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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DISTRICT COUNCIL 16 NORTHERN
CALIFORNIA JOURNEYMAN AND
APPRENTICE TRAINING TRUST
FUND, et al.,

Plaintiffs,

v.

LINEATION MARKINGS
CORPORATION, et al.,

Defendants.

Case No. 15-cv-01823-TEH

**ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR
DEFAULT JUDGMENT**

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Defendants LINEATION MARKINGS CORPORATION, a California Corporation and LUKE MIDDLETON, an individual (collectively "Defendants"), having failed to plead or otherwise defend in this action and their default having been entered:

It is hereby ORDERED, ADJUDGED AND DECREED that Plaintiffs' motion for default judgment is GRANTED IN PART. Defendants shall promptly pay to Plaintiffs the sums for contributions, liquidated damages and interest on unpaid and late-paid contributions, and attorneys' fees and costs, under the terms of the Bargaining Agreements and Trust Agreements, as amended and referenced therein, as follows:

Work Month	Unpaid Contributions	Liquidated Damages ¹	5% Interest (thru 01/05/16)	Subtotals
March 2014	\$100.00 ²	\$150.00	\$9.35	\$259.35
July 2014	\$1,246.39	\$249.28	\$83.64	\$1,579.31
August 2014	\$1,257.12	\$251.43	\$78.54	\$1,587.09
September 2014	\$0.00 ³	\$329.07	\$2.30	\$331.37

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¹ Liquidated damages are the greater of \$150.00 or 20% of the unpaid contributions. See Collection Procedures, Ex. B to Jackson Decl. (Docket No. 32)

² Defendant reported \$153.58 as contributions due for March 2014 and made a late partial payment of \$53.58 on March 16, 2015. Jackson Decl. at 5 n.3

1	October 2014	\$1,643.22	\$328.64	\$92.23	\$2,064.09
2	April 2015	\$1,090.00 ⁴	\$244.87	\$33.75	\$1,368.62
3	May 2015	\$700.00 ⁵	\$160.25	\$19.25	\$879.50
4	SUBTOTAL:				\$8,069.33
5	Attorneys' Fees (02/09/15 through 01/29/16, plus additional estimated):				\$16,935.00
6	Costs (02/09/15 through 01/29/16):				\$1,012.31
7	GRAND TOTAL:				\$26,016.64

8 The Court recognizes that the above amount is less than the amount requested in
9 Plaintiffs' motion. *See* Mot. at 3 (Docket No. 29). However, all of the monthly
10 contribution amounts requested in the motion, except for the contributions listed in the
11 table above, are estimates from a formula based on the reported hours from past months,
12 rather than contributions based on employee hours recorded during that month. *Id.* at 4
13 n.3. As a result, the vast majority of Plaintiffs' requested relief is derived from months for
14 which the number of employee hours is unknown, and could even be zero. Plaintiffs have
15 failed to prove up the damages requested. *See Truong Giang Corp. v. Twinstar Tea Corp.*,
16 No. 06-cv-3594-JSW, 2007 WL 1545173, at *12, *14 (N.D. Cal. May 29, 2007). As
17 ordered below, however, Plaintiffs are entitled to an audit of Defendants' records, and may
18 submit further proof of damages in the future.

19 It is further ORDERED that interest shall continue to accrue at a rate of 5% per
20 annum on unpaid contributions (\$6,036.73) from January 25, 2016, until paid, and at post
21 judgment interest rates on the balance of the judgment (\$19,979.91).

22 It is further ORDERED that Defendants comply with a further audit of their
23 records. The Court declines, however, to order that Defendants pay the amounts found due
24 pursuant to the audit, as requested by Plaintiffs. Mot. at 18. Judges in this district consider
25 such a provisions to be a "blank check" on which the plaintiffs could "fill in the amount;"
26 thus, the Court declines to award such relief. *Bay Area Painters & Tapers v. Brown*, No.

³ Defendant reported \$1,645.36 as contributions due for September 2014 and made a late full payment on November 10, 2014. Jackson Decl. at 5 n.4.

⁴ Defendant reported \$1,224.36 as contributions due for April 2015 and made a late partial payment of \$134.36 on July 15, 2015. Jackson Decl. at 5 n.5.

⁵ Defendant reported \$801.24 as contributions due for May 2015 and made a late partial payment of \$101.24 on August 4, 2015. Jackson Decl. at 5 n.6.

1 06-cv-7509-WHA, 2007 WL 1302982, at *3 (N.D. Cal. May 3, 2007). Plaintiffs may
2 submit the results of the audit, along with other declarations, in support of a future motion
3 to amend the judgment.⁶

4 The Clerk shall enter judgment and close the file. However, the Court will retain
5 jurisdiction over this matter so that Plaintiffs may, if appropriate, file a motion to amend
6 the judgment following the audit.

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8 **IT IS SO ORDERED.**

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10 Dated: 05/11/16



THELTON E. HENDERSON
United States District Judge

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⁶ Plaintiffs may also submit additional declarations to the Court in support of additional attorneys' fees and costs incurred in connection with a future motion to amend the judgment, if applicable.