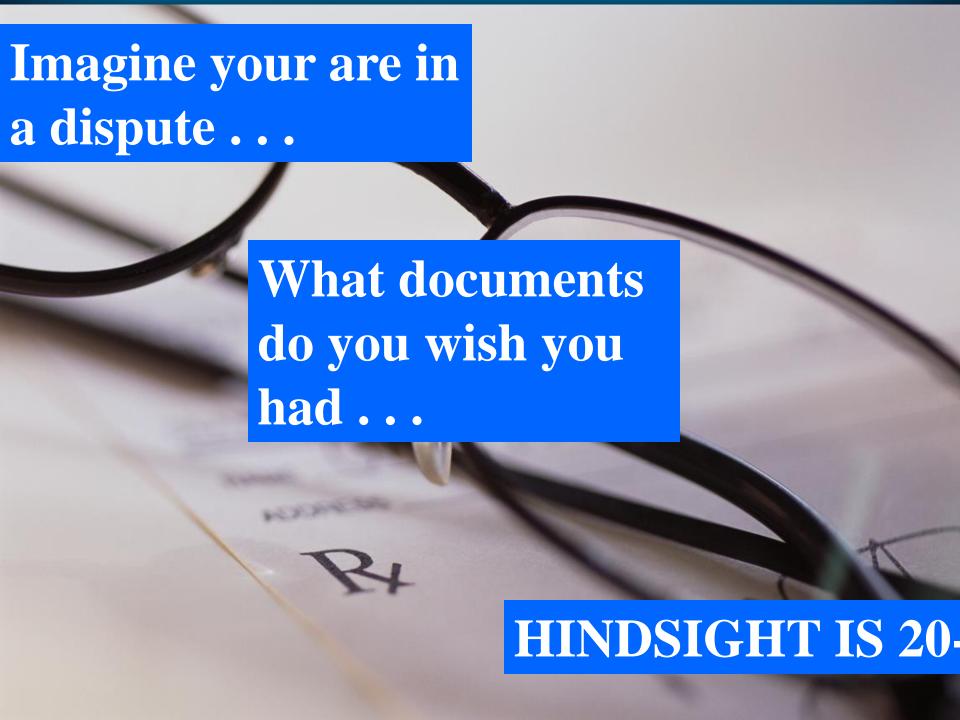
Documentation Requirements for the Project Manager



Speaker: Angela R. Stephens, Stites & Harbison, PLLC





Why Document?

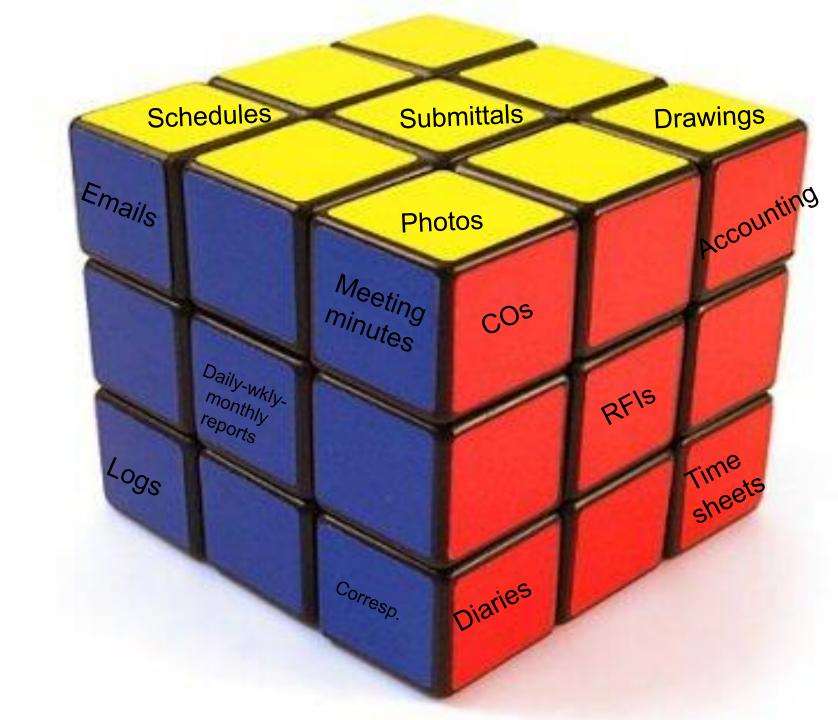
Communicate

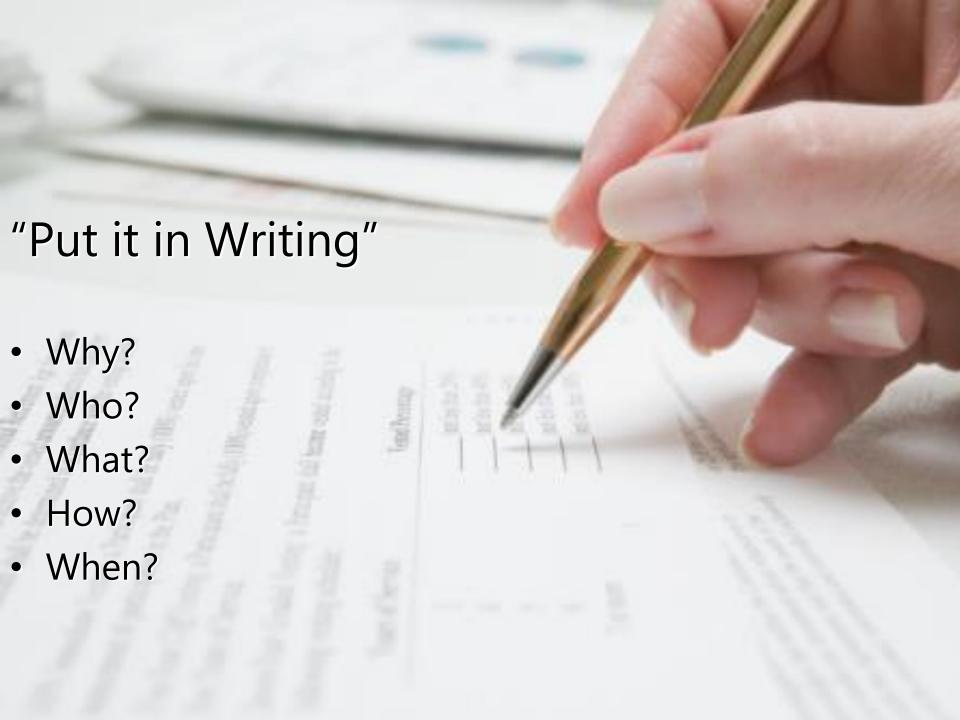
Document progress

Preserve claims

Minimize exposure and prevail in disputes!



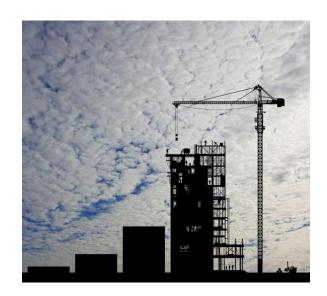




What to Document?



Before



During



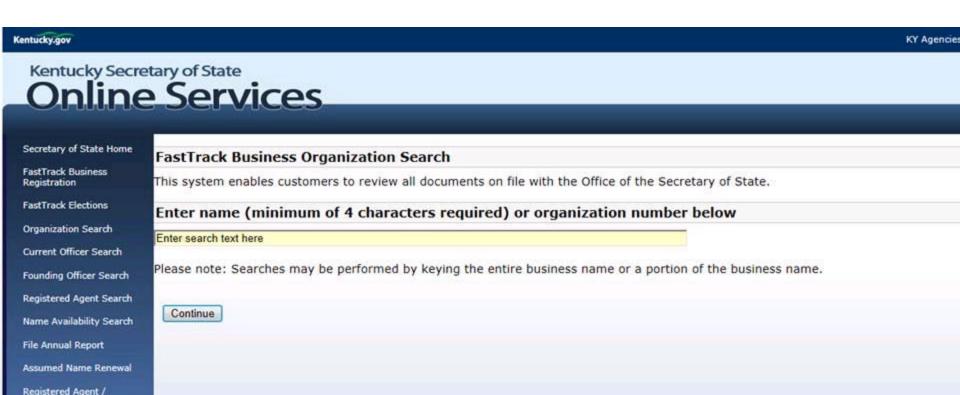


Before You Bid



Can You Work in That State?

- Are you:
 - Authorized to transact business in that State?
 - Required to have a license?



SPEEDY SERVICE PLUMBING, INC

What about the other parties?

General Information

Organization Number 0665321

Name SPEEDY SERVICE PLUMBING, INC

Profit or Non-Profit P - Profit

Company Type KCO Kentucky Corporation

Status I - Inactive

Standing B - Bad

State KY

File Date 5/25/2007 1:59:15 PM

Organization Date 5/25/2007

Last Annual Report 5/22/2009

Principal Office PO BOX 777

RADCLIFF, KY 40159

Registered Agent DONALD KEITH SMITH

402 B WEST LINCOLN TRAIL BLVD.

RADCLIFF, KY 40159

Authorized Shares 1

100

Do you want to work with these people?

- ☐ Have we successfully completed previous projects with:
 - ☐ This owner
 - ☐ This engineer
 - ☐ This prime contractor or construction manager
 - ☐ This erector
 - ☐ This detailer



GOOGLE SEARCH



Get the Plans & Specs & Contracts

- Evaluate the Contracts
 - Yours
 - And Prime Contract
- Why?
 - Flow Down
 - Waivers
 - Inconsistent Requirements
 - Notice
 - Dispute Resolution
 - Delays

- Clauses to Beware of:
 - Pay-If-Paid
 - Insurance
 - Indemnity
 - Liquidated Damages
 - Consequential Damages



Do you need to submit a Bid Protest?

Beware of state reqs.



Mr. Jonathan Miller Commonwealth of Kentucky Finance and Administration Cabinet Office of the Secretary Room 383 Capitol Annex 702 Capitol Annex Frankfort, KY 40601-462 Via Fax at (502) 564-3894 & U.S. Mail

******BID PROTEST*****

Re: Louisville Arena Project – Bid Proposals for Earthwork (Excavation & Retention), Site Utilities, and Auger Cast Piles

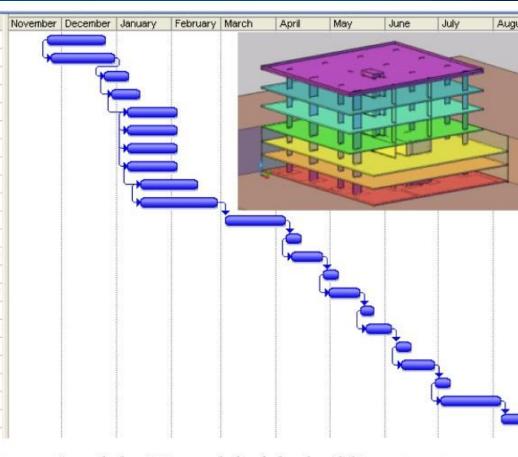
Dear Mr. Miller:

Please let this correspondence serve as RAM Engineering & Construction, Inc.'s ("RAM's") formal letter of protest pursuant to KRS 45A.285 for the award of certain site related packages on the above referenced Project. As grounds for this protest, the Louisville Arena Authority ("LAA") and/or M.A. Mortenson Company ("Mortenson") has impreperly awarded a contract to Veit & Company, Inc. ("Veit") related to the above referenced bid proposals by

Schedule — critical path and

	Name	Duration	Start	Finish	Predecessors
1	Escavação	25 days	Mon 23-11-09	Fri 25-12-09	
2	Paredes de contenção	26 days	Wed 25-11-09	Wed 30-12-09	1SS+2 days
3	Buracos fundações	10 days	Fri 25-12-09	Thu 07-01-10	2FS-4 days
4	Fundações	12 days	Tue 29-12-09	Wed 13-01-10	3SS+2 days
5	(Armaduras pilares piso -3)	20 days	Thu 07-01-10	Wed 03-02-10	4SS+7 days
6	(Cofragem pilares piso -3)	20 days	Thu 07-01-10	Wed 03-02-10	5SS
7	(Betonagem pilares piso -3)	20 days	Thu 07-01-10	Wed 03-02-10	5SS
8	Pilares e paredes piso -3	20 days	Thu 07-01-10	Wed 03-02-10	5SS
9	(Armadura laje piso -3)	23 days	Thu 14-01-10	Mon 15-02-10	8SS+5 days
10	Laje piso -3	32 days	Thu 14-01-10	Fri 26-02-10	9SS
11	Laje piso -2	24 days	Wed 03-03-10	Mon 05-04-10	10FS+2 days
12	Pilares e paredes piso -2	7 days	Tue 06-04-10	Wed 14-04-10	11
13	Laje piso -1	12 days	Fri 09-04-10	Mon 26-04-10	12SS+3 days
14	Pilares e paredes piso -1	7 days	Tue 27-04-10	Wed 05-05-10	13
15	Laje piso 0	12 days	Fri 30-04-10	Mon 17-05-10	14SS+3 days
16	Pilares e paredes piso 0	6 days	Tue 18-05-10	Tue 25-05-10	15
17	Laje piso 1	11 days	Fri 21-05-10	Fri 04-06-10	16SS+3 days
18	Pilares e paredes piso 1	7 days	Mon 07-06-10	Tue 15-06-10	17
19	Laje piso 2	13 days	Thu 10-06-10	Mon 28-06-10	18SS+3 days
20	Pilares e paredes piso 2	7 days	Tue 29-06-10	Wed 07-07-10	19
21	Laje cobertura	24 days	Fri 02-07-10	Wed 04-08-10	20SS+3 days
22	Muros cobertura	9 days	Thu 05-08-10	Tue 17-08-10	21

milestones clear?



Before you start work



Get Payment & Performance Bonds from all parties

PAYMENT BOND (See Instructions on reverse)	of OMB NO. 9000-0045		
Public reporting burden for this collection of information is estimated gathering and maintaining the data needed, and completing aspect of this collection of information, including suggestions for m D.C. 20405	Ing this busses action to proper other		
PRINCIPAL (Legal name and business address)	NIZATION ("x" one)		
ARCHER WESTERN CONTRACTORS, LTD. 1715 Northside Parkway NV Building 100, Suite 550 Atlanta, GA 30327-2835			
	ATION		
SURETY (IES) (Name(s) and business address(es)) TRAVELERS CASUALTY AND SURETY COMPAI One Tower Square, Hartford, Connecticut 06183	NAL SUM OF BOND		
4	USAND(S) HUNDRED(S) CENT 439 000 00		
	CONTRACT NO.		

Get the Insurance Certificates from all parties

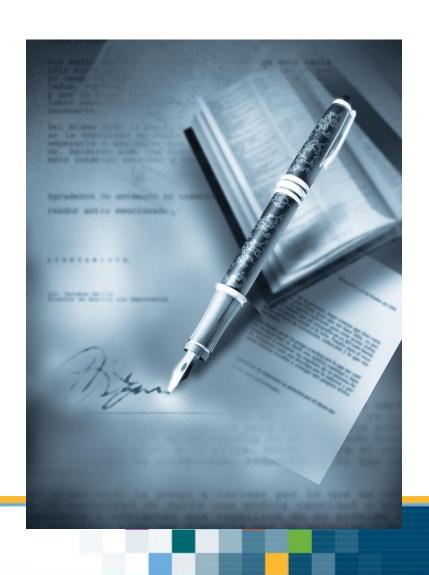
L	-	CERTIF	·ICAT	FOFTIA		_					
- 1.	PROD	UCER	10/1	E OF LIAB	ILITY IN	91	IDANO		-		
- 15	Lou	isville, KY Branch				_	JIVANO	OP ID	ES	DATE (MM/DD/YYYY)	
		an Lavelle v	TTO		I IMIC A		Transfer of the second	PRILITAD			
- 4	-	Box 24315	پيس ر		HOLDS	ANE	CONFERS N	O RIGHTS UPON THE	F INFO	RMATION	
13	oba.	isville KY 40224			ALTER	TILL	HIS CERTIFIC	SUED AS A MATTER OF RIGHTS UPON THE COATE DOES NOT AMEN AFFORDED BY THE PO	ERTIF	CATE	
1	7110	ne: 502-499-6880 Fax	:502-40	5-7871		0.00	COVERAGE	AFFORDED BY THE PO	IU, EXT	END OR	
1111	SURE	5D	1502-49	5-7871	INSUDER	in a			OCIGIES.	BELOW.	
1					MOOREN	S A	FFORDING CO	OVERAGE			
1		Pellman & Associate	-4		INSURER A:	_ 1	Motorists	Mutual Ins. C		NAIC #	
1		1140, Pellman dba	PNA +	* C	INSURER B:			Muchai Ins. C	٥.	14621	
ı		Louisville Club	Court	ALC:	INSURER C:	-	-				
۳,		Pellman & Association Pellman dba 11401 Vista Club Louisville KY 402	291-509	2	INSURER D:					-	
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INSR	ADD	OLICIES OF INSURANCE LISTED BELOW H EQUIREMENT, TERM OR CONDITION OF AI ERTAIN, THE INSURANCE AFFORDED BY T ES. AGGREGATE LIMITS SHOWN MAY HAV	E BEEN REDL	JCED BY PAIN OF KINE	SECT TO ALL THE TE	NGH 1	THIS CERTIFICATE	MAY BE ISSUED OR			
CIR	PASE	The state of the s									
	l	The same respirate.		POLICY NUMBER	DATE IMMODUSE	TE (MM/DD/YY) DATE (MM/DD/YY)					
Ą	1	X COMMERCIAL GENERAL LIABILITY	222		[January Market 19]	45	ATE (MM/DOYY)	10	MITS		
		CLAIMS MADE X OCCUR	33255	81150	03/03/0-	1		EACH OCCUPANTOR			
		[A] OCCUR			03/23/07	1	03/23/08		\$ 50	00,000	
- 1			1		1	1		Ca occurance)	\$10	0,000	
- 1		CENT				1		MED EXP (Any one person)		000	
_		GEN'L AGGREGATE LIMIT APPLIES PER				<u> </u>		PERSONAL & ADV INJURY		0,000	
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1	_	HIRED AUTOS		- 1	1		- 1	BODE Y IN EARLY	1		

Signed Contracts

- Signed Contract & Subcontracts
 - Price
 - Time
 - Scope of Work
 - Exclusions?



No Signed Contract?



 NTP + Change in Position = Contract

 Good reason to have Proposals with T&C

- Confirm in Writing
 - Proceed under Proposal



Contract Checklist

- I. Extra Work / Change Orders Notice Provisions
 - A. Extra work must be approved in writing <u>prior</u> to beginning work (send an email to R Gen the e Notice Provisions on the amount prior to beginning the work.
- II. Liens and Lien Releases in Virginia
 - A. Dharma must bond off or remove its subcontractor's lien within 10 days of the lien being filed.
 - B. IMPORTANT The lien waivers state that receipt of payment has been acknowledged. Make sure payment is received prior to executing the Waiver of Lien

Lien Reqs





Before Construction

- Document Known Claims
 - Errors in Plans
 - Delays



During Construction



TITES&HARBISON PLLC

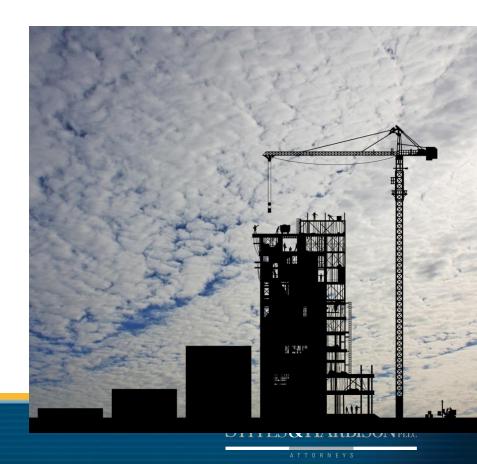
ATTORNEY

"Paper" the Project

- Daily Logs/Reports
- Communication Log
 - -Contractor
 - -Engineer
 - -Subcontractor
 - -Others
- RFIs
- Meeting Minutes



Claims for Extra Work



DRAFT AIA Document G701 - 2001

Change Order

PROJECT (Name and address):	CHANGE ORDER NUMBER: 001	OWNER:
ARS	DATE:	ARCHITECT:
TO CONTRACTOR (Name and address):	ARCHITECT'S PROJECT NUMBER:	CONTRACTOR:
	CONTRACT DATE:	FIELD:
	CONTRACT FOR: General Construction	OTHER:

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

The original Contract Sum was

The net change by previously authorized Change Orders

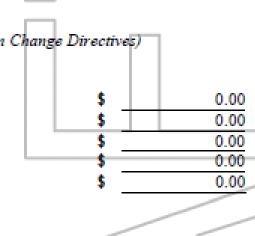
The Contract Sum prior to this Change Order was

The Contract Sum will be increased by this Change Order in the amount of

The new Contract Sum including this Change Order will be

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is



Extra Work & Delays

Documentation of Change Orders

Signed CO prior to work



- No official Signed CO?
 - Email or Letter
 - Confirming direction to proceed and that you believe this is a changed condition
 - You will submit Costs

Document Extra Work Via Plans



ID Work

Work was Outside Scope





Document Extra Work Via Photos



- Organize
 - Month
 - Issue



Photos: Proof of Installed Quantities

Location:

Memphis, TN

User:

General Contractor

Feature:

Aerial photos used to establish entitlement to installed quantities





Photos: Impeachment of Witness



Location:

Memphis, TN

User:

General Contractor

Feature:

Aerial photos used to contradict witness testimony on scope of completion



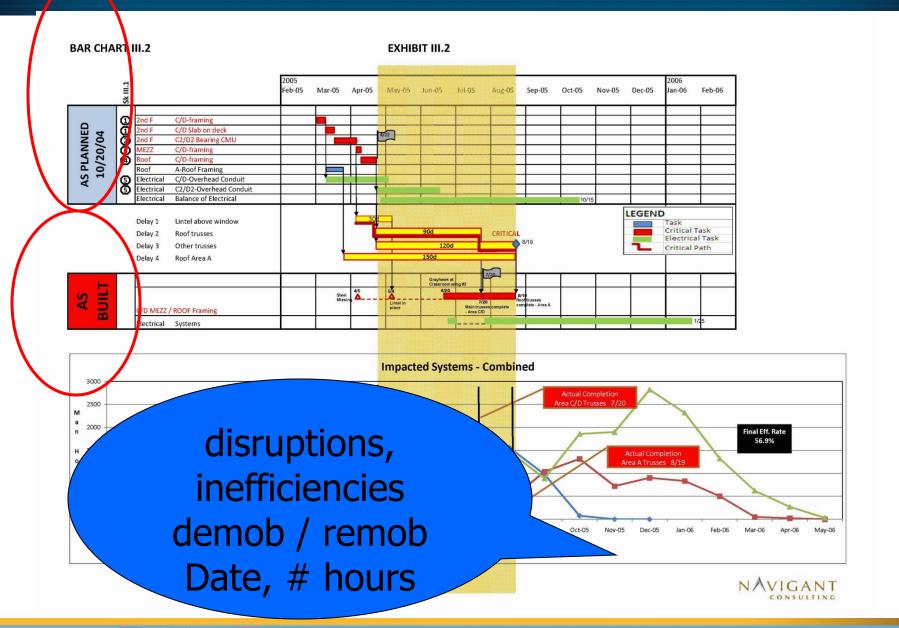
Certified Payroll & Daily Reports

												Deduc	tions	
Name and Address	Soc Sec No. Class Mar Exemp	06/27 Mon	06/28 Tue	Hour 06/29 Wed	s Works 06/30 Thu	ed This 07/01 Fri		07/03 Sun	Tot	Pay T	oss Pay This Job All Jobs	Fed. Fica State	Local Other Total	Check#
MATHAN E EDWARDS 2026 BUDD RD NEW ALBANY, IN 47150	R ELECTRICIANS Married 1 O WHITE Male		8.00	8.00	8.00	8.00	0.00	0.00	40.00	+0.348FR.	285.67 285.67 40hrs	216,99 94.09 46.16	26.22 55.79 439.25	846.42
JUSTIN S EDWARDS 2026 BUDD ROAD NEW ALBANY, IN 47150	ELECTRICAL AP Single 0 O WHITE Male	PRENT	8.00 ICE/50% 0.00	8.00 6 0.00	0.00	0.00	0.00	0.00	24.00 0.00	+0.396FR.	179.38 315.38 40hrs	74.11 42.66 23.96	12.52 57.86 211.11	404.27
STEVEN M LOMBARDI 12210 RIDGE CREST DR LOUISVILLE, KY 40243	ELECTRICAL AP Married 1 0 WHITE Male	PRENT	8.00 ICE-859 0.00	8.00 6 0.00	8.00 0.00	8.00 0.00	0.00	0.00	40.00 0.00	+1.300FR.	102.02 102.02 40hrs	111.46 80.48 54.96	10.52 49.98 307.40	794.62

ID extra time v. scope time







Document Expenses



BURLETY AND SERVICE COURT.

Please remit to:

WARE INDUSTRIES

MarinoWare Industries P.O. Box 530642

Atlanta,	GA 3	1035.5	-0642

ORDER #	TYPE	NUMBER	PAGE
415957	Shp	1068277	Page 1 of

	M CHI INQUINCES
DATE DUE DATE	TERMS
10/13/201011/30/2010	2% 10th net30th

Invoices

.908-757-9000 : 800-627-4661 :908-757-9251

CIARO GR 3982



SHIP TO:

UNITED STRUCTURES, INC. d/b/a

customer pick up CAIRO GA 31728 229-377-7772

Fax:

	ACCOUNT NO.		NUMBER			SALES PER	SON	SHIPPED VIA	`	1	B/L NU	MBER
1	176550	WITE	SARRACKS			Steve McD	anlei	p/u				
1	LN ITEM CO	DDE	оту \$нірі	PED t	JNIT	SIZE	LINEAR FEET	DESCRIPTION/COMMENTS	PRICE	MLF	PER	AMOUNT
	1 6005716			24	PC	3.7	90	6 TRACK 16GA (600T125-54) 3ft 9in.	3.74	997,00	E	\$89,73
	2 6005516		·	32	PC	12.15	7 390	6 SW STUD 16GA (6005162-54) 12ft 2.25in, UnPunched	14.06	1,154.00	E	\$450.06

CAIRO, GA 39828

OUR LUCAL BANK PUH GHADY COUNTY"

11/10/2010

PAY TO THE

MARINO / WARE INDUSTRIES

\$**2,224.77

Two Thousand Two Hundred Twenty-Four and 77/100'

Ware Industries, Inc. MarinoWare Industries PO Box 530642

MEMO

Checks

VOID AFTER 80 DAYS TWO SIGNATURE REQUIRED OVER \$3000.00

ALEMORIZED SYSHATORE

108670M



Keeping Track of Change Orders



- Log Spreadsheet
- CO files suggest electronic files
 - Change Orders
 - CO #1
 - CO #2
 - CO #3

Change Order Log

No.	Item	Date	Amount	Pending	Notes
1	Rebar masonry	3/14	\$114,450	0	Missed quantity
2	Rebar	3/14	\$92,896	0	Missed quantity
3	Curb	3/14	\$58,905	0	Missed quantity
4	Additional pumps	5/7	\$105,990	0	Engineer
5	Additional filters	5/7	\$12,450	0	Engineer
6	Electrical	5/7	\$311,412	\$311,412	Engineer



Delay Claims



STITES&HARBISON PLLC

Delay Claims

- Written Notice
 - Email or letter
- Proof that Delayed
 - -Schedules
 - -Original
 - -As-built
 - Progress Photographs
 - –Accurate Pay Apps % complete



Photos: Proof of delays









Include Date Stamps on Photos



Photos: Proof of Delays



Location:

Pittsburg, PA

User:

Steel Contractor

Feature:

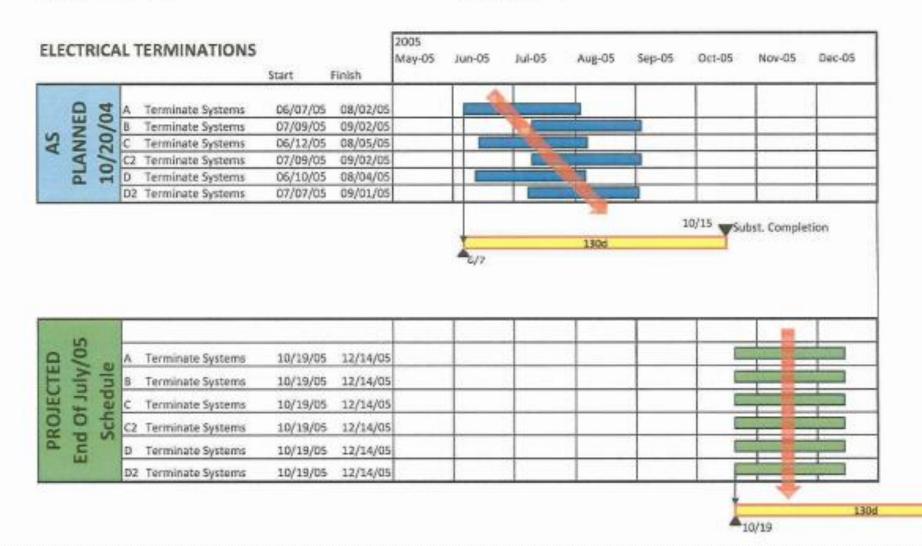
Aerial photos show staging area used by other trades and impacted schedule



Idle Time / Stacking of Trades

BAR CHART V.1

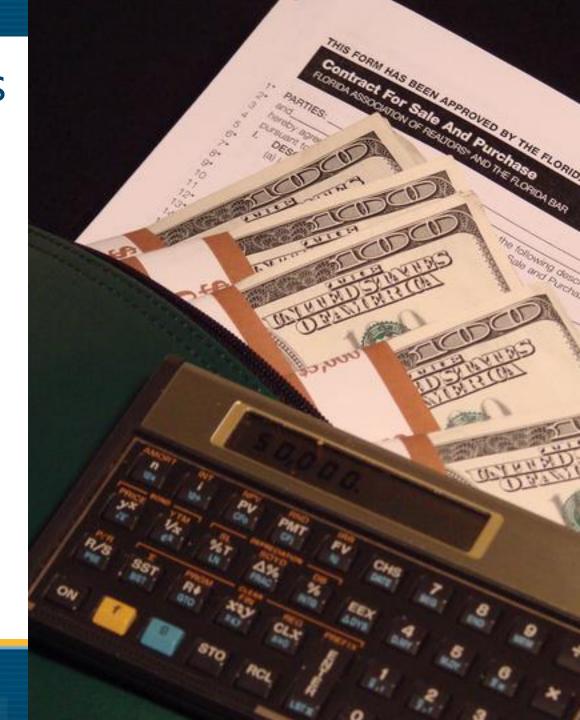
EXHIBIT V.1



Delay Damages

- Costs
 - Labor
 - Equipment (idle time)

- Compare:
 - Actual
 - Estimated



Document Defective Work via Photos

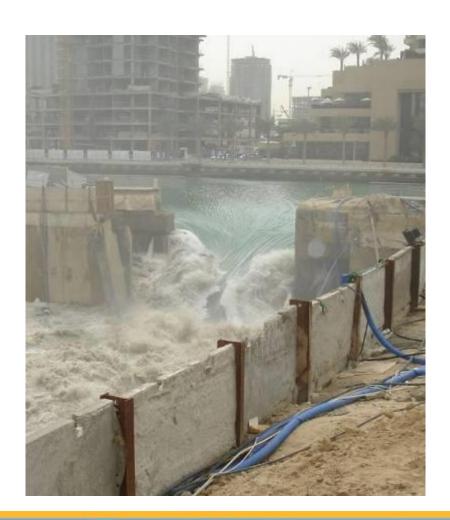


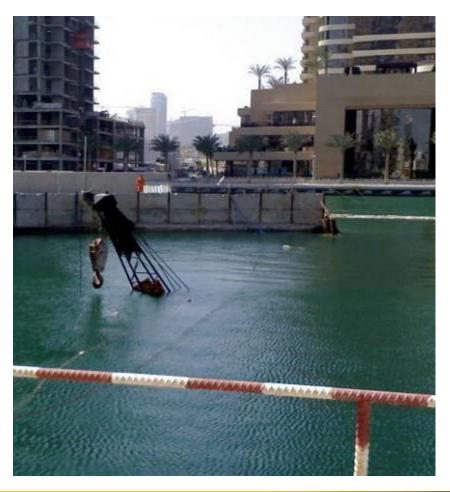
Pictures worth 1000 words

 Include Time stamps



... Gone Sour!





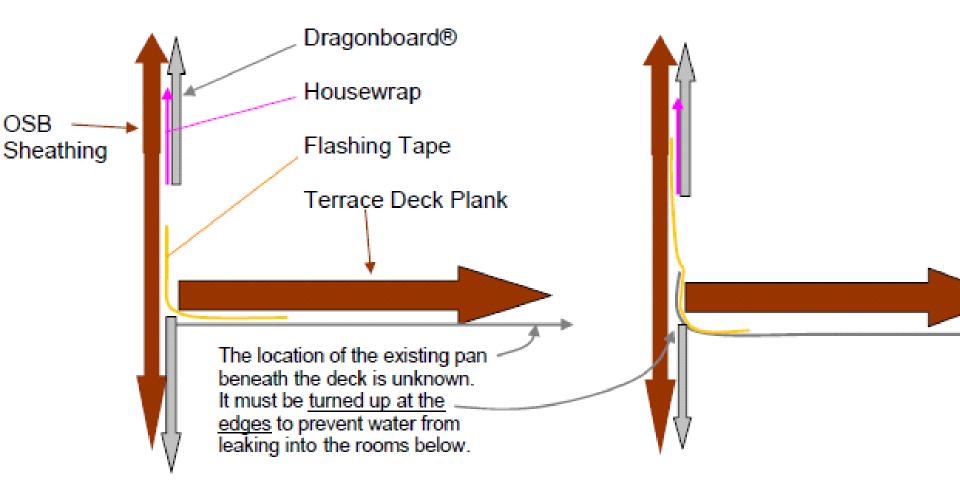
Photos: The Smoking Gun



(Bad photo if you are the blasting contractor!)



Document Defective Work via Images



Actual Installation

As Shown in Photographs 18 through 21 With Gap Between Flashing and Housewrap

Proper Installation

With Flashing Extending Beneath Housew and Turned-Up Edges of the Pan

Document Expenses



QUALITY AND SERVICE COURT.

Please remit to:

WARE INDUSTRIES

MarinoWare Industries P.O. Box 530642

Atlanta, GA 30353-0642

ORDER #	TYPE	NUMBER	PAGE	
415957	Shp	1069277	Page 1 of 1	

_			at on theoretts
	DATE	DUE DATE	YERMS
	10/13/2010	11/30/2010	2% 10th net30th

Invoices

.908-757-9000 : 800-627-4661 .908-757-9251

CIARO GR 39828



SHIP TO:

UNITED STRUCTURES, INC. d/b/a

customer pick up CAIRO GA 31728 229-377-7772

Fax:

Labor
Materials
Equipment

	ACCOUNT NO. P.O. NUMBER		1	SALES PERSON			SHIPPED VIA		B/L NUMBER			
	176550		ARRACKS			Steve McD	anlei	p/u				
LN	ITEM CO	DE	OTY SHIP	PED	TENU	SIZE	LINEAR FEET	DESCRIPTION/COMMENTS	PRICE	MLF	PER	AMOUNT
	600ST16			24	PC	3.75	90	6 TRACK 16GA (600T125-54) 3ft 9in.	3.74	997,00	E	\$89.73
	6005516		·	32	PC	12.15] 390]	6 SW STUD 16GA (600\$162-54) 12ft 2.25m, UnPunched	14.06	1,154.00	E	\$450.06

CAIRO, GA 39828

FA.1989/0812

11/10/2010

PAY TO THE

MARINO / WARE INDUSTRIES

\$**2 224 77

Two Thousand Two Hundred Twenty-Four and 77/100

Ware Industries, Inc. MarinoWare Industries PO Box 530642

MEMO

Checks

TWO SIGNATURE REQUIRED OVER \$3000,00

ALERFORIZED SYSHATSIRE

10 1086 70m



What if you get a claim?



After Construction

- Document and respond to any claims
- Provide Any Close-Out Documents
- Compare this project with prior projects
 - What is the reason for any differences?

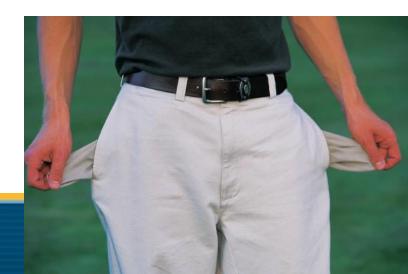




PAYMENT REMEDIES



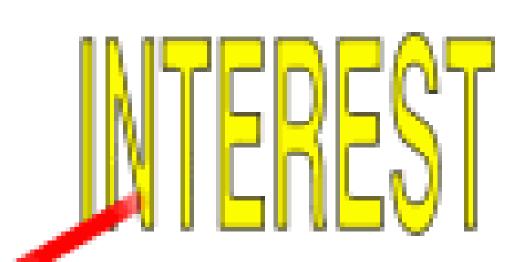
- Retainage laws
- Public and Private Mechanic's Liens
- Federal and State Prompt Payment Statutes
- Payment Bond Claims



Prompt Pay Statutes

Retainage & Payment

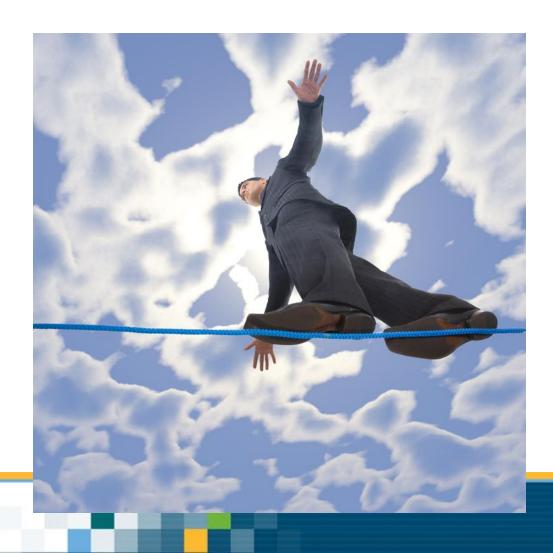




SITTES & MAKBISUN PLLO

Watch the Notice Requirements

Mechanic's Liens





PRIVATE PROJECTS





Preliminary Notice

	PRELIMINARY NOTICE OF FURNISHING MATERIALS, LABOR, OR MACHINERY ID the Owner
TO:	THE OWNER, IF ORIGINAL CONSTRUCTION, OR OCCUPATION OR REPAIR:
FROM:	(Name/Address) CLAIMANT:
I'ROWI.	(Name/Address) TD (Name/Address) Yourself

PLEASE TAKE NOTICE that Claimant has provided or has agreed to provide certain materials, labor or machinery in connection with the improvements at your property as set forth below. Claimant may assert a mechanic's lien if all of his bills are not paid in full.



Preliminary Notice

ID labor, mtls providing

 General description of the materials, labor or machinery furnished or to e furnished by Claimant:

Price

- 2. Estimated price: \$______
- The person who contracted for the purchase of said materials, labor or machinery is: _____

(Name/Address) ID who contracted with

4. Said material, labor or machinery was provided in connection with the property located at:

ID Property

Claimant first provided said materials, labor or machinery on:

Notice of Intent to Lien

If no contract w/ owner

Angela R. Stephens (502) 681-0388 (502) 779-6027 FAX astephens@stites.com

BY CERTIFIED MAIL RETURN RECEIPT REQUESTED

[Insert name and address of real estate owner]

RE:	NOTICE OF INTE Amount Due:	TO FILE A LIEN PURSUANT TO KRS 376.010(3)
	Claimant: Contractor:	

ID Your Relationship to



Owner:

Project Name:



Notice of Intent to Lien

- Time Limitations
- Days after LDOW

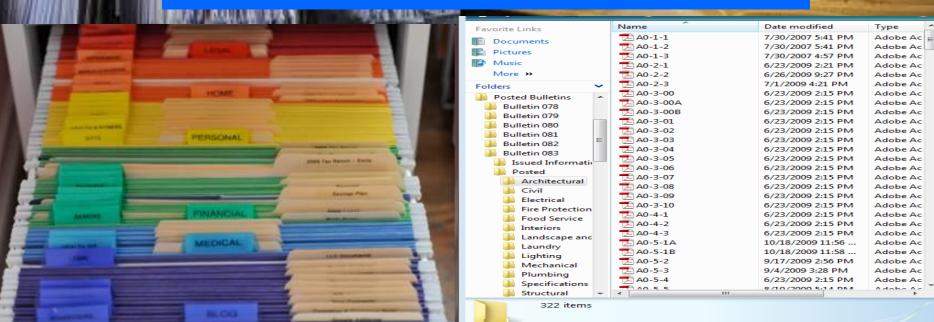




How to Document

It doesn't matter how.

ORGANIZATION IS KEY



STITES&HARBISON PLLC

ATTORNEYS

Record Keeping

- Paper files
 - subfolders
- Email
 - Organize both sent and received messages in project files
 - Read Receipts
- Text Messages
 - print
 - photo



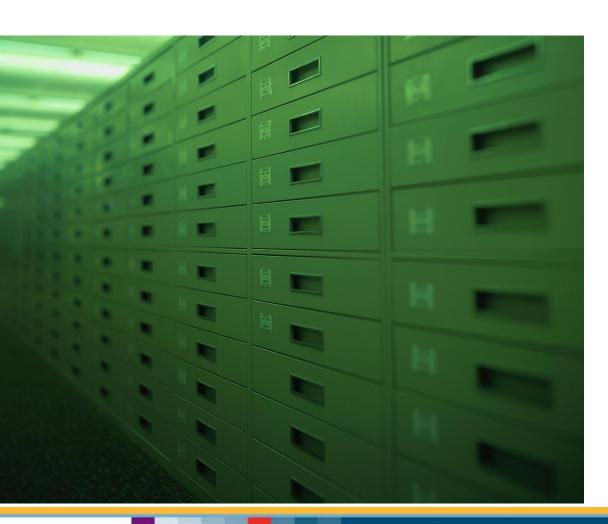


Things you don't want in writing:





Document Retention Policies









Can we shred?



It Depends

- Statutes of Limitation
- State Laws
- Litigation . . .



Retention of Records After Accident or Claim

- Keep what you know or should know is:
 - Relevant;
 - lead to discovery of evidence;
 - likely to be requested; and/or

Contracts & Pricing

Contracts files (with related correspondence and documents)

years

Other miscellaneous agreement files

7 years

Subcontract files

7 years 7 years

Consultant files

Quotations, bids & proposal files

7 years years

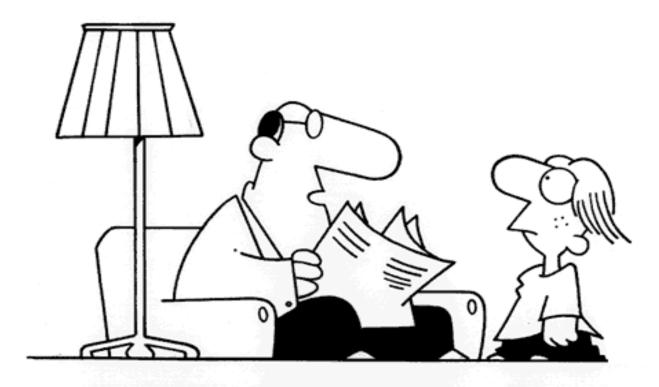
Project miscellaneous files (daily reports, etc)

LESSONS LEARNED

- Review all contracts to determine rights
- Notify the proper persons
- Document the impact
- Reserve rights and proceed under protest
- Prove the monetary loss due to impact
- Negotiate resolution

Have a strategy and written protocol for when projects go sour.

LESSON LEARNED



"Remember son, if at first you don't succeed, make it look like someone else's fault then sue them."

QUESTIONS??

Documentation
Requirements
for the
Fabrication
Project Manager



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