

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

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TRUSTEES of the SHEET METAL WORKERS' LOCAL :  
 UNION No. 28 and PLANS, individually named herein as :  
 SHEET METAL WORKERS' LOCAL UNION No. 28 :  
 VACATION FUND, SHEET METAL WORKERS' :  
 LOCAL UNION No. 28 WELFARE FUND, SHEET :  
 METAL WORKERS' LOCAL UNION No. 28 :  
 SUPPLEMENTAL UNEMPLOYMENT FUND, SHEET :  
 METAL WORKERS' LOCAL UNION No. 28 :  
 ANNUITY FUNDS, SHEET METAL WORKERS' :  
 LOCAL UNION No. 28 PENSION FUND, SHEET :  
 METAL WORKERS' LOCAL UNION No. 28 JOINT :  
 LABOR MANAGEMENT FUND, SHEET METAL :  
 WORKERS' LOCAL UNION No. 28 EDUCATION :  
 FUND, SHEET METAL WORKERS' LOCAL UNION :  
 No. 28 SCHOLARSHIP FUND, SHEET METAL :  
 WORKERS' LOCAL UNION No. 28 ASSESSMENTS :  
 FUND, SHEET METAL WORKERS' LOCAL UNION :  
 No. 28 POLITICAL ACTION FUND, SHEET METAL :  
 WORKERS' LOCAL UNION No. 28 BUILDING FUND, :  
 and INTERNATIONAL ASSOCIATION OF SHEET :  
 METAL, AIR, RAIL, AND TRANSPORTATION :  
 WORKERS' LOCAL UNION No. 28, AFL-CIO, :  
 :  
 Plaintiffs, :  
 :  
 -against- :  
 :  
 FIVE STAR KITCHEN INSTALLATIONS, INC., :  
 :  
 Defendant. :  
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MEMORANDUM DECISION  
AND ORDER

18 Civ. 9905 (GBD)

GEORGE B. DANIELS, United States District Judge:

Plaintiffs, the trustees of several related funds along with the International Association of Sheet Metal, Air, Rail, and Transportation Workers' Local Union No. 28, AFL-CIO, bring this action against Defendant Five Star Kitchen Installations, seeking damages for Defendant's failure to pay fringe benefit contributions to the funds as required by the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 *et seq.*, the Labor Management Relations Act

(“LMRA”), 29 U.S.C. § 185 *et seq.*, and a collective bargaining agreement. (Am. Compl., ECF No. 20.) This Court granted Plaintiffs’ motion for default judgment on January 7, 2020, (ECF No. 42), and referred the matter to the designated Magistrate Judge for an inquest on damages, attorney’s fees, costs, and interest, (ECF No. 40).

Before this Court is Magistrate Judge Figueredo’s October 17, 2022 Report and Recommendation (the “Report”), recommending that this Court award Plaintiffs \$376,801.76 in principal damages for delinquent fringe benefits contributions, \$66,895.23 in pre-judgment interest, \$75,360.35 in liquidated damages, \$10,050 in attorneys’ fees, and \$768.41 in costs. (Report, ECF No. 51, at 16.) Magistrate Judge Figueredo advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.*) No objections were filed.

A court “may accept, reject, or modify, in whole or in part, the findings or recommendations” set forth in a magistrate judge’s report. 28 U.S.C. § 636(b)(1)(C). A magistrate judge’s report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). “In clear error review, a court should reverse a finding only if it is ‘left with the definite and firm conviction that a mistake has been committed,’ and not merely if it ‘would have decided the case differently.’” *Hernandez v. City of New York*, No. 11 Civ. 6644 (KPF) (DF), 2015 WL 321830, at \*2 (S.D.N.Y. Jan. 23, 2015) (quoting *Easley v. Cromartie*, 532 U.S. 234, 242 (2001)).

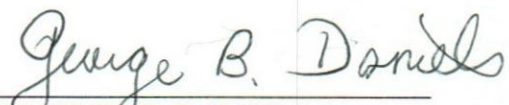
Magistrate Judge Figueredo conducted a comprehensive and careful inquest. This Court finds no error, clear or otherwise, in the Report’s analysis. Accordingly, Magistrate Judge Figueredo’s recommended judgment regarding damages, interest, attorneys’ fees, and costs is ADOPTED in full for the reasons stated in the Report. Final judgment shall be entered ordering

Defendant to pay Plaintiffs: (1) \$376,801.76 in compensatory damages; (2) \$66,895.23 in pre-judgment interest; (3) \$75,360.35 in liquidated damages; (4) \$10,050 in attorney's fees; (3) \$768.41 in costs.

The Clerk of Court is is respectfully directed to close this action.

Dated: November 1, 2022  
New York, New York

SO ORDERED.

  
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GEORGE B. DANIELS  
United States District Judge