

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WEISS-JENKINS IV, LLC, a Washington limited liability company,

Plaintiff,

V.

UTRECHT MANUFACTURING CORPORATION, a Delaware corporation; and DICK BLICK HOLDINGS, INC., a Delaware corporation,

Defendants.

No. 2:14-cv-00954-RSL

FINAL JUDGMENT

SUMMARY OF JUDGMENT

1. Judgment Creditor:	Weiss-Company IV, f/k/a Weiss-Jenkins IV
2. Judgment Creditor's Attorney:	Davis Wright Tremaine LLP Rhys M. Farren 777 108 th Avenue NE, Suite 2300 Bellevue, WA 98004-5149
3. Judgment Debtors:	Dick Blick Holdings, Inc.; and Utrecht Manufacturing Corporation
4. Judgment Debtor's Attorney:	Stephen C. Willey Savitt Bruce & Willey LLP 1425 Fourth Avenue, Suite 800 Seattle, WA 98101-2272
5. Judgment Amount:	\$826,483.93

FINAL JUDGMENT - 1

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1	6. Prejudgment Interest:	\$135,427.37 as of May 31, 2016, plus continuing prejudgment interest at the per diem rate of \$204.47 to accrue on the principal judgment amount each day after May 31, 2016 until final judgment is entered.
2	7. Post-Judgment Interest Rate:	12% per annum.
3	8. Attorneys' Fees:	Plaintiff may file a request for reasonable attorney's fees and costs pursuant to Fed. R. Civ. P. 54(d)(2)(B).
4	9. Costs:	Costs awarded to Plaintiff.

BASIS OF JUDGMENT

The parties to this action are Plaintiff Weiss-Jenkins IV, a Washington limited liability company, now known as Weiss-Company IV ("Weiss"); and Defendants Utrecht Manufacturing Corporation ("Utrecht") and Dick Blick Holdings, Inc. ("Blick") (together, "Utrecht/Blick"). Plaintiff is represented by Davis Wright Tremaine LLP and Rhys M. Farren. Defendants are represented by Savitt, Bruce & Willey, and Stephen Willey.

This Court previously entered an Order Granting in Part Plaintiff's Motion for Partial Summary Judgment (Sept. 14, 2015) (the "PSJ Order") [ECF No. 56]. In the PSJ Order, the Court ruled as follows:

1. Defendants are liable for lost rents between July 2013 and the time the premises were relet, plus any shortfall in the rental amount received between the reletting and February 2018;
2. Plaintiff may also seek to recover other contractual and consequential damages caused by Defendants' breach; and
3. Defendants' affirmative defenses of failure to state a claim, unjust enrichment, waiver, estoppel, unclean hands, failure to mitigate, and set-off are STRICKEN.

See PSJ Order, at 7. The enumerated affirmative defenses dismissed were the *only* affirmative defenses set forth in the Defendants' Answer to the Amended Complaint [ECF No. 23]. All other affirmative defenses were either adjudicated or dismissed, and there are no remaining defenses to liability and no further affirmative defenses remaining in this case. The PSJ Order,

1 and the documents, pleadings and evidence considered by the Court in making that ruling, are
2 incorporated herein.

3 Plaintiff Weiss filed a Motion for Summary and Final Judgment (the “Final SJ
4 Motion”). This Court has reviewed the following pleadings in connection with that Motion:

5 1. Plaintiff’s Motion for Summary and Final Judgment [ECF No. 72];
6 2. Second Declaration of Eric Weiss and accompanying exhibits [ECF No. 73];
7 3. Declaration of Abigail Dunne and accompanying exhibits [ECF No. 74];
8 4. Defendants’ Response to Motion for Summary and Final Judgment [ECF No.
9 75];

10 5. Declaration of Stephen Willey in Support of Defendants’ Opposition to
11 Plaintiff’s Motion for Summary Judgment [ECF No. 76];

12 6. Plaintiff’s Reply to Response on Motion for Summary and Final Judgment [ECF
13 No. 77];

14 7. Second Declaration of Frederic Weiss and accompanying exhibits [ECF No.
15 78];

16 8. Declaration of Kelly Jenkins [ECF No. 79];

17 9. Declaration of Rhys M. Farren in Support of Reply [ECF No. 80];

18 10. Third Declaration of Eric Weiss and accompanying exhibits [ECF No. 81]; and

19 11. The files on record herein.

20 The Court then issued an Order Granting in Part Plaintiff’s Motion [ECF No. 83] (the
21 “5/24/2016 Order”), which 5/24/2016 Order is incorporated herein by this reference.

22 The Court ruled that there was no genuine issue of material fact and that final judgment
23 is appropriate as a matter of law. The Court granted the Final SJ Motion and directed entry of
24 judgment as sought in the Final SJ Motion, except that the charges for anti-graffiti protection
25 (reflected as \$20,150.63 in re-leasing costs and expenses [ECF Dkt. # 73-7 at 1] and
26 (\$15,941.01 in operating expenses [ECF Dkt. # 74-2 at 5]) and for pre-breach architectural
27

1 services should be deleted from total damages. The Court also ruled that Plaintiff may file a
2 request for reasonable attorney's fees pursuant to Fed. R. Civ. P. 54(d)(2)(B).

3 NOW THEREFORE,

4 **SUMMARY JUDGMENT**

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

6 1. Plaintiff's Motion for Summary and Final Judgment is GRANTED.
7 2. A money judgment is awarded against Defendants Utrecht Manufacturing
8 Corporation and Dick Blick Holdings, Inc., jointly and severally, in favor of Plaintiff in the
9 principal amount of **\$826,483.93**.

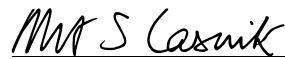
10 3. A money judgment is further awarded against Defendants Utrecht
11 Manufacturing Corporation and Dick Blick Holdings, Inc., jointly and severally, in favor of
12 Plaintiff for prejudgment interest in the amount of **\$135,427.37** as of May 31, 2016. The
13 principal judgment shall continue to accrue interest at the per diem rate of \$204.47 until final
14 judgment is entered.

15 4. Plaintiff is the prevailing party in this action, and pursuant to the parties'
16 contract, it shall be awarded its reasonable attorneys' fees and costs in this action. Plaintiff
17 shall be entitled to file and serve an application for a determination of reasonable attorneys'
18 fees and costs pursuant to Fed. R. Civ. P. 54(d)(2)(B), and any attorneys' fee award shall be a
19 judgment against the Defendants, jointly and severally.

20 5. Plaintiff is awarded costs upon filing a cost bill under Fed. R. Civ. P. 54(d)(1).

21 6. The judgment for principal award of damages and prejudgment interest shall be
22 a final judgment; provided that, Plaintiff shall be entitled to submit a supplemental award to
23 include the final amount of attorneys' fees and costs awarded in this action against the
24 Defendants.

1
2 Dated this 8th day of June, 2016.
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6 Honorable Robert S. Lasnik
7 United States District Court Judge
8

9 Presented by:
10

11 DAVIS WRIGHT TREMAINE LLP
12 *Attorneys for Plaintiff Weiss-Jenkins IV LLC*
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14 By: /s/ Rhys M. Farren
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