

March 5, 2001

Dear Mr. Doty

I received your request for a small claims court date, as an attorney I am sure you are aware the contract in Question mandates arbitration. Please immediately provide what proof you have that would change the contract terms.

Also, you are aware MJB\Bixby construction is an active corporation and was active at the time of this alleged event. For you to sue Mark Bixby is again incorrect.

There are an enormous amount of documents and evidence that I will be requesting from you and yours via discovery/subpoena but I do not intend to give up my arbitration rights.

As a final note, I have a very close relative who is terminally ill and will likely be passing on about that time of the court date. In my opinion, you are wrong in proceeding with this matter. This malicious lawsuit is causing financial and emotional hardship, not to mention valuable time and energy. I will be counter complaining as well as bringing this to the attention of all proper agencies including the California State Bar. Please respond in 24 hours via fax 916-448-9779 regarding the Arbitration clause.

Mark Bixby



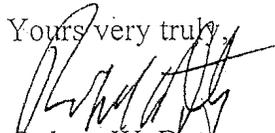
threaten discovery, since we tried to provide everything to you months ago, but you refused it. In a rational context, free of extraneous threats, we would once again do so.

If you would take the time to consider the matter, I believe that you might even agree with us. Unfortunately, to date, all that we have encountered is extreme belligerence and a total unwillingness to talk.

Accordingly, it is our intention to pursue our rights to the fullest extent possible. I am sorry to hear about your ill relative, and if, when the date arrives, there is difficulty on your part in attending the hearing, then when you present the Court with the relevant information, in appropriate circumstances, we will willingly agree to rescheduling the hearing until a later date.

In the end, however, we will continue to pursue the claims.

Yours very truly

  
Robert W. Doty



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**COMPLETE THIS SECTION**

1, 2, and 3. Also complete  
Registered Delivery is desired.  
and address on the reverse

so that we can return the card to you.

- Attach this card to the back of the mailpiece,  
or on the front if space permits.

1. Article Addressed to:

Mr. Mark Bixby  
MSB Bixby Construction Company  
1513 18th Street  
Sacramento, CA 95814

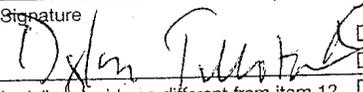
2. Article Number (Copy from service label)

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) | B. Date of Delivery

MAR 08 2001

C. Signature

X 

Agent

Addressee

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

Dear Mr. Doty,

Please provide me with your signed copy of the contract in question that states in your words, arbitration is an option.

Please show me documentation that shows you have made any complaints to any agencies to include MJB Bixby Construction. Specifically after your separate and unrelated section of roof was completed. The roof job completed by Peterson roofing eliminating the alleged water problem leaking into your master bedroom that you swore was because of faulty workmanship by Mr. Steve Flynn of Canam roofing.

Please recall MJB Bixby Construction had sent out at least 3 different persons, to search for any roof defects, using many techniques including drenching the new roof with water from the hose and found no leaks except for the leaking in the valley of the old roof. The old roof which, was never touched by MJB and once Peterson roofing replaced your old roof we did not here from you until a few months ago. That means from on or about 10-01-97 till on or about 12-01-2000 there was no complaint. On or about 11-15-97 we had the worst rain in over 100 years, yet no complaint.

Please show me how Mark Bixby an employee of a corporation could possibly have liability in this matter.

As far as your remarks about my behavior, not only do I of course dispute your completely ridiculous and bias statement. I am further perplexed how you could somehow mention previous court matters and attempt to relate them to your unfounded and wrongful claim.

The fact that less than one percent of any group acts out in a manner to solely benefit themselves hardly means they agree with you. However even if they agree with your ways dose not mean they are right.

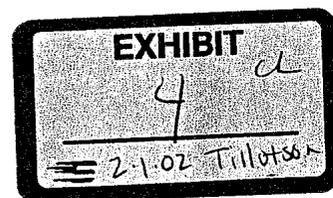
No documents were ever refused by me. Please send immediately any such letters to my office via fax.

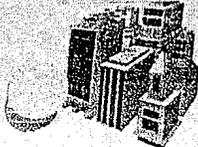
I made it very clear on or about 11-01-96 that if there was a problem with Mr. Steve Flynn's roofing I would help you any way I could. I even spent my own money to have your roof tested as mentioned above. Now years later you just want Mjb to give you monies when no roofing problem was ever found.

Mjb Bixby construction has performed many jobs for you without one compliant. In my opinion you are only trying to blame these alleged roof problems on Mjb Bixby construction for harassment and in hopes that we will tire and just give you something to go away. My belief is also that if you would behave this way on this matter you should not be practicing law. In my opinion it is an attorney like you that give lawyers a bad name.

Please fax requested information within 24 hours from receipt of this fax  
Also note your fax ended with [there was no need to] please send the rest of the letter.

Mark Bixby





# MJB/Bixby Construction, Inc.

1513 18<sup>th</sup> St. \* Sacramento, CA 95814  
Voice: (916) 448-9797 \* Fax: (916) 448-9779  
E-mail: mjbbixby@msn.com  
California State Contractor's License #571821

May 10, 2001

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO**

Small Claims Division  
301 Bicentennial Circle, Room 300  
Sacramento, CA 95826

Reference Case No. 01SC00462

In the matter before the court with

Doty, Robert W. and Deborah A., - PLANTIFFS

v.

Bixby, Mark J. and MJB/Bixby Construction, Inc., DEFENDANTS

We ask the court accept this memorandum for record, which is in response to the plaintiffs OPPOSITON TO MOTION FOR CONTINUANCE filed on May 9, 2001. A rebut of the plaintiffs stated position is warranted as they have painted a picture that lacks substance and is filled with inaccuracies and accusations which are were meant to position the plaintiffs in a more favorable fashion with the courts as their case has little or no merit. Not having the professional legal training the plaintiff's posses as a practicing attorney in the state of California, procedural I am uncertain, but morale without doubt.

I have responded chronological to the statements made in the filed OPPOSITION TO MOTION FOR CONTINUANCE and these now follow. In response to:

Item #1 - The first motion granted in this case was given to MJB/Bixby Construction, Inc., not Mark J. Bixby

Item #2 - Mr. Doty had agreed verbally on April 15, 2001, that he would not pursue a lawsuit but rather settle the matter outside of the court. On April 19, 2001 those terms and conditions, which had been discussed, were put in writing and sent to Mr. Doty for review and approval. This verbal agreement with a written agreement following did not turn out to be the case. Mr. Doty failed to responded to this mutually agreed upon document with so much as a telephone call informing us he had since change his mind again and the schedule court date will continue.

Item #3 - It has been explained repeatedly to Mr. Doty those personal issues which had arisen during this past year, most significantly the terminal illness and passing of my mother-in-law which limited the time spent I was able to spend at my office however, as I had pointed out to Mr. Doty in the pass, MJB/Bixby Construction, Inc. has an agent for process. Anyone desiring to serve this corporation with such documents as certified mailings could have done so through the agent for process. At no time have I or any of my employees, to the best of my knowledge, ever rejected any type of certified, registered or similar type mailing for any identify. In addition, this holds true with regards to my personal residence as well.

Item #4 - Absolute incorrect. Mr. Doty has known and has had documentation for several years now as has Mrs. Doty that CAN-AM Roofing and Steve Flynn was the contractor who actually put the roof in question on his home. Mr. & Mrs. Doty do not have a valid contract with MJB/Bixby Construction, Inc. or Mark J. Bixby. He is now implying that he does not know Mr. Flynn, did not see him working on his roof and in our opinion is at best, less than the truth. Furthermore, in the same verbal agreement made on April 15, 2001, Mr. Doty agreed that the case should be extended since locating Mr. Flynn at this point remained uncertain and provided he were to be located if would afford all parties involved the opportunity to reach a settlement, thus avoiding the court process.

**EXHIBIT**

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## MJB/Bixby Construction, Inc.

1513 18<sup>th</sup> St. \* Sacramento, CA 95814

Voice: (916) 448-9797 \* Fax: (916) 448-9779

E-mail: mjbibixby@msn.com

California State Contractor's License #571821

Item #5 – Mr. Doty is not aware of the numerous complications which have arisen in this particular matter and certainly has no right to state that there are no other matters to be looked into concerning this. In fact there are. MJB/Bixby Construction, Inc. has tracked down CAN-AM Roofing & Steve Flynn's bonding company. They had changed their phone number, relocated and attempted to change their name and offered to provide this information to Mr. Doty prior to his filing his motion.

Item #6 – Mr. Doty had been asked once again at our verbal agreement we had made, at the gym which was put in writing by MJB/Bixby Construction, Inc. and then immediately faxed to Mr. Doty that he did agree to extend this matter. To now state that he did not is simply untrue.

Item #7 – Mr. Tillotson did not make the motion on behalf of Mark J. Bixby, but rather for him. Furthermore, Mr. Tillotson did not indicate he was representing Mark J. Bixby. If this had been the case I would certainly have hoped the court would not even have allowed the motion to be filed. Due to time restraints both with the filing date for continuance as well as prior commitments, Mark J. Bixby could not personally appear to make this request. In lieu of my personal appearance, Mr. Tillotson presented to the clerk of the court at the time the request was made, a photo copy of Mark J. Bixby's California driver's license as well as a brief not requesting the motion be filed by Mr. Tillotson for Mark J. Bixby not as his representative. This handwritten note along with the photocopy of my driver's license was given to the clerk of the court and is in their possession.

Item #9 – Mark J. Bixby and MJB/Bixby Construction, Inc. consider this to be an untrue statement.

Item #10 – All the issues that Mr. Doty has brought before the court with his Opposition to motion for continuance are muted ones. The reason this response has been prepared is merely because Mr. Bixby and MJB/Bixby Construction, Inc. feel that Mr. Doty's biased opinion, which has been put into this matter by Mr. Doty, and we find this difficult to understand being that Mr. Doty does have a law degree. We are not prepared to go to court on this matter because of the verbal agreement made more than three weeks ago by Mr. Doty and Mr. Bixby and now the final hour is approaching and Mr. Doty again is found changing his position on this matter knowing that time restraints would prevent us from acting accordingly. We believe this to be nothing more than a breach of a verbal contract, honestly and fairly agreed to.

We will ask the court for a motion to continue the matter and in advance of the court's anticipated courtesies, we thank you.

Sincerely,

Mark J. Bixby

This letter was dictated by, but not read by Mark J. Bixby

May 17, 2001

Robert Doty  
3510 Buena Vista Drive  
Sacramento, CA 95864

Dear Mr. & Mrs. Doty,

Please be advised that Mark J. Bixby and MJB Bixby Construction are immediately filing suits on both of you. Mr. Doty, we have in our opinion proof that you have falsified this lawsuit by not submitting all of the roofer reports clearly stating newer (approximately 1 year) repairs had been done by the AC area. Secondly, the report clearly stated that there is not opinion of any of the alleged roof problems have caused that water damage to you home or been witnessed by this expert. To have ever leaked. The only roof that MJB Bixby Construction did for you was back in 1991 and was done correctly and to the codes. If there is a problem with that roof approximately 10 years later that you and yours obviously had work done to it by someone other than MJB Bixby Construction or it's personnel.

Mark J Bixby/MJB Bixby Construction has not ever, Nor currently have anything to do with any other portion of your roof. We have merely tried to help you mediate your alleged roofing problems with the entity you hired. You admit in your letter in approximately 1997 who did your roof on the AC/gable section and state that you have contacted all contractors at that time and you have clearly run out of time to sue for multiple reasons. The remainder of your roof was completed by another roofing company that you stated was Peterson Roofing Company and they tied into the first roof completed. By Can Am Roofing voiding any warrantee, if one existed. I suggest that Peterson Roofing be the entity that you sue. Mark J. Bixby and MJB Bixby Construction have been seriously damaged by you for you falsified statements and improper action. Excluding the job in 1991 on the closet addition, we have no other roofing contracts with you at all. You are to immediately withdraw you suite on both MJB Bixby Construction and Mark J. Bixby. MJB Bixby Construction and Mark J. Bixby are filing a complaint against you to the California State Bar Association as I already warned and also filing a police report that in our opinion, you've committed perjury.

This is also a notice that a copy of the video tape that you requested is enclosed. If you do not drop this ridiculous suit, I will also subpoena the right to have a licensed home inspector to go over your entire home to view all repair areas, roof repairs and roof work. I will add their cost to the monies that I will be suing you for. I am also suing for a falsely stated complaint to the law official on alleged harassment that Mr. Doty claimed Mark J. Bixby attempted. Mr. Doty, you are clearly harassing me and mine and you have no case. MJB Bixby Construction and Mark J. Bixby have nothing to do with your alleged problems. You were clearly shown the only roof that MJB Bixby Construction and Mark J. Bixby had performed in contract was in 1991 and was completed. You have stated that Bud Plumbing and your general contractor witnessed the problems and blamed them on the roof area that Can Am Roofing performed. We have documents proving that they did not make that statement. You submitted a bill for approximately \$350.00 to APM Mechanical to remove your AC unit that should be paid you claim by the roofer. However, we are under the opinion and will subpoena APM Mechanical who worked on the AC unit. The AC unit had severe HVAC problems, unrelated to any roof issues, that would cause the need to have the unit removed from your roof anyway to be repaired. Meaning the roof repairs that you are claiming were necessary for your HVAC repairs.

Also note that no roofing company would tie a repair into a roof that they believed was flawed because that now becomes their problem. The roof that supports your HVAC unit, that was not performed by MJB Bixby or any of its personnel, has been tied into by Peterson Roofing and/or Alex Roofing, and has voided any warrantee you may have had with the roofing company you may have had. You clearly proved to me by lying in court in front of the judge that you are not honorable and I will not tolerate this any longer.

Sincerely,



Mark J. Bixby  
President/CEO