

What to Do if You Want to File Suit Against Your Construction Contractor



Lawsuits against construction contractors: What is L&I's role?

The Department of Labor & Industries (L&I) does not handle lawsuits against contractors. These lawsuits are filed in the Superior Court of the county where the work was done. Lawsuits are filed, for example, when a job is not completed, a contract is breached or when inferior or negligent work is not properly repaired.

If you decide to sue a contractor, L&I is authorized only to serve the Summons and Complaint papers on the contractor and its bonding company for funds available in their bond, and to keep records of court decisions provided to us. We cannot give you legal advice or keep track of your court case.

How do contractor bonds work?

There are no laws regulating contractors' prices or the quality of their service. However, if the business is properly registered with L&I, it will be bonded. This bond is currently \$12,000 for general contractors and \$6,000 for specialty contractors (contractors who specialize in a particular trade, such as drywall or painting). There is no limit to the amount you can sue for. However, if you are successful, the bonding company can pay only up to this amount.

Do I need an attorney to file a suit against my contractor?

No. You can file suit yourself, by following the instructions listed in this fact sheet. However, you may wish to consider hiring an attorney to help you.

Construction Defect Claims Law (Chapter 64.50 RCW)

In certain situations, a construction professional (a contractor, for example) must be given the opportunity to address construction-related defects before you take legal action, such as filing a Summons and Complaint.

Only contracts for sale, construction, or substantial remodel can require this process. "Substantial remodel" means a remodel of a residence, for which the total cost exceeds one-half of the assessed value of the residence for property tax purposes at the time the contract for the remodel work was made.

You must be provided written notice upon entering into a contract that this process may be used. If you have received this notice, you will need to follow the procedure outlined in the notice before you file suit. (Please see Chapter 64.50 RCW for additional information.)

Note: This law also applies to construction-related defect claims filed by a board of directors. If you are involved in these types of claims there are additional requirements that you need to know (see Chapter 64.50 RCW).

Who can file suit against the contractor's bond? How long do they have to file?

- **Homeowner:** Within two years of the date the claimed contract work was substantially completed or abandoned.
- **Suppliers, workers, public entities:** Within one year of the date the claimed contract work was substantially completed or abandoned.



Things to consider before filing suit

- Have you provided the contractor with a written list of your complaints and needs with a deadline for them to respond to you?
- Have you considered free or low-cost mediation?
- Are you filing suit against a construction contractor or electrical contractor? See “Filing Suit Against an Electrical Contractor” at the end of this fact sheet.

If you do not have an attorney representing you, these steps will help you file suit against a construction contractor in Washington:

1. **Obtain a Summons and Complaint form.** These may be found on some courts’ websites, in some clerks’ offices or for purchase in some office supply or stationery stores. Call ahead to make sure they are available. They can be hard to find. Also, if you get your forms from an office supply store, call the Superior Court in the county where the work was done to make sure the form covers all of its specific requirements. (L&I cannot provide this form to you.)
2. **Complete the form as directed.** L&I staff cannot give you legal advice or even help you with the form. You may include any applicable legal fees, court costs or interest costs in the lawsuit. **To collect from the contractor’s surety bond, you need to name the bond company (and include the contractor’s bond number) as a defendant.** This information can be obtained from the L&I website at: www.Lni.wa.gov/Contractors. Name the contractor’s business name, name of the owner(s), business address and contractor registration number. If a bank assignment is on file in lieu of a bond, you need to list the account number in your complaint; this information is also on our website.
3. **File your form with the Superior Court in the county where the work was done.** The court will charge a filing fee and stamp the form with a cause number. The fee is approximately \$200; call your county clerk for the fee schedule.

4. After you receive your cause number:

- A. The suit must be served on the contractor’s bond by L&I. To do this, send three copies of your Summons and Complaint form to us, along with a check for \$52 for processing. Make out your check to the Department of Labor & Industries and send it by certified or registered mail to: Department of Labor & Industries, Contractor Registration, P.O. Box 44450, Olympia, WA 98504-4450. We will notify the contractor and the bond company of the lawsuit. In addition, we will send a copy of the transmittal letter back to you as proof of service.
 - B. To serve the contractor and/or their business you will need additional copies of the summons and complaint served through another non-interested party (see “process server” in the yellow pages for more information). For additional information please see *Washington Courts Civil Rule 4 – Services How Made at www.courts.wa.gov/court_rules/?fa=court_rules.display&group=sup&set=CR&ruleid=supcr04*.
 - C. If you win your case or agree to a settlement, you must mail a copy of the Judgement and Order or settlement to L&I within 10 days. L&I uses this information to update records and take additional action, when necessary.
5. **At this point, L&I does not have any further involvement with the case, other than as a record keeper.**

Filing suit against an electrical contractor

The process for filing suit is different for electrical contractors. They have different bonding requirements, and filing suit must follow the requirements in RCW 19.28.071.

You can obtain additional information from F625-053-000, Filing Suit Against an Electrical Contractor (www.Lni.wa.gov/forms/pdf/625053a0.pdf), or call L&I’s Electrical Program, 360-902-5269.

 **On the Web:** www.Lni.wa.gov