

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH A. FERRARA, SR., FRANK H.
FINKEL, MARC HERBST, DENISE RICHARDSON
THOMAS CORBETT, ANTHONY D'AQUILA,
THOMAS GESUALDO, LOUIS BISIGNANO,
DOMINICK MARROCCO, and ANTHONY PIROZZI,
as Trustees and Fiduciaries of the
Local 282 Welfare Trust Fund, the
Local 282 Pension Trust Fund, the
Local 282 Annuity Trust Fund, the
Local 282 Job Training Fund, and the
Local 282 Vacation and Sick Leave
Trust Fund,

MEMORANDUM & ORDER
10-CV-3442(JS)(WDW)

Plaintiffs,

-against-

MARSANI CONSTRUCTION, INC.,

Defendant.

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APPEARANCES:

For Plaintiff: Joseph J. Vitale, Esq.
Tzvi N. Mackson. Esq.
Cohen, Weiss and Simon LLP
330 West 42nd Street
New York, NY 10036

For Defendants: No appearances.

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge William D.
Wall's Report and Recommendation ("R&R"), issued on March 11, 2011.
For the following reasons, the Court ADOPTS this R&R in its
entirety.

BACKGROUND

Plaintiffs commenced this action on July 28, 2010
alleging a violation of Section 15 of ERISA, 29 U.S.C. § 1145.

Defendant did not answer the Complaint or otherwise appear in this action. On November 23, 2010, Plaintiffs moved for a default judgment. On December 15, 2010, the Court referred Plaintiffs' motion to Judge Wall.

On March 11, 2011, Judge Wall issued an R&R recommending that a default judgment be granted and that Plaintiffs be awarded: (1) estimated unpaid contributions for the period from November 1, 2008 through September 30, 2010 in the amount of \$4,267.47; (2) interest on the contributions through November 15, 2010 in the amount of \$787.69, plus additional interest in the amount of \$2.10 per day from November 16, 2010 through the date of payment; (3) liquidated damages in the amount of \$853.49; (4) attorneys' fees in the amount of \$9,358.50; and \$444.46 in costs. Judge Wall did not recommend awarding \$350 in audit fees or daily accrual of liquidated damages.

No party has objected to any portion of Judge Wall'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 Wall's R&R. And the Court finds his R&R to be correct, comprehensive, well-reasoned and free of any clear error. Accordingly, the Court ADOPTS it in its entirety.

CONCLUSION

Judge Wall's R&R is ADOPTED in its entirety. Plaintiffs are awarded a default judgment. Plaintiffs are awarded damages in the following amounts:

- (1) \$4,267.47 in estimated unpaid contributions;
- (2) \$787.69 in unpaid interest;
- (3) additional interest in the amount of \$2.10 per day from November 16, 2010 through the date of payment;
- (4) \$853.49 in liquidated damages;
- (5) \$9,358.50 in attorneys' fees; and
- (6) \$444.46 in costs.

The Clerk of the Court is directed to enter a Judgment consistent with this Order.

SO ORDERED.

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

Dated: August 12, 2011
Central Islip, New York