

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**BOILERMAKER-BLACKSMITH NATIONAL
PENSION FUND, et al.,**

Plaintiffs,

v.

BOILERWORKS,

Defendant.

Case No. 18-2334-CM

MEMORANDUM AND ORDER

This matter is before the court on plaintiffs Boilermaker-Blacksmith National Pension Fund, Boilermakers National Health and Welfare Fund, Boilermakers National Annuity Trust, and John Fultz’s Motion for Court to Order Audit of Defendant for Entry of Default Judgment (Doc. 6). Plaintiffs filed the present action against defendant Boilerworks, Inc. to collect benefits that may be due pursuant to the Employment Retirement Income Security Act of 1974 (“ERISA”). Defendant did not file an answer or other responsive motion to plaintiffs’ complaint. Clerk’s entry of default was entered against defendant on July 19, 2018.

Plaintiff now seeks a court order requiring defendant to permit a certified public accountant, selected by plaintiffs, to audit defendant’s books and records to determine the precise amount of damages. Plaintiffs claim that they have the right to audit defendant’s books pursuant to the written agreements associated with the plaintiff employee benefit plans. Plaintiffs also argue that the court has the authority to order the audit under Rule 55(b)(2) of the Federal Rules of Civil Procedure. Rule 55(b)(2) states that “[t]he court may conduct hearings or make referrals . . . when, to enter or effectuate judgment, it needs to: (A) conduct an accounting; (B) determine the amount of damages; (C) establish

the truth of any allegation by evidence; or (D) investigate any other matter.” The court finds plaintiffs’ request is appropriate and grants the motion.

IT IS THEREFORE ORDERED that plaintiffs’ Motion for Court to Order Audit of Defendant for Entry of Default Judgment (Doc. 6) is granted. Defendant and its officers shall permit a certified public accountant, selected by plaintiffs, to audit its books and records to determine plaintiffs’ damages. Defendant and its officers are ordered to cooperate with plaintiffs and the accountant for purposes of performing said audit.

IT IS FURTHER ORDERED that plaintiffs are granted leave to apply for entry of default judgment against defendant for damages as determined by the audit and the law.

Dated October 11, 2018, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge