

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

LABORERS' UNION FUND, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 09 C 2950
)	
ROJAS CONCRETE, INC., et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Rojas Concrete, Inc. and Oscar Rojas (collectively "Rojas") have filed their Answer to the ERISA Complaint brought against them by several employee benefit plans ("Funds"). This memorandum order is issued sua sponte because of one problematic aspect of that responsive pleading.

Despite the clarity of the formula prescribed by Fed. R. Civ. P. 8(b)(5) as the basis for obtaining a deemed denial of a complaint's allegations, Rojas' counsel have inappropriately sought to employ a less demanding standard in Answer ¶¶3, 4, 10, 14 and 19--see App'x ¶1 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 278 (N.D. Ill. 2001). Accordingly those flawed disclaimers are stricken, but with leave granted to file an appropriate amendment to the Answer (not a self-contained rewritten Answer) on or before December 14, 2009.

No charge is to be made to Rojas by their counsel for the added work and expense incurred in correcting counsel's errors. Rojas' counsel are ordered to apprise their clients to that

effect by letter, with a copy to be transmitted to this Court's chambers as an informational matter (not for filing).

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

Milton I. Shadur
Senior United States District Judge

Date: December 1, 2009