

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STEPHEN FLANAGAN, as a Trustee of the
GENERAL BUILDING LABORERS' LOCAL 66
PENSION FUND; STEPHEN FLANAGAN, as a
Trustee of the GENERAL LABORERS' LOCAL
66 WELFARE FUND; STEPHEN FLANAGAN, as
Trustee of the GENERAL BUILDING
LABORERS' LOCAL 66 ANNUITY FUND;
STEPHEN FLANAGAN, as Trustee of the
GENERAL BUILDING LABORERS' LOCAL 66
LABORERS' EMPLOYER COOPERATIVE AND
EDUCATIONAL TRUST FUND; STEPHEN
FLANAGAN, as Trustee of the GENERAL
BUILDING LABORERS' LOCAL 66 GREATER NY
LABORERS' EMPLOYER COOPERATIVE AND
EDUCATIONAL TRUST FUND; STEPHEN FLANAGAN,
as Trustee of the GENERAL BUILDING
LABORERS' LOCAL 66 TRAINING PROGRAM;
STEPHEN FLANAGAN, as Trustee of the
GENERAL BUILDING LABORERS' LOCAL 66 NEW
YORK STATE HEALTH AND SAFETY FUND;
STEPHEN FLANAGAN, as Business Manager
of the GENERAL BUILDING LABORERS' LOCAL
66 of the LABORERS' INTERNATIONAL UNION
OF NORTH AMERICA, AFL-CIO,

MEMORANDUM & ORDER
09-CV-1250(JS)(ARL)

Plaintiffs,

-against-

M.N.T. DEVELOPMENT CORP. and ANDREW
ANTONACCI,

Defendants.

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APPEARANCES

For Plaintiffs: Alicia M. Menechino, Esq.
Law Offices of William T. LaVelle, P.C.
The LaVelle Building
57 East Main Street
Patchogue, NY 11775

For Defendants: No appearances.

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge Arlene R. Lindsay's Report and Recommendation ("R&R") issued on December 13, 2011. For the following reasons, the Court ADOPTS this R&R in its entirety.

BACKGROUND

Plaintiffs commenced this action on March 25, 2009 against M.N.T. Development Corp. ("MNT") and Andrew Antonacci ("Antonacci") alleging violations of Section 515 of ERISA, 29 U.S.C. § 1145. (Docket Entry 1.) Defendants did not answer the Complaint or otherwise appear in this action. On August 29, 2011, Plaintiffs simultaneously moved for an entry of default and a default judgment. (Docket Entry 10.) On August 31, 2011, the Clerk of the Court noted the default (Docket Entry 11), and on September 22, 2011, the Court referred Plaintiffs' motion for a default judgment to Judge Lindsay for an R&R (Docket Entry 12).

On December 13, 2011, Judge Lindsay issued an R&R recommending that (i) Plaintiffs' motion for a default judgment against Antonacci be denied; (ii) Plaintiffs' motion for a default judgment against MNT be granted; and (iii) that Plaintiffs' request for an award of damages against MNT be denied with leave to renew. (Docket Entry 17.)

No party has objected to any portion of Judge Lindsay's R&R.

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Here, no party objected to Judge Lindsay's R&R. And the Court finds her R&R to be free of any clear error. Accordingly, the Court ADOPTS it in its entirety.

CONCLUSION

Judge Lindsay's R&R is ADOPTED in its entirety. Plaintiffs' motion for a default judgment against Antonacci is DENIED, and the Clerk of the Court is directed to terminate him as a Defendant in this action. Plaintiffs' motion for a default judgment against MNT is GRANTED; however, Plaintiffs' request for damages against MNT is DENIED WITHOUT PREJUDICE at this time. Plaintiffs may renew their request for damages against MNT on or before January 31, 2011 by filing a signed copy of the collective bargaining agreement and proper affidavits as outlined in Judge Lindsay's R&R. No late submissions will be accepted.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: January 4, 2012
Central Islip, New York