

**Belle Lighting LLC v USA Legwear, Inc.**

2017 NY Slip Op 30243(U)

February 2, 2017

Supreme Court, New York County

Docket Number: 655053/2016

Judge: Kathryn E. Freed

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: IAS PART 2

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BELLE LIGHTING LLC,

Plaintiff,

-against-

USA LEGWEAR, INC., BASIC RESOURCES, LLC and  
WESTCHESTER FIRE INSURANCE COMPANY,

Defendants.  
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Index No. 655053/2016

DECISION/ORDER

Mot Seq. No. 001

KATHRYN E. FREED, J.S.C.

Defendants, USA Legwear, LLC, Basic Resources, Inc., and Westchester Fire Insurance Company (“Defendants”), having moved this Court by Order to Show Cause, signed on November 22, 2016 [Motion Seq. No. 1; Docket No. 32], for an Order: (i) pursuant to CPLR §602(a) and New York Lien Law (“Lien Law”) §43, consolidating for all purposes with the instant action those actions then pending or any future actions which may have been or will be commenced by lienors seeking payment and/or to foreclose upon mechanics’ liens and the bonds securing same, if any, filed in the New York County Clerk’s Office against the real property commonly known as and located at 1411 Broadway, New York, New York a/k/a Block 815, Lot 1 on the Tax Map of the County of New York (the “Property”), arising out of labor or services performed or goods provided to the second and third floors of the Property (the “Subleased Premises”) in connection with a contract entered into by the Artisan Construction Partners, LLC (“General Contractor”) and USA Legwear LLC’s and Basic Resources Inc.’s affiliate, as amended and/or restated (the “Contract”), including but not limited to, those actions pending at the time the motion was made captioned Cannon Mechanical, Inc. v. James Gavin, et. al., Sup. Ct. N.Y. Co., Index No. 655456/2016; State Painting & Decorating Co., Inc. v. Artisan

Construction, et. al., Sup. Ct. N.Y. Co., Index No. 158714/2016; and Everest Scaffolding, Inc. v. USA Legwear LLC, et. al., Civ. Ct. N.Y. Co., Index No. 018004/2016), and those actions filed subsequent to the motion captioned Glenwood Management Services, Inc. v. James Galvin, Artisan Construction, et. al., Index No. 656425/2016; Ground Effects, Inc. v. 1411 IC-SIC Property, LLC et. al., Sup. Ct. N.Y. Co., Index No. 656244/2016; Nordic Interior, Inc. v. Artisan Construction, et. al., Sup. Ct. N.Y. Co., Index No. 159611/2016; Peace of Mind Technologies, LLC v. Westchester Fire Insurance Company et. al., Sup. Ct. N.Y. Co., Index No. 159731/2016; USA Legwear, LLC et. al. v. Celtic Building Supplies, Inc. et. al., Sup. Ct. N.Y. Co., Index No. 656063/2016; and In the Matter of the Ex Parte Application of USA Legwear, LLC et. al., Sup. Ct. N.Y. Co., Index No. 159131/2016 (collectively the “Related Actions”); as well as any action or claim that may be filed in the future subsequent to the entry of this Order, including any claims concerning the Lien Law §37 bond obtained and/or posted by Defendants under Index No. 159131/2016 (the “Future Actions”); (ii) pursuant to CPLR §2201, staying all proceedings in the instant action, the Related Actions and any Future Actions pending the hearing and determination of this motion; and (iii) amending the caption of this action to include the parties in the Related Actions and in any Future Actions; and

In support of the motion, Defendants submitted the Affirmation of Mitchell D. Haddad , Esq., dated November 16, 2016, and exhibits annexed thereto; and

On January 3, 2017, Plaintiff Belle Lighting LLC (“Plaintiff”) filed opposition papers to the instant motion [Docket No. 36 ]; and

By Stipulation dated January 18, 2017 [Docket No. 44], Plaintiff withdrew its opposition to the instant motion and consented to this Court granting said motion; and

No other opposition to the instant motion has been made or filed; and

NOW, upon the application of Sills Cummis & Gross P.C., attorneys for Defendants, and upon consent of the attorneys for Plaintiff, it is hereby:

ORDERED, that pursuant to CPLR §602(a) and Lien Law §43, Cannon Mechanical, Inc. v. James Gavin, et. al., Sup. Ct. N.Y. Co., Index No. 655456/2016; State Painting & Decorating Co., Inc. v. Artisan Construction, et. al., Sup. Ct. N.Y. Co., Index No. 158714/2016; and Everest Scaffolding, Inc. v. USA Legwear LLC, et. al., Civ. Ct. N.Y. Co., Index No. 018004/2016), and those actions filed subsequent to the motion captioned Glenwood Management Services, Inc. v. James Galvin, Artisan Construction, et. al., Index No. 656425/2016; Ground Effects, Inc. v. 1411 IC-SIC Property, LLC et. al., Sup. Ct. N.Y. Co., Index No. 656244/2016; Nordic Interior, Inc. v. Artisan Construction, et. al., Sup. Ct. N.Y. Co., Index No. 159611/2016; Peace of Mind Technologies, LLC v. Westchester Fire Insurance Company et. al., Sup. Ct. N.Y. Co., Index No. 159731/2016; USA Legwear, LLC et. al. v. Celtic Building Supplies, Inc. et. al., Sup. Ct. N.Y. Co., Index No. 656063/2016; and In the Matter of the Ex Parte Application of USA Legwear, LLC et. al., Sup. Ct. N.Y. Co., Index No. 159131/2016 are consolidated in this Court under Index No. 655053/2016 for all purposes, including trial; and it is further

ORDERED, that the caption in the instant action shall be amended as follows:

<p>BELLE LIGHTING LLC,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>USA LEGWEAR, LLC, BASIC RESOURCES, INC., WESTCHESTER FIRE INSURANCE COMPANY, AMERICO GROUP, INC., 1411 IC-SIC PROPERTY LLC C/O THE BLACKSTONE GROUP 1411 IC-SIC PROPERTY LLC, IC-SIC PROPERTY, LLC, ARTISAN CONSTRUCTION PARTNERS, LLC,</p>	<p style="text-align: center;">Index No. 655053/2016</p>
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ARTISAN CONSTRUCTION, ARTISAN PARTNERS LLC, JAMES GALVIN, *individually*, A. LISS & CO., INC., ABSOLUTE WOODWORK, LLC, CANNON MECHANICAL, INC., CELTIC BUILDING SUPPLIES, INC., COOPER FRIEDMAN ECLECTIC SUPPLY CO., INC., CORE FLOORING INTERNATIONAL CONTRACTING, CRESTCON CONSTRUCTION, INC., DANTON HEATING AND PLUMBING, CORP., DFN Y DRYWALL & ACOUSTICS, INC., EDGE KRAFT, LLC, EVEREST SCAFFOLDING, INC., GLENWOOD MANAGEMENT SERVICES, INC., GROUND EFFECTS, INC., JACOBY ELECTRICAL CORP., HSBC BANK USA, J. G. ELECTRICAL INSTALLATIONS, INC., JLH INDUSTRIES, INC., MASPETH WELDING, INC., NATIONAL ASSOCIATION, NORDIC INTERIOR, INC. NOUVEAU ELEVATOR INDUSTRIES, INC., PEACE OF MIND TECHNOLOGIES, LLC, SEA BREEZE MECHANICAL CORP., STATE PAINTING AND DECORATING CO., INC., WING PARTNERS, LLC, "JOHN DOE 1" through "JOHN DOE 10", defendants being unknown to plaintiff and having or claiming an interest in or lien upon, or any bond discharging same, in the Property commonly known and located at 1411 Broadway, New York, New York a/k/a Block 815, Lot 1 on the Tax Map of the City of New York, County of New York, arising out of labor or services performed or goods provided to the second and third floors of said property in connection with a contract, as amended and/or restated, entered into by the general contractor, Artisan Construction Partners LLC and USA Legwear LLC and Basic Resources Inc. and/or their affiliate, and "JANE DOE I" through "JANE DOE 10", being fictitious names, the real names being intended to designate individual, corporations, or other legal entities who are or were recipients of funds diverted from the Trust described in the complaint,

Defendants.

and the Clerk is directed to amend the caption of the instant action accordingly; and it is further

ORDERED that the pleadings in each of the actions shall stand as the pleadings in the consolidated action; and it is further

ORDERED that movant's counsel shall serve a copy of this order with notice of entry on the County Clerk (Room 141B), by filing with NYSCEF a completed "Notice to the County Clerk" (NYSCEF Form EF-22, available on the NYSCEF site), within 10 days after this order is uploaded to NYSCEF, and the clerk is directed to mark the court's records to reflect the consolidation and change to the caption; and it is further,

ORDERED that movant's counsel shall serve a copy of this order with notice of entry on the General Clerk's Office (Room 119) pursuant to e-filing protocol at genclerk-ords-non-mot@nycourts.gov, within 10 days after this order is uploaded to NYSCEF, and the clerk is directed to mark the court's records to reflect the consolidation and change to the caption; and it is further,

**ORDERED**, that service of a copy of this Order, by Federal Express or overnight delivery by another reputable courier, upon the following parties and/or their counsel of record appearing in the Related Actions at the addresses set forth below shall be deemed good and sufficient service:

Law Offices of Edward Weissman  
Edward Weissman Esq  
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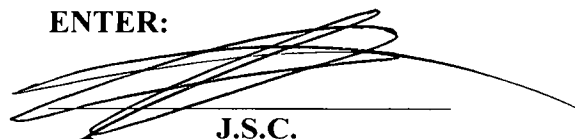
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*Defendant in the Related Actions*

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*Counsel in the Related Actions for plaintiff  
State Painting & Decorating Co., Inc.*

HON. ROBERT W. FRIED  
JUSTICE OF SUPREME COURT

2/2/17

ENTER:

  
J.S.C.