

[Another Reminder to Read Your Construction Contracts](#)



Recently, I came across another Virginia construction case that serves as both a reminder that, in Virginia, the [contract is king](#) and that because of this fact, the [contract will be enforced](#) by its terms.

In [L. White and Company v Culpeper Memorial Hospital](#), the plaintiff contractor (L. White and Company) sued the hospital for wrongful termination from the project. The hospital responded that the contract required exhaustion of a two stage informal resolution process prior to any suit being filed. The informal resolution required both submission of any claim to the architect *and* mandatory mediation. L. White and Company could show that it had submitted the claim to the architect, but conceded that it never sought to mediate its claim. However, L. White and Company argued that the mediation provision was merely advisory.

The [Culpeper County, Virginia](#) Circuit Court disagreed with the plaintiff and dismissed the claim in its entirety because the contract provided for exhaustion of the informal resolution process prior to either party filing suit. In short, both sides agreed and signed the contract and therefore both parties were going to be held strictly to its terms.

While I have discussed the [great value of mediation](#) on several occasions here at Musings over the past year and a half (and my thoughts on mandatory mediation), the true take away from this case for contractors, subcontractors and suppliers is to carefully read the contract documents that control your rights regarding a construction project. You, as a construction professional, should read them carefully at the time of signing the contract and any time you plan to make a claim or exercise your rights under the contract. Here, the court clearly implied that the simple act of requesting mediation could have saved the contractor's claim (particularly if the owner did not reply or blocked mediation).

Remember, your contract is the law governing the construction project. Make sure that you carefully read and analyze that law prior to beginning work. Also, the help of a [Virginia construction attorney](#) will help avoid problems down the road.

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