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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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TRUSTEES of the NORTHERN NEVADA
OPERATING ENGINEERS HEALTH &
WELFARE TRUST FUND, et al.,

Plaintiffs,

v.

MACH 4 CONSTRUCTION, et al.,

Defendants.

3:08-CV-0578-LRH-WGC
3:09-CV-0565-LRH-WGC

ORDER

Before the court is plaintiffs’ motion to strike jury demand. Doc. #112.¹

I. Facts and Background

On October 30, 2008, plaintiffs filed the present action against defendant Mach 4 Construction (“Mach 4”) for breach of contract arising from alleged unpaid union and trustee contributions. Doc. #1.² Thereafter, plaintiffs filed the present motion to strike Mach 4’s jury demand. Doc. #112.

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¹ Refers to the court’s docket number.

² For a complete history of this action see this court’s order denying plaintiffs’ motion for summary judgment. Doc. #59.

1 **II. Discussion**

2 In their motion, plaintiffs argue that a jury trial on their claims for contribution is
3 unnecessary because their claims sound in equity. *See* Doc. #112. Although plaintiffs are correct
4 that Mach 4 has no specific right to a jury trial on plaintiffs' claims for contribution, the court may
5 utilize a jury to provide advisory findings of fact. *See Everest Capital Ltd. v. Everest Funds Mgmt.*
6 *LLC*, 393 F.3d 755, 762 (8th Cir. 2005). Here, because a jury will already be present in this
7 consolidated trial to address various claims arising in member case no. 3:09-cv-0565, the court
8 finds that utilizing that jury to provide advisory findings of fact on plaintiffs' claims would be
9 useful to assist the court in determining any disputed issues of material fact. Therefore, the court
10 shall deny plaintiffs' motion to strike Mach 4's jury demand.

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12 IT IS THEREFORE ORDERED that plaintiffs' motion to strike jury demand (Doc. #112) is
13 DENIED.

14 IT IS SO ORDERED.

15 DATED this 17th day of November, 2011.



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LARRY R. HICKS
19 UNITED STATES DISTRICT JUDGE
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