

Moldbuilders/Tool Builders Beware: Permanent Means Permanent

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To have an enforceable lien under Michigan's Molder's Lien Act, a moldbuilder must "permanently record" its name and address on its mold, die or form and file a UCC financing statement. The Michigan Court of Appeals recently interpreted, for the first time, the "permanently recorded" requirement. The Court's decision puts moldbuilders — and special tool builders — on notice that their liens will not be enforceable if their identifying information can be removed.

The moldbuilder in the Court of Appeals case attached an identification tag on a "riser" that it delivered along with its molds and dies. That was not enough, according to the Michigan Court of Appeals, to meet the "permanently recorded" requirement because the riser could be separated from the die and transferred for use with other tools. The Court noted that the purpose of the "permanently recorded" requirement is to give subsequent purchasers of the dies actual notice of possible liens on the dies. That purpose was not met where the moldbuilder permanently affixed identifying information to a riser easily removed from the dies.

The Michigan Court of Appeals decision affects both moldbuilders and special tool builders. In order to have an enforceable lien, both must permanently affix their name and address to their molds, dies or tooling. Liens will not be enforced if the identifying information appears on a part that can be removed.

If you have any questions about the Michigan Court of Appeal's decision, please contact Steve Grow (616.752.2158 or sgrow@wnj.com), Dennis Loughlin (248.784.5186 or dloughlin@wnj.com), Tom Manganello (248.784.5007 or tmanganello@wnj.com) or any member of Warner Norcross & Judd's Bankruptcy and Creditors' Rights or Automotive Groups.