

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

DANNY BARTON, TRUSTEE, et. al. )

Plaintiffs, )

v. ) CAUSE NO: 1:08-cv-492-SEB-TAB

DAPHNE S. MEYER, d/b/a )

DAPHNE'S BULLDOG EXPRESS, )

Defendant. )

**ORDER**

This cause was set for a hearing on November 5, 2008 at 4:00 p.m. on the Plaintiffs' Motion for Order to Show Cause. The Plaintiffs' Motion for Order to Show Cause was filed as a result the Defendant's failure to produce certain books and records so that the Plaintiffs may liquidate their judgment against the Defendant and conduct an audit to determine whether the Defendant is complying with its contractual obligation to make contributions on behalf of certain employees to the Plaintiff Indiana Teamsters Health Benefits Fund, all as required by this Court's order of September 22, 2008. On October 31, 2008, this Court ordered the Defendant to appear on November 5, 2008 at 4:00 p.m. and show cause as to why the Defendant should not be held in contempt for failing to comply with the Court's order of September 22, 2008.

The Plaintiffs appeared at the hearing by counsel, Geoffrey S. Lohman. The Defendant failed to appear. The Court FINDS the Defendant in contempt as a result of its

failure to attend the hearing on November 5, 2008. The Court further ORDERS that the Defendant shall within ten (10) days of the date of this order produce to counsel for the Plaintiffs, Geoffrey S. Lohman, at his law offices, Fillenwarth Dennerline Groth & Towe, LLP, 429 E. Vermont Street, Suite 200, Indianapolis, IN 46202, the following records for inspection and copying:

- (a) Any master list of all employees, regardless of craft or occupation, showing craft or occupation.
- (b) All payroll records maintained by the Defendant which pertain to said employees from January 2004 to the present. Such records shall include payroll ledgers, bank account ledgers, time cards or sheets, ledgers or books as kept by foremen which would show hours worked by said employees, check stubs, payroll records, etc.;
- (c) Copies of the Form W-2's which were filed with the Internal Revenue Service for any said employee for tax years 2004 to the present.
- (d) Copies of federal form 941 which were filed with the Internal Revenue Service from January 2004 to the present;
- (e) Copies of any reporting forms which were filed with the Indiana Department of Employment and Training from January 2004 to the present;
- (f) Any 1099's with 1096 for persons Company considers or treats as independent contractors or subcontractors from January 2004 to the present;

- (g) Any subcontractor or independent contractor listings showing names, dates, and/or amounts paid to subcontractors.
- (h) Copies of the corporate income tax returns of the Defendant for January 2004 to the present; and
- (i) Any other business records of the Defendant which are reasonably calculated to show the work history of the aforesaid employees.
- (j) Contribution reports for all jurisdictions, including all contribution reports submitted to any other fund from January 2004 to the present.

The Plaintiff is ORDERED to serve this order on the Defendant by registered or certified mail. In the event the Defendant fails to comply with this order by producing the aforesaid records within ten (10) days, the Plaintiff shall notify the Court of this failure along with their efforts made to confirm that the address of the Defendant remains valid, at which time the Court will further consider the Plaintiff's request that the United States Marshall be directed to appear at the Defendant's place of business for the purpose of collecting the records or for the purpose of taking the Defendant, Daphne Meyer, into custody to explain her contempt in failing to produce the aforesaid records.

It is so ordered.

Dated: 11/06/2008



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

Copies to:

Geoffrey S. Lohman  
[glohman@fdgtlaborlaw.com](mailto:glohman@fdgtlaborlaw.com)

Daphne Meyer  
d/b/a Daphne's Bulldog Express  
1782 E. McCoysburg Road  
Rensselaer, IN 47978