

# Exhibit 14



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

-----X  
ADRIA INFRASTRUCTURE, LLC,

DCM Part 4

*Plaintiff,*

Present:  
Hon. Kim Dollard

*-against-*

HENICK-LANE, INC., JACOB'S FACILITIES, INC.,  
DORMITORY AUTHORITY STATE OF NEW YORK,  
LEVEST ELECTRICAL CORP., TRAVELERS CASUALTY  
AND SURETY COMPANY OF AMERICA and  
JOHN DOES 1-10,

**DECISION AND ORDER**

Action No. 1  
Index No. 100930/15  
Motion Nos. 2566-002  
2592-003  
2800-004  
3877-005

*Defendants,*

-----X  
LEVEST ELECTRICAL CORPORATION,

Action No. 2  
Index No. 150364/16

Plaintiff,

*-against-*

DORMITORY AUTHORITY - STATE OF NEW YORK,  
JOHNSON CONTROLS, INC., HENICK-LANE, INC.,  
LIBERTY MUTUAL INSURANCE COMPANY, and any other  
Lienholders, and JOHN DOES 1-10,

-----X  
The following papers numbered 1 to 12 were fully submitted on the 30<sup>th</sup> day of September, 2016:

	Pages Numbered
Notice of Motion to Compel Disclosure by Defendant Henick-Lane, Inc, with Supporting Papers, Exhibits and Memorandum of Law (dated June 13, 2016).....	1
Notice of Cross Motion to Consolidate by Defendant Henick-Lane, Inc, with Supporting Papers and Exhibits (dated June 17, 2016).....	2
Notice of Cross Motion for Partial Summary Judgment by Defendant Dormitory Authority - State of New York, with Supporting Papers, Exhibits and Memorandum of Law (dated June 29, 2016).....	3

RICHMOND COUNTY CLERK  
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Affidavit of Damjan Stanivukovic in Opposition to Cross Motion for Partial Summary Judgment, with Supporting Papers and Exhibits (dated August 4, 2016).....4

Affirmation in Opposition to Cross Motion for Partial Summary Judgment by Plaintiff Adria Infrastructure, LLC, with Supporting Papers, Exhibits and Memorandum of Law (dated August 8, 2016).....5

Affirmation of John M. Rondello, Esq. (dated August 8, 2016).....6

Reply Memorandum of Law in Further Support of Cross Motion for Partial Summary Judgment by Defendant Dormitory Authority - State of New York (dated September 6, 2016).....7

Notice of Cross Motion to Amend Notice of Lien by Plaintiff Adria Infrastructure, LLC, with Supporting Papers, Exhibits and Memorandum of Law (dated September 19, 2016).....8

Affirmation in Opposition to Motion to Consolidate by Defendants Johnson Controls, Inc and Liberty Mutual Insurance Company (dated September 22, 2016).....9

Affirmation in Opposition to Motion to Consolidate by Plaintiff Levest Electric Corporation (dated September 23, 2016).....10

Affirmation in Opposition to Motion to Amend Notice of Lien by Defendant Henick-Lane, Inc (dated September 27, 2016).....11

Affirmation in Reply by Defendant Henick-Lane, Inc (dated September 28, 2016).....12

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Upon the foregoing papers, the motion (No. 2566-002) and cross motion (No. 2592-003) of defendant Henick-Lane Inc (hereinafter "Henick-Lane") for (1) consolidation and (2) to compel discovery are denied; the cross motion (No. 2800-004) by defendant Dormitory Authority - State of



New York (hereinafter "DASNY") for partial summary judgment is granted; as is the cross motion (No. 3877-005) by plaintiff Adria Infrastructure, LLC (hereinafter "Adria") for leave to amend its notice of lien.

To the extent relevant, these actions arise from "work on a public improvement project for the reconstruction of a portion of [the] Staten Island Courthouse" (*see* Verified Complaint [*Adria* action], para 8). Insofar as it appears, defendant DASNY, as owner of the above project, entered into an agreement on September 17, 2009, hiring defendant Henick-Lane to serve as general contractor in connection with the reconstruction (*id.* at 33-36; *see also* Defendant DASNY's Exhibit "A"). Defendant Jacob's Facilities, Inc (hereinafter "JFI") was subsequently hired by DASNY to serve as construction manager (*id.* at 33-36).

The complaint alleges that in pursuance of its contract with DASNY, defendant Henick-Lane placed two separate purchase orders with plaintiff/subcontractor Adria on or about January 29, 2010, for materials and services required to complete the reconstruction. It is undisputed that one of these purchase orders obligated Adria to "furnish and install pipe fittings" (*id.* at 9, 12), while the other obligated Adria to "provide... steamfitt[ers]" (*id.* at 39, 42). It is further alleged that the total amount due and owing under the first of these orders was the sum of \$742, 651.12 (*id.* at 9, 12), with regard to which Adria filed a statutory "Notice Under Mechanics Lien Law[§12] for Account of Public Improvements" on December 6, 2013 (*id.* at 14; *see also* Defendant DASNY's Exhibit "E"). A like lien in the sum of \$4,180,706.72 referable to the second purchase order was filed on March 31, 2015 (*id.* at 39, 42, 44; *see also* Defendant DASNY's Exhibit "G").<sup>1</sup>

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<sup>1</sup>Pursuant to Lien Law §12, a subcontractor which furnishes labor or materials in improving real property owned by the state or a public corporation, a "public improvement" (Lien Law §2[7]), may file a notice of lien with the head of the department or bureau having charge of such

Plaintiff Adria subsequently commenced this action to foreclose upon both liens by the filing of a Summons and Verified Complaint on or about July 23, 2015 (*see* Defendant DASNY's Exhibit "B"). On or about September 9, 2015, plaintiff filed an Amended Complaint adding Levest Electrical Corp (hereinafter "Levest") as a party which had also filed a lien against the project (*see* Defendant DASNY's Exhibit "C") as provided in Lien Law §44. In addition to foreclosure, the amended complaint asserted additional causes of actions against Henick-Lane, DASNY and JFI for (1) unjust enrichment and (2) in quantum meruit (*id.*).

On or about March 25, 2016, defendant Levest filed a separate action to foreclose on its mechanics' lien, alleging a balance due of at least \$167,970.93 (*see* Defendant Henick-Lane's Exhibit "B"). To the extent relevant, Levest claimed to have performed work on the subject project pursuant to a subcontract entered into in February of 2012 with defendant Johnson Controls, Inc (hereinafter "JCI"), another subcontractor hired by defendant Henick-Lane (*see* Defendant DASNY's Exhibit "H").

Among the motions presently before the Court is a motion to consolidate the Adria action with the Levest action against defendant Henick-Lane, *et al.*

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construction or demolition and with the comptroller of the state or with the financial officer of the public corporation, or other officer or person charged with the custody and disbursement of the state or corporate funds applicable to the contract under which the claim is made (*see EMC Iron Works v. City of New York*, 294 AD2d 173, 174 [1<sup>st</sup> Dept 2002]). The Lien Law further provides that "substantial compliance with its several provision shall be sufficient for the validity of a lien" (Lien Law §23). As is applicable herein, the Legislature has explicitly created two separate categories of liens, with two separate notice requirements, one for the improvement of private property, and the other, as here, for public improvements. It is worthy of note that the subdivision of mechanics' liens in this manner was apparently intended to restrict the rights of creditors of City-owned properties, consistent with the unique circumstance that City-owned property is inalienable (*id.*).

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