

**CAUSE NO. 2024-17286**

**STRATEGIC ENVIRONMENTAL  
RESPONSE SOLUTIONS, LLC,**

**Plaintiff,**

v.

**MILLER ENVIRONMENTAL  
GROUP, INC.,**

**Defendant.**

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**IN THE DISTRICT COURT**

**HARRIS COUNTY, TEXAS**

**270th JUDICIAL DISTRICT**

**STRATEGIC ENVIRONMENTAL’S MOTION FOR DEFAULT JUDGMENT**

Plaintiff Strategic Environmental Response Solutions, LLC (“SERS”) in accordance with Texas Rule of Civil Procedure 239, moves to enter a default judgment against Miller Environmental Group, Inc. (“MEG”).

**I. INTRODUCTION**

1. On March 18, 2024, SERS filed its Original Petition in this matter, seeking a judgment against MEG on its claim for breach of contract in the amount of \$74,866.25. On March 22, 2024, SERS served Defendant MEG with the Citation and Petition. Because Defendant has not answered the Original Petition, and has been properly served, SERS respectfully requests this Court enter a default judgment against Defendant MEG.

**II. PROCEDURAL BACKGROUND**

1. SERS filed this lawsuit on March 18, 2024. *See* Original Petition. The citation was issued the same day and was served on March 22, 2024. *See* Return of Service. The Return of Service was filed with this Court on March 25, 2024.

2. Pursuant to Texas Rule of Civil Procedure 99(b), MEG’s deadline to file its written answer was April 15, 2024.

3. To date, no response has been filed. MEG has failed to answer or otherwise appear.

### III. FACTUAL BACKGROUND

4. SERS seeks judgment for unpaid industrial environmental cleaning services that it performed for MEG.

5. In November 2023, MEG and SERS communicated by email and telephone about SERS providing ship cleaning services at the Barbours Cut Terminal in the Port of Houston, Texas on November 5, 2023. SERS outlined the details of the anticipated services in writing, including personnel, supplies, equipment, and associated costs. MEG approved those details and agreed in writing that SERS should proceed with the job.

6. Due to a delay caused by MEG, the work did not commence on November 5, 2023. During this delay, SERS sent MEG a final spreadsheet, updating the information about the personnel, supplies, equipment, and associated costs with details about job duties, locations, and rates. Again, MEG agreed to SERS's terms and asked SERS to proceed.

7. Over November 11-13, 2023, SERS completed the cleaning job at the Barbours Cut Terminal using the personnel and equipment it had quoted and MEG had approved. Then SERS submitted Invoice No. 2307 to MEG seeking \$74,866.25 for services completed under the parties' agreement. MEG has not paid this invoice.

8. Pursuant to Rule 239 of the Texas Rules of Civil Procedure, SERS is entitled to \$74,866.25, pre-judgment and post-judgment at the maximum rate permitted by law, reasonable attorneys' fees in the amount of \$5,240.00, and costs in the amount of \$443.36, which fees are supported by the Affidavit of Michael D. Matthews, Jr. (*See Exhibit 1, Affidavit Regarding Fees.*) These damages, fees, and costs have been requested in SERS's Original Petition.

#### IV. LEGAL AUTHORITY

9. The Court may render a default judgment on the pleadings against a defendant who has not filed an answer.<sup>1</sup> When a defendant does not file an answer, all allegations of facts in the petition except unliquidated damages are deemed admitted.<sup>2</sup> Because MEG failed to timely answer in this suit, it has admitted to the facts alleged in SERS's Original Petition, including the fact that SERS is entitled to \$74,866.25 in contractual damages.<sup>3</sup>

10. No hearing is necessary because SERS's contractual damages are all liquidated<sup>4</sup> and the attorney fees and costs are adequately proven.<sup>5</sup>

11. The last known addresses of defendant are: Miller Environmental Group, Inc., 538 Edwards Ave., Calverton, NY 11933; and Miller Environmental Group, Inc. c/o InCorp Services, Inc., 815 Brazos St., Suite 500, Austin, Tx 78701. Attached as Exhibit 2 is a certificate of defendant's last known address.

#### V. REQUESTED RELIEF

For these reasons, SERS respectfully requests that the Court enter an order granting its Motion for Default Judgment against MEG and enter a judgment in the amount of \$80,549.61,

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<sup>1</sup> See TEX. R. CIV. P. 239.

<sup>2</sup> *Dolgenercorp of Texas, Inc. v. Lerma*, 288 S.W.3d 922, 930 (Tex. 2009).

<sup>3</sup> See *id.*

<sup>4</sup> See TEX. R. CIV. P. 241; see also *Aavid Thermal Techs. of Texas v. Irving Indep. Sch. Dist.*, 68 S.W.3d 707, 711 (Tex. App.—Dallas 2001, no pet.) (“A claim is liquidated if the amount of damages may be accurately calculated by the trial court from the factual, as opposed to the conclusory, allegations in Direct Energy's petition and the instrument in writing.”).

<sup>5</sup> See TEX. R. CIV. P. 243; see also *Ingram Indus., Inc. v. U.S. Bolt Mfg., Inc.*, 121 S.W.3d 31, 37 (Tex. App.—Houston [1st Dist.] 2003, no pet.) (“A trial court may award unliquidated damages based on affidavit testimony . . . without the need of holding an evidentiary hearing” under Rule 243.).

together with the current prevailing post-judgment interest rate in Texas, along with all other relief to which it may be entitled.

DATE: April 22, 2024

McDOWELL HETHERINGTON LLP

By: /s/ Michael D. Matthews, Jr.

Michael D. Matthews, Jr.

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*Counsel for Plaintiff Strategic Environmental  
Response Solutions, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify on April 22, 2024 that a true and correct copy of the foregoing was served via certified mail, return receipt requested as follows:

Rudy Streng  
Chief Executive Officer  
Miller Environmental Group, Inc.  
538 Edwards Ave.  
Calverton, NY 11933

Miller Environmental Group, Inc.  
c/o InCorp Services, Inc.  
815 Brazos St. Suite 500  
Austin, Tx 78701

/s/ Michael D. Matthews, Jr.

Michael D. Matthews, Jr.

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Monica Rodriguez on behalf of Michael Matthews Jr.  
Bar No. 24051009  
monica.rodriguez@mhlip.com  
Envelope ID: 86931107  
Filing Code Description: Motion (No Fee)  
Filing Description:  
Status as of 4/23/2024 7:40 AM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael D. Matthews, Jr.		matt.matthews@mhlip.com	4/22/2024 4:52:03 PM	SENT
Tyrone Lamar Haynes		Tyrone.Haynes@mhlip.com	4/22/2024 4:52:03 PM	SENT

Unofficial Copy Office of Marilyn Burgess District Clerk