

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SALVATORE J. LaSCALA, DOUGLAS A. JANESE  
and RICHARD J. MARINO, Individually, as members  
of Local 280, and as participants and Trustees or former  
Trustees of the Niagara-Genesee & Vicinity Carpenters  
Local 280 Welfare and Pension Funds,

Plaintiffs,

-vs-

93-CV-982-JTC

SANTO S. SCRUFARI, Individually and as Plan Manager  
of the Niagara-Genesee & Vicinity Carpenters Local 280  
Welfare and Pension Funds,

Defendant.

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On March 12, 2012, this court entered an order in which it ruled on several post-trial motions filed by plaintiffs. Item 290. The court delayed entry of final judgment to afford the parties the opportunity to submit a joint stipulation as to the wording of the judgment in order to accurately reflect the status of the court's prior rulings in this matter. Unable to reach a stipulation, the parties have filed separate written proposals, which the court has now had the opportunity to review.

In accordance with the court's prior rulings, the Clerk of the Court is directed to enter final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure as follows, and to close the case:

IT IS ORDERED AND ADJUDGED that judgment is entered in favor of plaintiffs and against defendant Santo S. Scrufari in the amount of \$966,389.39, incorporating calculations of damages, including pre-judgment interest, and representing damages of

\$471,368.58 to the Niagara-Genesee & Vicinity Carpenters Local 280 Welfare Fund, and damages of \$495,020.81 to the Niagara-Genesee & Vicinity Carpenters Local 280 Pension Fund, respectively; and,

IT IS FURTHER ORDERED AND ADJUDGED that the amount of damages awarded to the Niagara-Genesee & Vicinity Carpenters Local 280 Pension Fund (\$495,020.81) shall be offset to the extent possible against defendant Santo S. Scrufari's benefit under the Pension Fund in accordance with the provisions of 29 U.S.C. § 1056(d)(4), preserving to the defendant's spouse the right to receive the survivor annuity under a qualified joint and survivor annuity as described in 29 U.S.C. § 1056(d)(5); and,

IT IS FURTHER ORDERED AND ADJUDGED that the Empire State Carpenters Pension Fund as the successor in interest to the Niagara-Genesee & Vicinity Carpenters Local 280 Pension Fund, and the Empire State Carpenters Welfare Fund as the successor in interest to the Niagara-Genesee & Vicinity Carpenters Local 280 Welfare Fund, are deemed the insured under Labor Management Trust Fiduciary Liability Policy No. 8127-92-16 and/or the respective beneficiaries of the fidelity bonds required by ERISA § 1112(a); and,

IT IS FURTHER ORDERED AND ADJUDGED that, pursuant to ERISA § 1132(g), plaintiffs are awarded attorney's fees against defendant Santo S. Scrufari and/or the Empire State Carpenters Pension Fund as the successor in interest to the Niagara-Genesee & Vicinity Carpenters Local 280 Pension Fund and the Empire State Carpenters Welfare Fund as the successor in interest to the Niagara-Genesee & Vicinity Carpenters Local 280 Welfare Fund, in the amount of \$399,114.39, and disbursements in the amount of \$12,757.07, for a total award of \$411,871.46.

