to expunge the Mechanic's Lien has been filed with the court, the court must set a hearing date within 30 days of the filing of the petition. The petition must be served on the lien claimant.

If you are the prevailing party, the court will issue an order that the Mechanic's Lien be released and expunged from your property. If you are the prevailing party you are entitled to attorney's fees in an amount not to exceed \$2,000.

For assistance in having a null or void Mechanic's Lien expunged from your property, contact Attorney Beard Hobbs at 619-698-0977.