

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN GLASS AND GLAZING INDUSTRY
DEFINED CONTRIBUTION PENSION PLAN;
MICHIGAN GLASS & GLAZING INDUSTRY
WELFARE INSURANCE FUND; and
INTERNATIONAL PAINTERS AND ALLIED
TRADES INDUSTRY PENSION FUND,

Plaintiffs,

CASE NO.

v.

HON.

AMERICAN GLASS AND METALS CORPORATION,

Defendant.

SACHS WALDMAN, PROFESSIONAL CORPORATION
GEORGE H. KRUSZEWSKI (P25857)
HOPE L. CALATI (P54426)
STUART S. SHOUP (P73293)
Attorneys for Plaintiffs
1000 Farmer Street
Detroit, Michigan 48226
(313) 965-3464

COMPLAINT

Now come the above-captioned plaintiffs, by and through their attorneys, SACHS WALDMAN, PROFESSIONAL CORPORATION, and for their complaint against the above-captioned defendant say as follows:

1. Plaintiff Michigan Glass and Glazing Industry Defined Contribution Pension Plan and plaintiff Michigan Glass & Glazing Industry Welfare Insurance Fund were established through collective bargaining, are maintained and administered pursuant to Section 302 of the Labor-

Management Relations Act of 1947, as amended (hereinafter "LMRA"), 29 USC 186, *et seq.*, and the Employee Retirement Income Security Act of 1974, as amended (hereinafter "ERISA"), 29 USC 1001, *et seq.*, and maintain their principal offices in the City of Troy, County of Oakland, State of Michigan.

2. Plaintiff International Painters and Allied Trades Industry Pension Fund was established through collective bargaining, is maintained and administered pursuant to Section 302 of the LMRA, 29 USC 186, *et seq.*, and ERISA, 29 USC 1001, *et seq.*, and maintains its principal offices in the City of Hanover, State of Maryland.

3. Defendant American Glass and Metals Corporation, is a Michigan corporation doing business in the building and construction industry, an industry affecting commerce within the meaning of 29 USC 142 and 185 and 29 USC 1002(5) and (12). Its principal place of business is in the City of Milford, County of Oakland, State of Michigan.

4. Jurisdiction of this Court is predicated on Section 301 of LMRA, 29 USC 185, and Sections 502(a)(2), 502(e)(1) and 515 of ERISA, 29 USC 1132(a)(2), 29 USC 1132(e)(1) and 1145, this being a suit for breach of the fringe benefit provisions of collective bargaining agreement entered into by defendant, as an employer, and Glaziers, Architectural Metal and Glassworkers' Local Union No. 357, an unincorporated labor organization representing employees in an industry affecting commerce within the meaning of 29 USC 142 and 185 and 29 USC 1002(12).

5. Venue of the United States District Court for the Eastern District of Michigan, Southern Division, is appropriate pursuant to Section 502(e)(2) of ERISA, 29 USC 1132(e)(2), this being the district in which two of the plaintiffs are administered.

6. Defendant is and has been bound to the collective bargaining agreement between Glaziers, Architectural Metal and Glassworkers' Local Union No. 357 and the Glazing Contractors Association, Inc. (hereinafter, "Agreement").

7. Defendant also is and has been bound by the terms of the applicable trust agreements incorporated by reference in the Agreement.

8. Under the terms of the Agreement, defendant became obligated to make contributions to the plaintiffs with respect to covered work performed by and wages paid to defendant's employees, and to submit its books and records to plaintiffs for periodic inspection and audit.

9. Defendant owed \$79,778.96 in audited indebtedness for the period of January 2008 through July 2010. Plaintiffs have collected \$66,338.74 against the audited indebtedness, for a balance due of \$13,440.22.

10. Despite demand, defendant has refused to pay the balance due.

WHEREFORE, plaintiffs pray that judgment be entered in their favor containing the following provisions:

A. Adjudicating that defendant is bound to pay plaintiffs as alleged in this Complaint;

B. Awarding plaintiffs the amount of \$13,440.22, representing the unaudited unpaid contributions for the work months of January 2008 through July 2010;

C. Awarding plaintiffs all additional amounts to which they are entitled pursuant to Section 502(g)(2) of ERISA, 29 USC 1132(g)(2), and plaintiffs' plan documents, including, but

not limited to, liquidated damages, interest, audit costs and attorneys' fees and costs incurred in bringing and prosecuting this present action; and

D. Granting plaintiffs any and all other relief (including injunctive and equitable relief) to which they might be entitled in equity and good conscience.

Respectfully submitted,

SACHS WALDMAN,
PROFESSIONAL CORPORATION

By: s/ Hope L. Calati
HOPE L. CALATI (P54426)
Attorneys for Plaintiffs
1000 Farmer Street
Detroit, Michigan 48226
(313) 965-3464
hcalati@sachswaldman.com

Dated: November 21, 2011