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28**NOT FOR CITATION**

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

BOARD OF TRUSTEES OF THE
LABORERS HEALTH AND WELFARE
TRUST FUND FOR NORTHERN
CALIFORNIA, et al,

No. CV 10-2449 SBA (NJV)

**ORDER REQUIRING AFFIDAVIT
REGARDING MOTION FOR DEFAULT
JUDGMENT** (Docket No. 21)

Plaintiffs,

v.

CITY CEMENT, INC.,
Defendant.

Plaintiffs Board of Trustees of the Laborers Health and Welfare Trust Fund for Northern California, Board of Trustees of the Laborers Vacation-Holiday Trust Fund for Northern California, Board of Trustees of the Laborers Pension Trust Fund for Northern California, and Board of Trustees of the Laborers Training and Retraining Trust Fund for Northern California filed this action against City Cement, Inc. and Jose Francisco Vieira¹ for breach of a collective bargaining agreement, recovery of unpaid trust fund contributions, and injunctive relief. Doc. No. 1. Plaintiffs allege that Defendants failed to make trust fund contributions required by the collective bargaining agreement, written trust agreements, and federal law. Plaintiffs have moved for default judgment as to Defendant City Cement, who was served but has not appeared in the action or responded to the complaint. Doc. No. 21. The district court has referred Plaintiffs' motion to this Court for a report and recommendation, including a report and recommendation concerning the amount of the judgement sought by Plaintiffs (Doc. No. 28). *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1).

¹ On September 1, 2010, the court granted Plaintiffs' notice of voluntary dismissal of Defendant Vieira and the third claim of breach of fiduciary duty. Doc. No. 10.

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Due to inconsistencies between damages sought in the Complaint and Plaintiffs' motion for default judgment, Plaintiffs are hereby ORDERED to submit an affidavit by January 28, 2011, containing the following information:

1. An explanation of the calculation of liquidated damages and interest sought in the Complaint in the amount of \$11,085.12. *See* Complaint at 5, 8-10 (Doc. No. 1).
2. An explanation of the discrepancy between the Complaint and the Motion, which does not refer to the \$11,085.12 of liquidated damages and interest.

Dated: January 21, 2011



NANDOR J. VADAS
United States Magistrate Judge