

Montcalm Publ'g Corp. v. Ryan, 807 F. Supp. 975, 978 (S.D.N.Y. 1992) (internal quotation marks and citation omitted). This principle derives from the Supreme Court's decision in 1872 in *Frow v. De La Vega*, 82 U.S. 552 (1872). The *Frow* holding has been narrowed to cases involving true joint liability. *Friedman v. Lawrence*, 1991 WL 206308, at *2 (S.D.N.Y. Oct. 2, 1991). See also *Int'l Controls Corp. v. Vesco*, 535 F.2d 742, 746 n.4 (2d Cir. 1976).

Nonetheless, courts have also consistently delayed damages inquests even where a plaintiff seeks joint and several liability in order “to avoid the problems of dealing with inconsistent damage determinations.” *Lawrence v. Vaman Trading Co., Inc.*, 1993 WL 190266, at *2 (S.D.N.Y. May 28, 1993) (quoting *In re Uranium Antitrust Litig.*, 617 F.2d 1248, 1261-62 (7th Cir. 1980)). See also *Clement v. United Homes, LLC*, 2010 WL 4941489, at *2 (E.D.N.Y. Nov. 30, 2010); *3947 Austin Blvd. Assocs. v. M.K.D. Capital Corp.*, 2006 WL 785272 (S.D.N.Y. Mar. 24, 2006) (concluding that assessment of damages against defaulting defendants was premature, even though defendants jointly and severally liable); *Montcalm*, 807 F. Supp. at 978 (same); *Friedman*, 1991 WL 206308, at *4 (same). But see *Int'l Gemmological Instit., Inc. v. Rafaeil*, 2005 WL 3880222, at *3 (S.D.N.Y. Aug. 17, 2005) (finding no reason to delay damages assessment despite concerns of inconsistency).

Determining the damages to be imposed against the defaulting defendant at this stage of the litigation would pose a risk of inconsistent awards. Plaintiffs are trustees of ERISA benefit funds and allege that, pursuant to stipulation and ERISA, corporate defendant and its principals jointly owe unpaid monies. Defendants Jose and Manuel Diaz together owned corporate defendant Queens Circuit Management Corp. (“QCM”). Compl. ¶¶ 8, 10. Because defendants Jose and Manuel Diaz owned QCM together, they, along with QCM, may be held jointly and severally liable for the same damages. See Compl. ¶ 44. Thus, deferring consideration of

