

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

LABORERS' PENSION FUND and)	
LABORERS' WELFARE FUND OF THE)	
HEALTH AND WELFARE DEPARTMENT)	
OF THE CONSTRUCTION AND GENERAL)	
LABORERS' DISTRICT COUNCIL OF)	
CHICAGO AND VICINITY, and JAMES S.)	
JORGENSEN, Administrator of the Funds,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 11 C 7283
)	
ED FOGARTY CONCRETE)	Judge Hart
CONSTRUCTION, INC.,)	
)	
Defendant.)	

**MOTION TO REINSTATE AND TO ENTER DEFAULT
JUDGMENT FOR ATTORNEYS' FEES AND COSTS**

The plaintiffs, the Laborers' Pension Fund and the Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity, ("Funds") and James S. Jorgensen, by their attorneys, respectfully move this Court to reinstate this matter as follows:

1. This cause was dismissed for want of prosecution on February 9, 2012. Plaintiffs' counsel believed that this matter was scheduled for status hearing on March 9, 2012, which is reflected by the entry in her calendar. Therefore, through inadvertence counsel did not attend the scheduled hearing on February 9, 2012.

2. On November 14, 2011, plaintiffs served Debbie Kolberg, President and Registered Agent of the Company by handing a copy of summons and complaint to her at the business address of 10261 Mandel, Unit A, Plainfield, Illinois. A copy of the return of service is attached hereto.

3. More than twenty days have passed since the service of the summons and the complaint, and the defendant has failed to plead or otherwise defend as required by the Federal Rules of Civil Procedure. Copy of this motion will be sent to Debbie Kolberg at the business address of

10261 Mandel, Unit A, Plainfield, Illinois.

4. This lawsuit involved payment of contributions due to the Funds under the Employee Income Retirement Act of 1974, 29 U.S.C. § 1132 *et seq.*, for the period from July 2011 through the present. By December 2011, the Company paid the principal amounts owed to the Funds.

5. On or before December 21, 2011, the Funds wrote to the Company demanding the balance owed of liquidated damages and attorneys' fees and costs in the amount of \$2,459.80. The Company made a partial payment of \$1,000.00 and asked for a waiver of part of the amounts owed. The Funds agreed to waive approximately half of the balance if the amount of \$700.00, was paid in January, 2012. (See affidavit attached hereto).

6. A balance continues to be owed in the amount of \$700.00, which, as identified by the affidavit of counsel, consists of attorneys' fees and costs.

Wherefore, plaintiffs request that this Court vacate the dismissal and enter default judgment in the amount of \$700.00.

Respectfully submitted,

/s/ Karen I. Engelhardt

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March 8, 2012