

# CALIFORNIA CONTRACTORS: SLOW PAYMENTS AND THE SPEEDY PAYMENT OBLIGATION

LEGAL ARTICLE

## California Contractors: Slow Payments and the Speedy Payment Obligation

BY EMMA LLOYD & GENO ASHLEY

HOGE • FENTON

### California Contractors: Slow Payments and the Speedy Payment Obligation

By Emma Lloyd and Geno Ashley

As a contractor, you may have been impacted by owners or general contractors who have delayed or withheld their payments to you. In these instances, you may have legal options to address the situation.

California recognizes the problems that late payments to a contractor may create for the contractor, their teams, and construction projects in general. In 1990, the California Legislature enacted the first of a series of laws that give contractors a pathway to enforce their right to prompt payment. These prompt payment statutes discourage owners and direct contractors from withholding monies owed. Otherwise, the withheld monies essentially would be an interest-free loan to the owner or general

contractor.

There are, however, exceptions to this speedy payment obligation. For example, owners and direct contractors may withhold monies from contractors in instances where there is a dispute between the parties. Owners or direct contractors will sometimes use this exception to delay payments to contractors.

In interpreting the dispute exception to the speedy payment obligation under California law, the California Supreme Court ruled in *United Riggers & Erectors, Inc. v. Coast Iron & Steel Co.* (2018) 4 Cal.5th 1082 (*United Riggers*) that a delay in payment is justified only when the delayed payment is associated with or related to the dispute at issue: “[W]e conclude that timely payment may be excused only when the payor has a good faith basis for contesting the payee’s right to receive the specific monies that are withheld.” (*United Riggers, supra*, at p. 1098.)

In a recent case we handled, the owner withheld payment to a general contractor that was due and owing for undisputed subcontractor work based on unrelated claims of delay and other alleged contract violations asserted by the owner against the general contractor. The owner, however, accepted all of the construction work performed by the subcontractors for the completion of the project at issue, which was not in dispute.

Applying the law to this situation, the owner’s withholding of payment for the undisputed subcontractor work was improper. The owner’s alleged justifications for withholding payment had nothing to do with the actual work that was undertaken, including by the subcontractors, and the owner’s refusal to pay the general contractor for the work performed was without justification and in violation of California’s prompt payment statutes and the Supreme Court’s opinion in *United Riggers*.

As a contractor, you have options under the law to help you deal with slow-paying owners or general contractors. Taking advantage of those options requires consultation with legal counsel. Hoge Fenton is well-established in the California Construction Industry and has deep experience resolving these types of situations.



**Emma Lloyd** is a member of the firm’s Business Litigation practice group. Emma represents clients in complex commercial disputes, including breach of contract, fraud, and tort claims. She has handled matters through all stages of litigation, from case inception through appeal. Before joining Hoge Fenton, Emma was an associate at a Bay Area appellate and commercial litigation firm.



**Eugene (Geno) Ashley** is a member of our Business Litigation, Real Estate, and Construction groups. Geno has built his career counseling and advocating on behalf of his business clients in significant matters. A veteran trial lawyer, Geno's experience ranges from “bet the company” lawsuits with multi-million-dollar outcomes, to prosecuting and defending actions arising out of contracts and business torts, unfair business practices and trade secrets claims, and construction, real estate disputes, and employment law litigation

This article is provided as an educational service by Hoge Fenton. The content discussed is an overview only and should not be construed as legal advice or advice to take any specific action. Please be sure to consult a knowledgeable professional for assistance with your particular legal issue. © 2022 Hoge Fenton

## Related Attorneys

- Emma B. Lloyd
- Eugene Ashley