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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 BOARDS OF TRUSTEES OF THE
11 NORTHWEST IRONWORKERS
12 HEALTH AND SECURITY FUND,
13 et al.,

13 Plaintiffs,

14 v.

14 PETERSON REBAR PLACEMENT,
15 LLC,

16 Defendant.

CASE NO. 2:22-cv-01541-TL

ORDER ON MOTION FOR
DEFAULT JUDGMENT

17
18 This matter is before the Court on Plaintiffs Boards of Trustees of the Northwest
19 Ironworkers Health and Security Fund, Northwest Ironworkers Retirement Trust,
20 Northwest Field Ironworkers Annuity Trust Fund, and Northwest Ironworkers &
21 Employers Apprenticeship & Training Trust Fund's (collectively, the "Trusts") motion
22 for default judgment against Defendant Peterson Rebar Placement, LLC ("PRP"). Dkt.

1 No. 8. PRP, which has not appeared in this action, did not file a response to the motion.

2 Having considered the motion and the relevant record, the Court GRANTS the motion.¹

3 I. BACKGROUND

4 The Trusts are joint labor-management employee-benefit Trusts, created and
5 operated pursuant to Section 302 of the Labor Management Relations Act (“LMRA”), 29
6 U.S.C. § 186(c), and the Employee Retirement Income Security Act (“ERISA”), 29
7 U.S.C. § 1001, *et seq.* Dkt. No. 1 ¶ 2. The Trusts provide certain benefits to covered
8 employees and their dependents. Dkt. No. 21 ¶ 11.

9 The Trusts are funded by employer contributions made on behalf of employees
10 who are covered by a collective bargaining agreement, entitled the Master Labor
11 Agreement (the “MLA”), between Ironworkers District Council of the Pacific Northwest
12 and its affiliated Iron Workers Local Unions (collectively, the “Unions”) and the
13 employers of its members, including PRP. *See id.* ¶¶ 4–6, 9, Ex. B² (2020–21 MLA)³;
14 Dkt. No. 26 ¶ 3, Ex. A (2021–24 MLA); Dkt. No. 1 ¶¶ 3, 9–11. PRP executed an
15 Ironworker Independent Agreement (“IIA”) binding it to the terms of the MLA on
16 September 24, 2018. Dkt. No. 21 ¶¶ 5–7, 9, Ex. A (IIA). PRP employs some members of
17 the Unions and, under the terms of the MLA, is responsible for paying and reporting
18 monthly contributions to the Trust. *See id.* ¶¶ 5–7; Dkt. No. 1 ¶¶ 9–11.

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21 ¹ The Trusts did not request oral argument (*see* Dkt. No. 8 at 1), and the Court concludes that oral argument would not be helpful to its disposition of this motion. *See* LCR 7(b)(4).

22 ² When referring to the Trusts’ exhibits, the Court cites to the page numbers in the bottom right-hand corner of the exhibits.

³ The 2020–21 MLA appears on pages 47–84 of Exhibit B.

1 The MLA details the “basis for the contributions to the Trusts,” stating that “for
2 the Health and Security, Pension, Vacation/Paid Time Off, Annuity, and Apprenticeship,
3 employers must contribute to the Trusts for all compensable hours.” Dkt. No. 21 ¶ 7; Dkt.
4 No. 21, Ex. B at 67–70 (describing the required fringe benefit contributions); Dkt. No.
5 26, Ex. A at 24–27 (same). The MLA also sets forth the contribution rate, which must be
6 paid by PRP on an employee’s behalf on a dollars-per-hour-worked basis. *See* Dkt. No.
7 21, Ex. B at 62–63 (listing employer contribution rates); Dkt. No. 26, Ex. A at 19–20
8 (same). The specific terms of the Trusts are set forth in the Parties’ Trust Agreements,
9 including the numerous amendments thereto, and are incorporated by reference in the
10 MLA. *See* Dkt. No. 21, Ex. B at 67–70; Dkt. No. 26, Ex. A at 24–27; Dkt. No. 21 ¶¶ 19–
11 24, Exs. D–G. Employers who fail to make their monthly contributions by the 25th day of
12 the month in which the contributions are due must pay liquidated damages at 16% of the
13 outstanding amount of contributions due and interest at 18% per annum until the
14 contributions are paid. *See* Dkt. No. 21, Exs. D–G; *see also* Dkt. No. 21, Ex. B at 70
15 (stating the same); Dkt. No. 26, Ex. A at 27 (same). The Trust Agreements further
16 provide that the employer shall be liable for reasonable attorney fees, litigation costs, and
17 other reasonable expenses, including auditor fees, incurred in recovering delinquent
18 payments. *See* Dkt. No. 21, Exs. D–G; *see also* Dkt. No. 21, Ex. B at 70 (stating the
19 same); Dkt. No. 26, Ex. A at 27 (same).

20 The Trusts allege that PRP failed to timely report and pay its contributions to the
21 Trusts for work performed by employees covered by the MLA/IIA and the Trust
22 Agreements. Dkt. No. 1 ¶¶ 12–17; Dkt. No. 21 ¶¶ 13–14, 25–27; Dkt. No. 23 ¶¶ 3–6, 8.

1 For work performed between October 2021 and June 2022, PRP reported and paid its
2 contributions after the monthly due date. Dkt. No. 21 ¶¶ 13, Ex I (late fee notices and
3 remittance reports for this period); Dkt. No. 1 ¶¶ 12–13. Although PRP ultimately made
4 the required reports and contributions for the October 2021 through June 2022 delinquent
5 period, it has not paid the \$18,076.66 in liquidated damages and the \$5,321.90 in accrued
6 interest for this delinquent period. Dkt. No. 21 ¶¶ 25, 27, Ex. H (Oct. 2021 to June 2022
7 damages report); Dkt. No. 1 ¶ 15. Additionally, for work performed between July and
8 December 2022, PRP has not reported or paid its contributions. (Dkt. No. 21 ¶¶ 14, 27;
9 Dkt. No. 1 ¶¶ 12, 16. Based on the Trusts’ audit,⁴ PRP owes \$190,412.26 in unpaid
10 contributions, \$31,214.32 in liquidated damages, \$16,846.63 in accrued interest, and
11 \$1,902.00 in audit accounting fees for the July through December 2022 delinquent
12 period. Dkt. No. 21 ¶¶ 15–17, 26–27; Dkt. No. 22 ¶¶ 4–9, Ex. A (July to Dec. 2022
13 damages report); Dkt. No. 1 ¶¶ 16–17. Finally, the Trusts assert that they have incurred
14 \$1,994.50 in attorney fees and \$572.00 in litigation costs in their attempt to recover these
15 delinquent payments and seek to recover both from PRP. Dkt. No. 23 ¶¶ 9–12, Exs. A
16 (billing records), B (total damages summary).

17 The Trusts filed this lawsuit against PRP on October 28, 2022. *See generally* Dkt.
18 No. 1. Based on the above-mentioned allegations, the Trusts bring a claim for violations
19 of the MLA/IIA, Trust Agreements, and ERISA, 29 U.S.C. §§ 1132, 1145. *See generally*
20 *id.*; Dkt. No. 20. The Trusts served a summons and copy of the complaint on PRP on
21

22 ⁴ PRP was provided with a copy of the audit and did not contest the findings. *See* Dkt. No. 23 ¶ 5; Dkt. No. 20 at 7.

1 November 6, 2022. *See* Dkt. No. 6. PRP has not appeared in this action or responded to
2 the Trusts' complaint. On January 9, 2023, the Trusts moved for entry of default against
3 PRP (Dkt. No. 7), and the Clerk entered default on January 13, 2023 (Dkt. No. 9). The
4 Trusts now ask the Court to enter a default judgment against PRP in the amount of
5 \$266,340.27. *See* Dkt. Nos. 20, 20-1.

6 II. LEGAL STANDARD

7 If a defendant fails to plead or otherwise defend, the clerk enters the party's
8 default. Fed. R. Civ. P. 55(a). Then, upon a plaintiff's request or motion, the court may
9 grant default judgment for the plaintiff. Fed. R. Civ. P. 55(b)(2). Entry of default
10 judgment is left to the court's sound discretion. *Aldabe v. Aldabe*, 616 F.2d 1089, 1092
11 (9th Cir. 1980). Because granting or denying relief is within the court's discretion, a
12 defendant's default does not automatically entitle a plaintiff to a court-ordered judgment.
13 *Id.* In exercising its discretion, the court considers seven factors (the "*Eitel* factors"):
14 (1) the possibility of prejudice to the plaintiff if relief is denied; (2) the substantive merits
15 of the plaintiff's claims; (3) the sufficiency of the claims raised in the complaint; (4) the
16 sum of money at stake in relationship to the defendant's behavior; (5) the possibility of a
17 dispute concerning material facts; (6) whether default was due to excusable neglect; and
18 (7) the preference for decisions on the merits when reasonably possible. *Eitel v. McCool*,
19 782 F.2d 1470, 1471–72 (9th Cir. 1986).

20 Default judgment is a two-step process: first, the court determines that a default
21 judgment should be entered; and second, the court determines the amount and character
22 of the relief that should be awarded. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915,

1 917–18 (9th Cir. 1987). At the default judgment stage, well-pleaded factual allegations in
2 the complaint, except those related to damages, are considered admitted and are sufficient
3 to establish a defendant’s liability. *Id.*; *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560
4 (9th Cir. 1977); Fed. R. Civ. P. 8(b)(6). The court must ensure that the amount of
5 damages is reasonable and demonstrated by the plaintiff’s evidence. *See* Fed. R. Civ. P.
6 55(b)(2); LCR 55(b)(2); *TeleVideo*, 826 F.2d at 917–18.

7 III. DISCUSSION

8 A. Jurisdiction

9 “To avoid entering a default judgment that can later be successfully attacked as
10 void, a court should determine whether it has the power, i.e., the jurisdiction, to enter the
11 judgment in the first place.” *See In re Tuli*, 172 F.3d 707, 712 (9th Cir. 1999).

12 First, the Court has subject matter jurisdiction over this action because it is
13 brought under the provisions of ERISA, 29 U.S.C. §§ 1132, 1145. *See* Dkt. No. 1 ¶¶ 5, 7,
14 14); 28 U.S.C. § 1331 (describing federal question jurisdiction). Second, the Court has
15 personal jurisdiction over PRP because it is incorporated in Washington, has its principal
16 place of business in Washington, and was properly served in Washington. *See* Dkt. No. 1
17 ¶ 4; Dkt. No. 6; Fed. R. Civ. P. 4(k)(1); *AM Tr. v. UBS AG*, 681 F. App’x 587, 588 (9th
18 Cir. 2017) (“[A] corporation is typically subject to general personal jurisdiction only in a
19 forum where it is incorporated or where it maintains its principal place of business.”
20 (citing *Daimler AG v. Bauman*, 571 U.S. 117, 137-40 (2014))); *see also Cripps v. Life*
21 *Ins. Co. of N. Am.*, 980 F.2d 1261, 1267 (9th Cir. 1992) (stating that because ERISA
22 provides for nationwide service of process, personal jurisdiction can be obtained by

1 properly serving a defendant anywhere in the United States (citing 29 U.S.C.
2 § 1132(e)(2))). Accordingly, this Court has subject matter jurisdiction over this action
3 and personal jurisdiction over PRP.

4 **B. The *Eitel* Factors**

5 Below, the Court analyzes each *Eitel* factor and concludes that the factors weigh in
6 favor of default judgment.

7 **1. The Possibility of Prejudice to Plaintiffs**

8 Under this factor, default judgment is favored where “the plaintiff has ‘no recourse
9 for recovery’ other than default judgment.” *Curtis v. Illumination Arts, Inc.*, 33 F. Supp.
10 3d 1200, 1211 (W.D. Wash. 2014) (quoting *Philip Morris USA, Inc. v. Castworld Prods.,*
11 *Inc.*, 219 F.R.D. 494, 499 (C.D. Cal. 2003)). Here, despite timely service of process, PRP
12 has failed to defend itself in this litigation. As a result, the Trusts will suffer prejudice if
13 default judgment is not entered because they will “be denied the right to judicial
14 resolution” of their claim. *Elektra Entm’t Grp. Inc. v. Crawford*, 226 F.R.D. 388, 391
15 (C.D. Cal. 2005); see *Bd. of Trs. of U.A. Loc. No. 159 Health & Welfare Tr. Fund v.*
16 *RT/DT, Inc.*, No. C12-5111, 2013 WL 2237871, at *4 (N.D. Cal. May 21, 2013)
17 (“Because ERISA provides that federal courts have exclusive jurisdiction for claims of
18 this nature, denial of Plaintiffs’ Motion would leave them without a remedy.”). This
19 factor therefore weighs in favor of default judgment.

20 **2. The Substantive Merits and Sufficiency of Plaintiffs’ Claim**

21 The second and third *Eitel* factors, which are frequently analyzed together, require
22 the plaintiff to “state a claim on which the [plaintiff] may recover.” *PepsiCo, Inc. v. Cal.*

1 *Sec. Cans*, 238 F. Supp. 2d 1172, 1175 (C.D. Cal. 2002). The plaintiff satisfies this
2 standard by making claims that “cross the line from conceivable to plausible.” *Ashcroft v.*
3 *Iqbal*, 556 U.S. 662, 680 (2009). At the default judgment stage, the court “takes ‘the
4 well-pleaded factual allegations’ in the complaint ‘as true’”; however, “necessary facts
5 not contained in the pleadings, and claims which are legally insufficient, are not
6 established by default.” *DIRECTV, Inc. v. Hoa Huynh*, 503 F.3d 847, 854 (9th Cir. 2007);
7 *Cripps*, 980 F.2d at 1267.

8 In their complaint, the Trusts allege that PRP failed to pay employee contributions
9 as required by the MLA/IIA, Trust Agreements, and ERISA and is therefore liable for
10 unpaid contributions, liquidated damages, interest, audit accounting fees, attorney fees,
11 and litigation costs. *See generally* Dkt. No. 1. Under Section 515 of ERISA, “every
12 employer who is obligated to make contributions to a multiemployer plan under the terms
13 of the plan or under the terms of a collectively bargained agreement shall . . . make such
14 contributions in accordance with the terms and conditions of such plan or agreement.” 29
15 U.S.C. § 1145. Section 515 of ERISA creates a federal cause of action against employers
16 who do not make timely contributions to employee benefit plans, and allows plan
17 fiduciaries to enforce obligations created under the terms of the plan or collectively
18 bargained agreement. 29 U.S.C. § 1132(a)(3), (g)(2); *Trs. of the Screen Actors*
19 *Guild-Producers Pension & Health Plans v. NYCA, Inc.*, 572 F.3d 771, 776 (9th Cir.
20 2009). To establish a claim for unpaid contributions, the Trusts must prove: (1) that the
21 Trusts are multiemployer plans as defined by 29 U.S.C. § 1002(37); (2) that the MLA/IIA
22 and Trust Agreements obligated PRP to make employee benefit contributions; and

1 (3) that PRP failed to make contribution payments in accordance with the MLA/IIA and
2 Trust Agreements. *See Bd. of Trs. of Sheet Metal Workers Health Care Plan of N. Cal. v.*
3 *Gervasio Env't. Sys.*, No. C03-4858, 2004 WL 1465719, at *2 (N.D. Cal. May 21, 2004)
4 (stating the elements of a claim to recover unpaid contributions from a multiemployer
5 plan under ERISA).

6 The Court concludes that the Trusts have adequately alleged and supported each of
7 these elements. The Trusts' complaint and supporting documents establish the following:

8 (1) the Trust was set up as a multiemployer benefit plan under ERISA and the LMRA
9 (*see* Dkt. No. 1 ¶ 2); (2) PRP executed the IIA binding it to the terms of the MLA, and
10 thus, the Trust Agreements (*see id.* ¶¶ 9–11; Dkt. No. 21, Ex. B at 67–71; Dkt. No. 26,
11 Ex. A at 24–28; Dkt. No. 21, Ex. A); and (3) PRP failed to make timely contribution
12 payments required by the MLA and Trust Agreements for the months between October
13 2021 and June 2022 and failed to make any of the required contribution payments for the
14 months between July and December 2022 (*see* Dkt. No. 1 ¶¶ 12–17; Dkt. No. 21 ¶¶ 13–
15 17, 25–27; *id.*, Exs. H, I; Dkt. No. 22, Ex. A). Thus, the Trusts are entitled to any unpaid
16 contributions, interest and liquidated damages on any unpaid and late-paid contributions,
17 reasonable attorney fees, litigation costs, and audit accounting fees under 29 U.S.C.
18 § 1132(g)(2), the MLA, and the Trust Agreements. *See infra* § III.D. Accordingly, both
19 the second and third *Eitel* factors weigh in favor of default judgment.

20 3. The Sum of Money at Stake

21 The fourth *Eitel* factor weighs in favor of default when “the recovery sought is
22 proportional to the harm caused by defendant’s conduct.” *Landstar Ranger, Inc. v. Parth*

1 *Enter., Inc.*, 725 F. Supp. 2d 916, 921 (N.D. Cal. 2010). Here, the Trusts request a total of
2 \$266,340.27 on default judgment: \$2,566.50 for attorney fees and costs and \$263,773.77
3 for unpaid contributions, liquidated damages, interest, and audit accounting fees. *See* Dkt.
4 Nos. 20, 20-1; Dkt. No. 23, Ex. B. The remedies requested are specifically authorized
5 under ERISA and the Parties' agreements. *See* 29 U.S.C. § 1132(g)(2); Dkt. No. 21, Ex.
6 B at 62–63, 67–70; Dkt. No. 26, Ex. A at 19–20, 24–27; Dkt. No. 21, Exs. D–G. Thus,
7 although the Trusts request a significant sum of money, the Court concludes that the
8 recovery sought is proportional to the harm caused by PRP's conduct, which constitutes
9 failing to timely remit reports and pay the required contributions and late fees. *See, e.g.*,
10 *Bds. of Trs. of Locs. 302 & 612 Health & Sec. Fund v. Barry Civ. Constr., Inc.*, No.
11 C21-0209, 2022 WL 17444075, at *3 (W.D. Wash. Dec. 6, 2022) (concluding that this
12 factor weighed in favor of default where the \$688,684.70 plaintiffs requested was
13 authorized under ERISA and the CBA and settlement agreements). This fourth *Eitel*
14 factor, too, weighs in favor of default judgment.

15 **4. The Possibility of a Dispute Concerning Material Facts**

16 Because PRP has failed to appear, the Court must accept as true all well-pleaded
17 allegations in the complaint, other than those related to damages. *TeleVideo*, 826 F.2d
18 917–18. Moreover, the Trusts state that PRP did not contest the audit findings. *See* Dkt.
19 No. 23 ¶ 5; Dkt. No. 20 at 7. Accordingly, there is nothing to suggest a possible dispute
20 of material facts, and this factor therefore weighs in favor of granting default judgment.
21 *See, e.g., Barry Civ. Constr.*, 2022 WL 17444075, at *3 (finding this factor weighed in
22

1 favor of default judgment where defendants did not appear and “[d]efendants’ obligations
2 were outlined in several agreements”).

3 **5. Whether Default was Due to Excusable Neglect**

4 The sixth *Eitel* factor considers the possibility that the defendant’s default resulted
5 from excusable neglect. *PepsiCo*, 238 F. Supp. 2d at 1177 (noting that “the possibility of
6 excusable neglect is remote” where a defendant participated early in a case, but later
7 stopped participating). Generally, courts do not find excusable neglect “where a
8 defendant was properly served with the complaint and notice of default judgment.”
9 *Indian Hills Holdings, LLC v. Frye*, 572 F. Supp. 3d 872, 889–90 (S.D. Cal. 2021). Here,
10 the Trusts timely served PRP with a summons and copy of the complaint on November 6,
11 2022. *See* Dkt. No. 6. PRP’s deadline to answer the complaint was November 28, 2022.
12 *See* Fed. R. Civ. P. 12(a)(1)(A)(i); Fed. R. Civ. P. 6(a)(1). PRP did not file an answer, but
13 the Trusts nevertheless waited until January 9, 2023 to file their motion for default. *See*
14 Dkt. No. 20. There is nothing in the record to indicate that PRP lacked notice of the
15 action or was misled. Accordingly, the Court concludes that PRP’s failure to answer the
16 complaint was not due to excusable neglect and that the sixth *Eitel* factor thus weighs in
17 favor of default judgment.

18 **6. The Preference for Decisions on the Merits**

19 Although there is a preference for deciding cases on the merits, this preference is
20 not absolute. *See Vawter v. Quality Loan Serv. Corp. of Wash.*, No. C09-1585, 2011 WL
21 1584424, at *3 (W.D. Wash. Apr. 27, 2011). Here, the “preference to decide cases on the
22 merits does not preclude [t]he court from granting default judgment” because PRP’s

1 “failure to answer [the Trusts’ c]omplaint makes a decision on the merits impractical, if
2 not impossible.” *PepsiCo*, 238 F. Supp. 2d at 1177; *see, e.g., Barry Civ. Constr.*, 2022
3 WL 17444075, at *4 (reaching same conclusion in ERISA case). Accordingly, the Court
4 concludes that the seventh *Eitel* factor does not preclude entry of default judgment.

5 Because the *Eitel* factors weigh heavily in favor of default judgment, the Court
6 concludes that default judgment is warranted in favor of the Trusts on their claim against PRP.

7 **C. Requested Relief**

8 “A default judgment must not differ in kind from, or exceed in amount, what is
9 demanded in the pleadings.” Fed. R. Civ. P. 54(c); *see also Henry v. Sneiders*, 490 F.2d
10 315, 317 n.2 (9th Cir. 1974) (noting that a plaintiff need not specify an exact amount in
11 his complaint in order to comply with Rule 54(c)’s requirement and prevail on a motion
12 for default judgment). Defaulting defendants are not deemed to have admitted the facts
13 alleged in the complaint concerning the amount of damages. *TeleVideo*, 826 F.2d at 917.
14 A plaintiff “must ‘prove up’ the amount of damages that it is claiming.” *Philip Morris*,
15 219 F.R.D. at 501; *see also* Fed. R. Civ. P. 55(b)(2); LCR 55(b)(2).

16 Here, the Trusts seek recover unpaid contributions, liquidated damages, interest,
17 audit accounting fees, and attorney fees and litigation costs. *See* Dkt. No. 23, Ex. B; Dkt.
18 No. 20 at 8–9; Dkt. No. 20-1. These damages do not differ from the relief requested in
19 their complaint. *See* Dkt. No. 1 at 3-4; *Henry*, 490 F.2d at 317 n.2.

20 **1. Unpaid Contributions, Liquidated Damages, Interest, and Audit Fees**

21 The MLA and Trust Agreements authorize the Trusts to recover unpaid
22 contributions, liquidated damages, interest, and audit fees and contain specific provisions

1 for calculating the contributions to be made and the interest and liquidated damages
2 assessed for delinquent contributions. *See* Dkt. No. 21, Ex. B at 62–63, 70; Dkt. No. 26,
3 Ex. A at 19-20, 27; Dkt. No. 21, Exs. D–G. They also provide that the employer will be
4 liable for any auditor fees incurred in the collection of delinquent contributions. *See* Dkt.
5 No. 21, Ex. B at 70; Dkt. No. 26, Ex. A at 27; Dkt. No. 21, Exs. D–G. Moreover, under
6 ERISA, awards of unpaid contributions, liquidated damages, and interest are required for
7 successful claims of unpaid contributions brought by trust funds against employers. 29
8 U.S.C. § 1132(g)(2)(A)–(C); *Nw. Adm’rs, Inc. v. Albertson’s, Inc.*, 104 F.3d 253, 257
9 (9th Cir. 1996).⁵

10 The Trusts filed declarations with exhibits showing the unpaid contributions,
11 liquidated damages, interest, and auditing fees calculations. *See* Dkt. No. 23, Ex. B; Dkt.
12 No. 21, Ex. H; Dkt. No. 22, Ex. A; *see also* Dkt. No. 21 ¶¶ 13–17, 25–27; Dkt. No. 22
13 ¶¶ 4–9. Based on the terms of the MLA and Trust Agreements and the evidence
14 submitted by the Trusts, the Court concludes that the Trusts are entitled to recover:
15 (1) \$190,412.26 in unpaid contributions for the July through December 2022 delinquent
16 period; (2) \$31,214.32 in liquidated damages for the July through December 2022
17 delinquent contributions; (3) \$16,846.63 in accrued interest on the July through
18 December 2022 delinquent contributions; (4) \$1,902.00 in audit accounting fees;
19 (5) \$18,076.66 in liquidated damages for the October 2021 through June 2022 delinquent
20

21 ⁵ To be entitled to a mandatory award under 29 U.S.C. § 1132(g)(2), three requirements must be satisfied: (1) the
22 employer must be delinquent at the time the action is filed; (2) the district court must enter a judgment against the
employer; and (3) the plan must provide for such an award. *Albertson’s, Inc.*, 104 F.3d at 257. Here, the Trusts have
satisfied all three criteria. *See supra* §§ II, III.C.

1 contributions; and (6) \$5,321.90 in accrued interest on the October 2021 through June
2 2022 delinquent contributions.

3 **2. Attorney Fees and Costs**

4 The MLA and Trust Agreements also provide that an employer shall be liable for
5 reasonable attorney fees and litigation costs incurred in recovering delinquent payments.
6 *See* Dkt. No. 21, Ex. B at 70; Dkt. No. 26, Ex. A at 27; Dkt. No. 21, Exs. D–G. Similarly,
7 ERISA provides that the court must award “reasonable attorneys’ fees and costs of the
8 action” when a plaintiff obtains a judgment in their favor in an action such as this. 29
9 U.S.C. § 1132(g)(2)(D); *Albertson’s, Inc.*, 104 F.3d at 258. In Noelle Dwarzski’s
10 declaration, she states that she spent 2.9 hours working on this matter at a rate of \$275
11 per hour and 4.2 hours working on this matter at a rate of \$285 per hour. Dkt. No. 23
12 ¶¶ 9–10 (stating that from October 26, 2022 through June 7, 2023, the Trusts incurred
13 \$1,994.50 in attorney fees consisting of 7.1 hours of Ms. Dwarzski’s time). She also
14 submitted an exhibit detailing the time spent on each task she performed in this matter.
15 *See id.*, Ex. A. Further, Ms. Dwarzski states that the Trusts incurred \$572.00 in litigation
16 costs. *Id.* ¶ 11, Ex. B. The Court finds the billing rates, tasks performed, time spent, and
17 litigation costs incurred reasonable and therefore recoverable under the terms of the
18 MLA, Trust Agreements, and ERISA. *See Camacho v. Bridgeport Fin., Inc.*, 523 F.3d
19 973, 978 (9th Cir. 2008) (describing how courts generally calculate “reasonable” attorney
20 fees). Accordingly, the Trusts are entitled to recover \$1,994.50 in attorney fees and
21 \$572.00 in litigation costs.


22 In sum, the Court GRANTS the Trusts’ request for relief in its entirety.

1 **IV. CONCLUSION**

2 Accordingly, the Court GRANTS the Trusts' motion for default judgment (Dkt. No.
3 20). Specifically, the Court ORDERS as follows:

- 4 (1) The Court GRANTS default judgment against PRP;
- 5 (2) The Court GRANTS the Trusts' request for \$190,412.26 in unpaid
6 contributions for the July through December 2022 delinquent period;
7 \$31,214.32 in liquidated damages for the July through December 2022
8 delinquent contributions; \$16,846.63 in accrued interest on the July through
9 December 2022 delinquent contributions; \$1,902.00 in audit accounting
10 fees; \$18,076.66 in liquidated damages for the October 2021 through June
11 2022 delinquent contributions; and \$5,321.90 in accrued interest on the
12 October 2021 through June 2022 delinquent contributions; and
- 13 (3) The Court GRANTS the Trusts' request for \$1,994.50 in attorney fees and
14 \$572.00 in litigation costs.

15 Dated this 12th day of July, 2023.

16 
17 _____
18 Tana Lin
19 United States District Judge
20
21
22