APS Contrs., Inc. v New York City Hous. Auth.
2020 NY Slip Op 30694(U)
February 26, 2020
Supreme Court, New York County
Docket Number: 652476/2018
Judge: Andrea Masley
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL PART 48

---X

APS CONTRACTORS, INC.,

Plaintiff,

- v -

NEW YORK CITY HOUSING AUTHORITY,

Defendant.

---X

INDEX NO. 652476/2018

MOTION DATE

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

MASLEY, J.:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 56

were read on this motion to/for DISMISSAL.

In Motion Sequence Number (Motion) 001, defendant New York City Housing Authority (NYCHA) moves, pursuant to CPLR 3211 (a) (1), to dismiss the complaint of plaintiff APS Contractors, Inc. (APS) on the basis that the action is untimely, the required notices of claims are untimely and/or defective, and APS is not entitled to additional payment for work performed under the parties' construction agreements. The court previously entered an interim decision and order, dated December 10, 2019 (NYSCEF 61), scheduling a hearing to determine whether the action was timely commenced due to certain ambiguities in the parties' series of agreements, amendments, and supplements (together, Contract) (NYSCEF 16[1]) relating to APS's winning bid to perform the

[1] NYCHA's submission of the Contract, submitted as a single, non-consecutively paginated document containing numerous agreements, supplements, and other forms, was delivered to the court in hard copy as a single exhibit without tabs and filed electronically as a single .PDF file without bookmarks. Accordingly, pinpoint citations to the Contract refer to the electronic page numbers of the 144-page NYSCEF .PDF file (NYSCEF 16), not to the non-consecutive page numbers printed on any given page; i.e., a citation to page 80 of the Contract refers to page 80 of 144 in the NYSCEF file. The parties are

underlying construction project (Project). After engaging in discovery in preparation for the court-ordered hearing on timeliness of the complaint for more than a month, NYCHA withdrew, by letter dated January 22, 2020 (NYSCEF 65), the prong of its motion which was the basis of the scheduled hearing (NYSCEF 61 [directing a hearing on portion of NYCHA's motion to dismiss the complaint as time-barred under § 52 of the Contract]). Accordingly, NYCHA is deemed to have permanently waived the issue of APS's capacity to commence this action under the applicable one-year limitation period set forth in the Contract and conclusively abandoned any arguments pertaining to § 52 of the Contract.

Background

NYCHA engaged nonparty TDX Contruction Corp. (TDX) to serve as the construction manager for the Project, which involved the restoration and remediation of portions of the "Pink Houses" in New York City. APS served as the general contractor for the Project, the Project was completed, and APS now seeks compensation for work it claims was beyond the scope of the Contract.

APS tendered a formal Verified Notice of Claim (Notice) (NYSCEF 24), dated May 9, 2017, in which it informed NYCHA that it sought an unpaid/retained balance of $1,766,075.66 for "approved extra work" (Approved Work) and $2,043,291.20 in "outstanding work items" (*id.*). Specifically, APS itemized the following balances:

1. "Lead Abatement & Painting at Railings" (Claim 1) in the amount of $1,416,543 on the basis that "[t]here is a discrepancy in the contract documents regarding the billing & payment on item # 2.18 . . . (Remove loose flakes of lead based paint at railings) and item # 9.2 . . . (Prime & Paint Railings)" (*id.*). APS asserted that it calculated the work completed based on linear feet (LF) according to the contract drawings and schedule of values (*id.*).

directed, in the future, to file the Contract with consecutively paginated numbers (e.g., with Bates-stamp numbering on each page) and to include digital bookmarks and hard-copy tabs as appropriate.

2. "Temporary Roofing" (Claim 2) in the amount of $512,727.50 on the basis that the Contract required temporary roofing for only 1 of 22 buildings but, after additional asbestos testing was conducted, asbestos abatement was necessary on the roof of "10 more buildings," requiring additional temporary roofing services and increasing the scope and cost of work (*id.*). APS billed NYCHA for the 11 buildings at which temporary roofing was completed (*id.*).

3. "Removal of completed work for concrete patching" (Claim 3) in the amount of $114,020.70 on the basis that APS performed "Concrete Roof Deck Repair" pursuant to Contract item # 3.7 and, in Payment Application # 14, NYCHA unauthorizedly "removed $114,020.70 from th[at] line item as uncompleted work" despite the verification and approval of that work by NYCHA's "site representatives" (*id.*).

Likewise, APS seeks, in its sole cause of action in the complaint (NYSCEF 2), payment for each of those three items under the Contract.

Having abandoned its argument that APS's claims are untimely under the Contract's limitation period, this decision addresses only NYCHA's remaining arguments that APS failed to comply with the Contract's notice of claim provisions for each of the three items, a condition precedent to seeking imbursement for those sums, and that APS is not entitled to any additional payment for Claims 1 and 2 under the Contract.

<u>Discussion</u>

"On a motion to dismiss pursuant to CPLR 3211, the pleading is to be afforded a liberal construction. [The court] accept[s] the facts as alleged in the complaint as true, [and] accord[s] plaintiff[] the benefit of every possible favorable inference" (*Leon v Martinez*, 84 NY2d 83, 87-88 [1994] [citation omitted]). However, bare legal conclusions and "factual claims which are either inherently incredible or flatly contradicted by documentary evidence" are not "accorded their most favorable intendment" (*Summit Solomon & Feldesman v Lacher*, 212 AD2d 487, 487 [1st Dept 1995]). Dismissal under subsection (a) (1) is warranted where the documentary evidence "conclusively establishes a defense to the asserted claims as a matter of law" (*Leon*, 84 NY2d at 88).

1. <u>Claim 1 – Lead Paint Abatement of Roof Railing Systems</u>

Section 32 (a) of the Contract states:

> "If the Contractor claims that any instructions of the Authority, by drawings or otherwise, involve Extra Work[2] entailing extra cost, or claims compensation for any damages sustained by reason of any act or omission of the Authority, or of any other persons, or for any other reason whatsoever, the Contractor shall, within twenty (20) days after such claim shall have arisen, file with the Authority written notice of intention to make a claim for such extra cost or damages, stating in such notice the nature and amount of the extra cost or damages sustained and the basis of the Claim against the Authority. . . . The time period within which [NYCHA's] Contracting Officer shall decide the claim or notify the Contractor of the date by which the decision will be made, as set forth in Section 31 (d)[3]"

(NYSCEF 16 at 80, § 32 [a]).

> A "claim" under § 31 of the Contract is defined as
> "a written demand or written assertion by . . . seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. . . . A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with [§ 31], if it is disputed either as to liability or amount or is not acted upon in a reasonable time"

(*id.* at 36, § 31 [a]).

The timely filing of "a notice of claim . . . shall be a condition precedent (unless such condition is waived by the [NYCHA] in writing) to the settlement of any claim or to the Contractor's right to resort to any proceeding or action to recover thereon" (*id.* at 80, § 32 [b]). Failure to timely file the requisite notice of claim "shall be deemed to be a conclusive and binding determination on the Contractor's part that it has no claim against the Authority for compensation for extra Work or

[2] "Extra Work" is defined in the Contract "as work required by the [NYCHA] which in its judgment is in addition to that required by the Contract in its present form" (NYSCEF 16 at 81-82, § 35).
[3] Under the general section regarding "Disputes," the Contracting Officer is required to "decide the claim or notify the Contractor of the date by which the decision will be made" within 60 days of receipt of the claim NYSCEF 16 at 36, § 31 [d]).

for compensation for damages, as the cause may be, and shall be deemed a waiver by the Contractor of all claims for additional compensation orfor damages [sic]" (*id.*).

After receiving the Contracting Officer's decision regarding a timely-submitted claim, that decision is "final unless the Contractor (1) appeals in writing to a higher level in [NYCHA] . . . , (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court" within 30 days of receipt of the decision (*id.* at 36, § 31 [e]).

With respect to Claim 1 for lead paint abatement services, NYCHA contends that APS failed to timely comply with the notice of claim requirement of § 32 (a) in that APS sent its verified Notice on May 9, 2017 but the claim arose not later than April-July 2016 when APS and TDX corresponded as to the discrepancy in the Contract documents, including architectural drawings and the schedule of values/Work Cost Breakdown Table, as to the specific railings and railing-related structures/hardware designated for lead abatement work under the Contract and the calculation of measurement and payment of those structures.

Specifically, Work Item No. 9.2 (Item 9.2) ("Prime and Paint Railings") provides that APS shall: (1) "Remove loose flakes of lead paint per . . . Work Item 2.18"; (2) "Prime existing steel surfaces"; and "(3) Coat steel with two separate coats of paint" (NYSCEF 17 at 39 [Summary of Work]). Item 9.2 further provides that the "Method of Payment" is calculated by "Linear Feet of Railing Painted" (*id.*). Work Item 2.18 ("Remove Loose Flakes of Lead Based Paint at Railings") (Item 2.18) provides that APS shall perform the "[r]emoval and abatement of loose flakes of lead based paint" but identifies the calculation of payment as "Square foot of Lead Based Paint abated" (*id.* at 22). The Contract's architectural drawings, as to certain railings, states "remove loose flakes of lead based paint per

[Item] 2.18 & scrape, prime & paint existing railing including all rail joists, railings, panels & hardware" (*see* NYSCEF 18 at 111).

While the court rejects NYCHA's argument that APS was required to timely file, for instance, a Verified Notice of Claim compliant with Housing Law § 157 in order to satisfy the notice condition precedent of § 32 (a) – (b) of the Contract, the Contract is plain in that APS was required to file, under § 32 (a), a "notice of intention to make a claim for . . . extra cost or damages" which states "the nature and amount of the extra cost or damages sustained and the basis of the Claim against the Authority" (Notice) within 20 days after the "claim shall have arisen" (NYSCEF 16 at 80, § 32 [a]). The Contract does not, however, require the Notice to be verified.

The documents submitted by NYCHA show that APS emailed TDX regarding a discrepancy between certain Contract documents reflecting differing measurement methods for lead paint abatement/railing-related work, the method of calculating measurements for the railing system as a whole, and its position that the schedule of values "does not give enough quantities for all actual work that needs to be performed" (NYSCEF 30 at 5 [APS 7/27/16 email to TDX]; *see also* NYSCEF 28 at 8-9 [APS 7/5/16 email to TDX "calculating the LF for the top rail, post & panels"]). APS also "included marked up drawings for [the] . . . buildings" depicting "how [APS] is calculating the quantities for the [railing system work]" (NYSCEF 28, 30).

On April 20, 2016, TDX advised APS by email the following regarding the discrepancy between square feet and linear feet in certain Contract documents and the scope of the work contemplated in Items 2.18 and 9.2:

> "[T]he scope of removal of for the leave based paint includes the removal of lead based paint from:

- the round pipe railing (top rail) and any connectors

- the round pipe posts, sleeves and/or connectors
- the infill panels (this includes the mesh within the infill panel frame as well as the infill panel frame)
- All connection elements (flat steel plates and/or steel angles, etc.)
- All hardware use to attach the different of the roof railing system

> Also, . . . payment for the removal of lead based paint from the roof railing systems at each of the buildings will be paid by the linear foot as noted on Contract Document G-002.00. Accordingly, for every one linear foot of lead based paint removed from the roof railing system . . . , APS will be paid the agreed upon Unit Price"

(NYSCEF 25 at 2 [TDX 4/20/16 email to APS]).

Subsequently, TDX emailed APS's marked up drawings and calculations to the architect, NYCHA's agent and nonparty O&S Associates (O&S), on July 6, 2016 and stated that APS was using linear feet to measure and calculate payment for the railing abatement work under Item 2.18 and 9.2, but APS's calculations separately measured and calculated payment for: (1) the linear feet of the "single top rail which is approximately 503 linear feet"; (2) "101 vertical railing posts, each of which is approximately 34" tall (or 2.833 linear feet)" for an additional 286 linear feet; and (3) "102 infill panels," each of which "has a perimeter frame," the linear footage of that frame being "approximately 1,328 linear feet" (NYSCEF 28 at 6-7 [TDX email to O&S]). Accordingly, APS's calculations provided for payment for approximately 2,000 linear feet per building, rather than the approximately 500 linear feet allotted per building in the Contract documents (*see id.*).

O&S responded to TDX by email on July 6, 2016 and stated that "[t]he top rails, infill panels and post are elements of the railing" and "[a] linear foot includes all elements of the railings"; thus, the 500 linear feet figures identified in the Contract documents "are correct" (*id.* at 6). The Contract interpretation of O&S/NYCHA was transmitted by TDX to APS and APS subsequently advised TDX, by email on July 7, 2016, that "APS accepts to use TDX's quantities for the lead abatement &

painting of the railing for the time being only, for the sole purpose to process the payment for work performed in the June pay period" (*id.* at 3). APS further noted that it "does not agree with the way how TDX is calculating the quantities on [Items 2.18 and 9.2], however APS reserves the right to look for proper full compensation of this work performed as per the contract documents [sic]" (*id.*).

On July 26, 2016, APS sent TDX signed "Pencil Copy" drawings and a payment requisition for "Payment Period # 17" billing separately for different elements of the roof railing system, each calculated in linear feet (NYSCEF 29 at 2-3 [APS email and payment requisition]). After TDX responded that APS's calculations did not match the Contract documents, APS again raised the square foot versus linear foot discrepancy and restated that its marked-up drawings for the buildings demonstrate APS's calculations of the quantities of work performed for Items 2.18 and 9.2 (NYSCEF 30 at 4-5). TDX emailed APS and reiterated that O&S had clarified that "the top rails, infill panels and post are elements of the railing. A linear foot includes all elements of the railings, " and APS responded: "[y]ou can reject my numbers , same like you did last month, I just think its about time that the Owner starts holding the Designers more liable and responsible for their conflicting contract documents and improficiency regarding the same [sic]" (*id.* at 3 [internal quotation marks omitted]).

Thus, as to Claim 1, the issues are whether APS's communications with TDX satisfy the Notice requirement of § 32 (a) and, if so, if the Notice was timely submitted within 20 days after Claim 1 had arisen. Contrary to NYCHA's contention in support of this motion, § 32 (a) does not specify when a claim has "arisen," and no provision in the Contract clarifies or defines the term "arisen." Nevertheless, New York courts have held that "a contractor's claim accrues when its damages are ascertainable" and "it has generally been recognized that damages are ascertainable

once the work is substantially completed or a detailed invoice of the work performed is submitted" (*AMC United, Inc. v New York City Hous. Auth.*, 2013 WL 3753133 [Sup Ct, NY County July 15, 2013] [internal citations and quotation marks omitted], quoting *C.S.A. Contr. Corp. v New York City School Const. Auth.*, 5 NY3d 189, 192 [2005]). Accordingly, the court finds that Claim 1 arose not later than July 27, 2016 when APS sent its invoice for payment relating to Claim 1.

In opposition to this motion, APS argues that the Notice requirement of § 32 (a) was satisfied because APS gave notice by email that it intended to make a claim in connection with Claim 1, NYCHA had actual knowledge that APS intended to make a claim and the basis of APS's dispute as to billing calculations, and the value of APS's Claim 1 calculations. APS alternatively responds that NYCHA affirmatively acknowledged Claim 1 such that there are issues of fact as to whether NYCHA waived the § 32 (a) Notice requirement.

NYCHA's submissions establish that timely compliance with the Notice requirement of § 32 (a) is a condition precedent to APS's ability to recover for any extra costs or damages "unless such condition is waived by [NYCHA] in writing" (NYSCEF 16 at 80, § 32 [a] – [b]), and the Contract contains a "No Estoppel or Waiver" provision stating that "[n]o act done or permitted to be done by any member, officer, agent or employee of [NYCHA] at any time shall be deemed a waiver of any provision in the Contract, excepting only a resolution of the members of [NYCHA] providing expressly for such waiver" (*id.* at 92, § 56 [b]). However, "[t]he course of conduct of the parties, if evidenced by sufficient correspondence, may excuse compliance with a contractual notice of claim requirement" (*AMC United Inc.*, 2013 WL 3753133, citing *Huff Enters., Inc. v Triborough Bridge and Tunnel Auth.*, 191 AD2d 314, 314 [1st Dept 1993]).

Although New York courts generally require strict compliance with the notice provisions of public housing construction contracts, nearly all of the cases identified by NYCHA in support of this motion pertain to summary judgment, after the parties have conducted substantial discovery, and this is a pre-answer motion to dismiss the complaint at a stage where the parties have scarcely begun to engage in discovery. In fact, the court directed the parties to engage in limited discovery to facilitate a hearing on the issue of timeliness/capacity to maintain this action in the Interim Order precisely because there were issues of fact surrounding the parties' conduct with respect to various Contract provisions. That hearing was cancelled when NYCHA abandoned the portion of this motion that sought dismissal on the basis that the was untimely commenced, but the court is now, again, faced with certain factual issues surrounding the parties' conduct and adherence to the terms of the Contract.

New York courts have found that waiver of similar notice provisions in similar contracts was warranted where there is "an extensive record of timely written correspondence between the contractor and agency addressing the disputed subject matter" (*see Huff Enters., Inc.*, 191 AD2d at 317 [discussing cases where strict compliance with the notice provision was deemed waived]; *see also AMC United Inc.*, 2013 WL 3753133). Based on NYCHA's submissions in support of its CPLR 3211 (a) (1) motion, it appears that discovery is necessary to elucidate the parties' exchanges and conduct with respect to Claim 1 and the requirements of the Contract specifically relating to the Notice provision and certain technical/logistical provisions.

The court, therefore, declines to dismiss the complaint as it relates to Claim 1. The email correspondence, payment requisition invoice, and performed-work drawings submitted by NYCHA demonstrate, for the purposes of this motion, that APS provided the precise basis of Claim 1, the

amount of compensation that it disputed, and informed NYCHA that it would seek compensation of for Claim 1. Accordingly, NYCHA's submission of documents does not irrefutably mandate dismissal of the portion of the complaint pertaining to Claim 1 and dismissal of that claim would, at this stage, be premature. NYCHA's reliance on *Start El., Inc. v New York City Hous. Auth.* (106 AD3d 450 [1st Dept 2013]), the only case in the posture of a CPLR 3211 motion to which NYCHA refers for this prong of its argument, involved a rejected change order form as the basis of the purported waiver and, in any event, found that a "release plaintiff signed bars [the entire] action" (*id.* at 450-451). NYCHA does not here argue that APS signed any release with regard to this or any other Claim.

The court has considered NYCHA's remaining arguments with respect to Claim 1 and, to the extent that they are properly before the court in an appropriate form for a motion pursuant to CPLR 3211 (a) (1), finds that they are unpersuasive, without merit, or otherwise do not require an alternative result. For instance, NYCHA's submissions do not warrant dismissal of Claim 1 on the basis that they do not irrefutably demonstrate that the work performed on the roof railing systems is entirely and unambiguously encompassed by the Contract.

2. Claim 2 – Temporary Roofing

NYCHA argues that APS failed to timely comply with the § 32 (a) Notice requirement with regard to Claim 2 and that compensation for the temporary roofing work was structured into the cost for other authorized work in the Contract, thus, APS's complaint must be dismissed as to Claim 2. APS responds only that it submitted a proposed change order for temporary roofing protection at 10 additional buildings, constituting sufficient notice under § 32 (a), or, alternatively, that there are issues of fact as to whether NYCHA had actual knowledge of APS's intention to seek compensation for extra work regarding Claim 2. APS does not respond as to NYCHA's latter

argument that the temporary roofing costs were built into the Contract's other cost values and, to that extent, APS is deemed to have waived opposition to that prong of the motion as to Claim 2.

First, the change order for temporary roofing, which TDX rejected by letter dated March 9, 2016 (NYSCEF 32), does not adequately satisfy APS's Notice requirement under § 32 (a) (*see Start El., Inc.*, 106 AD3d at 450-451), and APS submits no documents or correspondence following the rejection of the change order for Claim 2 that illustrate that, or raise an issue of fact as to whether, APS transmitted of any written notice of intent to make a claim as to that work.

Second, APS's alternative argument that issues of fact as to NYCHA's actual knowledge of Claim 2 is unpersuasive. "[A]ctual knowledge by defendant of plaintiff's claims and alleged damages [do not] relieve[] plaintiff of the obligation to serve a timely and sufficiently detailed notice of claim" (*S.J. Fuel Co., Inc. v New York City Hous. Auth.*, 73 AD3d 413, 413-14 [1st Dept 2010]). Accordingly, NYCHA's motion is granted to the extent that APS seeks relief for the work contemplated in Claim 2.

3. Claim 3 - Concrete Roof Patching

NYCHA paid APS for work performed, including alleged quantities of roof patching pursuant to Work Item 3.7, in connection with APS's October 2015 payment requisition; however, NYCHA determined, through the reconciliation process in November 2015 to January 2016, that APS had overcharged for roof deck patching and was overpaid for 1,185 square feet of that work. Accordingly, NYCHA issued itself a reconciliation credit of $114,020.70 (Credit). NYCHA informed APS that it was taking the Credit as a result of the reconciliation process and because TDX had no records of APS-submitted drawings supporting the Claim 3 work.

In May 2016, APS disagreed with the Credit, by emails in May 2016 (NYSCEF 34-35), and submitted nine marked-up contractor's drawings to justify the additional roof patching work to TDX

in May 2016 (NYSCEF 33). The nine drawings were signed by only APS, not both APS and TDX as required under the Contract, and NYCHA informed APS by email that it "has to dismiss th[o]se drawings" as TDX's roof drawings demonstrated 150 square feet of roof patching, whereas APS's drawings reflected 1,350 square feet of the same (NYSCEF 35 at 3-6). NYCHA determined to disregard APS's May 2016 drawings regarding the roof patching work as unsubstantiated, submitted months after APS sent the October 2015 invoice to which those drawings should have been attached, and were unsigned by either TDX, O&S, or NYCHA; however, APS was invited to send additional documentation to substantiate the 1,185 square-foot discrepancy between TDX's records and APS's drawings to enable TDX and NYCHA to reconsider the Credit (*see id.* at 1-2 [May – June email correspondence between APS, NYCHA, and TDX]).

NYCHA argues that APS failed to timely comply with the § 32 (a) Notice requirement with regard to Claim 3. APS responds that NYCHA was aware of Claim 3 as it rejected payment for that work, suggested it may later return the Credit, and effectively acknowledged Claim 3, waiving the formal Notice.

The court finds that Claim 3 arose not later than June 2, 2016, the date on which APS was informed that the Credit would not be returned (NYSCEF 35 at 2). While NYCHA had received APS's invoice information detailing the nature and the sums associated with the alleged additional work performed, APS did not provide NYCHA with timely Notice of under § 32 (a) as to Claim 3. Unlike Claim 1, the record is absent of any documents demonstrating that APS provided notice of intent to file a claim after the repayment was formally denied in the June 2, 2016 email. APS has not submitted any written communication responding to the June 2, 2016 email in which it either indicated that it intended to file a claim regarding Claim 3 or submitted any further documentation

to support Claim 3 as invited. Accordingly, as reasoned above in connection with Claim 2, NYCHA's motion is granted with respect to Claim 3 on the basis that APS failed to timely submit notice of its intention to make a claim under § 32 (a).

The court has considered the parties' remaining arguments with regard to Claims 1-3 and finds, at this stage, that they are unpersuasive, without merit, or otherwise do not mandate an alternate result. APS's complaint shall continue to the extent that its breach of contract cause of action pertains to Claim 1, only.

Accordingly, it is

ORDERED that Motion Sequence Number 001 is granted in part; and it is further

ORDERED that plaintiff APS's cause of action for breach of contract is dismissed to the extent that the cause of action seeks relief relating to Claims 2 and 3 (temporary roofing and concrete roof patching); and it is further

ORDERED that defendant NYCHA shall answer the complaint as limited by this decision and order within 20 days of the court's entry of this decision and order on NYSCEF; and it is further

ORDERED that the parties shall appear in Part 48 for a preliminary conference on March 10, 2020 at 4:00 AM/PM (PM circled)

2/26/2020
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:		CASE DISPOSED			X	NON-FINAL DISPOSITION		
		GRANTED		DENIED	X	GRANTED IN PART		OTHER
APPLICATION:		SETTLE ORDER				SUBMIT ORDER		
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN				FIDUCIARY APPOINTMENT		REFERENCE