

CONSTRUCTION LAW NEWSLETTER

VOLUME I, ISSUE VI FEBRUARY 2016

TRENDS IN CONSTRUCTION LAW

There are many nuances associated with properly filing a mechanic's lien, such as listing the correct parcel of real property, listing the accurate dates that labor and/or materials were furnished, listing any extra work and/or materials as a line item separately from the total amount due, and so on.

Another thing to be aware of is foreign corporations or companies doing business in New York under a fictitious name. When a corporation or company that is organized in another state does work in New York, they are required to register with the NY Secretary of State to do business. If

another entity is already registered in New York with the foreign company's name, the company will have to do business in New York as a "fictitious" name so the two companies are not confused. Naming the proper legal entity in a mechanic's lien is vital. Failure to do so could invalidate the lien.

Being aware of the use of fictitious names by foreign corporations or companies doing business in New York can avoid problems associated with failure to name the proper party in a lien.



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CASE LAW UPDATE

On February 2, 2016, Justice Stallman of the New York County Supreme Court decided the case of *Crana Elec. Inc. v. Battery Park City Auth.*

The plaintiff was an electrical prime contractor who had been contracted to renovate and restore Pier A in Battery Park. The electrical contractor claimed to be owed over \$1.5 million for additional work, design changes, remedial work, and damage from Tropical Storm Sandy.

The prime contract contained a dispute resolution procedure which required Crana to submit a notice of claim to the owner, and upon receiving a response, it could then submit the matter to an "arbiter" for a decision, who was designated as the owner's Vice President.

When Crana commenced a lawsuit to recover the \$1,551,129.18 it claimed in damages, the owner filed a motion to dismiss the breach of contract and quantum meru-

it causes of action due to Crana's failure to comply with the dispute resolution procedures. Crana responded that the procedures would be futile and that it should be excused from compliance.

The Court treated the dispute resolution procedure as akin to an arbitration clause and ruled that Crana was required to comply with it prior to filing the lawsuit. The motion to dismiss was granted.

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Consult your attorney regarding specific legal needs. This may be construed as attorney advertising. Prior results do not guarantee a similar outcome.