## STATEMENT FROM RICHARD C. ZISHOLTZ

Change orders are often a major issue in construction litigation. Whether certain work was included in the initial scope of work can sometimes be a matter of debate. It is always best practices to have all change orders in writing and signed by all parties – it can certainly help avoid issues of proof in the event litigation ensues. The question I am often asked is when a contract requires that change orders be written, will a contractor be precluded from compensation for the additional work if he or she failed to get a written change order.

Contractors and subcontractors are often instructed by owners to go ahead with certain additional work with a verbal acknowledgment that payment will be forthcoming. After, the extra work is completed, sometimes owners will try and avoid payment by alleging that all of the change orders were required to be written pursuant to the underlying contract.

While, it is best to have written change orders, the law is that oral directions to perform extra work or even the general course of conduct between the parties may modify or eliminate contract provisions requiring written authorizations or notices of claims. Thus, if a contractor completed certain work that was outside the initial scope, it will be entitled to compensation.

Keeping meticulous records and having an attorney review your contract can help avoid many potential issues.

Never let your lien time run out!!

For a free copy of a pamphlet pertaining to mechanic's liens and payment bond claims, kindly contact me or the Association.