

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ SEP 26 2012 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

-----X
STANISLAW BANASIEWICZ

Plaintiff,

10-CV-369 (SJ) (RLM)

v.

ORDER ADOPTING
REPORT AND
RECOMMENDATION

OLYMPIA MECHANICAL PIPING AND
HEATING CORP., OLYMPIA
PLUMBING AND HEATING CORP.,
SOLOMON WERZBERGER a/k/a
SOLOMON WEIZBERGER,
JOHN DOE a/k/a MENDY,
Defendants.

-----X

APPEARANCES

ROBERT WISNIEWSKI & ASSOCIATES P.C.
225 BROADWAY
SUITE 1020
NEW YORK, NY 10007
By: Robert Wisniewski
Attorney for Plaintiff

JOHNSON, Senior District Judge,

Plaintiff commenced this action on January 28, 2010. Plaintiff worked as a
plumbing mechanic for Defendants from December 2005 through October 2008. (See
Amended Complaint at ¶ 14, Dkt. No 17.) Plaintiff alleges that while his work for

Defendants was covered by the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201, et seq.), New York Labor Law and New York common law (*id.* ¶ 29) and he “regularly worked approximately 44 hours each week (*id.* ¶ 24), he was paid for fewer hours than he worked with no overtime premium. On October 3, 2011, Plaintiff served amended summonses with copies of the amended complaint upon Defendants, which were returned executed. (See Dkt. Nos. 21-22.) After Defendant failed to answer the amended complaint, Plaintiff moved for entries of default, which the Court entered as against Defendants on December 13, 2011. (See Dkt. Nos. 24-26.)

The Court referred the Motion to Magistrate Judge Roanne L. Mann for a Report and Recommendation (“Report”) on February 28, 2012. Magistrate Mann issued the Report on August 31, 2012, wherein she recommended granting the motion for default judgment against Defendants, jointly and severally, in the amount of \$12,412.00, plus prejudgment interest and \$14,033.29 in attorney’s fees and costs.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. See 28 U.S.C. § 636(b)(1). Within fourteen days of service of the Report, any party may file written objections to the Report’s findings. See id. Upon de novo review of those portions of the record to which objections are made, the district court judge may affirm or reject the recommendations. See id. The Court is not required to review, under a de novo or

any other standard, the factual and legal conclusions of the magistrate as to those portions of the Report to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's order. See 28 U.S.C. § 636(b)(1); Small v. Sec'y of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

Objections to the Report were within fourteen days of receipt. To date, no objections have been filed. Accordingly, the Court adopts and affirms Magistrate Mann's Report in its entirety.

SO ORDERED.

DATED: September 21, 2012
Brooklyn, New York

Sterling Johnson, Jr, U.S.D.J.