

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LOCAL 513 INTERNATIONAL UNION)
OF OPERATING ENGINEERS,)
AFL-CIO, et al.,)
)
Plaintiffs,)
)
vs.)
)
MARK'S SERVICES, L.L.C.,)
)
Defendant.)

Case No. 4:17CV01082-AGF

MEMORANDUM AND ORDER

This case, filed pursuant to the Employee Retirement Income Security Act of 1974 (“ERISA”) for delinquent contributions to employee benefit funds, is before the Court on Plaintiffs’ unopposed motion to withdraw their amended motion for summary judgment. Plaintiffs are Local 513, International Union of Operating Engineers, AFL-CIO (“Local 513”); the representative of Local 513; and several employee benefit funds (“the Funds”) governed by ERISA. Defendant Mark’s Services, LLC, signed various documents obligating it to submit monthly reports and remit contributions to the Funds and to make deductions from employees’ paychecks who have authorized such deductions for the monthly payment of dues to Local 513.

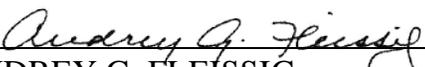
The amended motion for summary judgment was filed on November 20, 2017, seeking damages in the total amount of amount of \$18,411.81 that included the alleged unpaid principal contributions and deductions, liquidated damages, interest, attorney’s fees, and costs. Plaintiffs now seek to withdraw that motion, in part, to allow discovery

into additional damages Plaintiffs state are evidenced by Defendant's response to the motion for summary judgment. Plaintiffs also state that additional discovery may reveal facts making Defendant's owner, Mark Polka, jointly liable for Plaintiffs' damages. Rather than withdraw the amended motion for summary judgment in its entirety, Plaintiffs ask the Court to now enter judgment in their favor on the issue of Defendant's liability and for partial damages in the amount of the unpaid principal Defendant admitted, in response to the amended motion for summary judgment, that it owed the Funds for a certain period of time (\$2,882.68) plus liquidated damages and interest.

The Court will grant Plaintiff's request for time to engage in additional discovery, but the Court rejects Plaintiffs' request for piecemeal resolution of the case.

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' motion (ECF No. 35) to withdraw its amended motion for summary judgment is **GRANTED in part and DENIED in part**. Plaintiffs may engage in additional discovery for 60 days from the date of this Memorandum and Order, and may, within 75 days from the date of this Memorandum and Order, further amend their amended motion for summary judgment, or seek leave to amend their complaint to add a new Defendant.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 7th day of February, 2018.