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Supplier-to-Supplier Lien Rights

Indiana did not permit mechanic's liens on a "supplier-to-supplier" basis for many years. Suppliers only acquired lien rights by furnishing materials to a party performing "on-site work," i.e., a contractor or subcontractor. Following a recent decision by the Indiana Supreme Court, suppliers may now acquire lien rights regardless of the recipient of the materials supplied—assuming all other statutory requirements are satisfied.

In *Service Steel Warehouse Co., L.P. v. United States Steel Corp.*, the Indiana Supreme Court considered whether the steel supplier to an off-site steel fabricator had mechanic's lien rights against a U.S. Steel facility built with the supplied steel. A mechanic's lien is a statutory tool to help collect payment for labor and materials provided to improve real property. The supplier argued it acquired lien rights by providing materials used to construct the facility because the applicable statute does not condition lien rights upon providing materials to a contractor or subcontractor providing on-site work. Instead, as long as the materials are supplied for the erection, alteration, repair, or removal of a building, lien rights are established.

The supplier's argument was contradicted by many decades of case law. Before the *Service Steel* opinion, a supplier had to furnish materials to someone who performed work on the project site, which meant a contractor or subcontractor (or the owner). The applicable statute states materials must be provided to improve a specific property before lien rights can be acquired. The prohibition against supplier-to-supplier-based liens protected landowners because if one material man furnishing material to another material man had a right to a lien, then any material man, no matter how far removed, had the same right. It was too difficult to determine whether a supplier to a supplier supplied materials for the improvement of any specific property because the supplier was so far removed from any one specific project.

In the *Service Steel* opinion, the Indiana Supreme Court removed the prohibition on supplier-to-supplier-based liens by eliminating any requirement for a supplier to provide materials to one

performing on-site work. Indiana's mechanic's lien statutes provide broad lien rights to suppliers and do not require the furnishing of materials to one who conducts on-site work. To address the concern about whether the supplier provided materials to improve a specific property, the state supreme court clarified the supplier must still demonstrate it furnished the materials "for the particular building upon which" it bases its lien.

If you have any questions about this change in the mechanic's lien rights of suppliers or any other construction law questions, please contact the authors of this article or any attorney with Frost Brown Todd's [Construction](#) practice group.

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