

STATEMENT FROM STUART S. ZISHOLTZ

Recently, contractors have reached out to us to pursue various claims on their behalf arising out of work performed or materials furnished on a project. One of the many questions that are asked is whether they can recover interest on the amount due.

New York State permits interest on all claims to be calculated at the rate of 9% per annum from the earliest ascertainable date. Thus, if you have a claim for \$100,000, you would be entitled to recover \$9,000 in interest per year from the earliest ascertainable date the money was due. This date is usually the last day you performed work or furnished materials or the date of your last invoice. This sum is statutory and added to any judgment that may be entered.

While you are entitled to interest on a claim, you are not entitled to voluntarily add the interest to your mechanic's lien. The mechanic's lien must state the principal amount due for work, labor and services performed and materials furnished. You cannot add interest, finance charges, filing costs or legal fees to the mechanic's lien. Those additional sums may be sought if you pursue a lawsuit at a later date. Including those specific sums in your mechanic's lien may result in your lien being deemed exaggerated. Exaggerated mechanic's liens and its severe consequences are the subject of another article and will not be addressed here. Suffice to say, the ramifications of an exaggerated mechanic's lien are extremely costly and harsh.

The key to any mechanic's lien is to keep it simple and straightforward. Allow the attorneys to address the additional costs that you may be entitled to following the filing of a valid mechanic's lien and the commencement of a lawsuit. Incorporating certain sums that you believe should be added to the mechanic's lien can only hurt you in the long run.

Never let your lien time run out!

For a free copy of our Sixth Edition pamphlet pertaining to Mechanic's Liens and Payment Bond Claims, kindly contact me.

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