

CALIFORNIA STANDARDIZED CLEANING & RESTORATION CONTRACT FORMS

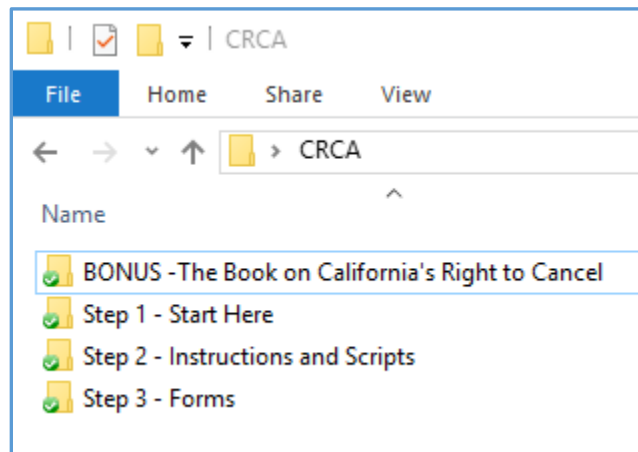
Read This First Before Using The Forms

Dear Restorer,

Thank you very much for purchasing our *California Standardized Cleaning and Restoration Contract Forms Package*. Please immediately discontinue use of forms we sent you previously, unless you have engaged us separately to customize your forms this year.

HOW TO USE THIS PACKAGE

This Package contains lots of material but is as easy as 1-2-3 to use. When you open the file, you'll see this:



The “**BONUS**” is a copy of *The Book on California’s Right to Cancel*, which addresses one of the trickiest areas of California law for restoration contractors. It includes videos that walk you through all the issues and the forms.

“**Step 1 – Start Here**” brings you to this letter.

“**Step 2 – Instructions and Scripts**” is the folder with a detailed set of instructions for each form, explaining how to fill them out and how to overcome common objections. It’s important for every member on your team to give customers similar explanations of the principal legal terms, and to give customers a walking tour through the documents before asking them to read and sign them. That’s what the scripts are for. They are simple summaries of the legal terms, in plain

English, and each one can be memorized in about five minutes. None of the documents in Step 2 are shared with the customer; they are strictly for your internal use.

“**Step 3 – Forms**” includes the documents that may be presented to the customer. Some of them are mandatory and others are optional and the rules for all of that are in Step 2 and *The Book on California’s Right to Cancel*.

Legal Update

So far this year, the biggest legal news for California restorers is the change in the rules about the right to cancel, which is why I created an entire book for it, and it’s included with this package.

Adjusters taking control of your price and scope? The other big news is that there is a big push by restorers to Assignments of Insurance rights. Restorers are obtaining assignments of their customer’s insurance rights so they can bill and collect from insurance companies directly. An Assignment allows the restorer to step into the shoes of the policyholder and enforce the right to payment for the fair market value of the work. This is particularly helpful when the adjuster attempts to use Xactimate prices as global prices. The Assignment will also cause your name to be on the check, which will keep customers from misappropriating insurance proceeds.

The world of Assignments of Benefits has evolved considerably. We have retired the name “Assignment of Benefits,” replacing it with the broader name “Assignment of Insurance Rights,” to encompass the right to pursue a claim directly against an insurance company, if needed. The standard “AOB” may only allow the restorer to collect against proceeds *if* the insurance company decides to cut a check. If the insurer decides not to pay, the restorer may not be able to pursue a claim against the insurer. Our new Assignment of Insurance Rights addresses that key issue, and others. It transfers ownership of legal claims (not just benefits) to the restorer. If an insurer who is on notice of an assignment pays the policyholder without putting the restorer’s name on the check, the insurance company can be forced to pay a second time. We have done this successfully with a number of major insurance carriers and can show you how. We just released the Second Edition of *The Book on the Assignment of Benefits*, which includes downloadable, fully-editable Assignment forms in MS Word format. For more information, please visit EdCross.com/aob.

COVID-19

The contracts in this package exclude from the scope of work services to control the spread of the coronavirus because it presents a set of liability issues unique to the coronavirus. When the coronavirus is the target of the work, we recommend the use of a contract specifically tailored for that purpose, which you can read about here: EdCross.com/COVID-19. Our Coronavirus Service Contracts include extensive provisions about the unique circumstances cleaning and restoration companies face when they address the novel coronavirus in buildings. They have been very well received and more independent companies use our forms for coronavirus cleanup projects than any other.

Much has changed in the world of restoration in the last year, most notably, the COVID-19 pandemic. The pandemic sent a shockwave of liability concerns through the restoration

industry, but I am pleased to report that we have seen very few legal claims from customers against restorers for faulty disinfection work.

So far, most of the COVID-19 legal claims we have seen against restorers are brought by restoration workers against their employers. Many employers do not have an organized system in place to document the steps taken to control the spread in the workplace. Many employers are under the impression that workers compensation immunizes them from liability for worker claims. Not so.

Although the pandemic has slowed dramatically, headlines show major litigation pending against restoration companies outside the workers compensation system. The claims allege a failure to implement an organized system to identify and isolate workers who are likely to have the disease. Many legal issues are at play, so we wrote a robust set of explanations about the employee claims, in plain English. It helps employers organize an effective defense strategy to minimize or prevent these claims, and you can access it **free**, here: EdCross.com/Employer.

A good initial step, pandemic or no pandemic, is to have all employees execute an Employee COVID-19 Protection Agreement, which is part of our [Employers' COVID-19 Protection Crash Course](#). Everyone in my office has signed one!

Among other things, the forms in this Package address the following issues:

- A limit of liability waiving claims against the restorer for claims related to COVID-19 or its mutations
- Advice to the customer to retain an environmental consultant if there has been a confirmed positive case of COVID-19 in the building
- The contractor's right to subcontract portions of the work
- The customer's responsibility to detect and repair the source of water intrusion
- The customer's responsibility to address potential coronavirus issues
- The fact that drying times are difficult to predict because water damage is progressive
- The fact that completion dates are based on an initial visual observation and are subject to change
- The customer accepts the work "as is" if the customer does not notify the contractor of defects or damage within five days of discovery
- A requirement for the customer to endorse insurance checks and deliver them to the restorer
- The right of the restorer to reimbursement for attorneys' fees incurred to collect a past due balance, even if no lawsuit is filed

Please note these documents do not contain the phrase "Work Authorization." That phrase is problematic and outdated. Instead of a "Work Authorization," use the "Home Improvement Contract" for all residential work (including apartment buildings and homeowners associations), and the "Commercial Service Agreement" for everything else.

Have you heard about the household mover's law in California? It is very strict. Restorers are now classified as “movers” when they move household goods. Movers are subject to many complex regulations, and must use special contract forms, estimates, and change orders. Do not use the enclosed forms for the transportation of household goods. The State of California requires a special set of forms to move household goods and the penalties for violating those rules are harsh. Check out this important [News Release from the Bureau of Household Goods](#), which explains how the State is targeting “damage restoration companies that move and store their clients’ goods.” This major legal issue will catch many restorers unaware. Get the proper forms here: EdCross.com/Contracts.

Do not use any of the forms before reading the instructions that accompany each (“Step 2”). We also have provided an update to the handy Scripts to use to explain the forms to customers in plain English. Communication is key to avoiding conflicts that erupt into expensive legal problems.

Our forms, instructions, and scripts are for general information purposes and are not a substitute for the advice of a lawyer. The forms may need modification to fit with your business model. If you have questions, we are standing by, ready to help.

These forms are only for use in the State of California. They do not comply with the law of other states. If you intend to operate outside California, please notify us and we will send you a different set of forms.

If you have any questions, or suggestions for future updates, please do not hesitate to call, or just send me an email at EdCross@EdCross.com. If you would like any of the forms customized, or if you need help with collections, mechanic’s liens, adjuster disputes and more, just let us know. We have recovered many tens of millions of dollars for California restorers, so please contact us if you’d like help.

Finally, please keep an eye on TheRestorationLawyer.com for news and videos on important legal issues that can directly impact your bottom line!

Congratulations for bringing your work to the next level by using these forms. We hope they work well for you! Thank you for the opportunity to help.

Gratefully,
EDWARD H. CROSS & ASSOCIATES, PC



Edward H. Cross
TheRestorationLawyer.com