

1 HONORABLE RICHARD A. JONES

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 BOARDS OF TRUSTEES OF THE
10 CEMENT MASONS &
11 PLASTERERS HEALTH &
12 WELFARE TRUST, *et al.*,

13 Plaintiffs,

14 v.

15 KELAYE CONCRETE LLC, a
16 Washington limited liability company,
17 UBI No. 603213162, Contractor's
18 License No. KELAYCL876K2,

19 Defendant.

NO. 2:15-cv-01866-RAJ

ORDER

20 This matter comes before the Court on Plaintiffs' Motion for Default
21 Judgment. Dkt. # 12. The Court GRANTS the motion and directs the Clerk to enter
22 default judgment as directed in this Order.

The Court's role in reviewing a motion for default judgment is not ministerial.
TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987). It must

1 accept all well-pleaded allegations of the complaint as fact, except facts related to the
2 amount of damages. *Id.* at 917. Where those facts establish a defendant’s liability, the
3 Court has discretion, not an obligation, to enter a default judgment. *Aldabe v. Aldabe*,
4 616 F.2d 1089, 1092 (9th Cir. 1980); *Alan Neuman Productions, Inc. v. Albright*, 862
5 F.2d 1388, 1392 (9th Cir. 1988). The plaintiff must submit evidence supporting a
6 claim for a particular sum of damages. *TeleVideo Sys.*, 826 F.2d at 917-18; *see also*
7 Fed. R. Civ. P. 55(b)(2)(B). If the plaintiff cannot prove that the sum it seeks is “a
8 liquidated sum or capable of mathematical calculation,” the Court must hold a hearing
9 or otherwise ensure that the damage award is appropriate. *Davis v. Fendler*, 650 F.2d
10 1154, 1161 (9th Cir. 1981).

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12 Plaintiffs Trust Funds¹ operate to provide medical and dental benefits,
13 pension benefits, and apprenticeship and training benefits to eligible employees. The
14 evidence Plaintiffs have presented establishes that Defendant was bound by a
15 collective bargaining agreement and several trust agreements to pay contributions to
16 the Plaintiffs. The evidence further demonstrates that Defendant failed to pay the
17 required contributions for the hours worked by its employees and that the liability for
18 that failure is as follows: unpaid contributions of \$104,500.85, liquidated damages of
19 \$26,786.69, and interest of unpaid contributions of \$5,405.68. *See* Dkt. # 13 (Clark
20 Decl.) Ex. E-G.

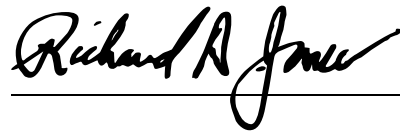
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22 ¹ This includes Plaintiffs (1) Boards of Trustees of the Cement Masons & Plasterers Health & Welfare Trust, (2) Cement Masons and Plasterers Retirement Trust, and (3) Western Washington Cement Masons Journeyman and Apprentice Training Trust (collectively “Trust Funds”).

1 In addition, Plaintiffs request attorney's fees, accounting fees, and court costs.
2 The Court awards the hourly fees of Plaintiffs' counsel, accounting fees of auditors,
3 and court costs. The Court finds that Plaintiffs' evidence supports an attorney fee
4 award of \$20,190.00, accounting fees of auditors of \$5,868.57, and costs of \$479.50
5 for litigation costs directly related to this action. Dkt. # 14 (Dwarzski Decl.) Ex. A;
6 Dkt. # 13 (Clark Decl.) Ex. C1, C2.

7 The judgment shall bear interest pursuant to 28 U.S.C. § 1961.

8 The Clerk shall enter default judgment in accordance with this order.

9 Dated this 24th day of January, 2017.

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13 The Honorable Richard A. Jones
14 United States District Judge
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