



## ASA President's Monthly Newsletter-September 2010

Dear ASA Member:

Imagine how a court would react if a project owner claimed the right to void its payment obligations to a subcontractor on the grounds of a special "immunity" from enforcement of contract provisions. No court would seriously entertain the special "immunity" claim for a moment, right?

Wrong. Unfortunately, courts are routinely forced to consider claims of all kinds that aim to deprive subcontractors of their rights. During the past year, ASA tapped its Subcontractors Legal Defense Fund in a real Maryland case to fight a school board's claim that "sovereign immunity" should exempt it from paying a subcontractor's \$1.1 million in delay damages. Thanks to the SLDF, ASA convinced the court to reject the school board's "sovereign immunity" claim.

The sad truth is that when no one stands up for subcontractors, they lose cases based on outrageous claims every day. That's why ASA's Subcontractors Legal Defense Fund is so important. In 2009-10, ASA tapped the SLDF to help subcontractors [win cases all over the country](#) ranging from assuring subcontractors that insurance will provide the promised coverage, to preserving subcontractors' mechanic's lien rights. And more cases are referred to ASA every month.

This election year, it seems difficult to find the right place and time to engage the fight for subcontractors' rights. Between partisan bickering and fear of voter backlash, finding anyone to listen in Congress or the statehouse can be frustrating. Subcontractors have to rely more on courts as an important component of ASA's advocacy work on behalf of subcontractors. We can't afford to wait for a legislative solution when partisan politics reign supreme.

If the legislative stalemate frustrates you as much as it does me, I urge you to take action by [contributing](#) to the Subcontractors Legal Defense Fund.

If you have comments or questions, please feel free to contact me via e-mail at [tmclaughlin@asa-hq.com](mailto:tmclaughlin@asa-hq.com).

Very truly yours,

Timmy McLaughlin  
ASA President, 2010-11