

MECHANICS' LIENS – TIPS ON IMPORTANT ASPECTS

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1. A voluntary dismissal *without* prejudice of an action of lien enforcement allows the refiling of the action *subsequent* to the 180 day lien enforcement period in G.S. 44A-13 if the action is refiled within one year of the dismissal unless a stipulation of dismissal specifies a shorter time. See *Newberry Metal Masters Fabricators, Inc. v. Mitek Industries, Inc.*, 333 N.C. 250, 424 S.E.2d 383(1993).
2. If the lien enforcement judgment complies with the content requirements of G.S. 44A-13(b), the judgment will be a Chapter 44A lien upon the improved real property with priority as of the claimant's first furnishing. The judgment will *also* be a general judgment lien upon *all other property* of the owner-defendant with priority from the time of docketing only, just like any other judgment lien. This is a frequently missed point.
3. If a lien enforcement judgment does *not* comply with the content requirements of G.S. 44A-13(b), it constitutes a general judgment lien only, with priority from the time of docketing, as to *all* of the owner-defendant's real property, including the improved real property. *Miller v. Lemon Tree Inn of Roanoke Rapids*, 32 N.C. App. 524, 233 S.E.2d 69(1977).
4. While a claim of lien can be "bonded off" pursuant to G.S. 44A-16, a docketed judgment of any kind cannot be.