

International Union of Painters & Allied Trades, Dist, Council No. 4 v New York State Dept. of Labor
2015 NY Slip Op 32859(U)
October 22, 2015
Supreme Court, Erie County
Docket Number: 801775/2015
Judge: James H. Dillon
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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE
INTERNATIONAL UNION OF PAINTERS & ALLIED
TRADES, DISTRICT COUNCIL NO. 4, by
its Secretary-Treasurer, Mark Stevens; and

INTERNATIONAL UNION OF PAINTERS & ALLIED TRADES,
FINISHING TRADES INSTITUTE OF WESTERN & CENTRAL
NEW YORK, by its Trustees Mark Stevens, Gregory Stoner,
Robert Sinopoli, Jeffrey Carroll, Todd Rotunno, Michael Dems,
Daniel LaFrance, Dan Jackson, Dominic Zirilli, Tim McCluskey,
Jeff Sturtz, Frank Hosek, and Marvin Paige; and

FORNO ENTERPRISES, INC.; and

TGR ENTERPRISES, INC.; and

HOGAN GLASS, LLC; and

AJAY GLASS & MIRROR CO.; and

THOMAS A. JERGE, as a citizen taxpayer; and

PAUL J. LEONE, as a citizen taxpayer; and

CHRISTOPHER J. POWERS, as an Apprentice enrolled in the
Painters District Council No. 4 Glazier Apprenticeship Program;
and

RACHEL TERHART, as a former Apprentice enrolled in the
Painters District Council No. 4 Glazier Apprenticeship Program,

Plaintiffs,

- against -

THE NEW YORK STATE DEPARTMENT OF LABOR; and

MARIO MUSOLINO, as Acting Commissioner of New
York State Department of Labor, and

CHRISTOPHER ALUND, as Director of the Bureau of Public
Works, a Division of the New York State Department of Labor,

Defendants.

**ORDER AND
DECLARATORY JUDGMENT**

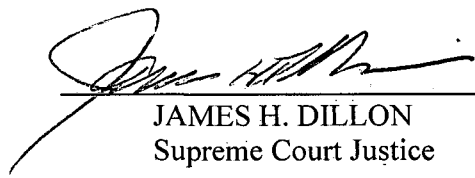
Index No.
801775/2015

Hon. James H. Dillon

Upon due consideration of the Verified Complaint dated February 9, 2015, the Affidavit of Mark Stevens dated February 6, 2015, the Affidavit of Gregory Stoner dated February 6, 2015, with attached exhibits, the Affidavit of Michael Spaccaforno dated January 29, 2015, with attached exhibit, the Affidavit of Krista Lehde dated February 5, 2015, with attached exhibit, the Affidavit of John Hogan dated February 10, 2015, with attached exhibit, the Affidavit of Demetrios G. Stothopoulos dated February 5, 2015, with attached exhibit, the Affidavit of Paul J. Leone dated February 5, 2015, the Affidavit of Thomas A. Jerge dated February 5, 2015, the Affidavit of Christopher J. Powers dated January 26, 2015, with attached exhibit, the Affidavit of Rachel Terhart dated January 28, 2015, the Affidavit of Michael Fitzgerald dated January 27, 2015, the Memorandum of Law in Support of the Verified Complaint dated February 9, 2015, with attached exhibits, the Verified Answer dated March, 27, 2015, Defendant's Notice of Motion for Summary Judgment and Motion to Dismiss dated March 27, 2015, the Affirmation of Jane Thompson dated March 26, 2015, with attached exhibit, the Affirmation of Christopher Alund dated March 27, 2015, with attached exhibit, the Memorandum of Law in Support of Defendant's Motion for Summary Judgment and Motion to Dismiss dated March 27, 2015, Plaintiffs' Notice of Cross-Motion for Summary Judgment dated May 12, 2015, the Affidavit of Marcia Johnson dated April 28, 2015, with attached exhibits, the Supplemental Affidavit of Gregory Stoner dated May 7, 2015, with attached exhibits, the Supplemental Affidavit of Krista Lehde dated April 22, 2015, with attached exhibit, the Affidavit of Richard D. Furlong, Esq. dated May 8, 2015, with attached exhibit, Defendants' Memorandum of Law Responding to Plaintiffs' Cross Motion for Summary Judgment and Replying to Plaintiffs' Opposition to Defendants' Motion for Summary Judgment and Motion to Dismiss dated June 10, 2015, and

upon the oral argument presented to this Court on June 24, 2015 and pursuant to and in conformity with the Decision of this Court dated September 9, 2015, which is attached to this Order and Declaratory Judgment as **Exhibit A**, and due deliberation having been had, it is hereby:

ORDERED that the Court enters a declaratory judgment finding that the New York State Department of Labor's determination that the work in question is that of the ironworkers and not of the glaziers is not unreasonable or arbitrary or capricious; and it is further ORDERED that the Defendants' motion to dismiss all other claims is GRANTED and all other claims in the above-captioned matter are DISMISSED.



JAMES H. DILLON
Supreme Court Justice

Judgment entered this date:

_____, 2015

By: _____
Clerk of the Court

GRANTED

OCT 22 2015

BY 

LAURA HAAS
COURT CLERK