



MESCH
CLARK
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MEMORANDUM

TO: Arizona Builders Alliance

FROM: Bern Velasco

DATE: September 6, 2022

RE: **Preliminary 20-Day Lien Notice Refresher**

The Mechanics' Lien is the contractor and suppliers' best friend. Why? Because no matter what happens with the Owner or the person who hired you, Arizona law gives you an interest in that real estate when you provide value that improves it. If you don't get paid on the job—provided you followed the steps—you can have the sheriff sell that property and pay you the proceeds (including your reasonable attorney fees).

But to benefit from Arizona's lien statutes, the lien claimant must satisfy their strict requirements. That starts with an area of frequent confusion, the Preliminary 20-Day notice. Ignore the 20-Day notice at your own peril; it can doom a lien claim from the start.

Mechanics' Lien Overview:

- *Timely* serve preliminary notice within twenty days of beginning the work. If the contract price increases by more than 30%, you must amend the preliminary notice serve it again. Serve the Owner, GC, Lender, and person who hired you.
- *Timely* prepare and record the lien in the County Recorder's office and serve a copy on the owner after completion.
- *Timely* file a lawsuit against the owner and record a *lis pendens*.

Preliminary 20-Day Notice

- Include necessary information: (1) Description of value and estimate of price; (2) name and address of claimant; (3) name and address of person hiring claimant; (4) legal description or address of jobsite; and (5) statutory notices
- **How do I describe the value?** Use a description that would give reasonable notice of what it is you're doing.

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- **What dollar amount?** The amount of the contract; not the disputed amount. The 20-Day Notice is “good” for up to 130% of the contract amount.
- **What if change orders increase the contract value by more than 30%?¹** Serve a new lien notice with the new amount. Review your lien notice with every change order.
- **When do I serve it?** The 20-Day Notice is good for value provided with a 20-day look back. Serve it within 20 days for first delivering value to be completely covered.
- **How do I serve it?** By first class mail with a certificate of mailing, registered or certified mail, postage prepaid.
- **What if I don’t know who the Owner, GC or Construction Lender is?** Make a written request to the reputed owner, they have 10 days to give you the information.

¹If value was first furnished before January 1, 2020, the limit is 120% of the amount stated.