

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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FINANCIAL FEDERAL CREDIT INC.

Plaintiff,

-against-

AAA CONSTRUCTION SERVICES, INC.,
TRIPLE A CONTAINER SERVICES, INC.,
JOSHUA AMAR, RORY KURTZ, EUGENE
LENCHNER,

Defendants.
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APPEARANCES:

Robert T. Bonsignore, Esq.

Attorney for the Plaintiff

333 West 39th Street, Suite 604

New York, NY 10018

NO APPEARANCE:

AAA Construction Services, Inc.

Triple A Container Services, Inc.

Joshua Amar

SPATT, District Judge.

The Plaintiff commenced this action on or about March 22, 2010, asserting causes of action for breach of contract and seeking both damages and the repossession of certain equipment. Due to nearly two and one half years of inactivity on the case, on January 8, 2013, this Court issued an order requesting that the Plaintiff inform the Court why an order should not be entered dismissing this action for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). Thereafter, on January 17, 2013, the Plaintiff wrote and informed the Court that the Plaintiff had settled the matter with the Defendants Rory Kurtz and Eugene Lenchner, and would promptly file a motion for default judgment as against the remaining Defendants. Thereafter, the Plaintiff

**FILED
CLERK**

9/3/2013 3:40 pm

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

ORDER

10-cv-1286 (ADS)(WDW)

requested a certificate of default on February 5, 2013, which was granted that same day by the Clerk of Court, and thus the default of the Defendants AAA Construction Services, Inc., Triple A Container Services, Inc., and Joshua Amar have been noted. On February 13, 2013, the Plaintiff then moved for a default judgment against the defaulting defendants. On February 22, 2013, the Court referred this matter to United States Magistrate Judge William D. Wall for a recommendation as to whether the motion for a default judgment against these three defendants should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On August 13, 2013, Judge Wall issued a Report recommending that the Court enter a default judgment against the Defaulting Defendants and that the Plaintiff be awarded damages in the amount of \$23,232.44, jointly and severally, from the Defendants AAA Construction Service, Inc., Triple A Container Services, Inc., and Amar. Judge Wall did not recommend that the Plaintiff be awarded post-judgment interest on the damages award, as he had not been provided any basis for such an award. Furthermore, Judge Wall did not recommend that reasonable attorneys fees be awarded because the Plaintiff waived these damages to expedite the entry of judgment.

In reviewing a report and recommendation, a 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)(C). “To accept the report and recommendation of a magistrate, 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.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed

Judge Wall's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Wall's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED, that Judge Wall's Report and Recommendation is adopted in its entirety; and it is further

ORDERED, that the Plaintiffs' motion for an award of damages against AAA Construction Service, Inc., Triple A Container Services, Inc., and Amar is granted in the amount recommended by Judge Wall, namely \$23,232.44, jointly and severally; and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment as set forth above; and it is further

ORDERED, that upon the entry of judgment, the case is closed.

SO ORDERED.

Dated: Central Islip, New York
September 3, 2013

Arthur D. Spatt

ARTHUR D. SPATT
United States District Judge