

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF KINGS

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 RANGER BUILDERS, LLC,

Petitioner,

Index No.: 519875/2021

- against -

VERIFIED PETITION

IDAN NIR,

Respondent.

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Petitioner RANGER BUILDERS, LLC, by and through its attorneys, Richman & Levine, P.C., as and for a Verified Petition against Respondent IDAN NIR, asserts and alleges as follows:

THE PARTIES

1. Petitioner Ranger Builders, LLC is a limited liability company duly organized under the laws of the State of New York with a principal place of business located at 80 Eighth Avenue, Suite 708, New York New York.

2. Respondent Idan Nir is an individual residing at 214 50th Avenue, Apartment 404W, Long Island City, New York.

VENUE

3. Venue is proper in Kings County pursuant to CPLR § 503(a) as a substantial part of the events giving rise to the claim occurred in that County.

FACTS RELEVANT TO ALL CAUSES OF ACTION

4. Petitioner is a general contractor involved in the construction of, *inter alia*, high-rise condominium buildings in New York City.

5. Respondent is an individual engaged in, *inter alia*, construction supervisory services.

6. The instant Verified Petition pertains to a construction project (hereinafter the "Project") involving certain real property located at 443-455 Grand Street and 982-996 Fulton Street, Brooklyn, New York (hereinafter the "Premises").

7. Respondent was an at-will employee of another entity in which, Petitioner's principal, Sheldon Stein, is also a principal: non-party Ranger Properties, LLC (hereinafter "Ranger Properties"), and had a written employment agreement to that effect, under which he was duly compensated. A copy of Respondent's employment agreement with Ranger Properties is annexed hereto as Exhibit A.

8. Regarding the Premises, Petitioner and Respondent entered into an oral agreement whereby, commencing in or about September 2018, Respondent would perform supervisory services at the Project on Petitioner's behalf (hereinafter the "Work") without any additional compensation and as an extension of his work for Ranger Properties.

9. In his registration as Superintendent of Construction on the Project, Respondent identified his employer "Ranger Properties."

10. At no point during the Project or during his performance of the Work did Respondent ever invoice Petitioner for his services or demand any payment from Petitioner for same. In fact, by e-mail dated November 5, 2019, Respondent admitted that he had been

performing the Work “without any fees.” A true and accurate copy of the aforementioned e-mail is annexed hereto. as Exhibit B.

11. Throughout the Project, Respondent was duly compensated by Ranger Properties as its employee.

12. It was not until June 2020, after Respondent and Petitioner had a falling out unrelated to the Work that Respondent first “invoiced” Petitioner. A true and accurate copy of Respondent’s purported invoice (hereinafter the “Invoice”) is annexed hereto. as Exhibit C.

13. By letter dated July 22, 2020, Petitioner duly rejected the Invoice.

14. On January 12, 2021, Respondent filed upon the Premises a notice of mechanic’s lien (hereinafter the “Lien”) in the amount of \$192,179.80 with the Kings County Clerk’s Office, and, thereafter, served same upon Petitioner. A true and accurate copy of the Lien is annexed hereto as Exhibit D.

15. On March 3, 2021, Petitioner, via the undersigned, demanded an itemized statement pursuant to Lien Law 39. A true and accurate copy of Petitioner’s Demand for an Itemized Statement is annexed hereto as Exhibit E.

16. In response, by transmittal dated March 29, 2021, well-beyond the five (5) day time limit set forth in Lien Law § 38, Respondent transmitted a woefully insufficient “Verified Itemized Statement,” a true and accurate copy of which is annexed hereto as Exhibit F.

17. Respondent’s Verified Itemized Statement provided no documentation to support the amount of the lien except for the Invoice and a spreadsheet purporting to demonstrate Respondent’s out-of-pocket reimbursable expenses.

18. Respondent's Verified Itemized Statement did not include any receipts, payment records, timesheets, requisitions, or any other evidence to support Respondent's contention that he performed the alleged services or incurred the allegedly reimbursable expenses.

19. The owner of the Premises has informed Petitioner that the Lien will prevent the Owner's financing and has advised Petitioner that it intends to hold Petitioner in default of its construction agreement with the Owner, which provides, *inter alia*, that Petitioner is obligated to remove all mechanic's liens from the Premises.

20. Specifically, the Owner has informed Petitioner that pursuant to Item B.23 of the Owner's Loan Closing Checklist, it cannot close on its loan until it removes Respondent's mechanic's liens from the Premises. Item B.23 states, in pertinent part, as follows: "Borrower to remove existing mechanics' lien." A copy of the aforementioned Loan Closing Checklist is annexed hereto as Exhibit G.

21. By letter dated April 14, 2021 to Respondent's counsel, Russell M. Wolfson, Esq., the undersigned demanded that Respondent withdraw and vacate the Lien. Respondent refused, necessitating the instant Verified Petition.

22. On August 3, 2021, Petitioner duly served Respondent with a notice of its intent to bring the instant Verified Petition pursuant to Lien Law § 38. A copy of Petitioner's Lien Law § 38 Notice and Affidavit of Service is annexed hereto as Exhibit H.

23. No prior request for the instant relief has previously been made by Petitioner.

AS AND FOR A FIRST CAUSE OF ACTION

24. Petitioner repeats and realleges each of the allegations set forth in paragraphs "1" through "23" above as though more fully set forth herein.

25. Respondent has filed a Notice of Mechanic's Lien pertaining to the Project, alleging unpaid services to Respondent in the amount of \$192,179.80.

26. Petitioner duly demanded an itemized statement of the amount set forth in the Lien pursuant to Lien Law § 38.

27. Respondent failed to timely respond to Petitioner's Lien Law § 38 demand.

28. Respondent's untimely Verified Itemized Statement is woefully deficient and inadequate and fails to provide the necessary documentation to support the amount of the Lien.

29. Pursuant to Lien Law § 38, Petitioner is entitled to an Order from the Court cancelling, annulling, and vacating the Lien due to Respondent's failure to adequately itemize the amount set forth in the Lien.

30. Given the foregoing, Petitioner respectfully requests that the Court issue an Order cancelling, annulling, and vacating the Lien pursuant to Lien Law § 38.

AS AND FOR A SECOND CAUSE OF ACTION

31. Petitioner repeats and realleges each of the allegations set forth in paragraphs "1" through "30" above as though more fully set forth herein.

32. Respondent was aware that he was not entitled to receive any payment from Petitioner for the Work.

33. Respondent never invoiced Petitioner during the Work or at any point during his services on the Project.

34. Respondent admitted that he was performing the Work "without any fees."

35. Respondent issued an improper and false Invoice for fees to which he knew he was not entitled.

36. Respondent then unlawfully filed the Lien for the Work despite being fully aware of the fact that he was not entitled to payment from Petitioner for such services and alleged expenses.

37. Respondent willfully exaggerated the amount of the Lien.

38. Pursuant to Lien Law § 39, Petitioner is entitled to an Order of the Court declaring the Lien void and of no legal force and effect due to Respondent's willful exaggeration.

39. Pursuant to Lien Law § 39-a, Petitioner is entitled to damages and reasonable attorney's fees due to Respondent's willfully exaggerated and improper Lien.

40. Given the foregoing, Petitioner requests that the Court issue an Order cancelling, annulling, and vacating the Lien pursuant to Lien Law § 39, and grant Petitioner judgment in an amount to be determined at the appropriate hearing, together with costs, reasonable attorneys' fees and interest from the earliest ascertainable date.

WHEREFORE, Petitioner demands judgment against Respondent as follows:

1. On the First Cause of Action, for an Order of the Court cancelling, annulling, and vacating the Lien pursuant to Lien Law § 38;
 2. On the Second Cause of Action, for an Order of the Court Order cancelling, annulling, and vacating the Lien pursuant to Lien Law § 39, and grant Petitioner judgment in an amount to be determined at the appropriate hearing, together with costs, reasonable attorneys' fees and interest from the earliest ascertainable date;
- and

3. For such other, further, and different relief as this Court deems just, proper, and equitable.

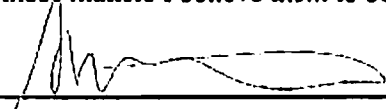
Dated: Garden City, New York
August 6, 2021

RICHMAN & LEVINE, P.C.

By: /s/Keith H. Richman
Keith H. Richman, Esq.
Attorneys for Petitioner
666 Old Country Road, Suite 101
Garden City, New York 11530
(516) 228-9444

VERIFICATION

I, SHELDON STEIN, being duly sworn, depose and say I am the principal of Petitioner RANGER BUILDERS, LLC. I have read the foregoing Verified Petition in this proceeding and know the contents thereof; the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.



SHELDON STEIN

Sworn to before me this
6th day of ~~July~~^{August}, 2021.


Notary Public

BARBARA GOOCH
NOTARY PUBLIC, State of New York
No. 01GO6073431
Qualified in Nassau County
Commission Expires April 22, 2022