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Cullen and Dykman Secures Complete Dismissal of $3.8 Million Mechanic's Lien Due to Construction Manager's Willful Exaggeration

June 29, 2026

On June 16, 2026, Partners Thomas Baylis and Michael B. Weiss of the Commercial Litigation practice group secured summary judgment in a contested mechanic's lien foreclosure action, dismissing the action with prejudice and declaring the $3.8 Million lien void due to willful exaggeration under Lien Law §§ 39 and 39-a. The Court further ordered that any debt or obligation otherwise owed to the lien claimant is discharged on account of the willful exaggeration, and directed that a hearing be scheduled to determine our client's damages, including reasonable attorneys' fees.

Background

In 2019, the Construction Manager commenced this action to foreclose a $3.8 Million mechanic's lien against real property owned by our client, a higher education institution, located in Brooklyn, New York (the "Institution"). The parties' agreement provided that the Construction Manager's fee would be 11% of the $3,000,000 project cost—i.e., $330,000—for a project total of $3,330,000. When the parties later executed a formal AIA Agreement, the "Construction Manager's Fee" field stated "$3,330,000″—a figure the Institution maintained was a scrivener's error reflecting the total project cost, not a standalone fee.

The Willful Exaggeration

In 2018, the Construction Manager initially filed a mechanic's lien for $408,228, consistent with its own certified payment applications. Four months later, the Construction Manager withdrew that lien and filed a new lien in the amount of $3,806,062.33—an increase of approximately 832%—despite having performed no significant additional work in the interim. The Project had already reached substantial completion in January 2018, as the Construction Manager 's own principal admitted. The Court identified a striking internal contradiction: nine months after filing the inflated lien, the Construction Manager issued its final Payment Application, certifying a current balance due of only $926.95 and making no reference to the claimed $3,330,000 fee. The Court held that the Construction Manager "cannot simultaneously claim (through the lien and invoice) that [the Institution] owes an additional $3 million and certify (through the payment application) that all work is complete and fully paid."

The Court′s Findings

The Court found that the Institution made a prima facie showing of willful exaggeration based on multiple undisputed factors, including: the magnitude of the lien increase without corresponding work; the timing coincidence with the Construction Manager 's receipt of the AIA Agreement; the irreconcilable contradiction between the lien and the Construction Manager's own payment applications; the absence of any contemporaneous communication explaining the increase; and the Construction Manager's own deposition admissions that the $3,330,000 fee was never negotiated. The Court credited the Institution's argument that the $3,330,000 figure was a scrivener's error and found the Construction Manager estopped from arguing otherwise.

Significance

This decision demonstrates a Court's willingness to enforce the penalty provisions of Lien Law §§ 39 and 39-a where the evidence of deliberate exaggeration is overwhelming. Property owners should be aware that mechanic's lien claimants who inflate their liens opportunistically—particularly where such inflation is contradicted by the claimant's own contemporaneous certifications—face not only dismissal of their claims but also the potential of affirmative liability for damages and attorneys' fees.

About Cullen and Dykman LLP

Cullen and Dykman LLP is a full-service law firm that clients have trusted to deliver top-tier, cost-effective legal services since 1850. With nearly 200 attorneys in eight offices, the firm serves clients across the Eastern United States and is strategically positioned to meet their changing needs and demands.

Practices

- Commercial Litigation

Attorneys

- Michael B. Weiss
- Thomas Baylis