

LIT4771

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

JAMES T. SULLIVAN, etc.,	)	
	)	No. 08 C 3285
Plaintiff,	)	
	)	Judge Kendall
v.	)	
	)	Magistrate Judge Denlow
ERICKSON MECHANICAL, INC.,	)	
	)	
	)	
Defendant.	)	

**PLAINTIFF’S MOTION FOR  
ENTRY OF JUDGMENT**

NOW COMES Plaintiff, JAMES T. SULLIVAN, etc., by his attorneys, DOUGLAS A. LINDSAY, JOHN W. LOSEMAN, 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, ERICKSON MECHANICAL, INC., in the amount of \$15,351.56. In support hereof, Plaintiff states:

1. Plaintiff filed his Complaint on June 6, 2008, to obtain an audit and recover all unpaid contributions, interest, liquidated damages, professional fees, and court costs owed to Plaintiff under the Collective Bargaining Agreements (“Agreements”) in effect between Defendant and Plaintiff and pursuant to ERISA, 29 U.S.C. §§1132 and 1145, and the LMRA, 29 U.S.C. §185, for the period from April 1, 2004, through the present.

2. On June 15, 2008, Defendant was served with a copy of the Summons and Complaint. A true and correct copy of the Return of Service is attached hereto as Exhibit A.

3. Defendant was required to appear and answer or otherwise plead on or before July 7, 2008. Defendant did neither.

4. On July 23, 2008, the Court found Defendant in default. The July 23, 2008 Order finding Defendant in default is Document 13 on the electronic docket.

5. Following the entry of default on July 23, 2008, 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 April 1, 2004, through July 31, 2008, Defendant failed to report and pay amounts due under the CBA on 304 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:

\$3,377.39 -	Unpaid contributions per ERISA, 29 U.S.C. §1132(g)(2)(A), and §9.8 of CBA
\$848.71 -	Interest on unpaid contributions per ERISA, 29 U.S.C., §1132(g)(2)(B), and §9.8 of CBA, which includes \$848.71 set forth in Audit + \$50.66/month after 1/15/09
\$848.71 -	Statutory double interest per ERISA, 29 U.S.C. §1132(g)(2)(C)
\$270.19 -	Liquidated damages per §9.8 of CBA
\$4,956.56 -	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)
\$4,880.00 -	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)

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\$15,181.56

Total due as of 1/12/2009

7. Plaintiff's attorney, Brian T. Bedinghaus, will render an estimated additional 1 hour of legal services, at a rate of \$170.00 per hour, for presentation of this motion.

8. Defendant has failed to pay the amount due as requested by letter dated December 12, 2008, from Plaintiff's counsel to Defendant, a true and correct copy of which is attached hereto as Exhibit E.

WHEREFORE, Plaintiff, JAMES T. SULLIVAN, etc., requests the Court to enter Judgment in favor of Plaintiff and against Defendant, ERICKSON MECHANICAL, INC., in the amount of \$15,351.56, 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 their  
attorneys, DOUGLAS A. LINDSAY,  
JOHN W. LOSEMAN, and BRIAN T.  
BEDINGHAUS

s/ Brian T. Bedinghaus

By: \_\_\_\_\_

Brian T. Bedinghaus  
LEWIS, OVERBECK & FURMAN, LLP  
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312-580-1269

Of Counsel:  
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312-580-1200

PROOF OF SERVICE


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

Erickson Mechanical, Inc.  
c/o Roy A. Erickson, President  
2509 Fulle St.  
Rolling Meadows, IL 60008

by placing a true and correct copy thereof in a sealed envelope addressed as aforesaid, with postage prepaid, and depositing same in the United States Mail Box at 20 North Clark Street, Suite 3200, Chicago, Illinois on Jan. 5, 2009, 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: Jan. 5, 2009

  
CHRISTINE USYAK

OF COUNSEL:  
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