

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEW YORK CITY & VICINITY DISTRICT COUNCIL	:	
OF CARPENTERS,	:	
	:	19-CV-549 (JMF)
Petitioner,	:	
	:	
and	:	<u>MEMORANDUM OPINION</u>
	:	<u>AND ORDER</u>
	:	
CHARAN ELECTRICAL ENTERPRISES, INC.,	:	
	:	
Respondent.	:	
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JESSE M. FURMAN, District Judge:

On January 18, 2019, Petitioner filed a Petition to Confirm Arbitration. See Docket No. 1. On January 23, 2019, the Court set a briefing schedule for Petitioner’s submission of any additional materials in support of the Petition, Respondent’s opposition, and Petitioner’s reply. See Docket No. 5. Petitioner served Respondent with the Petition, supporting materials, and the briefing schedule. See Docket No. 6. Pursuant to the briefing schedule, Respondent’s opposition was due no later than February 21, 2019. See Docket No. 5. To date, Respondent has neither responded to the Petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, “as akin to a motion for summary judgment based on the movant’s submissions.” *Trs. for Mason Tenders Dist. Council Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Constr. Corp.*, 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After reviewing the petition and the supporting materials, the Court finds that there is no genuine issue

of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.

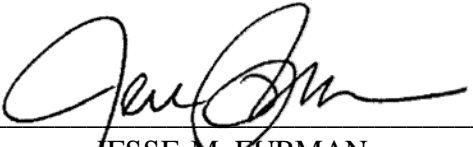
Petitioner also requests attorneys' fees and costs. Although attorneys' fees and costs can properly be awarded in this context, *see Int'l Chem. Workers Union (AFL-CIO), Local No. 227 v. BASF Wyandotte Corp.*, 774 F.2d 43, 47 (2d Cir. 1985) ("[W]hen a challenger refuses to abide by an arbitrator's decision without justification, attorney's fees and costs may properly be awarded." (internal quotation marks omitted)), Petitioner has not met its burden of proving the reasonableness and necessity of hours spent, rates charged, and litigation costs incurred. Accordingly, the Court does not grant Petitioner attorneys' fees and costs.

Finally, Petitioner also requests pre-judgment interest at a rate of nine percent. The Court grants this request. *See Herrenknecht Corp. v. Best Rd. Boring*, No. 06-CV-5106 (JFK), 2007 WL 1149122, at *3 (S.D.N.Y. Apr. 16, 2007) ("The common practice among courts within the Second Circuit is to grant interest at a rate of nine percent, the rate of pre-judgment interest under New York State law." (internal quotation marks omitted)); *Waterside Ocean Navigant Co. v. Int'l Navigation Ltd.*, 737 F.2d 150, 154 (2d Cir. 1984) (adopting a "presumption in favor of pre-judgment interest").

Accordingly, the Court grants Petitioner's unopposed petition to confirm the entire Award. Petitioner is directed to file its Proposed Judgment electronically, using the ECF Filing Event "Proposed Judgment," by no later than **March 7, 2019**.

SO ORDERED.

Dated: February 28, 2019
New York, New York



JESSE M. FURMAN
United States District Judge