

FRED BOSWELL
FOX VALLEY vs SUBSURFACE UNDERGROUND

October 13, 2016
1-4

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 FOX VALLEY LABORERS')
5 HEALTH AND WELFARE FUND,)
6 THE FOX VALLEY LABORERS')
7 PENSION FUND, and PAT)
8 SHALES, Administrator of)
9 the Funds,)
10 Judgment Creditors,)
11 -vs-) No. 15 cv 9461
12 SUBSURFACE UNDERGROUND)
13 CONSTRUCTION, INC, an)
14 Illinois corporation,)
15 Judgment Debtor,)
16 KB UTILITY SERVICES,)
17 Third-Party Citation)
18 Respondent.)
19
20 The deposition of FRED BOSWELL, called for
21 examination, taken pursuant to the Federal Rules
22 of Civil Procedure of the United States District
23 Courts pertaining to the taking of depositions,
24 taken before KAREN A. FAZIO, CSR No. 84-1834, a

Page 2

1 Notary Public within and for the County of Cook,
2 State of Illinois, and a Certified Shorthand
3 Reporter of said state, at 8 South Michigan Avenue,
4 19th Floor, Chicago, Illinois, on the 13th day of
5 October, A.D. 2016, commencing at 12:57 p.m.
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Page 3

1 PRESENT:
2 DOWD, BLOCH, BENNETT, CERVONE,
3 AUERBACH & YOKICH,
4 (8 South Michigan Avenue, 19th Floor,
5 Chicago, Illinois 60603,
6 (312) 372-1361), by:
7 MR. JOSIAH A. GROFF,
8 appeared on behalf of the Judgment
9 Creditors.
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23 REPORTED BY: KAREN A. FAZIO, CSR
24 CSR NO. 84-1834

Page 4

1 (WHEREUPON, the witness was duly
2 sworn.)
3 FRED BOSWELL,
4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:
6 EXAMINATION
7 BY MR. GROFF:
8 Q. Mr. Boswell, could you state and spell
9 your name for the record?
10 A. It's Fred, F-R-E-D, Boswell,
11 B-O-S-W-E-L-L.
12 Q. And have you ever been deposed like this
13 before?
14 A. No.
15 Q. Okay. Then I'm going to go over a few
16 instructions for the record.
17 A. Okay.
18 Q. I'm going to ask a series of questions.
19 You're under oath, so you need to answer truthfully
20 to the best of your ability. We're making a
21 written record of the deposition, so you need to
22 answer with words, not by nodding or saying uh-huh
23 because the court reporter can't record whether
24 uh-huh is a yes or a no.



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Exhibit A

Page 5

1 A. Okay.
2 Q. Please wait until I'm done asking a
3 question before giving your answer. If you
4 interrupt to give an answer, the court reporter
5 will have trouble writing down who's saying which
6 words. If you don't hear my question, please ask
7 me to repeat it. If you don't understand my
8 question, please ask me to rephrase it.
9 Do those instructions make sense?
10 A. Yes.
11 Q. Are you taking any drugs or medication
12 today that would prevent you from hearing my
13 questions and responding truthfully?
14 A. No.
15 Q. Would there be any other reason you
16 couldn't testify fully and accurately today?
17 A. No.
18 Q. We're here for the deposition of
19 KB Utility Services. Do you have a job title with
20 KB Utility Services?
21 A. Not officially. I'm the manager I guess
22 is the best way to call it. I have a silent owner
23 who's my business partner.
24 Q. I'm sorry, a solid owner?

Page 6

1 A. Silent. She doesn't deal with the
2 day-to-day business.
3 Q. What's her name?
4 A. Kim Angerman.
5 Q. So as manager, are you an employee or an
6 independent contractor?
7 A. Employee.
8 Q. Okay. You get a W-2?
9 A. Yes.
10 Q. All right. How long has KB Utility
11 Services been around?
12 A. We started April, I believe. I'm not
13 sure the exact date in April.
14 Q. Is KB Utility Services incorporated?
15 A. We are a corporation.
16 Q. What's the exact name of K B /AOU
17 /TEUPLTS?
18 A. KB Utility Services Corporation.
19 Q. Okay. When did KB incorporate? In
20 April?
21 A. April.
22 Q. I asked because I was having trouble
23 locating it on the Secretary of State's listing.
24 Do you know if it's K.B?

Page 7

1 A. It's KB together. Actually, I think I
2 have one of my business cards. I think we
3 incorporated out of Florida. She handled all of
4 that.
5 Q. By "she" you mean Kim?
6 A. Kim. She has another business, so she
7 knew. We go by KB US, but our official name is
8 KB Utility Services.
9 MR. GROFF: Okay. I'm going to mark
10 Exhibit 1.
11 (WHEREUPON, a certain document was
12 marked Exhibit No. 1, for
13 identification, as of 10-13-16.)
14 BY MR. GROFF:
15 Q. You got this document in the mail?
16 A. Yes.
17 MR. GROFF: Okay. And I'm going to mark
18 Exhibit 2 while we're on that subject.
19 (WHEREUPON, a certain document was
20 marked Exhibit No. 2, for
21 identification, as of 10-13-16.)
22 BY MR. GROFF:
23 Q. And this is the return receipt that you
24 signed for it?

Page 8

1 A. Yes, it is.
2 Q. That's your signature on there?
3 A. Yes, it is.
4 Q. Okay. And the stamp that says
5 August 30, is that when you got this document --
6 I'm sorry, when you got Exhibit 1 in the mail?
7 A. I believe so. I don't remember, to be
8 honest.
9 Q. Okay. If you turn to Page 2 of this
10 document, do you see the numbered list 1, 2 and 3?
11 A. Yes.
12 Q. Did you bring any documents with you
13 today?
14 A. No, there are no written contracts
15 between me and Subsurface or Bob Nickelson.
16 Q. Okay. Who else works for KB?
17 A. Bob does part-time. Bob Nickelson does
18 part-time.
19 Q. Okay.
20 A. He does estimating for me.
21 Q. Okay.
22 A. And then I have another employee, Robert
23 Martinez.
24 Q. Okay.

Page 9

1 A. Robin Nickelson does part-time.
2 Q. Robin Nickelson?
3 A. Yes.
4 Q. Is that a relative of Bob?
5 A. That's his mother, yes.
6 Q. Okay.
7 A. She does filing and stuff for me.
8 Q. Okay.
9 A. On an as-needed basis.
10 Q. And what was Martinez's name?
11 A. Robert.
12 Q. Robert Martinez. Okay. What does he
13 do?
14 A. He's a laborer.
15 Q. Okay. And anyone else?
16 A. That's it.
17 Q. Okay. Do you know someone named Matthew
18 Sliwkowski, S-L-I-W-K-O-W-S-K-I?
19 A. I met him a couple of times.
20 Q. Does he have anything to do with KB?
21 A. No, he was tied in with Subsurface, and
22 then we leased a truck from him.
23 Q. Okay. When did you meet him?
24 A. Oh, goodness. January, 2015 maybe.

Page 10

1 Q. Okay. Where did you meet him?
2 A. In Elgin, at Subsurface's office.
3 Q. When did you first meet Bob Nickelson?
4 A. Late summer, early fall of 2014.
5 Q. Okay. And how did you meet him?
6 A. A friend of a friend.
7 Q. Okay. What were you doing before you
8 were working for KB or before you started KB?
9 A. I worked at Subsurface.
10 Q. Okay.
11 A. I was a foreman there.
12 Q. Okay. How long were you working as a
13 foreman at Subsurface?
14 A. I was there -- I believe I started in
15 May, and I went till January, February of this
16 year.
17 Q. Okay. So May, you mean May, 2015?
18 A. Yes. I'm trying to think. I think it
19 was May. I don't remember the exact start date, to
20 be honest with you.
21 Q. And how do you know Kim Angerman?
22 A. That was Bob's girlfriend.
23 Q. Okay. And Kim -- does Kim have a title
24 with the company, like president or vice president?

Page 11

1 A. She is president.
2 Q. Okay. And does she own all of the
3 company?
4 A. She owns all the company.
5 Q. Okay. Is Bob Nickelson an employee of
6 the company or independent contractor?
7 A. Employee of the company.
8 Q. Are there any other officers besides
9 Kim?
10 A. No. We have never officially made me an
11 officer.
12 Q. Okay. Nobody's vice president?
13 A. No. I'm supposed to be, but I've never
14 signed the paperwork.
15 Q. Okay.
16 A. Every time something's happened, I've
17 had to go out of town.
18 Q. So you're planning to become vice
19 president?
20 A. Yes, I plan to be, but I've never signed
21 the paperwork to make it legal and official.
22 Q. Is there a current treasurer?
23 A. No.
24 Q. Is there any plan to make anyone

Page 12

1 treasurer?
2 A. No.
3 Q. What about secretary, is there a current
4 secretary?
5 A. No.
6 Q. Any plan to make anyone secretary?
7 A. No. All our accounting is handled by
8 the accounting firm.
9 Q. Is that Robert Tardella?
10 A. Yes.
11 Q. Are there any other -- just to make
12 sure, are there any other employees of KB Utility
13 who we haven't talked about?
14 A. We've had a few come and go. We hired a
15 guy in St. Louis, but he's temporary help.
16 Q. Okay.
17 A. So I don't know if you want to classify
18 him as a full-time employee or not.
19 Q. When did he work for KB?
20 A. The last two weeks.
21 Q. Is he done working for KB now?
22 A. We're not sure now. If we pick up more
23 work in St. Louis, he'll work for us. If we don't,
24 then --

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

FOX VALLEY LABORERS' HEALTH AND)	
WELFARE FUND, THE FOX VALLEY)	
LABORERS' PENSION FUND, and PAT)	Case No.: 15 cv 9461
SHALES, Administrator of the Funds,)	
)	Judge: Finnegan
Plaintiffs,)	
)	
v.)	
)	
SUBSURFACE UNDERGROUND)	
CONSTRUCTION INC., an Illinois)	
corporation, ROBERT NICKOLSON,)	
individually,)	
)	
Defendants.)	

WAGE DEDUCTION SUMMONS

To: KB Utility Services Corp.
% CT Corporation System, Registered Agent
1200 South Pine Island Road
Plantation, FL 33324

YOU ARE SUMMONED and required to file answers to the judgment creditor's interrogatories, in the office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, 219 South Dearborn Street, 20th Floor, Chicago, Illinois on or before **December 20, 2016** (21 to 40 days after issuance of summons). However, if this summons is served on you less than 3 days before that date, you must file answers to the interrogatories on or before a new return date, to be set by the court, not less than 21 days after you were served with this summons.

This proceeding applies to non-exempt wages due at the time you were served with this summons and wages which become due until the balance due on the judgment is paid.

IF YOU FAIL TO ANSWER, A CONDITIONAL JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE AMOUNT OF THE JUDGMENT UNPAID.

Exhibit B

FEDERAL AGENCY EMPLOYERS: Effective upon service of this summons and pursuant to 5 USC 552(a), you are to commence to pay over deducted wages to the attorney for the judgment creditor in accordance with 735 ILCS 5/12-808.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than the above date.

THOMAS G. BRUTON

COURT CLERK

DENISE CASANOVA

DEPUTY CLERK

NOV 18 2016

DATE

Prepared by:

Josiah A. Groff (#6289628)

Elizabeth L. Rowe (#6316967)

DOWD, BLOCH, BENNETT, CERVONE

AUERBACH & YOKICH

8 South Michigan, 19th Floor

Chicago, Illinois 60603

(312) 372-1361

Fax: (312) 372-6599

November 18, 2016

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

FOX VALLEY LABORERS' HEALTH AND)	
WELFARE FUND, THE FOX VALLEY)	
LABORERS' PENSION FUND, and PAT)	Case No.: 15 cv 9461
SHALES, Administrator of the Funds,)	
)	Judge: Finnegan
Plaintiffs,)	
)	
v.)	
)	
SUBSURFACE UNDERGROUND)	
CONSTRUCTION INC., an Illinois)	
corporation, ROBERT NICKOLSON,)	
individually,)	
)	
Defendants.)	

WAGE DEDUCTION NOTICE

Amount of Judgment: \$36,899.99

To: KB Utility Services Corp.
% CT Corporation System, Registered Agent
1200 South Pine Island Road
Plantation, FL 33324

Notice: The court shall be asked to issue a wage deduction summons against the employer named above for wages due or about to become due to Judgment Debtor Robert Nickolson ("Nickolson"). The wage deduction summons may be issued on the basis of a judgment against Nickolson in favor of the Judgment Creditor in the amount stated above.

The amount of wages that may be deducted is limited by Federal and Illinois law.

- (1) Under Illinois Law, the amount of wages that may be deducted is limited to the lesser of (i) 15% of gross weekly wages or (ii) the amount by which disposable earnings for a week exceed the total of 45 times the greater of the State or Federal minimum hourly wage.
- (2) Under Federal law, the amount of wages that may be deducted is limited to the lesser of (i) 25% of disposable earnings for a week or (ii) the amount by which disposable earnings for a week exceed 30 times the Federal minimum hourly wage.

- (3) Pension and retirement benefits and refunds may be claimed as exempt from wage deductions under Illinois law.

The Judgment Debtor has the right to request a hearing before the court to dispute the wage deduction because the wages are exempt. To obtain a hearing the Judgment Debtor must appear in the office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, 219 South Dearborn Street, 20th Floor, Chicago, Illinois, before the summons return date, or appear on the return date and time as specified on the summons. The Clerk of the Court will assign a hearing date, and provide forms which must be prepared by the debtor or his/her attorney, a copy of which must be sent to the Judgment Creditor and the employer or their attorney. This notice may be sent by regular first-class mail.

Respectfully submitted,



Elizabeth L. Rowe

J. Peter Dowd (#0667552)
Josiah A. Groff (#6289628)
William M. Kinney (#6286597)
Elizabeth L. Rowe (#6316967)
DOWD, BLOCH, BENNETT, CERVONE,
AUERBACH & YOKICH
8 South Michigan, 19th Floor
Chicago, Illinois 60603

(312) 372-1361

November 18, 2016

AFFIDAVIT FOR WAGE DEDUCTION SUMMONS

I, the undersigned, certify under penalties as provided by law under 735 ILCS 5/1-109, that the following information is true.

1. I believe KB Utility Services Corp. is indebted to Judgment Debtor Robert Nickolson for wages due or to become due.
2. The last known address of the Judgment Debtor is 629 Waterford Lane, South Elgin, IL 60177.
3. I request that a summons issue directed to Respondent.

CERTIFICATE OF ATTORNEY

1. Judgment in this case was entered on October 27, 2016.
2. Amount of Judgment\$36,899.99
3. Allowable costs previously expended (aside from judgment):
 - a. Initial filing fee\$ 0.00
 - b. Original and alias summons\$ 0.00
 - c. Filing and summons costs of prior supplementary proceedings\$ 0.00
4. Filing and summons cost for this garnishment\$ 0.00
5. Post-judgment interest\$16.90
6. **Total****36,916.89**
7. Deduct: Total amount paid by or on behalf of the Judgment Debtor before this garnishment\$ 0.00
8. Balance due Judgment Creditor**\$36,916.89**

J. Peter Dowd (#0667552)
Josiah A. Groff (#6289628)
William M. Kinney (#6286597)
Elizabeth L. Rowe (#6316967)
DOWD, BLOCH, BENNETT, CERVONE,
AUERBACH & YOKICH
8 South Michigan Avenue, 19th Floor
Chicago, Illinois 60603
(312) 372-1361


Elizabeth L. Rowe
Counsel for Judgment Creditor

INTERROGATORIES TO EMPLOYER

Employer/Agent: _____

Court Date: _____

Defendant's Name: _____

S.S. No. XXX-XX- _____

Case No.: _____

Defendant's Address: _____

Do you pay any money to the Defendant listed above? Yes No

If terminated, date _____, _____.

IF YOUR ANSWER IS "NO," GO TO "RESPONDENT CERTIFICATION"

Of the funds paid to the debtor, are any of those funds:

Subject to prior court ordered deduction (including child/spouse support)

Case Number, State, County _____.

Disability? Retirement? Otherwise exempt?

(Describe _____).

CALCULATION TO DETERMINE AMOUNT OF WITHHOLDING

(Note: If income varies, withholding must be recalculated for every pay period.)

Do you pay debtor:

- Every week
- Every two weeks
- Semi-monthly
- Monthly
- Other _____

(A) Gross wages per paycheck minus mandatory contributions to pensions or retirement plan (A) _____

(B) 15% of (A) = (B) _____

(C) Enter total FICA, State Tax, Federal Tax and Medicare (C) _____

(D) Subtract (C) from (A) = (D) _____

(E) If debtor is paid every week, enter \$371.25
 If debtor is paid every two weeks, enter \$742.50
 If debtor is paid semi-monthly, enter \$804.37
 If debtor is paid monthly, enter \$1,608.75
 If other, multiply 45 times state minimum wage (currently \$8.25)
 times number of weeks in pay period(E) _____

(F) Subtract (E) from (D) (Enclose a negative number in parentheses, e.g., (\$50.00))(F) _____

IF LINE "F" IS ZERO OR A NEGATIVE NUMBER, DO NOT WITHHOLD ANY WAGES. GO TO "INSTRUCTIONS" BELOW.

(G) Enter the Lesser of Line (B) or (F) (G) _____

(H) Enter Child Support or other Court Ordered Deduction (H) _____

(I) Subtract (H) from (G) (Enclose a negative number in parentheses, e.g., (\$50.00))(I) _____

LINE "I" MUST BE WITHHELD AS OF THE DATE OF SERVICE AND HELD UNTIL FURTHER COURT ORDER.

IF LINE "I" IS ZERO OR A NEGATIVE NUMBER, DO NOT WITHHOLD ANY WAGES. GO TO "INSTRUCTIONS" BELOW.

(J) Subtract Employer's Statutory Fee (2% of line "I"). See 735 ILCS 5/12-814.(J) _____

(K) Amount to be applied to Judgment (K) _____

INSTRUCTIONS

1. Complete the Interrogatories/Answer to Wage Deduction Proceedings.
2. Complete and sign the certification at the bottom of this page.
3. Fax or mail a copy of this Answer to Plaintiff's attorney and give a copy to the Defendant. Mail a copy to the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, 219 South Dearborn Street, 20th Floor, Chicago, Illinois. To assure timely processing, the Answer should be received at least three days before the Court Date.
4. You will receive a copy by fax or mail of a Court Order instructing you how to proceed and where to send any withheld funds.

RESPONDENT CERTIFICATION

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that the statements set forth in this instrument are true and correct and that I have either mailed or hand delivered a copy of this completed Interrogatories/Answer to the Clerk, Plaintiff's attorney and Defendant.

Address: _____

Date: _____

Signature of Employer/Agent: _____

Telephone: _____

Print full name clearly: _____

FAX: _____

CERTIFICATION OF MAILING BY ATTORNEY FOR JUDGMENT CREDITOR

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), I certify that I mailed by regular first-class mail a copy of the Wage Deduction Notice to Defendant at the address shown below on November 18, 2016:

Robert Nickolson
629 Waterford Lane
South Elgin, IL 60177


Elizabeth L. Rowe

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

KB Utility Services, Corp.
c/o C T Corporation System,
Registered Agent
1200 South Pine Island Road
Plantation, FL 33324



9590 9403 0937 5223 5038 97

2. Article Number (Transfer from service label)

7015 1520 0002 7097 1137

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *John W*

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)

- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

DEC 2 2015

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**KB Utility Services Corp.
33 Center Street, Unit C
Gilbert, IL 60136**



9590 9403 0937 5223 5039 03

2. Article Number (Transfer from service label)

7015 1520 0002 7097 1144

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

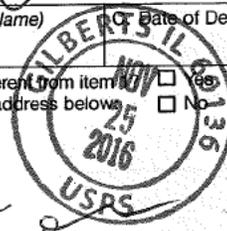
A. Signature

[Handwritten Signature] Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

Robert Winkels



D. Is delivery address different from item? Yes
If YES, enter delivery address below No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

NOV 28 2016

Exhibit C