

MLE Inc. v RPI Indus. Inc.

2025 NY Slip Op 34263(U)

November 6, 2025

Supreme Court, New York County

Docket Number: Index No. 151673/2020

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

MLE INC.,

Plaintiff,

- v -

RPI INDUSTRIES INC., I.S.J. MANAGEMENT CORP., CITY
OF NEW YORK DEPARTMENT OF PORTS AND TRADE,

Defendants.

-----X ,

INDEX NO. 151673/2020

MOTION DATE 11/5/2025

MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73

were read on this motion to/for JUDGMENT - SUMMARY.

Upon the foregoing papers, defendant RPI Industries Inc.'s very late motion for summary judgment is denied.

Background

Defendants The City of New York Department of Ports and Trade and ISJ Management Corp. ("ISJ") own property at 120 Essex Street in Manhattan. Plaintiff MLE Inc. ("MLE") alleges that ISJ hired RPI Industries Inc. ("RPI") to do work and furnish materials for a construction project on the property and that RPI subcontracted MLE to provide labor and services. MLE claims it worked on the project from about September 18, 2018 to about February 1, 2019, that the reasonable value of the work and materials it provided was \$132,654.36, and it has not been paid.

MLE filed a mechanic's lien on the property around September 11, 2019 and brought causes of action to foreclose on the mechanic's lien, for breach of contract, and for account stated.

MLE filed a note of issue on June 21, 2022 (NYSCEF Doc. No. 45). Now, more than three years after the filing of the note of issue, RPI brings this motion for summary judgment seeking to dismiss the complaint against it. The notice of motion was filed on September 19, 2025 (NYSCEF Doc. No. 50). Notably, although the trial is scheduled for November 10, this motion was not even brought by order to show cause. Luckily, the Court is able to make this decision before the trial date so there is no reason to delay the trial, which finally came up after more than three years on the trial calendar.

RPI contends that it is not obligated to compensate MLE as a matter of law, and that MLE cannot maintain this action pursuant to CPLR § 1021 and 3211(a)(3), NY Business Corporation Law § 1312, and NY Limited Liability Company Law § 808, since RPI alleges that MLE was and is a foreign business corporation never authorized to do business in New York (NYSCEF Doc. No. 50). RPI further contends that the complaint should be dismissed, as MLE was purchased by another entity, Stratus Unlimited, but MLE never filed a motion to substitute in the new entity as plaintiff.

MLE points out that RPI's motion is untimely and denies all of RPI's contentions.

RPI addresses the timeliness issue for the first time in its reply. RPI notes that a Court can consider a late motion when the movant demonstrates good cause for a delay. RPI contends that MLE failed to advise RPI or the Court that it was purchased by Stratus in 2021 and that RPI discovered that MLE no longer exists through its own research when it was preparing for the upcoming trial. RPI contends that MLE's failure to disclose the change in ownership and the recent discovery of this fact provide sufficient good cause for filing the motion late.

Timeliness

MLE filed a note of issue on June 21, 2022, so the deadline to file a dispositive motion on this case per the CPLR was October 19, 2022. RPI filed this summary judgment motion on September 19, 2025 – thirty-five months late.

RPI did not address this issue at all in its memorandum of law in support of the motion and so it arguably did not even fulfill its moving burden. Did it think no one would notice? When confronted about the issue in MLE's opposition, RPI addressed the issue in its reply for the first time. RPI claims that its recent discovery of the 2021 change in ownership, provides sufficient good cause for filing the motion late. However, RPI goes into no detail, so, even if the Court were to consider this late argument that was improperly addressed for the first time in reply, the Court has no idea when exactly RPI discovered this change of ownership and why it did not discover it earlier. If the change of ownership indeed happened in 2021, and RPI discovered this by searching public records, RPI could have easily discovered this fact before October 19, 2022 and submitted this motion on time. Perhaps RPI is deliberately vague; this timing could easily be a strategic attempt to delay the trial.

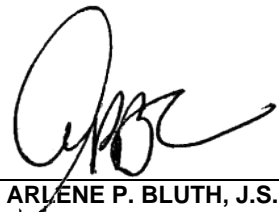
The Court finds that this motion is time-barred. It was filed almost three years late. The Court finds that RPI simply has not met its burden of showing that good cause exists for the Court to consider this extremely late motion. Of course, this is not on the underlying merits – defendants may make whatever motions they desire before the trial judge, but they have to go to trial.

Plaintiff’s request to amend the caption, made only in opposition and not by a motion of its own, is denied as improper. However, it is not on the merits either. Plaintiff may make whatever application it sees fit to the trial judge.

Accordingly, it is hereby

ORDERED that defendant RPI Industries Inc.’s motion for summary judgment is denied in its entirety.

11/6/2025
DATE


ARLENE P. BLUTH, J.S.C.

CHECK ONE: CASE DISPOSED DENIED NON-FINAL DISPOSITION

APPLICATION: GRANTED GRANTED IN PART OTHER

CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER FIDUCIARY APPOINTMENT

INCLUDES TRANSFER/REASSIGN REFERENCE