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9/15/2017 1:16 pm

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

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

-----X  
AMERICAN EMPIRE SURPLUS LINES  
INSURANCE COMPANY,

Plaintiff,

-against-

EM & EM CHIMNEY & MASONRY REPAIR,  
INC.

Defendant.  
-----X

**ADOPTION ORDER**  
16-CV-1541 (ADS) (AYS)

**APPEARANCES:**

**L'Abbate, Balkan, Colavita & Contini, L.L.P.**

*Attorneys for the Plaintiffs*

1001 Franklin Avenue  
Garden City, NY 11530

By: Richard R. Byrne, Esq.  
Kaitlin L. Lavaroni, Esq.

**NO APPEARANCES:**

**Em & Em Chimney & Masonry Repair, Inc.**

*The Defendant*

**SPATT, District Judge:**

On March 30, 2016, the Plaintiff American Empire Surplus Lines Insurance Company (the "Plaintiff") commenced this diversity breach of contract action against the Defendant Em & Em Chimney & Masonry Repair (the "Defendant"), seeking to recover payments owed under an insurance contract.

On September 2, 2016, the Clerk of the Court noted the default of the Defendant. On October 11, 2016, the Plaintiff moved for a default judgment against the Defendant.

On October 11, 2016, the Court referred the Plaintiff's motion for default judgment to Magistrate Judge Anne Y. Shields for a report and recommendation (the "R&R").

On August 30, 2017, Judge Shields issued an R&R recommending that the Court: grant the Plaintiff's motion for default judgment; direct the Clerk of the Court to enter judgment in favor of the Plaintiff and against the Defendant in the amount of \$103,110.77, plus prejudgment interest from February 16, 2016 through entry of judgment; direct the Clerk of the Court to enter judgment in the amount of \$500 in favor of the Plaintiff against the Defendant for costs and disbursements of this action; dismiss the Plaintiff's request for declaratory judgment; and deny without prejudice the Plaintiff's request for attorneys' fees with leave to renew.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. See Coburn v. P.N. Fin., No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at \*1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Clerk of the Court is respectfully directed to close the case, and enter judgment in favor of the Plaintiff in accordance with the R&R.

**SO ORDERED.**

Dated: Central Islip, New York  
September 15, 2017

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge