

Paperwork gets you Paid!

I know a contractor who was asked to do so much additional work that the value of the variations exceeded the original contract price. When it came to payment time the client flat-out refused to pay any of the variations at all. It was then that the contractor produced every single variation request, where the work was detailed, numbered, and signed off by the client's foreman. The client was furious, and grudgingly paid the whole amount, clearly realising that the weight of evidence was on the contractor's side: it would be pointless to dispute it.

Another contractor had his client claim that he never gave any instructions to carry out some part of the work. The contractor produced emails showing a direction was given.

I know another who was accused of providing damaged product. But this contractor was able to produce photos of the product when it was delivered, and the signed receipt from the site representative. It was in perfect condition, clearly proving that the damage occurred after delivery. The matter went to adjudication and the contractor's evidence was so conclusive that the client realised that payment was the only option. A cheque for the \$60 000 came the next week.

It's time to get excited about paperwork.

These are just a few of examples of how paperwork gets you paid. Some people only associate paperwork with delays, red tape, and wasted time. Chances are those same people are locked in payment disputes over what was promised, agreed, or quoted and are unable to prove their case.

The fact is that solid paperwork is probably the most effective weapon in defending a payment claim. Good paperwork means that there isn't this great void where neither you nor your client can prove what was promised, agreed, or quoted.

Let's look at this in more detail.

Paperwork is Contemporaneous Evidence!

The important feature about paperwork that is created or completed around a disputed is that it becomes 'contemporaneous' evidence; coming from the word 'contemporary'. Good contemporaneous evidence will carry significant weight in proving what happened, what was promised, agreed, or quoted. In adjudication, the adjudicator will place weight on this kind of evidence in making a decision if he/she is satisfied as to its quality and credibility.

Far too many disputes come down to the contractor's word against the client's. The easy way to tip the balance in your favour is by including simple record-keeping habits into your work.

Variations/Site Instructions (Time required: 30-60 seconds) If you are given a verbal direction to carry out additional work make sure it ends up in written form. If the client refuses to document the direction, then the contractor should document it in his own 'Site Instruction' form and issue it to the client.

I recently prepared an adjudication application where there were nearly 60 directions for additional work. Even though the client's foreman failed to complete a variation advice as required by the contract, the contractor documented each one himself on his own paperwork: The details of the work done, who requested it, and dates and times were all recorded. The result was that he was awarded all these

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variations because the adjudicator was satisfied that these 'Site Instructions' were valid contemporaneous evidence that work was requested and done.

Photos/reports (Time required: 30-60 seconds)

Stop talking on your mobile! Take pictures with it! In disputes around defective work or damage, take a pile of photos right there and then. If possible have the work inspected by an expert who can prepare a report shortly after.

Often disputes around defective work occur months before a payment dispute. Only then does the client raise the defect as a reason for non payment. If the contractor can produce photos and reports about the work from the actual time, this is excellent evidence as to what was or was not defective.

I recently prepared an application where the Respondent refused to pay by alleging that much of the fitted equipment was damaged by the contractor. However the contractor had taken so many photos at the time, together with a detailed report, that clearly showed that the damage was caused by another trade. This type of evidence was impossible to argue with and the contractor got paid.

Site Diary (Time required: 60 - 90 seconds)

A site diary is useful because it typically captures a whole raft of information. Besides details of work done or directed, it also records weather, any delay details, conversations, staff onsite/offsite, and more. This is a single record of each day that can take as much information as you want to include. If you can make completing a site diary page a daily habit then you will be able to produce evidence regarding the dispute, and if you can show that this has been a daily habit for a long time then the weight given to your site diary will drastically increase.

Emails/Faxes (Time required: up to 20 minutes)

Any project will leave behind it a paper-trail of faxes, letters, and emails. Keep all of these in a file in chronological order. They can show what happened and when. Furthermore, if a dispute comes up onsite make sure you confirm the details in a fax to your client that day. Remember, verbal recollections of events aren't worth the paper they're written on!

Minutes of Meetings (Time required: up to 30 minutes)

Site meetings occur regularly on most projects, especially meetings that are supposed to resolve disputes. Most times the client will not provide any record of the meeting, what was promised or agreed. So this is the contractor's chance to step into that void. There is nothing stopping you from writing up your own record/minutes of the meeting and sending them to the client. Again you are creating a record of events and undertakings that can be useful evidence in the future.

The Power of Paperwork

The power of good paperwork lies in its credibility and the weight that a court or adjudicator will place on it. Good paperwork will very often beat hearsay, statutory declarations, someone's recollections, and will often catch out 'invented' evidence. Good paperwork is very hard to argue with, and provides adjudicator's with sound material upon which to make their decisions about what actually happened in the dispute. Good paperwork helps you prove and support your case for payment.

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So what does all this mean for me?

It means you should start to get very excited about keeping great paperwork! Take a look at the estimated time you need to invest. Most of the time it would not reach 10 minutes a day. Now is 10 minutes a day worth it to protect your ability to recover payment and settle payment disputes? Of course it is!

Never again will you rely on your word against the client's. There will be overwhelming evidence on your side.

Make paperwork a daily habit right now, and rejoice while you're doing it. Don't see it as red tape; see it as money in the bank.

Because that's exactly what it is.