

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

JOHN BALLARD, TRUSTEE, and )  
MID CENTRAL OPERATING ENGINEERS )  
HEALTH AND WELFARE FUND, )  
 )  
Plaintiff, )  
 )  
v. ) CAUSE NO: 1:12-cv-01378-WTL-MJD  
 )  
JACK ISOM CONSTRUCTION CO. INC., )  
 )  
Defendant. )

**REPORT AND RECOMMENDATION**

This matter is before the Court on Plaintiffs' Motion for an Order to Show Cause why Defendant should not be held in contempt for failing to obey the Court's Order dated May 10, 2013. [Dkt. 24.] Said Order required, in part, that the Defendant should remain current in its contribution obligations to the Plaintiffs for hours worked in the month of February, 2013 and thereafter. [Dkt. 14.]

The Court heard this matter on July 14, 2014. [Dkt. 27.] Defendant did not appear, and the Plaintiffs offered testimony in support of their motion. According to reports it submitted to the Plaintiffs, Defendant owed contributions for the months of March, 2013 through May, 2014, in the amount of \$31,297.87 and late fees and interest of \$18,167.10 on these contributions and others that were paid, but late. Plaintiffs supplemented this testimony by an Affidavit of Cheryl Cottrell in which she updated the figures to reflect subsequent payments by Isom; however, certain amounts remain unpaid. [Dkt. 28.]

The Magistrate Judge hereby recommends that the Court find that the Defendant is in contempt of the Court's Order of May 10, 2013 [Dkt. 14]. As a remedy for said contempt, the Magistrate Judge further recommends that the Court award a Supplemental Judgment to Plaintiffs in the amount of \$18,167.10, which sum represents unpaid late fees and interest for the period from March, 2013 through May, 2014.

Any objections to the Magistrate Judge's Report and Recommendation shall be filed with the Clerk in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), and failure to timely file objections within fourteen (14) days after service shall constitute a waiver of subsequent review absent a showing of good cause for such failure.

Counsel for Plaintiff is to serve this order on Defendant and file proof of such service on or before August 29, 2014

ALL OF WHICH IS ORDERED this 22nd day of August, 2014.



Mark J. Dinsmore  
United States Magistrate Judge  
Southern District of Indiana

Copies to:

Service will be made electronically on all ECF-registered counsel of record via email generated by the court's ECF system.

Service on the listed individuals will be made via first-class U.S. Mail:

Jack Isom Construction Co. Inc. c/o  
Ruby J. Isom, Registered Agent  
622 S. SR 43  
Reynolds, IN 47980