

BTB139678

65100-1073LIT4685

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES T. SULLIVAN, etc.,)	
)	No. 07 C 2200
Plaintiff,)	
)	Judge Pallmeyer
v.)	
)	Magistrate Judge Valdez
A M MECHANICAL, INC.,)	
)	
)	
Defendant.)	
)	

MOTION FOR ENTRY OF JUDGMENT

NOW COMES Plaintiff, JAMES T. SULLIVAN, not individually, but as Trustee of Plumbers’ Pension Fund, Local 130, U.A., etc. (“Funds”), by his attorneys, DOUGLAS A. LINDSAY, JOHN W. LOSEMAN, JAMES R. GANNON, and BRIAN T. BEDINGHAUS, with LEWIS, OVERBECK & FURMAN, LLP, of counsel, and, pursuant to Fed. R. Civ. P. 55(b)(2), moves the Court to enter Judgment in favor of Plaintiff and against Defendant, A M Mechanical, Inc., in the amount of \$266,140.46. In support hereof, Plaintiff states:

1. On April 20, 2007, Plaintiff filed his Complaint, pursuant to ERISA, 29 U.S.C. §§ 1132 and 1145, and LMRA, 29 U.S.C. § 185, and the Collective Bargaining Agreements (“CBA”), to obtain an audit and recover all unpaid contributions, interest, liquidated damages, professional fees, and court costs owed to Funds.

2. On April 28, 2007, Defendant was served with process. A true and correct copy of the Summons with completed Return of Service is attached hereto as Exhibit A.

3. Pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), Defendant was required to answer and

appear on or before May 18, 2007. Defendant did neither.

4. On June 25, 2007, the Court found Defendant in default. The Court's Docket Entry for June 25, 2007, can be found at Document 12.

5. Following the entry of default on June 25, 2007, Plaintiff's certified public accounting firm, D M Siegel, Ltd, conducted a compliance audit of Defendant's books and records and issued a Compliance Report ("Audit"). The Audit reveals that for the period June 1, 2006, through December 31, 2007, Defendant failed to report and pay amounts due under the CBA on 9,233.19 hours of work. A true and correct copy of the Audit is attached as Exhibit B.

6. Based on the Audit and ERISA, 29 U.S.C. §1132, Plaintiff's damages are:

\$142,765.44 -	Unpaid contributions per ERISA, 29 U.S.C. §1132(g)(2)(A), and §9.8 of CBA
\$44,223.33 -	Interest on unpaid contributions per ERISA, 29 U.S.C., §1132(g)(2)(B), and §9.8 of CBA, which includes \$39,940.37 set forth in Audit + \$2,141.48/month after 10/15/08
\$44,223.33 -	Statutory double interest per ERISA, 29 U.S.C. §1132(g)(2)(C)
\$11,421.24 -	Liquidated damages per §9.8 of CBA
\$18,634.62 -	Attorneys' fees and costs per §1.6 of CBA and ERISA, 29 U.S.C. §1132(g)(2)(D), through current (see Affidavit of Attorneys' Fees and Costs, attached as Exhibit C)
\$4,872.50 -	Audit costs per §1.6 of CBA and 29 U.S.C. §1132(g)(2)(E) (see Affidavit of Dennis M. Siegel, attached as Exhibit D)
_____	_____
\$266,140.46	Total due as of 11/25/2008

7. Defendant has failed to pay the amount due as requested by letter dated October 8, 2008, from Plaintiff's counsel to Defendant, a true and correct copy of which is attached hereto as Exhibit E.

8. Plaintiff requests the Court to enter a Judgment Order in the form attached hereto as Exhibit F, a copy of which was submitted to the Court by email in accordance with the Court's procedures.

WHEREFORE, Plaintiff, JAMES T. SULLIVAN, etc., requests the Court to enter Judgment in favor of Plaintiff and against Defendant, A M MECHANICAL, INC., in the amount of \$266,140.46, and to award such other and further relief in favor of Plaintiff and against Defendant as the Court deems just.

JAMES T. SULLIVAN, etc., by his
attorneys, DOUGLAS A. LINDSAY, JOHN W.
LOSEMAN, JAMES R. GANNON, and BRIAN T.
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65100/1073BTB139678

PROOF OF SERVICE

I served a copy of the foregoing MOTION FOR ENTRY OF JUDGMENT upon:

A M Mechanical, Inc.
c/o Rich Miller and
Denise Acevedo
3000 S. Lloyd Ave.
Chicago, IL 60608

Anthony G. Suizzo
Law Offices of Anthony G. Suizzo
1701 East Lake Avenue
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Glenview, IL 60025-2065

by placing true and correct copies thereof in sealed envelopes addressed as aforesaid, with postage prepaid, and depositing same in the United States Mail Box at 20 North Clark Street, Chicago, Illinois on November 14, 2008, before 4:30 p.m.

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 14 2008


Christine Usyak

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