

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE LEATHER GOODS,
PLASTICS, HANDBAGS & NOVELTY
WORKERS UNION LOCAL 1 JOINT
RETIREMENT FUND,

Plaintiffs,

-against-

MEMORANDUM & ORDER
14-CV-2675 (JS) (ARL)

KEY HANDLING SYSTEMS INC. and
XYZ CORPORATIONS 1-10,

Defendant.

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APPEARANCES

For Plaintiffs: Anthony S. Cacace, Esq.
Proskauer Rose LLP
11 Times Square
New York, NY 10036

For Defendants: No appearances.

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge Arlene R. Lindsay's Report and Recommendation ("R&R"), recommending that this Court grant plaintiffs' motion for a default judgment and award damages, and grant certain other relief. (Docket Entry 9.) For the following reasons, the Court ADOPTS Judge Lindsay's R&R in its entirety.

BACKGROUND

This action was commenced on April 29, 2014 by plaintiffs Trustees of the Leather Goods, Plastics, Handbags & Novelty Workers Union Local 1 Joint Retirement Fund, (collectively, "Plaintiffs")

against defendants KEY HANDLING SYSTEMS INC. ("Key Handling") and XYZ Corporations 1-10 (together with Key Handling "Defendants"). Plaintiffs seek to recover withdrawal liability and attendant damages owed by Key Handling pursuant to the Employees Retirement Income Security Act of 1974 ("ERISA"), as amended by the Multiemployer Pension Plan Amendments Act of 1980, 29 U.S.C. § 1381, et seq. ("MPPAA").

On November 21, 2014, Plaintiffs moved for a default judgment. (Docket Entry 7.) On November 26, 2014, the undersigned referred Plaintiffs' motion to Magistrate Judge Lindsay for an R&R on whether the motion should be granted. (Docket Entry 8.)

On June 5, 2015, Judge Lindsay issued her R&R. (Docket Entry 9.) The R&R recommends that the Court: (1) dismiss the Complaint against the unidentified XYZ defendants, (2) grant a default judgment in favor of Plaintiffs against Key Handling, and (3) award Plaintiffs \$107,107.00 in withdrawal liability; \$8,945.88 in interest through November 21, 2014, plus additional interest at a daily rate of \$17.61 per day from that date through the date judgment is entered; \$21,421.40 in liquidated damages; \$6,228.75 in attorneys' fees, and costs in the amount of \$600.00. (R&R at 1.)

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).

Objections were due within fourteen days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Lindsay’s R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

Judge Lindsay’s R&R (Docket Entry 9) is ADOPTED in its entirety. The Clerk of the Court is directed to enter judgment in favor of Plaintiffs and against defendant Key Handling. Plaintiffs are awarded damages against Key Handling as follows:

- \$107,107.00 in damages based on Key Handling’s withdrawal liability;
- \$8,945.88 in interest through November 21, 2014, plus additional interest at a daily rate of \$17.61 per day from that date through the date judgment is entered;
- \$21,421.40 in liquidated damages;
- \$6,228.75 in attorneys’ fees; and

- costs in the amount of \$600.00.

In addition, the Complaint is DISMISSED against the unidentified XYZ defendants. Plaintiff is directed to serve a copy of this Memorandum & Order on Key Handling and file proof of service. The Clerk of the Court is further directed to mark this matter CLOSED.

SO ORDERED.

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

Dated: September 23, 2015
Central Islip, New York