

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

THE CONSTRUCTION INDUSTRY WELFARE )  
FUND OF ROCKFORD, ILLINOIS and; )  
THE CONSTRUCTION INDUSTRY )  
RETIREMENT FUND OF ROCKFORD, )  
ILLINOIS, )

Plaintiffs, )

v. )

MACDONALD CONSTRUCTION SERVICES, INC. )

Defendant. )

**CASE NO. 08 C 50149**

Judge Frederick Kapala

Magistrate Judge Michael

Mahoney

**MOTION FOR ENTRY OF JUDGMENT**

**NOW COMES** the Plaintiffs, THE CONSTRUCTION INDUSTRY WELFARE FUND OF ROCKFORD, ILLINOIS and THE CONSTRUCTION INDUSTRY RETIRMENT FUND OF ROCKFORD, ILLINOIS (hereinafter referred to as the "Plaintiffs" or the "Funds"), by and through their attorney, MARC M. PEKAY, P.C. and hereby move for an Entry of Judgment in the amount of *Seventy Six Thousand Seven Hundred Thirty Seven Dollars and seventy five cents (\$76,737.75)* against Defendant, MACDONALD CONSTRUCTION SERVICES, INC. In support of this Motion, Plaintiffs state as follows:

1. Plaintiffs filed their Complaint on July 23, 2008, seeking unpaid liquidated damages, an underpayment of contributions and an amount due pursuant to an audit as well as audit costs and legal fees and costs.
2. The Defendant was served with the Complaint and Summons on July 30, 2008 (*Attached hereto as Exhibit A*).

3. The time in which the Defendant had to answer or otherwise plead has expired.

4. Plaintiff filed a previous Motion for Judgment on September 5, 2008, but withdrew it based on representations Defendant made in front of this Court that he would cooperate with this lawsuit.

5. Since that time, Defendant has failed to cooperate and has ignored several of Plaintiff's requests for information. (*Attached hereto as Exhibit B*).

6. Defendant owes *Seventy One Thousand Four Hundred and Thirty Seven Dollars and seventy eight cents* (\$71,437.78) pursuant to an audit for the time period of January 1, 2006 through March 31, 2008 plus audit costs (*Attached as Exhibit C and Exhibit F*). In addition, Defendant owes *One Thousand One Hundred Forty Nine Dollars and seventy six cents* (\$1,149.76) in unpaid liquidated damages for August 2007 through November 2007 contributions that were not paid on time. (*Attached hereto as Exhibit D & Exhibit F*).

5. In addition to the above, Defendant also owes *ninety dollars and eighty four cents* (\$90.84) in underpayment of contributions for September 2007 through November 2007. (*Attached hereto as Exhibit E & Exhibit F*).

6. Pursuant to the Employee Retirement Act of 1974 ("ERISA"), as amended, 29 U.S.C. §1132(g)(2), Section 301 of the Labor Management Relations Act ("LMRA"), as amended, 29 U.S.C. §185, the Agreement, and the Plaintiffs' respective Agreements, Defendant, is responsible for all reasonable legal fees that accrued as a result of the Funds having to collect on these delinquencies.

7. The total amount of legal fees and costs that have accrued on collecting on the above delinquencies is *Four Thousand Fifty Nine Dollars and thirty seven cents (\$4,059.37) (Attached hereto as Exhibit F).*

**WHEREFORE**, Plaintiffs respectfully request that this Court enter an Order finding:

a. That a Judgment be entered against MACDONALD CONSTRUCTION SERVICES, INC. in the amount of *Seventy Six Thousand Seven Hundred Thirty Seven Dollars and seventy five cents (\$76,737.75)* pursuant to an audit for hours worked from January 1, 2006 through March 31, 2008 plus audit costs, unpaid liquidated damages for August 2007 through November 2007 contributions that were not paid on time, an underpayment of September 2007 through November 2007 contributions and legal fees and costs;

b. That MACDONALD CONSTRUCTION SERVICES, INC. be ordered to remain current in the payment of their contributions;

c. Any other further legal and equitable relief as this Court deems appropriate.

Respectfully submitted,

THE CONSTRUCTION INDUSTRY WELFARE FUND  
OF ROCKFORD, ILLINOIS, *ET AL.*

By: s/Marc M. Pekay  
MARC M. PEKAY, attorney for Plaintiffs

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