

# Builder Must Respond To Notice Of Claim Within Statutory time frame as required California's Civil Code

David Ramirez, Esq.

Recently, in *Blanchette v. Superior Court*, (2017) 8 Cal.App.5th 521, California's Fourth District Court of Appeal held that if a builder fails to acknowledge receipt of a homeowner's Notice of Claim within 14 days, as required by the Right to Repair Act ("SB800"), specifically California *Civil Code* §913, the homeowner is released from the requirements of SB800 and may proceed with the filing of a lawsuit.

## **Background:**

Blanchette owned 1 of 28 homes constructed by GHA Enterprises, Inc. ("GHA"). On February 2, 2016, Blanchette served GHA with notice of a claim, setting forth the alleged defects in all 28 homes. On February 23, 2016, GHA responded that the construction defects were not alleged with sufficient

"reasonable detail" as required by *Civil Code* §910.

In response, Blanchette asserted that GHA's response was untimely and thus excused him and the other homeowners from any obligations under SB800. The trial court found for the builder, GHA, holding that Blanchette's Notice of Claim lacked detail sufficient to trigger GHA's obligations under SB800. Blanchette appealed the ruling.

## **Rationale:**

Although the Court of Appeal agreed that Blanchette's Notice of Claim was insufficient because it did not provide reasonable detail to satisfy *Civil Code* § 910, the Court of Appeal held that GHA's failure to timely acknowledge Blanchette's Notice of Claim released Blanchette from the requirements of SB800.

As the Court of Appeal recognized, *Civil Code* §930 expressly provides that the timing requirements of SB800 are to be strictly construed. The Court of Appeal reasoned that its holding is consistent with the purpose of SB800, which is to promote resolution of a homeowner's construction defect claim "in an expeditious and non-adversarial manner."

The Court of Appeal further reasoned that:

"[a]n interpretation that permits a builder to ignore the time limits of section 913 and nonetheless preserve its objection to the lack of detail in a notice and require that the trial court then resolve the issue after litigation has commenced, will only delay construction defect claims."

## **Practice Tip:**

*Blanchette* is a reminder that Courts will strictly enforce the time frames set forth in SB800. Accordingly, builders and their counsel must ensure proper compliance with the procedures and deadlines of SB800 in order to maintain their rights thereunder, including the right to challenge the sufficiency of a Notice of Claim served by a homeowner.

## **ABOUT THE AUTHOR**

David P. Ramirez is Senior Counsel at TYSON & MENDES, LLP, and primarily represents clients in complex litigation, including construction defect, insurance law, property disputes, and product liability. Mr. Ramirez was named as a "Top Lawyer" in San Diego for "Complex Litigation" in March 2016 by San Diego Magazine & "Top Lawyer in Southern California 2016" by the Los Angeles Times. Contact David at

(858) 459-3365 or  
[dramirez@tysonmendes.com](mailto:dramirez@tysonmendes.com).