

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MAZZETTA COMPANY, LLC,

Plaintiff,

v.

MAINES PAPER & FOOD SERVICE, INC.,

Defendant.

**COMPLAINT AND JURY
TRIAL DEMANDED**

Case No.: 3:20-CV-616[FJS/ML]

COMPLAINT

Plaintiff, Mazzetta Company, LLC (“Mazzetta”), by and through its undersigned attorneys, for its Complaint against Defendant, Maines Paper & Food Service, Inc. (“Maines”), states as follows:

NATURE OF THE ACTION

1. Mazzetta is a multifaceted company that develops resources to successfully source, harvest and process seafood from around the world and deliver premium quality, sustainable seafood to restaurants, retailers, distributors, hospitality and food service organizations globally.

2. Maines is in the food distribution business, essentially acting as the “middleman” between food producers, such as Mazzetta, and end-users, such as the restaurant chains and other customers.

3. During all times relevant to this Complaint, Maines served as the designated distributor of Mazzetta’s products to one of Mazzetta’s customers. Mazzetta’s customer placed orders for Mazzetta’s products with Maines; Maines ordered those products from

Mazzetta; Mazzetta delivered those products to Maines and invoiced Maines for the cost of those products; Maines' delivered those products to Mazzetta's customer; and that customer then paid to Maines an amount sufficient to pay Mazzetta in full for its product and to pay Maines for its distribution services.

4. This action arises out of Maines' failure and refusal to pay to Mazzetta the full balance due of \$342,908.20 pursuant to issued and outstanding invoices, plus interest, for seafood products that Maines ordered in February 2020 and Mazzetta delivered to Maines in February and March 2020.

PARTIES

5. Mazzetta is an Illinois limited liability company. Its principal place of business is located in Highland Park, Illinois. The sole Member of Mazzetta is Jorzac Corp., an Illinois corporation with a principal place of business in Highland Park, Illinois.

6. Maines is a New York corporation with its principal place of business in Conklin, New York. According to Maines, it services thousands of restaurants and food service operations in over 35 states, including Illinois, from multiple distribution centers.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action under 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000, exclusive of interests and costs, and complete diversity of citizenship exists between Mazzetta and Maines.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because Maines resides in this judicial district.

FACTUAL BACKGROUND

9. In February 2020, Mazzetta received the following purchase orders from Maines for fish and seafood products to be delivered to Maines:

P.O. Number 1001009477, dated 02/12/2020 (attached hereto as Exhibit A)

P.O. Number 1001010056, dated 02/13/2020 (attached hereto as Exhibit B)

P.O. Number 1001011304, dated 02/18/2020 (attached hereto as Exhibit C)

P.O. Number 1001011376, dated 02/18/2020 (attached hereto as Exhibit D)

10. Mazzetta delivered the goods ordered pursuant to the purchase orders identified in paragraph 9, as amended.

11. Maines accepted each such delivery from Mazzetta without any claim or complaint.

12. Mazzetta issued invoices to Maines for the products Maines ordered and Mazzetta delivered. The invoices issued and outstanding are as follows:

Inv. No.	Inv. Date	Cust. P.O.	Due Date	Inv. Amt.	Bal. Due	Attached hereto as
372787	02/18/20	1001011376	03/03/20	\$10,775.00	(\$3,960.00)	<u>Exhibit E</u>
373372	03/04/20	1001009477	03/18/20	\$147,466.20	\$130,854.80	<u>Exhibit F</u>
373639	03/10/20	1001010056	03/24/20	\$160,621.00	\$160,621.00	<u>Exhibit G</u>
373762	03/11/20	1001011304	03/25/20	\$88,158.40	\$55,392.40	<u>Exhibit H</u>

After taking into account appropriate credits, the balance currently due, without interest, pursuant to the outstanding invoices is \$342,908.20.

13. The terms of payment specified on each invoice is “Net 14.”

14. Each invoice specifies “interest of 1 1/2% per month (18% per annum) will be charged on all accounts not paid in 30 days.”

15. By ordering and accepting Mazzetta's products, the parties created a valid, binding and enforceable contract with respect to each purchase order and corresponding invoice.

16. Maines has failed and refused to pay the full, outstanding balance due pursuant to the purchase orders and invoices identified in paragraphs 9 and 12 herein above despite repeated demands by Mazzetta.

17. Maines delivered the products it ordered from Mazzetta and that Mazzetta delivered to Maines, as described in the purchase orders and invoices identified in paragraphs 9 and 12 herein above, to Mazzetta's customer.

18. Maines collected payment from Mazzetta's customer for the products it ordered from Mazzetta and that Mazzetta delivered to Maines, as described in the purchase orders and invoices identified in paragraphs 9 and 12 herein above.

19. Notwithstanding the fact that Maines collected payment from Mazzetta's customer for the products it ordered from Mazzetta and that Mazzetta delivered to Maines, Maines has failed to pay Mazzetta the full, outstanding balance due pursuant to the purchase orders and invoices identified in paragraphs 9 and 12 herein.

COUNT I
BREACH OF CONTRACT

20. Mazzetta adopts and incorporates by reference herein paragraphs 1 through 19 above as though fully set forth herein.

21. Each purchase order and corresponding invoice identified in paragraphs 9 and 12 herein above created a valid, binding and enforceable contract by Mazzetta and Maines.

22. Mazzetta has fully performed all of its obligations under the parties' contracts.

23. Maines' failure and refusal to pay the full, outstanding balance due pursuant to the purchase orders and invoices identified above constitutes a breach by Maines of the parties' contracts.

24. As a result of Maines' breaches, Mazzetta has incurred damages in the total amount of \$342,908.20, plus interest commencing 30 days after the date of each unpaid invoice identified in paragraphs 9 and 12 herein above at the rate of 1 1/2%.

WHEREFORE, Mazzetta respectfully requests that this Court enter a Judgment in favor of Mazzetta and against Maines as to Count I, awarding to Mazzetta: (a) the total amount of \$342,908.20; (b) interest commencing 30 days after the date of each unpaid invoice identified in paragraphs 9 and 12 herein above at the rate of 1 1/2%; (c) costs of suit as allowed by law; and (d) such additional relief as this Court deems just and appropriate.

COUNT II
UNJUST ENRICHMENT
(In the alternative to Count I)

25. Mazzetta adopts and incorporates by reference herein paragraphs 1 through 19 above as though fully set forth herein.

26. In the event, and to the extent, that it is found that there are no enforceable contracts by and between Mazzetta and Maines, as alleged in Count I, Mazzetta alleges this Count II in the alternative to Count I.

27. Maines accepted the delivery of products from Mazzetta without claim or complaint and with the understanding that Maines would compensate Mazzetta for those products.

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