

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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DCD CONSTRUCTION, LLC,	:	
	:	<u>VERIFIED COMPLAINT</u>
Plaintiff,	:	
	:	Index No.
-against-	:	
RANGER BUILDERS, LLC,	:	
SAGAMORE AK PROPERTY COMPANY LLC	:	
and U.S. SPECIALTY INSURANCE COMPANY,	:	
	:	
Defendants.	:	
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Plaintiff, DCD CONSTRUCTION, LLC (“DCD”), by its attorneys, Markotsis & Lieberman, P.C., complaining of defendants RANGER BUILDERS, LLC, SAGAMORE AK PROPERTY COMPANY LLC and U.S. SPECIALTY INSURANCE COMPANY, alleges upon information and belief as follows:

**AS AND FOR A FIRST CAUSE OF ACTION**

1. DCD is, and at all relevant times hereto was, a limited liability company organized and existing pursuant to the laws of the State of Delaware, and authorized to do business in the State of New York, with its principal place of business in the County of Kings, State of New York.
2. Upon information and belief, defendant RANGER BUILDERS, LLC (“Ranger”) is, and at all times relevant hereto was, a limited liability company organized and existing pursuant to the laws of the State of New York with its principal place of business in the County of New York, State of New York.
3. Upon information and belief, defendant SAGAMORE AK PROPERTY COMPANY LLC (“Sagamore”) is, and at all times relevant hereto was, a limited liability company organized and existing pursuant to the laws of the State of Delaware, and authorized to do business

in the State of New York.

4. Upon information and belief, defendant U.S. SPECIALTY INSURANCE COMPANY (“U.S. Specialty”) is, and at all times relevant hereto was, a Texas corporation duly authorized to issue and execute surety bonds in the State of New York and maintaining an office in Houston, Texas.

5. Upon information and belief, at all times hereinafter mentioned, U.S. Specialty was duly licensed by the State of New York for the purposes of conducting an insurance business in the State of New York.

6. Upon information and belief Sagamore is, and at all times relevant hereto was, the owner in fee of that certain real property known as an by Block 0426, Lot 0027, in the County of New York, and the State of New York, commonly known as 199-201 Chrystie Street, New York, New York, and more particularly described in Exhibit A attached hereto and made a part hereof (the “Premises”).

7. Upon information and belief, Ranger is, and at all times relevant hereto was, engaged in the construction industry and its allied trades.

8. Upon information and belief, sometime prior to November 19, 2018, Sagamore and Ranger entered into a contract whereby Ranger was to perform certain construction and improvements for the Premises for and on behalf of Sagamore (the “Contract”).

9. As of November 19, 2018, a Sub-Contract was entered between Ranger, as Contractor, and DCD, as Subcontractor (the “Subcontract”), pursuant to which DCD was to perform certain enumerated services relating to the support of excavation, foundation and superstructure for the construction of a fourteen (14) story building at the Premises (the “Project”).

10. DCD duly commenced performance of its work pursuant to the Subcontract, change orders and amendments thereto on behalf of Ranger.

11. On September 9, 2019, Ranger served correspondence on DCD purporting to terminate the Subcontract (the "September 9 Correspondence").

12. The September 9 Correspondence did not comply with the terms of the Subcontract to effectuate a termination of the Subcontract.

13. By correspondence dated September 18, 2019, Ranger forwarded correspondence purporting to be a 10 day notice to cure under the Subcontract (the "September 18 Correspondence").

14. On or about September 19, 2019, it was agreed between Ranger and DCD that DCD would not perform any further services for the Project.

15. As of September 19, 2019, DCD duly performed all such work and services it was to perform and furnished all of the materials it was to furnish under the Subcontract.

16. As of September 19, 2019, DCD completed certain work and services it was to complete and furnished those materials it was to furnish under the Subcontract.

17. Pursuant to the Subcontract and in consideration of the services to be performed pursuant to the Subcontract, together with any Change Orders, modifications and amendments thereto, Ranger agreed to pay DCD the total sum of \$1,860,803.85.

18. As of September 19, 2019, the agreed price and reasonable value of the labor performed and materials furnished by DCD on behalf of and to Ranger in accordance with the Subcontract, together with any Change Orders, modifications and amendments thereto, was \$1,860,803.85.

19. The date on which the first item of work was performed was on or about February 1, 2019. The date on which the last item of work was performed was September 9, 2019.

20. As a result of the Subcontract and the completion of the work and services it was to complete and the furnishing of the materials it was to furnish as contemplated thereby and as allowed by Ranger, there remains due and owing to DCD from Ranger the sum of \$548,210.67.

21. More than \$548,210.67 became due and owing from Ranger to DCD on September 9, 2019, the date on which the last item of work was performed.

22. There is currently due and owing DCD from Ranger the sum of \$548,210.67 with interest from September 25, 2019.

23. Demand for payment of such sum has been duly made by DCD, but Ranger has not paid such sum.

24. The work, labor and services performed and materials furnished by DCD were performed and furnished for the improvement of the Premises and were performed and furnished at the request and with the knowledge and consent of Ranger and Sagamore.

25. On March 13, 2020 and within eight (8) months after the date on which DCD performed the last item of work, DCD in accordance with Section 10 of the Lien Law, caused to be filed in the Office of the Clerk of the County of New York, the county where the Premises are situated, a Notice of Mechanics Lien in writing, which notice did state the name and residence of the lienor and its business address and principal place of business; the name of the owner of the real property against whose interest therein a lien is claimed and the interest of the owner so far as known to lienor; the name of the person by whom the lienor was employed and with whom the contract was made, the labor performed and the agreed price and value thereof; the amount unpaid to the lienor

for such labor; the time when the first and last times of work were performed; and the premises subject to the lien; with the description thereof sufficient for identification together with its location by street and number, which said notice of lien was duly verified by DCD to the effect that the statements therein contained were true to its knowledge except as to those matters on information and belief as to which DCD believed them to be true. (A copy of the Mechanic's Lien filed is annexed as Exhibit B and made a part hereof.)

26. On or about March 13, 2020, the Notice of Mechanic's Lien was duly docketed in the appropriate Clerk's office in the lien docket kept for that purpose.

27. Within the statutory time period of the filing of the Notice of Mechanic's Lien and in accordance with Section 11 of the Lien Law, DCD caused a copy of the Notice of Mechanic's Lien to be duly served upon Ranger and Sagamore and proof of such service was duly filed in the office of the County Clerk, New York County.

28. By reason of the foregoing, DCD acquired a valid lien upon the Premises to the extent of \$548,210.67 with interest.

29. Upon information and belief, on or about July 10, 2020, Ranger, as principal, and U.S. Specialty, as surety, duly executed and delivered to the Clerk of New York County a bond whereby U.S. Specialty agreed to pay any judgment obtained by DCD against Ranger in connection with the Subcontract (the "Bond"), and accordingly, upon information and belief, the mechanic's lien of DCD was discharged.

30. Neither the lien of DCD nor the claim upon which it is based has been paid, waived, cancelled or discharged, except as above set forth and no other action or proceeding has been brought to foreclose or to enforce the lien or claim, except that DCD has raised counterclaims for

breach of contract and for unjust enrichment in the action entitled *Ranger Builders LLC v. DCD Construction, LLC*, Index No. 655923/2019 (Sup. Ct. N.Y. Co.), which such action, upon information and belief, is to be discontinued without prejudice.

31. On September 1, 2020, DCD filed a Notice of Claim with the New York County Clerk against the Bond.

32. By virtue of the foregoing work performed and materials furnished by DCD, it is entitled to damages from plaintiffs in the sum of \$548,210.67.

**AS AND FOR A SECOND CAUSE OF ACTION**

33. DCD repeats and realleges the allegations contained in paragraphs 1 through 32, inclusive, as if fully set forth herein.

34. Pursuant to the terms of the Bond, U.S. Specialty agreed to pay any judgment which may be recovered in an action to enforce DCD's lien, which lien, upon information and belief, has been discharged by the filing of the Bond.

**AS AND FOR A THIRD CAUSE OF ACTION**

35. DCD repeats and realleges the allegations contained in paragraphs 1 through 34, inclusive, as if fully set forth herein.

36. DCD has performed all of its obligations pursuant to the Subcontract.

37. Ranger has breached the Subcontract.

38. Despite due demand, Ranger has neglected and refused to pay the monies rightfully due and owing DCD.

39. By virtue of the foregoing, Ranger is liable to DCD in the sum of \$548,210.67, together with interest from September 19, 2019.

**AS AND FOR A FOURTH CAUSE OF ACTION**

40. DCD repeats and realleges the allegations contained in paragraphs 1 through 39, inclusive, as if fully set forth herein.

41. The reasonable value of the services performed and materials furnished by and/or on behalf of DCD and as referenced herein, and taking into account payments made, was \$548,210.67.

42. Despite due demand, Ranger and Sagamore have failed to pay the outstanding sums due DCD.

43. Ranger and Sagamore have been unjustly enriched as a result of the services performed and materials furnished by and/or on behalf of DCD at the Premises to Ranger and Sagamore.

44. By virtue of the foregoing, DCD is entitled to damages from Ranger and Sagamore in the amount of \$548,210.67, together with interest from September 19, 2019.

WHEREFORE, defendant DCD CONSTRUCTION, LLC demands judgment against defendants as follows:

A. On the FIRST CAUSE OF ACTION:

1. That the amount due upon plaintiff's lien and claim be ascertained and adjudged.

2. That plaintiff be determined and adjudged to have a valid and subsisting lien upon the interest of Sagamore in the real property above described until the time of its cancellation and discharge by the filing of the Bond as aforesaid in the amount of \$548,210.67.

3. That plaintiff have judgment for the enforcement of the lien against the real property in form only for the purpose of satisfying the condition of the Bond.

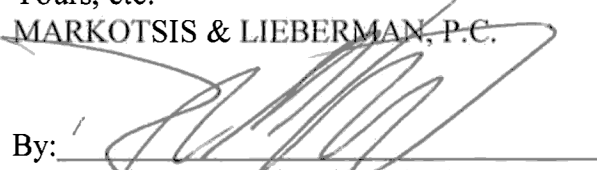
B. On the SECOND CAUSE OF ACTION, that U.S. Specialty be directed to pay over to the plaintiff the sum of \$548,210.67 in accordance with the Bond issued by it.

C. On the THIRD CAUSE OF ACTION, a money judgment in favor of DCD and against Ranger in the amount of \$548,210.67, together with interest thereon from September 19, 2019;

D. On the FOURTH CAUSE OF ACTION, a money judgment in favor of DCD and against Ranger and Sagamore in the amount of \$548,210.67, together with interest thereon from September 19, 2019;

E. On ALL CAUSES OF ACTION, such other, further and different relief as is just, necessary and proper.

Dated: Hicksville, New York  
September 4, 2020

Yours, etc.  
MARKOTSIS & LIEBERMAN, P.C.  
  
By: \_\_\_\_\_  
DOUGLAS M. LIEBERMAN  
Attorneys for Plaintiff  
115B Broadway -- Suite 2  
Hicksville, New York 11801  
(516) 935-2330



ATTORNEY'S VERIFICATION

DOUGLAS M. LIEBERMAN, the undersigned, an attorney duly admitted to practice before the Courts of this State, respectfully states under the penalty of perjury:

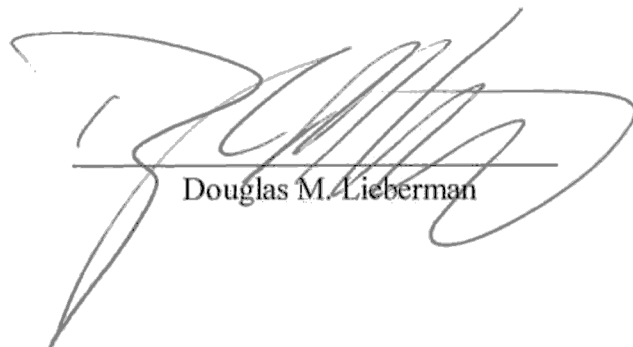
That he is the attorney of record for plaintiff DCD CONSTRUCTION, LLC, in the above-entitled action; that he has read the contents of the annexed Complaint; that the same is true to affiant's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

The reason that this verification is made by the undersigned and not by said plaintiff is because DCD CONSTRUCTION, LLC does not have an office for the transaction of business in the County in which my office is located, to wit, Nassau County.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are based upon telephone conferences with clients and review of records.

The undersigned affirms that the foregoing statements are true under penalty of perjury.

Dated: Hicksville, New York  
September 7, 2020



Douglas M. Lieberman