

07-696-CD

Freshtec Food vs Field Fresh Foods

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2007-696-CD

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

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC,
Plaintiff

vs.

FIELD FRESH FOODS, INC.,
Defendant

No. 2007-696 C.D.

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

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
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FILED *pd \$ 85.00 Atty*
O/10.15 cm acc Atty Hopkins
MAY 02 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC,
Plaintiff

vs. : No. 2007 C.D.

FIELD FRESH FOODS, INC.,
Defendant

COMPLAINT

AND NOW, comes Plaintiff, FreshTec Food Processing Equipment International LLC, by and through its attorneys, Hopkins Heltzel LLP, and files the within Complaint against Defendant, Field Fresh Foods, Inc. and in support thereof says as follows:

COUNT I - BREACH OF CONTRACT

1. Plaintiff, FreshTec International LLC, is a Pennsylvania limited liability company that maintains a principal office at 602-9 West DuBois Avenue, DuBois, Clearfield County, Pennsylvania.
2. Defendant, Field Fresh Foods, Inc, is believed to be a California corporation who maintains a principal business address at 14805 S. San Pedro Street, Los Angeles, California 90248.
3. The issues involved in this law suit concern an onion peeler that Defendant ordered from FreshTec's office located in Clearfield County, Pennsylvania conferring jurisdiction and venue to be in the Court of Common Pleas of Clearfield County, Pennsylvania.

4. On or about May 1, 2006, Defendant ordered an onion peeler from Plaintiff. The onion peeler was shipped to Defendant who accepted delivery of same.

5. The purchase invoice required a one and one half (1 ½%) percent per month interest penalty on all unpaid balances. The invoice further provided Defendant would pay collection proceedings in the event litigation was necessary to collect the bill. Defendant is also responsible for custom expenses for clearing the onion peeler through United States customs from Holland, the cost of which was \$426.87.

6. Plaintiff has delivered the onion peeler to Defendant but Defendant has refused to make final payment of \$9,065.00 to Plaintiff despite Plaintiff's demand.

7. Defendant is indebted to Plaintiff in the amount of \$9,493.87 as of June 9, 2006.

9. Plaintiff has incurred interest expenses pursuant to the terms of the invoice in the current amount of \$1,133.02 through February 7, 2007.

10. Defendant is further indebted to Plaintiff in the amount of \$150.00 in late charges.

11. Defendant is further indebted to Plaintiff for legal fees and the cost and expense of preparing this matter for litigation, Prothonotary's fees and certified mail fees to serve the Complaint, all of which currently total \$590.57 together with attorney fees accruing at the rate of \$200.00 per hour.

12. Defendant is indebted to Plaintiff through February 7, 2007 in the amount of \$11,203.76. Plaintiff has made a demand upon Defendant for payment but Defendant has refused to tender same.

13. The actions of Defendant constitute breach of contract entitling Plaintiff to an award of \$11,203.76 together with interest at the rate of 1.5% per month until paid in full and attorney's fees that may hereinafter accrue.

WHEREFORE, Plaintiff demands judgment in its favor in the amount of \$11,203.76. together with costs of suit, pre-judgment interest, post judgment interest and such other and further relief as the Court deems fair, just and equitable.

COUNT II - UNJUST ENRICHMENT

14. Plaintiff repeats each allegation of Count I as if set forth at length herein.
15. As a result of Defendant receiving an onion peeler from Plaintiff. Defendant has received the benefit of the onion peeler and Defendant has been unjustly enriched by the value of the product together with accrued finance charges.

WHEREFORE, Plaintiff demands judgment against Field Fresh Foods, Inc. in the amount of \$11,203.76 together with interest at the rate of 1.5 percent per month from February 7, 2007 through the date of judgment and thereafter together with costs of suit and such other and further relief as the Court deems fair, just and equitable.

COUNT III - QUANTUM MERUIT

16. Plaintiff repeats each allegation of Counts I and II as if set forth at length herein.
17. Plaintiff provided an onion peeler to Defendant.
18. Defendant has received the benefit of Plaintiff's goods and services, the fair market value of which is \$11,203.76. Defendant has failed to pay Plaintiff. Plaintiff is entitled to recovery under the theory of quantum merit.

WHEREFORE, Plaintiff demands judgment against Defendant Field Fresh Foods, inc. in the amount of \$11,203.76 together with interest at the rate of 1.5 percent per month from February 7, 2007 through the date of judgment and thereafter together with costs of suit and such other and further relief as the Court deems fair, just and equitable.

ARBITRATION

This is an arbitration case under the rules of the Court of Common Pleas of Clearfield County. IN the event the matter proceeds to trial, Plaintiff, by its undersigned counsel, hereby demands a trial by jury.

Respectfully submitted,

HOPKINS HELTZEL LLP

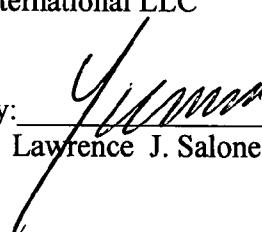
By:


David J. Hopkins, Esquire
Attorney for Plaintiff
100 Meadow Lane, Suite 5
DuBois, PA 15801

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.

FreshTec Food Processing Equipment
International LLC

By: 

Lawrence J. Salone, Member

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JUN 19 2007

0/21/07
William A. Shaw
Prothonotary/Clerk of Courts
2 Cen - T- 111
6K

Type of Pleading: Praeclipe to Discontinue

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

Counsel of Record for this party:

HOPKINS HELTZEL LLP

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

LEA ANN HELTZEL, ESQUIRE
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FRESHTEC FOOD PROCESSING :
EQUIPMENT INTERNATIONAL, LLC, :
Plaintiff :
vs. : No. 2007-696 C.D.
: :
FIELD FRESH FOODS, INC., :
Defendant :
: :

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly mark the above captioned civil action settled and discontinued.

HOPKINS HELTZEL LLP



David J. Hopkins, Esquire
Attorney for Plaintiff