

2023 CLE on Contractor Fraud Outline

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- I. Why do these situations arise more often in the construction setting?
 - a. Changes in material prices (not just pandemic related)
 - b. Mismanagement by contractors
 - c. Changes made by owners/purchasers without proper change orders
 - d. Practical tips to avoid these situations
 - i. License check
 - ii. LSLBC reporting
 - iii. Payment schedules

- II. How do the criminal statutes apply in civil settings?
 - a. La. R.S. 14: 202 and 14:202.1, Contractor Fraud statutes
 - i. How can these be used in a civil setting?
 - b. Writ of sequestration – La. CCP 3571 & La. CC art. 2949
 - i. How can this be used?
 1. Does apply to money deposited
 - ii. Under what circumstances?
 - iii. Why can it lead to a quick resolution from a practical perspective?
 - iv. Issues:
 1. Security shall be furnished
 2. Burden of proof – “harsh remedy”
 3. Attorney’s fees
 - a. But also a high burden for defendant
 - b. “may not shall”

- III. How can a civil attorney work with the DA in these types of cases?
 - a. Common responses when attempting to report to the authorities
 - b. How can a civil lawyer help the process with the DA/sheriff?
 - c. Differences in burden of proof