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

MIDWEST AGGREGATES, a division of PAYNE & DOLAN, INC.,	)	
Plaintiff,	)	Case No. 1:08-cv-511
v.	)	Judge John A. Nordberg
J & L CONCRETE, INC. and UNITED CONCRETE WAUKEGAN, INC.,	)	
Defendants.	)	

MIDWEST AGGREGATES' MOTION FOR RULING ON ITS MOTION FOR SUMMARY JUDGMENT

Plaintiff, Midwest Aggregates, a division of Payne & Dolan, Inc. ("Midwest"), by its attorneys, Quarles & Brady LLP, pursuant to Local Rule 78.5, requests that this Court rule on its Motion for Summary Judgment (the "Motion") and enter summary judgment in its favor and against Defendant United Concrete Waukegan, Inc. ("Defendant"). In support of this motion, Midwest states as follows:

1. Midwest initiated this action on January 23, 2008 (Docket No. 1) and Defendant was properly served with the complaint on January 28, 2008. Docket No. 2. The complaint alleges a simple breach of contract claim against Defendant, or alternatively unjust enrichment.

2. Midwest filed its Motion for Summary Judgment on April 24, 2008. Docket No. 17. The Motion requests that summary judgment be entered in favor of Midwest and against United because there is no genuine issue of material fact that United owes Midwest $175,410.55 for aggregate materials provided by United to Midwest. As set forth more fully in the Motion, Midwest provided United with $183,410.55 of stone, pea gravel and other aggregates. United received and accepted the materials. United agreed to pay Midwest for the materials. United made several small payments, but has failed to pay the entire amount owed to Midwest.

3. On April 24, 2008, the Court entered an order setting forth a briefing schedule on the Motion whereby Defendant was required to file its response by May 15, 2008 and Midwest was required to file its reply by May 22, 2008. Docket No. 22. Defendant did not file a response by May 15, 2008.

4. On June 3, 2008, Defendant filed a motion for extension of time to file a response to the Motion to June 26, 2008. Docket No. 23. The Court granted the extension and gave Defendant until June 26, 2008 to respond. Docket No. 25. Defendant again failed to file a response.

5. On July 2, 2008, this Court entered an order stating that counsel had advised it that no response to the Motion would be filed and, therefore, the Motion was fully briefed. The order also stated that the Court would rule by mail. Docket No. 26. The Court has not yet ruled on the Motion.

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WHEREFORE, for these reasons and the reasons stated in the Motion, Midwest requests this Court issue a ruling on the Motion and enter an order granting summary judgment in its favor against United Concrete Waukegan, Inc. in the amount of $175,410.55 plus pre-judgment interest at five percent (5%) per annum, awarding Midwest its costs, and granting Midwest such further relief as is appropriate.

Respectfully submitted,

MIDWEST AGGREGATES, a division of
PAYNE & DOLAN, INC.

By: /s/ Lauren Nachinson
One of Its Attorneys

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