

United States District Court
For the Northern District of California

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E-FILED on 8/6/10

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ORANGE COUNTY ELECTRICAL
INDUSTRY HEALTH AND WELFARE
TRUST FUND; LOCAL UNION NO. 441 OF
THE INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS; and
DOUGLASS CHAPPELL, as Trustee of the
above TRUST FUND,

Plaintiffs,

v.

KOESTER ELECTRIC, INC., a California
Corporation,

Defendant.

No. C-09-3835 RMW

ORDER GRANTING MOTION FOR
DEFAULT JUDGMENT

[Re Docket No. 10]

Plaintiffs' motion for default judgment came on for hearing before the court on April 30, 2010. Defendant made no appearance and did not oppose the motion. By their motion, plaintiffs seek default judgment in the amount of \$109,967.47 in delinquent contributions, liquidated damages, and interest through April 16, 2010, plus \$24.95 in interest per day after April 16, 2010 until judgment, plus reasonable attorney's fees and costs pursuant to 29 U.S.C. §1145.

Upon review of plaintiffs' moving papers, the court was satisfied that entry of default judgment was appropriate, but was concerned regarding the claimed attorney's fees because the descriptions of the services rendered in some of the invoices submitted in support of the motion

1 appeared to relate to other litigation, although presumably involving the same defendant. Plaintiffs'
2 counsel agreed to review the fee request and submit a clarifying declaration, which she did on May
3 12, 2010 and through which plaintiffs now seek \$5,508.47 of which \$4,446 is for attorney's fees and
4 \$1,062.47 is for out-of-pocket costs.

5 The court has reviewed the amended declaration of counsel and still has some concerns
6 regarding the claim for fees.

7 First, as a preliminary matter, although the declaration states that true and accurate copies of
8 the monthly billing invoices are attached as an exhibit, what has in fact been submitted appears to be
9 "case activity" printout/worksheet, rather than invoices, for the time prior to April 2010, along with
10 the May 3, 2010 invoice for time and expenses incurred in April. The court will assume, however,
11 that the information contained on this printout is substantively the same as what is contained within
12 the monthly billing invoices, and more importantly, that it accurately reflects the time and cost
13 entries within counsel's billing system and from which the invoices were generated.

14 Second, although counsel's declaration states that plaintiffs seek a total of \$5,508.47 of
15 which \$4,446 is for claimed attorney's fees and \$1,062.47 is for claimed out of pocket expenses, the
16 supporting documents do not support this assertion. Specifically, Exhibit A to counsel's declaration
17 reflects a total of \$5,193.97 sought, of which \$4,602 is for attorney's fees and only \$591.97 is for
18 expenses. The court will allow only the lower figure as further adjusted as set forth below.

19 Third, some of the time entries appear to refer to other matters, specifically, Item 77
20 (referring to a prior settlement agreement, with no apparent application to the present matter) and
21 Item 79 (referring to revising a summary judgment motion, where none was filed in this matter).
22 These items, totaling \$390, are therefore disallowed.

23 Fourth, the court observes that counsel spent more than twice the amount of time in seeking
24 default and default judgment than was spent in drafting the complaint (9.1 hours compared with 4.5
25 hours), and this does not include the time spent scheduling the motion and in attending the hearing
26 (a further 3.4 hours). The court reduces the fee for the services related to the obtaining of the default
27 and default judgment by \$390 (\$195 x 2).
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Nevertheless, the court finds that the overall amount of attorney's fees claimed, as adjusted, is reasonable, as is the hourly rate and overall hours billed. Thus, the motion for attorney's fees and costs is granted in the amount of \$4,413.97 (\$3,822 for attorney's fees and \$591.97 for costs).

Accordingly, for the reasons set forth above, plaintiffs' motion for default judgment is granted and judgment shall be entered in favor of plaintiffs and against defendant in the amount of \$109,967.47, plus \$24.95 in interest per day after April 16, 2010 through the date of judgment, plus \$4,413.97 in attorney's fees and costs.

DATED: 8/6/10



RONALD M. WHYTE
United States District Judge