

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
US DISTRICT COURT E.D.N.Y.

★ DEC 06 2017 ★

**BROOKLYN OFFICE**

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THE PAVERS AND ROAD BUILDERS  
DISTRICT COUNCIL PENSION FUND  
by JOSEPH MONTELLE, as FUND  
ADMINISTRATOR,

Plaintiff,

v.

NICO ASPHALT PAVING, INC.,

Defendant.  
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**ORDER**  
15-CV-3994 (WFK)(VMS)

On March 31, 2017, this Court granted the Pavers and Road Builders District Council Pension Fund's ("Plaintiff") motion for summary judgment and directed Plaintiff to submit a proposed judgment regarding the withdrawal liability owed by Nico Asphalt Paving, Inc. ("Defendant"), including interest, liquidated damages, and any other statutorily prescribed costs or fees. *See* ECF No. 32. On April 14, 2017, Plaintiff filed a motion for interest, attorneys' fees, costs, and liquidated damages, ECF Nos. 34 & 35, which this Court referred to Magistrate Judge Vera M. Scanlon for a Report & Recommendation ("R&R"), ECF No. 37. After having reviewed Plaintiff's motion, Magistrate Judge Scanlon issued an R&R in which she recommended that the Court award Plaintiff the following: (1) withdrawal liability in the amount of \$614,690.00; (2) interest in the amount of \$203,620.09; (3) liquidated damages in the amount of \$61,496.00; and (4) attorneys' fees and costs of \$51,675.00, for a total of \$931,481.09, plus interest of \$170.82 per day from April 15, 2017, through the entry of judgment. R&R at 16, ECF No. 38. Defendant initially objected to the R&R, ECF No. 39, but subsequently withdrew that objection, ECF No. 40.

After conducting a *de novo* review of the record, the Court hereby ADOPTS in whole the

findings and recommendations made by Magistrate Judge Scanlon in her R&R based on the reasoning provided therein. It is therefore ORDERED that Plaintiff's motion for attorneys' fees and costs is GRANTED and that judgment be entered in Plaintiff's favor as against Defendant in the amounts set forth above. The Clerk of Court is thereafter respectfully requested to close this case.

**SO ORDERED.** ,

s/ WFK

  
HON. WILLIAM F. KUNTZ, II  
UNITED STATES DISTRICT JUDGE

Dated: December 6, 2017  
Brooklyn, New York