

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

JAMES M. SWEENEY, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	CIVIL ACTION
	)	
vs.	)	NO. 09 C 5940
	)	
CUTTING EDGE EXCAVATION, INC.,	)	JUDGE ROBERT M. DOW, JR.
an Indiana corporation, a/k/a CUTTING	)	
EDGE EXCAVATION,	)	
	)	
Defendant.	)	

**MOTION FOR ENTRY OF JUDGMENT**

Plaintiffs, by and through their attorneys, default having been entered against the Defendant on December 3, 2009, request this Court enter judgment against Defendant, CUTTING EDGE EXCAVATION, INC., an Indiana corporation, a/k/a CUTTING EDGE EXCAVATION. In support of that Motion, Plaintiffs state:

1. On December 3, 2009, this Court entered default against Defendant and granted Plaintiffs' request for an order directing Defendant to turn over its monthly fringe benefit contribution reports for July 2009 through the present date. The Court also entered an order that judgment would be entered after Defendant submitted the required reports and Plaintiffs' determined the amounts due and owing.

2. After a careful review of the Defendant's account, Plaintiff Funds have determined that they do not require Defendant to submit additional fringe benefit contribution reports for July 2009 through the present date.

3. Based on contribution reports submitted by Defendant for December 2008 through July 2009, Plaintiffs have determined that the following contributions are due:

	<u>Contributions</u>
Welfare Fund	\$30,119.22
Pension Fund	\$21,581.79
Apprenticeship Fund	\$ 1,544.09
Vacation Fund	\$ 4,242.40

(See Affidavit of David S. Bodley).

4. Defendant submitted the fringe benefit contributions due for June 2008 through November 2008 at incorrect contribution rates and accordingly owes the following contributions:

	<u>Contributions</u>
Welfare Fund	\$604.80
Pension Fund	\$151.20

(Bodley Aff. ¶4(d)).

5. Defendant had employees covered by the collective bargaining agreements during the months of December 2007 and January 2008, and that these employees have submitted check stubs showing the number of hours worked by them for the Defendant. Defendant subsequently paid the contributions due for the stated time period, but said contributions were untimely submitted and accordingly Plaintiffs have assessed a liquidated damages surcharge against the Defendant in the amount of ten (10%) percent of all contributions due which were paid late, for the aforesaid months, in amounts set forth below:

	<u>Liquidated Damages</u>
Welfare Fund	\$118.07
Pension Fund	\$ 95.69
Apprenticeship Fund	\$ 6.17
Vacation Fund	\$ 33.95

(Bodley Aff. ¶4(e)).

6. Pursuant to the Trust Agreements, a liquidated damages surcharge has been assessed against the Defendant in the amount of ten (10%) percent of all contributions due and unpaid and all contributions which were paid late, for the months of January 2008 and September 2008 through July 2009, in amounts set forth below:

	<u>Liquidated Damages</u>
Welfare Fund	\$6,746.19
Pension Fund	\$5,010.07
Apprenticeship Fund	\$ 329.45
Vacation Fund	\$1,352.59

(Bodley Aff. ¶5).

7. In addition, Plaintiffs' firm has expended \$470.00 for costs and the total amount of \$1,707.50 in attorneys' fees in this matter. (See Affidavit of Catherine M. Chapman).

8. Based upon the documents attached hereto, Plaintiffs request entry of judgment in the total amount of \$74,113.18.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in the amount of \$74,113.18.

/s/ Beverly P. Alfon

Beverly P. Alfon  
Attorney for Plaintiffs  
BAUM SIGMAN AUERBACH & NEUMAN, LTD.  
200 West Adams Street, Suite 2200  
Chicago, IL 60606-5231  
Bar No.: 6274459  
Telephone: (312) 236-4316  
Facsimile: (312) 236-0241  
E-Mail: [balfon@baumsigman.com](mailto:balfon@baumsigman.com)

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney of record, hereby certifies that she electronically filed the foregoing document (Motion for Entry of Judgment) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 15th day of December 2009:

Mr. Joshua L. Walk  
Cutting Edge Excavation, Inc.  
21825 CR 38  
Goshen, IN 46526

Mr. Joshua L. Walk  
Cutting Edge Excavation, Inc.  
PO Box 2384  
Elkhart, IN 46515

Mr. Bodie J. Stegelmann  
Yoder, Ainlay, Ulmer & Buckingham, LLP  
130 N. Main Street  
PO Box 575  
Goshen, IN 46527-0575

/s/ Beverly P. Alfon \_\_\_\_\_

Beverly P. Alfon  
Attorney for Plaintiffs  
BAUM SIGMAN AUERBACH & NEUMAN, LTD.  
200 West Adams Street, Suite 2200  
Chicago, IL 60606-5231  
Bar No.: 6274459  
Telephone: (312) 236-4316  
Facsimile: (312) 236-0241  
E-Mail: [balfon@baumsigman.com](mailto:balfon@baumsigman.com)