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LEGAL PROCESS #8

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9 **MJB BIXBY CONSTRUCTION, INC.**

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SACRAMENTO**

12 MJB BIXBY CONSTRUCTION, INC.,

13 Plaintiff,

14 Vs.

15 SONNY LOSOYA, ROBERT RAMIREZ,  
16 YOLANDA DOTSON and DOES 1 to 100,  
17 inclusive,

18 Defendants.

Case No. **99AM02630**

**COMPLAINT TO FORECLOSE  
MECHANIC'S LIEN; BREACH OF  
CONTRACT**

**(Limited Civil Case – Over \$10,000)**

19 Plaintiff, MJB BIXBY CONSTRUCTION, INC., alleges as follows:

20 I.

21 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

22 1. Plaintiff, MJB BIXBY CONSTRUCTION, INC. (hereinafter Plaintiff), is at all  
23 times herein mentioned, a corporation with its principal place of business in Sacramento  
24 County, California.

25 2. Plaintiff is a duly licensed corporation by the State of California and has held the  
26 appropriate licenses to perform the work as described in this Complaint.

27 3. SONNY LOSOYA is an individual and based upon information and belief, is a  
28 resident of Sacramento County, California.

1 4. ROBERT RAMIREZ is an individual and based upon information and belief, is a  
2 resident of Sacramento County, California.

3 5. YOLANDA DOTSON is an individual and based upon information and belief,  
4 resides outside of Sacramento County, California.

5 6. Plaintiff is ignorant of the true names and capacities, whether individual,  
6 corporate or otherwise, of the Defendants, and each of them, sued herein as DOES 1 through  
7 100, inclusive, and therefore sue said Defendants, and each of them, under such fictitious  
8 names. Plaintiff will amend this Complaint to allege the fictitiously-named Defendants' true  
9 names and capacities when such true names and capacities have been ascertained. Plaintiff  
10 is informed and believes, and thereon alleges, that each of the fictitiously-named Defendants  
11 is responsible in some manner for the events and happenings alleged herein, and Plaintiff's  
12 damages as herein alleged were proximately caused by said Defendants' wrongful conduct.  
13 All references in this Complaint to "Defendants" or any of them, shall include said fictitiously-  
14 named Defendants, unless specifically stated to the contrary.

15 7. Plaintiff is informed and believes, and thereon alleges that at all times herein  
16 mentioned, Defendants, and each of them, were the agents, servants, employees, principals  
17 or assignees of the remaining Defendants, and acted within the purpose, course and scope of  
18 such agency, service or employment, and with the permission and consent of each of the  
19 remaining defendants.

20  
21 **II.**

22 **FIRST CAUSE OF ACTION**

23 **(Breach of Contract)**

24 8. Plaintiff re-alleges and incorporates herein as though set forth in full, each and  
25 every allegation contained in paragraphs 1 through 7, inclusive, and further alleges.

26 9. On or about September 15, 1998, Plaintiff and each Defendant entered into a  
27 written agreement in which Plaintiff agreed to perform a proposal and contract for home  
28 improvements. Plaintiff agreed to furnish labor, services, equipment and materials for a work  
of improvement on real property commonly known as 4109 32<sup>nd</sup> Street, Sacramento,

1 California 95825. The contractual amount was for \$16,840.00, which Defendants agreed to  
2 pay Plaintiff. The whole of the real property and entire estate of Defendants in the real  
3 property are required for the convenience use and occupation of the work of improvement.

4 10. Between October of 1998 and December of 1998, at the special insistence and  
5 request of Defendants, and each of them, Plaintiff furnished labor, services, equipment and  
6 materials used and intended to be used in a work of improvement at the property located at  
7 4109 32<sup>nd</sup> Street, Sacramento, California 95825.

8 11. Plaintiff has performed all work, services, labor and other things necessary on  
9 plaintiff's part to be performed under this contract. The contract is attached as Exhibit "1".

10 12. The value of the labor, services, equipment and materials furnished by Plaintiff  
11 was worth at the reasonable and market rate of \$16,840.00, which Defendants, and each of  
12 them, agreed in writing to pay.

13 13. Defendants, and each of them, have breached the written agreement in that  
14 defendants have never paid plaintiff for the work that was performed at the 4109 32<sup>nd</sup> Street,  
15 Sacramento, California 95825 and as such, there is a due, owing and unpaid balance of  
16 \$16,840.00, plus interest at the legal rate.

17 III.

18 **SECOND CAUSE OF ACTION**

19 **(Foreclosure of Mechanic's Lien)**

20 14. Plaintiff re-alleges and incorporate herein as though set forth in full, each and  
21 every allegation contained in paragraphs 1 through 13, inclusive, and further alleges:

22 15. Plaintiff recorded a verified claim of lien on December 10, 1998 at the office of  
23 the county recorder of Sacramento County after Plaintiff completed his contract work and  
24 before the expiration of 90 days after the work of improvement, no notice of completion or  
25 cessation having been recorded.

26 16. Further, Plaintiff filed a subsequent lien on March 11, 1999, renewing the notice  
27 of claim of lien, due to the fact that no notice of completion or cessation having been  
28 recorded.

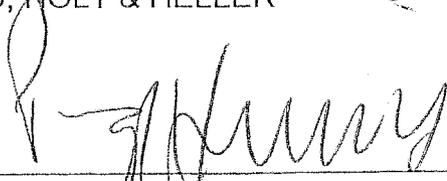
1 17. A copy of the original claim of lien is attached to this Complaint as Exhibit "2"  
2 and incorporated by reference. At the time that Plaintiff recorded the claim of lien, the  
3 amount of \$16,840.00 was due, owing and unpaid. The cost of verifying and recording the  
4 lien claim was \$10.00, no part of which has been repaid and the cost of recording Exhibit "3",  
5 the second lien claim of March 9, 1998, was also \$10.00.

6 WHEREFORE, Plaintiff demands judgment as follows:

- 7 1. That the sum of \$16,840.00, together with interest provided by law until paid;
- 8 2. That, further, for the sum of \$20 for verifying and recording the lien and  
9 Plaintiff's cost incurred in bringing this action be adjudged and decreed to be a lien on the real  
10 property described in this Complaint;
- 11 3. That the demands of Plaintiff and all persons having claims of lien, or any  
12 interest in the real property described in this Complaint, be ascertained and adjudged, and  
13 that the interest of Defendants and any persons claiming under them, be sold under the  
14 decree of this court to satisfy the amount of the lien ascertained and adjudged in favor of  
15 Plaintiff;
- 16 4. For reasonable attorneys' fees;
- 17 5. For the costs of suit herein incurred; and
- 18 6. For such other and further relief as the court deems just and proper.

19  
20 DATED: April 1, 1999

HACKARD, HOLT & HELLER

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22  
23 By: 

24 PAIGE M. HIBBERT  
25 Attorney for Plaintiff  
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