

## Most Common Mechanic Lien Mistakes

Through the years on the Construction Lien Blog, we've published a lot of blog posts about errors folks make with the mechanic lien process. There's even a tag for it on our blog, the Lien Errors tag. Click on that, and you'll see discussion on the many things that can go wrong.

It's been a little while since we've written a "round-up" of some common lien mistakes. That's not to say we haven't done that in the past, you can take a look at these two articles for examples: "[Top 10 Construction Lien Errors](#)" and "[Common Collection Mistakes and Pitfalls](#)."

I was inspired to write this post by the New York Mechanic's Lien blog, which has been publishing some excellent material lately. Earlier in October, Vincent Pallaci published a post titled the "[Seven Deadly Sins of Mechanic's Liens](#)." A highly recommended read, he goes into the problems that frequently arise with mechanic lien claims.

Hopefully, this post presents a new perspective from his, but of course, when you're talking about "common" mistakes....well, they're common. So, here goes.

### **Lien is Missing Information**

Vincent's "Seven Deadly Sins" post actually touches on this, but focuses on New York mechanic lien law only, and focuses on a few particular lien requirements. But, let's talk big picture here. Every state has its own technical requirements for the construction lien, meaning that your mechanic lien should have certain information in it. No ands, ifs or buts...it's got to be in the lien, or the lien is invalid.

What kind of stuff may be missing? Here are some of the most common culprits: (i) The property is not adequately described; (ii) You didn't identify the last date you performed labor, or the date you sent a specific notice, or some other date required by statute; or (iii) You didn't itemize the work you performed or the materials you furnished with enough particularity.

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Any of this stuff, while it may seem harmless, can be fatal to the claim.

## **Lien Not Filed On Time**

When determining when your lien claim is due you have to know two important things: (1) How long you have to file a lien; and (2) When that period STARTS.

So, let's say you're working in a state where you have 90 days from the last date of furnishing labor and materials to file a lien claim. And let's say you know that rule. You're on your way...

But consider this question: when is the last day that you've furnished labor and/or materials. Is it when the materials left your yard, or when it was delivered to the jobsite? Is it when you substantially completed the work, or after the punchlist items were complete? Or does it include that warranty work you did 2 months after final completion?

Each state answers these questions differently, and so knowing when the period starts can be just as important as knowing how long it is.

## **Not Understanding Your Notice Requirements**

Some states require notices, some states don't. When notice is required by the state, determining if its required for your particular job can be quite a feat. One of the most common errors with a mechanics lien is that the claimant may have lost its right to file the lien weeks or months before they ever thought about filing the lien in the first place.

Understand when you need to send notice, and send it if needed. If the notice is needed and you didn't send it...don't file your lien.

## **Letting The Lien Expire**

Let's say you delivered all of your notices, filed the lien on time and got it filed without leaving out any critical information. In other words, you have an enforceable lien claim!

That's great news...but your claim doesn't last forever. And in most states, you can't "extend" it. To continue with the enforcement of your lien claim, you must file a

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lawsuit to foreclose the claim. This is required within a certain amount of time, and if your period expires by just one day...your lien claim can disappear entirely.

## Related articles

- [Set Your Mechanic Lien Amount With Care: The Perils of Small Mistakes and Exaggeration](#) (constructionlienblog.com)
- [Promises To Pay Mean Squat To Your Lien Deadlines](#) (constructionlawmonitor.com)
- [Preserving and Executing Lien Rights Leads to Prompt Payment](#) (constructionlienblog.com)
- [I Didn't File My Lien On Time...Now What?](#) (constructionlawmonitor.com)

Read this article on the Construction Lien Blog here:  
<http://constructionlienblog.com/?p=1884>

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