

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

TRUSTEES of the CHICAGO REGIONAL)
COUNCIL OF CARPENTERS PENSION)
FUND, et al.)

Plaintiffs,)

Case No. 08 CV 5705

Judge Shadur

v.)

SCF COMMERCIAL FLOORING, INC.,)
a dissolved Illinois corporation and)
JESUS SERNA individually and d/b/a)
SCF COMMERCIAL FLOORING, INC.)

Defendants.)

MOTION FOR REINSTATEMENT AND FOR JUDGMENT

Plaintiffs, by its attorney, Daniel P. McAnally, move this Honorable Court to reinstate this case and enter judgment and in support state:

1. This is an ERISA trust fund case for delinquent contributions.
2. On April 21, 2009 this case was dismissed with leave to reinstate pursuant to the settlement of the parties. **Exhibit A**
3. On April 8, 2009, the Plaintiffs and Defendants entered into a settlement agreement, whereby the Defendant was to pay \$41,500 in partial payments, (**Exhibit B, Settlement Agreement, ¶2., Exhibit C, Libby Affidavit.**) If the Defendant defaulted on the payments, the Plaintiffs retained the right to reinstate this case and enter judgment for the balance owed on the payment arrangement plus accrued interest and liquidated damages and any additional attorney fees incurred by the Trust Funds as a result of enforcing this Agreement, ¶4. (**Exhibit D, attorney affidavit**)

4. On May 26, 2009, attorney for the plaintiffs, Daniel P. McAnally telephoned Jesus Serna to remind him that the first payment pursuant to the settlement agreement was due on May 29, 2009. Serna told McAnally that he would personally deliver the executed settlement agreement and first payment of \$6,916.67 to the trust fund office on Friday, May 29, 2009. Serna never delivered the payment.

5. As a result of the breach, the Defendants owe to the Plaintiffs the sum of \$53,863.40.

WHEREFORE, Plaintiffs pray that this case be reinstated and that judgment be entered against the Defendants both jointly and severally in the amount of \$53,863.40.

Respectively submitted,

s/ DANIEL P. McANALLY
Attorney for Plaintiffs

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