

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENNETH GUICE, et al.,
Plaintiffs,
v.
D&R CONSTRUCTION, et al.,
Defendants

No. C-09-1464 MMC

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFFS'
MOTIONS FOR DEFAULT JUDGMENT**

Before the Court are two motions: (1) "Request for Entry of Default by Kenneth Guice Against Damian Neveaux and D & R Construction, Inc."; and (2) "Request for Entry of Default by Patricia Rose Against Damian Neveaux and D & R Construction, Inc." By order filed October 23, 2009, the Court construed each of the above-described filings as a motion for default judgment and, because plaintiffs had failed to offer evidence to establish the amount of damages incurred, afforded plaintiffs the opportunity to file supplemental declarations, which plaintiffs subsequently submitted.

By order filed December 7, 2009, the Court found the evidence before the Court was sufficient to establish plaintiffs' entitlement to compensatory damages and to costs, but that plaintiffs had not established their entitlement to the other forms of relief sought, specifically, prejudgment interest and an award of attorney's fees. Accordingly, the Court afforded plaintiffs the opportunity to supplement the instant motions to address those two

1 issues. Subsequently, plaintiffs advised the Court they no longer seek prejudgment
2 interest. Further, plaintiffs did not supplement their motions to address their entitlement to
3 an award of attorney's fees.

4 Accordingly, having read and considered the papers filed in support of the instant
5 motions, including each plaintiff's supplemental filing, the Court hereby GRANTS in part
6 and DENIES in part the motions, as follows:¹

7 1. To the extent plaintiffs seek an award of compensatory damages, the motions
8 are hereby GRANTED, and:

9 a. Kenneth Guice shall have judgment against defendants in the amount of
10 \$126,380.59; and

11 b. Patricia Rose shall have judgment against defendants in the amount of
12 \$173,378.90.

13 2. To the extent plaintiffs seek an award of costs, the motions are hereby
14 GRANTED and plaintiffs are jointly awarded costs in the total amount of \$530.

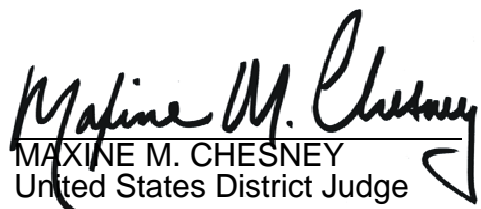
15 3. To the extent plaintiffs seek an award of prejudgment interest, the motions are
16 hereby DENIED, in light of plaintiffs having withdrawn their respective claims to such relief.
17 (See Guice Supp. Decl., filed December 8, 2009; Rose Supp. Decl., filed December 8,
18 2009.)

19 4. To the extent plaintiffs seek an award of attorney's fees, the motions are hereby
20 DENIED for the reasons stated in the Court's order of December 7, 2009.

21 The Clerk is hereby DIRECTED to enter judgment in favor of plaintiffs and against
22 defendants, as set forth above.

23 **IT IS SO ORDERED.**

24
25 Dated: January 14, 2010

26 
MAXINE M. CHESNEY
United States District Judge

27
28

¹The January 22, 2010 hearing is hereby VACATED.