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## MECHANICS LIEN

# Placing and Releasing Contractors' Liens

*This Guide includes instructions and sample forms. The Guide and related forms may be downloaded from:*

[www.saclaw.org/mechanics-lien-guide](http://www.saclaw.org/mechanics-lien-guide)

## BACKGROUND

A Mechanics' Lien is an effective remedy for contractors, subcontractors, and others involved in the construction or improvement of real estate to resolve payment problems. If a service or materials provider records a Mechanics Lien against the real estate being improved, the owner cannot easily sell or refinance the property without first paying off the debt secured by the lien. A Mechanics Lien motivates the owner to make sure the contractors get paid, and is a prerequisite to filing a foreclosure action on the property. A claimant is defined by California Civil Code (C.C.) [§ 8004](#), [§ 8024](#), [§§ 8400-8404](#).

## STEP-BY-STEP INSTRUCTIONS

### Step 1: Determine if A Preliminary Notice is Required

According to C.C. [§ 8410](#), for most claimants who furnish labor, service, equipment, or material to a private work of improvement, service of a 20-day preliminary notice is a prerequisite to the enforcement of both the Mechanics Lien and stop payment notice rights. Preliminary Notices must be served to the owner, general contractor, and lender. However, some claimants including some laborers, need not give prior notice per C.C. [§ 8200 \(e\)](#). A customizable template may be downloaded from this link:

- [Preliminary Notice](#)

### Step 2: Complete the Claim for Mechanics Lien and Required Notice of Lien

Mechanics Lien forms must be in a format that the Sacramento County Clerk/Recorder's Office will accept. A customizable template may be downloaded from this link:

- [Claim of Mechanics Lien including the required Notice of Lien and a Proof of Service Affidavit](#)

Sample filled-in forms with instructions are available at the end of this Guide.

### You may also need...

#### Related Step by Step Guides on Similar Topic

- [Petition to Release  
Mechanics Lien](#)

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in Sacramento County. Please keep in mind that each county may have different requirements. If you need further assistance consult a lawyer.

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### Step 3: Serve the Claim for Mechanics Lien and Complete the Proof of Service Affidavit

Service of the claim of mechanics lien must be completed before the lien claim is recorded. C.C. [§8416 \(a\)\(7\)](#) requires the recorded original claim for mechanics lien to contain a signed affidavit of proof of service.

### Step 4: Record the Mechanics Lien, Required Notice of Lien, and Proof of Service Affidavit at the Recorder's Office

The Recorder's Office charges a recording fee (currently \$21/first page plus \$3 for additional pages). Current fees are available on the County Clerk/Recorder's website at [www.ccr.saccounty.net/Pages/Fees.aspx](http://www.ccr.saccounty.net/Pages/Fees.aspx).

**Sacramento County  
Recorder's Office**  
600 8<sup>th</sup> Street  
Sacramento, CA  
95814

## FOR MORE INFORMATION

### *On the Web:*

#### **American Subcontractors Association of California**

The American Subcontractors Association of California provides information on California Lien Laws.

[www.asacalif.com/mechanics.html](http://www.asacalif.com/mechanics.html)

#### **Contractors State License Board**

Informational pamphlet from the Department of Consumer Affairs' Contractors State License Board. [www.cslb.ca.gov/Resources/GuidesAndPublications/HomeownersGuideToPreventingMechanicsLiens.pdf](http://www.cslb.ca.gov/Resources/GuidesAndPublications/HomeownersGuideToPreventingMechanicsLiens.pdf)

### *At the Law Library:*

#### **California Mechanics Lien Law and Construction Industry Practice**

[KFC229 .M31](#)

California Mechanics Lien Law provides in-depth treatment of the basic law and procedure relating to works of improvement, from the standpoint of the contractor.

**Electronic Access:** On the Law Library's computers, using the *Matthew Bender CD*.

#### **California Mechanics Liens and Related Construction Remedies**

[KFC229 .C3](#)

This CEB practice guide discusses Mechanics Liens, stop notices, and bond remedies.

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

#### **Handling Mechanics Liens and Related Remedies (Private Works)**

[KFC 229 .H86](#)

This CEB Action Guide describes the rights and remedies, including Mechanics Liens, stop notices, and bonds of the principal parties involved in a private work of improvement.

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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## ATTACHMENTS: FORMS AND INSTRUCTIONS

Customizable templates may be downloaded from these links:

- [Preliminary Notice](#)
- [Claim of Mechanics Lien including the required Notice of Lien and a Proof of Service Affidavit](#)

Sample filled-in forms with instructions are available at the end of this Guide.

Recording requested by

And when recorded mail this document to:

Name of person requesting the recording, and address where once recorded, the document should be sent.

For recorder's use

Insert name of person claiming mechanics' lien.

### MECHANICS' LIEN CLAIM (Cal. Civ. Code § 8416)

1. \_\_\_\_\_ ("claimant") claims a mechanics lien for the labor or services or equipment or materials described in paragraph 2, furnished for a work of improvement on that certain real property located in the County of \_\_\_\_\_, State of California, and more

particularly described as (address and/or sufficient description):

Provide the address or full legal description of the property where the work occurred.

2. After deducting all just credits and offsets, the sum of \_\_\_\_\_, together with interest at the rate of \_\_\_\_\_ per annum from \_\_\_\_\_ (date when balance became due), is due claimant for the following labor, materials, services, or equipment. \_\_\_\_\_ Total amount owed, interest rate, and the date balance was due.

Describe labor, materials, services, or equipment provided.

3. Claimant furnished the labor or services or equipment or materials, at the request of \_\_\_\_\_ Name of person who requested the work. \_\_\_\_\_ (employer, person, or entity to whom labor, materials, services, or equipment were furnished).

4. The name and address of the owner or reputed owner of the real property is/are: \_\_\_\_\_ Provide name and address of the owner.

5. Claimant's address is: \_\_\_\_\_

Dated \_\_\_\_\_ Provide your address, date and sign the lien form. \_\_\_\_\_ (Signature)

### VERIFICATION

I, \_\_\_\_\_, am the: \_\_\_\_\_ ("owner," "president," "authorized agent," "partner," etc) of claimant on the foregoing claim of mechanics lien, and am authorized to make this verification for and on its behalf. I have read the foregoing claim of mechanics lien and know the contents \_\_\_\_\_ Complete, sign, and date the verification declaring under penalty of perjury the information contained in the lien form in true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated \_\_\_\_\_ (Signature)

This is the Notice Language that the Sacramento County Recorder's office requires to accompany the Mechanics' Lien form. There is no need to do anything to this form other than record it along with your lien at the Recorder's office.

**NOTICE OF MECHANICS LIEN CLAIM  
ATTENTION!**

**Upon the recording of the enclosed MECHANICS 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 mechanics lien is recorded.**

**The party identified in the enclosed mechanics 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 mechanics lien foreclosure action against your property. The foreclosure action will seek 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 mechanics lien is release.**

**BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANICS LIENS GO TO THE CONTRACTORS' STATE LICENSE BOARD WEB SITE AT [www.cslb.ca.gov](http://www.cslb.ca.gov).**

**PROOF OF SERVICE AFFIDAVIT**

**California Civil Code section 8416**

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 direct contractor, shall cause the Mechanic's Lien to be unenforceable as a matter of law (Civil Code Section 8024(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.

**PROOF OF SERVICE AFFIDAVIT (ON OWNER)**

**California Civil Code section 8416(a)(7) and (c)(1)**

I, \_\_\_\_\_ (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: \_\_\_\_\_

Title or capacity of person served (if appropriate): \_\_\_\_\_

Service address: \_\_\_\_\_

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

Executed on \_\_\_\_\_, 20\_\_\_\_ (date) at \_\_\_\_\_ (city), \_\_\_\_\_ (county), California.

When service is on the lender or direct contractor.

By: \_\_\_\_\_

(Signature of person making service)

**ALTERNATE PROOF OF SERVICE AFFIDAVIT (ON LENDER OR DIRECT CONTRACTOR)**

**California Civil Code Section 8416(a)(7) and (c)(2)**

I, \_\_\_\_\_ (name), declare 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 8416(c)(2), 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 direct contractor as follows:

Company/Person Served: \_\_\_\_\_

Title or capacity of person served (If appropriate): \_\_\_\_\_

Service address: \_\_\_\_\_

Executed on \_\_\_\_\_, 20\_\_\_\_ (date) at \_\_\_\_\_ (city), \_\_\_\_\_ (county), California.

By: \_\_\_\_\_

(Signature of person making service)

Recording requested by \_\_\_\_\_

When recorded mail to: \_\_\_\_\_

Name of person requesting the recording, and address where once recorded, the document should be sent.

For recorder's use

**RELEASE OF MECHANIC'S LIEN**  
(CA Civil Code §§ 8120-8130, 8400 et seq.)

Name of claimant as printed on Contractor's License or Secretary of State Records.

The claim of mechanics' lien asserted by \_\_\_\_\_

(name of claimant as printed on Contractor's License or Secretary of State records) against

Name of owner.

\_\_\_\_\_ (owner(s)) affecting the real property in the city of \_\_\_\_\_,

Insert name of city.

Insert name of county.

\_\_\_\_\_, California, located at (address and/or sufficient description):

Provide the address or full legal description of the property where the work occurred.

is hereby waived and released, and that certain Mechanics' Lien recorded on \_\_\_\_\_

Date lien was recorded

(date) as Instrument No. \_\_\_\_\_ and/or in Book/Reel \_\_\_\_\_,

Page/Image \_\_\_\_\_, in the official records of \_\_\_\_\_

Insert name of county.

County, California, is hereby fully satisfied, released, and discharged.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Claimant - Print Name and Title)

Date, Print Name and Title, and Sign the release of lien in front of a notary.

\_\_\_\_\_  
(Signature of Claimant or Authorized Agent)