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## Contractor Hits Kraft With \$7.6M Facility Project Suit

By **Drashti Mehta**

Law360 (September 23, 2022, 5:41 PM EDT) -- An Ohio-based contracting company says Kraft Heinz Food Co. LLC and HJ Heinz Co. owe it \$7.6 million for labor and materials stemming from a project to enhance an Ohio facility.

Industrial Power Systems Inc., or IPS, alleged in an 18-page **complaint** filed Thursday that Kraft Heinz issued multiple purchase orders, made costly changes and asked IPS to "accelerate its performance" to account for a wave of unforeseen delays and setbacks, but failed to pay the adjusted total of \$7,659,705 at the project's end.

According to the suit, Kraft Heinz led the 2020 project, which was intended to make significant changes to the facility owned by HJ Heinz. Kraft requested that IPS follow a rigid schedule, but did not provide a clear workspace or the material or equipment needed to effectively complete the project, the suit said.

In addition to other challenges, IPS claims it discovered design omissions regarding the preexisting foundation of the construction site, which interfered with Kraft Heinz's plans and drove up costs.

"Kraft was responsible for and performed 100% of the project's design. The timelines, quality of and changes to that design negatively impacted IPS," the complaint states. "Kraft routinely changed its design to address its uncertain and changing needs as it learned both its project and the impact of market conditions on its material and equipment selections."

IPS claims the refusal to pay is unwarranted because it made every effort to comply with the company's requirements and communicated each challenge or setback as it arose, yet was unable to resolve any of the issues outlined in the complaint.

"Kraft-driven changes and impacts happened incessantly on this project. Each time, pursuant to [the] construction agreement and terms and conditions of purchase, IPS properly notified Kraft of such events so Kraft was directly involved and acutely aware. Kraft's routine response was a directive to keep working, work faster, and to sort out issues once the work was complete," the complaint states.

Kraft Heinz in a statement Friday said it "strongly disagrees" with IPS' allegations.

"We will vigorously defend against the litigation," a spokesperson for the company said.

IPS seeks compensation for the full adjusted total costs for materials and labor, pre- and post-judgment interest, and attorney fees.

Counsel for IPS was not immediately available to provide a comment on Friday.

Industrial Power Systems is represented by Thomas O. Crist, Jonathon Korinko and Justin Lovdahl of Benesch Friedlander Coplan & Aronoff.

Court documents indicate counsel from Thompson Coburn LLP will be representing Kraft Heinz Food Co. and HJ Heinz Co.

The case is Industrial Power Systems Inc. v. Kraft Heinz Foods Co. et al., case number 3:22-cv-01703, in the U.S. District Court for the Northern District of Ohio.

--Editing by Daniel King.

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