

ARKANSAS

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I. MECHANIC'S LIEN BASICS

Ark. Code Ann. §§ 18-44-101 through 18-44-135 provides for and governs mechanic's and materialmen's liens on improvements to real property. Mechanic's liens provide a vehicle by which contractors, subcontractors and certain suppliers may obtain a security interest in improvements to real property for which they provided labor or materials, and ultimately compel the sale of the property in order to pay for the labor or materials they provided. The four basic steps to perfect a lien are:

A. Pre-Lien Notices. Prior to imposing a material supplier's lien on residential real estate containing four or fewer units, the contractor must provide the owner a statutorily-required notice of the possibility of a lien in the event a material supplier is not paid.¹ Alternatively, a material supplier or other potential lien claimant may provide the notice and the benefit of such notice will accrue to all material suppliers and other lien claimants from the time of the notice forward.² In either event, this notice must be provided before work is commenced or materials are supplied. A pre-construction notice given after work starts on the project secures only the work performed and/or materials supplied after the effective date of the notice.³ There is a severe sanction for failure to give the required pre-construction. Specifically, if a residential contractor fails to give the pre-construction notice, that contractor is barred from suing to enforce any provision of the construction contract.⁴ The wording of the pre-construction notice was modified in 2009.

A supplier of material or labor for commercial real estate (including residential real estate containing more than four (4) units) must provide a statutorily-required notice to the property owner and contractor that a lien may be placed on the property unless bills for labor, services or materials are paid.⁵ This notice must be served before seventy-five (75) days have elapsed from the time labor was supplied or materials furnished.⁶ The wording of the notice was also modified in 2009.

At least ten (10) days prior to filing a lien, every claimant must provide notice of the claim to the owner of the building or improvement that is the subject of the lien.⁷ The notice may be served by an authorized process server, a competent witness, or by certified mail with return receipt requested and delivery restricted to the addressee.⁸ Additionally, service by any "[m]eans that provides written, third-party verification of delivery at any place where the owner of the building or improvement maintains an office, conducts business, or resides" (i.e. Fed Ex, UPS, and other commercial delivery options) is authorized.⁹

B. Lien Statement. After notice, a lien account, verified by affidavit, must be filed and served within 120 days of the last date on which the labor or materials was supplied.¹⁰ The contractor's last day of work is defined as when the work reaches "substantial completion." The statement must contain all of the information required by Ark. Code Ann. § 18-44-117, and must be filed with the clerk of the circuit court of the county in which the property to be attached is situated.¹¹ This is the actual lien. A mechanic's lien not filed within the statutory period is void.¹² When filing a lien, the lien claimant now has to file an "affidavit of notice" attached to the lien itself. The "affidavit of notice" must contain: a sworn statement (affidavit) evidencing compliance with all of the pre-lien notice requirements; and a copy of each notice given. In other words, the lien claimant must now state under oath that all of the required pre-lien notices were done correctly.¹³

C. Foreclosure. All actions arising out of a lien, including foreclosure, must be commenced within fifteen months after filing the lien and must be prosecuted without unnecessary delay.¹⁴ Under Arkansas Law, a mechanic's lien holder who successfully forecloses upon his lien is entitled to the recovery of attorney's fees.¹⁵ A significant change, those seeking to challenge a lien are no longer required to post a bond of double the amount of the lien claim. Now, the bond need only be the amount of the lien claimed.¹⁶ Arkansas law authorizes an expedited summary procedure by which to protest the filing of a lien. The issues in such a protest action are limited to whether the lien was filed in proper form and whether the required notices were properly proved.¹⁷ The prevailing party in a lien contest is entitled to recover attorney's fees.¹⁸

D. Sale. A sale of the property may be initiated following a successful foreclosure action. At the sale, the property will be sold and the proceeds used to pay off the interest holders in the property based upon priority of interest.

E. Note for Public Projects: Public policy forbids the attachment of liens on public buildings for labor and materials furnished for construction of public facilities.¹⁹ To protect laborers and material suppliers on public projects not subject to mechanic's and materialmen's liens, Arkansas law requires a contractor on a public project exceeding \$20,000 to furnish a bond in the contract amount to secure payment for labor and materials supplied for the project.²⁰ Claims against the bond must be brought against the surety within twelve months after the state approves final payment on the contract.²¹

II. STATUTES OF LIMITATION AND REPOSE

A. Statute of Limitations

Oral Contracts. The statute of limitation for oral contracts is three years from the date the cause of action accrues.²² The cause of action accrues when one party has, by words or conduct, indicated to the other that the agreement is being repudiated or breached.²³ Arkansas has adopted a statute of repose that may shorten the three-year statute of limitation for an oral contract, but will not extend it.²⁴ See Section II.B. below.

Written Contracts. The statute of limitations for actions to enforce written contracts is five years after the cause of action accrues.²⁵ The date that a statute of limitations begins to run is a factual issue and, in contract actions, the statute of limitations begins to run upon occurrence of

the last element essential to the cause of action.²⁶ The test for determining when a breach of contract action accrues is the point when the plaintiff could have first maintained the action to a successful conclusion.²⁷

Contribution. A three-year statute of limitations applies to all actions for contribution in Arkansas.²⁸

B. Statutes of Repose

No action in contract to recover damages caused by any “deficiency in the design, planning, supervision, or observation of construction or the construction and repair of any improvement to real property or for injury to real or personal property caused by such deficiency, shall be brought against any person performing or furnishing the design, planning, supervision, or observation of construction or the construction or repair of the improvement more than five (5) years after substantial completion of the improvement.”²⁹ Actions for personal injury or wrongful death as a result of defective construction must be brought within four years after substantial completion of the project.³⁰ These limitations do not apply in the event of fraudulent concealment of the defect.³¹

Parties to a construction contract are specifically precluded from extending a limitation period by agreement or otherwise.³² There is no prohibition on contractually shortening the period.³³ Parties “have the right to contract for something less than the statutory 5-year limitation period as long as the lesser filing period is reasonable” and as long as the shorter period is not “in contravention of public policy.”³⁴ The same rule applies whether the shorter contractual limitation is found in a private or public contract.³⁵

III. PRE-SUIT NOTICE OF CLAIM AND OPPORTUNITY TO CURE

An injured party is entitled to recover the reasonable costs of repair for defects in materials or workmanship.³⁶ However, the injured party must have provided notice of the defects and allowed the opportunity for inspection by the party sued.³⁷ This notice does not have to list each and every objection; it is for the jury to determine whether the notice was sufficient and was given within a reasonable time.

IV. COVERAGE AND ALLOCATION ISSUES

A standard commercial general liability policy provides coverage for amounts that the insured becomes legally obligated to pay as damages because of bodily injury or property damages that (1) are caused by an occurrence that takes place in the coverage territory, and (2) occur during the policy period. An “occurrence” is typically defined as “an accident, including continuous and repeated exposures to substantially the same general harmful conditions.”

There is a split in the jurisdictions over whether defective workmanship is an accident and therefore an “occurrence” that is covered under the terms of a particular insurance policy. Under Arkansas law, “defective workmanship standing alone -- resulting in damages only to the work product itself -- is not an occurrence[.]”³⁸ However, damage resulting from faulty workmanship is an occurrence.³⁹ Arkansas Act 604 of 2011, which took effect on July 8, 2011, responds to *Lexicon, Inc. v. Ace Am. Ins. Co.* by seeking to codify its holding. Under the new law, commercial

general liability policies sold in Arkansas must contain a definition of “occurrence that includes accidents and also “[p]roperty damage or bodily injury resulting from faulty workmanship.”⁴⁰

In most cases, the insured has the burden of proving allocation of liability between insurance carriers, but that burden may be shifted to the insurer when it takes over the defense of the insured.⁴¹

There is no Arkansas case law on point involving insurance coverage and allocation on construction defect claims. With respect to construction of insurance policies in general, such policies are construed strictly against the insurer, and such matters are to be determined by the court rather than the jury, except when the meaning of the language depends upon disputed extrinsic evidence.⁴² In Arkansas, it is an established principle of insurance law that provisions contained in a policy of insurance must be construed most strongly against the insurance company that prepared it, and if a reasonable construction may be applied that would justify recovery, it is the court’s duty to do so.⁴³ If the policy language is ambiguous and open to two interpretations, one of which is favorable to the insured and the other of which is favorable to the insurer, the former will be adopted.⁴⁴

V. CONTRACTUAL INDEMNIFICATION

In 2015, Arkansas passed legislation that made significant changes to the state’s indemnity statutes. These changes are provided in more detail below.

A. Public Construction Contracts or Public Construction Agreements

First, a provision in a public construction contract or public construction agreement is void and unenforceable as against public policy “if it requires an entity or that entity’s insurer to indemnify, insure, defend, or hold harmless another entity for damage arising out of the death of or bodily injury to a person or persons or damage to property, which arises out of negligence of fault of the indemnitee, its agents, representatives, subcontractors, or suppliers.”⁴⁵ Second, a provision, covenant, or clause that requires any litigation, arbitration, or other alternative dispute resolution to be conducted in another state is void as against public policy.⁴⁶

B. Private Construction Contracts or Private Construction Agreements

In regards to private construction contracts, the 2015 legislation does not affect any provision in a construction contract or construction agreement that requires an entity or that entity’s insurer to indemnify another entity against liability for damage arising out of death or bodily injury.⁴⁷ However, the amount of the indemnification cannot exceed the percentage of negligence or fault attributable to the indemnitors.⁴⁸ The 2015 legislation also does not affect any provision in a construction contract for work or services to an operator or other person directly related to activities for oil or gas services.⁴⁹

A provision in a construction contract is void and unenforceable as against public policy if it requires an entity or its insurer to indemnify against liability for damage arising out of death, bodily injury, or damage to property which arises out of the negligence of the indemnitee.⁵⁰ Finally, any provision or provisions that are found void and unenforceable as against public policy are severable from the construction agreement or construction contract.⁵¹ Therefore, any voided sections will not cause the entire construction contract to become unenforceable.⁵²

VI. DAMAGES LIMITATIONS

A. Attorneys' Fees

At the court's discretion, reasonable attorneys' fees are recoverable in breach of contract actions, unless otherwise provided by law or the contract that is the subject matter of the action.⁵³ In addition, attorneys' fees are recoverable by the successful party in a civil action to enforce an unpaid lien claim.⁵⁴

B. Consequential Damages

Absent an independent tort, Arkansas adheres to the minority "tacit agreement" doctrine that precludes consequential damages not the direct result of breach of contract and not tacitly agreed upon.⁵⁵

As a general rule, liquidated damages in lieu of actual damages are enforceable.⁵⁶ The damages to be liquidated must (a) have been contemplated by the parties, (b) be indeterminate or difficult to ascertain, and (c) be reasonable in proportion to the damages being liquidated. They have been allowed only up to the date of substantial completion.⁵⁷ Where such damages are merely a penalty or punitive, they will not be allowed.⁵⁸ "A stipulated sum will be regarded as a penalty if the sum agreed to exceeds the measure of a just compensation and the actual damages sustained are capable of proof."⁵⁹

C. Delay and Disruption Damages

"No damages for delay" clauses are enforceable under Arkansas law; however, they are strictly construed. "Courts give only a restrained approval to 'no damage' clauses because of their harsh effect. While such clauses are not void as against public policy and will be enforced so long as the basic requirements for a valid contract are met, the courts accord such clauses a strict construction."⁶⁰ It is probable that an Arkansas court will treat this type of clause the same whether the contract in which the clause appears is public or private.⁶¹ Usual delays are anticipated in construction contracts and should be taken into account in setting a completion date.⁶²

A contractor does not assume the business risks for costs associated with delay if the delay was caused by the owner. Generally, however, the owner's act of interference must be willful or intentional before the courts will decline to assess the cost of delay against the contractor.⁶³ In one case, a contractor delayed by owner fault recovered extended job costs and a pro rata share of home office overhead,⁶⁴ and Arkansas courts would likely accept documented and expert proof of contractor-owned equipment, labor inefficiency, and total cost claims in appropriate circumstances. Additional interest paid by an owner on a construction loan is a compensable element of damages against the contractor.⁶⁵

A contractor whose construction project is handled in such a way as to negligently obstruct traffic, thereby reducing the normal flow of customers to a retailer, can be held liable for the retailer's lost profits.⁶⁶

D. Economic Loss Doctrine

Arkansas does not follow the "economic loss doctrine." The economic loss doctrine prohibits a tort action when there is no damage for personal injury or property damage, other than to the product itself.⁶⁷ Arkansas allows strict product liability claims for economic losses or damage to the product only. Arkansas also permits negligence claims for purely economic losses (Damages for loss of tomato crop after vendor negligently supplied the wrong seeds).⁶⁸ In the context of construction of residential property, first and subsequent purchasers of homes are permitted to bring suit against the builder vendor for construction defects if the construction defects are latent--not discoverable upon reasonable inspection-- and there is no substantial change or alteration in the condition of the building from the original sale.⁶⁹

The Arkansas Supreme Court has held that a new house is a "product" in the strict liability context, and allowed recovery for economic loss.⁷⁰

E. Interest

Previously, in the absence of an agreement to the contrary, the Arkansas Constitution fixed the pre-judgment simple interest rate at 6 percent per annum. Effective January 1, 2011, that constitutional provision is repealed. Prejudgment interest accrues from the time of loss to judgment and is allowed where the amount of damages is definitely ascertainable by mathematical computation, or if the evidence furnishes data that makes it possible to compute the amount without reliance on opinion or discretion.⁷¹ If collectable, the injured party is entitled to prejudgment interest as a matter of law.⁷²

The post-judgment rate of interest is the rate agreed upon in the contract or 10% per annum, whichever is greater, but in no event more than the maximum lawful rate set forth in the Arkansas Constitution.⁷³

F. Punitive Damages

Punitive or exemplary damages are generally not recoverable in contract actions, but are recoverable in personal injury and wrongful death actions.⁷⁴ Punitive damages may be awarded by the jury or the trier of fact when the defendant knew or ought to have known that the conduct would naturally and probably result in injury and the actor continued such conduct with reckless disregard of the consequences for which malice may be inferred or with malice.⁷⁵

G. Contractors Barred from Certain Actions

Under Arkansas law, unlicensed contractors are forbidden from performing any work in excess of \$50,000.⁷⁶ Contractors are barred from bringing certain actions if they were not licensed at the time or if they were licensed but included false information in their license application.⁷⁷ Ark. Code Ann. § 17-25-103(a), states, in short, that any unlicensed contractor who undertakes construction work of \$50,000 or more or who gives false evidence to the Contractors Licensing

Board in obtaining a license will be guilty of a misdemeanor and may be fined \$200.00 per offense per day. A.C.A. § 17-25-103(d) (Repl.2001) states: “No action may be brought either at law or in equity to enforce any provision of any contract entered into in violation of this chapter. No action may be brought at law or in equity for quantum meruit by any contractor in violation of this chapter.”

Thus, contractors are now barred from bringing certain actions if they were not licensed at the time or if they were licensed but included false information in the license application.⁷⁸

VII. RECENT CASE LAW.

A. **No Bid Contracts:** *Gatzke v. Weiss, 2008 WL 5191102 (Ark. Dec. 11, 2008)*

A group of Arkansas taxpayers (“Appellants”) sued several public officials, including the Director of the Department of Finance and Administration (“DFA”), alleging that Act 961 of 1997 (codified at A.C.A § 19-4-1413) and Act 1626 of 2001 (Ark. Code Ann. § 19-4-1415) (collectively the “Acts”) violated Article 19, Section 16 of the Arkansas Constitution because they permit the State to enter into construction contracts without engaging in competitive bidding. Appellants also contended that the construction contracts permitted under the Acts constituted illegal exactions under Article 16, Section 13 of the Arkansas Constitution. Appellants requested a declaratory judgment that the Acts were unconstitutional and that the contracts were illegal exactions. Additionally, appellants sought to enjoin the State from entering into any new contracts or continuing work under existing contracts.

The DFA moved to dismiss the suit, arguing that Article 19, Section 16 of the Arkansas Constitution applies only to county-funded contracts. Article 19, Section 16 provides that “All contracts for erecting or repairing public building or bridges in any county, or for materials therefore; or for providing for the care and keeping of paupers, where there are no alms-houses, shall be given to the lowest responsible bidder, under such regulations as may be provided by law.” The circuit court agreed with DFA and granted the motion to dismiss.

The provisions of the Arkansas Constitution apply to the *State* unless there is an explicit provision to the contrary. In *Gatzke*, however, the Arkansas Supreme Court concluded that Article 19, Section 16, applied only to county contracts, reasoning that the phrase “in any county” would lack significance unless the provision relating to public buildings and bridges was restricted to county-funded contracts. As further support for its holding, the Arkansas Supreme Court looked to the state contracts referenced in Article 19, Section 15 (since repealed), to demonstrate that the legislature purposely included the words “in any county” and thus intended to restrict Article 19, Section 16, to county contracts.

Therefore, no-bid construction contracts are permissible for state projects, but not for county projects. Likewise, municipal sewage systems that meet certain stated criteria may now use design-build and general contractor construction management delivery methods.⁷⁹

¹ ARK. CODE ANN. § 18-44-115.

² ARK. CODE ANN. § 18-44-115(a)(5)(A).

³ ARK. CODE ANN. § 18-44-115(a)(5)(B)(ii).

⁴ ARK. CODE ANN. § 18-44-115(a)(4).

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- ⁵ ARK. CODE ANN. § 18-44-115.
- ⁶ ARK. CODE ANN. § 18-44-115(b)(5)(A).
- ⁷ ARK. CODE ANN. § 18-44-114.
- ⁸ ARK. CODE ANN. § 18-44-114(b)(1).
- ⁹ ARK. CODE ANN. § 18-44-114(b)(1)(D).
- ¹⁰ ARK. CODE ANN. § 18-44-117.
- ¹¹ ARK. CODE ANN. § 18-44-117.
- ¹² *Calton Properties, Inc. v. Ken's Discount Bldg. Materials, Inc.*, 282 Ark. 521, 523, 669 S.W.2d 469 (1984).
- ¹³ ARK. CODE ANN. § 18-44-117(a)(1).
- ¹⁴ ARK. CODE ANN. § 18-44-119(a).
- ¹⁵ ARK. CODE ANN. § 18-44-128.
- ¹⁶ ARK. CODE ANN. § 18-44-118(a)(1)(A).
- ¹⁷ ARK. CODE ANN. § 18-44-118(f).
- ¹⁸ ARK. CODE ANN. § 18-44-118(f)(6).
- ¹⁹ *Dow Chemical Co. v. Bruce-Rogers Co.*, 255 Ark. 448, 501 S.W.2d 235 (1973). However, a lien placed on a project when it is privately-owned relates back to the commencement of construction and is not destroyed by the subsequent purchase of the property by a public authority. *Rawick Mfg. Co. v. Talisman, Inc.*, 17 Ark. App. 202, 706 S.W.2d 194 (1986).
- ²⁰ ARK. CODE ANN. § 18-44-503.
- ²¹ *Id.*
- ²² ARK. CODE ANN. § 16-56-105.
- ²³ *Elder v. Security Bank of Harrison*, 68 Ark. App. 132, 138, 5 S.W.3d 78, 81 (1999).
- ²⁴ ARK. CODE ANN. § 16-56-112.
- ²⁵ ARK. CODE ANN. § 16-56-111.
- ²⁶ *Hunter v. Connelly*, 247 Ark. 486, 446 S.W.2d 654 (1969).
- ²⁷ *Zufari v. Architecture Plus*, 323 Ark. 411, 914 S.W.2d 756 (1996) (holding that date architect's plans were rejected was the date the statute of limitations began to run).
- ²⁸ ARK. CODE ANN. § 16-56-105(3); *Sublett v. Higgs*, 330 Ark. 58, 952 S.W.2d 140 (1997).
- ²⁹ ARK. CODE ANN. § 16-56-112(a).
- ³⁰ ARK. CODE ANN. § 16-56-112(b)(1). However, in the case of personal injury or an injury causing wrongful death that occurs in the third year after substantial completion, such action must be brought within one year "after the date on which the injury occurred, irrespective of the date of death, but in no event shall such an action be brought more than five (5) years after the substantial completion of construction of such improvement." ARK. CODE ANN. § 16-56-112(b)(2).
- ³¹ ARK. CODE ANN. § 16-56-112(d).
- ³² ARK. CODE ANN. § 16-56-112(f).
- ³³ See ARK. CODE ANN. § 16-56-112 (Supp. 2001).
- ³⁴ *Hawkins v. Heritage Life Ins. Co.*, 63 Ark. App. 67, 973 S.W.2d 823 (1998).
- ³⁵ *Ferguson v. United Commercial Travelers of Am.*, 307 Ark. 452, 455, 821 S.W.2d 30, 32 (1991).
- ³⁶ *Daniel V. Quick*, 270 Ark. 528, 606 S.W.2d 81 (Ark. App. 1980); *Pack v. Hill*, 18 Ark. App. 104, 105, 710 S.W.2d 847 (1986).
- ³⁷ *Pennington v. Rhodes*, 55 Ark. App. 42, 49, 929 S.W.2d 169 (1996).
- ³⁸ *Essex Ins. Co. v. Holder*, 372 Ark. 535, 540, 261 S.W.3d 456 (2008).
- ³⁹ *Lexicon, Inc. v. Ace Am. Ins. Co.*, 634 F.3d 423, 427 (8th Cir. 2010).
- ⁴⁰ ARK. CODE ANN. § 23-79-155.
- ⁴¹ *MedMarc Cas. Ins. Co. v. Forest Healthcare, Inc.*, 359 Ark. 495, 199 S.W.3d 58 (2004).
- ⁴² *Smith v. Prudential Prop. & Cas. Ins.*, 340 Ark. 335, 10 S.W.3d 846 (2000).
- ⁴³ *Drummond Citizens Ins. v. Sergeant*, 266 Ark. 611, 588 S.W.2d 419 (1979).
- ⁴⁴ *Id.*
- ⁴⁵ Ark. Code Ann. § 22-9-214(b). "Public construction agreement" and "Public construction contract" are both defined terms in the Arkansas Code. See Ark. Code Ann. § 22-9-214(2)(A) and 3(A).
- ⁴⁶ Ark. Code Ann. § 22-9-214(c).
- ⁴⁷ Ark. Code Ann. § 4-56-104(e)(1).
- ⁴⁸ *Id.*
- ⁴⁹ Ark. Code Ann. § 4-56-104(e)(2).

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- ⁵⁰ *Id.* § 4-56-104(b).
- ⁵¹ *Id.* § 4-56-104(d).
- ⁵² *Id.*
- ⁵³ ARK. CODE ANN. § 16-22-308; *Burnette v. Perkins & Assocs.*, 343 Ark. 237, 33 S.W.3d 145 (2000).
- ⁵⁴ ARK. CODE ANN. § 18-44-128.
- ⁵⁵ *Morrow v. First Nat'l Bank of Hot Springs*, 261 Ark. 568, 570, 550 S.W.2d 429, 430 (1977).
- ⁵⁶ *Phillips v. Ben M. Hogan Co.*, 267 Ark. 1104, 594 S.W.2d 39 (Ark. App. 1980).
- ⁵⁷ *Id.*
- ⁵⁸ *Id.*
- ⁵⁹ *Id.*
- ⁶⁰ *Little Rock Wastewater Util. v. Larry Moyer Trucking, Inc.*, 321 Ark. 303, 311, 902 S.W.2d 760, 765 (1995).
- ⁶¹ *Id.* (utility was a public entity).
- ⁶² *Housing Authority of Little Rock v. Forcum-Lannom, Inc.*, 248 Ark. 750, 454 S.W.2d 101 (1970).
- ⁶³ *United States Steel Corp. v. Missouri Pac. R. Co.*, 668 F.2d 435 (8th Cir. 1982), *cert. denied*, 459 U.S. 836 (1982) (applying Arkansas law).
- ⁶⁴ *Texarkana Housing Authority v. Johnson Const. Co.*, 264 Ark. 523, 573 S.W.2d 316 (1978).
- ⁶⁵ *Taylor v. Green Memorial Baptist Church*, 5 Ark. App. 101, 633 S.W.2d 48 (1982).
- ⁶⁶ *Mine Creek Contractors Inc. v. Grandstaff*, 300 Ark. 516, 780 S.W.2d 543 (1989).
- ⁶⁷ *Farm Bureau Ins. Co. v. Case Corp.*, 317 Ark. 467, 878 S.W.2d 741 (1994).
- ⁶⁸ *Dessert Seed Co. v. Drew Farmers Supply, Inc.*, 248 Ark. 858, 454 S.W.2d 307 (1970).
- ⁶⁹ *Curry v. Thornsberry*, 354 Ark. 631, 642, 128 S.W.3d 438, 444 (Ark. 2003)
- ⁷⁰ *Blagg v. Fred Hunt Co.*, 272 Ark. 185, 190, 612 S.W.2d 321, 324 (1981).
- ⁷¹ *Ozark Unltd. Resources Coop., Inc. v. Daniels*, 333 Ark. 214, 969 S.W.2d 169 (1998).
- ⁷² *Id.*
- ⁷³ ARK. CODE ANN. § 16-65-114(a).
- ⁷⁴ *Wheeler Motor Co. v. Roth*, 315 Ark. 318, 867 S.W.2d 446 (1993).
- ⁷⁵ *Stein v. Lukas*, 308 Ark. 74, 823 S.W.2d 832 (1992).
- ⁷⁶ Ark. Code Ann. § 17-25-103(a)
- ⁷⁷ *Meyer v. CDI Contractors, LLC* 284 S.W.3d 530 (Ark. Ct. App. 2008).
- ⁷⁸ *Stein v. Lukas*, 308 Ark. 74, 823 S.W.2d 832 (1992).
- ⁷⁹ Ark. Code Ann. § 14-235-226.

