

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

MR. WHITE, L.L.C.,

Index No. 155915/2017

Petitioner,

**ORDER** of Judgment

- against -

PINK SHIRT CONSTRUCTION, INC.,

Respondent.

UPON reading and filing the Verified Petition dated June 29, 2017, the Order to Show Cause dated July 5, 2017, with the annexed Affirmation of Ronald Francis, dated June 29, 2017, and the Reply Affirmation of Ronald Francis, dated September 27, 2017, the exhibits thereto, and the Memorandum of Law dated September 27, 2017, all in support of the motion of petitioner pursuant to Section 59 of the New York Lien Law to vacate and cancel a mechanic's lien, with proof of due service, and the Verified Answer of respondent dated September 6, 2017, the Affidavit of Marc Biddle sworn to on the 6<sup>th</sup> day of September, 2017, the Affirmation of Nicole Sullivan, dated September 6 2017, the exhibits thereto, the Memorandum of Law in Opposition to the Motion, dated September 6, 2017, and all of the prior pleadings and proceedings had or filed herein,

NOW, on motion of Ronald Francis, attorney for petitioner Mr. White, L.L.C., it is

ORDERED, that petitioner's motion to vacate and cancel the mechanic's lien dated June 20, 2017 and filed by respondent against the property known as 121 Marks Place, New York, NY, Block 436, Lot 36, is granted, and the New York County Clerk is hereby directed to vacate and cancel said lien forthwith.

Dated: 9/28/17, 2017

*Judgment for Petitioner*

ENTER:

J.S.C.  
**ARLENE P. BLUTH**  
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

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PRESENT: \_\_\_\_\_  
Justice

PART \_\_\_\_\_

MR. White, L.L.C.

155915-17  
INDEX NO. \_\_\_\_\_

MOTION DATE \_\_\_\_\_

Pink Shirt Construction, Inc.

MOTION SEQ. NO. I

The following papers, numbered 1 to \_\_\_\_\_, were read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_ [ No(s). \_\_\_\_\_

Answering Affidavits — Exhibits \_\_\_\_\_ [ No(s). \_\_\_\_\_

Replying Affidavits \_\_\_\_\_ [ No(s). \_\_\_\_\_

Upon the foregoing papers, it is ordered that this motion is *granted. Summated Order r Judgment*

*Respondent's claim that service was improper is without merit - serving the Secretary of State is good service. If respondent failed to update its address with the Secretary of State, as claimed, that is no excuse - especially here, where respondent's attorneys (who represent respondent as a plaintiff against petitioner as defendant in Westchester Supreme) were immediately sent a copy of all papers and were in contact with respondent asking whether it received the papers from the Secretary of State yet - [to oral argument]. Moreover, respondent is not seeking to vacate a default because of its failure to keep its address with the SOS current. Even if the lien was formally valid, respondent failed to commence an*

Dated: *9/29/17* Action to Foreclose pursuant to the *properly served demand* \_\_\_\_\_ J.S.C.  
ARLENE [Signature]

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

- 1. CHECK ONE: \_\_\_\_\_  CASE DISPOSED  NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: \_\_\_\_\_ MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
- 3. CHECK IF APPROPRIATE: \_\_\_\_\_  SETTLE ORDER  SUBMIT ORDER  DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE