

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRUSTEES OF THE NEW YORK CITY  
DISTRICT COUNCIL OF CARPENTERS  
PENSION FUND, WELFARE FUND,  
ANNUITY FUND, AND  
APPRENTICESHIP, JOURNEYMAN  
RETRAINING, EDUCATIONAL, AND  
INDUSTRY FUND et al.,

Petitioners,

-against-

CHOICE OF COLORS, INC.,

Respondent.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 4/27/2021

21-CV-895 (VSB)

**ORDER**

VERNON S. BRODERICK, United States District Judge:

On February 2, 2021, Petitioners filed a complaint seeking confirmation of an arbitration award. (Doc. 1.) Petitioners filed an affidavit of service on February 5, 2021, indicating that Respondent's answer was due on February 25, 2021. (Doc. 8.) I referred this case to Magistrate Judge Gabriel W. Gorenstein on March 2, 2021. (Doc. 9.)

In this Circuit, confirmation proceedings for arbitration awards must be "treated as akin to a motion for summary judgment." *D.H. Blair & Co. v. Gottdiener*, 462 F.3d 95, 109 (2d Cir. 2006). The time for Respondent to respond to Petition has lapsed, and Respondent has failed to notice an appearance or request an extension. Accordingly, it is hereby:

ORDERED that the referral to Magistrate Judge Gorenstein, (Doc. 9), is VACATED.

IT IS FURTHER ORDERED that Petitioners are directed to 1) obtain a Certificate of Default from the Clerk's office, 2) file and serve any additional materials with which they intend to support their petition for confirmation which shall include, at minimum, (a) a certified copy of

the arbitral award<sup>1</sup> and (b) sworn or certified copies of the underlying contracts at issue,<sup>2</sup> and 3) move for summary judgment based on their motion on or before May 28, 2021.

IT IS FURTHER ORDERED that Petitioners shall serve a copy of this Order on Respondent, and file proof of such service on the docket.

SO ORDERED.

Dated: April 27, 2021  
New York, New York



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Vernon S. Broderick  
United States District Judge

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<sup>1</sup> See *United States v. Speakman*, 594 F.3d 1165, 1172 n. 4 (10th Cir. 2010) (declining to take judicial notice of an arbitration award because arbitral organization was not a public agency).

<sup>2</sup> See Wright & Miller, 10A *Fed. Prac. & Proc. Civ.* § 2722 (3d ed. 2014) (noting “an affidavit purporting to present the substance of contracts ... [is] insufficient to prove the terms of the agreements unless sworn or certified copies of them are attached to the affidavit”).