



# the Advocate

LEGAL NEWSLETTER OF THE  
LAW OFFICES OF LEONARD S. DEPALMA, L.L.C.

Issue No. 10

Winter 2000

## Deadlines That Can Kill Your Claims

When it comes to these construction claim deadlines - what you do not know will definitely hurt you. The information contained in this issue will help you to avoid these construction claim killers.

### Claims Against the State of New Jersey

Contract claims against the State of New Jersey or any office, department, division, bureau, board, commission or agency of the State are governed by the "New Jersey Contractual Liability Act." N.J.S.A. 59:13-1 et seq.

To sustain a valid claim in court, a claimant must have filed a Notice of Claim with the proper administrative office within ninety days after accrual of the claim. N.J.S.A. 59:13-5.

However, if you fail to file a Notice of Claim within this ninety day period, within one year of accrual of the claim your company can seek permission of the court to file a Notice of Late Claim. N.J.S.A. 59:13-6.

In addition, your company must file suit on your claim within two years of accrual of the claim or within one year after completion of the contract giving rise to the claim, whichever is later. N.J.S.A. 59:13-5(b).

### Claims Against Surety Bonds

Material and Labor Payment Bonds are delivered by the principal on the bond (the general contractor) to the Owner for the benefit of subcontractors, sub-subcontractors and/or suppliers of the general contractor. In the event of a default (a failure to make payment to a subcontractor or supplier) on the part of the general contractor, the aggrieved subcontractor or

*Continued on reverse page...*

### **Law Firm Briefs**

Daiana Marcano, a paralegal intern since October 1999, will be joining the firm as a full time paralegal upon her graduation with an A.S. degree in paralegal studies from Berkeley College of Business in March 2000.

### Since Our Last Issue

Our law firm marked its 10th year of practice.

Renee Lockwood, a Paralegal, completed her 3rd year with the firm in July 2000.

Len de Palma and his wife, Karen, celebrated the adoption of their second child, Alexander Michael.

supplier can file suit upon the bond against the surety to collect the money due.

Such a claimant must first comply with all notice of claim and other requirements as stated on the bond itself. For this reason, your company should always know as early as possible whether or not the project it is involved with has a Material and Labor Payment Bond for the benefit of subcontractors, sub-subcontractors and/or suppliers.

If it does, get a copy from the general contractor or owner before you have a non-payment problem so that you can apprise yourself of all technical and notice requirements of the surety in advance.

### Municipal Mechanics' Lien Claim

Many public projects undertaken for governmental agencies, for example - Counties and Municipalities, are governed by the Municipal Mechanics' Lien Law. N.J.S.A. 2A:44-132.

A claimant must file a notice of lien claim with the public entity within sixty days after completion or acceptance by resolution of all the work of the general contractor. N.J.S.A. 2A:44-132. There is no need to file a pre-notice reservation of rights (such as a Notice of Unpaid Balance or Notice of Intention).

However, the civil action to enforce the Municipal Mechanics' Lien Claim must be commenced within sixty days after completion or acceptance by resolution of all of the work of the general contractor. N.J.S.A. 2A:44-138.

### Construction Lien Claims

A new Construction Lien Law was enacted effective as to all projects with building permits that issued after April 22, 1994. N.J.S.A. 2A:44A-1 et seq.

The revised lien law removed the Mechanics' Notice of Intention requirement. However, for residential construction contracts, before providing labor and materials a claimant must file a Notice of Unpaid

Balance (NUB) as a prior condition of filing a Construction Lien Claim.

### Residential Construction Liens

In addition, the time periods within which to complete all requirements for maintaining a lien claim upon a residential project are so brief that it is recommended that a claimant consult with legal counsel immediately upon any signs of difficulty obtaining payment.

Indeed, on larger projects, a company may want to plan ahead and review all requirements with its legal counsel to ensure no loss of rights in the event of a later nonpayment situation.

On commercial construction contracts, the Construction Lien Claim must be filed within ninety days of the last date of providing substantial labor or materials to the project. N.J.S.A. 2A:44A-6. Thereafter, a copy of the Lien must be served on all required parties (for example, the owner and, where applicable, the general contractor) within ten days after filing. N.J.S.A. 2A:44A-7.

### Protect Your Rights

The above described deadlines are not intended as a complete listing. Always consult your legal counsel to ensure your rights are protected in specific cases.



# the Advocate

THE LEGAL NEWSLETTER OF  
LEONARD S. DEPALMA, L.L.C.

### **Publisher**

Leonard S. DePalma, L.L.C.  
Attorney at Law  
37 Vreeland Avenue, 1st Floor  
Totowa, New Jersey 07512  
973-837-1488 • Fax 973-837-1460  
lawyers@advocate.org  
www.advocate.org