

CHALK ONE UP FOR THE CONTRACTOR: KIND OF

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The Licensing Law in the state of California is extremely harsh. If you are unlicensed and you perform work, you are not going to collect and if you have been paid you are going to have to return the money. Even if you are a licensed contractor, the law makes it difficult for you to prove that you are a licensed contractor. Contractors are aware or should be aware that Business and Professions Code section 7031 precludes contractors from collecting for work they performed unless they can prove that they were licensed at all times during the performance of the construction work. In any litigation, it is the burden of the contractor to prove that they were licensed at all times.

Business and Professions Code section 7031(d) states in part that the only way to prove licensure is by obtaining a verified certificate from the Contractors' State License Board ("CSLB"). Showing your wall certificate or pocket card is not sufficient in court to prove licensure. You must obtain a verified certificate of licensure from the CSLB. This became very important in a 2007 case titled Advantec Group, Inc. v. Edwin's Plumbing Co., Inc. In that case, the court denied the contractor a request for continuance to allow the contractor to obtain a certificate of licensure from the CSLB. As a result, judgment was entered against the contractor because the contractor was not able to prove by a verified certificate of licensure that the contractor was licensed. This judgment against the contractor was upheld by the appellate court despite the fact that the contractor was in fact licensed but simply failed to produce the verified certificate of licensure.

In a recent case titled Womack v. Lovell the appellate court reversed a trial court judgment against a contractor who did not have a verified certificate from the CSLB. The appellate court reversed the judgment because the facts in that case were different than the facts in the Advantec case. In Womack, the appellate court did not enforce the requirement of the contractor to have a verified certificate of licensure because the homeowner in several legal documents had stated themselves that the contractor was a licensed contractor. Furthermore, the homeowner did not contest the licensing of the contractor in any legal documents. As a result, the appellate court took these facts as an exception to the Advantec case and did not require the contractor to produce a verified certificate of licensure from the CSLB.

While Womack certainly appears to be an exception to Advantec, the best course of action in any case a contractor is involved in litigation where they are seeking recovery of money, is to order a verified certificate of licensure from the CSLB so that it could be used at the time of trial to prove that you were licensed at all times during the course of construction.



Kenneth Grossbart is recognized as one of the foremost authorities in California construction law. Over the past 35 years, Ken has become a respected speaker on Mechanic's Liens and other construction related issues. Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients and it does not establish an attorney-client relationship with the reader. This document is of a general nature and is not a substitute for legal advice. Since laws change frequently, contact an attorney before using this information. Ken Grossbart can be reached at Abdulaziz, Grossbart & Rudman: (818) 760-2000 or by E-Mail at ksg@agrlaw.com, or at www.agrlaw.com

Dec '15 / Jan '16