

EXHIBIT LIST

EXHIBIT A

Agreed Order of Dismissal

EXHIBIT B

Sworn Declaration Pursuant to 28 U.S.C.A. § 1746
Debbie Trzeciak, Client Services Manager

EXHIBIT C

Sworn Declaration Pursuant to 28 U.S.C.A. § 1746
Daniel P. McAnally, Plaintiffs Attorney

Exhibit

A

Exhibit A

Nh

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

TRUSTEES of the IRON WORKERS)	
TRI-STATE WELFARE PLAN)	
)	
Plaintiffs,)	Case No. 16-cv-8906
)	
)	Judge Robert W. Gettleman
v.)	
)	
MORCOM CONSTRUCTION COMPANY)	
)	
Defendant.)	

Agreed Order of Dismissal

The parties hereby agree that this case has been settled and that all issues and controversies have been resolved to their mutual satisfaction.

IT IS HEREBY ORDERED THAT :

1. Defendant shall pay to the Plaintiffs \$21,550.00 in accordance with the following schedule:
 - (a) \$10,775.00 on or before June 9, 2017 and
 - (b) \$10,775.00 on or before July 7, 2017.
2. If the Defendant defaults on paragraph 1, the Plaintiffs shall have the right to reinstate this case for the sole purpose of entering judgment for the balance owed pursuant to this Order, plus accrued liquidated damages, audit fees in the amount of \$1,300.00 and the Plaintiffs' attorney fees expended in enforcing this order.
3. This case is dismissed without prejudice with leave to reinstate on or before September 29, 2017.

4. In the event a motion to reinstate is not filed on or before September 29, 2017, the case shall be deemed dismissed with prejudice without further order of the court.

ENTERED:



ROBERT W. GETTLEMAN
UNITED STATES DISTRICT JUDGE

DATED: FEB. 21, 2017

Agreed:

For Plaintiffs,

/s/ Daniel P. McAnally
Daniel P. McAnally
Attorney for Plaintiffs

Agreed:

For Defendant,

/s/ Brendan Shiller
Brendan Shiller
Attorney for Defendant

Exhibit

B

Exhibit B

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

TRUSTEES of the IRON WORKERS)
TRI-STATE WELFARE PLAN,)
Plaintiffs,)
v.) Judge Gettleman
MORCOM CONSTRUCTION COMPANY,) Case No. 16-cv-8906
Defendant.)

SWORN DECLARATION PURSUANT TO 28 U.S.C.A. § 1746

Debbie Trzeciak declares as follows:

1. I am the Client Services Manager for the for the Iron Workers' Tri-State Welfare Plan and in such capacity I am authorized to make this Declaration on behalf of the Trust Fund. I have reviewed the account as to Morcom Construction Company.

2. Pursuant to the provisions of the Collective Bargaining Agreements and Trust Agreement, the Defendant is required to submit monthly reports which list the number of hours worked by its iron worker employees and the Defendant is required to pay contributions based upon the hours listed.

3. Plaintiffs claim for ERISA contributions as set forth in the Agreed Order for Dismissal total \$16,776.84. This number is based on and audit of Morcom for the period January 2015 through June 30, 2016. The fund received a partial payment of \$1,500.00 in August 2017. The balance due on the contributions is \$15,276.84.

4. Because of Morcom's failure to pay contributions in a timely manner, the Trust Agreement and Collective Bargaining Agreement mandate the assessment of liquidated damages. Also, the Agreed Order of Dismissal allows for the assessment of liquidated damages. The liquidated damages calculation was based on the rate set forth in the controlling Trust Agreements, which is 1.5% per month. The amount of liquidated damages owed is \$5,368.64 for the period December 2015 through December 2017.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Declaration is true and correct.

Date: December 7, 2017

Signature: 

Exhibit C

Exhibit C

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

TRUSTEES of the IRON WORKERS)
TRI-STATE WELFARE PLAN,)
Plaintiffs,)
v.) Judge Gettleman
Case No. 16-cv-8906
MORCOM CONSTRUCTION COMPANY,)
Defendant.)

SWORN DECLARATION PURSUANT TO 28 U.S.C.A. § 1746

Daniel P. McAnally declares as follows:

1. I am an associate of the law firm of McGann, Ketterman & Rioux and am licensed to practice law in the State of Illinois and in the U.S. Dist. Court for Northern District of Illinois, Eastern Division.
2. I have personal knowledge of the facts stated herein and if called to testify in this matter, I can competently testify to such facts from my own such knowledge.
3. I have in excess of 23 years experience representing trustees of employee benefit plans, including the prosecution of Federal Court litigation to collect delinquent employer contributions.
4. The Agreed Order of Dismissal entered in this case allowed for Plaintiffs' attorney fees incurred in enforcing the order.
5. Attorneys of this firm have devoted 11.00 hours in connection with enforcing the Agreed Order of Dismissal at the rate of \$195.00 per hour. The total attorney fees billings is \$2,145.00.

6/15/17 .75 Prepare correspondence to attorney Brendan Schiller regarding the breach of the settlement and request for payment; review correspondence from Schiller regarding same; update the file and docket follow-up; telephone conference with the fund office regarding status.

7/7/17	1.00	Review the file for current status; correspondence to attorney Schiller regarding payment on the settlement; review correspondence regarding same; update the file and docket follow-up; telephone conference with the fund office regarding status; update the litigation status report for presentation to the trustees.
7/28/17	.50	Prepare correspondence to attorney Brendan Schiller regarding the breach of the settlement and motion to reinstate; telephone conference with the fund office regarding status.
8/3/17	1.50	Review the court's standing order regarding motion practice; prepare Motion to Reinstate and Notice; file the motion; prepare correspondence to the fund office regarding same; docket hearing date.
8/15/17	.50	Prepare for court appearance and motion hearing; telephone conference with the fund office regarding status.
8/16/17	1.00	Travel to / from federal court; court appearance before Judge Gentleman; telephone conference with the fund office regarding outcome of the motion hearing.
10/10/17	.75	Review case for current status; telephone conference with the fund office regarding payments received; prepare correspondence to attorney Schiller regarding resolution of the case; review correspondence from attorney Schiller regarding same.
11/2/17	1.25	Review the court's standing order regarding motion practice; prepare Motion to Reinstate and Notice; file the motion; prepare correspondence to the fund office regarding same; docket hearing date.
11/6/17	.50	Prepare for court appearance and motion hearing; telephone conference with the fund office regarding status; confer with attorney Nicolas Kasmer the court motion hearing and preparation.

11/7/17	1.00	Travel to / from federal court; court appearance before Judge Gettleman; telephone conference with the fund office regarding outcome of the motion hearing. (Nicholas Kasmer)
12/7/17	2.25	Correspondence to the fund office regarding payments submitted and request for updated liquidated damages calculations; prepare the Motion for Entry of Judgment; affidavits and Notice; file the documents and prepare courtesy copy and proposed judgment

Total: 11.00 hours and \$195.00 = \$2,145.00

6. I have spoken with four other lawyers from four different labor law firms who practice this type of ERISA trust fund litigation. Based on my knowledge and experience, the rates charged by the hour in this case are less than or equal to the usual and customary rates charged by other law firms doing similar work in the United States District Court for the Northern District of Illinois.

7. I certify that the attached detailed attorney fees and costs totaling \$2,145.00 were necessary and reasonable.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Declaration is true and correct.

Date: December 7, 2017

s/ Daniel P. McAnally

Attorney for the Trustees of the Iron Workers
Tri-state Welfare Plan