

Handy Legal Document for the Contractor's Tool Belt

The Daily Report

The construction law practice group of Wallace, Jordan, Ratliff & Brandt handles a full range of legal issues related to all aspects of a construction project. The attorneys working in this area represent owners, developers, contractors, design professionals, subcontractors, and suppliers in all areas related to the construction industry.



Larry S. Logsdon

205.874.0341

llogsdon@wallacejordan.com

A common term in a construction contract is one that requires “written notice” for extra work claims and time extensions. Also, there are usually short deadlines for when this notice must be given. The clock runs from the very beginning of the event, not the end. Claim events could be things like: hidden subsurface conditions; delays in completion; or, even verbal requests by the owner for extra work. What’s troubling is that the contract often contains language saying that if you do not comply with the notice by the deadline, the claim for extra money or time is forever waived.

Contractors usually are reluctant to send “claim letters” every time something goes wrong on a project that could result in a claim. But, in trying to avoid ill will and conflict by not sending notice letters, the contractor risks waiving claims. The proper practice is to send notice letters informing of the potential claim. However, a safeguard, if letters are not sent, is to include claim information on Daily Reports. Those could serve as a mechanism for more softly and palatably informing an Owner of your claim while still avoiding being cast as a trouble maker. The Daily Report should include events such as delays on the project, requests for extra work, hidden conditions or anything that might later develop into a claim for time or additional compensation.



A few points about the mechanics of using Daily Reports. First, make every effort to complete them each day. Don’t wait until the end of the week. That promotes accuracy and adds credibility. Second, review the contract. It might contain special requirements for the report such as format, information needed, and to whom they should be sent. Remember that Daily Reports can be used to serve purposes of giving notice to an Owner only if sent to the Owner. Third, be descriptive, use clear wording and avoid abbreviations that may be misunderstood. But, remember that the Daily Report sent to the Owner is not the mechanism to document your own employees or subcontractors short fallings. Finally, if you are going to be making a claim for extra time or extra compensation for the event you are describing, specifically say that in the report. You do not want someone to say later that they understood you were telling them about an event but had no idea you were claiming to be owed extra money or time.

If you have any questions about this or implementing this daily report as a part of your Contractor’s Tool Belt, please let us know.

For more information, visit wallacejordan.com or alabamaconstructionlaw.com.