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

MASONRY INSTITUTE, BRICKLAYERS)
LOCAL 21 PENSION FUND, DISTRICT)
COUNCIL TRAINING CENTER FUND,)
AND BRICKLAYERS AND STONE)
MASONS OF ILLINOIS DISTRICT COUN-)
CIL NO. 1 B.A.C. ANNUITY TRUST FUND,)
)
Plaintiffs,) Case No. 08CV 3916
V.)
) Judge Norgle
RICK CLARK, INDIVIDUALLY AND)
d/b/a R & W CLARK CONSTRUCTION,) Mag. Judge Valdez
INC.,)
·)
Defendant.)

MOTION TO VACATE ORDER OF DISMISSAL, TO REINSTATE ACTION, <u>AND FOR ENTRY OF JUDGMENT</u>

NOW COME the Plaintiffs and moves this Honorable Court to vacate Order of

Dismissal entered on November 26, 2008, a copy of which is attached hereto as Plaintiffs'

Exhibit "A", and to reinstate Plaintiffs' cause of action instanter, and for entry of judgment

against the Defendant.

In support of Plaintiffs' Motion, Plaintiffs state as follows:

1) That pursuant to Settlement Agreement and Agreed Order of Dismissal,

executed by the parties and filed with the Court on 11/21/08, a copy of which is attached

hereto as Plaintiffs' Exhibit "B", the parties agreed to a dismissal of the pending action.

2) That notwithstanding the provisions of the Settlement Agreement,

specifically paragraph 1 thereof, the Defendant has failed to remit payments for the months of December 2008, and January, February and March 2009.

WHEREFORE, in accordance with the provisions of the Agreed Order of Dismissal, Exhibit "A", Plaintiffs pray that the Order of Dismissal be vacated instanter, Plaintiffs' cause of action be reinstated, and that judgment enter in favor of Plaintiffs and against the Defendant in the amount of \$31,408.54, as and for the outstanding delinquencies and accrued interest calculated pursuant to the Judgment Order, which amount does not include the current delinquencies claimed due.

That Plaintiffs also pray that judgment enter for Plaintiffs' attorneys' fees and costs incurred as a result of the Defendant's non-compliance with the provisions of the parties' Settlement Agreement.

<u>/s/ Robert B. Greenberg</u> Asher, Gittler, Greenfield & D'Alba, Ltd. 200 West Jackson Boulevard Suite 1900 Chicago, Illinois 60606 (312) 263-1500 IL ARDC#: 01047558

Dated: March 19, 2009