



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YOVANI SANCHEZ GOMEZ, :

Plaintiff, :

-against- :

BKUK CORP., et al., :

Defendants. :

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17 Civ. 4652 (HBP)

OPINION
AND ORDER¹

PITMAN, United States Magistrate Judge:

On or about May 30, 2018 all parties to this Fair Labor Standards Act/Labor Law action entered into a settlement agreement. The settlement provided, in pertinent part, that defendants would pay plaintiff a total of \$19,000.00 in three installments -- \$6,333.00 on June 1, 2018, \$6,333.00 on July 1, 2018 and \$6,333.00 on August 1, 2018. The parties also agreed that defendants would furnish plaintiff with an affidavit of confession of judgment that would permit plaintiff to enter judgment against defendants if, after notice, defendants failed to cure any default in making the installment payments within 15 business days. Specifically, in the event of an uncured default, the affidavit of confession of judgment was to authorize plaintiff to enter judgment in the amount of the unpaid balance of the judg-

¹All parties have consented to my exercising plenary jurisdiction in this matter pursuant to 28 U.S.C. § 636(c).

ment plus \$8,000.00, prejudgment interest at the rate of 9% per annum plus reasonable attorney's fees.

Plaintiff's attorney has submitted an affidavit establishing that defendants' total payment to date has been \$3,782.00, paid on September 14, 2018, and that defendants, despite being given the required notice, have failed to cure their default in a timely manner (Affidavit of Adam Braverman, Esq., sworn to September 27, 2018 (Docket Item 28)). Plaintiff now seeks to have judgment entered against defendants.

The unpaid principal balance is \$15,218.00 (\$19,000 - \$3,782.00).

Pursuant to section 5(B) of the parties' settlement agreement, the entire balance of the \$19,000.00 settlement amount became due and owing 15 days after the notice of default was sent on June 27, 2018, *i.e.*, the settlement amount of \$19,000.00 became due and owing as of July 12, 2018. This entire amount was unpaid through September 14, 2018, when a partial payment of \$3,782.00 was made. The interest due through September 14, 2018 is \$ 299.84, calculated as follows: $\$19,000.00 \times 0.09 \times 64 \text{ days} / 365 \text{ days} = \299.84 . Because \$3,782.00 of the \$19,000.00 was ultimately paid on September 14, 2018, the principal balance from that date forward was \$15,218.00. The simple interest on that sum through October 3, 2018 is \$63.79, calculated as follows:

$\$15,218.00 \times 0.09 \times 17 \text{ days}/365 = \63.79 . Thus, the total interest owed through October 3, 2018 is $\$363.63$.

Plaintiff's attorney has also submitted time records demonstrating that counsel has incurred fees of $\$2,065.00$ in his efforts to enforce the settlement. This figure is derived by multiplying the number of hours spent by counsel (5.9 hours) by counsel's hourly rate ($\$350.00$). I find both the amount of time spent by counsel attempting to enforce the settlement and the hourly rate to be reasonable.

Plaintiff has submitted an affidavit of confession of judgment executed on behalf of Bkuk Corporation and Besim Kukaj only. No affidavit of confession of judgment has been provided with respect to defendants Luan Kukaj and Adrian Lazo.

Plaintiff's counsel's affidavit establish the necessary conditions to permit entry of judgment against Bkuk Corporation and Besim Kukaj. Because no affidavit of confession of judgment has been provided as to them, there is no basis to enter judgment against Luan Kukaj and Adrian Lazo.

Accordingly, the Clerk of the Court is respectfully requested to enter judgment against defendants Bkuk Corporation and Besim Kukaj only in the total amount of $\$25,646.63$, comprised of the unpaid balance of the settlement amount ($\$15,218.00$), the $\$8,000.00$ penalty amount, interest through October 3, 2018 ($\$363.63$) and reasonable attorney's fees ($\$2,065.00$).

The Clerk of the Court is respectfully requested to
mark Docket Item 27 closed.

Dated: New York, New York
October 3, 2018

SO ORDERED


HENRY PITMAN
United States Magistrate Judge

Copy transmitted to:

All Counsel