



Tips for the Commercial Creditor

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Your Lien Claim Must Be Properly Verified

If you are concerned about getting paid for your goods and/or services, you might think about filing a mechanic's lien claim. Many contractors and suppliers think that once they file a lien for the value of their enhancements against a property, they will acquire significant leverage against the property owner who will then be compelled to make payment. That can certainly be true, but only if the lien claim itself is prepared correctly and in strict compliance with the Illinois Mechanic's Lien Act. One small requirement that can have significant impact on the validity of a lien claim is the very last part of the lien claim, specifically, the signature line.

Section 7 of the Illinois Mechanic's Lien Act requires that a lien claim be "verified" by "affidavit" in order to be enforceable. 770 ILCS 60/7(a). Generally, the signature must be made under oath and sworn to before a person with authority under the law to administer oaths. This can be accomplished through the use of a notary. But be careful because there are different ways that a notary seal can be used. One way is that the notary simply acknowledges that the person signing the instrument is the person identified in the instrument. This will not suffice as a proper verification line of a lien. Instead, the notary line must contain the magic words "signed and sworn (or affirmed) to before me".

Other problems that can occur include dates and blank signature lines. In regards to dates, a notary must include the date of notarization or it will not be valid. In regards to

signature lines, make sure there are no blank signature lines as that will suggest that more than one person's signature was required for the authorization of the lien.

Just as you pay attention to small details to assure the highest quality in the work and materials you provide, you must also pay attention to small details when it comes to legal documents. A door won't work with rusty hinges, and a lien won't work with an invalid signature line. An attorney experienced in the area of construction law can help you draft correct lien documents which will dramatically enhance your chances of getting paid.