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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BAY AREA PAINTERS AND TAPERS
PENSION TRUST FUND, *et al.*,

No. C-14-1836 EMC

Plaintiffs,

v.

**ORDER RE SUPPLEMENTAL
BRIEFING**

QUINN PAINTING & DECORATING, *et al.*,

Defendants.

_____ /

Plaintiffs have filed a motion for default judgment, which is set for hearing on May 21, 2015. Having reviewed Plaintiffs’ motion and accompanying submissions, the Court hereby orders Plaintiffs to file supplemental briefing and/or evidence as follows.

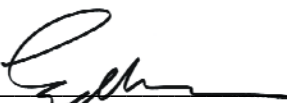
- (1) Plaintiffs shall submit evidence to establish that the copy of the current Master Agreement (attached to the Jackson declaration as Exhibit A) contains the same terms as the earlier Master Agreements signed by Quinn Painting & Decorating (“QPD”) with respect to: (a) contributions; (b) liquidated damages; (c) interest; (d) audit rights and audit fees; and (e) attorney’s fees and costs.
- (2) If judgment is entered in this case, then “Plaintiffs may be barred by the doctrine of res judicata from recovering additional delinquent payments for the relevant time period that they may discover they are owed through an audit.” *W. States Insulators & Allied Workers Pension Plan v. Jenco Mech. Insulation, Inc.*, No. C-11-0175 EMC, 2012 U.S. Dist. LEXIS 47161, at *12 (N.D. Cal. Apr. 3, 2012); *see also Bd. of Trs. of the Bay Area Roofers v. Ace Roofing Co.*, No. C 04 3098 MJJ (BZ), 2005 U.S. Dist. LEXIS 39886, at *7-12 (N.D. Cal.

1 June 16, 2005) (discussing res judicata in ERISA default judgment case), *adopted by* 2005
2 U.S. Dist. LEXIS 39882 (N.D. Cal. July 5, 2005). Plaintiffs shall provide supplemental
3 briefing addressing the res judicata issue. *See, e.g., W. States*, 2012 U.S. Dist. LEXIS 47161,
4 at *12-13 (stating that, “to protect Plaintiffs’ rights and provide Plaintiffs adequate time to
5 conduct an audit, judgment shall not enter until ninety (90) days after the date of this order”).
6 (3) With respect to the issue of holding the individual defendants liable, Plaintiffs shall address
7 the rulings of Judges Wilken and Ryu in *Bay Area Painters & Tapers Pension Trust Fund v.*
8 *Golden Vas Painting*, No. C-10-02923 CW (DMR). *See, e.g., Bay Area Painters & Tapers*
9 *Pension Trust Fund v. Golden Vas Painting*, No. C-10-02923 CW (DMR), 2011 U.S. Dist.
10 LEXIS 141309, at *14-16 (N.D. Cal. Nov. 7, 2011) (noting that “Plaintiffs’ FAC provides no
11 additional facts as to the individual Defendants’ personal liability under ERISA and instead
12 alleges facts to support a collection action against Defendants pursuant to the California
13 Corporations Code[;] [t]he court can only surmise that Plaintiffs believe Vasilatos and
14 Tofavaha are legally responsible for satisfying the judgment entered against their
15 partnership, Golden Vas[,] [b]ut the question before the court is not whether the individual
16 partners must pay Golden Vas’ monetary judgment; it is whether judgment may also be
17 entered directly against them”), *adopted by* 2011 U.S. Dist. LEXIS 141310 (N.D. Cal. Dec.
18 8, 2011).

19 **Plaintiffs’ supplemental briefing and evidence shall be filed within a week of the date of**
20 **this order. Plaintiffs shall promptly serve a copy of this order on Defendants and file a proof**
21 **of service establishing such.**

22
23 IT IS SO ORDERED.

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25 Dated: April 24, 2015

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EDWARD M. CHEN
United States District Judge