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UNITED STATES DISTRICT COURT
Northern District of California

SAN FRANCISCO AESTHETICS AND
LASER MEDICINE INC, *et al.*,

Plaintiffs,

v.

THE PRESIDIO TRUST, *et al.*

Defendants.

No. C 07-05170 EDL (MEJ)

ORDER RE: FURTHER BRIEFING

Before the Court is Defendants' Brief regarding the amounts they claim are owed by Plaintiffs under the Amended Stipulated Judgment. (Dkt. #133.) The undersigned has reviewed Defendants' spreadsheet and the calculations contained therein. (O'Connor Decl. Ex. A, pg. 1, Dkt. #134.) Although Defendants brief refers separately to amounts that they claim Plaintiffs owe for rent, SDC, utilities and insurance, Defendants lump the amounts paid by Plaintiffs into a total of \$51,860.87 on their spreadsheet (Part B, Item 3). Thus, it is unclear how the amounts are broken down by category. Further, it is unclear how Defendants credited Plaintiffs for utility payments made by check numbers 944, 945, 946 and 947. These checks are listed on the spreadsheet as being applied over a three month period, July 2008-September 2008, but no breakdown is given as to how the payments were allocated. Thus, the amounts credited in Part B of the spreadsheet for SDC and utilities do not appear to correlate to the amounts for those line items listed as due in Part A. Additionally, Defendants argue that if the \$34,000 rent credit were to be applied starting in October 2008, as suggested by Plaintiffs, rather than applied to the earliest unpaid amounts as Defendants suggest, the amount of late fees and default interest owed by Plaintiffs would be greater. (O'Connor Decl. Ex. A, Dkt. #134.) However, Defendants have not provided calculations to support this argument.

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Accordingly, the undersigned ORDERS Defendants to submit further briefing which:

- (1) reconciles the lump sum credit for amounts paid by Plaintiffs (Part B, Item 3) with the line item breakdown in the spreadsheet for payments made by Plaintiffs (Part B, Item 1);
- (2) indicates to the undersigned how payments made by each check number listed on the spreadsheet were allocated (i.e. to rent, SDC, and utilities) and what amount remains owing for SDC, utilities and unpaid rent;
- (3) provides calculations to support their argument that if the rent credit were applied beginning in October 2008, rather than January 2008, that late fees and default interest owing by Plaintiffs would be higher; and
- (4) explains what effect the allocation of payments made has on Defendants' calculations of late fees and default interest.

Defendants shall not provide any further legal argument - their briefing shall only provide the calculations and clarifications requested above. The undersigned ORDERS Defendants to submit this further briefing within five days following issuance of this Order.

IT IS SO ORDERED.

Dated: July 8, 2010



Maria-Elena James
Chief United States Magistrate Judge