

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

| | | |
|--|---|---------------------|
| CHICAGO REGIONAL COUNCIL OF CARPENTERS PENSION FUND et al |) | |
| |) | |
| Plaintiffs, |) | Case No. 12 cv 4027 |
| |) | |
| v. |) | Judge Lefkow |
| |) | |
| R & W CLARK CONSTRUCTION, INC. |) | |
| |) | |
| Defendant. |) | |

MOTION TO REINSTATE THE CASE AND ENTRY OF JUDGMENT

Now come Plaintiffs, the Chicago Regional Council of Carpenters Pension Fund, et al., by their attorney, David Whitfield, of Whitfield McGann & Ketterman, and respectfully requests that this Honorable Court reinstate the case and enter final Judgment for the amounts found to be owed. In support of the motion, the Plaintiffs state as follows:

1. Plaintiffs filed their complaint on May 23, 2012 and good service of summons occurred on August 3, 2012. (Exhibit A, Affidavit of Service)
2. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. (Exhibit B – Signed Agreement)
3. This action arises under Section 502 of the Employee Retirement Income Security Act and Section 301 of the Taft-Hartley Act. (29 U.S.C. §§1132 and 185). Jurisdiction is founded on the existence of questions arising thereunder. (Exhibit F – Sworn Declaration of John Libby)
4. The Defendant must submit monthly reports listing the hours worked by its carpenter employees ("contribution reports") and to make concurrent payment of contributions to the Trust Funds based upon the hours worked by its carpenter employees. (Exhibit F – Sworn Declaration of John Libby)
5. The Defendant breached the provisions of the Collective Bargaining Agreement and Trust Agreements by failing to submit the full amount owed to the Trust

Funds. Plaintiffs and Defendants entered into an Agreed Order of Dismissal on November 4, 2013. (Exhibit C – Agreed Order of Dismissal; Exhibit F – Sworn Declaration of John Libby)

6. The Defendant breached Paragraph 1 of the agreed Order of Dismissal by failing to maintain the agreed upon monthly installment payments to the Plaintiffs. The Defendant owes the Plaintiffs \$26,492.51 of the Agreed Order of Dismissal. (Exhibit F – Sworn Declaration of John Libby)

7. Paragraph 3 of the Agreed Order of Dismissal provides Plaintiffs' the right to seek entry of a judgment if Paragraph 1 is breached. (Exhibit C – Agreed Order of Dismissal)

8. Paragraph 3 of the Agreed Order of Dismissal provides Plaintiffs' the right to seek any additional attorney's fees and cost expended in enforcing the Agreed Order of Dismissal if Paragraph 1 or Paragraph 2 is breached. The Plaintiffs have incurred an additional \$1,347.50 in attorney fees and costs since the entering of the Agreed Order of Dismissal. (Exhibit C – Agreed Order of Dismissal; Exhibit D – Sworn Declaration of David Whitfield; Exhibit E – Detailed Billing of Whitfield McGann & Ketterman)

WHEREFORE, Plaintiffs pray:

- a) That a judgment is entered against the Defendant in the amount of \$27,840.01.
- b) The Defendant be ordered to submit payment of \$27,240.01 to the Plaintiffs.
- i) That Plaintiffs have such other and further relief as by the Court may be deemed just and equitable all at the Defendant's costs pursuant to 29 U.S.C. §1132(g)(2)(F).

By: /s/ David Whitfield
Attorney for Plaintiffs

David Whitfield
Whitfield McGann & Ketterman
111 East Wacker Drive, Suite 2600
Chicago, IL 60601
T: (312) 251-9700 F: (312) 251-9701
Firm File Number N9574