

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH A. FERRARA, SR., et al.,

Plaintiffs,

- against -

POMARC INDUSTRIES, INC.,

Defendant.

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**ORDER ADOPTING REPORT
& RECOMMENDATIONS**
11-CV-1859 (RRM)(MDG)

ROSLYNN R. MAUSKOPF, United States District Judge.

By Order dated June 27, 2011, this Court granted plaintiffs motion for default judgment against Pomarc Industries, Inc., and referred the matter to Magistrate Judge Go for an inquest on damages. On May 22, 2013, Judge Go issued a Report and Recommendation (the “R&R”) recommending that the Court: (1) award plaintiffs \$4,850 in attorneys’ fees, \$695.80 in costs, and \$175 in audit fees, for a total of \$5,720.80; (2) order defendant Pomarc Industries to submit to an audit of the books and records of its affiliate Low Pro Towing & Transport, Inc.; and (3) grant plaintiffs leave to amend the judgment to include an additional award of damages and prejudgment interest if appropriate following the audit. (Doc. No. 13.) Objections to the R&R were due April 8, 2013. None were filed by that date.

On April 9, 2013, plaintiffs asked the Court to stay consideration of the R&R because the defendant, who has not appeared in this action, consented to an audit of Low Pro’s books and records. The Court continued to stay its consideration of the R&R pending the audit. Plaintiffs last advised the Court that the audit could not be completed because the defendant was preventing the auditors from accessing certain records. Plaintiffs asked the Court to lift its stay and review the R&R. (See Ltr. dated July 22, 2013 (Doc. No. 17).)

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, adopts the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). Accordingly, the Court hereby awards plaintiffs \$4,850 in attorneys' fees, \$695.80 in costs, and \$175 in audit fees, for a total judgment of \$5,720.80. The Court also ORDERS defendant to submit to an audit of the books and records of its affiliate Low Pro Towing & Transport, Inc. for the period commencing January 1, 2004 through the date of the filing of the instant action.

Plaintiffs are GRANTED leave to file a motion to amend the judgment to include an additional award of damages and prejudgment interest if appropriate following any audit. *See Fed. R. Civ. P. 59(e)*.

SO ORDERED.

Dated: Brooklyn, New York
August 5, 2013

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge