

## **STATEMENT FROM STUART S. ZISHOLTZ**

Many contractors believe that once a Mechanic's Lien is filed, they can expect payment by return mail. In fact, many think that by renewing the Mechanic's Lien, year after year, they are ensuring that they are properly protected and will get paid. This philosophy is a complete misconception and counterproductive to your best interests.

A contractor or subcontractor has the right to file a Mechanic's Lien on a project when it is not paid for work performed or materials furnished. However, the Mechanic's Lien is only good if there is a fund running from the Owner to the General Contractor. If the Owner already paid the General Contractor in full, the Mechanic's Lien will ultimately fail. The Owner is not obligated to pay twice for the same bill.

By renewing the Mechanic's Lien year after year, the only thing that is being accomplished by the Lienor is that he is wasting his money. The Owner clearly does not care that there is a lien on his property and is not remitting payment to satisfy the lien.

Moreover, as time goes on and the lien is not satisfied, the likelihood that the General Contractor will remain a viable entity becomes more and more unlikely. As soon as you believe that there is a problem on the Project, you should file a Mechanic's Lien. The timely filing of a Mechanic's Lien would prevent the Owner from releasing any additional money to the General Contractor. This fund held by the Owner may be the difference between you getting paid or not getting paid.

Furthermore, if, after filing the Mechanic's Lien, you do not receive any response from the Owner or the General Contractor within 30 to 45 days, you should consider commencing a foreclosure action. By a response, I am referring to communication from the Owner or General

Contractor to resolve the issue, receiving a copy of a discharge bond or some other indication that they have received the Mechanic's Lien and are addressing the issue. Simply renewing the Mechanic's Lien without aggressively pursuing your money will not be effective.

Never let your lien time run out!

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

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