

What happens when a complaint is filed against you?

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Often I find that contractors don't really understand the Dispute Resolution Services (DRS) complaint process, so hopefully this will give you an idea of what to expect.

First off, avoid the need to end up in the dispute process by communicating with your customer. This starts early in the project with a clear and concise contract that specifies what you will be doing, what materials you will use, when you expect to have the work completed and what responsibility the property owner has. Be sure to promptly return calls or emails. ALWAYS write up change orders when there is a change to the project, especially if there is a cost involved.

Now you have a dispute and your customer decides you are wrong and they want to file a complaint. The law requires the consumer, subcontractor or material supplier to send a Pre-Complaint Notice to your address of record 30 days prior to filing the formal complaint. Note that they will have proper legal service when they use the address on your license, even if you have not kept it up to date, as required.

Once the notice is sent, you must act within the 30 days and try to get the matter resolved. At this point, nothing has hit your license record but it will once the complaint is filed, so act now rather than later. Contact the complainant!

Mediating

When the 30 days has passed and the complainant files the complaint, a DRS analyst will determine whether CCB has jurisdiction. Assuming the complaint is timely and CCB has jurisdiction, copies of all submitted documents are sent to both parties and an on-site mediation is scheduled to try and resolve the dispute. Some mediations are by phone, especially when the complaint is non-payment by a contractor to a subcontractor or material supplier or if the work was completed by another contractor so there isn't anything to see at the site.

At the on-site mediation, the mediator takes control and sets the ground rules. He or she will ask participants to remain calm and not interrupt each other. Many mediators start by asking questions with everyone in the same place at the same time. Once the mediator has a handle on the events that took place and the issues, they may separate the parties.

The mediator does not take sides and most things discussed during separate caucuses cannot be discussed with the other party. What the mediator is trying to determine is where the common ground is so they can settle.

Settling

The settlement can be as simple as what will get fixed or what amounts should be paid to which party. Remember that the mediator MUST have someone from both parties who is authorized to sign a legal settlement agreement or they will terminate the on-site meeting.

Homeowners are not required to allow a contractor to correct work but in some cases that is the best solution and it can be done if the homeowner agrees to it.

What if CCB can't get a resolution during the on-site mediation or one party does not have an authorized representative at the meeting? In this case, the Complainant must file a court action for monetary damages with the proper jurisdiction. Most small claim courts have a \$10,000 limit and you will represent yourself rather than use an attorney. If the claim is for more than the small claim limit, you will need to hire an attorney when the Claimant files in court and things are very likely to get very expensive.

Managing expectations

The main points here are that as a contractor, you are the professional and you need to manage your customer and their expectations. Doing this is usually fairly easy when you communicate and reduce expectations to writing so the "he said, she said" scenario doesn't cloud what was expected and what was intended. Also, remember that you need to evaluate the customer and make sure when you sign an agreement you will be able to work with them and not get into disputes.