

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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**TRUSTEES OF THE PLUMBERS LOCAL
UNION NO. 1 WELFARE FUND,
ADDITIONAL SECURITY BENEFIT FUND,
VACATION & HOLIDAY FUND, TRADE
EDUCATION FUND, 401(K) SAVINGS PLAN,
TRUSTEES OF THE UNITED ASSOCIATION
NATIONAL PENSION FUND, AND
TRUSTEES OF THE INTERNATIONAL
TRAINING FUND,**

Plaintiffs,

– against –

**TRI-C MECHANICAL INC. AND
PHILADELPHIA INDEMNITY INSURANCE
COMPANY,**

Defendants.

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ANN M. DONNELLY, United States District Judge:

The plaintiffs filed an amended complaint in this action against Tri-C Mechanical Inc. (“Tri-C”) and Philadelphia Indemnity Insurance Company (“PIIC”)¹ on March 24, 2022, alleging the defendants’ failure to make payments as required under the Employment Retirement Income Security Act of 1974 (“ERISA”), the Labor Management Relations Act of 1947 (“LMRA”), and common law bond principles.² (ECF No. 7.) On May 5, 2022, the plaintiffs effected personal service of the amended summons and amended complaint on Tri-C at its

¹ On September 26, 2022, PIIC was dismissed from the action pursuant to a stipulation of dismissal filed on September 23, 2022. (ECF No. 24.)

² The amended complaint alleges violations of Sections 502(a)(3) and 515 of ERISA, 29 U.S.C. §§ 1132(a)(3), 1145, and Section 301 of the LMRA, 29 U.S.C. § 185. (ECF No. 7 at 1).

address in Elmont, New York. (ECF No. 16.) After Tri-C failed to answer the amended complaint, the plaintiffs requested a certificate of default. (ECF No. 19.) On July 26, 2022, the Clerk of Court entered Tri-C’s default. (ECF No. 22.)

On October 5, 2023, the plaintiffs moved for default judgment against Tri-C. (ECF No. 42.)³ The Court referred the motion to Magistrate Judge Peggy Kuo, who issued a report and recommendation on September 10, 2024, recommending that the Court grant the plaintiffs’ motion, award damages from Tri-C, and enter default against the defendant. (ECF No. 49.) Judge Kuo determined that the plaintiffs satisfied all jurisdictional and procedural requirements — which included serving Tri-C with its motion papers — and that the facts alleged in the amended complaint, accepted as true, establish Tri-C’s liability. (*Id.* at 10–13.) Additionally, Judge Kuo considered the proposed damages itemized by the plaintiffs, and recommended that the Court order Tri-C to pay separate groups of plaintiffs specific amounts based on the outstanding contributions Tri-C owed under ERISA and LMRA, as well as other costs attendant to the litigation. (*Id.* at 13–33.) No party has filed an objection to the report and recommendation and the time for doing so has passed.

A district court reviewing a report and recommendation “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)(C). To accept a report and recommendation 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.” *VOX Amplification Ltd. v. Meussdorffer*, 50 F. Supp. 3d 355, 369 (E.D.N.Y. 2014).

³ The plaintiffs first moved for default judgment on February 13, 2023. (ECF No. 27.) However, due to various errors identified by the Court, the plaintiffs withdrew their motion and sought permission to refile. (*ECF Order dated Sept. 21, 2023.*) This request was granted. (*Id.*)

I have carefully reviewed Judge Kuo's comprehensive report and recommendation for clear error and find none. Accordingly, I adopt the report and recommendation in its entirety. The plaintiffs' motion for default judgment is GRANTED and the Clerk of Court is respectfully directed to enter final default judgment.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
September 25, 2024