

1
2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
5

6 THE BOARD OF TRUSTEES OF THE SHEET) Case No. 09-5138 SC
7 METAL WORKERS HEALTH CARE PLAN OF)
8 NORTHERN CALIFORNIA, et al.,) ORDER ADOPTING REPORT AND
9 Plaintiffs,) RECOMMENDATION
10 v.)
11 JOSE RODNEY VIGIL,)
12 Defendant.)
13

14 Magistrate Judge Edward M. Chen has filed a Report and
15 Recommendation regarding the Motion for Default Judgment filed by
16 Plaintiff Board of Trustees of the Sheet Metal Workers Health Care
17 Plan of Northern California ("Plaintiffs") against Jose Rodney
18 Vigil ("Defendant"). ECF No. 47 ("Rep. & Rec."). Magistrate Judge
19 Chen recommends that this Court grant Plaintiffs' motion and award
20 Plaintiffs \$741.39 in liquidated damages, \$243.29 in interest, \$555
21 in attorneys' fees, and \$435 in costs. Id.

22 Plaintiffs agree to every finding by Magistrate Judge Chen
23 save one -- they argue that Magistrate Judge Chen incorrectly
24 calculated liquidated damages using a rate of ten percent based on
25 his finding that Plaintiffs' proposed twenty percent rate was
26 unsupported by the evidence. ECF No. 50 ("Rep. & Rec. Resp.").
27 Plaintiffs argue that documents filed in support of their Motion
28 "clearly show the trustees took action to adopt 20% liquidated

1 damages," and they conclude that Magistrate Judge Chen did not
2 consider these supporting documents and ask this Court to grant the
3 Report and Recommendation with an increased liquidated damages
4 award. Id.

5 If Magistrate Judge Chen failed to consider these documents,
6 it was likely because they were not cited to in either Plaintiffs'
7 original Motion or their re-noticed Motion for Default Judgment.
8 ECF Nos. 19, 39. A district court's review of a matter referred to
9 a magistrate judge is limited to the record of proceedings before
10 that magistrate judge. Civ. L.R. 72-3(c). However, neither the
11 magistrate judge nor this Court has an obligation to "paw over the
12 files without assistance from the parties," and this Court has
13 discretion to refuse to consider evidence that the offering party
14 fails to cite with sufficient specificity. Orr v. Bank of America,
15 NT & SA, 285 F.3d 764, 775 (9th Cir. 2002); see also Forsberg v.
16 Pac. Nw. Bell Tel. Co., 840 F.2d 1409, 1418 (9th Cir. 1988)
17 (holding that in the context of summary judgment, a court "is not
18 required to comb the record to find some reason to deny a motion").

19 As such, the Court ADOPTS Magistrate Judge Chen's Report and
20 Recommendation in its entirety. The Court AWARDS Plaintiffs
21 damages in the amount of \$1974.68. The damages consist of: \$741.39
22 in liquidated damages, \$243.29 in interest, \$555 in attorneys'
23 fees, and \$435 in costs.

24
25 IT IS SO ORDERED.

26
27 Dated: March 18, 2011

28 
UNITED STATES DISTRICT JUDGE