

**APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW
YORK, FIRST DEPARTMENT**

LMF-RS Contracting, Inc. v. Kaljic

126 A.D.3d 436 (1st Dep't 2015) · No. 14422N; 652976/12 · Decided March 3, 2015

SUMMARY

The Appellate Division, First Department affirmed an order vacating a mechanic's lien and denying the plaintiff's motion to amend it. The court held that summary disposition was warranted because the lien amount was wilfully exaggerated, including items not attributable to labor or materials, and the plaintiff did not explain the discrepancies.

OPINION

PER CURIAM.

LMF-RS Contr., Inc. v Kaljic (2015 NY Slip Op 01766) LMF-RS Contr., Inc. v Kaljic 2015 NY Slip Op 01766 Decided on March 3, 2015 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on March 3, 2015 Acosta, J.P., Andrias, Saxe, DeGrasse, Richter, JJ. 14422N 652976/12 [*1] LMF-RS Contracting, Inc., Plaintiff-Appellant, vNevzet Kaljic, et al., Defendants-Respondents.

Andrew B. Schultz, Great Neck, for appellant. Wenig Saltiel LLP, Brooklyn (Richard A. Rosenzweig of counsel), for Nevzet and Christina Kaljic, respondents. Robert M. Olshever, P.C., New York (Robert M. Olshever of counsel), for 5 LLC, respondent. Order, Supreme Court, New York County (Eileen A. Rakower, J.), entered on or about October 3, 2013, which, insofar as appealed from as limited by the briefs, granted defendants Nevzet Kaljic and Christina Kaljic's motion for summary judgment vacating the mechanic's lien, and denied plaintiff's motion to amend the mechanic's lien, unanimously affirmed, with costs.

Summary disposition is warranted, because the evidence that the amount of the lien was wilfully exaggerated is conclusive (Strongback Corp. v N.E.D. Cambridge Ave. Dev. Corp., 25 AD3d 392 [1st Dept 2006]). Plaintiff included in its lien amount items that are not for labor or materials, as its own itemization makes plain, and plaintiff has failed to even attempt to explain the discrepancies.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: MARCH 3, 2015 CLERK

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