

**IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA**

DOUGLAS G. DEINES, ) DOC. NO.  
)  
Plaintiff, )  
)  
v. ) **COMPLAINT**  
)  
ESSEX CORPORATION, )  
)  
Defendant. )

COMES NOW the Plaintiff, and for his cause of action against the Defendant, alleges and states as follows:

1. That Plaintiff is a resident of Omaha, Douglas County, Nebraska and was an employee of the Defendant.
2. That Defendant is a corporation authorized and existing under and by virtue of the laws of the State of Nebraska.
3. That Plaintiff worked at Defendant's business located at 11606 Nicholas Street, Omaha, Douglas County, Nebraska for a period of approximately eleven (11) years until his termination of employment on or about July 6, 2012.
4. That while employed with the Defendant, Plaintiff performed the services as a Development Director for the Defendant.
5. That at all relevant times material herein, Plaintiff earned compensation in the amount of approximately \$65,000.00 per year, plus commissions for various services the Plaintiff provided to the Defendant at each phase of a development project, and the amount of said commission at each phase of a development project are more fully set forth and established in a May 20, 2003 "Revised Compensation Understanding", a copy of which is attached hereto, marked as Exhibit 'A', and by reference is fully incorporated herein.

6. That through the course of Plaintiff's employment, the Defendant had paid Plaintiff not only his agreed upon salary, but also the commissions in accordance with Exhibit "A".

7. That as of the date of Plaintiff's termination of employment on July 6, 2012, Plaintiff had been actively involved in, and provided services to the Defendant on several projects, which projects included but were not limited to those job projects which are listed on what has been marked as Exhibit "B", and by reference is fully incorporated herein.

8. That Plaintiff at all times performed his job duties for Defendant in a proper fashion, and performed any and all conditions of his employment to entitle him to the agreed-upon commissions for those jobs set forth in Exhibit "B", yet Defendant has failed and refused to pay Plaintiff the agreed-upon commissions for the services Plaintiff has rendered in connection with these projects.

9. Following Plaintiff's termination of employment with the Defendant, Plaintiff made numerous demands for payment of his commissions and Defendant, contrary to their employment practice, policy, promises and contract of employment with Plaintiff, has continued to refuse to pay Plaintiff his earned commissions for services rendered to Defendant.

10. That Defendant's failure and refusal to pay Plaintiff his commissions is willful.

11. That Plaintiff's earned commissions constitute compensation within the meaning of Nebraska Revised Statute §48-1229(4) of the Nebraska Wage Payment and Collection Act, and the Defendant's refusal to pay Plaintiff his earned compensation is a violation of the Nebraska Wage Payment and Collection Act, Nebraska Revised Statute §48-1228 et seq.

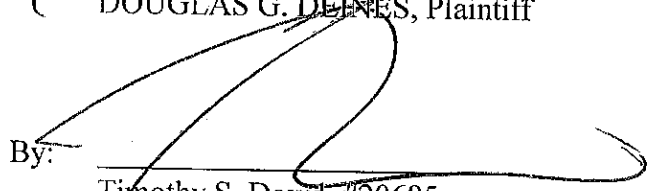
12. That more than thirty (30) days have elapsed since Plaintiff's entitlement to his earned commissions, which were due and payable, and despite Plaintiff's demand to pay the same, the Defendant continues to refuse to pay Plaintiff his earned wages, thereby entitling Plaintiff not only

to a reasonable attorney fee pursuant to Nebraska Revised Statute §48-1231, but since the Defendant's conduct is willful, additional damages pursuant to Nebraska Revised Statute §48-1232.

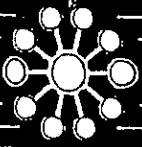
WHEREFORE, Plaintiff prays for judgment against the Defendant for all unpaid wages as proven at trial, together with reasonable attorney fees and the costs of this action. In addition, Plaintiff prays that the Court order Defendant to pay to a fund to be distributed to the schools of the State of Nebraska an amount equal to two (2) times the judgment pursuant to Nebraska Revised Statute §48-1232.

DATED this 17<sup>th</sup> day of May, 2013.

DOUGLAS G. DEBES, Plaintiff

By: 

Timothy S. Dowd, #20685  
DOWD HOWARD & CORRIGAN, L.L.C.  
1411 Harney Street, Suite 100  
Omaha, Nebraska 68102  
(402) 341-1020  
ATTORNEYS FOR PLAINTIFF



# ESSEX CORPORATION

11606 NICHOLAS STREET  
SUITE 100, OMAHA, NE 68154

402-431-0500  
FAX-431-0845

www.essexseniorliving.com

To: Doug Deines  
 From: Bart Votava  
 RE: Revised Compensation Understanding  
 Date: Effective May 5, 2003

This is a mutual understanding for compensation with Essex Corporation.

Title of Position: Regional Development Director

Salary: \$54,600 per year

Bonus Incentive: Based on Number of Units per Phase (not the total development)

	%	\$ per Unit
Site optioned	5	\$50
Acceptable zoning	5	50
Sponsor committed	5	50
2 Weeks after successful public meeting	5	50
40% of units reserved per phase	5	50
70% of units reserved per phase	15	150
Financial closing or project financing	50	500
95% of entrance fees collected	10	100
1 <sup>st</sup> Project	100%	\$1,000
2 <sup>nd</sup> Project thereafter		\$1,500

Doug Deines, Employee

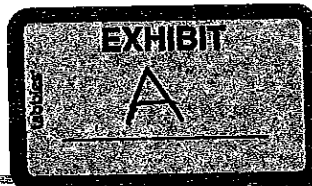
Bart Votava, for Essex Corporation

5/20/03

Date

5/20/03

Date



## **EXHIBIT "B"**

### **DEFENDANT'S JOB PROJECTS FOR WHICH PLAINTIFF WAS NOT PAID COMPENSATION**

Edgewood, Washington

Lincoln, Nebraska

Elgin, Illinois

Shawnee, Kansas

Mission, Kansas

Morton Grove, Illinois

North Park, Illinois Phase I

North Park, Illinois Phase II

Geneva, Illinois Phase II

Hinsdale, Illinois

Lisle, Illinois

Madison, Wisconsin

Brookfield, Wisconsin





001330758D01

= DOUGLAS COUNTY, NEBRASKA

DOUGLAS G. DEINES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ESSEX CORPORATION, )  
 )  
 Defendants. )

Case ID No. CI 13-4117

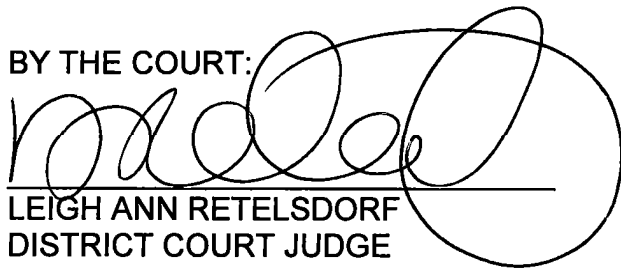
**ORDER ON MANDATE**

Pursuant to Mandate from the Nebraska Supreme Court, the appeal from the judgment of the District Court of Douglas, Nebraska is DISMISSED and costs in the amount of \$125.00 are to be paid by Appellant.

**IT IS SO ORDERED.**

DATED this 16th day of June 2016.

BY THE COURT:



LEIGH ANN RETELSDORF  
 DISTRICT COURT JUDGE

#44 FILED  
 IN DISTRICT COURT  
 DOUGLAS COUNTY NEBRASKA  
 JUN 16 2016  
 JOHN M. FRIEND  
 CLERK DISTRICT COURT

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on June 16, 2016 , I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Michaëlle L Baumert  
michaëlle.baumert@kutakrock.com

Timothy S Dowd  
tim@dowd-law.com

Date: June 16, 2016

BY THE COURT:

*John M. Friend*  
CLERK



IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

DOUGLAS G. DEINES, )  
)  
Plaintiff, )  
)  
vs. )  
)  
ESSEX CORPORATION, )  
)  
Defendant. )

Case ID No. CI 13-4117

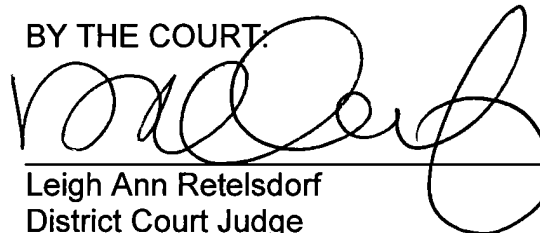
**ORDER TO MEDIATE**

This matter is before the Court on the Court's own motion to order and compel mediation. The parties shall report to Court on the progress of mediation to be completed no later than August 24, 2018.

**IT IS SO ORDERED.**

Dated this 31 day of January 2018.

BY THE COURT:

  
\_\_\_\_\_  
Leigh Ann Retelsdorf  
District Court Judge

#6 FILED  
IN DISTRICT COURT  
DOUGLAS COUNTY NEBRASKA  
JAN 31 2018  
JOHN M. FRIEND  
CLERK DISTRICT COURT





**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on February 1, 2018 , I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Michaëlle L Baumert  
michaëlle.baumert@jacksonlewis.com

Timothy S Dowd  
tim@dowd-law.com

Date: February 1, 2018

BY THE COURT:

*John M. Friend*  
CLERK

