

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE MASON TENDERS	:	
DISTRICT COUNCIL WELFARE FUND,	:	
PENSION FUND, ANNUITY FUND, AND	:	22 Civ. 10055 (LGS)
TRAINING PROGRAM FUND, et al.,	:	
Plaintiffs,	:	<u>ORDER</u>
	:	
-against-	:	
	:	
AMM CONSTRUCTION, INC.,	:	
Defendant.	:	
	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, this action concerns a petition to confirm an arbitration award (the “Petition”). An Order issued December 9, 2022, scheduled an initial conference in this case for January 25, 2023.

WHEREAS, Respondent was served via the New York Secretary of State on December 13, 2022, but has not yet appeared in this action. Respondent was required to answer, move or otherwise respond to the Petition by January 3, 2023. *See* Fed. R. Civ. P. 12(a)(1)(A)(i).

WHEREAS, “default judgments in confirmation/vacatur proceedings are generally inappropriate.” *D.H. Blair & Co., Inc. v. Gottdiener*, 462 F.3d 95, 109 (2d Cir. 2006). Instead, a district court should treat an unanswered petition to confirm or vacate an arbitration award “as an unopposed motion for summary judgment.” *Id.* at 110; *accord Carroll v. Wells Fargo Clearing Servs., LLC*, No. 20 Civ. 4918, 2021 WL 634721, at *2 (S.D.N.Y. Feb. 17, 2021). It is hereby

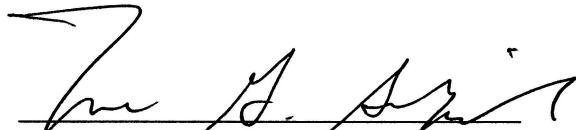
ORDERED that the conference scheduled for January 25, 2023, is **CANCELLED**. It is further

ORDERED that by **January 25, 2023**, Plaintiffs shall serve the Petition and Civil Cover

Sheet, *see* Dkt. 4, on Defendant via Federal Express and file proof of service on the docket. It is further

ORDERED that by **January 25, 2023**, Plaintiffs shall file a letter on ECF describing their efforts to provide Defendant with actual notice of this lawsuit and proposing a briefing schedule for any contemplated memoranda of law in support of or in opposition to the Petition.

Dated: January 18, 2023
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE