

UNITED STATES FEDERAL DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
AT DAYTON

**IRON WORKERS DISTRICT
COUNCIL OF SOUTHERN OHIO &
VICINITY BENEFIT TRUST, *et al.***

Plaintiffs,

v.

G.M.A.B. LLC, *et al.*

Defendants.

CASE NO. 3:13-CV-00283

DISTRICT JUDGE WALTER H. RICE

CHIEF MAGISTRATE JUDGE
SHARON L. OVINGTON

**ORDER AND NOTICE OF
GARNISHMENT**

**To: Barton Malow Company
8720 Orion Place, Suite 110,
Columbus OH 43240**

The judgment creditors ("Plaintiffs") in the above case have filed an affidavit, satisfactory to the undersigned in this Court stating that you may have money, property, or credits, other than personal earnings, in your hands or under your control that belong to the judgment debtors Colin M. Garrett, Colin M. Garrett, G.M.A.B., LLC, American Builders-Steel Erectors, American Builders Holding Co. LLC, American Builders Design and Fabrication LLC, American Builders Union Steel Erectors LLC, American Builders General Contractors, LLC, American Builders Professional Painting Service LLC, or A B Roofing Outlet, LLC (collectively "Defendants") in the case, and that some of the money, property, or credits may not be exempt from execution or garnishment under the laws of the state of Ohio or the laws of the United States.

You are therefore ordered to complete the "ANSWER OF GARNISHEE" in section (B) of this form. Return one completed and signed copy of this form to the clerk of this court together with the amount determined in accordance with the "ANSWER OF GARNISHEE" by the following date on which a hearing is tentatively scheduled relative to this order of garnishment: **September 29, 2014**. Deliver one completed and signed copy of this form to the judgment debtors prior to that date. Keep the other completed and signed copy of this form for your files.

The total probable amount now due under the judgment creditor's judgments is \$182,855.53 plus post-judgment interest. The total probable amount now due includes the unpaid portion of the judgments rendered in favor of the judgment creditors.

You are also ordered to hold safely anything of value that belongs to the judgment debtor and that has to be paid to the court, as determined under the "ANSWER OF GARNISHEE" in section (B) of this form, but that is of such a nature that it cannot be so delivered, until further order of the court.

Witness my hand and the seat of this Court this 26th day of August,
2014.

Sharon R. Ojeda
Judge

SECTION B. ANSWER OF GARNISHEE

Now comes _____
the Garnishee who says:

1. That the Garnishee has money, property, or credits, other than personal earnings of the judgment debtor under the Garnishee's control and in the Garnishee's possession.

Yes

No

If yes, amount: _____

2. That the property is described as:

3. If the answer to line 1 is "yes" and the amount is less than the probable amount now due on the judgment, as indicated in Section (A) of this form, sign the form and pay the amount of line 1 to the clerk of this court.

4. If the answer to line 1 is "yes" and the amount is greater than that probable amount now due on the judgment, as indicated in Section (A) of this form, sign and return this form and pay that probable amount now due to the clerk of this court.

5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the clerk of this court, indicate that by placing an "X" in this space: _____. Do not dispose of that money, property, or credits or give them to anyone else until further order of the Court.

6. If the answer to line 1 is "no," sign and return this form to the clerk of this court.

I certify that the statements above are true.

(Print Name of Garnishee)

(Print Name and Title of Person who Completed Form)

Signed:

(Signature of Person Completing Form)

Dated this _____ day of _____, 2014.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

IRON WORKERS DISTRICT :
COUNCIL OF SOUTHERN OHIO & :
VICINITY BENEFIT TRUST, *et al.*, :

Plaintiffs, :

vs. :

AMERICAN BUILDERS, *et al.*, :

Defendants. :

Case No. 3:13cv000283

District Judge Walter Herbert Rice

Chief Magistrate Judge Sharon L. Ovington

ORDER

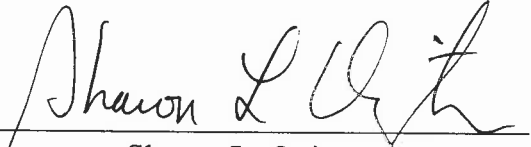
Plaintiffs Iron Workers District Council of Southern Ohio & Vicinity Benefit Trust, *et al.* (“Plaintiffs”) have filed a motion with this Court seeking issuance of a Writ of Continuing Garnishment in this case against Defendants American Builders, *et al.* Plaintiffs’ Motion and Memorandum in Support claim that \$182,855.53 remains outstanding on the Order Granting Motion for Default Judgment previously issued on December 2, 2013. (Doc. #s 18, 25). Plaintiffs state that Defendant Colin M. Garrett and other Defendants were employed on a construction project for Barton Malow Company at the Prairie Township Community Recreational Center. “Plaintiffs believe the amounts described above would be characterized as accounts receivable and are not exempt from garnishment under any applicable law.” (Doc. #71, PageID at 628). Plaintiffs therefore identify Barton Malow

Company as a garnishee, or more specifically:

Barton Malow Company
8720 Orion Place, Suite 110
Columbus, OH 43240

Accordingly, Plaintiffs' Motion For A Writ Of Continuing Garnishment (Doc. #71) is **GRANTED**. A Writ of Continuing Garnishment in the amount of \$182,855.53 is hereby issued in favor of Plaintiffs and against Defendant American Builders Design and Fabrication, LLC for funds due and owing from garnishee Barton Malow Company.

8-26, 2014


Sharon L. Ovington
Chief United States Magistrate Judge

UNITED STATES FEDERAL DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
AT DAYTON

**IRON WORKERS DISTRICT COUNCIL
OF SOUTHERN OHIO & VICINITY
BENEFIT TRUST, *et al.***

Plaintiffs,

v.

G.M.A.B. LLC, *et al.*

Defendants.

CASE NO. 3:13-CV-00283

DISTRICT JUDGE WALTER H. RICE

CHIEF MAGISTRATE JUDGE
SHARON L. OVERTON

**AFFIDAVIT OF MATTHEW T. HURM,
ESQ.**

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

I, Matthew T. Hurm, Esq. being first duly sworn, according to law, depose and say:

1. That I am an attorney for Plaintiffs Iron Workers District Council of Southern Ohio & Vicinity Benefit, Pension, and Annuity Trusts (“Plaintiffs”).

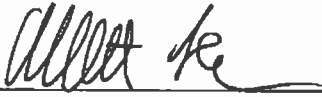
2. Plaintiffs duly recovered a judgment (“Judgment”) on December 2, 2013 for the sum of \$247,495.76 along with post-judgment interest against Defendants Colin M. Garrett, Gary Maurer, G.M.A.B., LLC, American Builders-Steel Erectors, American Builders Holding Co. LLC, American Builders Design and Fabrication LLC, American Builders Union Steel Erectors LLC, American Builders General Contractors, LLC, American Builders Professional Painting Service LLC, and A B Roofing Outlet, LLC, jointly and severally (collectively the “Defendants”). At the present time, the Defendants owe \$182,855.53 on the Judgment. Judgment in favor of the Plaintiffs and against Defendants was entered in the United States Federal District Court for the Southern District of Ohio, Western Division at Dayton, in Case No. 3:13-CV-00283. The Judgment is attached hereto as **Exhibit A**.

3. Plaintiffs' Judgment against Defendants remains unsatisfied through the date of this Affidavit.

4. Plaintiffs have reason to believe the Defendant Colin M. Garrett and other Defendants were employed on a construction project for Barton Malow Company at the Prairie Township Community Recreational Center.

5. Plaintiffs believe the amounts described above would be characterized as accounts receivable and are not exempt from garnishment under any applicable law.

Further Affiant Sayeth Naught.



Matthew T. Hurm, Esq.

8/21/2014

Date

Sworn to and subscribed before me on this 21st day of August, 2014:



Notary Public

Seal

**CHRISTINA C. SPALLINA, ATTORNEY
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.**