

05-150-CD  
Freshtec vs. Freshline Machines

INTERNATIONAL, LLC vs. FRESHLINE MACHINES PTY LTD, AUSTRALIA

Freshtec Food Proc. v. Freshline Machines  
2005-150-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL, LLC,  
a Pennsylvania limited liability company,  
Plaintiff,

v.

FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

No. 05-150-00

Type of Pleading: Complaint

Filed on behalf of: FreshTec Food  
Processing Equipment International, LLC,  
Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801  
(814) 375-0300

**FILED**

0 1:55 PM 2/1/05 atty.

FEB 01 2005

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING	:	
EQUIPMENT INTERNATIONAL, LLC,	:	
a Pennsylvania limited liability company,	:	
Plaintiff,	:	
	:	
v.	:	No.
	:	
FRESHLINE MACHINES PTY LTD,	:	
AUSTRALIA,	:	
Defendant.	:	

**NOTICE**

TO: Defendant

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Amended Complaint is served, by entering a written appearance personally or by Attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Office of the Court Administrator  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830  
(814) 765-2641 (ext. 5982)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING	:	
EQUIPMENT INTERNATIONAL, LLC,	:	
a Pennsylvania limited liability company,	:	
Plaintiff,	:	
	:	
v.	:	No.
	:	
FRESHLINE MACHINES PTY LTD,	:	
AUSTRALIA,	:	
Defendant.	:	

**COMPLAINT**

AND NOW, comes FreshTec Food Processing Equipment International, LLC, (hereinafter "FreshTec") and by and through its attorneys, Hopkins Heltzel LLP and says as follows.

1. Plaintiff, FreshTec, is a Limited Liability Company organized under the laws of the Commonwealth of Pennsylvania that maintains a principal business address at P.O. Box 585, Clearfield County, DuBois, Pennsylvania 15801.

2. Defendant, Freshline Machines PTY LTD Australia is believed to be an Australia entity who maintains a principal business address at 25 Foundry Road, Seven Hills, North South Wales, Sydney Australia.

3. Venue is proper in Clearfield County as Defendant has done business in Clearfield County by engaging Plaintiff to undertake sales representation for the Defendant. Further, Defendant has entered into a Sales Representation Agreement with Plaintiff in Clearfield County and has paid and also failed to pay Plaintiff's commissions due under the Sales Representation Agreement, which sums were to be paid to Plaintiff in Clearfield County.

4. In or about 2002, Plaintiff and Defendant entered into an oral agreement in which Plaintiff and Defendant agreed Plaintiff would be Defendant's sales agent in the United States.

5. In accordance with the terms of the agreement, Defendant is obligated to pay commissions to Plaintiff on all orders accepted and billed on the basis of between 8 and 10 percent of the invoice price depending on the machine sold.

6. For several years, Plaintiff and Defendant followed this course of conduct in that Plaintiff would introduce Defendant to perspective purchasers and Defendant would make sales to the third parties paying Plaintiff a commission.

7. Defendant has never provided Plaintiff with notice, written or otherwise, of its intent to terminate the agreement between Plaintiff and Defendant.

8. Relying upon the oral agreement, Plaintiff introduced Defendant to at least two (2) companies, Club Chef of Cincinnati, Ohio and Freshway of Sydney, Ohio who have, to the best knowledge, information and belief of Plaintiff, either purchased machinery from Defendant or are about to do so and possibly other companies who may be discovered in the discovery process.

9. As a result of said sales, Plaintiff is entitled to a commission.

10. Plaintiff has made demand upon Defendant for the payment of the commissions, however, Defendant has failed and refused to make payments to Plaintiff.

11. To the extent Defendant has not made sales to Freshway of Sydney, Ohio, then such sales are imminent and Plaintiff is entitled to a commission of between 8 and 10 percent of the sales price.

12. Defendant has stated that it does not intend to pay Plaintiff the commissions due on the sales identified herein.

### **COUNT I – BREACH OF CONTRACT**

13. Plaintiff incorporates herein by reference the allegations set forth in paragraphs 1 through 12 as though the same were fully set forth herein at length.

14. The actions of Defendant as aforesaid are willful and constitute a material breach of the agreement entered into between Plaintiff and Defendant.

15. As a direct and proximate result of the actions of Defendant as aforesaid, Plaintiff has suffered and continues to suffer serious injury, including but not limited to loss of the monies owed to it by Defendant, loss of the use of said monies, lost interest on the money and other such damages as may be discovered.

WHEREFORE, Plaintiff, FreshTec Food Processing Equipment International, LLC, demands that this Court enter judgment in its favor and against Defendant, Freshline Machines PTY LTD Australia, for compensatory damages in excess of \$25,000.00, costs of suit and such other relief as the Court deems fair, just and equitable.

### **COUNT II – QUANTUM MERUIT**

16. Plaintiff incorporates herein by reference the allegations set forth in paragraphs 1 through 15 as though the same were fully set forth herein at length.

17. Between 2002 and the present time, Plaintiff performed certain work and services for Defendant, consisting of soliciting and obtaining orders for products and goods manufactured by Defendant, at the specific request of Defendant, for which work, labor and services Defendant promised to pay Plaintiff.

18. The work, labor and services performed by Plaintiff on Defendant's behalf have a reasonable value believed to be in excess of \$25,000.00.

19. Defendant has failed to pay Plaintiff for the work, labor and services performed by Plaintiff.

20. As a result of Defendant's refusal to make full payment to Plaintiff of the reasonable value of Plaintiff's work, labor and services, Plaintiff has suffered serious and continuing injury, including but not limited to loss of the value of time and effort expended on Defendant's behalf.

21. As a result of Defendant's refusal to make full payment to Plaintiff of the reasonable value of Plaintiff's work, labor and services, Defendant has been unjustly enriched at the expense of Plaintiff.

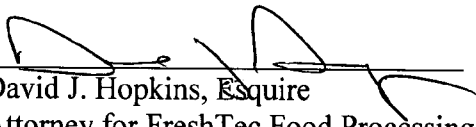
WHEREFORE, Plaintiff, FreshTec Food Processing Equipment International, LLC, demands that this Court enter judgment in its favor and against Defendant, Freshline Machines PTY LTD Australia, for compensatory damages in excess of \$25,000.00, costs of suit and such other relief as the Court deems fair, just and equitable.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by twelve jurors on all issues presented herein.

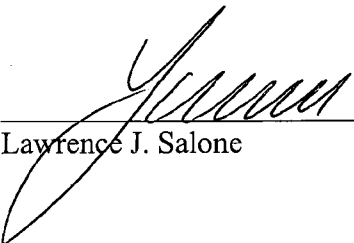
Respectfully submitted,

Hopkins Heltzel LLP

By:   
David J. Hopkins, Esquire  
Attorney for FreshTec Food Processing  
Equipment, International, LLC

### VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.



---

Lawrence J. Salone



William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING \*  
EQUIPMENT INTERNATIONAL, \*  
LLC, a Pennsylvania limited \*  
liability company, \*  
Plaintiff, \*

vs. \*


No. 05 - 150 - CD

FRESHLINE MACHINES PTY LTD, \*  
AUSTRALIA, \*  
Defendant. \*

**NOTICE TO PLEAD**

TO THE PLAINTIFF:

You are hereby notified to file a written response to  
the enclosed New Matter and Counterclaim within twenty (20) days  
from service hereof or a judgment may be entered against you.



James A. Naddeo, Esquire  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING \*  
EQUIPMENT INTERNATIONAL, \*  
LLC, a Pennsylvania limited \*  
liability company, \*  
Plaintiff, \*

vs.

No. 05 - 150 - CD

FRESHLINE MACHINES PTY LTD, \*  
AUSTRALIA, \*  
Defendant. \*

ANSWER TO COMPLAINT,  
NEW MATTER and COUNTERCLAIM

NOW COMES Defendant by and through its attorney, James  
A. Naddeo, Esquire, and sets forth the following:

1. Denied. After reasonable investigation Defendant is  
without knowledge or information sufficient to form a belief as to  
the truth of said averment.

2. Denied. On the contrary, it is alleged that  
Defendant's address is 25 Foundry Road, Seven Hills, New South  
Wales, Sydney Australia.

3. States a conclusion of law to which no answer is  
required. To the extent that an answer may be required, it is  
specifically denied that Plaintiff acted as Defendant's sales  
representative in Clearfield County, Pennsylvania, or any other  
location in the United States of America. It is further denied  
that Defendant failed to pay commissions due to Plaintiff for

reasons more particularly set forth in Defendant's New Matter which is incorporated herein by reference.

4. Denied. On the contrary it is alleged that the parties never entered into an oral agreement for Plaintiff to act as Defendant's sales agent. In further answer thereto Defendant incorporates its New Matter hereinafter set forth by reference.

5. Denied. In further answer thereto Defendant incorporates its answer to Paragraph 4 of Plaintiff's Complaint by reference.

6. Denied. On the contrary it is alleged that the parties did not establish a course of conduct as alleged in Paragraph 6 of Plaintiff's Complaint. In further answer thereto Defendant incorporates its New Matter hereinafter set forth by reference.

7. Admitted as stated but in further answer thereto, Defendant denies that there was any agency agreement between the parties. In further answer thereto Defendant incorporates its New Matter hereinafter set forth by reference.

8. Denied in so far as said allegation implies that there was an oral agency agreement between the parties. In further answer thereto it is denied that Plaintiff introduced Defendant to Club Chef of Cincinnati, Ohio, and Freshway of Sydney, Ohio, or any other company.

9. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied.

10. Admitted. In further answer thereto Defendant alleges that no commissions were paid to Plaintiff for the reason that none were due.

11. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied.

12. Admitted. In further answer thereto Defendant alleges that it does not intend to pay Plaintiff commissions for the reason that none are due.

#### COUNT I - BREACH OF CONTRACT

13. Defendant incorporates its answers to Paragraph 1 through 12 of Plaintiff's Complaint by reference and makes them a part hereof.

14. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied.

15. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied.

WHEREFORE, Defendant respectfully requests that Plaintiff's Complaint be dismissed.

COUNT II - QUANTUM MERUIT

16. Defendant incorporates its answers to Paragraph 1 through 15 of Plaintiff's Complaint by reference and makes them a part hereof.

17. Denied. On the contrary it is alleged that Plaintiff never performed work or services for Defendant nor did Defendant promise to pay Plaintiff for services. In further answer thereto Defendant incorporates its New Matter hereinafter set forth by reference.

18. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied in that after reasonable investigation Defendant is without knowledge or information sufficient to form a belief as to the truth of said averment.

19. Denied in so far as said allegation implies that Defendant is obligated to pay Plaintiff for work, labor or services performed by Plaintiff. In further answer thereto Defendant incorporates its New Matter hereinafter set forth by reference.

20. Denied in so far as said allegation implies that Defendant is liable to Plaintiff for work, labor or services. It

is further denied that Plaintiff has suffered any serious or continuing injury. In further answer thereto Defendant incorporates its New Matter hereinafter set forth by reference.

21. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied.

NEW MATTER

22. That Plaintiff, Freshtec Food Processing Equipment International, LLC (hereinafter "Freshtec"), entered into an oral agreement with Defendant, Freshline Machines PTY LTD, Australia (hereinafter "Freshline"), to sell certain food processing equipment manufactured by Freshline.

23. That incident to said agreement Freshtec was to purchase and stock parts necessary to provide service support to Freshtec's customers.

24. That Freshtec periodically requested quotes for equipment from Freshline, which quotes were addressed to Freshtec's customer.

25. That Freshline in turn invoiced and sold the equipment to Freshtec at a discount of 8-10% below the retail price of said equipment.

26. That in all instances Freshtec provided Freshline with a Purchase Order for the equipment required by Freshtec.

27. That the relationship between the parties continued until such time as Freshtec failed to pay Freshline for equipment purchased by Freshtec as set forth in Freshline's Counterclaim.

28. That Freshtec received a discount of between 8-10% below the retail price of all equipment purchased from Freshline.

WHEREFORE, Defendant respectfully requests that Plaintiff's Complaint be dismissed.

COUNTERCLAIM

29. Defendant incorporates its Paragraphs 22 through 28 of its New Matter by reference and makes them a part hereof.

30. That Freshtec submitted Purchase Orders to Freshline for equipment identified in Invoice Nos. 10779, 11088, 10962 and 11074 respectively. Copies of Freshtec's Purchase Orders are attached hereto collectively as Exhibit "A".

31. That the total cost of said equipment discounted by 8-10% below retail price was \$10,850.00, \$7,265.80, \$20,831.00 and \$3,000.00 respectively. Copies of Freshline's Invoices are attached hereto collectively as Exhibit "B".

32. That Freshtec has failed and/or refused to pay for the equipment had and delivered to it by Freshline as represented



in the Purchase Orders and Invoices attached hereto collectively as Exhibits "A" and "B".

33. That Freshline has demanded payment for the equipment purchased by Freshtec as represented by the Purchase Orders and Invoices attached hereto collectively as Exhibits "A" and "B", but Freshtec has failed to pay for said equipment, the total value of which is \$41,946.80.

34. That in addition to the equipment identified in the Purchase Orders and Invoices attached hereto collectively as Exhibits "A" and "B", Freshtec purchased equipment from Freshline for one of Freshtec's customers identified as the Curren project.

35. That Freshline delivered to Freshtec the equipment purchased by Freshtec which Freshtec in turn sold to Curren.

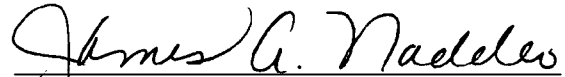
36. That in accordance with the parties' agreement, Freshline invoiced Freshtec for the equipment it sold to Curren at 8-10% below retail price.

37. That Freshtec paid Freshline for the Curren project less the sum of \$15,000.00.

38. That Freshline has made demand upon Freshtec to pay the balance owed to Freshline from the Curren project in the amount of \$15,000.00, but Freshtec has failed and/or refused to pay said balance.

WHEREFORE, Defendant demands judgment against Plaintiff  
in the amount of \$56,946.80 with interest thereon as allowable by  
law.

Respectfully submitted,



James A. Naddeo, Esquire  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING \*  
EQUIPMENT INTERNATIONAL, \*  
LLC, a Pennsylvania limited \*  
liability company, \*  
Plaintiff, \*

vs.

No. 05 - 150 - CD

FRESHLINE MACHINES PTY LTD, \*  
AUSTRALIA, \*  
Defendant. \*

**CERTIFICATE OF SERVICE**

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copy of Answer, New Matter and Counterclaim filed in the above-captioned action was served on the following person and in the following manner on the 8th day of April, 2005:

**First-Class Mail, Postage Prepaid**

David J. Hopkins, Esquire  
HOPKINS HELTZEL, LLP  
900 Beaver Drive  
DuBois, PA 15801



James A. Naddeo, Esquire  
Attorney for Defendant

JAMES A. NADDEO

ATTORNEY AT LAW

207 EAST MARKET STREET

P.O. BOX 552

CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED

APR 08 2005

William A. Shaw

Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL,  
LLC, a Pennsylvania limited  
liability company,  
Plaintiff,

vs.

FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

No. 05 - 150 - CD

Type of Pleading:

**COUNTERCLAIM EXHIBITS**

Filed on behalf of:  
Defendant

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

207 E. Market Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**

APR 13 2005

01/12/05  
William A. Shaw

Prothonotary/Clerk of Courts

1 cent to Att

**FAXED****FAX TO**

Larry Salon

**FAX FROM**

Stephen Donohue

**DATE**

22 Mar 2004

24/3/04

**TOTAL PAGES**

1

25 Foundry Road, Seven Hills 2147  
New South Wales, Sydney, Australia  
PHONE 61 (0) 2 9674 5577  
FAX 61 (0) 2 9674 5588  
sdonohue@freshlinemachines.com  
A.C.N. 062 291 918

-----  
*Please confirm this has been received*

Hi Larry,

**Del Monte** shipping as follows

If we organise a 40' container delivered (terms DDU) to Jessup – US \$10,100 includes US\$1,950 for packing

If we organise a 40' container delivered (terms DDU) to Plant City – US \$10,850 includes US\$1,950 for packing

If we are to pack the goods in a container provided by Del Monte we will charge US\$1,950 for packing.

Details of dims and weights attached.

Regards,

Stephen Donohue

*James A. Madeline*

EXHIBIT "A"

(3)

**technical**

---

From: LarrySalon@aol.com  
Sent: Tuesday, 6 April 2004 8:35 AM  
To: sdonohue@freshlinemachines.com  
Subject: ship to

I got the go ahead for you guys to ship dryer to Del Monte at Plant City. I will forward you address tomorrow. I sent payment for the dryer today by wire and also the \$35K from Dean...did you get it???

Larry

## FAX COVER SHEET

Backus USA, Inc.  
P. O. Box 585  
DuBois, PA 15801

Phone 814-375-6999  
Fax 814-375-6909

<b>SEND TO</b> Company name	From
Flashline Machines	Rachate
Attention	Date
Elise	5/22/04
Office location	Office location
Sydney, Australia	DuBois, PA
Fax number	Phone number
011-61-2-0674-5588	011-61-2-9674-5577

☐ Urgent ☐ Reply ASAP ☐ Please comment ☐ Please review ☒ For your information

Total pages, including cover: 1

## COMMENTS

Elise,

The freight bill for the Del Monte Plant City, FL project, Del Monte is telling me, the transportation department, that the shipment should have only cost them \$4,000.00 USD to ship from your company to the closest port in Florida and have it delivered to their door.

They have been doing this to all of the equipment shipments that we had delivered to them. It is not only your shipment.

I had invoiced them for the full amount but just so you know that they is what they had told me.

As for the final payment on the equipment, we are still awaiting payment.

Thanks,

Rachelle

1/ Freight - contract is between P/L & Backus/Flashline  
22/24 Jan

6 April - Larry confirmed that we were to ship the equipment. We are expecting payment of the full amount - if Del Monte wished to organize the freight themselves then had the opportunity to do so.

2/ Install - added order 02050.4017 for 9800. - we only charged \$7,265.80 - pay is now due



P.O. Box 585 Drexel, PA 15601 Phone 814-375-6669 Fax 814-375-6509

Warranty, please explain in special instructions.

**MAIL TO:** FREIGHTS LLC  
PO Box 505  
Dunwoody, GA, 15501

Purchase order number	
Substitutions allowed?	No
Backorder allowed?	No
Ship via	TBA
(if omitted, please explain in special instructions below)	
FOB destination	
Date ordered	February 05, 2004
Delivery Date Requested By	TBA

ಪರೀಕ್ಷಾ-ಪ್ರಶ್ನೆಗಳು

Please supply the following items					
ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
001	Per attached quote				9,800.00
	Install of Del Monte Plant City	cs.	1	9,800.00	0.00
					0.00
					0.00
					0.00
					0.00
					0.00
	Per attached quotation sheets				0.00
					0.00
					0.00
				<b>SUBTOTAL</b>	<b>9,800.00</b>

**YETI**

### SPECIAL INSTRUCTIONS

⑤

Donohue

From: Stephen Donohue [sdono@zip.com.au]  
Sent: Wednesday, 21 July 2004 3:08 PM  
To: 'LarrySalon@aol.com'  
Subject: RE: Del Monte Jessup

Hi Larry - you can either add to the Plant City or issue a new po.  
we can ship parts within 5 days of getting the po and it will take about 3 days for them to  
get there.  
regards  
Stephen

-----Original Message-----

From: LarrySalon@aol.com [mailto:LarrySalon@aol.com]  
Sent: Wednesday, 21 July 2004 2:34 PM  
To: sdonohue@freshlinemachines.com  
Subject: Del Monte Jessup

Stephen,  
When will all the change parts be shipped to Del Monte Jessup?? You listed them as \$3000.00 or  
so...do you need a separate PO for these or are they a change order on the other dryer for Florida.....  
Please advise...we need to schedule set-up there as well.....  
Larry  
PS I assume the software that you discussed with Marvin as an upgrade will be done with install.....??

21/07/2004

A large black triangular redaction mark covers the top-left portion of the page, obscuring the name of the sender.  
...en Donohue

From: LarrySalon@aol.com  
Sent: Thursday, 22 July 2004 5:24 AM  
To: sdonohue@freshlinemachines.com  
Subject: Re: Del Monte Jessup

Stephen, Consider it added to the Plant City PO and ship direct to Jessup...  
Thanks,  
Larry

22/07/2004

**FreshTec, LLC.**

P.O. Box 585 DuBois, PA 15801 Phone. 814-375-6999 Fax. 814-375-6909

**Company Name:**

## Freshline Machines

**Type of Equipment:**

**XXX New Equipment**

## Spare Parts

Warranty, please explain in special instructions.

P u r c h a s e   O r d e r # 020504016

DATE: 7-24

**BILL TO:** FreshTec, LLC  
PO Box 325  
Duford, PA. 15001

PAYMENT METHOD			
Check		Am. enclosed	
Credit card		Card type	
		Card number	
On account	XXX	Account no.	
GOD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	No
Backorder allowed?	No
Ship via	TBA
(If omitted, please explain in special instructions below)	
FOB destination	
Date ordered	February 05, 2004
Delivery Date Requested By	TBA

**සිසුන් විමසිය යුතු ස්වල්ප ප්‍රශ්න**

[illegible]

### SPECIAL INSTRUCTIONS

**Freshline Machines**

25 Foundry Rd  
Seven Hills, NSW 2147 Australia  
Phone: +61 (0) 2 9674 5577  
Fax: +61 (0) 2 9674 5588  
Email:  
ABN: 66062291918

**Tax Invoice No. 10779**

Page 1 of 1

**Shipping  
address:**

Del Monte Fresh Produce Inc  
3306 Sydney Rd  
Plant City, FL 33567

**Ship Via:****Ship Date:****Tracking No:****Fob desc:****Account  
address:**

**BACKUS USA INC.**  
602 WEST DUBOIS AVE  
SUITE 9  
DUBOIS, PA 15801-390  
USA

Invoice Date	Due Date	Terms
7/04/2004	7/05/2004	NETT 30 DAYS

Salesperson
Stephen Donohue

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	FREIGHT		EA	10,850.00000	10,850.00
		FREIGHT				
		TERMS DDU.				

Our Order 11216

Your Order 020504016

**SALE - PRICE IS IN US\$****PLEASE DEPOSIT PAYMENT TO OUR ACCOUNT AS FOLLOWS:**

**BANK :** Bank of Western Australia Ltd  
**ADDRESS :** 225 George Street, Sydney NSW 2000  
**ACCOUNT NAME:** Freshline Machines Pty Ltd  
**BSB NO. :** 302 100  
**ACCOUNT NO. :** 0116049  
**SWIFT :** BKWAAU6P

Invoice Sub-total	10,850.00
Freight	0.00
GST	0.00
Invoice Total	US\$ 10,850.00

EXHIBIT "B"

**Freshline Machines**

25 Foundry Rd  
Seven Hills, NSW 2147 Australia

Phone: +61 (0) 2 9674 5577

Fax: +61 (0) 2 9674 5588

Email:

ABN: 66062291918

**Tax Invoice No. 11088**

Page 1 of 1

Shipping  
address:

Del Monte Fresh Produce Inc  
3306 Sydney Rd  
Plant City, FL 33567

Ship Via:

Ship Date: 4/08/2004

Tracking No:

Fob desc:

Account  
address:

**BACKUS USA INC.**  
602 WEST DUBOIS AVE  
SUITE 9  
DUBOIS, PA 15801-390  
USA

Invoice Date	Due Date	Terms
4/08/2004	3/09/2004	NETT 30 DAYS

Salesperson  
Stephen Donohue

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	<b>INSTALLATION FOR PLANT CITY</b> 18th July to 24 th July Number of days (Including Travel) 7 @750.00 per day = \$5250.00 Per diem per day 7 @\$150.00 per day = \$1050.00 Rental Car = \$425.00 Airfare (oneway) = \$330.80 Airfare (1/2) to next job = \$210.00 Shipment 11236      Our Order 11236      Your Order 071404196		EA	7,265.80000	7,265.80

**PLEASE DEPOSIT PAYMENT TO OUR ACCOUNT AS FOLLOWS:**

**BANK :** Bank of Western Australia Ltd  
**ADDRESS :** 225 George Street, Sydney NSW 2000  
**ACCOUNT NAME:** Freshline Machines Pty Ltd  
**BSB NO. :** 302 100  
**ACCOUNT NO. :** 0116049  
**SWIFT :** BKWAAU6P

Invoice Sub-total	7,265.80
Freight	0.00
GST	0.00
Invoice Total	US\$ 7,265.80

**Freshline Machines**

25 Foundry Rd  
Seven Hills, NSW 2147 Australia

Phone: +61 (0)2 9674 5577

Fax: +61 (0)2 9674 5588

Email:

ABN: 66062291918

**Tax Invoice No. 11074**

Page 1 of 1

Shipping  
address:

**DEL MONTE FRESH PRODUCED COMPANY**  
7855 RAPPAHANNOCK AVENUE  
JESSUP, MD 20794

Ship Via: UPS

Ship Date: 27/07/2004

Tracking No: AWB # M146 0097 733

FOB desc:

Account  
address:

**BACKUS USA INC.**  
602 WEST DUBOIS AVE  
SUITE 9  
DUBOIS, PA 15801-390  
USA

Invoice Date **28/07/2004** Due Date **27/08/2004** Terms **NETT 30 DAYS**

Salesperson  
Stephen Donohue

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	<b>CROSS BRACES</b>		EA	700.00000	700.00
		CROSS BRACES				
		Shipment 11535 Our Order 11535 Your Order				
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	<b>ADR5871 R&amp;R XFD TENSIONER ASSY</b>		EA	130.00001	130.00
		X-Feed R&R Tensioner Assembly				
		Shipment 11535 Our Order 11535 Your Order				
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	<b>LAGGED ROLLER</b>		EA	2,170.00001	2,170.00
		MOTORISED ROLLER				
		PVC PIMPLE FACE LAGGING 3.5mm thick, SC2000 food grade adhesive.				
		Shipment 11535 Our Order 11535 Your Order				

**PLEASE DEPOSIT PAYMENT TO OUR ACCOUNT AS FOLLOWS:**

**BANK :** Bank of Western Australia Ltd  
**ADDRESS :** 225 George Street, Sydney NSW 2000  
**ACCOUNT NAME:** Freshline Machines Pty Ltd  
**BSB NO. :** 302 100  
**ACCOUNT NO. :** 0116049  
**SWIFT :** BKWAAU6P

Invoice Sub-total	3,000.00
Freight	0.00
GST	0.00
Invoice Total	US\$ 3,000.00

**Freshline Machines**

25 Foundry Rd  
Seven Hills, NSW 2147 Australia  
Phone: +61 (0) 2 9674 5577  
Fax: +61 (0) 2 9674 5588  
Email:  
ABN: 66062291918

**Tax Invoice No. 10862**

Page 1 of 4

Shipping  
address:

Del Monte Fresh Produce Inc  
3306 Sydney Rd  
Plant City, FL 33567

Ship Via: FREIGHTPLUS - SEA FREIGHT

Ship Date: 16/04/2004

Tracking No:

Fob desc:

Account  
address:

**BACKUS USA INC.**  
602 WEST DUBOIS AVE  
SUITE 9  
DUBOIS, PA 15801-390  
USA

Invoice Date	Due Date	Terms	Salesperson			
14/05/2004	13/06/2004	NETT 30 DAYS	Stephen Donohue			
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	FRESHLINE TWO DRUM DRYER		EA	147,450.00000	147,450.00
		FRESHLINE AUTOMATIC DRYER				
		Shipment 11216    Our Order 11216	Your Order 020504016			
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.40	TWO DRUM AUTOMATIC DRYER		EA	147,450.00000	-58,980.00
		FRESHLINE AUTOMATIC DRYER				
		Our Order 11216	Your Order			
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	0.40	TWO DRUM AUTOMATIC DRYER		EA	147,450.00000	58,980.00
		FRESHLINE AUTOMATIC DRYER				
		Our Order 11216	Your Order	REFER REPLACEMENT INVOICE		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.40	TWO DRUM AUTOMATIC DRYER		EA	147,450.00000	-58,980.00
		FRESHLINE AUTOMATIC DRYER				
		Our Order 11216	Your Order 020504016			
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.50	FRESHLINE TWO DRUM DRYER		EA	147,450.00000	-73,725.00
		FRESHLINE AUTOMATIC DRYER				
		Our Order 11216	Your Order 020504016			
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	SOFTWARE DEVELOPMENT TO		EA	6,900.00000	6,900.00
		CONTROL COMPLETE LINE				
		Shipment 11216    Our Order 11216	Your Order 020504016			

Continued over .../



**Freshline Machines**

25 Foundry Rd  
Seven Hills, NSW 2147 Australia

Phone: +61 (0) 2 9674 5577

Fax: +61 (0) 2 9674 5588

Email:

ABN: 66062291918

**Tax Invoice No. 10862**

Page 2 of 4

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.40	SOFTWARE DEVELOPMENT TO CONTROL COMPLETE LINE		EA	6,900.00000	-2,760.00
		Our Order 11216	Your Order			
1.00	0.40	SOFTWARE DEVELOPMENT TO CONTROL COMPLETE LINE		EA	6,900.00000	2,760.00
		Our Order 11216	Your Order			
1.00	-0.40	SOFTWARE DEVELOPMENT TO CONTROL COMPLETE LINE		EA	6,900.00000	-2,760.00
		Our Order 11216	Your Order 020504016			
1.00	-0.50	SOFTWARE DEVELOPMENT TO CONTROL COMPLETE LINE		EA	6,900.00000	-3,450.00
		Our Order 11216	Your Order 020504016			
1.00	1.00	METERING CONVEYER FOR PLANT CITY		EA	17,100.00000	17,100.00
		Shipment 11216	Your Order 020504016			
1.00	-0.40	METERING CONVEYER FOR PLANT CITY		EA	17,100.00000	-6,840.00
		Our Order 11216	Your Order			
1.00	0.40	METERING CONVEYER FOR PLANT CITY		EA	17,100.00000	6,840.00
		Our Order 11216	Your Order			
1.00	-0.40	METERING CONVEYER FOR PLANT CITY		EA	17,100.00000	-6,840.00
		Our Order 11216	Your Order 020504016			
1.00	-0.50	METERING CONVEYER FOR PLANT CITY		EA	17,100.00000	-8,550.00
		Our Order 11216	Your Order 020504016			

Continued over .../

**Freshline Machines**

25 Foundry Rd  
Seven Hills, NSW 2147 Australia

Phone: +61 (0) 2 9674 5577

Fax: +61 (0) 2 9674 5588

Email:

ABN: 66062291918

**Tax Invoice No. 10862**

Page 3 of 4

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	<b>INFEED CONVEYER</b>		EA	20,700.00000	20,700.00
		FOR PLANT CITY				
		Shipment 11216	Our Order 11216	Your Order 020504016		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.40	<b>INFEED CONVEYER</b>		EA	20,700.00000	-8,280.00
		FOR PLANT CITY				
			Our Order 11216	Your Order		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	0.40	<b>INFEED CONVEYER</b>		EA	20,700.00000	8,280.00
		FOR PLANT CITY				
			Our Order 11216	Your Order		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.40	<b>INFEED CONVEYER</b>		EA	20,700.00000	-8,280.00
		FOR PLANT CITY				
			Our Order 11216	Your Order 020504016		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.50	<b>INFEED CONVEYER</b>		EA	20,700.00000	-10,350.00
		FOR PLANT CITY				
			Our Order 11216	Your Order 020504016		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	<b>DRYER DISCHARGE CONVEYER</b>		EA	16,160.00000	16,160.00
		FOR PLANT CITY				
		Shipment 11216	Our Order 11216	Your Order 020504016		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.40	<b>DRYER DISCHARGE CONVEYER</b>		EA	16,160.00000	-6,464.00
		FOR PLANT CITY				
			Our Order 11216	Your Order		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	0.40	<b>DRYER DISCHARGE CONVEYER</b>		EA	16,160.00000	6,464.00
		FOR PLANT CITY				
			Our Order 11216	Your Order		
Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.40	<b>DRYER DISCHARGE CONVEYER</b>		EA	16,160.00000	-6,464.00
		FOR PLANT CITY				
			Our Order 11216	Your Order 020504016		

Continued over .../

**Freshline Machines**

25 Foundry Rd  
Seven Hills, NSW 2147 Australia

Phone: +61 (0) 2 9674 5577

Fax: +61 (0) 2 9674 5588

Email:

ABN: 66062291918

**Tax Invoice No. 10862**

Page 4 of 4

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-0.50	<b>DRYER DISCHARGE CONVEYER</b>		EA	16,160.00000	-8,080.00
		FOR PLANT CITY				

Our Order 11216

Your Order 020504016

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	1.00	<b>FREIGHT</b>		EA	10,850.00000	10,850.00
		FREIGHT				

TERMS DDU.

Shipment 11216

Our Order 11216

Your Order 020504016

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
1.00	-1.00	<b>FREIGHT</b>		EA	10,850.00000	-10,850.00
		FREIGHT				
		TERMS DDU.				

Our Order 11216

Your Order 020504016

10% FINAL INVOICE - DUE WITHIN 30 DAYS

**PLEASE DEPOSIT PAYMENT TO OUR ACCOUNT AS FOLLOWS:**

**BANK :** Bank of Western Australia Ltd  
**ADDRESS :** 225 George Street, Sydney NSW 2000  
**ACCOUNT NAME:** Freshline Machines Pty Ltd  
**BSB NO. :** 302 100  
**ACCOUNT NO. :** 0116049  
**SWIFT :** BKWAAU6P

Invoice Sub-total	20,831.00
Freight	0.00
GST	0.00
Invoice Total	US\$ 20,831.00

12 Apr 05 04:36p  
Oct 01 03 05:53p

Tracey Giles

61 2 9674 5588  
000-000-0000

p.1 p.2

*Curran*

## FAX COVER SHEET

Backus USA, Inc.  
P. O. Box 585  
DuBois, PA 15801

Phone 814-375-6993  
Fax 814-375-6909

<b>SEND TO</b>	
Company name	From
Freshline Machines	Larry Salone
Attention	Date
Stephen	10/1/03
Office location	Office location
Sydney, Australia	DuBois, PA
Fax number	Phone number
011-61-2-9874-5588	011-61-2-9874-5577

☐ Urgent ☐ Reply ASAP ☐ Please comment ☒ Please review ☒ For your information

Total pages, including cover: 5

### COMMENTS

Dear Stephen,

The following is the signed order from Curran on the equipment.

Any questions, please speak with Larry.

*Shirley*

*Can you please check the figures  
against what we have?*

Thank You,

Rachelle

*To*

*Stephen*

*\* Installation & freight  
insurance*

Oct 01 03 05:53p

000-000-0000

p.2

SEP-23-2003 16:50 FROM:

Sep 23 03 02:21p

TD:18143756909  
000-000-0000P.1  
P.2Freshrec Int'l. LLC  
P.O. Box 585  
DuBois, PA 15801  
USAVoice: 814-375-6999  
Fax: 814-375-6909**Invoice**Invoice Number:  
FT379Invoice Date:  
Sep 23, 2003  
Page:  
1Sold To:  
Curran Beansprouts  
169 Spring Street  
Lewiston, ME 04240  
USA

Ship To

Duplicate

Customer ID		Customer PO		Payment Terms	
180		Verbal Dean		Upon Receipt	
Sales Rep		Shipping Method		Ship Date	Due Date
		Best Way		12/15/03	9/23/03
Quantity	Item	Description	Unit Price	Extension	
2.00		8 Person Trimming Line for raw product and waste belt.	24,570.00	49,140.00	✓
2.00		Trimmed product belt.	6,740.00	13,480.00	✓
1.00		Trimmed product belt, additional trim belt.	6,740.00	6,740.00	✓
1.00		Elevator to translicer.	7,191.00	7,191.00	✓
1.00		Elevator to GR line.	7,191.00	7,191.00	✓
2.00		Flume Wash System.	15,850.00	31,700.00	✓
2.00		De-Watering Shaker.	5,830.00	11,660.00	✓
2.00		Wash Chilling Option.	4,790.00	9,580.00	✓
2.00		Wash Filtration Option.	4,350.00	8,700.00	✓
2.00		Dryer Infeed Conveyor.	13,140.00	26,280.00	✓
2.00		One Drum Automatic Dryer.	67,400.00	134,800.00	✓
1.00		Line Control software and integration.	4,870.00	4,870.00	✓
1.00		Line Control software and integration, free of charge.			✓
1.00		Control system for mixing romaine/ iceberg lettuce, free of charge.			✓

Check No:

Subtotal  
Sales Tax  
Total Invoice Amount  
Payment Received  
TOTALContinued  
Continued  
Continued  
Continued  
Continued

12 Apr 05 04:36p Tracey Giles

61 2 9674 5588

P.4

Oct 01 03:05:53p

SEP-29-2003 16:50 FROM:

Sep 23 03 02:22p

000-000-0000

P.3

TO: 18143756909  
000-000-0000

P.2

P.3

FreshTec Int'l. LLC  
P.O. Box 585  
DuBois, PA 15801  
USA

Voice: 814-375-6999  
Fax: 814-375-6909

# Invoice

Invoice Number:  
ET379

Invoice Date:  
Sep 23, 2003

Page:  
2

Duplicate

Sold To:  
Curran Beansprouts  
169 Spring Street  
Lewiston, ME 04240  
USA

Ship To

Customer ID		Customer PO		Payment Terms	
180		Verbal Dean		Upon Receipt	
Sales Rep		Shipping Method		Ship Date	Due Date
		Best Way		12/15/03	9/23/03
Quantity	Item	Description		Unit Price	Extension
1.00		This is for the total amount of monies for the project. ONLY 40% is due to place order of the total amount shown on this invoice.			
2		Please pay to: FreshTec Int'l. LLC P.O. Box 585 DuBois, PA			
3		All amounts in US dollars. Customer shall pay invoice to the payment due date terms on this invoice. Objection to all or any part of this invoice must be submitted to FreshTec Int'l. LLC in writing within 7 ( Seven ) days of the invoice date on this invoice. Absence of written notification of			
4					

Check No:

Subtotal  
Sales Tax  
Total Invoice Amount  
Payment Received  
TOTAL

Continued  
Continued  
Continued  
Continued  
Continued

12 Apr 05 04:37p Tracey Giles

61 2 9674 5588

P.5

Oct 01 03:05:53p

000-000-0000

P.4

SEP-29-2003 16:50 FROM:  
Sep 23 03 02:22p

TO: 18143756909  
000-000-0000

P.3  
P.4

FreshTec Int'l. LLC  
P.O. Box 585  
DuBois, PA 15801  
USA

Voica: 814-375-6909  
Fax: 814-375-6909

# Invoice

Invoice Number:  
FT379

Invoice Date:  
Sep 23, 2003  
Page:  
3

Sold To:  
Curran Beansprouts  
169 Spring Street  
Lewiston, ME 04240  
USA

Ship To

Duplicate

Customer ID		Customer PO		Payment Terms	
180		Verbal Dean		Upon Receipt	
Sales Rep		Shipping Method		Ship Date	Due Date
		Best Way		12/15/03	9/23/03
Quantity	Item	Description		Unit Price	Extension
5		objection constitutes acceptance of invoice and payment terms. A 1 1/2% per mont interest penalty is effectibe on all unpaid balances. In the event client does not pay this invoice in listed and agreed upon terms and collection proceedings become necessary, client hereby agrees to reimburse FreshTec Int'l. LLC for all legal and collection fees and other costs, including accumulated interest as listed above, associated with the collection of the outstanding invoice. A mechanics lien is assumed			
6					
7					

Check No:

Subtotal  
Sales Tax  
Total Invoice Amount  
Payment Received  
TOTAL

Continued  
Continued  
Continued  
Continued  
Continued

12 Apr 05 04:37p

Tracey Giles

61 2 9674 5588

p.6

000-000-0000

p.5

Oct 01 03 05:54p

Oct-23-2003 16:50 FROM:

Sep 23 03 02:22p

TO:18143756909

P.4

000-000-0000

p.5

FreshTec Int'l. LLC  
P.O. Box 585  
DuBois, PA 15801  
USA

Voice: 814-375-6999  
Fax: 814-375-6909

**Invoice**

Invoice Number:  
FT379

Invoice Date:  
Sep 23, 2003

Page:

4

Duplicate

Sold To.  
Curran Beansprouts  
169 Spring Street  
Lewiston, ME 04240  
USA

Ship To

Customer ID

180

Sales Rep

Customer PO

Verbal Dean

Shipping Method

Best Way

Payment Terms

Upon Receipt

Ship Date

12/15/03

Due Date

9/23/03

Quantity

Item

Description

Unit Price

Extension

in  
place for the equipment  
described in this  
invoice, if applicable,  
until the invoice is paid  
in full.

Check No:

Subtotal  
Sales Tax

311,332.00

Total Invoice Amount

311,332.00

Payment Received

0.00

TOTAL

\$311,332.00

OK  
Dean W. [Signature]



JAMES A. NADDEO  
ATTORNEY AT LAW  
207 EAST MARKET STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

**FILED**


**APR 13 2005**

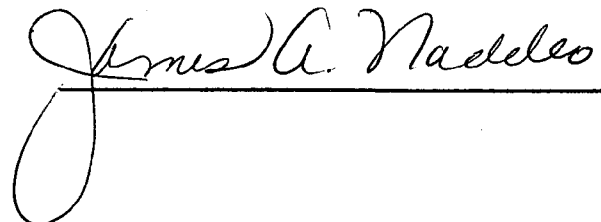
William A. Shaw  
Prothonotary/Clerk of Courts

1 Cent to All

I verify that the statements made in this Answer, New Matter and Counterclaim are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 8<sup>th</sup> April 2005

  
Philip Ewen, Director  
Freshline Machines Pty. Ltd.



JAMES A. NADDEO  
ATTORNEY AT LAW  
207 EAST MARKET STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

**FILED**

**APR 13 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL,  
LLC, a Pennsylvania limited  
liability company,  
Plaintiff,

vs.

FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

No. 05 - 150 - CD

Type of Pleading:

**CERTIFICATE OF SERVICE**

Filed on behalf of:  
Defendant

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

207 E. Market Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**

APR 13 2005

William A. Shaw

Prothonotary/Clerk of Courts

1 copy to Att

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING \*  
EQUIPMENT INTERNATIONAL, \*  
LLC, a Pennsylvania limited \*  
liability company, \*  
Plaintiff, \*

vs. \*

No. 05 - 150 - CD

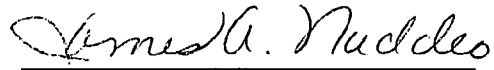
FRESHLINE MACHINES PTY LTD, \*  
AUSTRALIA, \*  
Defendant. \*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copies of Counterclaim Exhibits and Verification filed in the above-captioned action were served on the following person and in the following manner on the 13th day of April, 2005:

First-Class Mail, Postage Prepaid

David J. Hopkins, Esquire  
HOPKINS HELTZEL, LLP  
900 Beaver Drive  
DuBois, PA 15801

  
James A. Naddeo, Esquire  
Attorney for Defendant

JAMES A. NADDEO  
ATTORNEY AT LAW  
207 EAST MARKET STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

**FILED**

**APR 13 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL, LLC,  
a Pennsylvania limited liability company,  
Plaintiff,

v.

FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

No. 05-150 C.D.

Type of Pleading: Answer to  
New Matter and Counterclaim

Filed on behalf of: FreshTec Food  
Processing Equipment International, LLC,  
Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801  
(814) 375-0300

**FILED**

MAY 16 2005 <sup>6P</sup>

M/11:45/

William A. Shaw  
Prothonotary

no e/c



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING :  
EQUIPMENT INTERNATIONAL, LLC, :  
a Pennsylvania limited liability company, :  
Plaintiff, :

v. :

No. 05-150 C.D. :

FRESHLINE MACHINES PTY LTD, :  
AUSTRALIA, :  
Defendant. :

**ANSWER TO NEW MATTER AND COUNTERCLAIM**

AND NOW, comes FreshTec Food Processing Equipment International, LLC, (hereinafter "FreshTec") and by and through its attorneys, Hopkins Heltzel LLP and says as follows in answer to Defendant's Answer, New Matter and Counterclaim:

22. Denied. FreshTec entered into an agreement with Freshline Machines PTY LTD ("Freshline" or "Defendant") wherein Defendant agreed Plaintiff would be Defendant's sales agent in the United States for certain food processing equipment manufactured by Freshline. In accordance with this agreement, Freshline would pass on "leads" for possible business opportunities to FreshTec, which FreshTec would then pursue. The parties attempted to memorialize this agreement in a written "Representation Agreement" proposed by Freshline to Plaintiff wherein Plaintiff would handle all sales in the United States other than Arizona, California and Hawaii. See Exhibit "A". In that Representation Agreement, Freshline proposed that Plaintiff would receive a 10% commission on any sales up to \$100,000; 8% on sales from \$100,000 to \$200,000; 6% on sales from \$250,000 to \$300,000; and 4% on sales of \$300,000 or more. While the parties never executed this agreement due to disagreements as to the amounts

of the commissions to be paid, they proceeded to operate under an oral representation agreement wherein Freshline passed on leads to Plaintiff, and Plaintiff pursued such leads for the sale of Freshline machinery. The quotes given to potential customers would include a commission payable to Plaintiff.

23. Denied. FreshTec and Defendant had discussed the possibility of purchasing and stocking certain parts necessary to provide service support, whereby Plaintiff would stock standard spare parts for all machines sold. The parts would be sent following a 50% downpayment by Plaintiff; when the parts were sold, Plaintiff would reorder the parts and pay the remaining 50%, plus half the value of the replacement part. Freshline agreed to sell Plaintiff the spare parts at 25% of the list price, representing a commission to Plaintiff. See Exhibit "B" hereto. Thereafter, Defendant indicated that if a customer ordered parts directly from Defendant, no commission was due. If Plaintiff stocked the spare parts, a 25% commission would apply and if a customer ordered spare parts through Plaintiff (and from Defendant), a 10% commission would apply. See Exhibit "C".

24. Admitted in part and denied in part. It is admitted that Plaintiff periodically requested quotes for equipment from Freshline. Such quotes were obtained based upon shared leads for potential business opportunities, which Plaintiff pursued on Freshline's behalf as its sales agent.

25. Denied. The 8-10% discount was in fact a commission to be paid to Plaintiff.

26. Denied. It is denied that "in all instances FreshTec provided Freshline with a Purchase Order for the equipment required by FreshTec." Such orders were often verbal.

27. Admitted in part and denied in part. It is admitted that the relationship between the parties continued until such time as FreshTec failed to pay Freshline for equipment purchased

by FreshTec. It is denied that such failure to pay occurred in the manner set forth in the Counterclaim. As set forth herein, Defendant had agreed to pay a commission to Plaintiff on the sale of Defendant's machinery to third parties.

28. Denied. As set forth above, the 8-10% "discount" was in fact a commission on the sales price of the equipment.

### **COUNTERCLAIM**

29. FreshTec hereby incorporates Paragraphs 1-28 of this Answer to New Matter and Counterclaim as if set forth in full herein.

30. Admitted. It is admitted that FreshTec submitted purchase orders to Freshline for equipment identified in Invoice Nos. 10779, 11088 and 11074. FreshTec assumes that the reference to Invoice No. 10962 is a typographical error. The correct invoice number is 10862; the averment as it relates to Invoice 10862 is admitted.

31. Denied. It is denied that the total cost of the equipment referenced in the above-noted Invoices was "discounted by 8-10% below retail." The 8-10% reflects a commission owed by Defendant to Plaintiff on the sale. Additionally, it is denied that the amounts set forth in paragraph 31 are the total costs of the equipment referenced in the Invoices listed above. Invoice No. 10779 relates to "freight"; Invoice No. 11088 relates to "Installation for Plant City"; Invoice No. 11074 relates to parts identified as "Cross Braces," "ADR5871 R&R XFD Tensioner Assy," and "Lagged Roller," and Invoice No. 10862 relates to five dryers, certain software, five metering conveyors, five infeed conveyors, five dryer discharge conveyors and freight charges. Said machinery was not "discounted," and the invoices do not reflect any such "discount". While FreshTec's purchase orders to Freshline included a line item referencing a "discount to FreshTec," this was in fact a commission payable to FreshTec as a result of FreshTec's

procurement of the sale. Pursuant to the agreement between FreshTec and Freshline, a commission of between 8-10% was owed to FreshTec upon its procurement of such sales for Freshline.

32. Admitted in part and denied in part. No equipment was delivered to FreshTec. However, it is admitted that FreshTec has failed and/or refused to pay for certain equipment as referenced in the invoices listed above.

33. Admitted in part and denied in part. It is admitted that Defendant has demanded payment for the equipment purchased by FreshTec as represented by the purchase orders and invoices attached to the Counterclaim and that Plaintiff has failed to pay for certain equipment. It is denied that the total value of the equipment is \$41,946.80. The total of the invoices attached as Counterclaim Exhibits amounts to \$41,946.80. As set forth above, these invoices reflect charges for freight, installation and software as well as equipment.

34. Denied. FreshTec procured a sale of Freshline's equipment to Curran Beansprouts on Freshline's behalf, as Freshline's sales agent in the United States.

35. Denied. It is denied that the equipment was delivered to FreshTec. Rather, the equipment was delivered directly to Curran Beansprouts.

36. Denied. The total amount of the invoice to Curran was \$311,332.00. Said invoice (FT379) is included in Defendant's Counterclaim Exhibits. However, this amount was payable in three installments: 40% on April 5, 2004, 40% on April 29, 2004 and 10% on June 18, 2004. The first 40% amounted to \$124,532.80 (less \$1,948 in software), upon which a 10% commission in the amount of \$12,258.48 was paid to Backus as set forth on Adjustment Note 10375. See Exhibit "D". The 50% installment of \$155,666.00, included a 10% commission of \$15,566.60 as set forth on Adjustment Note 10824. See Exhibit "E". With respect to the last

10% payable on the account, Freshline in fact sent two invoices, numbered A10947 and A10948, which set forth commissions of \$1,198.90 and \$1,252.80, respectively on the Curran sale. See Exhibit F. The invoices to which these commissions relate are attached hereto as Exhibit "G".

37. Denied. FreshTec has paid Freshline for the Curran project, less the agreed upon commissions, as set forth in Paragraph 36. The sum of \$10,228.28 remains outstanding on such account.

38. Admitted in part and denied in part. It is admitted that Freshline has made demand upon FreshTec to pay the balance owed from the Curran project. It is denied that the amount is \$15,000.00. Rather, the outstanding balance is \$10,228.28. Plaintiff has refused to pay such amount to Defendant.

Respectfully submitted,

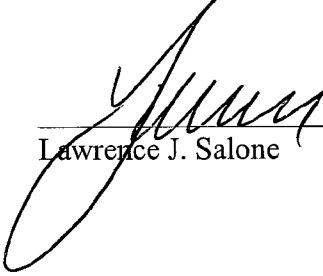
Hopkins Heltzel LLP

By: 

David J. Hopkins, Esquire  
Attorney for FreshTec Food Processing  
Equipment, International, LLC

**VERIFICATION**

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.



\_\_\_\_\_  
Lawrence J. Salone

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING :  
EQUIPMENT INTERNATIONAL, LLC, :  
a Pennsylvania limited liability company, :  
Plaintiff, :

v. :

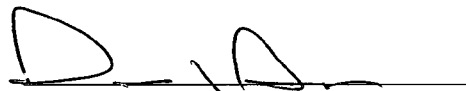
No. 05-150 C.D.

FRESHLINE MACHINES PTY LTD, :  
AUSTRALIA, :  
Defendant. :

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of Plaintiff's Answer to New Matter and Counterclaim, filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by first class mail, postage prepaid, on the 13th day of May, 2005, to all counsel of record, addressed as follows:

James A. Naddeo, Esquire  
207 E. Market Street  
P.O. Box 552  
Clearfield, PA 16830

  
David J. Hopkins, Esquire  
Attorney for Plaintiff

28/06/02



25 Foundry Rd, Seven Hills  
Sydney, NSW 2147 Australia  
Ph: 61 (0)2 9674 5577  
Fax: 61 (0)2 9674 5588  
[sales@freshlinemachines.com](mailto:sales@freshlinemachines.com)

**Freshline/Backus USA representation agreement- draft 28/6/02**

1. Backus USA to handle sales in all USA states aside from those covered by Golden State Food Machinery (Arizona, California, Hawaii), and also Canada.
2. Enquiries received for Freshline equipment outside of Backus USA territory to be passed directly to Freshline Machines.
3. Commissions- paid according to the following scale:

Sales to US\$100,000	10%
US\$100,000 to \$250,000	8%
US\$250,000 to US\$300,000	6%
US\$300,000 and above	4%

If the sale price needs to be discounted from the quoted price to win the sale, the commission scale may not apply and will be reviewed on a case by case basis.

4. Spotters Fees- Enquiries received by third parties within Backus USA territory to receive 2% spotters fee for passing the enquiry to Freshline or Backus USA, or 5% if they handle the enquiry to payment stage.
5. Freshline Machines will pass on to Backus USA any enquiries that are received directly by Freshline. In these cases Backus USA will request quotations for any Freshline equipment relevant to the enquiry, including items such as compact dryers, washers, trimming lines etc that compete with other Backus USA offerings.
6. All quotations presented to customers are to be compiled by Freshline Machines. These quotations are then faxed or emailed to Backus USA and to the customer with no alterations.

EXHIBIT

A





**FAX TO**

Larry

**FAX FROM**

Stephen Donohue

**DATE**

2 / May / 2003

**TOTAL PAGES**

1

25 Foundry Road, Seven Hills 2147  
New South Wales, Sydney, Australia  
PHONE 61 (0) 2 9674 5577  
FAX 61 (0) 2 9674 5588  
sdonohue@freshlinemachines.com  
A.C.N. 062 291 918

## SPARE PARTS

Hi there Larry,

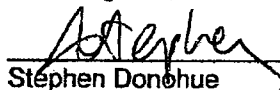
In our original agreement the following was what we had regarding spares...

**11. Spare parts – Backus USA will stock standard spare parts for all machines sold. Freshline will send these parts following a 50% downpayment by Backus USA and when the parts are sold they are reordered by Backus USA who then pays the remaining 50% plus half the value of the replacement part. Freshline will sell Backus USA spare parts at 25% of list price (this is commission to Backus USA).**

With regard to Garden Fresh – as you are not stocking the part, there would be no commission. In the case of any parts you stock there would be 25% commission.

If you have any queries on the list that Elise sent, just let us know. Many of these parts are common to Country Fresh, Garden Fresh, Club Chef and Martha's.

Best Regards,

  
Stephen Donohue

EXHIBIT

B



DATE 23/7/03

FAX TO

Larry Salone

FAX FROM

Elise Mitchell

FAX No.

814 375 6909

TOTAL PAGES

1

25 Foundry Road, Seven Hills 2147  
New South Wales, Sydney, Australia

PHONE +61 2 9674 5577

FAX +61 2 9674 5588

[emitmitchell@freshlinemachines.com](mailto:emitmitchell@freshlinemachines.com)

[www.freshlinemachines.com](http://www.freshlinemachines.com)

Dear Larry,

**RE: SPARE PARTS**

We have revised our spare parts procedure to ensure the most efficient result for our customers, and to reward representatives for after sales service.

All spare parts orders received will be invoiced to the company who has sent the order.

Eg if Garden Fresh orders spare parts through Backus USA, and Backus USA sends Freshline an order, Freshline will invoice Backus USA. Backus USA will be invoiced for the list price of the part less 10% commission. Backus is expected to invoice the customer for the full Freshline list price.

If Garden Fresh orders directly from Freshline, Freshline will invoice Garden Fresh directly and there is no commission payable.

If Backus USA stocks spare parts, Freshline will sell parts to Backus USA at 25% off list price.

Changes to this policy are effective immediately. Please let me know if you have any questions.

Best regards,

Elise Mitchell

EXHIBIT

tabbles



## Freshline Machines

25 Foundry Rd  
Seven Hills, NSW 2147 Australia  
Phone: +61 (0) 2 9674 5577  
Fax: +61 (0) 2 9674 5588  
Email:  
ABN: 66062291918

# Adjustment Note 10375

Page 1 of 1

Shipping  
address:

CURRAN PRODUCE  
271 MILL STREET  
AUBURN, ME 04210

Ship Via:

Ship Date:

Tracking No:

Fob desc:

Account  
address:

**BACKUS USA INC.**  
602 WEST DUBOIS AVE  
SUITE 9  
DUBOIS, PA 15801-390  
USA

Credit Date	Due Date	Terms
23/09/2003	23/10/2003	NETT 30 DAYS

Salesperson

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
0.00	-0.10	10% COMMISSION ON EQUIPMENT ONLY REFER INVOICE #10364 SALE - PRICE IS IN US\$		EA	122,584.80000	-12,258.48

### PLEASE DEPOSIT PAYMENT TO OUR ACCOUNT AS FOLLOWS:

**BANK :** Bank of Western Australia Ltd  
**ADDRESS :** 225 George Street, Sydney NSW 2000  
**ACCOUNT NAME:** Freshline Machines Pty Ltd  
**BSB NO. :** 302 100  
**ACCOUNT NO. :** 0116049  
**SWIFT :** BKWAAU6P

Credit Sub-total	-12,258.48
Freight	0.00
GST	0.00
Credit Total	US\$ -12,258.48

EXHIBIT

tabbles

D

**Freshline Machines**25 Foundry Rd  
Seven Hills, NSW 2147 Australia

Phone: +61 (0) 2 9674 5577

Fax: +61 (0) 2 9674 5588

Email:

ABN: 66062291918

**Adjustment Note 10824**

Page 1 of 1

Shipping  
address:CURRAN COMPANY  
86 Industrial Park Road  
SACO, ME 04070

Ship Via:

Ship Date:

Tracking No:

Fob desc:

Account  
address:**BACKUS USA INC.**602 WEST DUBOIS AVE  
SUITE 9  
DUBOIS, PA 15801-390  
USA

Credit Date	Due Date	Terms	Salesperson
28/04/04	28/05/04	NETT 30 DAYS	

Order Qty	Ship Qty	Part ID/Description	Rev	U/M	Unit Price	Extended Price
0.00	-0.10	10% COMMISSION ON EQUIPMENT ONLY REFER INVOICE #10823		EA	155,666.00000	-15,566.60

**PLEASE DEPOSIT PAYMENT TO OUR ACCOUNT AS FOLLOWS:**

**BANK :** Bank of Western Australia Ltd  
**ADDRESS :** 225 George Street, Sydney NSW 2000  
**ACCOUNT NAME:** Freshline Machines Pty Ltd  
**BSB NO. :** 302 100  
**ACCOUNT NO. :** 0116049  
**SWIFT :** BKWAAU6P

Credit Sub-total		-15,566.60
Freight		0.00
GST		0.00
Credit Total	US\$	-15,566.60

**EXHIBIT**

tabbles

E

MSB T1 06 02:00p

17 Jun 04 06:10p

Tracey Giles

61 2 9674 5588

p.6

- p.5

**FRESHLINE MACHINES**

25 Foundry Road Seven Hills 2147.

NSW Australia

Phone: 61-(02)96745577

Fax: 61-(02)96745588

Invoice No. A10948

**INVOICE****Customer**

Name Backus USA Inc.  
 Address P.O. BOX 585  
 City Dubois State PA ZIP 15801  
 Phone: \_\_\_\_\_

Qty	Description	Unit Price	TOTAL
	SHIP TO: CURRAN COMPANY		
-0.08	8 person line	\$2,457.00	(\$196.56)
-0.08	Trimmed product belt	\$674.00	(\$53.92)
-0.08	Elevator to GK	\$719.10	(\$57.53)
-0.08	Flume wash	\$1,585.00	(\$126.80)
-0.08	Dual dewatering	\$1,897.00	(\$151.76)
-0.08	Wash Chilling option	\$479.00	(\$38.32)
-0.08	wash filtration	\$435.00	(\$34.80)
-0.08	One drum dryer	\$6,740.00	(\$539.20)
0	Installation	\$7,500.00	\$0.00

COMMISSION ON INV#10946

DUE NOW

All Prices in USD\$

Date: 17/6/04

SubTotal (\$1,198.89)

Freight

TOTAL (\$1,198.89)

Office Use Only

EXHIBIT

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F

May 11 06 02:03P

17 Jun 04 06:10P

Tracey Giles

61 2 9674 5588

P.3

**FRESHLINE MACHINES**

25 Foundry Road Seven Hills 2147

NSW Australia

Phone: 61-(02)96745577

Fax: 61-(02)96745588

Invoice No. A10947

**INVOICE****Customer**

Name Backus USA Inc.  
 Address P.O. BOX 585  
 City Dubois State PA ZIP 15801  
 Phone \_\_\_\_\_

Qty	Description	Unit Price	TOTAL
	<b>SHIP TO: CURRAN COMPANY</b>		
-0.08	8 person trim line	\$2,457.00	(\$196.56)
-0.08	Trimmed product belt	\$674.00	(\$53.92)
-0.08	Additional trimmed product belt	\$674.00	(\$53.92)
-0.08	Elevator to Translicer	\$719.00	(\$57.52)
-0.08	Flume wash	\$1,685.00	(\$126.80)
-0.08	Dual dewatering	\$1,897.00	(\$151.76)
-0.08	Wash Chilling option	\$479.00	(\$38.32)
-0.08	wash filtration	\$435.00	(\$34.80)
-0.08	One drum dryer	\$8,740.00	(\$539.20)
0	Line control software	\$487.00	\$0.00
0	Installation	\$7,500.00	\$0.00
	<b>COMMISSION ON INV#10945</b>		
	<b>DUE NOW</b>		
	<b>All Prices in USD\$</b>		
	<b>Date: 17/6/04</b>		
	Sub Total		(\$1,252.80)
	Freight		
	<b>TOTAL</b>		<b>(\$1,252.80)</b>

Mou 11 06 02:00p

17 Jun 04 06:10p

Tracey Giles

61 2 9674 5588

P-3

P-2

**FRESHLINE MACHINES**

25 Foundry Road Seven Hills 2147

NSW Australia

Phone: 61-(02)96745577

Fax: 61-(02)96745588

Invoice No.

10945

**INVOICE****Customer**

Name: Backus USA Inc.  
 Address: P.O. BOX 585  
 City: Dubois State: PA ZIP: 15801  
 Phone:

Qty	Description	Unit Price	TOTAL
	SHIP TO: CURRAN COMPANY		
0.1	8 person trim line (2)	\$24,570.00	\$2,457.00
0.1	Trimmed product belt (2)	\$6,740.00	\$674.00
0.1	Additional trimmed product belt (1)	\$6,740.00	\$674.00
0.1	Elevator to Translicer (1)	\$7,191.00	\$719.10
0.1	Fume wash (2)	\$15,850.00	\$1,585.00
0.1	Dual dewatering	\$18,970.00	\$1,897.00
0.1	Wash Chilling option (2)	\$4,790.00	\$479.00
0.1	Wash filtration (2)	\$4,350.00	\$435.00
0.1	One drum dryer (2)	\$67,400.00	\$6,740.00
0.1	Line control software (1)	\$4,870.00	\$487.00
1	Installation	\$7,500.00	\$7,500.00
DUE NOW			
All Prices in USD\$			
Date: 17/6/04			
SubTotal			\$23,647.10
Freight			
TOTAL			\$23,647.10

EXHIBIT

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G

William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING \*  
EQUIPMENT INTERNATIONAL, \*  
LLC, a Pennsylvania limited \*  
liability company, \*  
Plaintiff, \*

vs.

No. 05 - 150 - CD

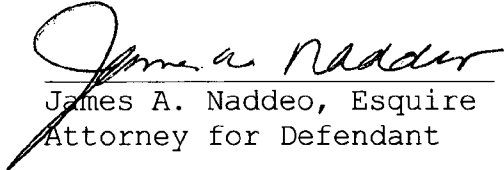
FRESHLINE MACHINES PTY LTD, \*  
AUSTRALIA, \*  
Defendant. \*

**CERTIFICATE OF SERVICE**

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copy of Notice of Taking Deposition of Lawrence J. Salone in the above-captioned action was served on the following person and in the following manner on the 15<sup>th</sup> day of August, 2005:

First-Class Mail, Postage Prepaid

David J. Hopkins, Esquire  
HOPKINS HELTZEL, LLP  
900 Beaver Drive  
DuBois, PA 15801

  
James A. Naddeo, Esquire  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL,  
LLC, a Pennsylvania limited  
liability company,  
Plaintiff,

vs.

FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

No. 05 - 150 - CD

Type of Pleading:

PRAECIPE

Filed on behalf of:  
Defendant

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

207 E. Market Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**  
013:35/1cc  
MAR 07 2006  
Any Naddeo  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING       \*  
EQUIPMENT INTERNATIONAL,       \*  
LLC, a Pennsylvania limited     \*  
liability company,             \*  
                    Plaintiff,     \*

vs.

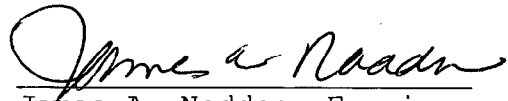
No. 05 - 150 - CD

FRESHLINE MACHINES PTY LTD,     \*  
AUSTRALIA,                     \*  
                    Defendant.   \*

PRAECIPE

TO THE PROTHONOTARY:

Please mark the counterclaim filed in the above-  
captioned case on behalf of the Defendant discontinued.

  
James A. Naddeo, Esquire  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL,  
LLC, a Pennsylvania limited  
liability company,  
Plaintiff,

vs.

FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

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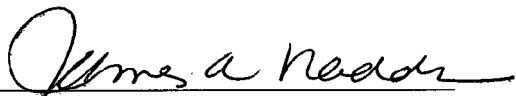
No. 05 - 150 - CD

**CERTIFICATE OF SERVICE**

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copy of Praecipe to Discontinue Counterclaim filed in the above-captioned action was served on the following person and in the following manner on the 7th day of March, 2006:

First-Class Mail, Postage Prepaid

David J. Hopkins, Esquire  
HOPKINS HELTZEL, LLP  
900 Beaver Drive  
DuBois, PA 15801

  
James A. Naddeo, Esquire  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

06 2006

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL, LLC,  
a Pennsylvania limited liability company,  
Plaintiff,

v.

FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

No. 05-150 C.D.

Type of Pleading: Praecipe  
to Discontinue

Filed on behalf of: FreshTec Food  
Processing Equipment International, LLC,  
Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801  
(814) 375-0300

**FILED** No CC  
06/31/06 2 Certificates  
MAR 07 2006 to Atty. Naddoo  
(5) (submitted it  
William A. Shaw for Atty. Hopkins  
Prothonotary/Clerk of Courts  
Copy to CIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL, LLC,  
a Pennsylvania limited liability company,  
Plaintiff,

v.

FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

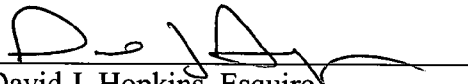
No. 05-150 C.D.

**PRAECIPE TO DISCONTINUE**

TO THE PROTHONOTARY:

Kindly mark the above captioned civil action settled and discontinued.

Hopkins Heltzel LLP

By:   
David J. Hopkins, Esquire  
Attorney for FreshTec Food Processing  
Equipment, International, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING  
EQUIPMENT INTERNATIONAL, LLC,  
a Pennsylvania limited liability company,  
Plaintiff,

v.

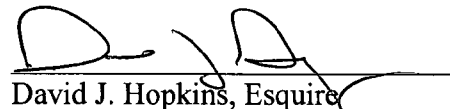
FRESHLINE MACHINES PTY LTD,  
AUSTRALIA,  
Defendant.

No. 05-150 C.D.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of Plaintiff's Praecipe to Discontinue, filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by first class mail, postage prepaid, on the 2nd day of March, 2006, to all counsel of record, addressed as follows:

James A. Naddeo, Esquire  
207 E. Market Street  
P.O. Box 552  
Clearfield, PA 16830

  
David J. Hopkins, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

**Freshtec Food Processing Equipment International**

**Vs.**

**No. 2005-00150-CD**

**Freshline Machines PTY LTD, Australia**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on March 7, 2006, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by David J. Hopkins, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 7th day of March A.D. 2006.



---

William A. Shaw, Prothonotary