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Docket Number

Docketed 6/17/25

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

SUPERIOR COURT
CIVIL ACTION NO. 2582CV00656

WORKERS' COMPENSATION TRUST FUND,

Plaintiff

v.

DOVER MILL, LLC,
MATTHEW B. SMITH
and TIMOTHY A. SMITH,

Defendants.

COMPLAINT

The Parties

1. The Plaintiff, the WORKERS' COMPENSATION TRUST FUND is an administrative agency of the Commonwealth of Massachusetts formed pursuant to c. 152, § 65 of the Massachusetts General Laws, with a principal office located at Lafayette City Center, 2 Avenue de Lafayette, Boston, Suffolk County, Massachusetts.
2. The Defendant DOVER MILL LLC is a domestic limited liability company organized under the laws of the Commonwealth of Massachusetts. Its principal place of business is located at 2 Mill Street, Dover, Massachusetts 02030.
3. The Defendant MATTHEW B. SMITH is an individual who, on or about June 27, 2022 was a manager of the Defendant DOVER MILL LLC. This Defendant resides at 49 Elm Street, Medfield, MA 02052.

4. The Defendant TIMOTHY A. SMITH is an individual who, on or about June 27, 2022 was a manager of Defendant DOVER MILL LLC. This Defendant resides at 15 More Avenue, Walton, NY 13856.

Background

5. On or about June 27, 2022, the Defendant DOVER MILL LLC employed Keith Mercer, (hereinafter referred to as the "Employee") not a party hereto. On that date the Employee was injured during the course of his employment while within the Commonwealth of Massachusetts.
6. At the time of the injury, the Defendant DOVER MILL LLC had no workers' compensation insurance in force for the benefit of his employees as required by c. 152 § 25A of the Massachusetts General Laws. The Defendant was, at all relevant times, an uninsured employer.
7. As managers of Defendant DOVER MILL LLC, the Defendants MATTHEW B. SMITH and TIMOTHY A. SMITH had a duty to procure and maintain workers' compensation insurance to protect employees.
8. As there was no insurance as of the date of the Employee's injury, the Defendants MATTHEW B. SMITH and TIMOTHY A. SMITH breached that duty.
9. After the injury, the Employee filed a claim for workers' compensation benefits against the Workers' Compensation Trust Fund pursuant to c. 152, § 65(2)(e) of the Massachusetts General Laws (Department of Industrial Accidents ["DIA"] Board No. 37808-22, In the Matter of Keith Mercer v. Workers' Compensation Trust Fund).

10. The Workers' Compensation Trust Fund was required to pay workers' compensation benefits to the Employee and incurred associated expenses and attorney fees that should have been paid by workers' compensation insurance which the Defendants failed to acquire and/or maintain in violation of c. 152, § 25A of the Massachusetts General Laws.
11. As of the date of this complaint, the Workers' Compensation Trust Fund has paid one Hundred Sixty-Nine Thousand, Eight Hundred and Eighty-Five and 66/100 ($169,885.66) on behalf of the Employee. As the Employee's claim is still pending before the Department of Industrial Accidents, this amount is expected to increase.
12. Chapter 152 § 65(8) of the Massachusetts General Laws provides that if the Workers' Compensation Trust Fund pays compensation to a claimant pursuant to § 65(2)(e), the Fund may seek recovery from the uninsured employer for an amount equal to that amount paid on behalf of the claimant under c. 152, plus any reasonable and necessary attorney fees.
13. Pursuant to 452 C.M.R. § 3.04(g), the Trust Fund may seek recovery of both its costs of defending the claim for compensation and of prosecuting the action against the uninsured employer.

WHEREFORE, the Workers' Compensation Trust Fund hereby demands judgment in its favor against the Defendant DOVER MILL, LLC, MATTHEW B. SMITH and TIMOTHY A. SMITH in an amount to be determined at law, and further that the Court enter an order:

a. Allowing the Workers' Compensation Trust Fund to recover its reasonable and necessary attorney fees incurred in prosecuting this action plus costs and interest as provided by law;

b. Allowing the Workers' Compensation Trust Fund to recover its reasonable and necessary attorney fees in incurred defending the claim before the Department of Industrial Accident, In the Matter of Keith Mercer v. Workers, Compensation Trust Fund, DIA Board No. 37808-22, plus costs and interest as provided by law; and

c. Allowing any additional relief deemed equitable, just and proper.

DATED AT BOSTON, MASSACHUSETTS this 16th day of June 2025.

Respectfully submitted:
The Plaintiff
WORKERS' COMPENSATION TRUST FUND

By its attorney:

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William J. McLeod, BBO No. 560572
Assistant General Counsel
Workers' Compensation Trust Fund
Massachusetts Department of Industrial Accidents
Lafayette City Center
2 Avenue de Lafayette
Boston, MA 02111
(857) 321-7343
william.j.mcleod@mass.gov