

The Silly Season; CSLB Contracts

The British press (even more than the United States press) has a “silly season” in the summer. When ordinary news get slow (which is hard to imagine these days), the press simply makes up stories. Or takes an odd or poignant story and fluffs it.

The classic British silly season story is the lost parakeet. It seems to come up every year.

The story goes as follows. An injured and exhausted parakeet crash lands on a windowsill and begins to repeat what appears to be a number of random numbers. After brainstorming by the homeowner, police, and MI5, the numbers being repeated by the near-dead parakeet (oldsters, think Monty Python) turn out to be the phone number of its owner. All is well that ends well.

The silly season is now upon us. What follows is our contribution.

Contractors State Licensing Board; Citations versus Accusations. A contractor tangling with the Board was told she was getting a Citation. Her question to us - what was that?

Citation: It is a written statement by the CSLB to a contractor that specifies alleged violations of law by the licensee. A citation frequently contains a civil penalty (up to \$2000).

There is also typically an order of restitution to pay the financially injured party, and/or an order to correct.

Accusation: It is a public, written statement of charges against the contractor that the CSLB has filed with the Office of the Attorney General. An accusation states the statutes and

rules a contractor is alleged to have violated. Unless settled, it results in an administrative law hearing to determine whether a licensee has violated the law. If the contractor is found in

violation, its license can be suspended, revoked, and/or placed under some other type of

restriction by the CSLB Registrar.

Per the definitions above, a Citation is a lesser concern than an Accusation. Does one fight a Citation like one would fight an Accusation? Typically not, but a Citation is sufficiently

serious that it certainly requires a response.

Love it or not, the CSLB is the Irish cop on the beat and we have to put up with them, work with them, and, at times, fight with them. We repeat something stated in this column a

million times - if you are contacted by the Board about anything, you always must respond in

writing in a timely fashion.

The Gilded Age; Out of State General Contractors Oppressing California

Subcontractors. As the economic boom continues and the good times roll on, some of the

biggest players in the California residential remodel niche are out of state general contractors. These fine fellows usually have their own subcontract template that they expect to be used.

Although we wish our California general contractors had the projects, we welcome the business regardless. The problem is that these Washington, Nevada, and Oregon general contractors are not familiar with California legal requirements. These include the California statutes regarding indemnification agreements between contractors and subcontractors – which only allow “type 2” indemnification provisions. If you are signing a subcontract with an out of state general contractor, look closely at these indemnification sections. Be sure you are not being over-burdened. The statutes regarding the limitations on indemnity obligations in construction contracts are located in the California Civil Code, Sections 2782, 2782.05, and 2783.

Also, you should make sure the contractor is appropriately licensed in the State of California. If they are not and there is a payment problem (or any other problem) with an owner, the general contractor may not be entitled to pursue legal remedies against the owner. This may in turn, affect your ability to be paid.

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As always, these articles are summary discussions only - to simply give you a heads up on various construction topics. The information contained herein is not legal advice.