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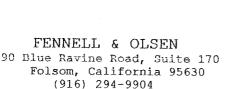
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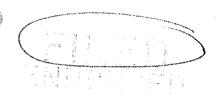
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LEGAL PROCESS #6

Attorneys for: Plaintiff

336279 CLK ERNESTING SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO 8/ 8/03 13:12:59 R7:

PACIFIC COAST BUILDING PRODUCTS, INC., a California corporation, doing business as PACIFIC SUPPLY,

Case No.

03AM06890

Plaintiff.

Limited Civil Case

VS.

COMPLAINT FOR MONEY, OPEN BOOK ACCOUNT, PERSONAL GUARANTY, ACCOUNT STATED. AND REASONABLE VALUE

MJB/BIXBY CONSTRUCTION, INC., a California corporation; MARK JONATHAN BIXBY, and DOES ONE through TEN, inclusive,

Prayer does not exceed \$6,380.65

Defendants.



Plaintiff alleges:

PRELIMINARY ALLEGATIONS

Defendants, DOES ONE through TEN inclusive, are the fictitious names 1. of those defendants whose true names and capacities are unknown to plaintiff, and when ascertained, plaintiff will amend this complaint in accordance with California Code of Civil Procedure Section 474. Whenever any defendant is the subject of any charging allegations, said DOES are also responsible in some manner, and are likewise the subject of charging allegations.

- 2. Plaintiff PACIFIC COAST BUILDING PRODUCTS, INC. is a corporation duly organized under the laws of the State of California, doing business here under the fictitious name of PACIFIC SUPPLY, having fulfilled the requirements of Business & Professions Code Sections 17900 et seq.
- 3. Plaintiff is informed that defendant MJB/BIXBY CONSTRUCTION, INC. (hereinafter "MJB/BIXBY") is a corporation duly organized under the laws of the State of California, and authorized to do business in the State of California.
- 4. Plaintiff alleges that defendant MARK JONATHAN BIXBY is an individual, and is an officer and/or shareholder or has some other financial interest in MJB/BIXBY.
- 5. The obligation was entered into in the County of Sacramento, within the judicial district and jurisdiction of the above-entitled court. The defendants agreed to pay the same in said county and state. This action is not subject to the provisions of Civil Code Sections 1812.10 or 2984.4.

FIRST CAUSE OF ACTION

(Complaint on Open Book Account and Personal Guarantee Against Defendants MJB/BIXBY and MARK JONATHAN BIXBY)

- 1. Plaintiff incorporates herein by reference all of the allegations contained in the Preliminary Allegations hereinabove set forth.
- 2. On or about December 5, 2000, for valuable consideration, defendant MARK JONATHAN BIXBY, in writing, guaranteed to plaintiff the payment of all present and existing, and all future, indebtedness of defendant, MJB/BIXBY, to plaintiff. Said written guarantee has never been revoked and is in full force and effect.
- 3. Plaintiff, in reliance upon the written guarantee of said defendant, forbeared from demanding payment from defendant, MJB/BIXBY, to plaintiff at the time of the giving of said written guarantee, and in further reliance on said written guarantee, granted further financial accommodation to defendant, MJB/BIXBY.

- 4. Between January 20, 2003 and April 9, 2003, defendants, and each of them, became indebted to plaintiff on an open book account in the sum of \$7,349.53 for building materials and related supplies furnished to defendant MJB/BIXBY, at its request, and being so indebted, promised to pay said sum on request.
- 5. Defendants agreed in writing to pay service charges of eighteen percent per annum on all delinquent balances, and said service charges have accrued from May 1, 2003 through August 6, 2003 in the sum of \$341.27. Defendants further agreed in writing that if it became necessary to enforce payment of the balance due, they will pay all reasonable attorney's fees and court costs, and plaintiff is entitled to reasonable attorney's fees in the sum of \$1,257.10, as determined by the court.
- 6. Despite plaintiff's demand, the said sum of \$7,349.53 remains unpaid, except the sum of \$968.88, and there is now due from defendants to plaintiff the principal sum of \$6,380.65 together with \$341.27 service charges from May 1, 2003 through August 6, 2003, and additional service charges at the rate of eighteen percent per annum from August 6, 2003, until paid.

SECOND CAUSE OF ACTION

(Complaint on Account Stated against Defendants MJB/BIXBY and MARK JONATHAN BIXBY)

- 1. Plaintiff incorporates herein by reference the Preliminary Allegations hereinabove set forth, as well as paragraphs 2, 3, 5, and 6 of the First Cause of Action hereinabove set forth, the same as though set out at length herein.
- 2. On or about May 1, 2003, defendants were indebted to plaintiff in the sum of \$7,349.53 on an account stated for building materials and related supplies furnished and supplied by plaintiff to defendants at their defendants' request, and being so indebted, the defendants promised to pay to plaintiff said sum on request.

THIRD CAUSE OF ACTION

(Complaint for Reasonable Value Against Defendants MJB/BIXBY and MARK JONATHAN BIXBY)

- 1. Plaintiff incorporates herein by reference the Preliminary Allegations hereinabove set forth, as well as paragraphs 2, 3, 5, and 6 of the First Cause of Action set forth above, the same as though set out at length herein.
- 2. Between January 20, 2003 through April 9, 2003, defendants became indebted to plaintiff in the sum of \$7,349.53 for building materials and related supplies furnished and supplied to defendants at their request, the reasonable value of which is \$7,349.53.

WHEREFORE, plaintiff prays for judgment against the defendants

MJB/BIXBY CONSTRUCTION, INC., a California corporation, MARK JONATHAN

BIXBY, and DOES ONE through TEN, and each of them, as follows:

- 1. Principal in the sum of \$6,380.65 together with service charges in the sum of \$341.27 which have accrued up to August 6, 2003, and further service charges at the rate of eighteen percent per annum;
- 2. For attorney's fees in the sum of \$1,257.10, or in such other reasonable amount as determined by the court, according to proof;
 - 3. For costs of suit incurred herein; and
 - 4. For such other, further or general relief as may be proper in the premises.

Dated: August 6, 2003

FENNELL & OLSEN

By:

JEFFREY GOLSEN Attorneys for Plaintiff