

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CARPENTERS' DISTRICT COUNCIL)
OF GREATER ST. LOUIS AND)
VICINITY, et al.,)
)
Plaintiffs,)
)
vs.)
)
AG ENERGY RESOURCES, INC.,)
)
Defendant.)

Case No. 4:09CV01152 AGF

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs' motion to compel post-judgment discovery. By default judgment dated October 20, 2009, the Court entered default judgment in favor of Plaintiffs and against Defendant in the total amount of \$12,731.38, based on delinquent contributions to benefit plans under the Employment Retirement Income Security Act. (Doc. No. 12.) Plaintiffs' memorandum in support of their motion to compel filed on October 22, 2012, and the affidavit of attorney Matthew J. Gierse attached thereto assert that to date, Plaintiffs have not been able to collect any of the judgment amounts, and that Plaintiffs sent a Notice of post-judgment deposition to Mike Kearney, an officer of Defendant, on September 20, 2012, pursuant to Federal Rule of Civil Procedure 69. The Notice required the attendance of Mr. Kearney at the office of Plaintiffs' counsel on October 19, 2012, at 10:00 a.m., and the production of certain documents relevant to Plaintiffs' efforts to collect the judgment in this case.

Counsel's affidavit states that no representative of Defendant appeared at the deposition

or produced any documents, nor did any representative of Defendant contact Plaintiffs' counsel with respect to the deposition Notice. Plaintiffs now seek a Court order compelling a representative of Defendant to appear on November 27, 2012, for a post-judgment deposition in aid of execution of Plaintiffs' judgment. This procedure is appropriate pursuant to Rule 69(a) of the Federal Rules of Civil Procedure.

Accordingly,


IT IS HEREBY ORDERED that Plaintiffs' motion to compel is **GRANTED**.

(Doc. No. 15.)

IT IS FURTHER ORDERED that an appropriate representative of Defendant AG Energy Resources, Inc., shall appear for a post-judgment deposition and produce the records requested in the September 20, 2012 Notice of Rule 69 Deposition and Request for Production of Documents, on **Tuesday, November 27, 2012, at 10:00 a.m.**, at the office of Plaintiffs' counsel, Hammond and Shinnors, P.C., 7730 Carondelet, Suite 200, St. Louis, MO 63105.

IT IS FURTHER ORDERED that the Clerk of the Court shall mail a copy of this Order to AG Energy Resources, Inc., 404 West Reed Street, Benton, IL 62812.

IT IS FURTHER ORDERED that failure of Defendant to comply with this Order may result in the imposition of sanctions against AG Energy Resources, Inc., and/or a corporate officer, which may include a fine and/or incarceration.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of October , 2012.