

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

LABORERS' PENSION FUND, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 08 C 6179
	)	
MILLENNIUM CONCRETE CONSTRUCTION,	)	
et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

Five of the six defendants in this ERISA action (limited liability companies collectively referred to here as "Evans Companies") have filed a motion seeking their dismissal from Count III of the First Amended Complaint ("FAC"), which seeks to hold Evans Companies liable on the premise that they and the first-named defendant--Millennium Concrete Construction LLC ("Millennium")--are a "single employer" for ERISA purposes or, alternatively, that Millennium is Evans Companies' alter ego. As always in conjunction with a Fed. R. Civ. P. ("Rule") 12(b)(6) motion, the well-pleaded allegations of Count III are credited, together with reasonable inferences drawn from them.

In this instance Evans Companies and their counsel are myopic in the extreme, for the facts that are set out in FAC ¶¶27-32 unquestionably support the potential for liability on the part of Evans Companies if the plaintiff employee benefit funds can deliver as advertised. Accordingly the current motion is denied, and Evans Companies are ordered to answer the FAC on or

before January 19, 2009.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive style with a large, stylized initial "M".

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Milton I. Shadur  
Senior United States District Judge

Date: January 7, 2009