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SEP 22 2013
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5 Attorneys for Defendants MJB/BIXY CONSTRUCTION, INC.,
6 a California Corporation, and MARK JONATHAN BIXBY

7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SACRAMENTO

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

13 Plaintiff,

14 vs.

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

17 Defendants.

CASE NO. 03AM06890

**ANSWER BY MJB/BIXBY CONSTRUCTION,
INC. AND MARK JONATHAN BIXBY TO
PLAINTIFF'S UNVERIFIED COMPLAINT**

298.00
(2) (10)

19 **COME NOW** Defendants, MJB/BIXBY CONSTRUCTION, INC. and MARK
20 JONATHAN BIXBY (hereinafter referred to as "Answering Defendants") and file their Answer to
21 the unverified Complaint of Plaintiff PACIFIC COAST BUILDING PRODUCTS, INC., a California
22 corporation, doing business as PACIFIC SUPPLY, as hereinafter set forth.

23 Pursuant to the provisions of California Code of Civil Procedure, section 431.30, said
24 Answering Defendants deny generally that Plaintiff was or will be damaged in any sums whatsoever.
25 Furthermore, said Answering Defendants deny generally each and every of the allegations set forth in
26 Plaintiff's Complaint.

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AFFIRMATIVE DEFENSES

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2 1. As a first, separate, distinct and affirmative defense, these Answering Defendants
3 allege that Plaintiff's Complaint, and each cause of action alleged therein, fails to state facts
4 sufficient to constitute a cause of action.

5 2. As a second, separate, distinct and affirmative defense, these Answering Defendants
6 allege that they at no time breached any contract with Plaintiff, but that if such a breach did occur,
7 Plaintiff, by its own conduct, waived any such breach and waived any alleged damages resulting
8 from such breach.

9 3. As a third, separate, distinct and affirmative defense, these Answering Defendants
10 allege that Plaintiff failed to mitigate its damages, which damages, if any, should therefore be
11 proportionately reduced.

12 4. As a fourth, separate, distinct and affirmative defense, these Answering Defendants
13 allege that if any damages have been sustained by Plaintiff as a result of the acts complained of
14 herein, those damages were proximately caused by acts and omissions of its agents over which these
15 Answering Defendants have no control or responsibility.

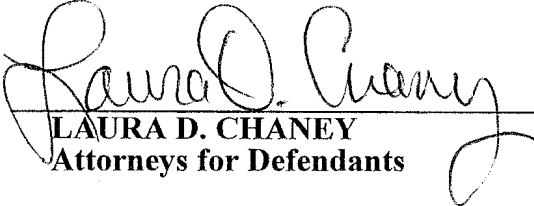
16 WHEREFORE, these Answering Defendants pray for judgment as follows:

- 17 1. That Plaintiff take nothing by way of its complaint;
18 2. That these Answering Defendants be awarded reasonable attorney's fees in an amount
19 according to proof; and,
20 3. For such other and further relief as the court may deem just and proper.

21
22 DATED: September 22, 2003.

MOYER, PARSHALL & TWEEDY, LLP

23
24 By:



LAURA D. CHANEY
Attorneys for Defendants