

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RAYMOND ORRAND, et al.,

Plaintiffs,

Case No.: 2:09-cv-787

JUDGE SMITH

Magistrate Judge Deavers

v.

HORNING-WRIGHT COMPANY,

Defendant.

ORDER

This matter is before the Court on Plaintiffs Raymond Orrand, *et al.*'s Motion for Attorneys' Fees and Costs (Doc. 24). Defendant has failed to respond to Plaintiffs' Motion. For the reasons that follow, Plaintiffs' Motion for Attorneys' Fees and Costs is **GRANTED**.

Plaintiffs Raymond Orrand and the Trustees of the Ohio Operating Engineers Health and Welfare Plan and the Ohio Operating Engineers Pension Fund filed their claim on September 8, 2009, against Defendant Horning-Wright seeking: delinquent fringe benefit contributions for the period October 1, 2008 to July 1, 2009, in the amount of \$9,866.67 under 29 U.S.C. § 1132(g)(2)(A); statutory interest in the amount of \$1,339.31, calculated to September 15, 2009, plus \$4.87 per day thereafter as long as judgment remains unpaid under 29 U.S.C. § 1132(g)(2)(B).

On March 23, 2010, Plaintiffs moved for summary judgment. Defendant was served with a copy of Plaintiff's Motion, but failed to respond. The Court held that absent any contrary

showing by Defendant, there are no genuine issues of material fact as to whether this money is due and owing. Accordingly, summary judgment was entered in favor of Plaintiffs and Defendant was ordered to pay Plaintiffs the requested amount, \$12,545.29, plus \$4.87 per day from September 15, 2009, until the judgment is paid.

Having obtained judgment against Defendant, Plaintiffs now seek attorneys' fees pursuant to 29 U.S.C. §1132(g)(2)(D) and Rule 54(d)(2). Plaintiffs assert that they incurred attorneys' fees and costs in the amount of \$4,672.25 in preparing and prosecuting their claims against Defendant for unpaid fringe benefit contributions. This amount includes costs of \$350.00, which is the filing fee for this Court.¹

Plaintiffs submit that the fees and costs sought are reasonable because Defendant denied liability in its Answer, which forced Plaintiffs to prepare a motion for summary judgment. Had Defendant consented to a judgment or willingly paid the contributions, these fees would not have been incurred. The Court has reviewed the fees and costs submitted by Plaintiffs and the affidavit in support and finds the amount sought to be reasonable and not excessive.

Based on the aforementioned discussion, Plaintiffs' Motion for Attorneys' Fees and Costs is **GRANTED**. Defendant Horning-Wright Company is ordered to pay Plaintiffs \$4,672.25.

The Clerk shall remove Document 24 from the Court's pending motions list

IT IS SO ORDERED.

/s/ George C. Smith

GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT

¹ The Court takes judicial notice that this was the filing fee when this action was filed.