

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

Matter of 170 W. End Ave. Owners Corp. v. Centennial El. Indus. Inc.

2026 NY Slip Op 03759 (Supreme Court of the State of New York Appellate Division First Department 2026) ·
No. Index No. 160333/23; Appeal Nos. 6893-6894; Case Nos. 2025-01991, 2025-05569 · Decided June 16,
2026

SUMMARY

The Appellate Division, First Department, affirmed orders extinguishing Centennial Elevator Industries Inc.'s mechanic's lien and exonerating the bond securing it. The court held that Centennial was not entitled to substitution of counsel or vacatur of its default because it failed to provide a reasonable excuse for not appearing, and the lien had expired by operation of law when Centennial failed to foreclose or obtain an extension within one year.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; Kapnick, J.; Gesmer, J.; Rodriguez, J.; Rosado, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	June 16, 2026
DOCKET	Index No. 160333/23; Appeal Nos. 6893-6894; Case Nos. 2025-01991, 2025-05569
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from orders granting a petition to extinguish a mechanic's lien and exonerate the bond, and denying the lienor's motions for substitution of counsel, vacatur of default, and additional time to file a notice of pendency and foreclose on the lien.
STANDARD OF REVIEW	The denial of vacatur of a default was reviewed for abuse of discretion, reflected in whether Supreme Court providently exercised its discretion. The appellate court also reviewed the legal effect of the lien's expiration under Lien Law § 17.
PRECEDENTIAL VALUE	published

PARTIES

Centennial Elevator Industries Inc. v. 170 West End Avenue Owners Corporation

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QUESTIONS PRESENTED

1. Whether Centennial was entitled to a stay of the proceedings and substitution of counsel under CPLR 321(c) because its outside counsel had died before commencement of the proceeding.
2. Whether Centennial established a reasonable excuse warranting vacatur of its default.
3. Whether Centennial could foreclose on or extend the mechanic's lien after the one-year statutory period had expired.
4. Whether extinguishment of the lien and exoneration of the bond were proper.

HOLDINGS

1. Centennial was not entitled to a stay of the proceedings or substitution of counsel under CPLR 321(c) because its outside counsel died before commencement of the proceeding and therefore had never appeared in the action.
2. Supreme Court properly denied vacatur of Centennial's default because Centennial failed to provide a reasonable excuse for not appearing or requesting an adjournment before the response deadline.
3. The mechanic's lien expired by operation of law because Centennial neither commenced a foreclosure action nor filed an extension within one year, and a lienor may not foreclose on or extend an expired lien.
4. Vacatur or extinguishment of the lien and exoneration of the bond were appropriate because Centennial defaulted without a reasonable excuse and the lien had expired by operation of law.

KEY QUOTATIONS

“A lienor may no longer bring a claim to foreclose on or extend an expired lien” ([*2])

“bare allegation of law office failure does not constitute a reasonable excuse” ([*2])

FACTUAL BACKGROUND

Petitioner, which owns common condominium elements at 170 West End Avenue, engaged Centennial to maintain several elevators. Centennial filed a mechanic's lien on September 9, 2022, and petitioner discharged the lien by filing a bond for 110% of the lien amount. Centennial did not commence a foreclosure action or file

an extension within one year, and after being personally served with the petition and order to show cause, it failed to appear or seek an adjournment before the response deadline.

PROCEDURAL HISTORY

The petitioner obtained an order extinguishing Centennial's mechanic's lien after Centennial failed to commence a foreclosure action or seek continuation of the lien within one year. Supreme Court, New York County, also exonerated the bond securing the lien and denied Centennial's motions for substitution of counsel, vacatur of its default, and additional time to proceed against the lien. The Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- *Finnegan v NFT-Metro Bus Sys.*, 101 AD2d 1010, 1010-1011 [4th Dept 1984], *affd* 63 NY2d 1018 [1984]
- *SOS Capital v Recycling Paper Partners of PA, LLC*, 220 AD3d 25, 38 [1st Dept 2023]
- *Goldman v Cotter*, 10 AD3d 289, 291 [1st Dept 2004]
- *Forest Walnut LLC v Abizker*, 224 AD3d 408, 409 [1st Dept 2024]
- *U.S. Bank N.A. v Wei Feng Zhu*, 238 AD3d 628, 629 [1st Dept 2025]
- *Carmody v 208-210 E. 31st Realty, LLC*, 135 AD3d 491 [1st Dept 2016]
- *Noce v Kaufman*, 2 NY2d 347, 351 [1957]
- *240-35 Assoc. v Major Bldrs. Corp.*, 234 AD2d 234, 234 [1st Dept 1996]
- *JDS Constr. Group LLC v Copper Servs., LLC*, 247 AD3d 412, 413 [1st Dept 2026]
- *Matter of Flintlock Realty & Constr. Corp. [Grawer Bear Constr. Corp.]*, 188 AD2d 532, 533 [2d Dept 1992]

OPINION

Matter of 170 W. End Ave. Owners Corp. v. Centennial El. Indus. Inc. 2026 NY Slip Op 03759
PER CURIAM.

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skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions *Matter of 170 W. End Ave. Owners Corp. v Centennial El. Indus. Inc.* 2026 NY Slip Op 03759 June 16, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. In the *Matter of 170 West End Avenue Owners Corporation, etc.*, Petitioner-Respondent, v Centennial Elevator Industries Inc., Respondent-Appellant. Decided and Entered: June 16, 2026 Index No. 160333/23|Appeal No. 6893-6894|Case No. 2025-01991, 2025-05569| Before: Webber, J.P., Kapnick, Gesmer, Rodriguez, Rosado, JJ. LoPresti Law, PLLC, Massapequa (Genevieve Lane

LoPresti of counsel), for appellant. Seyfarth Shaw LLP, New York (Eddy Salcedo of counsel), for respondent. [*1] Order, Supreme Court, New York County (Kathleen Waterman-Marshall, J.), entered November 6, 2024, which insofar as appealed from as limited by the briefs, granted petitioner 170 West End Avenue Owners Corporation's petition to extinguish a mechanic's lien and directed exoneration of the bond, and denied respondent Centennial Elevator Industries Inc.'s motion for substitution of counsel, vacatur of the default, and for additional time to file a notice of pendency and foreclose on its lien, and order, same court and Justice, entered on or about December 5, 2024, which exonerated the bond and returned the funds to petitioner, unanimously affirmed, without costs. Petitioner owns the common condominium elements of the property at 170 West End Avenue, a cooperative building. Petitioner engaged Centennial to perform maintenance on several elevators at the property. On September 9, 2022, Centennial, through its general counsel, filed a mechanic's lien against the property. On or about November 15, 2022, petitioner discharged the lien from the property by filing a bond for 110% of the lien amount. By petition dated October 20, 2023, petitioner sought to extinguish the lien and to exonerate the bond, as a year had passed since the filing of the lien without Centennial commencing an action to foreclose or continue the lien (see Lien Law § 17). Although Centennial was undisputedly personally served with the order to show cause and petition, Centennial did not appear in the matter or request an adjournment until after the November 22, 2023 deadline to respond had passed. Centennial was not entitled to a stay of the proceedings and substitution of counsel pursuant to CPLR 321[c] because Centennial's outside counsel died in August 2023, prior to the commencement of these proceedings, and therefore never appeared in this action (see CPLR 321[c]; *Finnegan v NFT-Metro Bus Sys.* , 101 AD2d 1010, 1010-1011 [4th Dept 1984], *affd* 63 NY2d 1018 [1984]). [*2] The court providently exercised its discretion by denying Centennial's motion for vacatur of its default under CPLR 5105(a)(1), as Centennial failed to offer a reasonable excuse (see *SOS Capital v Recycling Paper Partners of PA, LLC* , 220 AD3d 25, 38 [1st Dept 2023]; *Goldman v Cotter* , 10 AD3d 289, 291 [1st Dept 2004]). Although Centennial did not unduly delay its motion, Centennial offered essentially no explanation for its failure to appear or request an adjournment before the November 22nd deadline (see *Forest Walnut LLC v Abizker* , 224 AD3d 408, 409 [1st Dept 2024]). Centennial generally asserted that retained outside counsel had died several months earlier, and Centennial was unaware that matters related to the lien were not being taken care of. However, Centennial's conclusory assertions are insufficient to vacate the default (see *U.S. Bank N.A. v Wei Feng Zhu* , 238 AD3d 628, 629 [1st Dept 2025] ["bare allegation of law office failure does not constitute a reasonable excuse"]; *Carmody v 208-210 E. 31st Realty, LLC* , 135 AD3d 491 [1st Dept 2016] ["conclusory claim" that a prior attorney "'must have dropped the ball' is insufficient to demonstrate a reasonable excuse of law office failure"]). Further, the lien expired by operation of law in September of 2023, as Centennial undisputedly did not foreclose on the lien or file an extension during the one-year period (see Lien Law § 17; *Noce v Kaufman* , 2 NY2d 347, 351 [1957]; *240-35 Assoc. v Major Bldrs. Corp.* , 234 AD2d 234, 234

[1st Dept 1996]). A lienor may no longer bring a claim to foreclose on or extend an expired lien (see JDS Constr. Group LLC v Copper Servs., LLC , 247 AD3d 412, 413 [1st Dept 2026]). Accordingly, vacatur of the lien and exoneration of the bond was appropriate (see Matter of Flintlock Realty & Constr. Corp. [Grawer Bear Constr. Corp.] , 188 AD2d 532, 533 [2d Dept 1992]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 16, 2026 Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them. PER CURIAM.

Matter of 170 W. End Ave. Owners Corp. v Centennial El. Indus. Inc. - 2026 NY Slip Op 03759 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Matter of 170 W. End Ave. Owners Corp. v Centennial El. Indus. Inc. 2026 NY Slip Op 03759 June 16, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. In the Matter of 170 West End Avenue Owners Corporation, etc., Petitioner-Respondent, v Centennial Elevator Industries Inc., Respondent-Appellant. Decided and Entered: June 16, 2026 Index No. 160333/23|Appeal No. 6893-6894|Case No. 2025-01991, 2025-05569| Before: Webber, J.P., Kapnick, Gesmer, Rodriguez, Rosado, JJ. LoPresti Law, PLLC, Massapequa (Genevieve Lane LoPresti of counsel), for appellant. Seyfarth Shaw LLP, New York (Eddy Salcedo of counsel), for respondent. [*1] Order, Supreme Court, New York County (Kathleen Waterman-Marshall, J.), entered November 6, 2024, which insofar as appealed from as limited by the briefs, granted petitioner 170 West End Avenue Owners Corporation's petition to extinguish a mechanic's lien and directed exoneration of the bond, and denied respondent Centennial Elevator Industries Inc.'s motion for substitution of counsel, vacatur of the default, and for additional time to file a notice of pendency and foreclose on its lien, and order, same court and Justice, entered on or about December 5, 2024, which exonerated the bond and returned the funds to petitioner, unanimously affirmed, without costs. Petitioner owns the common condominium elements of the property at 170 West End Avenue, a cooperative building. Petitioner engaged Centennial to perform maintenance on several elevators at the property. On September 9, 2022, Centennial, through its general counsel, filed a mechanic's lien against the property. On or about November 15, 2022, petitioner discharged the lien from the property by filing a bond for 110% of the lien amount. By petition dated October 20, 2023, petitioner sought to extinguish the lien and to exonerate the bond, as a year had passed since the filing of the lien without Centennial commencing an action to

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