

CI2020-12046

Index # : EF2020-0450

SUPREME COURT: STATE OF NEW YORK
COUNTY OF TOMPKINS

DAVID SCHOTT,

Plaintiff,

VERIFIED COMPLAINT

v.

GINA LUCATELLI,

Defendant.

Plaintiff complaining of defendant alleges:

1. That plaintiff David Schott is a resident of Tompkins County in the State of New York.
2. That defendant Gina Lucatelli is a resident of Tompkins County in the State of New York.
3. That defendant Gina Lucatelli requested and plaintiff agreed that plaintiff provide the labor and materials necessary to construct a residence for her at a parcel of real property owned by defendant.
4. That, upon information and belief, such above-referenced parcel of real property is located at and known as 1923 Trumansburg Road, Ithaca, New York, 14850.
5. That plaintiff provided the labor and materials required by the agreement.
6. That the agreed and fair and reasonable value of the labor and materials provided by plaintiff to defendant is \$233,913.69.
7. That defendant has paid on \$188,913.69 of the amount owed to plaintiff for such services.
8. That the balance due from said defendant to plaintiff is \$45,000.00.

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9. That defendant, despite plaintiff's demand, has neglected and refused to pay the balance due.

10. That plaintiff filed a mechanic's lien with the Tompkins County Clerk on July 31, 2020, on account of the unpaid balance for said services against the real property owned by defendant, a copy of which is annexed hereto as **EXHIBIT A**.

11. That the mechanic's lien was filed within four months of the last date labor or materials were provided plus the extension of time to file provided by the tolling of the statute of limitations due to COVID-19, as set forth by Governor Cuomo's Executive Order Nos. 202.8 and 202.48.

12. That the services provided by plaintiff constitute an improvement to the real property owned by defendant, and said improvement was made with defendant's knowledge and consent.

13. That plaintiff is entitled to foreclose his mechanic's lien against the real property located at 1923 Trumansburg Road, Ithaca, New York to recover the amount owed to him.

14. That the mechanic's lien contained all of the particulars required by law.

15. That on August 14, 2020, a copy of the notice of lien was served personally upon defendant.

16. That the lien has not been paid, waived, canceled, or discharged and no other action or proceeding has been brought to recover the claim of plaintiff, except as in this complaint set out.

17. That plaintiff has no knowledge of any other liens upon the real property.

WHEREFORE, plaintiff demands the following relief:

a. Adjudication that plaintiff has a valid lien upon the real property owned by defendant, in the sum of \$45,000.00, together with interest;

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b. An ordering of the sale according to law of the interest of defendant Gina Lucatelli in the real property, and directing that from the proceeds of the sale, plaintiff be paid the amount of his lien, together with accrued interest, the expenses of the sale, and costs and disbursements of this action;

c. Forever foreclosing defendant, and all persons claiming under or through her of any right, title or equity of redemption or other interest in the real property; and

d. Such other, further and different relief for the plaintiff as to the court may seem just and proper.

Dated: August 31, 2020
at Ithaca, New York



EDWARD Y. CROSSMORE, ESQ.
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VERIFICATION

STATE OF NEW YORK)
COUNTY OF TOMPKINS)ss.:

David Schott being duly sworn, says, deponent is the plaintiff; deponent has read the foregoing complaint and knows the contents thereof and the same is true to deponent's own knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon consultations with my attorney.

Sworn to before me this
day of 9/2/2020


DAVID SCHOTT


Notary Public

KERRY L. WILKINSON
Notary Public-State of New York