

Instructions for Preliminary Notice & Mechanics' Lien

Step 1: 20-day Preliminary Notice.

Is your contract with the project owner or someone else, such as a general contractor?

- **If project owner:** Preliminary Notice is optional. Go on to step 2.
- **If someone other than project owner:** Serve Preliminary Notice to owner, general contractor, and lender within 20 days after you start work. (If it's been more than 20 days, serve it anyway; you can lien for work or material furnished from 20 days ago until the project ends)

Step 2: Project comes to a halt (finished or suspended indefinitely).

Has owner recorded a Notice of Completion or Notice of Cessation?

- **NO: You have 90 days** after work ceases to serve and record the Mechanics' Lien. Go on to step 3.
- **YES:** Is your contract with the project owner or someone else, such as a general (prime) contractor?
 - If someone other than project owner: **You have 30 days** after work ceases to serve and record the mechanics' lien. Go on to step 3.
 - If project owner: **You have 60 days** after work ceases to serve and record mechanics' lien. Go on to step 3.

Step 3: Complete, serve, and record Mechanics' Lien within permitted time limit.

Fill out the Mechanics' Lien (see example).

Mail **1 copy each** of the lien, Notice of Mechanics' Lien, and Proof of Service Affidavit (unsigned) to the owners at their residence address, business address, or the address listed on the building permit. If you absolutely cannot locate the owner, you can serve it on the construction lender or original contractor.

You can mail the lien by registered mail, certified mail, or first class mail with Certificate of Mailing (available at the U.S. Post Office). Sign the Proof of Service Affidavit once you've mailed it.

Make a copy of the Mechanics' Lien, Notice of Mechanics' Lien, and (signed) Proof of Service Affidavit for your records. Keep that along with the proof of mailing (registered receipt, return receipt, or Certificate of Mailing).

Record the **original** Mechanics' Lien, along with the Notice of Mechanics' Lien and the (signed) Proof of Service Affidavit, at the County Recorder's office.

You now have **90 days to foreclose** on the lien if not paid. Don't wait till the last day! It requires some prep time.

Step 4: Foreclose on the Mechanics' Lien if not paid.

See an attorney or use a book such as *California Mechanics' Liens and Related Construction Remedies*, from CEB Publishing, for more information about the foreclosure lawsuit.

Recording Requested By and When Recorded Mail To:

[CONTRACTOR/SUBCONTRACTOR NAME]

[STREET ADDRESS]

[CITY, STATE, ZIP]

Space above this line for recorder's use only

MECHANICS' LIEN

(Claim of Lien)

(To be recorded in the county recorder's office in the county in which the property is located.)

NOTICE IS HEREBY GIVEN that Claimant [CONTRACTOR/SUBCONTRACTOR] (legal name), claims a lien for labor, services, equipment, or materials under Section 3082 et. Seq. of the Civil Code of the State of California, upon the premises hereinafter described, and upon every estate or interest in such structures, improvements and premises held by any party holding any estate therein. Said labor, service, equipment or materials, were furnished for the construction of those certain buildings, improvements, or structures, now upon that certain parcel of land situated in the County of [COUNTY], State of California, said land described as follows:

STREET ADDRESS: [STREET ADDRESS IS OK IF ADEQUATE TO IDENTIFY PROPERTY]

and/or [LEGAL DESCRIPTION CAN BE FOUND ON DEED OR TITLE REPORT]

LEGAL DESCRIPTION:

Said lien is claimed for the following labor, services, equipment or materials: [DESCRIBE THE SERVICES, ETC]. Claimant is owed \$ [AMOUNT DUE] for labor, services, equipment or materials furnished to the work of improvement, after deducting all just credits and offsets, plus interest at the legal rate from the date of this lien.

The name of the person or company by whom Claimant was employed, or to whom Claimant furnished the labor, services, equipment and/or materials is: [PERSON OR COMPANY YOU CONTRACTED WITH].

The name(s) and address(es) of the owner(s) or reputed owner(s) of the real property is/are:
[OWNER NAME AND ADDRESS]

Name of Claimant: [SUB/CONTRACTOR]

Date: [DATE]

By: _____

[SIGNER'S NAME AND POSITION]

Print Name & Authorized Capacity

Verification

I, the undersigned, declare: I am the [SIGNER'S POSITION] (authorized capacity/title), for the Claimant named in the foregoing claim of mechanics' lien: I am authorized to make this verification for the Claimant: I have read the foregoing claim of mechanic's lien and know the contents thereof, and the same is true of my knowledge. I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, 20____ at _____ California. _____
Signature of Claimant or Authorized Agent

NOTICE OF MECHANIC'S LIEN

ATTENTION!

Upon the recording of the enclosed MECHANIC'S LIEN with the County Recorder's Office of the county where the property is located, your property is subject to the filing of a legal action seeking a court-ordered foreclosure sale of the real property on which the lien has been recorded. That legal action must be filed with the court no later than 90 days after the date the mechanic's lien is recorded.

The party identified in the mechanic's lien may have provided labor or materials for improvements to your property and may not have been paid for these items. You are receiving this notice because it is a required step in filing a mechanic's lien foreclosure action against your property. The foreclosure action will seek a sale of your property in order to pay for unpaid labor, materials, or improvements provided to your property. This may affect your ability to borrow against, refinance, or sell the property until the mechanic's lien is released.

BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANIC'S LIENS GO TO THE CONTRACTORS STATE LICENSE BOARD WEBSITE AT www.cslb.ca.gov.

PROOF OF SERVICE AFFIDAVIT
California Civil Code section 3084(a)(6) and (c)

Failure to serve the Mechanic's Lien and Notice of Mechanic's Lien on the owner, or alternatively if the owner cannot be served on the lender or original contractor, shall cause the Mechanic's Lien to be unenforceable as a matter of law (Civil Code Section 3084(d)). Service of the Mechanic's Lien and Notice of Mechanic's Lien must be by (1) registered mail, (2) certified mail, or (3) first-class mail evidenced by a certificate of mailing, postage prepaid, and to a residence or business address for the owner, lender or contractor. Further, a Proof of Service Affidavit (below) must be completed and signed by the person serving the Mechanic's Lien and Notice of Mechanic's Lien. This page should be completed (either one of the sections below) and recorded with the County Recorder along with the Mechanic's Lien and Notice of Mechanic's Lien.

AFFIDAVIT FOR SERVICE ON THE OWNER

California Civil Code Section 3084 (a)(6) and (c)(1)(A)

I, [Server's Name] (name), declare that I served a copy of this Mechanic's Lien and Notice of Mechanic's Lien by registered mail, certified mail, or first-class mail evidenced by a certificate of mailing, postage prepaid, addressed as follows to the owner(s) or reputed owner(s) of the property:

Company /Person served: [Owner or Reputed Owner's Representative]

Title or capacity of person served (if appropriate): [Representative's Title]

Service Address: [Owner's Address as shown on Building Permit]

Said service address is the owner's residence, place of business, or address shown by the building permit on file with the permitting authority for the work.

Executed on [Date], 20 Yr (date), at [City] (city), California.

By: _____
(signature of person serving)

ALTERNATE AFFIDAVIT FOR SERVICE ON THE CONSTRUCTION LENDER OR ORIGINAL CONTRACTOR

California Civil Code Section 3084 (a)(6) and (c)(1)(B)

I, _____ (name), declare that that the owner or reputed owner cannot be served with a copy of this Mechanic's Lien and Notice of mechanic's Lien by registered mail, certified mail, or first-class mail. Pursuant to California Civil Code section 3084(c)(1)(B), I served a copy of this Mechanic's Lien and Notice of Mechanic's Lien by registered mail, certified mail, or first-class mail evidenced by a certificate of mailing, postage prepaid, addressed as follows to the construction lender or original contractor as follows:

Company /Person served: _____

Title or capacity of person served (if appropriate): _____

Service Address: _____

Executed on _____, 20 _____ (date), at _____ (city), California.

By: _____
(signature of person serving)

Mechanics Lien Timeline for Contractors and Subcontractors

