

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

ANTHONY W. GUNZL,)
 Plaintiff,)
)
v.) C.A. No. N12L-08-005-PLA
)
ZORICA ALVAREZ,)
 Defendant.)

Submitted: November 21, 2012
Decided: November 30, 2012

UPON PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT
DENIED

Anthony W. Gunzl, Wilmington, Delaware, Pro Se.

Donald L. Gouge, Jr., Esquire, Wilmington, Delaware, Attorney for the
Defendant.

ABLEMAN, JUDGE

Before the Court is a Motion for Summary Judgment filed by plaintiff Anthony W. Gunzl in this mechanics lien action. The motion filed by a pro se plaintiff (albeit, an experienced one), merely restates all of the allegations set forth in his Complaint. In her Answer, defendant, Zorica Alvarez, has denied the majority of the allegations of the Complaint, and asserts several affirmative defenses as well as a counterclaim.

When considering a motion for summary judgment under Superior Court Civil Rule 56, the Court examines the record to ascertain whether genuine issues of material fact exist and to determine whether the moving party is entitled to judgment as a matter of law. Initially, the burden is placed upon the moving party to demonstrate, that its legal claims are supported by the undisputed facts.¹ If the proponent properly supports its claims, the burden “shifts to the non-moving party to demonstrate that there are material issues of fact for resolution by the ultimate fact-finder.”² Summary judgment will only be granted if, after viewing the evidence in the light most favorable to the non-moving party, no material factual disputes exist and judgment as a matter of law is appropriate.³

At this stage in the proceedings, discovery has barely been initiated and, in fact, the responses to interrogatories propounded by defendant are

¹ *Storm v. NSL Rockland Place, LLC*, 898 A.2d 874, 879 (Del. Super. 2005).

² *Id.* at 880.

³ *Id.* at 879-880.

overdue. The facts alleged in the complaint have largely been denied by defendant in her answer, thereby establishing that material issues of fact remain in dispute. Summary judgment under these circumstances at this juncture is clearly inappropriate. Plaintiff, as the movant, has done nothing more than reassert the exact same allegations that are contained in his complaint. He has therefore plainly failed to demonstrate that his legal claims are supported by *undisputed* facts. The Motion for Summary Judgment is therefore **DENIED**.

IT IS SO ORDERED.

/s/ Peggy L. Ableman

PEGGY L. ABLEMAN, JUDGE

Original to Prothonotary
cc: Anthony W. Gunzl
Donald L. Gouge, Jr., Esquire