
Global Certificate in Construction Law

Construction Claims and Remedies

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Construction claims refer to disputes or disagreements that arise during the construction process, typically related to delays, defects, or additional costs. These claims can be made by either party involved in the construction project, such as the owner, contractor, or subcontractor. Construction claims can lead to legal actions, arbitration, or other forms of dispute resolution.

Remedies, on the other hand, are the solutions or actions taken to resolve a construction claim. These remedies can vary depending on the nature of the claim and the parties involved. Remedies may include financial compensation, schedule adjustments, or changes to the scope of work.

Acceleration

Acceleration in construction refers to the process of speeding up the construction schedule to meet deadlines or mitigate delays. Acceleration can be voluntary, where the contractor agrees to complete the project faster than originally planned, or it can be directed by the owner due to delays or other issues.

Change Order

A change order is a written document that modifies the original contract between the owner and the contractor. Change orders typically involve changes to the scope of work, schedule, or price of the construction project. Change orders are common in construction projects and help to address unforeseen issues or changes in project requirements.

Delay Damages

Delay damages, also known as liquidated damages, are financial penalties imposed on a contractor for failing to meet project deadlines. Delay damages are typically specified in the construction contract and are meant to compensate the owner for any losses incurred due to delays in the project.

Disruption

Disruption in construction refers to any event or circumstance that hinders the progress of work on a construction project. Disruption can be caused by factors such as changes in the scope of work, productivity issues, or unforeseen delays. Disruption can lead to disputes between the parties involved in the project.

Force Majeure

Force majeure refers to unforeseeable events or circumstances that are beyond the control of the parties involved in a construction project. Force majeure events can include natural disasters, wars, or other events that make it impossible to fulfill the terms of the contract. Force majeure clauses are included in construction contracts to address these situations.

Indemnity

Indemnity in construction refers to a contractual obligation where one party agrees to compensate the other party for any losses, damages, or liabilities that may arise during the construction project. Indemnity clauses are common in construction contracts and help to allocate risk between the parties involved.

Performance Bond

A performance bond is a type of surety bond that guarantees the completion of a construction project according to the terms of the contract. Performance bonds protect the owner from financial loss in case the contractor fails to complete the project. Performance bonds are typically required for public construction projects.

Retainage

Retainage, also known as retention, refers to a portion of the contract price that is withheld by the owner until the completion of the construction project. Retainage is meant to ensure that the contractor fulfills all obligations under the contract, including addressing any defects or issues that may arise. Retainage is common in construction contracts.

Substantial Completion

Substantial completion is a milestone in a construction project where the work is deemed to be almost finished and the project can be used for its intended purpose. Substantial completion does not mean that all work is complete, but rather that the project is functional and meets the requirements of the contract. Substantial completion may trigger certain obligations, such as the start of warranty periods.

Variation Order

A variation order, also known as a change directive or change order, is a written document that authorizes changes to the scope of work in a construction project. Variation orders may be initiated by the owner, contractor, or architect and typically involve changes to the design, materials, or schedule of the project. Variation orders help to address changes in project requirements or unforeseen issues.

Defects Liability Period

The defects liability period, also known as the warranty period, is a specified period after the completion of a construction project during which the contractor is responsible for addressing any defects or issues that

arise. The defects liability period is typically outlined in the construction contract and may vary depending on the type of project. During this period, the contractor is obligated to repair any defects at no additional cost to the owner.

Expert Determination

Expert determination is a form of alternative dispute resolution in construction disputes where an independent expert is appointed to make a binding decision on the issue at hand. Expert determination is typically faster and less costly than traditional litigation or arbitration and can help parties resolve disputes more efficiently.

Joint Checks

Joint checks refer to a payment method in construction where a check is issued jointly to the contractor and subcontractor for work performed on a project. Joint checks help to ensure that subcontractors are paid directly for their work and can help prevent disputes over payment between parties.

Notice of Claim

A notice of claim is a formal written notification that informs the other party of a potential claim or dispute in a construction project. Notice of claim requirements are typically outlined in the construction contract and must be followed to preserve the rights of the party making the claim. Failure to provide a timely notice of claim may result in the waiver of certain remedies.

Quantum Meruit

Quantum meruit is a legal term that translates to "as much as he deserves" and refers to a claim for the reasonable value of services rendered or work performed. Quantum meruit claims are common in construction disputes where there is no written contract or where the terms of the contract are unclear. Quantum meruit allows parties to seek compensation for work done based on the fair market value of the services.

Retention Release

Retention release refers to the process of releasing the retainage or retention amount held by the owner to the contractor upon completion of the construction project. Retention release typically involves the submission of a final payment application and completion of any outstanding work or obligations. Retention release helps to close out the project and finalize financial matters between the parties.

Time Bar Clause

A time bar clause is a contractual provision that sets a deadline for parties to submit claims or disputes related to a construction project. Time bar clauses help to ensure that claims are submitted in a timely

manner and prevent parties from bringing claims after a certain period has elapsed. Failure to comply with a time bar clause may result in the waiver of the right to make a claim.

Withholding Payment

Withholding payment refers to the practice of retaining all or a portion of a payment due to a contractor or subcontractor until certain conditions are met. Withholding payment may be done to ensure that work is completed satisfactorily, to address defects or issues, or to cover potential liabilities. Withholding payment should be done in accordance with the terms of the contract to avoid disputes.