

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Esteban Marquez,

Plaintiff,

MEMORANDUM & ORDER
20-CV-05855 (DG) (RML)

-against-

Indian Taj, Inc. d/b/a Santoor Indian Restaurant,
Balvinder Singh, Harminder Singh, Joginder
Singh, Kirpal Singh, Mehanga Singh,

Defendants.

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DIANE GUJARATI, United States District Judge:

On December 3, 2020, Plaintiff Esteban Marquez commenced this action against Defendants Indian Taj, Inc., d/b/a Santoor Indian Restaurant, and Balvinder Singh, alleging violations of the Fair Labor Standards Act and the New York Labor Law. *See generally* Complaint, ECF No. 1. Indian Taj, Inc. and Balvinder Singh were served, *see* Executed Summonses, ECF Nos. 5-6, but did not appear in the action. On April 8, 2021, Plaintiff filed an Amended Complaint, which additionally named as defendants Harminder Singh, Joginder Singh, Kirpal Singh, and Mehanga Singh (collectively with Indian Taj, Inc. and Balvinder Singh, “Defendants”). *See generally* Amended Complaint, ECF No. 7. Defendants were served with the Amended Complaint, *see* Executed Summonses, ECF Nos. 9-14, but did not appear in the action. The Clerk of Court entered default against Defendants on July 9, 2021. *See* Entry of Default, ECF No. 16.

On November 19, 2021, Plaintiff moved for default judgment against Defendants under Federal Rule of Civil Procedure 55(b). *See* Motion for Default Judgment (the “Motion”), ECF No. 20; Memorandum of Law in Support of Motion for Default Judgment, ECF No. 18-1.

On November 24, 2021, I referred the Motion to Magistrate Judge Robert M. Levy for a Report and Recommendation (“R&R”). *See* November 24, 2021 Order.

On August 5, 2022, Judge Levy issued an R&R recommending that Plaintiff’s motion for default judgment be granted and that default judgments be entered against all Defendants, jointly and severally. *See* R&R at 20, ECF No. 21. The R&R recommended that Plaintiff be awarded \$150,944.63 in unpaid wages, \$150,944.63 in liquidated damages, and \$5,000 in statutory damages. *See* R&R at 20. The R&R further recommended that pre-judgment interest be awarded on Plaintiff’s unpaid wages of \$150,944.63 from May 14, 2016 to the date of this Court’s judgment at a per diem interest rate of \$37.22, and that post-judgment interest be awarded at the rate set forth in 28 U.S.C. § 1961(a). *See* R&R at 20. Finally, the R&R recommended that Plaintiff receive \$13,582.50 in attorney’s fees and \$965 in costs. *See* R&R at 20.

On August 9, 2022, Plaintiff filed proof of service of the R&R. *See* ECF No. 22. No objection to the R&R has been filed, and the time for doing so has passed. *See* R&R at 20.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). To accept those portions of an R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Lorick v. Kilpatrick Townsend & Stockton LLP*, No. 18-CV-07178, 2022 WL 1104849, at *2 (E.D.N.Y. Apr. 13, 2022) (quoting *Ruiz v. Citibank, N.A.*, No. 10-CV-05950, 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014)); *see also Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011).

I have reviewed Judge Levy's R&R, and, having found no clear error, adopt the findings and recommendations in the R&R.

Accordingly, Plaintiff's Motion for Default Judgment, ECF No. 20, is granted and default judgments are entered against all Defendants, jointly and severally. Plaintiff is awarded damages as follows: \$150,944.63 in unpaid wages, \$150,944.63 in liquidated damages, and \$5,000 in statutory damages. Plaintiff is further awarded pre-judgment interest on Plaintiff's unpaid wages of \$150,944.63 from May 14, 2016 to the date of this Court's judgment at a per diem interest rate of \$37.22, and post-judgment interest, to be calculated by the Clerk of Court, pursuant to 28 U.S.C. § 1961(a). In addition, Plaintiff is awarded \$13,582.50 in attorney's fees, and costs in the amount of \$965.

The Clerk of Court is directed to enter judgment accordingly.

Plaintiff is directed to serve a copy of this Order on Defendants Indian Taj, Inc., d/b/a Santoor Indian Restaurant, Balvinder Singh, Harminder Singh, Joginder Singh, Kirpal Singh, and Mehanga Singh by certified mail and to file proof of service no later than September 29, 2022.

SO ORDERED.

/s/ Diane Gujarati
DIANE GUJARATI
United States District Judge

Dated: September 27, 2022
Brooklyn, New York