

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
LAFAYETTE DIVISION

FILED
JAN 24 2012
AT _____
ROBERT N. TRGOVICH, CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

TRUSTEES OF THE INDIANA STATE)
COUNCIL OF ROOFERS HEALTH AND)
WELFARE FUND)

VS.)

ASI LIMITED)

CAUSE NO. 4:12-cv-

4:12CV0002

COMPLAINT

Plaintiff, for its Complaint against the Defendant, ASI Limited, states the following facts:

1. This is an action brought pursuant to Section 301 of the Labor Management Relations Act of 1947, 29 U.S.C. §185, and also Section 502 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §1132, to compel defendant to comply with the aforesaid Acts and the payments required under its Collective Bargaining Agreement.

2. Pursuant to said Acts, this Court has jurisdiction over the subject matter of this action and the parties hereto without regard to the amount in controversy or the citizenship of the parties.

3. Plaintiff, Trustees of the Indiana State Council of Roofers Health and Welfare Fund, hereinafter called the "Welfare Plan", is a multi-employer employee benefit plan established and existing under the laws of the United States, and subject to the Employee Retirement Income Security Act of 1974 and may sue and be sued in its own name. It provides health, welfare and other benefits for employees of employers who contribute into said Plan pursuant to the requirements contained in the aforesaid Collective Bargaining Agreement between such employers and the Union.

13. Defendant breached said Agreement in that it failed to make the necessary deductions and payments called for and set out in the aforesaid Agreements, to the Plaintiff.

14. In order to compel Defendant to comply with the aforesaid acts, the terms and provisions of the aforesaid Fund, and the aforesaid Collective Bargaining Agreement, Plaintiff employed Berger and Berger as attorneys to bring this suit; said attorneys have performed services and incurred expenses in so doing and will be required to perform further services and incur further expenses in prosecuting this action to judgment. ERISA specifically authorizes the recovery of costs and attorney fees. 29 U.S.C. §1132(g)(2).

15. Said breaches of contract by the Defendant have caused Plaintiff, and the employees on whose behalf the Plaintiff brings this action, substantial damages, including attorney fees, and are continuing and will cause substantial damages to them in the future.

WHEREFORE, Plaintiff, requests that they be awarded whatever damages, including attorney fees, which will compensate them for the Defendant's breaches of contract, that the Defendant be ordered to comply with said contracts and pay the amounts provided for in said contracts to Plaintiff, and all other proper remedies, legal and equitable, plus interest and costs.

Respectfully Submitted,



CHARLES L. BERGER
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CIVIL COVER SHEET

4:12CV00002

FILED
AT **JAN 24 2012**
ROBERT N. TRGOVICH, CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
BOONE

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September, 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

1.(a) PLAINTIFFS
Trustees of the Indiana State Council of Roofers
Health & Welfare Fund
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF: Tippecanoe
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS
ASI Limited
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT: Boone
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)
Charles L. Berger, Esq., Berger and Berger
313 Main Street, Evansville, Indiana 47708
(812) 425-8101

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)
! 1 U.S. Government Plaintiff
! 2 U.S. GOVERNMENT Defendant
! 3 Federal Question (U.S. Government Not a Party)
! 4 Diversity (Indicate Citizenship of Parties)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR DEFENDANT (For Diversity Cases Only) AND ONE BOX FOR PLAINTIFF AND ONE BOX FOR PTF DEF PTF DEF
4 Citizen of This State 1 ! 1 Incorporated or Principal Place of Business in This State ! 4 !
5 Citizen of Another State ! 2 2 Incorporated and Principal Place of Business in Another State ! 5 !
6 Citizen or Subject of a Foreign Country ! 3 ! 3 Foreign National ! 6 !

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)
 1 Original Proceeding
! 2 Removed from State Court
! 3 Remanded from Appellate Court
! 4 Reinstated or Reopened
Transferred from
! 5 another district (specify)
! 6 Multidistrict Litigation
Appeal to District Judge from
! 7 Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)				
CONTRACTS	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
! 110 Insurance ! 120 Marine ! 130 Miller Act ! 140 Negotiable Instrument ! 150 Recovery of Overpayment & Enforcement of Judgment ! 151 Medicare Act ! 152 Recovery of Defaulted Student Loans (Excl. Veterans) ! 153 Recovery of Overpayment of Veteran's Benefits ! 160 Stockholders' Suits ! 190 Other Contract ! 195 Contract Product Liability	PERSONAL INJURY ! 310 Airplane ! 315 Airplane Product Liability ! 320 Assault, Libel & Slander ! 330 Federal Employers' Liability ! 340 Marine ! 345 Marine Product Liability ! 350 Motor Vehicle ! 355 Motor Vehicle Product Liability ! 360 Other Personal Injury PERSONAL INJURY ! 362 Personal Injury - Med. Malpractice ! 365 Personal Injury - Product Liability ! 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ! 370 Other Fraud ! 371 Truth in Lending ! 380 Other Personal Property Damage ! 385 Property Damage	! 610 Agriculture ! 620 Other Food & Drug ! 625 Drug Related Seizure of Property 21 USC 881 ! 630 Liquor Laws ! 640 R.R. & Truck ! 650 Airline Regs. ! 660 Occupational Safety/Health ! 690 Other LABOR <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations ! 730 Labor/Mgmt. Reporting & Disclosure Act ! 740 Railway Labor Act ! 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act	! 422 Appeal 28 USC 158 ! 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ! 820 Copyrights ! 830 Patent ! 840 Trademark SOCIAL SECURITY ! 861 HIA (1395ff) ! 862 Black Lung (923) ! 863 DIWC/DIWW (405(g)) ! 864 SSID Title XVI ! 865 RSI (405(g)) FEDERAL TAX SUITS ! 870 Taxes (U.S. Plaintiff or Defendant) ! 871 IRS - Third Party 26 USC 7609	! 400 State Reapportionment ! 410 Antitrust ! 430 Banks and Banking ! 450 Commerce/ICC Rates/etc. ! 460 Deportation ! 470 Racketeer Influenced and Corrupt Organizations ! 810 Selective Service ! 850 Securities/Commodities/Exchange ! 870 Customer Challenge 12 USC 3410 ! 891 Agricultural Acts ! 892 Economic Stabilization Act ! 893 Environmental Matters ! 894 Energy Allocation Act ! 895 Freedom of Information Act ! 900 Appeal of Fee Determination Under Equal Access to Justice ! 950 Constitutionality of State Statutes ! 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
! 210 Land Condemnation ! 220 Foreclosure ! 230 Rent Lease & Ejectment ! 240 Torts to Land ! 245 Tort Product Liability ! 290 All Other Real Property	! 441 Voting ! 442 Employment ! 443 Housing/Accommodations ! 444 Welfare ! 440 Other Civil Rights	! 510 Motions to Vacate Sentence HABEAS CORPUS: ! 530 General ! 535 Death Penalty ! 540 Mandamus & Other ! 550 Civil Rights ! 555 Prison Condition		

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY):
Section 301 of the Labor Management Relations Act of 1947, 29 U.S.C., Section 185 and Section 502 of the Employee Retirement (ERISA), 29 U.S.C., Section 1132

VII. REQUESTED IN COMPLAINT ! CHECK IF THIS IS A CLASS ACTION DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND ! YES NO

VIII. RELATED CASE(S) (See instructions): IF ANY Judge: Docket Number:

DATE January 23, 2012 SIGNATURE OF ATTORNEY OF RECORD Charles L. Berger, Esq.

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

4000121