

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

CHICAGO REGIONAL COUNCIL OF)	
CARPENTERS PENSION FUND and its Trustees)	
et al.)	
)	Case 07 C 3485
Plaintiffs)	
v.)	Magistrate
)	Judge Schenkier
WEIS BUILDERS, INC., a Minnesota corporation,)	
)	Judge Norgle
Defendant)	
<hr style="border: 0.5px solid black;"/>		
WEIS BUILDERS, INC., a Minnesota Corporation)	
Third-Party Plaintiff,)	
v.)	
)	
OLSSON ROOFING COMPANY, INC, and)	
BARCOL DOOR COMPANY INC)	
Third-Party Defendants.)	

MOTION FOR PROVE-UP OF DEFAULT JUDGMENT

NOW COMES the Third-Party Plaintiff, WEIS BUILDERS, INC., by and through its attorneys, Emalfarb, Swan & Bain, and moves this Court to prove-up damages against Third-Party Defendant, BARCOL DOOR COMPANY, INC., pursuant to a Default Judgment entered by this Court on July 25, 2008 and in support thereof states as follows:

1. Plaintiff, Chicago Regional Council of Carpenters Pension Fund and Weis Builders, Inc., have entered into a Settlement Agreement wherein Weis Builders has agreed to pay a total of \$18,000.00 to Chicago Regional Council of Carpenters Pension Fund in full and final settlement of all claims for the audit period January 1, 2004 thru June 30, 2007.

2. Attached hereto as Exhibit "A" is a true and accurate copy of a claim summary, issued by the attorney's for Chicago Regional Council of Carpenters Pension Fund, as to the unpaid contributions. The total principal unpaid contribution claimed against Weis Builders, Inc. was the sum of \$2,091.31. As stated in the attached Exhibit "A", the portion of the unpaid contributions, which relate to Weis Builders, Inc.'s, subcontractor, Barcol Door Company Inc. was the sum of \$1,306.67.

3. Pursuant to a settlement conference conducted before the Honorable Judge Sidney I. Schenkier, a settlement was reached and approved by the Magistrate wherein Weis Builders, Inc. would pay the sum of \$18,000.00 in full and final settlement of all claims related to the principal claim of Chicago Regional Council of Carpenters Pension Fund in the amount of \$2,091.31.

4. Since Barcol Door Company Inc., is responsible for non payment of benefits to the trust fund, in the amount of \$1,306.67, under Weis' Third-Party Complaint for Indemnification, Barcol Door Company Inc. would be responsible for 62.4% of the total claim and settlement. 62.4% of the total settlement equals the sum of \$11,232.00.

5. The Third-Party Plaintiff, Weis Builders, Inc., requests that this Court enter a finding that settlement between Weis Builders, Inc. and Chicago Regional Council of Carpenters Pension Fund is fair and reasonable, and that Barcol Door Company, Inc. should indemnify Weis Builders, Inc., pursuant to the Third-Party Complaint, based upon the amount of unpaid contributions attributable to Barcol Door Company, Inc. That the proportioned value of the settlement to Barcol Door Company, Inc. based unpaid contributions as determined by the adjusted audit of the Chicago Regional Council of Carpenters Pension Fund, is \$1,306.67 or 62.4% of the settlement.

WHEREFORE, for the foregoing reasons, the Third-Party Plaintiff, Weis Builders, Inc., prays that this Court enter judgment in its favor and against Barcol Door Company Inc., in the amount of \$11,232.00 which is Barcol Door Company, Inc.'s, percentage share of the settlement of unpaid contributions as claimed by the Chicago Regional Council of Carpenters Pension Fund herein.

Respectfully submitted,

WEIS BUILDERS, INC.

By: /s/ Peter G. Swan
Emalfarb, Swan & Bain
Its Attorneys

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