

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**TIMOTHY RADCLIFF and TRACI  
RADCLIFF,**

**Petitioners,**

v.

**Case No: 6:22-cv-1780-CEM-DCI**

**CALEB COUTURE,**

**Respondent.**

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**REPORT AND RECOMMENDATION**

This cause comes before the Court for consideration without oral argument on the following motion:

**MOTION: Motion to Dismiss or in the Alternative, Motion for Order  
Modifying Injunction with Proposed Stipulations (Doc. 37)**

**FILED: January 19, 2024**

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**THEREON it is RECOMMENDED that the motion be DENIED without  
prejudice.**

**I. Background**

Petitioners, alleging ownership of a 2020, 41' Sea Hunter motor vessel bearing hull identification number GQL41606I920 (the Vessel), filed this Exoneration From or Limitation of Liability action in response to a maritime casualty involving the Vessel which occurred on May 4, 2021. Doc. 1. Thereafter, the Court entered an Injunction that stayed all other existing and potential actions arising from the casualty incident. Doc. 9. Before the undersigned is Claimant's Motion to Dismiss or in the Alternative, Motion for Order Modifying Injunction. Doc. 37 (the

Motion). Petitioners have filed a Response in opposition to the Motion. Doc. 38. Additionally, third-party Defendant Sea Hunter, Inc. (Sea Hunter) has failed a Response in opposition to the Motion. Doc. 41. And with leave of court, Claimant has filed a Reply to those responses. Doc. 42.

Upon due consideration of the parties' briefing, the undersigned recommends that the motion be denied without prejudice.

## **II. Discussion**

“Article III, § 2 of the United States Constitution vests federal courts with jurisdiction over all cases of admiralty and maritime jurisdiction.” *Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438, 443 (11th Cir. 2014). The grant of exclusive jurisdiction to federal courts also contains a clause “saving to suitors in all cases all other remedies to which they are otherwise entitled. 28 U.S.C. § 1333(a). “Some tension exists between the saving to suitors clause and the Limitation Act. One statute gives suitors the right to a choice of remedies, and the other statute gives vessel owners the right to seek limitation of liability in federal court.” *Lewis*, 531 U.S. at 448. While there is no right to a jury trial in limitation proceedings, under the saving to suitors clause there is a presumption in favor of presenting common law remedies in the claimant’s forum of choice to a jury. *See Offshore of the Palm Beaches, Inc. v. Lynch*, 741 F.3d 1251, 1258 (11th Cir. 2014) (citing *Beiswenger Enterprises Corp. v. Carletta*, 86 F.3d 1032, 1037 (11th Cir. 1996)). The main concern in limitation actions is to protect the vessel owner’s “absolute right to claim the Act’s liability cap, and to reserve the adjudication of that right in the federal forum.” *Beiswenger*, 86 F.3d at 1037 (quoting *Magnolia Marine Transp. Co., Inc. v. Laplace Towing Corp.*, 964 F.2d 1571, 1757 (5th Cir. 1992)).

The *Beiswenger* court determined that claimants may pursue liability and damages issues in the forum of their choosing only in two limited circumstances. The first—which does not apply here—is where “the limitation fund exceeds the aggregate amount of all the possible claims against the vessel owners.” *Id.* (citing *Lake Tankers Corp. v. Henn*, 354 U.S. 146, 152-53 (1957)). The second circumstance occurs in cases where, as here, there is only a single claimant. *Beiswenger*, 86 F.3d at 1037.

Thus, when there is only a single claimant in a limitation action, “the district court may, at its discretion, order a stay of the limitation action to allow the claim to be tried in another forum.” *Offshore of the Palm Beaches*, 741 F.3d at 1258 (citing *Lewis*, 531 U.S. at 448–51). “Before a stay may issue, however, the claimant must enter a series of stipulations that ‘effectively guarantee that the vessel owner will not be exposed to competing judgments in excess of the limitation fund.’” *Id.* (quoting *Beiswenger*, 86 F.3d at 1038). “Specifically, the claimant must waive any claim of res judicata relevant to the issue of limited liability based on any judgment obtained in the state court, and concede the shipowner's right to litigate all issues relating to limitation in the federal limitation proceeding.” *Beiswenger*, 86 F.3d at 1038 (citations omitted).

Here, Claimant is a single claimant; no other persons or entities have appeared in this action in accordance with the Court’s prior Order. Doc. 9. Thus, Claimant may utilize the single claimant rule, so long as his stipulations are adequate. *See, e.g., In re Island Maritime Servs. Inc.*, 2011 WL 3585937, at \*2 (M.D. Fla. Aug. 16, 2011) (“This Court is faced with a single claimant situation because the claims period has closed, and only one claim [] remains for adjudication. Barring an inadequate stipulation, the Court must allow [claimant] to litigate in its chosen forum.”).

The undersigned finds that Claimant’s stipulations generally comport with *Beiswenger*, and notes that courts in this District have entered similar stipulations when lifting injunctions. *See*

*id.* at \*2-3; *see also In re Everglades Airboat Mgmt LLC*, 2014 WL 7375515, at \*3-4 (M.D. Fla. Dec. 29, 2014), *report and recommendation adopted by* 2015 WL 307047; *Petition of Daytona Beach Aqua Safari, Inc. v. Castle*, 2023 WL 113316, at \*1-2 (M.D. Fla. Jan. 5, 2023). Claimant has stipulated that he will waive “any and all claims of issue preclusion or *res judicata* based on any ruling or judgment obtained in a State court or arbitration with respect to all matters reserved for determination by this Court.” Doc. 37 at 3; *see Beiswenger*, 86 F.3d at 1044 (“[T]he stipulations must protect the vessel owner’s right to litigate its claim to limited liability exclusively in the admiralty court . . . .The damage claimants must agree not only to waive a ‘res judicata’ defense, but must also agree to waive the related defense of issue preclusion with respect to all matters reserved exclusively for determination by the admiralty court.”).

However, Petitioners contend that the stipulations are insufficient because they fail to stipulate the manner in which the case will proceed in the event the admiralty court grants either Petitioner’s request for exoneration from, or limitation of, liability. Doc. 38 at 7-8.<sup>1</sup> The undersigned agrees that Claimant’s stipulations should include language indicating that if this Court grants exoneration, Claimant will not seek recovery. *See Matter of Sweetwater Lifestyles, LLC*, 2023 WL 6809606, at \*3 (M.D. Fla. Oct. 16, 2023); *In re Everglades*, 2014 WL 7375515, at \*3, *report and recommendation adopted by* 2015 WL 307047 (claimant stipulated that “in the event this Court grants the Petitioner’s Complaint for Exoneration, there shall be no recovery from the Petitioner”); *Petition of Daytona Beach*, 2023 WL 113316, at \*2 (denying stay where claimant did not stipulate as to how her case would proceed in the event the Court granted the petitioner’s request for exoneration). Accordingly, the undersigned recommends that the Court deny the

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<sup>1</sup> In the Complaint, Petitioners seek both exoneration and, in the alternative, limitation of liability. Doc. 1.

Motion without prejudice to allow Claimant an opportunity to amend his stipulations to address the issues set forth in this report.

Petitioners further argue that the stipulations must be signed by Claimant personally and under oath before an appropriate notary. Doc. 38 at 8-9. Petitioners posit that absent a signed stipulation, Claimant may later argue to the state court that his attorneys did not have authority to make the stipulations. *Id.* Upon review of Eleventh Circuit case law, and analogous cases in this district, the undersigned can find no authority for the proposition that the Claimant must personally sign the stipulations before a notary. Petitioners highlight one case in which a magistrate judge ordered the claimants to file signed stipulations, but this does not appear to be a legal requirement universally applied throughout these limitation actions. *Cf. In re Holiday Water Sports Ft. Myers Beach, Inc.*, 2021 WL 534468, at \*5 (M.D. Fla. Feb. 12, 2021). Accordingly, the undersigned does not recommend the Court require Claimant to submit a signed stipulation in the instant case.

Finally, third-party Defendant Sea Hunter expresses concern that if the Court grants the Motion it might have the effect of removing the third-party complaint to state court as well. Doc. 41. Because the undersigned recommends that the Motion be denied at this juncture, the undersigned will reserve discussion of this issue for a later date.

### **III. Conclusion**

Accordingly, the undersigned recommends the Motion (Doc. 37) be **DENIED without prejudice**, and Claimant be given leave to amend his stipulations to conform with the issues identified in this report.

### **NOTICE TO PARTIES**

The party has fourteen days from the date the party is served a copy of this report to file written objections to this report's proposed findings and recommendations or to seek an extension

of the fourteen-day deadline to file written objections. 28 U.S.C. § 636(b)(1)(C). A party's failure to serve and file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1; 28 U.S.C. § 636(b)(1).

Recommended in Orlando, Florida on March 1, 2024.

  
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DANIEL C. IRICK  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge  
Counsel of Record  
Unrepresented Party  
Courtroom Deputy