

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN THE MATTER OF KOKA CHARTERS, LLC AS
OWNER OF THE
F/V MISS JENNY FOR EXONERATION
FROM OR LIMITATION OF LIABILITY

CIVIL ACTION
NUMBER: 1:21-cv-169

ORDER

This matter is before the Court on Petitioner's Rule 55 motion for default judgment against all non-appearing claimants. (Doc. 13).

I. Background

On April 5, 2021, Petitioner, as owner of the fishing vessel MISS JENNY, U.S.C.G. Official No. 619805 ("Vessel"), filed a Complaint for Exoneration from or Limitation of Liability pursuant to 46 U.S.C. §§ 30501, *et seq.*, 46 U.S.C. §§ 30101, *et seq.*, Federal Rule of Civil Procedure 9(h), and Rule F of the *Supplemental Rules for Admiralty or Maritime Claims*, for any and all losses or damages occurring as a result of the Vessel breaking free from its moorings on navigable waters at Orange Beach, Alabama, traveling westward, and coming to rest on shore near 26244 Garrett Lane, Orange Beach, Alabama, on or about September 16, 2020 during Hurricane Sally. (Doc. 1).

On April 9, 2021, the Court entered an Order granting interim relief, requiring issuance and publication of notice to claimants in accordance with the *Supplemental Rules for Admiralty or Maritime Claims*, admonishing them to file claims and answers on or before May 14, 2021 or be defaulted. (Doc. 5). The required notices and publications have been satisfied. (Docs. 10 and 13-1). Claims and Answers were filed by Paradise By You Condominium Owner's Association, Bayou Breeze Estate Owner's Association, Allan Brown, and Horace Long, Jr. (Docs. 6 and 9). No

other person or entity has appeared or filed a claim or answer. The deadline for filing claims and answers has expired.

On May 24, 2021, Petitioner moved for entry of default and final default judgment against all non-appearing claimants. (Doc. 13). On June 1, 2021, the Clerk entered default against all non-appearing claimants. (Doc. 14).

II. Discussion

Entry of a final default judgment for exoneration is proper as to potential claimants who have not responded to a newspaper publication of a court's notice to assert claims by a certain date, so long as the moving petitioners have satisfied the publishing/notice obligations. *See, e.g., In re. Complaint of Freedom Marine Sales LLC*, 2019 U.S. Dist. LEXIS 138275 (M.D. Fla. July 31, 2019); *In re. Complaint of Heningburg*, 2019 U.S. Dist. LEXIS 183074 (S.D. Ala. Oct. 22, 2019); *In re. Raye, LLC*, 2016 U.S. Dist. LEXIS 83734 (M.D. Fla. May 9, 2016), *report and recommendation adopted* 2016 U.S. Dist. LEXIS 83732 (M.D. Fla. Jun. 28, 2016); *In re. Ruth*, 2016 U.S. Dist. LEXIS 120768 (M.D. Fla. Aug., 23, 2016) *report and recommendation adopted* 2016 U.S. Dist. LEXIS 120549 (M.D. Fla. Sept. 7, 2016); *In re Petition of Holliday*, 2015 U.S. Dist. LEXIS 67856 (M.D. Fla. May 26, 2015); *In the Matter of Reef Innovations, Inc.*, 2012 U.S. Dist. LEXIS 7474 (M.D. Fla. Jan. 6, 2012); *In the Matter of X-Treme Parasail, Inc.*, 2011 U.S. Dist. LEXIS 116739 (D. Haw. Sept. 12, 2011).

The publication and notice required by the *Supplemental Rules for Admiralty or Maritime Claims* and the Court's April 9, 2021 Order (Doc. 5) identified the consequences of failure to file claims within the time ordered, including default. Such notice by publication and mail satisfies due process as to any potential claimants. The time for filing any claims against the Petitioner

has expired. Entry of default judgment is proper when a party “has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise.” Fed. R. Civ. P. 55(a). As shown by the record, any parties wishing to make a claim with respect to the subject of this case had to file a claim by May 14, 2021. The deadline to file a claim has passed. Thus, all non-appearing parties, against whom default has been entered, are now properly subject to entry of a default judgment against them.

III. Conclusion

Accordingly, it is **ORDERED** that the Petitioner's motion for default judgment against all non-appearing parties (Doc. 13) is **GRANTED** such that **DEFAULT JUDGMENT** is entered in favor of Petitioner and against all non-appearing parties.

DONE and ORDERED this 15th day of June, 2021.

/s/ JEFFREY U. BEAVERSTOCK
UNITED STATES DISTRICT JUDGE