

## **Lawyers and Contractors**

Lawyers and contractors are not so strange of bedfellows. There are almost as many attorneys as there are contractors in the State of California. And they are about equally well regarded by the public.

This column has addressed this topic a number of times in the past, most recently in 2012. While some contractors and commentators think of the relationship between contractors and lawyers as parasitic, I like to think of it as symbiotic.

**Key Things To Look For In Your “Construction Attorney”.** In the most recent article, we discussed what contractors should look for when finding counsel. The best fit for a small to mid size construction firm – and similar sized engineer and architect businesses - would be an experienced transactional attorney specializing in construction law. This would be a person who can act as your “general counsel” – kind of a one-stop deal where all of your legal needs can be handled.

This attorney should be able to personally handle a medley of business situations such as contracts (of course), Contractors State License Board issues/problems, straightforward employment issues, and leases/business entity matters. For matters outside your counsel’s area of expertise – and there will be some - he or she should be able to refer that matter to other attorneys with that specific expertise and a good track record. This is a key part of the job.

Specific and real world experience in construction law and with industry trends are essential, but so is personal compatibility with you. If you are a wine and cheese/symphony kind of person, perhaps a Burning Man/rugby player isn’t your guy.

**A Litigator?** With all respect to litigators, I also suggested that generally a litigation specialist may not be the best and most economical counsel to use to resolve most situations that don’t require litigation. Just as surgeons like to cut, litigators like to go to court.

If the problem can possibly be resolved without going to court, your attorney should be open to, and active in resolving the matter through negotiation. Litigation is time consuming, expensive and is often not necessary.

**So When Do You Need Counsel?** In recent times, I’ve had a number of repeat offenders among my long time clients. The same legal issues are coming up again, and sometimes a third time. It is almost a version of the Bill Murray classic movie “Groundhog Day.” Thus, it seems timely to revisit when you need to contact your attorney.

So, what circumstances go beyond the scope of the usual challenges of the everyday workday, and mandate immediate legal help? Some are as follows.

- **You are served or you receive a subpoena or lawsuit.** A no brainer. Don’t dally.

- **“If this contract is not signed by 5:00 p.m. today, you don’t get the job.”** At least a quick once-over by your attorney – and perhaps a “wait a damn minute” comment - may save you both time and money in the end.
- **“I quit!” “No, you’re fired!”** Employment issues get hot quickly.
- **Cal/OSHA informs you of an upcoming inspection, or (more likely) shows up unannounced.** A quick/early intervention often minimizes damages and calms you.
- **Your Worker’s Compensation Insurance carrier informs you of an audit.** There are certain legal rules of the road that help the process go more smoothly.

So, pay attention and good luck!

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Bryant H. Byrnes, Esq. practices construction law in the San Francisco Bay Area and is counsel to the SFBA NARI Board of Directors.

Brian J. Trowbridge, Esq. of Trowbridge Law Office practices construction law, business law, succession and estate planning, and employment law in the San Francisco Bay Area.

Questions? Bryant’s website is [www.bryantbyrnes.com](http://www.bryantbyrnes.com). Feel free to contact him by email at [Bryant@bryantbyrnes.com](mailto:Bryant@bryantbyrnes.com). Brian’s website is [www.trowbridgelawoffice.com](http://www.trowbridgelawoffice.com) and you can email him at [btrowbridge@trowbridgelawoffice.com](mailto:btrowbridge@trowbridgelawoffice.com).

For Bryant’s previous articles, please visit SFBA NARI’s website and click on the link “In the News/Newsletter” under “For the Trade.” They are also available on his website under “Articles,” and on Brian’s website under “[Publications](#).”

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. Each scenario is different and if you need legal advice you should contact an attorney immediately.