

TIMELINE OF CONSTRUCTION REMEDIES UNDER CALIFORNIA LAW

<p>*Service Methods*: Any one of the following qualify: (1) personal delivery; (2) registered mail; (3) certified mail; (4) express mail or (5) overnight courier with delivery confirmation (FedEx, UPS, etc.). (Cal. Civ. Code §§ 8106-8119, 8614, 9562) [Note: regular US mail does NOT qualify.] Include a declaration of service. (Cal. Civ. Code § 8118)</p> <p>*Service Parties*: Serve all of the following parties: (a) owner; (b) general contractor/direct contractor; (c) construction lender, if any; (d) surety, if any. (Cal. Civ. Code §§ 8200, 9300)</p>	
<p>PRIVATE WORKS</p>	
ACTION	DEADLINE
Serve 20-Day Preliminary Notice	ASAP but no later than 20 days after the first labor or materials are furnished to the project. (Cal. Civ. Code §§ 8202, 8204) Send to the *Service Parties* (see above) via one of the *Service Methods* (see above). (Prime Contractors are not required to give this notice.)
When *Actual Completion* Occurs— Private Works Only	Upon the occurrence of any of the following: (1) actual completion of the work of improvement; (2) occupation or use by the owner accompanied by the cessation of labor; (3) cessation of labor for a continuous period of 60 days (most common) ; (4) recordation of a notice of cessation, after a cessation of labor for a continuous period of 30 days; OR (5) if the project is subject to acceptance by a public entity, then upon that acceptance. (Cal. Civ. Code § 8180)
Serve Notice of Payment Bond Claim	At any time but no later than the following: 15 days after recordation of Notice of Completion (if recorded); OR 75 days after *Actual Completion* if no Notice of Completion is recorded. (Cal. Civ. Code § 8612) Send via one of the *Service Methods* (see above) to the bond principal and surety. [If *Actual Completion* is based upon 60 days continuous cessation of work, then the last day is effectively 115 days after cessation of all work on the project.]
Record and Serve Mechanics' Lien (*Lien Claim Period*)	<p>Prime Contractors: AFTER *Actual Completion* (see above) AND no later than the earlier of: (1) 60 days after Notice of Completion or Notice of Cessation is recorded; OR (2) 90 days after *Actual Completion* (see above) if no Notice of Completion or Notice of Cessation is recorded. (Cal. Civ. Code §§ 8412, 8416)</p> <p>Subcontractors: At any time but no later than the following: (1) 30 Days after Notice of Completion or Notice of Cessation is recorded; OR (2) 90 days after *Actual Completion* (see above) if no Notice of Completion or Notice of Cessation is recorded. (Cal. Civ. Code §§ 8414, 8416)</p> <p>Additional Notes:</p> <ul style="list-style-type: none"> • If *Actual Completion* is based upon 60 days continuous cessation of work, then the last day to record a lien is effectively 150 (60 + 90) days after the continuous cessation of all work on the project. [Earlier timelines may apply to work performed for a single tenant in a shopping mall.] • Record the lien in the county recorder's office of the county where the project is located. (Cal. Civ. Code § 8416(a)(8)). • Send the lien to the *Service Parties* via one of the *Service Methods* above. • In the case of an owner bankruptcy, different procedures apply to perfect the Lien--please see a bankruptcy/insolvency attorney with creditors' rights expertise asap; HFM can assist.
Serve Stop Notice or Bonded Stop Notice	At any time but no later than expiration of the *Lien Claim Period* (see above). (Cal. Civ. Code § 8508) Send to the *Service Parties* (see above) via one of the *Service Methods* (see above). A bonded stop notice must be accompanied by a copy of the stop notice bond. (Cal. Civ. Code § 8532)
File Lawsuit to Foreclose Lien	No later than 90 days from the date the Lien was recorded. (Cal. Civ. Code § 8460) [In the case of an owner bankruptcy, different procedures apply to perfect the Lien--please see a bankruptcy/insolvency attorney with creditors' rights expertise asap; HFM can assist.]
File Lawsuit to Enforce Stop Notice	AFTER 10 days from service of the Stop Notice; AND no later than 90 days from expiration of the *Lien Claim Period* (see above). (Cal. Civ. Code § 8550)
File Lawsuit to Enforce Payment Bond	Payment bond terms dictate time to file suit—read the bond. However, if the surety has recorded the payment bond before the project is completed, then any action on the bond must be brought within 6 months after the *Actual Completion* (see above) of the project. (Cal. Civ. Code § 8610)

ATTORNEY ADVERTISING: These materials are offered for informational purposes only and are not intended to be treated as legal advice or a complete statement of the law relevant to your situation. Nothing in these materials constitute a guarantee or prediction regarding the outcome of any particular case. Viewing and/or using this information does not create an attorney-client relationship with Higgs Fletcher & Mack LLP or any of its attorneys. You should not rely on or act on any of the provided information without consulting with a competent attorney licensed to practice law in your jurisdiction. Kirsten Worley is licensed to practice in California. (Updated 8/20/2020) © 2020 Kirsten Worley. All rights reserved.

PUBLIC WORKS	
Serve 20-Day Preliminary Notice	ASAP but no later than 20 days after the first labor or materials furnished to job. Send to the *Service Parties* (see above) via one of the *Service Methods* (see above). (Cal. Civ. Code §§ 9300-9303) (Prime Contractors are not required to give this notice.)
When *Actual Completion* Occurs—Public Works Only	The earliest of the following: (a) acceptance of the work by the public entity; OR (b) cessation of labor on the project for a continuous 60 days. (Cal. Civ. Code § 9200)
Serve Stop Notice (*Stop Notice Period*)	At any time but no later than the following: 30 days after recording of a Notice of Completion, Acceptance or Cessation, OR, 90 days after cessation or *Actual Completion* (see above) if there is no recorded Notice of Completion, Acceptance or Cessation. (Cal. Civ. Code § 9356) Send via one of the *Service Methods* (see above) to the *Service Parties* (see above). (Cal. Civ. Code § 9354) [A stop notice can be filed prior to the date payment is due; however, the value of the stop notice may include only work performed as of the date that the stop notice is given. (Cal. Civ. Code § 9352).]
Serve Notice of Payment Bond Claim	At any time but no later than the following: 15 days from the recording of Notice of Completion or 75 days after *Actual Completion* (see above) if no Notice of Completion has been recorded. Send via one of the *Service Methods* (see above) to the bond principal and surety. (Cal. Civ. Code § 9560) [If *Actual Completion* is based upon 60 days continuous cessation of work, then the last day is effectively 135 (75+60) days after cessation of all work on the project.]
File Lawsuit to Enforce Stop Notice	AFTER 10 days from service of the Stop Notice; AND, no later than 90 days following the expiration of the *Stop Notice Period* (see above). (Cal. Civ. Code § 9502) [Effectively, this deadline is 120 (30 + 90) days after a Notice of Completion, Acceptance or Cessation is recorded; OR 180 (90 + 90) days after *Actual Completion* or cessation of all work if no Notice is recorded.]
File Lawsuit on Payment Bond	AFTER ceasing all work, AND no later than 6 months after the *Stop Notice Period* (see above). (Cal. Civ. Code § 9558) [Effectively, suit must be filed within approximately 7 months (30 days + 6 months) from the time a Notice of Completion or Cessation is recorded, or approximately 9 months (90 days + 6 months) from the time of *Actual Completion* or cessation of all work if no Notice of Completion is recorded.]
FEDERAL PROJECTS	
Serve Miller Act Payment Bond Notice	No later than 90 days after the claimant provides its last labor or materials to the project. [Note: This deadline is based on completion of the individual claimant's work not the completion of the project as a whole.] Send via certified/registered mail with return receipt requested, or preferably via overnight courier with third party delivery confirmation (FedEx, UPS, etc.) to the prime contractor. (40 U.S.C. § 3133) [This notice is not required for "first-tier contractors" which are claimants who have a direct contractual relationship with the prime contractor. It is required for second and lower tier contractors only.]
File Lawsuit to Enforce Miller Act Payment Bond	AFTER the expiration 90 days from the claimant's last labor or materials provided to the project, AND, no later than 1 year after the claimant's last labor or materials were provided to the project. (40 U.S.C. §§ 3132, 3133) [Note: deadline is based on completion of the individual claimant's work not the completion of the project as a whole.]
CSLB LICENSE/BOND	
File CSLB Complaint	File complaint with the Contractors State License Board ("CSLB") no later than 4 years from the suspected illegal act or omission; OR 10 years from the suspected illegal act or omission relating to latent structural defects. (Cal. Bus. & Prof. Code § 7091)
File Lawsuit to Enforce CSLB License Bond	File complaint on the CSLB license bond no later than 2 years after the expiration of the license period during which the act or omission occurred giving rise to the bond claim. (Cal. Bus. & Prof. Code §7071.11) [However, if the contractor's license has been inactivated, canceled, or revoked during the 2-year license period the bond was posted, the alleged act or omission must have occurred prior to the date the license was inactivated, cancelled or revoked, even though suit may be filed within 2 years of the date that the license would have been active but for the inactivation/cancellation/revocation.]

ATTORNEY ADVERTISING: These materials are offered for informational purposes only and are not intended to be treated as legal advice or a complete statement of the law relevant to your situation. Nothing in these materials constitute a guarantee or prediction regarding the outcome of any particular case. Viewing and/or using this information does not create an attorney-client relationship with Higgs Fletcher & Mack LLP or any of its attorneys. You should not rely on or act on any of the provided information without consulting with a competent attorney licensed to practice law in your jurisdiction. Kirsten Worley is licensed to practice in California. (Updated 8/20/2020) © 2020 Kirsten Worley. All rights reserved.