

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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OPERATIVE PLASTERERS AND CEMENT  
MASONS LOCAL 599 PENSION FUND and  
DAN DOPERALSKI as Trustee,

Plaintiffs,

v.

OPINION & ORDER

14-cv-1-wmc

VALDA PLASTERING COMPANY, INC.,

Defendant.

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On January 2, 2014, plaintiffs filed this ERISA action alleging that defendant Valda Plastering Company, Inc. (“Valda”) incurred liability by withdrawing from a multiemployer pension plan. Valda was served with process and filed an answer on March 3, 2014. (*See* dkt. #6.) However, on October 8, 2014, Valda filed a motion to withdraw its answer, which the court granted on November 18, 2014. (Dkt. #10.) Plaintiffs then filed a motion for entry of default, and the clerk’s office entered default accordingly on December 4, 2014. (Dkt. #17.)

The court scheduled a hearing on default judgment on January 21, 2015, but defendant did contest the matter. Consistent with entry of default, the court accepts as true all of the factual allegations in the complaint, except those relating to damages. *In re Catt*, 368 F.3d 789, 793 (7th Cir. 2004). Accordingly, the court accepts as true the fact that Valda withdrew from the plan; failed to pay its withdrawal liability as assessed by the pension fund; and failed to make timely payments as required to avoid additional penalties in the form of liquidated damages.

In their motion for default judgment, plaintiffs seek a total of \$272,366.40 in damages, together with interest at the rate allowed by law. (Dkt. #14.) Plaintiffs have submitted

documentation supporting a principal withdrawal liability of \$224,858.00, plus liquidated damages of \$44,971.60 (20% of the principal). Defendant does not challenge either calculation.<sup>1</sup>

Additionally, plaintiffs seek attorney's fees of \$2,085.00 for 13.90 hours of work, as well as \$451.80 in costs, pursuant to 29 U.S.C. § 1132(g)(2), which provides that the court "shall award the plan . . . reasonable attorney's fees and costs of the actions, to be paid by the defendant." The court has reviewed the plaintiffs' request and finds the approximately 14 hours of work spent on this matter to be reasonable, particularly given that defendant initially appeared in this case, which required plaintiffs' counsel to support the claims and engage in settlement discussions. The hourly rate of at \$150 per hour is also reasonable. Accordingly, the request for fees and costs is granted in its entirety.

#### ORDER

IT IS ORDERED that:

- 1) Plaintiffs' motion for default judgment (dkt. #14) is GRANTED;
- 2) Plaintiffs are AWARDED total damages in the total amount of \$272,366.40; and
- 3) the clerk of court is directed to enter judgment in favor of plaintiffs and against defendant Valda Plastering Company, Inc. and close this case.

Entered this 21st day of January, 2015.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge

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<sup>1</sup> Although permitted by statute, plaintiffs neither seek an award of pre-judgment interest on the unpaid calculations nor further monetary penalties.