

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRICKLAYERS & ALLIED
CRAFTWORKERS LOCAL UNION NO. 3,
AFL-CIO, *et al.*,

No. C-10-0112 EMC

Plaintiffs,

**ORDER RE SUPPLEMENTAL
BRIEFING AND/OR EVIDENCE**

v.

(Docket No. 14)

ERIC LAWRENCE YOUNG, *et al.*,

Defendants.

Plaintiffs have filed a motion for default judgment against Defendant Eric Lawrence Young, which is currently set for hearing on July 14, 2010. Having reviewed Plaintiffs' motion and accompanying submissions, the Court hereby orders that Plaintiffs provide supplemental briefing and/or evidence as described below.

(1) In its motion, Plaintiffs assert that Mr. Young is a party to a collective bargaining agreement with the Bricklayers & Allied Craftworkers Local Union No. 3. *See* Khtikian Decl. ¶ 4. The agreement provided to the Court, however, indicates that the signatories to the agreement (in addition to the union) are (a) "Tile, Terrazzo, Marble & Restoration Contractors Association of Northern California, Inc." and (b) "Independent Tile Contractors." *See id.*, Ex. 1 (agreement). Plaintiffs should provide evidence establishing either that Mr. Young is a direct signatory to the agreement or that he is an indirect signatory through "Tile, Terrazzo, Marble & Restoration Contractors Association of Northern California, Inc." or "Independent Tile Contractors."

1 (2) Section 83 of the collective bargaining agreement submitted by Plaintiffs states that
2 each individual employer agrees to be bound to various trust funds agreements, including the (a)
3 Northern California Tile Industry Health & Welfare Fund, (b) the Northern California Tile Industry
4 Pension Trust Fund, and (c) the Northern California Tile Industry Apprenticeship & Training Trust
5 Fund. *See id.* (Agreement, art. X, § 83). The trustees for each of these three trust funds are
6 Plaintiffs in this case. However, the trustees for other trust funds are also named as Plaintiffs in this
7 case even though the collective bargaining agreement does not cover these other trust funds (*e.g.*, the
8 International Union of Bricklayers & Allied Craftworkers Pension Fund). Plaintiffs should clarify
9 whether they are seeking monies owed to any trust funds other than the three listed in (a)-(c) above.
10 In addition, Plaintiffs should clarify whether the unpaid contributions requested (*i.e.*, \$57,793.84),
11 *see* Eaton Decl. ¶ 4, includes contributions owed to any trust funds other than the three listed in (a)-
12 (c) above.

13 (3) Plaintiffs have provided excerpts from the trust agreements for (a) the Northern
14 California Tile Industry Health & Welfare Fund and (b) the Northern California Tile Industry
15 Pension Trust Fund, but not (c) the Northern California Tile Industry Apprenticeship & Training
16 Trust Fund. Plaintiffs should provide the relevant excerpts for the third trust fund (*i.e.*, the
17 Apprenticeship & Training Trust Fund).

18 (4) Plaintiffs are seeking \$57,793.84 in unpaid contributions and \$20,318.50 in
19 liquidated damages. *See* Eaton Decl. ¶¶ 4-5. Plaintiffs should provide briefing and/or evidence
20 establishing how they calculated these sums. In providing their calculations for liquidated damages,
21 Plaintiffs should explain why, in their complaint, Plaintiffs estimated that liquidated damages for the
22 period November 1, 2008-June 30, 2009, and August 1, 2009-September 30, 2009, were \$13,904.10,
23 *see* Compl. ¶ 10, while, in their motion for default judgment, Plaintiffs estimate that liquidated
24 damages for the same period were \$20,318.50. *See* Eaton Decl. ¶ 5. Plaintiffs should also explain
25 whether this presents a problem under Federal Rule of Civil Procedure 54(c). *See* Fed. R. Civ. P.
26 54(c) (providing that “[a] default judgment must not differ in kind from, or exceed in amount, what
27 is demanded in the pleading”).
28

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

Plaintiffs shall file *and* serve their supplemental papers within a week of the date of this order. In addition, Plaintiffs shall serve a copy of this order within three days of the date of this order. Proofs of service shall be promptly filed with the Court.

IT IS SO ORDERED.

Dated: May 25, 2010


EDWARD M. CHEN
United States Magistrate Judge