

McDERMOTT & SLEPIAN
ATTORNEYS AT LAW
211 NORTH CONCEPTION STREET
MOBILE, ALABAMA

WILLIAM H. McDERMOTT
RONALD P. SLEPIAN
THOMAS E. BRYANT, JR.
EDWARD B. McDERMOTT

36601

MAILING ADDRESS:
POST OFFICE DRAWER 2025
PHONE 432-1671

February 25, 1969

Mrs. Alice J. Duck, Clerk
Circuit Court of Baldwin County
Baldwin County Courthouse
Bay Minette, Alabama, 36507

RE:

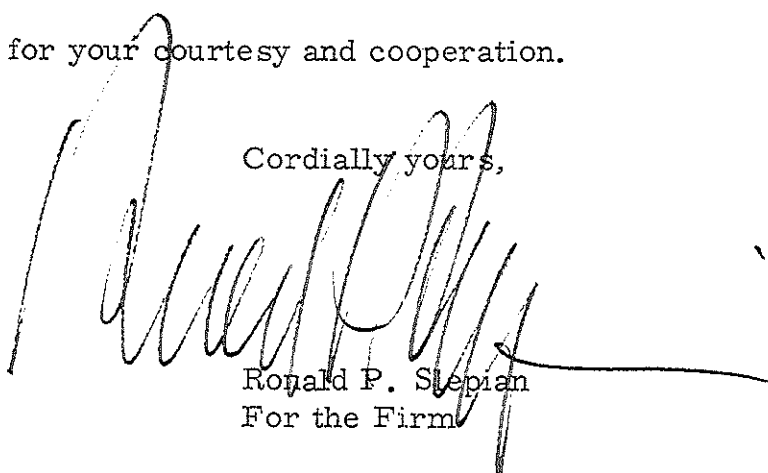
No. 8584
B. H. Mathis, Contractor, Inc. -vs-
Gold Plate Foods, Inc., In the Circuit
Court of Baldwin County, Alabama, at
Law

Dear Mrs. Duck:

Please docket the enclosed lawsuit and send us a receipt of the
filing date.

Thank you for your courtesy and cooperation.

Cordially yours,


Ronald P. Slepian
For the Firm

RPSslm
enclosures

B. H. MATHIS, CONTRACTOR	:	IN THE CIRCUIT COURT OF
INC., a corporation,	:	
	:	BALDWIN COUNTY, ALABAMA
Plaintiff	:	
	:	
-VS-	:	A T L A W
	:	
GOLD PLATE FOODS, INC.,	:	
a corporation,	:	
	:	
Defendant	:	CASE NUMBER: 8584
	:	

D E M U R R E R S

Comes now the Defendant, Gold Plate Foods, Inc., a corporation, and demurs to the Plaintiff's complaint herein, and to each count thereof, separately and severally, in the following separate and several grounds, to-wit:

1. Sufficient facts are not alleged therein to state a cause of action.

2. Sufficient facts are not alleged to state a claim of which relief can be granted.

3. The allegations set forth therein are ambiguous.

4. The allegations set forth therein are vague, uncertain and indifferent.

5. The allegations set forth are so vague, uncertain and indifferent that said Defendant is not sufficiently apprised to what it is called upon to defend against in this cause.

6. The allegations set forth therein are mere conclusions by the Pleader unsupported by sufficient averment of fact.

7. Sufficient allegations are not shown in Count 2 to apprise this Defendant of exactly what materials, goods and chattels were sold by Plaintiff to Defendant.

8. Sufficient allegations are not contained in Count 3 to apprise this Defendant of exactly what the account consist of to which it is being sued upon.

ENGEL AND SMITH, Attorneys
for Defendant

BY: Desmond B. Toler
DESMOND B. TOLER

Defendant respectfully demands a trial by jury in this cause.

ENGEL AND SMITH

BY: Desmond B. Toler
DESMOND B. TOLER

Certificate of Service to:

The Honorable Ronald P. Slepian

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 27
day of March, 1969, served a copy of the
foregoing pleading on counsel for all parties to this
proceeding by mailing the same by United States mail,
properly addressed, and first class, postage prepaid.

DBT

FILED

MAR 10 1969

ALICE J. DICK

CLERK
REGISTER

STATE OF ALABAMA : :
COUNTY OF BALDWIN : : IN THE CIRCUIT COURT - AT LAW

TO: ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon GOLD PLATE FOODS, INC., a corporation, to appear and plead, answer or demur, within thirty (30) days from the service hereof, to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, at Law, by B. H. MATHIS, CONTRACTOR, INC., a corporation, as Plaintiff, against GOLD PLATE FOODS, INC., a corporation, as Defendant.

WITNESS my hand this the 26 day of February, 1969.


CLERK

B. H. MATHIS, CONTRACTOR, INC., a corporation,	:	IN THE CIRCUIT COURT OF
	:	BALDWIN COUNTY, ALABAMA,
Plaintiff,	:	
VS:	:	AT LAW
	:	
GOLD PLATE FOODS, INC., a corporation,	:	
	:	
Defendant	:	NO. _____

COUNT ONE

Plaintiff claims of the Defendant the sum of ONE HUNDRED THIRTY SIX THOUSAND NINETY SEVEN AND 24/100 (\$136,097.24) DOLLARS, with interest, for materials, labor, equipment and engineering services, furnished by the Plaintiff at the request of the Defendant for use by the Defendant in the erection and construction of a food processing plant and buildings and improvements on the following described real property situated in the County of Baldwin, State of Alabama, and more particularly described as follows, viz:

The SW 1/4 of the SW 1/4 of Section 16, T7S, R4E, lying between the L & N RR right-of-way and an old property line fence on the East side, and a strip 29.4 feet wide on the South end and 42 feet wide on the North end, lying between the L & N RR right-of-way and the Ala. Hwy. No. 59 right-of-way, less the following exceptions: Beginning at the intersection of the Old Property line fence on the East side and the East-West section line, run thence West 180.1 feet; thence run North 187.6 feet; run thence East 180.1 feet; run thence South 187.6 feet to the point of beginning; also starting at the intersection of the Old Property line fence on the East side and the East-West section line, run thence West 435 feet to the point of beginning; run thence West 75 feet; run thence North 150 feet; run thence East 75 feet; run thence South 150 feet to the point of beginning; also the existing L & N RR right-of-way, part of the Ala. Hwy. No. 59 right-of-way and one half of the County road right-of-way along the South line, containing a total of 34.74 acres, remaining, net,

which indebtedness accrued on, to-wit: October 30, 1968, said date being the date the last work and labor and delivery of materials and supplies was furnished

to the property as aforesaid, and Plaintiff claims that said sum is now due and unpaid.

Plaintiff further avers that on, to-wit: January 15, 1969, it filed in the Office of the Judge of the Probate Court of Baldwin County, Alabama, a verified statement, as required by statute, of the amount due the Plaintiff for the said materials, labor, equipment and engineering services so furnished, after all just credits had been given, together with a true description of the property on which the Plaintiff claims a lien, a copy of which said statement is attached hereto as Exhibit "A" and made a part hereof.

Plaintiff further avers that the Defendant is indebted to the Plaintiff in the sum of ONE HUNDRED THIRTY SIX THOUSAND NINETY SEVEN AND 24/100 (\$136,097.24) DOLLARS, with interest thereon, due from the Defendant by account on, to-wit: October 30, 1968, for said materials, labor, equipment and engineering services so furnished, which sum of money with the interest thereon is still due and unpaid.

WHEREFORE, Plaintiff brings this action for said sum and to enforce its said lien upon the said land and upon the improvements situated thereon.

COUNT TWO

Plaintiff claims of the Defendant the sum of ONE HUNDRED THIRTY SIX THOUSAND NINETY SEVEN AND 24/100 (\$136,097.24) DOLLARS for merchandise, goods and chattels sold by the Plaintiff to the Defendant on, to-wit: October 30, 1968, which sum of money with the interest thereon is still due and unpaid.

COUNT THREE

Plaintiff claims of the Defendant the sum of ONE HUNDRED THIRTY SIX THOUSAND NINETY SEVEN AND 24/100 (\$136,097.24) DOLLARS due from

it by account from, to-wit: October 30, 1968, which sum of money with the interest thereon is still due and unpaid.

COUNT FOUR

Plaintiff claims of the Defendant the sum of ONE HUNDRED THIRTY SIX THOUSAND NINETY SEVEN AND 24/100 (\$136,097.24) DOLLARS, due from it for work and labor done for the Defendant by the Plaintiff from, to-wit: April 25, 1968, to, to-wit: October 30, 1968, at the request of the Defendant, which sum of money with the interest thereon is still due and unpaid.

McDERMOTT & SLEPIAN
Attorneys for Plaintiff

By: 

RONALD P. SLEPIAN

Address of Defendant:

Post Office Box 411
Highway 59 North
Foley, Alabama

FILED

FEB 23 1968

ALICE J. BUCK CLERK
REGISTER

STATE OF ALABAMA:

COUNTY OF BALDWIN:

STATEMENT OF LIEN

B. H. MATHIS, CONTRACTOR, INC., an Alabama corporation, files this statement in writing, verified by the oath of B. H. MATHIS, President of said corporation, who has personal knowledge of the facts herein set forth:

That said B. H. MATHIS, CONTRACTOR, INC. claims a lien upon the following described property situated in Baldwin County, Alabama, to-wit:

The S. W 1/4 of the S W 1/4 of Section 16, T 7 S, R 4 E, lying between the L & N R R Right-of-way and an old property line fence on the East side, and a strip 29.4 wide on the South end and 42 feet wide on the Northend, lying between the L & N R R right-of-way and the Ala. Hwy. No. 59 right-of-way, less the following exceptions: Beginning at the intersection of the Old Property line fence on the East side and the East-West section line, run thence West 180.1 feet; run thence North 187.6 feet; run thence East 180.1 feet; run thence South 187.6 feet to the point of beginning; also starting at the intersection of the Old Property line fence on the East side and the East-West section line, run thence West 435 feet to the point of beginning; run thence West 75 feet; run thence North 150 feet; run thence East 75 feet; run thence South 150 feet to the point of beginning; also the existing L & N R R right-of-way, part of the Ala. Hwy No. 59 right-of-way and one half of the County road right-of-way along the South line, containing a total of 34.74 acres, remaining, net.

This lien is claimed, separately and severally, as to

EXHIBIT "A"

both the buildings and improvements thereon, and the said land.

That said lien is claimed to secure an indebtedness of
to-wit: ONE HUNDRED THIRTY SIX THOUSAND NINETY SEVEN DOLLARS
AND 24/100 (\$ 136,097.24), with interest thereon, from, to-wit:
October 30, 1968, for furnishing materials, labor, equipment
and engineering services in the construction of a food processing
plant, all as pursuant to written contract between B. H. MATHIS
Inc.
CONTRACTOR, INC., and Gold Plate Foods and located upon the land
hereinabove described.

Affiant believes that the names of the owner of said
property is GOLD PLATE FOODS, INC.

B. H. MATHIS CONTRACTOR, INC.

By B. H. Mathis
B. H. MATHIS, its President

STATE OF ALABAMA:

COUNTY OF MOBILE:

Before me, the undersigned authority in and for said
State and County, personally appeared B. H. MATHIS, who, known
to me and being by me first duly sworn, does depose on oath and
say that he is the President of B. H. MATHIS CONTRACTOR, INC.,
a corporation, and has the authority to make the above and fore-
going statement of lien; that he has personal knowledge of the
facts set forth in said statement of lien and that the same are
true and correct.

B. H. Mathis
B. H. MATHIS, Affiant

Subscribed and sworn to before me on this the 14th day of
January, 1969.

Lucy K. Johnson
Notary Public, State of Alabama at Large
STATE OF ALABAMA,
BALDWIN COUNTY

I certify that this instrument was filed on

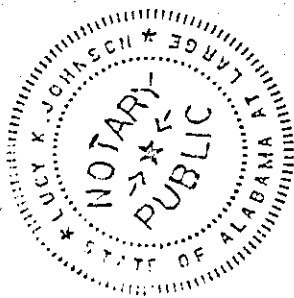
JAN 15 1969 3 PM

and that no tax was collected. Recorded in

Book 6

Page 551-33 Judge of Probate

By [Signature]



720.8584

B. H. Mathis
Contractor

vs.

Gold Plate Foods

Received 26 day of Feb 1969
and on 27 day of Feb 1969

I served a copy of the within
on Gold Plate Foods, Inc.,
A Corp. C.H. Owens
By service on C.H. Owens
James

TAYLOR WILKINS, Sheriff

By Franklin Gibson D.A.

Deputy

Sheriff claims 72 miles at
Ten Cents per mile Total \$ 7.20
TAYLOR WILKINS, Sheriff
by Children
DEPUTY SHERIFF

FILED

FEB 26 1969

ALICE J. DICK
CLERK
REGISTER

Mr. Dermott & Teleplan