
IN THE IOWA DISTRICT COURT FOR CLINTON COUNTY

SWANSON CONSTRUCTION CO.,

PLAINTIFF,

VS.

**THE SAMUELS GROUP, INC. AND CLINTON
COUNTY, IOWA (BOARD OF SUPERVISORS),**

DEFENDANTS.

CASE NO. _____

PETITION

COMES NOW Swanson Construction Co. (“Swanson”), by and through its attorneys, Stanley, Lande & Hunter, a Professional Corporation, and in support of its Petition to Foreclose Claim Pursuant to Iowa Code Chapter 573 hereby states:

1. Swanson is a corporation incorporated under the laws of the State of Iowa, with its principal place of business at 3400 Towne Point Drive; Bettendorf, Iowa 57222 and does business in Iowa.

2. Defendant The Samuels Group, Inc. (“Samuels Group”) is a corporation incorporated under the laws of the State of Wisconsin, with its principal place of business at 311 Financial Way, Suite 300; Wausau, Wisconsin 54401, and is authorized to do business in Iowa.

3. Clinton County, Iowa (Board of Supervisors) is a public corporation under the definition of Iowa Code Chapter 573.

4. This Court has jurisdiction over the subject matter of this cause and of all of the parties hereto.

5. On or about the effective date of September 19, 2017, Swanson Construction entered into a Standard Form of Agreement Between Owner and Contractor with Clinton County, Iowa (“Clinton County” and/or “Owner”) for the construction of certain work for the Clinton County Law Enforcement Center (“Project”).

6. It is verily believed Owner also entered into an agreement with Samuels Group to act as construction manager for the Project; however, the Owner also tendered all payments for work performed on the Project to Samuels Group for eventual payment to all contractors/subcontractors.

7. Subsequent to entering into the contract, Swanson was requested to perform additional work at the Project. The September 19, 2017 agreement and the requests for and performance of additional work are collectively referred to as the Contract.

8. Moreover, Swanson incurred significant costs due to poor management of the Project resulting in construction delays and the Owner’s/Samuels Group’s delayed payment and/or non-payment of amounts owed under the Contract.

9. Pursuant to said Contract and as a result of costs associated with poor management and delayed payments, Swanson furnished labor and materials and incurred costs associated with the Project in the total amount of \$5,621,855.23.

10. Despite having fully performed the work under the Contract, Swanson remains unpaid in the amount of \$619,800.47.

11. On or about April 17, 2020, Swanson provided its Claim pursuant to Iowa Code Chapter 573 upon Clinton County. A copy of the notice and Claim is attached as Exhibit 1.

COUNT I – CHAPTER 573 CLAIM AGAINST CLINTON COUNTY, IOWA

12. Plaintiff incorporates by reference paragraphs 1 through 11 herein, as applicable.

13. Clinton County, Iowa is a “public corporation” under Iowa Code Section 573.3.

14. The Project is a “public improvement” under Iowa Code Section 573.4.

15. Generally, pursuant to Iowa Code Section 573.2 and 573.5, a public entity is required to post a bond sufficient to comply with all requirements of contract and to ensure the fulfillment of every condition. It is verily believed Clinton County and/or Samuels Group failed to provide such a bond.

16. Swanson fully performed its work under the Contract.

17. Swanson remains unpaid for the work performed for the Project.

18. Pursuant to Iowa Code Chapter 573, Swanson is entitled to be paid for amounts it is owed, plus interest and attorney fees.

WHEREFORE, Plaintiff respectfully requests judgment be entered against Clinton County and for the amount it is owed, for interest and attorney fees as provided by the contract and/or Chapter 573, for interest, costs (including delay), prompt payment fees, and such other relief as may be just and equitable.

COUNT II – BREACH OF CONTRACT AS AGAINST SAMUELS GROUP/CLINTON COUNTY, IOWA

19. Plaintiff incorporates by reference paragraphs 1 through 18 herein, as applicable.

20. Swanson had a contract whereby Swanson agreed to provide certain labor and material to the Project and, in exchange, it would be paid for said work.

21. Swanson fully performed under the Contract.

22. It is verily believed Clinton County paid some of the amounts owed to Swanson to Samuels Group who has failed to pay Swanson, as third party beneficiary, the amounts owed

under the Contract. Moreover, it is verily believed Samuels Group may have used some or all of these funds to pay contractors/materialmen or other entities unrelated to the Project and/or retained said funds for its own benefit.

23. Swanson has been damaged by Clinton County/Samuels Group's breach.

WHEREFORE, Plaintiff respectfully requests judgment be entered against Samuels Group and/or Clinton County for the amount it is owed, for interest and attorney fees as provided by the contract, common law and/or Chapter 573, for interest, costs, prompt payment fees, and such other relief as may be just and equitable.

COUNT III – UNJUST ENRICHMENT

24. Plaintiff incorporates by reference paragraphs 1 through 23 herein, as applicable.

25. Samuels Group and/or Clinton County have been unjustly enriched by the reasonable value of the unpaid portion of Swanson's work on the Project.

WHEREFORE, Plaintiff respectfully requests judgment be entered against Clinton County and/or Samuels Group for the amount it is owed, disgorge Samuels Group and/or Clinton County of unjust enrichment amounts, for interest, costs, attorney fees, prompt payment fees, and such other relief as may be just and equitable.

COUNT IV - QUANTUM MERUIT

26. Plaintiff incorporates by reference paragraphs 1 through 25 herein as applicable.

27. Swanson rendered valuable services (in the form of labor and material) to the Project.

28. The services benefited Clinton County.

29. The services were used and enjoyed by Clinton County.

30. Clinton County and/or Samuels Group were aware that Swanson, in performing the services, expected to be paid by Clinton County and/or Samuels Group.

WHEREFORE, Plaintiff respectfully requests judgment be entered against Samuels Group and/or Clinton County for the amount it is owed for services provided to the Project, for interest and attorney fees as provided by the contract, common law and/or Chapter 573, for interest, costs, prompt payment fees, and such other relief as may be just and equitable.

By: /s/ Steven J. Havercamp
Steven J. Havercamp (AT0003324)
Stanley, Lande & Hunter, P. C.
201 West 2nd Street, Suite 1000
Davenport, Iowa 52801
Telephone: 563/324-1000
Facsimile: 563/326-6266
Email: shavercamp@slhlaw.com

CERTIFICATION

I, Steve Swanson, hereby swear and affirm that I am the President of Swanson Construction Co. the Plaintiff in this matter and that I have read this Petition and the allegations contained therein are true and accurate to the best of my knowledge and belief.



Steve Swanson
President, Swanson Construction Co.