

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

BOARD OF TRUSTEES OF THE	)	
PIPEFITTERS RETIREMENT FUND,	)	
LOCAL 597, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 09 C 7000
	)	
G&S MECHANICAL INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

G&S Mechanical Inc. and Mary Lou Gutrich have just filed their "Answer [sic] to Complaint" in this ERISA action brought against them by a number of employee benefit funds. Because that responsive pleading almost qualifies as a poster child evincing a number of the sins identified in this Court's Appendix to the opinion in State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 278 (N.D. Ill. 2001), defense counsel's attention is directed to these matters that require correction:

1. It is improper to assert in Answer ¶¶1 and 2 that "no response is required to the corresponding allegations in the Complaint." That is of course particularly true as to the matter of subject matter jurisdiction.

2. Answer ¶¶3 and 4 do not conform to the straightforward dictate of Fed. R. Civ. P. ("Rule") 8(b)(5) as to the required content of a permissible disclaimer--see App'x ¶1 to State Farm.

3. It violates the requirement of Rule 8(b)(1)(B) for defendants to fail to respond to any allegations of a complaint on the premise that they "are general conclusions of law without a specific factual basis for support" (Answer ¶¶11, 13, 14, 25 and 27)--See App'x ¶2 to State Farm.

4. Answer ¶26 cannot properly advance a denial, in the subjective and objective good faith required by Rule 11(b), that plaintiffs had to retain counsel to collect the amounts due and owing from defendants.

Because of the number of paragraphs that thus require revision, it makes little sense to create a piecemeal pleading structure by merely requiring an amendment to the offending paragraphs. Instead the entire Answer is stricken, with leave hereby granted to file a proper self-contained Amended Answer on or before February 25, 2010. No charge is to be made to defendants by their counsel for the added work and expense incurred in correcting counsel's own errors. Defense 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).



---

Milton I. Shadur  
Senior United States District Judge

Date: February 11, 2010