



[Forgot to File a Mechanic's Lien in Time? All is not Lost](#)



I spend a lot of time on the subject of [mechanic's liens](#) here at Construction Law Musings. I do this because these creatures of Virginia state statute have [very specific requirements](#) and the slightest mistake in timing or content can lead to loss of your rights to enforce a mechanic's lien in Virginia. Hopefully, my loyal readers have read these posts carefully and will not be in a situation where they have

lost their mechanic's lien rights. However, there may be times when the timing just does not work out, or for some other reason your mechanic's lien rights may have expired.

While the loss of lien rights seems a dire consequence, particularly in a down construction economy, [Scott Wolfe](#) (@scottwolfejr) posted a [good reminder that all is not lost](#). Just because you, as a contractor or subcontractor, no longer have enforceable lien rights does not mean that you are completely out of luck as far as legal rights are concerned. Your mechanic's lien rights would not exist *but for your contract* and your construction contract is enforceable.

While losing one arrow in your quiver of enforcement possibilities may seem disastrous, if you are in Virginia where [the contract is king](#) you will still have rights and Virginia courts will enforce them. So long as you have a carefully drafted and negotiated written contract, the Virginia courts will support your claim against the party with whom you have a direct contract (whether an Owner, General Contractor or Subcontractor). However, unlike in the case of a lien, your rights are only enforceable to the extent they exist pursuant to your contract. The help of an [experienced Virginia construction lawyer](#) can and will help with assuring your rights are protected in such a contract, so please consult an attorney prior to signing a construction contract or drafting one.

In sum, don't despair merely because your lien rights may not be as strong as you had hoped. With the help of a [well drafted contract](#) and a [good construction lawyer](#), you can and hopefully will prevail in collecting your hard earned money on that problematic construction project.

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Please check out my [Construction Law Musings Blog](#) for more on Virginia construction law and other topics.