



# THE SubAla Insider

**SubAla's**  
**Meet the GCs Expo**

March 8, 2023 • 4:30-7:30PM • Regions Field

Introduce your company to General Contractors from all over the southeast! This event is set up like a trade show; attendees will be able to walk around and network with all the General Contractors and Industry exhibitors. Price is per person and includes an open bar, appetizers, event brochure & grab bag.

Non-SubAla Members \$100 • SubAla Members \$80 • Late Registration \$115 • Booth Exhibitor \$700  
Effective 3/4

### 2023 Exhibitors

B.L. Harbert International, LLC  
Bell Company, Inc.  
Brasfield & Gorrie  
Caddell Construction Co.  
Cooper Construction  
Crane U, Inc.  
Doster Construction  
Dunn Building Company

First Response  
Fite Building Company  
Gray Construction  
Hand Arendall Harrison Sale  
Hoar Construction  
Johnsonkreis Construction  
M J Harris Construction Services

Maxus Construction Company  
Mingledorff's  
Murray Construction  
Peoplelink Group  
Prier Construction, Inc.  
Rabren General Contractors  
Rives Construction Company

Robins & Morton  
Sherwin-Williams Paint Co.  
Stewart Perry  
Stone Building LLC  
Summit Waterproofing, Inc.  
Thompson Tractor  
United Rentals  
WorkersFirst CompFund

### 2023 Sponsors

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Primary Event Sponsor - Marsh McLennan Agency  
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Equipment Sponsor - Skyhook Construction Services

Register Online: <http://subala.org/event.php?cn=227>

RSVP to Jenny Davis ([Jennifer@subala.org](mailto:Jennifer@subala.org) | 205-981-9594) by **March 3, 2023**

Payment Accepted via ACH, Credit Card or Check. Make checks payable to SubAla, P.O. Box 381236, Birmingham, AL 35238  
Regions Field location- 1401 1st Avenue S, Birmingham, Alabama 35233

## 2023 SubAla & WorkersFirst Events

**Meet the GCs Expo**  
Wed., March 8th  
4:30-7:30 PM  
Regions Field  
Birmingham, AL

**Golf Tournament**  
Thurs., May 4th (Tentatively)  
1:00-4:00 PM  
TopGolf Birmingham

**Annual Conference**  
Thurs., July 13- Sun., July 16  
Sandestin Beach & Golf Resort  
Miramar Beach, FL  
Group Room Code: 24Q10K

**Rocket City's Trash Panda's Mixer with ABC North Alabama**  
Thurs., September 7th  
6:00-10:00 PM  
Toyota Field - Madison, AL

**Industry Awards**  
Thurs., October 26th (Tentatively)  
5:30-10:00 PM  
Venue TBD – Birmingham, AL

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January 2, 2023

## Lehigh Hanson Becomes Heidelberg Materials

Known locally as Sherman Industries LLC

Lehigh Hanson, Inc. today announced it has now changed its brand to Heidelberg Materials effective immediately. Previously announced in September of last year, this exciting new brand identity goes into effect today for the company's corporate office and its core brands of Lehigh Cement and Hanson Aggregates. The majority of the company's other subsidiaries in the U.S. and Canada will change their brands to Heidelberg Materials in the coming months.

Lehigh Hanson's evolution to Heidelberg Materials reflects its much broader and innovative approach to serving its customers and becoming the industry leader in sustainability and digital solutions. Although the Heidelberg name is more than 150 years old and is often associated just with cement, Heidelberg Materials reflects the organization's expertise in the heavy building materials industry.

"This is a major step change for our company, both globally and here in North America," said Chris Ward, President and CEO of Heidelberg Materials North America and Member of the Managing Board of Heidelberg Materials. "We are thrilled to begin this transformation in North America today and continue our global journey to grow our business beyond cement and aggregates and become the most sustainable company in the sector."

Visit [heidelbergmaterials.us](https://heidelbergmaterials.us) or [heidelbergmaterials.ca](https://heidelbergmaterials.ca) to explore the new website and brand, and learn more about the company's experience, capabilities and portfolio of sustainable products and digital solutions.

### About Heidelberg Materials North America

Based in Irving, Texas, Heidelberg Materials North America is part of Heidelberg Materials, one of the world's biggest integrated manufacturers of building materials. In addition, we offer digital services and solutions. At the center of our actions lies our responsibility for the environment. We are pioneers on the road to carbon neutrality and circular construction. We're developing new, sustainable building materials as well as intelligent digital solutions.

Heidelberg Materials comprises the parent company HeidelbergCement AG and its fully consolidated subsidiaries.

### Contact

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# SAFETY BUZZ

*The following contains data from WorkersFirst CompFund. WorkersFirst is a provider of workers' compensation coverage that is exclusively available to members of Subcontractors Association of Alabama (SubAla). While certain data is specific to WorkersFirst, it contains safety information that is applicable to most SubAla members that do not have coverage through WorkersFirst.*

With most of winter behind us, we are gearing up for the increased pace of the spring and summer months. Let's review the overall numbers from 2022 and touch on the importance of timely reporting.

The "covid" years were not conducive to positive loss ratios for insureds across the country. With that understanding, in 2022 WorkersFirst experienced positive claims trends. The estimated loss ratio for 2022 was approximately 45% compared to 56% in 2021. Still a little higher than most years but trending closer to normal. The claim frequency was up about 4.5% in 2022 (vs 2021).

How can we improve on 2022? We can use our experience and our resources to further reduce incidents and the costs associated with the incidents we do not avoid. The most valuable assets you have are your employees. Invest in them - dedicate time to effectively train them and allocate resources for the gear, equipment, and machines they need to safely complete their work. Utilize outside resources, such as the SubAla's Electronic Safety Library, and the training and job site evaluations provided by WorkersFirst.

After training and outfitting your staff, use your resources if an injury occurs. Immediately report claims to our licensed claims adjusters that work exclusively with SubAla and WorkersFirst. Allowing them to take care of the injured worker will save your organization heartache and money. Delays in submitting claims results in increased cost. Our data shows that a delay of 3 or more days increases the medical costs at least 16%, indemnity costs by 38%, and the likelihood of attorney involvement by 50%. We are also seeing increased litigation against employers related to not reporting claims and attempting to handle claims in house.

In 2022, 31% of the claims WorkersFirst received were 3 or more days after the incident or injury occurred. Meaning almost a 3rd of the injuries submitted in a calendar year were reported 3 or more days after the incident or injury. These late claims represented 18% of the total incurred dollars for 2022. The cost reduction could have been considerable (and returned to our members as dividends) if those claims had been submitted timely.

WorkersFirst's Claims Team:

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**Rob Hood**

*Medical Only Claims Adjuster*

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And remember, my phone is always on!

Thanks,

**Robert Moore**

*Loss Control Manager*

WorkersFirst Compfund

334-322-9437





# Lien on Me: Statutory Protections for Subcontractors and Suppliers

Jason Lee, Esq., MBA | J. Craig Campbell, Esq. | Jerome C. Chapman IV, Esq.

Alabama lien law provides important protections to the firms and individuals whose subcontracted work makes the larger project come together. In the case of large projects, a clear understanding of these lien laws is an indispensable tool to protect subcontractors' and suppliers' rights to be paid for work completed or materials supplied.

The laws providing this protection were initially drafted in 1876, and, while revisions have been made, much of the language is formal legal writing that can create more questions than answers. In this short primer, we will explain the who, what, when, where, why, and how of perfecting a construction lien under Alabama law.

## **What is a construction lien and why would I want to assert one?**

In this context, a construction lien is the legal tool provided to subcontractors and suppliers to protect their rights to payment for work done and materials supplied in furtherance of a construction project. If used effectively, the construction lien functions as a financial lock-out/tag-out system which attaches to the completed project and can encourage, or even require, that subcontractors and suppliers be compensated fairly and timely.

Put another way, a perfected lien is a cloud over the owner's title to the property that assures the lienholder a seat at the table. While each contributor to a project deserves to be paid on time, a construction lien can be critically important to subcontractors and suppliers that are performing on a tight margin, trying to expand, or just entering the industry.

Alabama law provides for two (2) types of construction liens: 1) the full price lien, and 2) the unpaid balance lien. The full price lien is available to direct contractors (those who have a contract with the owner: general contractors, architects, etc.), and, if the proper advance notice is given to the owner, can also be available to indirect contractors (those who do not have a contract with the owner: subcontractors, sub-subcontractors, suppliers to contractors or subcontractors, etc.). A lienholder asserting a full price lien is claiming a lien for the entire contract balance owed to the lienholder.

The unpaid balance lien, on the other hand, is limited to the amount of money that remains to be paid to the prime contractor by the owner. Unpaid balance liens are available to both direct and indirect contractors (including subcontractors and suppliers). Unpaid balance liens do not require advance notice to the owner but are limited by the amount of money that remains owing from the owner to the prime contractor.

Where no money remains owing, a lien cannot be effectively asserted.

## **Who can assert a construction lien?**

A construction lien can be claimed by a person or company who has provided labor, services, or materials for a construction project. This naturally includes contractors, subcontractors, material suppliers, and laborers; but Courts have also allowed liens to be asserted by architects, engineers, and providers of rental equipment.

## **How do I assert a construction lien and when do I do it?**

For an indirect contractor to assert a full price lien, the process must begin before materials are supplied or labor is performed. The indirect contractor should provide a "Preliminary Notice" to the owner, that tells the owner what materials will be supplied, or what labor will be performed, as well as the cost associated with same.<sup>ii</sup> This Preliminary Notice alerts the owner to the liens that might be asserted and can incentivize the owner to ensure that all parties are paid on time. An owner who is provided Preliminary Notice of a possible lien may be inclined to take an active role in managing the general contractor, so that the headache of a lien enforcement action is avoided altogether.

Giving a Preliminary Notice affords the most protection to an indirect contractor, as it establishes mutual expectations before the indirect contractor contributes its time, labor, money, or materials to the project. While it is not uncommon for a subcontractor to feel reluctance to issue a Preliminary Notice out of perceived concerns of professional etiquette, it should not. The Preliminary Notice requirement is now well known and expected from all experienced owners.

For an indirect contractor to assert an unpaid balance lien, Preliminary Notice is not required. Instead, the process begins when a "Notice of Intent to Claim Lien" is provided to the owner, which can be done after the materials have been supplied or the labor has been performed. This Notice of Intent must be in writing and must inform the owner of what amount is claimed, the basis for that claim, and who is making that claim. The Notice of Intent to Claim Lien can serve as an "off-ramp" that brings a brewing non-payment issue to the attention of the owner, who may be in a position to de-escalate the payment dispute and avoid continuing towards a lien enforcement proceeding.

Should the payment dispute continue, the unpaid subcontractor will proceed to the filing of a Verified

*(continued)*

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Statement of Lien. A Verified Statement of Lien is a sworn document, filed publicly with the Probate Court in each county where the owner's property is located. Like the Notice of Intent to Claim Lien, this document should reflect the amount claimed, the basis for that claim, and who is making the claim. However, a Verified Statement of Lien must also accurately describe the property that the lien is filed against, identify the owner of the property, and be made by someone who has personal knowledge of all of these facts. The Verified Statement of Lien serves as: 1) a warning to the public that there have been issues with non-payment and 2) a legal entanglement on the property that prevents the Owner from selling the improved property when the subcontractors and suppliers that made the improvement possible have not themselves been paid.

The deadlines for filing a Verified Statement of Lien vary based on the person or entity filing the Statement. In general terms: indirect contractors (like subcontractors and suppliers) must file within four months of the date the last work was done or material was supplied, laborers must file within thirty days of the date of the last labor provided, and direct contractors must file within six months of completing the work.

The final step for any lienholder is to file a lawsuit to enforce the lien. Such a lawsuit must typically be filed no later than six months after the payment to the lienholder should have been made. At its essence, the enforcement proceeding is the mechanism to turn a lien into a money judgment, and, if required, an order that allows the property to be sold and the proceeds applied to pay that judgment.

## **What if I make a mistake?**

A lienholder who properly perfects their lien is in a position of significant power and leverage. Accordingly, Courts are strict in requiring that a lien claimant follow each step precisely and with the required timeframes.

Almost inevitably, a subcontractor or supplier grappling with the prospect of asserting a construction lien is in a stressful and unfamiliar position. The statutes are dense and the requirements strictly enforced. Each construction dispute carries its own nuance, and any SubAla member facing these concerns should consider consulting with an experienced construction law attorney about the liens and other remedies that might be available to protect their organization.

Jason Lee is a member of the firm Hand Arendall Harrison Sale LLC, where he works with clients in the areas of construction, design, and public contracts, and OSHA litigation. Jason works out of the Birmingham office and is available at [jlee@handfirm.com](mailto:jlee@handfirm.com) and 205-502-0117.

J. Craig Campbell is a member of the firm Hand Arendall Harrison Sale LLC, where he works with clients in the areas of construction, products liability, trucking and transportation, and litigation related to insurance. Craig works out of the Mobile office and is available at [ccampbell@handfirm.com](mailto:ccampbell@handfirm.com) and 251-694-6239.

Jerome Chapman IV is an associate with Hand Arendall Harrison Sale LLC and assists in construction litigation cases. Jerry works out of the Birmingham office and is available at [jchapman@handfirm.com](mailto:jchapman@handfirm.com) and 205-502-0174.

Any SubAla member interested in discussing Alabama lien law with these attorneys is invited to call or email.

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<sup>1</sup> For the purposes of this general primer, we frame the discussion around the unrealistically simple arrangement of Owner -> General Contractor -> Subcontractors and Suppliers. In reality, properly giving the Preliminary Notice is such an important step that it is often wisest to err on the side of caution and provide the Preliminary Notice to every entity in between the subcontractor and the owner and any other interested party (including construction lenders).

<sup>2</sup> Alabama's lien statute, Ala. Code § 35-11-210, appears to only authorize the path from Preliminary Notice to full price lien for materialmen/material suppliers. However, case law interpreting this statute since it was enacted seems to indicate that a service or labor subcontractor can seek the same protection with a proper Preliminary Notice. See, e.g. *Saunders v. Lawson*, 982 So.2d 1091 (Ala. Civ. App. 2007).

