

FILED
CLERK

11:10 am, Jul 18, 2018

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

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

-----X
ADONIS ARRIAZA ROSALES, YONY
GUERRA, WILMER VARGAS, VICENTE
ESQUIVEL, GABRIEL MEJIA ROMERO,
EDVIN MATA,

ADOPTION ORDER
2:17-cv-03183 (ADS) (SIL)

Plaintiff(s),

-against-

LOW BID, INC., GEORGE MCNULTY,

Defendant(s).

-----X

APPEARANCES:

Neil H Greenberg & Associates, P.C

Attorneys for the Plaintiffs

4242 Merrick Road

Massapequa, NY 11758

By: Neil H. Greenberg, Esq.,
Keith E. Williams, Esq., Of Counsel

NO APPEARANCES:

Low Bid, Inc., George McNulty

The Defendants

SPATT, District Judge:

The Plaintiffs Adonis Arriaza Rosales (“Rosales”), Yony Guerra (“Guerra”), Wilmer Vargas (“Vargas”), Vicente Esquivel (“Esquivel”), Gabriel Mejia Romero (“Romero”), and Edwin Mata (“Mata”) (collectively, the “Plaintiffs”) brought this action against the Defendants Low Bid, Inc., and George McNulty (collectively, the “Defendants”) alleging violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*, the New York Labor Law (“NYLL”), N.Y. LAB. LAW § 650 *et seq.*, and the New Jersey Wage and Hour Law (“NJWHL”), N.J.S.A. 34:11-56a4.

On December 13, 2017, the Clerk of the Court noted the default of the Defendants.

On February 1, 2018, the Plaintiffs moved for a default judgment against the Defendants, and the Court referred the motion to United States Magistrate Judge Steven I. Locke the following day, February 2, 2018.

On July 3, 2018, Judge Locke issued a Report and Recommendation (the “R&R”) recommending that the motion be granted as to Plaintiffs’ FLSA and NYLL overtime claims, as well as to Plaintiffs Rosales’, Romero’s and Mata’s NYLL wage statement cause of action. However, the R&R recommended that Plaintiffs be denied recovery for any work performed outside the State of New York from June 2013 until September 2013. As to damages and attorneys’ fees, the R&R recommended that:

Plaintiffs be awarded a total of \$598,934.50, which is broken down as follows: (1) Plaintiffs Rosales, Romero, Mata, Guerra, Esquivel and Vargas be awarded compensatory damages in the amounts of \$67,400.00, \$67,400.00, \$79,225.00, \$13,625.00, \$22,750.00 and \$4,225.00, respectively, for total amount of \$254,625.00; (2) Plaintiffs Rosales, Romero, Mata, Guerra, Esquivel and Vargas be awarded liquidated damages in the amounts of \$67,400.00, \$67,400.00, \$79,225.00, \$13,625.00, \$22,750.00 and \$4,225.00, respectively, for a total liquidated damages award of \$254,625.00; (3) Plaintiffs Rosales, Romero and Mata be awarded \$5,000.00 each, for a total of \$15,000.00 for Defendants’ failure to provide wage statements under NYLL § 195(3); and (iv) Plaintiffs Rosales and Romero be both awarded \$23,402.50 in prejudgment interest, with interest accruing at a daily rate of \$12.65 until judgment is entered and Plaintiff Mata be granted \$27,879.50 with interest similarly accruing at a rate of \$15.07 per day until judgment is entered. Finally, the Court recommends that Plaintiffs be granted leave to move for attorneys’ fees and costs.

(R&R (ECF No. 15) at 25–26).

The Plaintiffs filed proof of service of the R&R on July 3, 2018.

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 Plaintiffs' motion for default judgment is granted in part, and denied in part, as explained in the R&R. The Plaintiffs are awarded damages in the amounts explained in the R&R; and the Plaintiffs are granted leave to move for attorneys' fees and costs.

SO ORDERED.

Dated: Central Islip, New York

July 18, 2018

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