2026 IL App (3d) 250573-U
No. 3-25-0573
Order filed November 24, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23 and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

FOXFIELD CONSTRUCTION, LTD., Plaintiff-Appellant,

v.

ASSOCIATES IN SLEEP MEDICINE, LLC, SIGMA VENTURES, LLC, MB FINANCIAL BANK, NATIONAL ASSOCIATION as successor in interest to American Chartered Bank, HARMON ELECTRICAL SYSTEMS, LLC, TRANSFORM CONSTRUCTION, LLC d/b/a TC Security Sales, KMG CONSTRUCTION, INC., SPRINGBROOK CENTER OWNERS ASSOCIATION, OTHER UNKNOWN OWNERS AND LIENHOLDERS, UNKNOWN NECESSARY PARTIES and NON-RECORD CLAIMANTS, Defendants

(Associates in Sleep Medicine, LLC and Sigma Ventures, LLC, Defendants-Appellees).

Appeal from the Circuit Court of Du Page County.
Honorable Robert G. Gibson, Judge, Presiding.
Nos. 17-CH-1390, 17-CH-1664

JUSTICE DAVENPORT delivered the judgment of the court.
Presiding Justice Hettel and Justice Brennan concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court abused its discretion in granting Rule 304(a) certification. Appeal dismissed.

¶ 2 Plaintiff, Foxfield Construction, Ltd. (Foxfield), obtained certification under Rule 304(a) (Ill. S. Ct. R. 304(a) (eff. Mar. 8, 2016)) to immediately appeal a summary judgment ruling extinguishing its mechanic's lien claim against defendants, Associates in Sleep Medicine, LLC

(ASM) and Sigma Ventures, LLC (Sigma). The court reasoned that the immediate appeal of a "fairly narrow" issue would conserve judicial resources by avoiding the possibility of a lengthy retrial in the event of a reversal. We conclude the court abused its discretion in granting Rule 304(a) certification. The appeal's narrow scope and the claims still pending below undercut the potential benefits of immediate review while raising the prospect of piecemeal appeals. We thus vacate the certification and dismiss the appeal for want of jurisdiction.

¶ 3 I. BACKGROUND

¶ 4 This appeal arises from a construction dispute. Sigma authorized ASM, its tenant with whom it shares common ownership, to construct a building on Sigma-owned land. In May 2016, ASM contracted with Foxfield, a general contractor, to construct a two-story office building. The construction contract required ASM to make $1.8 million in payments over the course of the project.

¶ 5 A. Foxfield's Mechanic's Lien

¶ 6 Before submitting each of its requests for a progress payment, Foxfield issued a sworn contractor's statement as required by section 5(a) of the Mechanics Lien Act (Act) (770 ILCS 60/5(a) (West 2016)).

¶ 7 ASM paid five progress payments totaling $1,326,591.42. In April 2017, ASM received a temporary certificate of occupancy for the building's newly constructed first floor. The next month, Foxfield issued its sixth invoice for $369,582.50, noting a $118,184 balance would remain after payment of the invoice.

¶ 8 ASM did not pay the sixth invoice. In a letter to Foxfield, it declined to make any more payments until it was "assured that all defects (flooring, walls, doors, ceiling grid, and others

discovered) are corrected." ASM later identified specific deficiencies in the work but did not assign values to those claimed deficiencies.

¶ 9 In June 2017, Foxfield recorded a mechanic's lien against the premises for $473,589.10. By then, Foxfield had issued six sworn statements under section 5(a), which requires the contractor seeking payment to disclose "the names and addresses of all parties furnishing labor, services, material, fixtures, apparatus or machinery, or forms or form work and of the amounts due or to become due to each." 770 ILCS 60/5(a) (West 2016).

¶ 10 In July 2017, the parties attempted mediation and Foxfield continued to demand that ASM pay its latest invoice. Thereafter, ASM instructed Foxfield to stop all work under the contract.

¶ 11 B. Pleadings

¶ 12 In October 2017, Foxfield sued ASM, Sigma, and others unrelated to this appeal (a lender, subcontractor-lien claimants, and unknown lienholders, owners, and necessary parties). Count I sought to foreclose the mechanic's lien, count II alleged breach of contract against ASM, and count III alleged *quantum meruit* in the alternative to count II. ASM and Sigma answered the complaint, denying its material allegations.

¶ 13 ASM countersued for breach of contract (count I) and indemnification (count II). Sigma countersued for slander of title (count V) and conversion (count VII). Both ASM and Sigma countersued for defamation (count III), "declaration of false sworn statements and invalid lien" (count IV), consumer fraud (count VI), fraud in the inducement of the contract (count VIII), and "fraudulent sworn contractor statements" (count IX).

¶ 14 Foxfield answered counts I and II of the counterclaim, denying its material allegations, and moved to dismiss the remaining counts. On Foxfield's motion, the court dismissed counts III, VI,

VII, and VIII of the counterclaim. The court allowed count IX to stand as brought by ASM and dismissed that count as brought by Sigma.

¶ 15 C. Cross-Motions for Summary Judgment

¶ 16 After discovery, ASM and Sigma moved for summary judgment on counts I and II of Foxfield's complaint and as to liability on count I of the counterclaim. Foxfield, in turn, moved for summary judgment on counts I, II, and V of the counterclaim.

¶ 17 The court granted summary judgment against Foxfield on count I of its complaint. It held the mechanic's lien was invalid because Foxfield's sworn contractor statements did not strictly comply with section 5, noting the statements (1) failed to identify the architect-subcontractor,[1] Virtual Energy Solutions, LLC (VES), and (2) overstated the contract price for architectural work by $15,000. The court observed, "There are other violations of Section 5 by Foxfield, but the VES omission is the most glaring and egregious and invalidates [Foxfield's] lien." The court denied the cross-motions in all other respects, noting the facts underlying the breach-of-contract claims were "about as clear as mud."

¶ 18 D. Surviving Claims

¶ 19 On entry of the partial summary judgment, counts II and III of the complaint remained, as did counts I, II, IV, V, and IX of the counterclaim.

¶ 20 Count II of the complaint alleges ASM breached the construction contract by failing to pay Foxfield's sixth invoice, and by ordering Foxfield to stop all work without notice or an opportunity to cure. Count III of the complaint is Foxfield's alternative claim for *quantum meruit*.

[1]Foxfield disputes the architect's status as a subcontractor.

¶ 21 Count I of the counterclaim alleges Foxfield departed from the contract in numerous respects and performed much of the work in an unworkmanlike manner. Count II of the counterclaim seeks to enforce an indemnification provision against Foxfield for ASM's resulting losses. The remaining three surviving claims—counts IV, V, and IX of the counterclaim—arise directly from Foxfield's sworn contractor statements.

¶ 22 Count IV alleges the sworn statements were defective in multiple respects. First, it alleges the statements failed to identify all parties furnishing services and the amounts due each. Second, it alleges the statements incorrectly listed amounts as paid in full. Third, it alleges the sworn statements falsely identified Foxfield as the party furnishing services provided by subcontractors. Fourth, it alleges Foxfield's own itemizations fluctuated materially from statement to statement—its rough-carpentry figure moving from $255,000 to $87,700 to $207,700 to $225,705, and its finish-carpentry figure from zero to $167,300 to $158,206 to $38,206 and back to zero. Count IV seeks a declaration that Foxfield's sworn statements were "false" and its mechanic's lien was invalid.

¶ 23 Count V is Sigma's slander-of-title count. It alleges Foxfield recorded the lien with knowledge (or reckless disregard) that it was not entitled to the claimed sum of $473,589.10, and that it recorded the lien with actual malice, thereby disparaging Sigma's title. It incorporates all of count IV's allegations and adds that Foxfield knew (or recklessly disregarded), before recording its lien, that its sworn statements violated section 5 and its lien was therefore invalid. Count V seeks both actual and punitive damages.

¶ 24 Count IX is ASM's "fraudulent sworn contractor's statements" count. It alleges Foxfield knowingly included material misrepresentations in its sworn statements, intending for ASM to pay Foxfield in reliance on them. The count lists the alleged misrepresentations, as follows: in all six

statements, Foxfield falsely claimed it was providing the architectural services; in four of the six statements, Foxfield falsely claimed the architectural services had been paid in full; and in the fifth and sixth statements, Foxfield falsely claimed the $87,700 rough-carpentry subcontract had increased to $207,000 and then to $225,705.44. ASM alleges that as a result of the alleged misrepresentations, it paid Foxfield $181,315 for the rough-carpentry work, while Foxfield remitted only $87,700 to the subcontractor and retained the remaining $93,615. ASM further alleges it paid Foxfield $50,000 for architectural services Foxfield did not itself provide. Count IX seeks punitive damages.

¶ 25 E. Motion for Immediate Appeal

¶ 26 In August 2025, Foxfield moved to certify the lien ruling for immediate appeal under Rule 304(a). In the alternative, it requested certification of a question of law under Rule 308 (Ill. S. Ct. R. 308 (eff. Oct. 1, 2019)). It also asked the court to stay the proceedings pending appeal. The legal question Foxfield wished to present on appeal was a narrow one: whether an architect's services must be listed in a contractor's sworn statement under section 5 of the Act. It argued an appeal before trial would "avoid the significant risk of multiple trials in the event" of a reversal.

¶ 27 ASM and Sigma opposed the motion. Alternatively, they requested that if the court grants Foxfield's Rule 304(a) motion, it should also enter Rule 304(a) language on the portion of the decision denying summary judgment on whether Foxfield breached the contract (insofar as that issue was relevant to the validity of the mechanic's lien).

¶ 28 The court granted Foxfield's motion for Rule 304(a) certification. It noted that, absent certification, the case would proceed to what would "likely be a lengthy trial" given the numerous pending issues and factual disputes. It believed a subsequent reversal of the lien ruling could result in a retrial, which would delay rather than expedite the case's resolution. Characterizing the issue

presented for appeal as "fairly narrow" and "not particularly fact specific," it concluded that fairness to both sides favored appellate review "sooner rather than later" and that such review would conserve judicial resources.

¶ 29 Having ruled on Rule 304(a) grounds, the court found Foxfield's Rule 308 request moot. Lastly, the court denied defendants' cross-request for Rule 304(a) language, noting twice that the appellate court could affirm the judgment on any basis in the record.

¶ 30 Foxfield filed a timely notice of appeal. Thereafter, defendants moved to dismiss the appeal for lack of proper certification under Rule 304(a). Foxfield filed an objection, and we took the motion with the case.

¶ 31 II. ANALYSIS

¶ 32 Generally, this court only has jurisdiction to review a final order disposing of *every* claim raised in an action. *AT&T v. Lyons & Pinner Electric Co.*, 2014 IL App (2d) 130577, ¶ 19. Rule 304(a) provides an exception to this principle, allowing an appeal from a final order as to fewer than all claims "if the trial court has made an express written finding that there is no just reason for delaying either enforcement or appeal or both." Ill. S. Ct. R. 304(a) (eff. Mar. 8, 2016). A Rule 304(a) finding, however, "does not automatically make an order immediately appealable." *National Rifle & Pistol Academy, LLC v. EFN Brookshire Property, LLC*, 2020 IL App (2d) 191143, ¶ 33.

¶ 33 Appealability under Rule 304(a) requires that the order be final and that no just reason exists to delay the appeal. *AT&T*, 2014 IL App (2d) 130577, ¶ 20. The latter determination is reviewed for an abuse of discretion. *Id.* ¶ 24.

¶ 34 Although defendants challenge both requirements of Rule 304(a), we need not decide finality because the circuit court abused its discretion in finding there was no just reason to delay the appeal. See *National Rifle*, 2020 IL App (2d) 191143, ¶ 34.

¶ 35 In determining whether to certify an appeal under Rule 304(a), courts consider the following factors: (1) the relationship between the adjudicated and unadjudicated matters, (2) the possibility that subsequent proceedings might moot the need for review, (3) the risk of successive appeals involving the same issues, (4) the possibility of a set-off due to a pending claim, and (5) miscellaneous considerations such as delay, expense, and the trial's duration. *Geier v. Hamer Enterprises, Inc.*, 226 Ill. App. 3d 372, 382-83 (1992). The specific facts of the case dictate which factors apply. *Id.* at 383. Although the circuit court need not expressly address every factor (*AT&T*, 2014 IL App (2d) 130577, ¶ 27), its exercise of discretion must be "judicially sound and supported by the record." (Internal quotation marks omitted.) *Id.* ¶ 24.

¶ 36 Here, the circuit court's stated rationale implicated only the fifth *Geier* factor, the catchall for practical considerations. See *Geier*, 226 Ill. App. 3d at 383.

¶ 37 The court reasoned that a potential retrial following a reversal by the appellate court would delay, rather than expedite, the case's resolution. Avoiding duplicative litigation is a legitimate Rule 304(a) consideration. See *id.* But the court did not explain why a later reversal of the lien ruling would require a retrial. The surviving counts concern the parties' contractual obligations, Foxfield's performance, the amounts allegedly owed, and the alleged misrepresentations concerning subcontractor charges and payments. A reversal of the lien ruling would not disturb the adjudication of these matters.

¶ 38 Indeed, the court characterized the issue it believed warranted immediate appeal as "a fairly narrow question" and not "particularly fact specific." Consistent with that characterization,

Foxfield raises a single question on appeal: whether an architect furnishes "services" under section 5(a) of the Act such that omitting VES from Foxfield's sworn statements invalidated its mechanic's lien.

¶ 39 The narrow scope of Foxfield's appeal underscores just how much would remain unresolved even if Foxfield prevailed. Specifically, a reversal on the "services" question would remove only one basis for invalidating the lien. Counts IV, V, and IX of the counterclaim allege other defects that, if established at trial, could independently support the lien's invalidation. See, *e.g.*, *MEP Construction, LLC v. Truco MP, LLC*, 2019 IL App (1st) 180539, ¶ 15 (knowingly filing a lien containing a substantial overcharge is grounds for invalidating the lien). Moreover, enforcing a mechanic's lien requires proof of substantial performance or a valid excuse for nonperformance. *Doornbos Heating & Air Conditioning, Inc. v. James D. Schlenker, M.D., S.C.*, 403 Ill. App. 3d 468, 483 (2010). With the competing breach-of-contract claims stayed pending this appeal, it remains to be seen whether Foxfield can make the requisite showing. A finding that Foxfield failed to substantially perform, without valid excuse, would be sufficient to preclude lien enforcement. Subsequent proceedings could thus invalidate the lien on independent grounds, obviating the need to review the narrow question presented in this appeal.

¶ 40 Beyond the possibility of mootness, immediate review risks successive appeals over Foxfield's mechanic's lien and sworn statements. While the current appeal concerns only a narrow basis for lien invalidity under section 5(a), a later appeal following reversal could challenge the lien amount or contest the lien's validity on other grounds alleged in the counterclaim. See *supra* ¶¶ 22-24. Although the specific legal questions might differ, the successive appeals would concern the same sworn statements. The parties could thus return to this court over the validity of

the same lien, undermining the circuit court's stated goal of conserving judicial resources. See *National Rifle*, 2020 IL App (2d) 191143, ¶¶ 42-45.

¶ 41 Finally, we fail to see how the possibility of broader review comports with the court's premise that immediate appeal of a "fairly narrow question" would conserve judicial resources. The court justified the denial of ASM's cross-request for Rule 304(a) certification by noting the appellate court could affirm on any basis in the record. This justification is difficult to reconcile with the court's judicial-economy rationale. Given that only the lien claim was resolved on summary judgment, the court presumably believed that any alternative bases were entangled with unresolved factual disputes. Indeed, the court itself described the facts underlying the pending breach-of-contract claims as "about as clear as mud." While we may affirm on any ground supported by the record (*People v. Johnson*, 208 Ill. 2d 118, 129 (2003)), we may not resolve disputed questions of fact. See *JP Morgan Mortgage Acquisition Corp. v. Bell*, 2020 IL App (3d) 190128, ¶¶ 46, 51. An immediate appeal would require this court to examine potentially disputed facts still awaiting trial. Far from promoting judicial economy, such review would expend appellate resources with no guaranteed resolution of any fact-intensive questions.

¶ 42 In short, the court's Rule 304(a) certification rested on a flawed assessment of the catchall *Geier* factor and failed to account for considerations in the record that cut decisively against certification. Deference to the circuit court does not require us to accept a rationale that lacks a sound, record-supported basis. See *AT&T*, 2014 IL App (2d) 130577, ¶ 24. We therefore find the court abused its discretion in finding no just reason to delay the appeal of its lien ruling.

¶ 43 III. CONCLUSION

¶ 44 The circuit court abused its discretion in granting Rule 304(a) certification. Accordingly, we vacate the certification and dismiss the appeal for lack of jurisdiction. See *National Rifle*, 2020 IL App (2d) 191143, ¶ 3.

¶ 45 Appeal dismissed.