

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

James R Caputo

Plaintiff

Index No.: E2024000703

– vs –

Nathan Holt, Owen Billet, Premium Mortgage Corporation, Robert T Houle, Houle Sales Consulting Inc, Donald Cheney Esq, Cheney Law Firm PLLC, ABAR Abstract Corporation, Monroe County Clerk’s Office

VERIFIED RESPONSE TO DEFENDANT’S REPLY IN OPPOSITION, MOTION TO DISMISS, MOTION FOR SANCTIONS

Defendants

Plaintiff James R. Caputo answers the separately numbered paragraphs contained in the Opposition Reply, Motion to Dismiss and Motion for Sanctions submitted to the Court by Defendant(s) Robert T. Houle and Houle Sales Consulting, Inc. in this action (as separate, but closely mirrored documents) and asserts the affirmative defenses and relevant claims as follows:

1. Robert Houle is president and sole shareholder of Houle Sales Consulting, Inc.
2. The signed contract is already in evidence in this action.
3. Plaintiff James R. Caputo did finish all contracted work in and around November 16, 2021, and to the *complete* satisfaction of the homeowner, Defendant Robert T. Houle. Defenant Houle lived approximately 2.5 miles away from the subject premises and was on-site nearly every single day, particularly in and around late October to mid November 2021, when the contracted work was finished, because he was there personally working on the drywall in the garage. (*see Plaintiff Exhibit 31*) The project was discussed daily, with material procurement, construction and finish details the purpose of these conversations. At no time did Defendant Robert T. Houle ever communicate to Plaintiff James R. Caputo that any of his work or the project was not completed correctly, timely

or fully. At no time has Defendant Houle produced a single example of such a communication. The following communication from November 4, 2021, (just twelve days prior to Plaintiff's completion of his work), demonstrates that not only was Defendant Houle aware of every detail of the project, but that he was also satisfied with Plaintiff and his services. (*see Plaintiff Exhibit 32*)

3A) If Defendant Houle even made a gesture to share the profits of any sale on the house, he cannot provide anything in writing to substantiate it. Nevertheless, this is not only irrelevant to the case at bar, but Plaintiff had a signed contract for specified work and a verbal agreement for additional work that he simply expected to be paid for. This Plaintiff was not interested in any profit sharing. My plans had long been to move to Syracuse soon after finishing the work on this house to be close to my children and to use the remuneration earned on this project to make this transition and to support my home improvement business restarting in a new town.

3B) This contention by Defendant Houle is offensive and out of line. First, at no time in Plaintiff's life has he been homeless, especially at the time in which he was working on this project, which took place in 2021. Secondly, after my parents retired and no longer needed their large home in Fairport, NY, they moved into a highly-regarded modular home park in Victor alongside an executive golf course, which also came with several other community amenities. In July of 2015, I moved from Syracuse to Victor, NY to live with my mother for an unspecified period because she had fallen very ill, post the loss of my father in 2014. No one in the family or any other of her five children were available or able to step in on her behalf. My presence and companionship was integral to my mother's recovery and incredible turn-around, so much so that she is able to now

live totally independently in a lovely senior living community, and still drives with the utmost competency, now nearing her mid 80's. Their modular home was of upscale construction and was of such caliber that for what is considered chattel, my mother saw a considerable profit upon sale in 2021. It was hardly a "trailer" as depicted in Houle's paper. For Defendant Houle to use this platform to characterize my living situation as such, and for it to be used to prop up some lame gesture for me to live at this water damaged home under construction (where he was allowing another homeless man to live), especially when I had a place of residence of my own, is outrageous and wholly indicative of this man's character, as will be further portrayed below.

3C) Once more, Defendant Houle lived only a few miles away, he was at the house nearly every day, and he discussed the continued-work with Plaintiff James R. Caputo on every occasion. Additionally, by being the procurer of all materials, this placed Mr. Houle right in the middle of all scheduled work being done, with the tail end of the job being no exception. Therefore, as the owner and *project manager*, it would require Defendant Houle to either be unconscious, incompetent or a deceiver (before this Court) for him to claim that he was unaware of what work had or had not been completed, that it was "untimely", or that some formally documented "walk-through" was still needed. There was the equivalent of a "walk-through" with each day Mr. Houle was on-site and discussed the work with Plaintiff, and also with each line item of work on the contract being completed until Plaintiff signed off and moved on. (*see Plaintiff Exhibit 33*)

4. Defendant Houle makes more accusations about the contract not being followed and projects not completed but fails to name any specifics nor does he provide one single

invoice or communication between him and Plaintiff Caputo that demonstrates additional workers being required for “slowness”.

5. Once again, Defendant Houle fails to substantiate his claims with either an invoice for added expense to (allegedly) correct the work of Plaintiff Caputo or any communication that Plaintiff’s work was substandard and needed correction by someone else. If Mr. Houle did incur added expense and had made it known to Plaintiff, then there could have been an adjustment made to the final invoice. As can be seen from pictures of each plumbing fixture installed, the work was quality and professional. (*see Plaintiff Exhibit 34*)

5A) The opinion of other contractors is not only hearsay, but also completely irrelevant in this matter, particularly in the absence of Plaintiff being able to directly address such “opinions” with them. Plaintiff was contracted to repair a considerably water damaged house that required multiple areas of excision and repair of rotten construction, along with extensive support reconstruction in the mudroom area and a rebuilding of the entire back wall of the house in this same section, due to water rot. (*see Plaintiff Exhibit 35*) Additionally, the contract called for a complete gutting and replacement of the entire plumbing system, including all new Pex water lines and pvc drain lines up to the main drain, where an obtrusive section of drainpipe running through the middle of the kitchen was rerouted to leave a more open and cleaner finished room. With the house having sustained so much water damage, the subfloor across the entire first floor was spongy and compromised in several different areas. The one definitive solution was to add a second layer of tongue and groove subfloor to reestablish solid standing, which is what was done, and with *great effectiveness*. (Emphasis added) The characterization of this

repair process now being excessive (or a “waste”) is completely unfounded and yet again meaningless (hearsay) commentary from a third (after) party to a man (Defendant Houle) who makes a sport out of backbiting others. As for Mr. Houle’s untrue remarks concerning window support structures, the water damage was so extensive that the foundation baseplate was almost completely rotted away, (particularly across the span of two basement windows), causing the edge of the house to sink way down across these two window spans, thus compromising the support of the home and actually crunching the windows themselves, as would be expected. The flooring in the living room was also sloping down towards the middle of the house due to the second-floor structural support wall not having been built over the steel beam in the basement, which is required for the support to carry all the way to the foundation. And there were three other areas of compromised support identified in the basement that had repercussions upwards in the house. One such example was a sunken area in the master bedroom on the second floor that was clearly unstable. It was discovered that the header over the doorway into the dining room from the kitchen was broken and needed complete excision and repair. The weakness across this doorway was found to be attributable to the same reason for the living room floor having sloped. The weight bearing wall for the second floor on the dining room side of the house was also not square over the steel beam support and thus too needed to be bolstered from below in the basement. In order to regain support across these compromised areas, (including the window spans), which would carry the load extending up the full length of the house as required, multiple things were done. A triple beam support was constructed and erected into place directly under the second-floor support wall using three new heavy duty jack posts, in order to mitigate any further

sinking or sloping of the floor. A heavy-duty jack post was installed in the basement under the identified weak point beneath the dining room doorway. Then using three separate heavy duty jack posts in front of each sunken window and hundreds of sledgehammer hits on the post cranks, the first-floor joists were raised and returned to their original positions. New baseplates were installed (where the rotten wood was accessible), particularly across the window spans. Because the baseplate board would then buckle over each window when the jacks were released, auxiliary reinforcement was produced for these two areas via bestriding stud walls and a support header across each window space to ensure future lasting support, which could then also be easily integrated into a future finished basement. These reinforcement efforts were once again done with great effectiveness. (*see Plaintiff Exhibit 36*) Therefore, Defenant Houle's claims here are absolutely without base.

6. Here, Defendant Houle must resort to ad hominem attacks against this Plaintiff (who enjoys a AAA+ rating with the Better Business Bureau and who is one of Home Depot's highest rated pros in their customer referral program) rather than simply putting forth any material evidence and sound argument. This is nothing new from him, as the relationship between me and Mr. Houle steadily deteriorated throughout the course of his bumbling effort on this project, along with his *repeated* (over and over) errors on procuring materials, (because he insisted on it being so), which caused unnecessary delays and profound frustration. When asked one day (on October 19, 2021) how it was that he kept on having these shortcomings with materials when I had consistently made the materials requests as clear as possible, he exploded and unleashed the same ("*you're so perfect*") diatribe as he is expressing in this numbered item. (*see Plaintiff Exhibit 37*) Just look

at that exhibit and understand what it was like with everything experienced from this man as project manager. And from my own personal knowledge, if another plays the (“*you’re so perfect*”) card on me, I am done with dealing with that person. This, on top of chronically failing to make his nominal weekly payment of \$400. (*see Plaintiff Exhibit 38*) Therefore, if any of my past communications appear curt in their tenor, this man had drawn it out, as I understand he does to most who have to deal with him.

As for Mr. Houle’s continued contention (and advising) of “deficiencies” in my work and my reply allegedly (and “arrogantly”) being, “*That’s Impossible*”, by examining the actual communication from this date (12-22-2021) and those leading up to it, this baseless point is defeated as well. (*see Plaintiff Exhibit 39*) The literal text from me to Mr. Houle states the following, “As for your reference previously to the rough plumbing not lining up? That really can’t be possible.....” This is *clearly* not the same as “That’s Impossible”. My statement was then followed by a detailed explanation of what was left to do by whoever Mr. Houle hired to complete the bathtub and shower pan installations. This Plaintiff was not contracted to install the physical bathtub and shower pan units. And because final drain hook-ups for the two shower pans and one bathtub required these units to be physically installed, these last drain connections would be done by whoever installed them. Nevertheless, the rough plumbed drain lines were fixed proximal to each of these fixtures for final drain connections to be readily made. The text also spells out how to get around a particular challenge for the main bathroom tub drain, where there was a structural joist right in line with the tub outlet and drain, (just as it had been with the previous installation since joists are immovable). Nowhere in this communication does Defendant Houle declare any “deficiency” in work product from Plaintiff James

Caputo. Nowhere does Plaintiff Caputo exhibit any attitude of “arrogance” or “self-righteousness”. Right is right, wrong is wrong and material facts are material facts. And apparently, if an individual operates at a level of intelligence Mr. Houle doesn’t like, that too becomes fodder for ad hominem attack. All of this rhetoric from this man is offensive, especially in the face of the actual material proof that speaks the polar opposite of his empty claims. (Emphasis added)

And if this all wasn’t bad enough, Defendant Houle must continue to use whatever miniscule piece of information at his disposal in an attempt to further sully these proceedings and the character of the man who has called out his wrongdoings before this Court. Apparently, my request for the Judge in this current matter to be reassigned is now the definition of “self righteous attitude”. I will only be brief on this point as it is not pertinent to this case outside of my request for reassignment. As a medical doctor and surgeon, who once owned and operated a multi-million dollar practice and who was the recipient of a little known (and dubious) practice within medicine called “*sham peer review*”, I have been working for more than twenty years to undo the profound damage done by this adulterated form administrative jurisprudence within the world of medicine. I would find out the hard way that administrative law is not the same as courtroom base law. With the former, there are no protections that one would expect and moreover receive in a Constitutionally functioning setting such as a State Supreme Court. Nevertheless, as part of this journey, I was a victim of legal malpractice by the attorneys that were enlisted in 2014 to defend against the continual malicious prosecution of my medical license by the New York State Department of Health. This malpractice case has been ongoing since 2017 and just this last year was scheduled for trial, which was

upended by a motion for summary judgment seeking dismissal by the defense and a cross-motion by this same Plaintiff for summary judgement in favor of the Complaint. This is a very complex case with hundreds of exhibits. It is my categorical position that my 250-page summary judgment brief, (with over a hundred supporting exhibits), met every jurisdictional requirement and proved, (in a prima facie manner), the allegations of legal malpractice.

[If Mr. Houle's continued commentary on my travails at the hands of the DOH stand to require unconditional proof of my complete innocence before this State Agency and their sham thirteen-year prosecution, then this Plaintiff will have no problem flooding this proceeding with every single exculpatory document necessary to leave no doubt as to that truth. Else, such comments are not only out of order, but they are distasteful in the face of my having confided this information to this defendant long before performing the work on the project at the center of this case.]

After a statutorily excessive amount of time waiting for a summary judgment ruling from the Court, the case was dismissed, with the primary reason from the Judge being that on the day of alleged negligence, there was not yet established an attorney client relationship between the parties. Notwithstanding the multiple legal standards in the Statute (and case law alike) for establishing this relationship that were met in this case, admitted into evidence is the actual *Professional Billing Invoice* these attorneys sent to my malpractice carrier, who was funding the defense. This statement (obtained from the defendants on discovery) unequivocally details a total of 5.4 billable hours on the day of alleged negligence, in combination with *billed* work done ***three days prior***. (Emphasis added) This indisputable material evidence for the establishment of an attorney-client

relationship was completely disregarded by the Judge when ruling that no such relationship existed at the time of the legal misconduct. Flagrant disregard of material evidence is a concerning thing to witness from a sitting Judge. Furthermore, the other conclusions made by the Judge in that ruling are equally defenseless. The case is currently on appeal before the New York State Appellate Division, Fourth Department. Nonetheless, this *same* judge was then assigned to *this* matter now before the Court, which would naturally generate concern and uncomfortableness from this Plaintiff as to potential bias, amid my ultimate desire for a fair proceeding. The letter to the Court seeking a reassignment of the Judge is on record in this case. Seeking the best possible arrangement in a Court of law for the truest possible outcome is actually an act of responsibility and not one of a “self-righteous attitude” or indicative of someone who is “impossible to work with”. On the contrary, such projection is what one gets from Defendant Robert T. Houle whenever anyone works with him.

7. I will defer my response to Defendant Houle’s numbered items **7, 8, 9, 10,** and **11** to be covered by two documents: 1) Defendant Houle’s Show Cause Order and Affidavit from April 2022 (when challenging the mechanic’s lien in Monroe County Supreme Court) and 2) Plaintiff Caputo’s verified Answer, (with exhibits), where each of Mr. Houle’s contentions has already been made to the Court, answered by this Plaintiff and defeated by a Supreme Court Judge’s Decision. (*see Plaintiff Exhibits 40 and 41*)
12. This is patently false. The lien was filed and served properly, with an affidavit of service then filed with the County Clerk’s Office. This service affidavit is already independently in evidence and is also a component of **Plaintiff Exhibit 41**. The mechanic’s lien was challenged by Mr. Houle in Supreme Court on all of these same issues and failed, with

the Court finding the lien valid and enforceable. (see **Plaintiff Exhibit 11**) There would, therefore, be absolutely no reason for me to withdraw or refile that lien.

13. Plaintiff James R. Caputo defers his answer to this line item to the Sur Reply he filed with the Monroe County Supreme Court on this matter on April 29, 2022. This issue of the electrical lines has already been addressed with the Court, with pictorial evidence in support, where the Judge's Decision fittingly found for this (current) Plaintiff, while upholding the mechanic's lien as valid and enforceable. (see **Plaintiff Exhibit 42**)
14. By Defendant Robert T. Houle and his attorney for the sale, Defendant Donald Cheney, Esq, having both violated the law by illicitly selling the subject premises out from under a duly filed and Court upheld mechanic's lien, these two men dragged every other party into this matter as (perhaps) unwitting participants, including the new homeowners, who have a mortgage contract that states that they are now responsible for the lien that Mr. Houle reneged on. If Mr. Houle finds it troubling that these other parties have been named, perhaps he should abide by and have a concept of (civil) law before he knowingly and willingly breaks it.
15. The Summons and Complaint in this matter was duly served upon both Defendants (and addressees) Robert T. Houle and Houle and Houle Sales Consulting, Inc. by an independent party in a sealed envelope. The papers were initially served at Mr. Houle's residence (which is also where his business address is listed), but he was not present. Houle's eldest son and wife were there, however. The son, Ben, was given the envelope to give to his father and pursuant to NY CPLR § 308(2), under the method of *Substitute Service*, copies were (likewise) addressed to **both** Defendants and mailed certified, in an envelope bearing the legend "*personal and confidential*". (see **Plaintiff Exhibit 43**)

When a party has been properly “served,” it means they have been given appropriate written notice of an initial legal action. By the mere fact that Defendant Houle submitted (to the Court) a response to the Summons and Complaint on behalf of himself and Houle Sales Consulting, Inc, and within the allowed time frame required of him, it establishes that he was duly served.

16. Houle Sales Consulting, Inc has consistently been listed as having a principle or main address of 1108 Cheese Factory Road Honeoye Falls, NY 14472, as can be seen on Bizapedia as recently as February 6, 2024. (*see Plaintiff Exhibit 44*)
17. Defendant Houle’s contention that the parties named herein had or “*have no knowledge or responsibility to or of this matter.*” The evidence, however, states otherwise, and Mr. Houle ought to have considered the repercussions of his actions when he sold the home in violation of a Supreme Court Decision and the Lien Law itself. As such, because the new homeowners have a signed financing agreement for the property that now places them as liable for any lien on the property superior to their mortgage, they now have a *responsibility to this matter* thanks to Mr. Houle and Mr. Cheney. Furthermore, the senior executive at Premier Mortgage Corporation admitted that she did see in her computer files that there was, in fact, a lien on the property at the time of the sale and mortgage financing, but that Donald Cheney, Esq. was on their records as having authorized its side-stepping. Notwithstanding the fact that Defendant Cheney does not possess the authority or jurisdiction to empower a disregard of the in-force lien, Premier Mortgage Corporation knowingly and willingly placed an encumbrance upon a property they were financing and moving forward with. Surely, they would inherently have a fiduciary obligation to the new homeowners to *not* do such a thing. Therefore, by this

occurring, they too have a responsibility to some degree in this matter. This same argument goes for ABAR abstract company, who by admitted evidence, had foreknowledge of the in-force lien and decided to write Title Insurance despite this fact. The Monroe County Clerk's Office has also been added to the list of defendants because as Mr. Houle and Mr. Cheney were orchestrating the unlawful sale of the property, the Mechanic's Lien also vanished from the County Clerk's Online Records for the subject premises. This lien document was then confirmed to be missing from the County Clerk's filings by an in-person procurement of certified copies of these same encumbrances on August 11, 2022. Therefore, all parties included in this matter have a role, at least some knowledge and hence, a responsibility to answer the causes of action.

- 18.** It is **no** "*conspiracy theory*" that the subject premises had a duly filed and court upheld mechanic's lien filed on it by Plaintiff James R. Caputo. Nor is the fact that the Court placed specific conditions for which the home could be sold. Nor is the fact that Defendant Houle and Defendant Cheney thumbed their noses to the Court's conditions and sold the property out from under the Court upheld lien. Nor is the fact that Mr. Houle hid the fact that he sold the house illegally, only for Plaintiff Caputo to find out nearly six weeks later. Nor is the fact that Mr. Cheney committed fraud when erroneously claiming that he could justifiably order the lien to be set aside in order to proceed with the sale. None of these truths are anything close to theoretical but rather, actual.
- 19.** No dialogue or meeting has been claimed. What has been *alleged* is that each of these *parties to the sale* knew that there was an in-force mechanics lien on the property which forbid it from being sold until it was duly vacated by either of the means dictated by the Court's Decision on the matter on May 2, 2022. The mortgage and title companies might

not have known specifically of Judge Valleriani's Decision, but both Defendants Houle and Cheney certainly did.

20. For (seemingly) some shifty reason, Defendant Houle consistently tries to minimize his role or responsibility in this matter with his use of such self-descriptive terms as "Representative of the Company 'Houle Sales Consulting, Inc'" when in fact, he is the sole shareholder of the company, which makes him the sole owner of the company and thus, solely responsible for the company's actions. Nonetheless, Plaintiff James R. Caputo had a duly filed and in-force mechanic's lien on the subject premises (that Houle owned through his corporation) with the sole purpose of (simply) being paid for six months of high-end craftsmanship he performed upon the extremely (water) damaged property. There would be absolutely no reason to consider going through whatever application process necessary to become a mortgage holder on the property when the lien was doing exactly what it was intended to do by such laws being enacted by the Legislature and payment was needed immediately and not after any would-be sale of the home.

If a contractor is cheated on his pay, then he can legally stake claim on the property itself (for the value of what is owed) by way of the mechanic's lien. Therefore, to avoid the pitfalls of a mechanic's lien, a homeowner needs to pay the bill for work performed on their home. The mechanic's lien is empowered to inhibit any sort of sale of the property until it is either satisfied, bonded off or successfully challenged in a court of law. This is elementary knowledge for anyone dealing with real estate and the laws that govern it, yet apparently ripe for violation by this home having been sold out from under the lien by the involved parties named herein.

Therefore, when in court, (after having read and answered Mr. Houle's charges in his Show Cause Order), and after being allowed oral argument, I stood on the merits of the mechanic's lien to compel payment for services rendered. Judge Valleriani's Decision, (which is already in evidence for this case), not only upheld the validity of the lien itself, (while overruling such issues raised as the named owner and willful exaggeration), but he also lays out a specific directive as to what must be done in order for the house to be sellable, pursuant to Lien Law § 19. Both Mr. Houle and Mr. Cheney would go on to thumb their noses at this Court directive and somehow sidestepped the lien (and the requisite Court mediated process to be able to do so) and sold the house anyway. (Emphasis added)

21. Once again, what happened with the live 220V electrical lines as well as the saturated, putrid adult diaper stunts which were played on this Plaintiff by Robert T. Houle and the homeless guy named Jeff who Houle allowed to live in the house for several months, really and truly did happen. Defendant Houle can deny it all he wants, but the wire and diaper pictures along with the *description* of his and the homeless guy's peculiar actions (indicating foreknowledge) in and around those two separate incidents (written in both the Final Invoice and the Sur Reply from April 29, 2022 – both in evidence) speak for themselves. Playing games with someone's life and playing repulsive vindictive pranks on someone comes at a price, which is what comprises the bulk of the (nominal, all things considered) surcharge of \$5,000 on the Final Invoice.
22. First, this Plaintiff was in no position to take monthly payments as a resolution to Defendant. Houle simply paying for the monies owed and moving on. Secondly, the contract between Defendant Houle and myself did not include (nor would it never have)

a provision for the final payment to be made in installments. No contractor does that. Thirdly, Defendant Houle forfeited all consideration for any sort of scheduled payment by repeatedly being late on a simple weekly \$400 payment, by putting three separate bounced checks on Plaintiff Caputo during the active work phase of the contract, by taking two months to successfully complete the final \$400 weekly payment, and for defaulting on the contract.

23. Defendant Houle is complaining about my having to point out his misdeeds in Court documents for this matter to be duly heard, understood and resolved. If he had not done any of what he is accused of (corroborated by material proof), then he wouldn't have whatever "*embarrassment*" to deal with.

24. The following is true of this matter. Plaintiff James R. Caputo spent over six months performing extensive work on a home for a long-term customer who said he needed his help and expertise with a high-end flip project. A highly reduced price was given as a gesture of generosity, knowing that this work would provide just enough remuneration before moving to Syracuse and really launching the business. The job was then all locked in with a signed contract with very specific work detail and payment terms. Mr. Houle demonstrated several untoward actions during this project with payment reliability and confidence being a big problem. Combining this with his history of not paying for monies owed on properties and therefore losing them, the reality of getting paid by this man was indeed in jeopardy. To ensure and insulate the monies owed to me at the end of the project, the lien was filed. Rather than simply paying what was owed, Defendant Houle decided to challenge the lien in Supreme Court and lost. I even offered a settlement price of \$19K in early 2022 to be paid in full right then, but would otherwise

seek the entire amount of the lien if he forced any sort of Court Action where I knew I would be taken away from my own business for several days to deal with it. Because paying what is owed is not what Defendant Houle does, he took it to Court anyway and ended up losing. Again, rather than simply paying what was owed, he and his attorney decided to shirk the law and the Court's Decision while sticking it to Plaintiff James R. Caputo at the same time by somehow selling the house from under the lien, and where the lien (magically) no longer showed up on Official Government Records as administered by the Monroe County Clerk's Office. These parties illicitly engineered the sale of the subject premises without ever apprising this Plaintiff and without ever making a single payment to plaintiff for his services out of the proceeds, despite Defendant Houle telling the Court (in-person) that such was his intent. THIS is what these parties did and it's all on the record and materially proven. Being forced to point it all out in a Court proceeding is my unfortunate and detested (but not vicious) responsibility for justice to be served as a result of their actions.

Mr. Houle has repeatedly employed the DARVO Response throughout this entire two-plus year ordeal whenever confronted with his own misbehavior and does so again here in this numbered item. DARVO – Deny, Attack, and Reverse Victim and Offender. As the one called out for doing wrong, Defendant Robert T. Houle consistently denies any transgression and then immediately attacks the one calling him out (this Plaintiff) and attempts to reverse the roles making him now the victim and Plaintiff James R. Caputo now the offender. I will not stand for this continued psychopathological nonsense and call it out right here. It has been nearly twenty-eight months since completing the work for this man and not getting paid, due to his nonstop “*woe is me*” behavior.

25. Fighting for what is right and seeking to be justly paid for services rendered in a Court of law after the offending party skirted his responsibility to do so is hardly the creation of drama or an imposition on the Court, other than Defendant Houle's own actions being the genesis thereof. And if the mechanic's lien is faulty and illegitimate, then where does that leave Judge Valleriani's May 2, 2022 Decision, where he emphatically rules to the contrary?

Therefore: Plaintiff James R. Caputo declares and requests the following:

That Defendant Houle's motions to dismiss be denied for the reasons and merits set forth in this document (along with the included exhibits), in addition to all other submissions to the Court concerning this entire matter. These papers also eliminate any contention of this action being frivolous, as well. Furthermore, no service violation has been committed here, (as already detailed above), with Defendant Houle's two separate reply documents being submitted to the Court well within the statutory time to respond further substantiating that he received them accordingly.

That Defendant Houle's motion for sanctions or a fine of any sort and for any reason upon Plaintiff James R. Caputo also be denied for the same reasons and merits thus far presented. Contrary to Defendant Houle having any grounds to be asking the Court for sanctions against this Plaintiff for "*frivolous filing*", "*stress caused*", or "*libelous allegations*", his very own actions of ***Breach of Contract***, and ***Contempt of Court***, along with a total disregard of the Lien Law together with his previous and documented personal acts towards this Plaintiff are all conduct which can (justifiably) garner sanctions. As for stress, not having the expected funds to successfully make a transition to a new city to launch a business, combined with having to spend nearly two-month's-worth of workdays to deal with what Mr. Houle has engineered for all these parties, has been

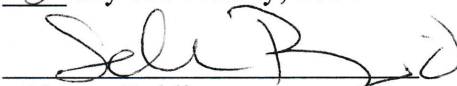
stressful beyond measure. The sum of what has been done here is why punitive damages are being sought in the original Complaint.


In closing, it must also be pointed out that (both) Defendants Robert T. Houle, and Houle Sales Consulting, Inc, (despite each party having independently filed a Reply in Opposition, Motion to Dismiss and Motion for Sanctions), do not provide any Responsive Pleadings pursuant to NY CPLR §3018, with either a formal denial or an affirmative defense to each of the numbered items/contentions in Plaintiff’s Complaint. As such, the Court should consider all allegations against Defendant Houle in Plaintiff James R. Caputo’s Complaint as admitted.

VERIFICATION

I, James R. Caputo, being duly sworn, say: I am the Plaintiff in the above-named proceeding and that the foregoing Verified Response and submitted evidence were prepared by me, and are true to my own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters, I believe it to be true.

WHEREFORE, I respectfully request that this response brief be duly considered, the original Complaint to remain in effect, and that I have such other and further relief as may be deemed just and proper.

Sworn to before me this
8th day of February, 2024

Notary Public


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