

Don't Exaggerate Your Mechanic Lien Claim

Vincent Pallaci's [New York Construction Law Update blog](#) called our attention to a recent New York Supreme Court case in New York, [Remodeling Construction Services v. Minter](#). The case presents a common circumstance for home builders.

On a residential construction project, a homeowner would pay their contractor over progress payments, with each draw being due at a certain project milestone. The homeowner and contractor disagreed as to whether a particular milestone was met (and thus, whether a progress payment was due), and this caused the project to shut down. Each party cried breach of contract.

In the [Minter](#) case, the New York Supreme Court confirmed a summary judgment decision that the contractor was not entitled to the progress payment, and thus terminated the contract prematurely.

What is interesting for those who follow mechanic lien laws, is that the homeowner also sued the contractor for a "willful exaggeration" of the lien claim.

The "willful exaggeration" claim is a New York term, but nearly every state allows a property owner to sue a contractor if the contractor *willfully* exaggerated their lien claim. The key word here is "willfully," as these types of claims very typically require proof that the claim was exaggerated with actual malicious intent.

As [Pallaci mentions in his post](#), while the court in [Minter](#) determined that the contractor was not entitled to the last progress payment, it did not rule on summary judgment that the lien for this last progress payment was "willfully exaggerated." This doesn't kill the homeowner's claim, but it does highlight the distinction between liens that are incorrectly claimed, and those that are "willfully exaggerated."

A lien claimant should always carefully file its lien claims. Oftentimes, a claimant owed money will try to increase a claim out of anger. It's important to keep a cool head and make a claim for the amounts you're entitled to only.

Read this article on the Construction Lien Blog here:
<http://constructionlienblog.com/?p=2152>