

California Supreme Court Protects Subcontractor Payment by De-publishing Case

On Nov. 12, the California Supreme Court declined to review and, at the same time, de-published a case concerning mechanic's liens so that it does not set a precedent eroding subcontractor payment protections. The decision of the Court of Appeal in *Golden State Boring & Pipe Jacking, Inc. v. Safeco Insurance Company, et al* seemed to suggest that a contractor would be required to serve a Stop Payment Notice when completing its portion of the work and again by completion or acceptance of the project by a public entity. The California Stop Payment Notice statute is designed to protect payment rights for contractors who have not been paid for labor or materials used to improve real property. In a Sept. 11 letter to the Court, ASA and ASA of California stated, "[T]he Court of Appeal decision has taken any meaningful payment protection from the Stop Payment Notice." ASA further explained that contractors "typically serve Stop Payment Notices, at the latest, upon completion of their work and often times at the time of failure to receive a progress payment. The reason for this is a Stop Payment Notice is only effective if the public entity is still holding funds dedicated to the project. If a contractor waits until the project is over, as opposed to conclusion of its own work, the contractor runs the risk that the public entity will have no money left to satisfy the amounts it is owed." ASA's Subcontractors Legal Defense Fund supports ASA's critical legal activities in precedent-setting cases to protect the interests of all subcontractors. Contributions may be made to the SLDF via the ASA Web site.