

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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Hawaii Carpenters Trust Funds,)	
et al.,)	
)	
	Plaintiffs,)	
)	
vs.)	Civ. No. 11-00064 ACK-BMK
)	
Commercial Finish, Inc., et al.,)	
)	
	Defendants.)	
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**ORDER REJECTING THE MAGISTRATE JUDGE'S FINDINGS AND
RECOMMENDATION TO ENTER DEFAULT JUDGMENT AND AWARD DAMAGES
AGAINST DEFENDANT COMMERCIAL FINISH, INC., AND RECOMMITTING THE
MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST COMMERCIAL FINISH,
INC., TO THE MAGISTRATE JUDGE**

On June 3, 2011, Magistrate Judge Kurren issued his Findings and Recommendation to Enter Default Judgment and Award Damages against Defendant Commercial Finish, Inc. ("F&R") (ECF No. 13.) The F&R is an adoption of a proposed findings and recommendation that Plaintiffs' counsel submitted to Magistrate Judge Kurren. ("Proposed F&R") (ECF No. 11.) The Proposed F&R was adopted without apparent change. No objections to the F&R have been filed by any party.

The F&R contains the same deficiencies that the Court identified in another recent findings and recommendation involving these plaintiffs and a different defendant. See Hawaii Carpenters Trust Funds v. TP Builders, Inc., Civ. No. 11-00016

ACK-BMK (D. Haw. June 20, 2011) (order rejecting the findings and recommendation and recommitting the motion for entry of default judgment to the magistrate judge). Namely, the F&R presupposes that Plaintiffs are entitled to damages for unpaid contributions, even though the complaint contains no allegation that there are any delinquent contributions. Furthermore, the recommended judgment in the F&R is unclear; relies on an unsupported \$5,000.00 estimate of damages (assuming that Plaintiffs are entitled to damages at all); and awards attorneys' fees for certain time billed at \$195.00 per hour even though Plaintiffs' attorney declared that her billing rate for this matter was only \$170.00 per hour. (See ECF No. 12 at 8; ECF No. 8-2 at 5.)

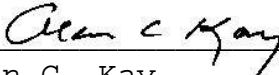
For the foregoing reasons, as set forth in more detail in the Court's June 20, 2011, order in TP Builders, Inc., the Court (1) REJECTS the magistrate judge's Findings and Recommendation to Enter Default Judgment and Award Damages against Defendant Commercial Finish, Inc.; and (2) RECOMMITS Plaintiffs' Motion for Entry of Default Judgment against Commercial Finish, Inc., to the magistrate judge.

Finally, because the Court's rejection of the F&R is traceable to inadequacies in the Proposed F&R, which was prepared by Plaintiffs' counsel, no additional costs or attorneys' fees concerning the motion for entry of default judgment shall be awarded to Plaintiffs.

IT IS SO ORDERED.

DATED: Honolulu, Hawai'i, June 23, 2011.





Alan C. Kay
Sr. United States District Judge

Hawaii Carpenters Trust Funds v. Commercial Finish, Inc., Civ. No. 11-00064
ACK-BMK: Order Rejecting the Magistrate Judge's Findings and Recommendation to
Enter Default Judgment and Award Damages against Defendant Commercial Finish,
Inc., and Recommitting the Motion for Entry of Default Judgment against
Commercial Finish, Inc., to the Magistrate Judge