Velocity Framers USA Inc. v 1157 Myrtle LLC

2023 NY Slip Op 33359(U)

September 19, 2023

Supreme Court, Kings County

Docket Number: Index No. 535857/2022

Judge: Richard J. Montelione

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

At an IAS Term, Part 99 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 19th day of September 2023.

P R E S E N T:

HON. RICHARD J. MONTELIONE,
Justice.

----------X

VELOCITY FRAMERS USA INC AND BIG APPLE DESIGNERS INC,

Plaintiffs,

Motion Sequences 1 and 2

- against -

Index No. 535857/2022

1157 MYRTLE LLC, 1000 BROADWAY LLC, 394 GATES LLC, 268 METROPOLITAN LLC, 271 METROPOLITAN LLC, 234-236 NORTH 11TH LLC, THE NORTH FLATS LLC[1], 10 INDEPENDENCE CENTER LLC, 65 KENT AVENUE LLC, 57-59 GRAND ST LLC, EVERGREEN GARDENS 11 LLC, BROOKLYN GC LLC, YOEL SCHWIMMER AND ACI VI DENZIN LLC AND "JOHN DOE" AND "JANE DOE" 1-10, THE NAMES BEING FICTITIOUS AND ARE INTENDED TO BE THE OWNERS, OFFICER & DIRECTORS OF EACH OF THE LLC DEFENDANTS WHOSE NAMES ARE CURRENTLY UNKNOWN TO PLAINTIFFS BUT WILL BE DISCOVERED DURING THE COURSE OF DISCOVERY IN THIS ACTION,

Defendants,

----------X

The following e-filed papers read herein:	NYSCEF Nos.:
Notice of Motion/Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations) Annexed	53-61; 63-72

[1] The court notes that the name of the defendant "The North Flats LLC" was originally listed in the caption twice, which clearly appears to be a typographical error. As such, the court has, *sua sponte,* corrected the caption by removing one of the names.

Opposing Affidavits (Affirmations)	75; 76
Affidavits/ Affirmations in Reply	77
Other Papers: Affidavits/Affirmations in Support	73

BACKGROUND

Plaintiffs commenced the instant action, inter alia, to foreclose numerous mechanics' liens by electronically filing a summons and verified complaint on December 8, 2022. According to the complaint, plaintiffs Velocity Framers USA Inc. (Velocity) and Big Apple Designers Inc. (Big Apple) provide the same services and are owned by the same individuals (NYSCEF Doc. No. 1 at ¶ 4). In or around 2019, Velocity transferred all operations to Big Apple, which has carried out all business operations on behalf of, and in place of, Velocity with respect to all the construction projections that are the subject of the complaint (*id.* at ¶ 5). Plaintiffs' complaint asserts fifty-five causes of action against various defendants for monies due for labor and materials provided to general contractors on numerous projects in Brooklyn, New York.[2]

Upon the foregoing papers, defendants 234-236 North 11th LLC and 1000 Broadway LLC (collectively referred herein as "owner defendants") move in motion sequence number 1 ("MS#1") for an order pursuant to CPLR 3211 to dismiss plaintiffs Velocity Framers USA Inc. and Big Apple Designers Inc.'s (collectively, "plaintiffs") complaint and vacatur of the notice of pendency filed against each of their real properties.

[2] For purposes of this decision, the court will only address the portions of the summons and verified complaint that involve claims against the moving defendants, 234-236 North 11th LLC, 1000 Broadway LLC, 268 Metropolitan LLC, 271 Metropolitan LLC, The North Flats LLC, and 57-59 Grand St LLC.

Defendants 268 Metropolitan LLC, 271 Metropolitan LLC, The North Flats LLC, and 57-59 Grand St LLC (collectively, the "affiliate defendants") move in MS#2 for an order pursuant to CPLR 3211 (a) (5) to dismiss plaintiffs' claims, for an order pursuant to CPLR 3211 (a) (7) to dismiss the 16th, 18th, 21st, 23rd, 31st, 33rd, and 48th causes of action, and for cancellation of the notices of pendency filed in this action against affiliate defendants' properties.

Claims Against Owner Defendants

Plaintiffs assert that in or about 2016, defendant 1000 Broadway LLC (Broadway Owner) entered into an agreement with defendant Brooklyn GC whereby the latter would provide general contractor services, including all labor and materials necessary for the construction project at 1000 Broadway in Brooklyn (*id.* at ¶¶ 7, 21, and 81).

In or about 2016, plaintiffs contend that Brooklyn GC entered into an agreement with Velocity whereby Velocity agreed to provide service, labor, materials, and supplies necessary for framing and carpentry work to Brooklyn GC (*id.* at ¶ 83).

Plaintiffs claim that they performed the services and furnished the materials and supplies in accordance with the agreement with Brooklyn GC and with the knowledge and consent of the Broadway Owner (*id.* at ¶¶ 84-85). According to the complaint, Brooklyn GC was to pay plaintiffs $1,187,680.00 in exchange for the labor and materials (*id.* at ¶ 87). Plaintiffs allege that as of June 4, 2020, there remained due and owing $126,230.00 with interest thereon from July 4, 2020 (*id.* at ¶ 88).

The complaint further alleges that in or about 2016, defendant 234-236 North 11th LLC (North 11th Street Owner) entered into an agreement with Velocity whereby Velocity agreed to furnish service, labor, materials, and supplies necessary for framing and carpentry work Brooklyn GC was performing at 236 North 11th Street in Brooklyn (*id.* at ¶¶ 25, 271). According to the agreement, plaintiffs were to be compensated $681,160.01 in exchange for the labor performed and materials provided (*id.* at ¶ 274). Plaintiffs assert that as of May 30, 2020, there remained due and owing $3,250.00 with interest thereon from June 30, 2020 (*id.* at ¶ 276). The complaint asserts five causes of action against each of the owner defendants: (1) foreclosure of the mechanic's lien; (2) breach of contract; (3) quantum meruit and unjust enrichment; (4) account stated; and (5) trust fund diversion.

Claims Against Affiliate Defendants

In addition to the owner defendants, plaintiffs assert claims against the affiliate defendants based on analogous contentions. Plaintiffs' complaint alleges that 268 Metropolitan LLC owes $31,200.00 as of June 16, 2020, 271 Metropolitan LLC owes $10,400.00 as of June 2, 2020, The North Flats LLC owes $218,691.01 as of June 9, 2020, and 57-59 Grand St LLC owes $40,365.00 as of July 9, 2020, for labor performed and materials provided at various properties throughout Brooklyn (*id.* at ¶¶ 182, 229, 323 and 464). The complaint asserts the following 5 causes of action against each of the affiliate defendants: (1) foreclosure of mechanic's lien; (2) breach of contract; (3) quantum meruit and unjust enrichment; (4) account stated; and (5) trust fund diversion.

DISCUSSION

MS#1:

The owner defendants seek dismissal of the instant action pursuant to CPLR 3211. In support of their motion, owner defendants contend that the notice of mechanic's lien filed against each of their respective properties do not describe any materials furnished in violation of Lien Law § 9 (4) (NYSCEF Doc No. 54 at ¶ 4). Owner defendants further argue that the mechanic's liens filed against their properties are facially defective as untimely since they were filed beyond the statutory eight-month period prescribed by Lien Law § 10 (1) (*id.* at ¶ 11). Additionally, they contend that dismissal of the complaint is warranted as plaintiffs fail to state causes of action since the complaint does not allege that the work was performed according to a duly issued permit by the New York City Department of Buildings (*id.* at ¶ 15).

In opposition, plaintiffs assert that the notices of lien were not defective and owner defendants' argument is meritless. They argue that Lien Law § 9 (4) and 9 (5) requires some description and that the subject notices were compliant as they specified that the labor and materials supplied were for "Framing & Carpentry" (NYSCEF Doc No. 75 at ¶¶ 3-9). Plaintiffs note that their description gave the owner defendants sufficient information to apprise them of the nature of the material and labor for which the liens are claimed (*id.* at ¶ 9). Plaintiffs further assert that the owner defendants' contention that the liens are untimely is without merit as the owner defendants did not account for the 228-day Covid toll (*id.* at ¶ 15). Lastly, plaintiffs argue that contrary to the owner defendants' position,

there is no requirement that the pleadings must assert that the work was performed pursuant to a valid permit and, in any event, the failure of a contractor to work per a valid Department of Buildings permit does not bar recovery for work done under contract. Owner defendants did not file a reply.

On a motion to dismiss pursuant to CPLR 3211, "the pleading is to be afforded a liberal construction" (*Leon v Martinez*, 84 NY2d 83 [1994]). The court must "accept the facts as alleged in the complaint as true, accord plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory" (*id.* at 87-88; *see Morone v Morone*, 50 NY2d 481, 484 [1980]). Lien Law § 9 (4) provides that the notice of lien shall state "[t]he labor performed or materials furnished and the agreed price or value thereof, or materials actually manufactured for but not delivered to the real property and the agreed price or value thereof." "In determining the validity of a notice of lien, the requirements of the Lien Law are to be construed liberally to secure the beneficial interests and purposes thereof" (*Malbro Construction Services, Inc. v Straightedge Builders, Inc.*, 188 AD3d 1068, 1068 [2d Dept 2020]). A mechanic's lien contains a sufficient description of the work provided when the owner "may, upon inquiry, ascertain whether the material has been actually furnished or not, and the value of the same" (*Mahan Const. Corp. v 373 Wythe Realty, Inc.*, 31 Misc 3d 252, 254 [Sup Ct, Kings County 2011]; *see Bachmann v Spinghel*, 164 AD 725, 726-727 [2d Dept 1914]). Here, the notices of lien stated that the liens were for "labor performed and/or material sold for Framing & Carpentry" and provided owner defendants

with a sufficient description to ascertain whether or not the work and materials were actually furnished or not (*id.*). The court finds that the notices of lien were valid and met the requirements of Lien Law § 9 (4).

Lien Law § 10 (1) provides that a "[n]otice of lien may be filed...within eight months after the completion of the contract, or the final performance of the work, or the final furnishing of the materials, dating from the last item of work performed or materials furnished." On March 20, 2020, former Governor Andrew M. Cuomo issued Executive Order No. 202.9, which provided: "I hereby temporarily suspend or modify, for the period [of] the date of this Executive Order through April 19, 2020 the following: In accordance with the directive of the Chief Judge of the State to limit court operations to essential matters during the pendency of the COVID-19 health crisis, *any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state*, including but not limited to . . . *the civil practice law and rules* . . . is hereby tolled from the date of this executive order until April 19, 2020" (9 NYCRR 8.202.8*; see Blue Lagoon, LLC v Reisman*, 214 AD3d 938, 942 [2d Dept 2023]; *see also Brash v Richards*, 195 AD3d 582, 583-584 [2d Dept 2021]).

The former Governor "issued a series of nine subsequent executive orders that extended the suspension or tolling period, eventually through November 3, 2020" (*Blue Lagoon, LLC*, 214 AD3d at 942). Here, the owner defendants' contention that the notices of lien were untimely as they were filed roughly fourteen and nineteen days late is without

merit since the former Governor's Executive Orders tolled the time-period prescribed by Lien Law § 10 (1). Plaintiffs concluded working on and/or supplying materials to the subject properties in late May and early June of 2020. The former Governor's stay was in place until November 4, 2020. Therefore, plaintiffs were allowed to file notices of lien until July 4, 2021, eight months after the expiration of the tolling period.[3] The notices of lien were filed on February 8, 2021, well before the time to do so expired.

Lastly, the portion of the owner defendants' motion to dismiss on the basis that plaintiffs did not allege that the work was performed under permit is without merit. "On a motion to dismiss for failure to state a cause of action under CPLR 3211 (a) (7), a court must accept the facts as alleged in the complaint as true, accord plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory" (*Eskridge v Diocese of Brooklyn*, 210 AD3d 1056, 1057 [2d Dept 2022]; *see Leon*, 84 NY2d at 83; *Boyle v North Salem Central School District*, 208 AD3d 744 [2d Dept 2022]). "Whether a plaintiff can ultimately establish [his or her] allegations is not part of the calculus in determining a motion to dismiss" (*id.*; *EBC I, Inc. v Goldman, Sachs & Co.*, 5 NY3d 11 [2005]). It is the movant who has the burden to demonstrate that, based upon the four corners of the complaint liberally construed in favor of the plaintiff, the pleading states no legally cognizable cause of action (*see Leon*, 84 NY2d at 87-88; *Guggenheimer*, 43 NY2d at 275). Here, owner defendants failed to

[3] Although plaintiffs' opposition papers state that the time to file the notice of mechanic's lien was until July 4, 2020, it is evident from the arguments raised that it is a typographical error and likely intended to read July 4, 2021 (NYSCEF Doc No. 75 at ¶ 24).

submit any relevant case law or statutory authority to support its contention and thus the court finds that they failed to meet their burden that the pleading states no legally cognizable cause of action.

MS#2:

The affiliate defendants move pursuant to CPLR 3211 (a) (5) to dismiss the complaint as asserted against them on the basis that a stipulation of settlement containing a release was executed in a prior action that they contend precludes plaintiffs' current claims (NYSCEF Doc No. 72). In support of their position, affiliate defendants submit an affidavit from Avi Philipson, manager of Brooklyn Metro Partners LLC and its purported affiliate Paragraph Partners, LLC, who avers that the prior stipulation and release between plaintiffs and 65 Kent Avenue LLC in the prior action (Sup Ct, Kings County, December 22, 2022, Index No. 531255/2021), extends to, among others, the affiliate defendants (NYSCEF Doc No. 67 at ¶¶ 3-5).

Avi Philipson states that Paragraph Partners LLC agreed to purchase all of the equity of All Year Holdings Limited in March 2022, which purchase was consummated on April 4, 2023. The affidavit asserts that 65 Kent Avenue LLC is owned by All Year Holdings Limited, a holding company established and incorporated in or about 2014 under the laws of the British Virgins Islands, that has interests in various properties in Brooklyn (*id.* at ¶¶ 6-7). Avi Philipson avers that each of the affiliate defendants are "affiliates, under 'common ownership or control,' or are 'related' business entities with 65 Kent" (*id.* at ¶ 9). Alternatively, affiliate defendants argue that the court should dismiss the claims

asserted against them for failure to state a cause of action and dismiss as untimely. Lastly, movants assert that the claims for quantum meruit and unjust enrichment should be dismissed as duplicative of plaintiffs' contract claims.[4]

In opposition, plaintiffs argue that the affiliate defendants' claim for dismissal based on the release is meritless as the referenced stipulation of settlement settled an action against a nonparty, 65 Kent LLC, and the stipulation has the customary release language that does not reference any of the affiliate defendants (NYSCEF Doc 76 at ¶¶ 4-5). Plaintiffs contend that movants' argument that the case should be dismissed as asserted against them based on a tangled web of ownership, is wholly non-cognizable on a CPLR 3211 (a) (5) motion (*id.* at ¶¶ 5-6). Plaintiffs note that the fact that an affidavit and exhibits were submitted to try and suggest that there is some tenuous nexus of common ownership with 65 Kent LLC renders this a motion under CPLR 3211 (a) (1). Plaintiffs further state that movants' argument that the notices of lien were untimely is meritless and their claim that the quantum meruit and unjust enrichment claims are duplicative is not supported by the established case law.

In reply, affiliate defendants assert that the court has the authority to consider extrinsic documents to determine not only whether there was a release, but whether the parties are corporate affiliates within the scope of the release (NYSCEF Doc No. 77 at ¶ 4).

[4] An affirmation in further support of affiliate defendants' motion was submitted by the owner defendants wherein owner defendants allege, for the first time, they are also intended beneficiaries of the release as the two entities are affiliates of 65 Kent Avenue LLC (NYSCEF Doc No. 73).

"In resolving a motion for dismissal pursuant to CPLR 3211 (a) (5), the plaintiff's allegations are to be treated as true, all inferences that reasonably flow therefrom are to be resolved in his or her favor" (*Sacchetti-Virga v Bonilla*, 158 AD3d 783, 784 [2d Dept 2018] [internal quotation marks omitted]; *see Ford v Phillips*, 121 AD3d 1232, 1234 [3d Dept 2014]). "Generally, a valid release constitutes a complete bar to an action on a claim which is the subject of the release" (*John v Elefante*, 210 AD3d 666, 668 [2d Dept 2022]; *see Centro Empresarial Cempresa S.A. v America Movil, S.A.B. de C.V.*, 17 NY3d 269, 276 [2011]). "Generally, a valid release that is clear and unambiguous on its face constitutes a complete bar to an action on a claim which is the subject of the release absent fraudulent inducement, fraudulent concealment, misrepresentation, mutual mistake or duress" (*Sacchetti-Virga,* 158 AD3d at 783-784; *see Orangetown Home Improvements, LLC v Kiernan*, 84 AD3d 902, 903 [2d Dept 2011]). "If the language of a release is clear and unambiguous, the signing of a release is a jural act binding on the parties" (*Miller v Brunner*, 215 AD3d 952, 953 [2d Dept 2023]; *Centro Empresarial Cempresa S.A.,* 17 NY3d at 276).

The intent of the parties must be ascertained from the plain language of the agreement (*see Sacchetti-Virga,* 158 AD3d at 784; *Kaminsky v Gamache*, 298 AD2d 361, 361 [2d Dept 2002]). "[I]n construing a general release, it is appropriate to look to the controversy being settled and the purpose for which the release was executed (*see Salewski v Music*, 150 AD3d 1353, 1354 [2d Dept 2017]; *Metz v Metz*, 175 AD2d 939, 393 [3d Dept 1991]). "In that regard, if, from the recitals therein or otherwise, it appears that the

release is to be limited to only particular claims, demands, or obligations, the instrument will be operative as to those matters alone, and will not release other claims, demands, or obligations" (*id.*).

Here, the affiliate defendants' contention that the release found in the stipulation of settlement between plaintiffs and 65 Kent LLC requires dismissal pursuant to CPLR 3211 (a) (5) is without merit. The release at issue provides as follows:

> "In consideration of the payment of the Settlement Amount and the other provisions of this Agreement, PLAINTIFF releases DEFENDANT, and their heirs, administrators, representatives, executors, estates, predecessors, successors, assigns, branches, divisions, affiliates, subsidiaries, parents, corporations and entities under common ownership or control, related business entities and companies, business units, committees, groups, and their current and former owners, principals, shareholders, partners, members, officers, directors, trustees, employees, attorneys, accountants, insurers, fiduciaries, representatives, agents, predecessors, successors and assigns, in their individual, representative and business capacities, with respect to and limited to all claims, which have been asserted, or could have been asserted, whether known or unknown, including but not limited to all actions, causes of action, suits, debts, dues, liens, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law, admiralty or equity, which against the DEFENDANT, PLAINTIFF, its heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall or may, have for, upon, or by reason of any matter, cause of action whatsoever from the beginning of the world to the day of the date of this Release. The only exception thereto is enforcement of the terms and conditions set forth in this Stipulation of Settlement" (NYSCEF Doc No. 66 at ¶ 7).

The plain language of the release, viewing it in the context of the controversy being settled therein, does not unambiguously constitute a complete bar to the instant action as the release/stipulation does not reference any of the affiliate defendants and there is no claim of defendants being successors in interest or otherwise being covered by the release/stipulation. Although movants attempt to establish, through the introduction of extrinsic evidence, that 65 Kent LLC and the affiliate defendants share common ownership, such evidence warrants a denial of the instant motion as it is not clear that the release includes the movants and applies to the subject action.

Additionally, and more importantly, the release may only be a complete bar to an action on the *claim that is the subject* of the release. Here, the release was filed in connection with a suit alleging that an outstanding balance of $221,000.00 as of February 18, 2021, was owed by 65 Kent LLC to plaintiffs for work performed at 65 Kent Avenue, Brooklyn, New York (NYSCEF Doc No. 66 at 1-2). Affiliate defendants did not argue that the instant causes of action involve or relate to the prior claims that were the subject of the release necessary to bar the instant action. The allegations in plaintiffs' complaint do not reference the same unpaid amount or date, and it is currently unknown if any of the work or services provided stem from the claims that are the subject of the prior release. Additionally, the documents submitted are insufficient to warrant dismissal pursuant to CPLR 3211 (a) (1) since they do not utterly refute plaintiffs' factual allegations as the evidence is not unambiguous and of undisputed authenticity as is required by applicable

law (*see Davis v Henry*, 212 AD3d 597, 597 [2d Dept 2023]; *Qureshi v Vital Transp., Inc.*, 173 AD3d 1076, 1077 [2d Dept 2019]).

"On a motion to dismiss for failure to state a cause of action under CPLR 3211 (a) (7), a court must accept the facts as alleged in the complaint as true, accord plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory" (*Eskridge v Diocese of Brooklyn*, 210 AD3d 1056, 1057 [2d Dept 2022]; *Leon*, 84 NY2d at 83; *Boyle v North Salem Central School District*, 208 AD3d 744 [2d Dept 2022]). "Whether a plaintiff can ultimately establish [his or her] allegations is not part of the calculus in determining a motion to dismiss" (*id.*; *see EBC I, Inc. v Goldman, Sachs & Co.*, 5 NY3d 11 [2005]). Affiliate defendants' contention that the complaint fails to state causes of action is denied as the court finds that plaintiffs stated legally cognizable causes of action in their complaint. Additionally, as previously discussed, the contentions that the notices of lien are untimely are without merit as the time to file the notices was tolled by numerous Executive Orders (*See* Lien Law § 10, *supra* at 6-7).

The portion of the affiliate defendants' motion seeking dismissal of the quantum meruit and unjust enrichment claims, at this stage of the litigation, is denied. "Quantum meruit and unjust enrichment theories are equitable in nature, and are appropriate only if there is no valid and enforceable contract between the parties covering the dispute at issue" (*First Class Concrete Corp. v Rosenblum*, 167 AD3d 989, 990 [2d Dept 2018]; *see Thompson v Horowitz*, 141 AD3d 642, 644 [2d Dept 2016]). Here, at the pleadings stage

of the litigation and before any of the defendants have filed their answer, the court finds that plaintiffs stated causes of action to recover for unjust enrichment and in quantum meruit as alternative theories of relief (*Thompson,* 141 AD2d at 644). The court agrees with plaintiffs that since the affiliated defendants have not yet conceded that there is a valid and binding contract governing this dispute, it is premature to dismiss the above-referenced claims until and unless it is established that there is a written contract governing the dispute at issue (*see First Class Concrete Corp.,* 167 AD3d at 990). The court finds that the complaint states causes of action to recover damages for their quantum meruit and unjust enrichment claims against each affiliate defendant.

CONCLUSION

Based on the foregoing, it is

ORDERED that the owner defendants' motion (MS#1) to dismiss is DENIED in its entirety; and it is further

ORDERED that the affiliate defendants' motion (MS#2) to dismiss is DENIED in its entirety; and it is further

ORDERED that the above caption is hereby amended to remove the duplicate name of defendant "The North Flats LLC," and the Clerk is directed to make such change on the court's records, and the amended caption as follows:

(THE BALANCE OF THIS PAGE IS INTENTIONALLY BLANK)

----------X

VELOCITY FRAMERS USA INC AND BIG APPLE DESIGNERS INC,

Plaintiffs,

- against -

1157 MYRTLE LLC, 1000 BROADWAY LLC, 394 GATES LLC, 268 METROPOLITAN LLC, 271 METROPOLITAN LLC, 234-236 NORTH 11TH LLC, THE NORTH FLATS LLC[5], 10 INDEPENDENCE CENTER LLC, 65 KENT AVENUE LLC, 57-59 GRAND ST LLC, EVERGREEN GARDENS 11 LLC, BROOKLYN GC LLC, YOEL SCHWIMMER AND ACI VI DENZIN LLC AND "JOHN DOE" AND "JANE DOE" 1-10, THE NAMES BEING FICTITIOUS AND ARE INTENDED TO BE THE OWNERS, OFFICER & DIRECTORS OF EACH OF THE LLC DEFENDANTS WHOSE NAMES ARE CURRENTLY UNKNOWN TO PLAINTIFFS BUT WILL BE DISCOVERED DURING THE COURSE OF DISCOVERY IN THIS ACTION,

Defendants,

----------X

KINGS COUNTY CLERK
FILED
2023 SEP 25 PM 1:10

and it is further

ORDERED that all other requests for relief are DENIED.

This constitutes the decision and order of the court.

E N T E R,

HON. RICHARD J. MONTELIONE
J.S.C.

[5] The court notes that the name of the defendant "The North Flats LLC" was originally listed in the caption twice, which clearly appears to be a typographical error. As such, the court has, *sua sponte,* corrected the caption by removing one of the names.