

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

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LUISA SANCHEZ,

Plaintiff,

-against-

DECISION AND ORDER

12-cv-6322 (ADS)(ARL)

VIVA NAIL NY INC. and YANG S. CHU,

Defendants.

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APPEARANCES:

Frank & Associates P.C.

Attorneys for the Plaintiff
500 Bi-county Blvd, 112n
Farmingdale, NY 11735

By: Peter Arcadio Romero, Esq.
Andrea E. Batres, Esq., Of Counsel

NO APPEARANCES:

Viva Nail NY Inc.
Yang S. Chu

SPATT, District Judge.

The Plaintiff Luisa Sanchez (the “Plaintiff”) commenced this action on or about December 21, 2012, asserting claims against the Defendants Viva Nail NY Inc. and Yang S. Chu (the “Defendants”) for failure to pay the minimum wage in violation of the federal Fair Labor Standards Act and the New York State labor law. The Clerk of the Court having noted the default of the Defendants on April 29, 2013, on August 15, 2013, the Court referred this matter to United States Magistrate Arlene R. Lindsay for a recommendation as to whether the Plaintiff’s motion for a

default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On February 12, 2014, Judge Lindsay issued a thorough report recommending that a default judgment be granted and that the Plaintiff be awarded an amount of \$30,552.47 in unpaid minimum, overtime and spread of hours wages; \$32,450.04 in liquidated damages; and \$492.60 in costs. Of relevance here, Judge Lindsay recommended that the Plaintiff's request for attorneys' fees be denied because she "ha[d] not provided the court with any information concerning the level of experience of the attorneys who worked on the case." Judge Lindsay also noted that the Plaintiff utilized a "blended rate" of \$275 per hour, "which makes the assessment even more difficult." The Plaintiff subsequently filed limited objections to Judge Lindsay's report.

On March 4, 2014, this Court adopted Judge Lindsay's Report and Recommendation; denied the Plaintiff's objections without prejudice; and directed the Plaintiff to renew her motion for prejudgment interest and attorneys' fees with proper documentation within thirty days of the date of that order.

On March 27, 2014, the Plaintiff renewed her application, albeit not by notice of motion, for attorneys' fees. The Plaintiff did not pursue prejudgment interest. On May 7, 2014, the Court referred this matter to Judge Lindsay for a recommendation as to whether the renewed motion for attorneys' fees should be granted.

On December 17, 2014, Judge Lindsay issued a thorough report recommending that the Plaintiff's renewed motion for attorneys' fees be granted

and the Plaintiff awarded \$11,727.25 in attorneys' fees. Judge Lindsay surveyed the contemporaneous time records of the Plaintiff's counsel, reflecting the time spent and activities performed by each attorney. Judge Lindsay also reviewed the proposed hourly rates for the Plaintiff's attorneys, which ranged from \$200 to \$375. In Judge Lindsay's view, the proposed rates and hours expended were reasonable.

On December 19, 2014, the Plaintiff filed proof of service on the Defendants of a copy of the December 17, 2014 report and recommendation.

In reviewing a magistrate judge's report and recommendation, the 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). To adopt portions of a report and recommendation to which no objections have been made, "a district court need only satisfy itself that there is no clear error on the face of the record." Harris v. Queens Cnty. Dist. Attorney's Office, No. 08-CV-1703 (CBA), 2012 WL 832837, at *1 (E.D.N.Y. Mar. 12, 2012)(citation and internal quotation marks omitted). The Court has reviewed Judge Lindsay's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Lindsay's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED, that Judge Lindsay's Report and Recommendation entered on December 17, 2014, is adopted in its entirety, and it is further

ORDERED, that the Plaintiff's renewed motion for attorney's fees is granted and the Plaintiff is awarded \$11,727.25 in attorneys' fees.

SO ORDERED.

Dated: Central Islip, New York
January 6, 2015

Arthur D. Spatt

ARTHUR D. SPATT
United States District Judge