

WESTERN NATIONAL MUTUAL INSURANCE COMPANY (“WNMIC”)
Claimant Questionnaire – Bond # _____

Your return of a completed claims questionnaire is an extremely important part of WNMIC’s claims investigation process. Your prompt completion of this document, and its return to WNMIC will directly impact WNMIC’s ability to make a speedy determination regarding your claim.

Please answer the following questions and attach copies of pertinent and/or requested documents. If you need additional space, please continue on a separate page.

I. Preliminary Facts

Claimant:

Your Name: _____
Address: _____

Phone No.: _____
Fax No.: _____
E-mail: _____

Contractor (“Principal”):

Name: _____
Address: _____

Phone No: _____
Fax No: _____
License No: _____
Related firms: _____

Project:

Please provide a general description of the construction project
(If you have a sketch or diagram of the project, please attach hereto.)

Please check one of the following:

- The work involved improvements on my primary family residence
- The work involved improvements on my vacation home
- The work involved improvements on rental property that I own
- The work involved improvements on a new home I am building for myself
- Other (please explain):

II. Your Contract

Written Contracts. If there is some form of written contract between you and the contractor, please attach a legible copy, together with copies of any agreed or disputed change orders.

Please attach a copy of the written contract and check the following box:

_____ Attached is a copy of the contract

Oral Contracts. If your contract is not in writing, or is partly written and partly oral, please state the complete terms of the oral agreement, including specifically a description of the work and the terms of payment.

(Please continue on an attached piece of paper if more space is necessary.)

ALL Contracts:

Please answer all of the questions which follow:

How did you meet this contractor?

Have you known or worked with this contractor previously?

On what date was the contract signed? _____, 20__

On what date did the work actually begin? _____, 20__

On what date did the work stop? _____, 20__

What do you consider to be your date of loss? _____, 20__

Describe the work, if any, that was completed and state the date(s) of completion.
(If you have personal notes, diary or other summary of events, please attach a copy).

List any changes, deletions or extras to the original contract and indicate whether these are agreed or disputed.

III. Payments

What was the agreed contract amount? \$ _____

How much did you pay to the contractor? \$ _____

If you departed from the original payments schedule for any reason, please explain the reason(s):

List the date, amount, and purpose of all payments made to the contractor.

Please attach copies of cancelled checks (front and back, if available) or any other evidence of payment. Please check the following box after attaching the checks:

_____ Copies of cancelled checks are attached

IV. Breach Of Contract

Workmanship (Business & Professions Code Section 7109)

If you contend that the contractor did substandard work, or departed from the plans and specifications, please explain in detail below.

Please identify all persons (i.e., independent contractors or "industry experts" designated by the Contractors State License Board) who have inspected the work and commented on the quality.

Abandonment (Business & Professions Code Section 7107)

If you contend that the contractor abandoned the project without any legal excuse, please state the date of abandonment and explain the circumstances surrounding the abandonment.

Other Breaches

Describe, in detail, all other facts (either acts or omissions) which you believe constitute a breach of the contract.

State the names, addresses and telephone numbers of witnesses who will support your contentions.

Damages

State the full dollar amount of your claim: \$_____

Please explain in detail how your claim amount was calculated.

V. Third Party Contractors

Have you had a third-party contractor inspect the work? _____

Please provide the third-party contractor's license number. # _____

Did the third-party contractor provide you with a bid? _____

What is the second contractor's estimated cost to complete the project?

\$ _____

Did the third-party contractor actually repair the project? _____

Please attach a copy of the third-party contractor's bid, and any documentation provided by the third-party contractor to you. Then please check the following box.

_____ Attached is the bid from the third-party contractor, and all other documentation provided by the third-party contractor to me.

VI. Informal Dispute Resolution

Describe all efforts you have made to resolve the contract dispute directly with the contractor.

Have you presented a claim to your own insurance carrier or to other sureties? _____

If so, please attach copies of all correspondence with the insurance carrier or sureties. Then please check the following box.

_____ Attached are copies of all correspondence with the insurance carrier and/or other sureties

Have you submitted a complaint to the Contractors' State License Board? _____
(This is not a condition to filing a bond claim, but sometimes the CSLB may offer assistance in resolving disputes.)

If you have submitted a complaint to the Contractor's State License Board, please attach a copy of the completed Complaint Form, as well as any Industry Expert Reports, Citations or Accusations resulting from your Complaint. Then please check the following box.

_____ Attached is the completed CSLB Complaint Form as well as any Industry Expert Reports, Citations or Accusations resulting from my Complaint

What is the status of any investigation being conducted by the Contractors' State License Board?

Did the contractor offer to compromise, mediate, or arbitrate your dispute? _____

If the answer to the preceding question is yes, please state your response.

If you are now willing to compromise, mediate, or arbitrate, please so indicate.

If you are now willing to compromise, mediate, or arbitrate, what would be your goal?

VII. Litigation

Have you instituted any legal action against the contractor? _____

Are you represented by an attorney in connection with any legal action against the contractor? If so, please identify your attorney, and his/her contact information.

If you have instituted legal action against the contractor, please attach copies of all papers filed in the legal action, including any judgment. Then please check the box below.

Attached are copies of all papers filed in the legal action, including any judgment.

DO NOT attach attorney-client privileged documentation or attorney work product documentation.

State whether you have been named as a party in any litigation relating to this claims, such as mechanic's lien foreclosure or stop notice actions.

VIII. Document Check List

The following checklist should be helpful to you in gathering the documentation required to investigate your claim. **(It is not necessary to re-submit items previously sent. It is very important, however, to submit all documents in your possession or available to you).** Please check the items you are enclosing with the Claims Questionnaire.

- _____ Your Contract with the contractor, including any disputed or agreed Change Orders.
- _____ All of your correspondence and records of communications with the contractor.
- _____ Any personal notes, diaries or summaries.
- _____ All preliminary lien notices, mechanic's liens or stop notices filed by any person.
- _____ Copies of cancelled checks (front and back) reflecting payments made to the contractor, his vendors or to third persons hired to complete or correct his work.
- _____ At least two written line-item estimates from properly-licensed contractors for completion and/or repair. Please make sure that the bid is limited to the same scope of work called for in the original contract.
- _____ A detailed evaluation from a properly licensed contractor or consultant indicating whether the work was performed contrary to industry standards, or contrary to plans and/or specifications.
- _____ Copies of the Consumer Complaint filed with the Contractor's State License Board, correspondence, Industry Expert reports, Citations or Accusations issued in connection with the CSLB investigation.
- _____ Copies of any other insurance or bond claims relating to the project.
- _____ Copies of any bankruptcy notices from the contractor naming you as a creditor.
- _____ Copies of any court papers and/or judgments.
- _____ Any other documents which you believe are relevant to your claim.

PLEASE NOTE: For your protection, California law requires the following to appear on this form (Insurance Code § 1871.2) "Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison."

CERTIFICATION

The undersigned represents that he/she has read the entire foregoing Claims Questionnaire, including Document Checklist. The responses to this Questionnaire and attached documents are the basis for a claim for payment of money under the terms and provisions of the Contractors License Act, Business and Professions Code, Division 3, Chapter 9, Sections 7000, et seq. The undersigned hereby declares, under penalty of perjury, that the responses are true, complete and correct.

DATED: _____, 20__

(Signature of Claimant/Declarant)

PLEASE TAKE NOTE OF THE FOLLOWING INFORMATION REGARDING THE APPLICABLE STATUTE OF LIMITATIONS:

Business and Professions Code Section 7071.11(c) and (d) provides that the statute of limitations for bringing an action against the bond is as follows:

“(c) Except for claims covered by subdivision (d), any action against a bond required under this article, excluding the judgment bond specified under Section 7071.17, shall be brought in accordance with the following:

(1) Within two years after the expiration of the license period during which the act or omission occurred. The provisions of this paragraph shall be applicable only if the license has not been inactivated, canceled, or revoked during the license period for which the bond was posted and accepted by the registrar as specified under Section 7071.7.

(2) If the license has been inactivated, canceled, or revoked, an action shall be brought within two years of the date the license of the active licensee would have expired had the license not been inactivated, canceled, or revoked. For the provisions of this paragraph to be applicable, the act or omission for which the action is filed must have occurred prior to the date the license was inactivated, canceled, or revoked.

(3) An action against a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought in accordance with the provisions of paragraph (1) or (2), as applicable, or within two years after the last date for which a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first.

(d) A claim to recover wages or fringe benefits shall be brought within six months from the date that the wage or fringe benefit delinquencies were discovered, but in no event shall a civil action thereon be brought later than two years from the date the wage or fringe benefit contributions were due.”

ATTACHMENT 1 to CLAIMS QUESTIONNAIRE

RELEVANT EXCERPTS OF THE CONTRACTORS LICENSE LAW (BUSINESS & PROFESSIONS CODE §§7000, ET SEQ.) INCLUDE THE FOLLOWING:

Business and Professions Code Section 7071.5 provides that the contractor's bond benefits:

(a) A homeowner contracting for home improvement upon the homeowner's personal family residence damaged as a result of a violation of this chapter by the licensee.

(b) A property owner contracting for the construction of a single-family dwelling who is damaged as a result of a violation of this chapter by the licensee. That property owner shall only recover under this subdivision if the single-family dwelling is not intended for sale or offered for sale at the time the damages were incurred.

(c) A person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

Typical violations include:

§ 7107 Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor constitutes a cause for disciplinary action.

§ 7109 (a) A willful departure in any material respect for accepted trade standards for good and workmanlike construction constitutes a cause for disciplinary action, unless the departure was in accordance with plans and specifications prepared by or under the direct supervision of an architect.

(b) A willful departure from or disregard of plans or specifications in any material respect, which is prejudicial to another, without the consent of the owner or his or her duly authorized representative and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans or specification, constitutes a cause for disciplinary action.

§ 7113 Failure in a material respect on the part of a licensee to complete any construction project or operation for the price stated in the contract for such construction project or operation or in any modification of such contract constitutes a cause for disciplinary action.

The entire Contractors' State License Law can be found at:

<http://www.cslb.ca.gov/forms/lb%20chapter12.pdf>