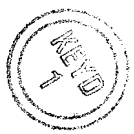


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FILED
ENDORSED
04 NOV 17 PM 3:25
LEGAL PROCESS #1



CIVIL DIVISION
0098 - 000058732
SUPERIOR COURT OF THE STATE OF CALIFORNIA
04AM09339 - Fee PAID: \$165.30
SACRAMENTO - Limited Civil
Complaint/Petition < \$10K

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO

10 DON GLOVER, DBA ACOUSTICAL)
11 ENGINEERS OF CALIFORNIA,)
12)
13 Plaintiff,)
14 v.)
15 MJB/BIXBY CONSTRUCTION, INC.;)
16 DPA ASSOCIATES, an entity of)
17 unknown origin; and DOES 1-50,)
18 inclusive;)
19 Defendants.)

No. 04AM09339

COMPLAINT FOR:

- 1. **BREACH OF CONTRACT;**
- 2. **FORECLOSURE OF**
- 3. **MECHANIC'S LIEN; AND**
- QUANTUM MERIT.**

Limited Jurisdiction - Less than \$10,000

Plaintiff alleges as follows:

FIRST CAUSE OF ACTION

(Breach of Contract Against MJB/BIXBY and DOES 1-30)

21 1. Plaintiff Don Glover is, and at all times mentioned herein was, an individual duly
22 qualified and licensed to do business as a ceiling/insulation contractor (C-2) in the State of
23 California, and does business as Acoustical Engineers of California ("AE").

24 2. AE is informed and believes that Defendant DPA ASSOCIATES, is an entity
25 of unknown origin ("DPA"), as well as Does 20-50, and are doing business in the State of
26 California and the County of Sacramento, and are the owners of the real property that is the
27 subject of the mechanic's lien foreclosure count in this action (the "Property").
28

16530
SUMMONS ISSUED

1 3. AE is informed and believes that Defendant MJB/BIXBY CONSTRUCTION,
2 INC. ("BIXBY") is an entity of unknown origin which does business in Sacramento County as a
3 general building contractor.

4 4. AE is ignorant of the true names and capacities of Defendants sued
5 herein as Does 1 through 50, inclusive, and therefore sues these Defendants by such fictitious
6 names. AE will amend this complaint to allege their true names and capacities when ascertained.
7 AE is informed and believes and thereon alleges that each of the said Defendants are liable to AE
8 and responsible for damages as hereinafter set forth.

9 5. AE is informed and believes, and on that basis alleges, that at all times
10 herein mentioned, Defendants and each of them were the agents, employees, servants and
11 representatives of the remaining Defendants and were, at all times herein mentioned, acting
12 within the purpose and scope of such agency, employment or contract.

13 6. AE is informed and believes, and on that basis alleges, that sometime prior to
14 March, 2004, BIXBY entered into a prime contract with DPA to perform certain construction
15 work for improvements to the Property. Thereafter, BIXBY and AE entered into a written
16 subcontract agreement in March, 2004, a true and correct copy of which is attached hereto as
17 **Exhibit "A"** and incorporated herein by reference (hereafter the "Agreement"), whereby AE
18 agreed to provide acoustical ceiling work, among other items, for BIXBY on the Property.

19 7. Pursuant to the Agreement, AE was entitled to receive for its labor, services, and
20 materials the amount of \$6,986.

21 8. Thereafter, during the course of construction , until approximately June, 2004, AE
22 diligently prosecuted work on the Property at the direction and supervision of said Defendants.
23 Although agents of BIXBY have confirmed that they do not dispute AE fully performed all
24 obligations under the Agreement, and although demand for payment was made by AE for its
25 services, Defendants ignored those demands and refused to pay the amounts due.

26 9. AE has duly completed and performed all things to be done, in connection
27 with the terms of the Agreement. Any terms or conditions of the Agreement not performed by
28 AE are and have been waived and excused by Defendants.

