

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

INTERNATIONAL SHIP REPAIR &
MARINE SERVICES, INC.,

Plaintiff,

VS.

GREAT LAKES DREDGE AND DOCK
COMPANY, LLC,

Defendant.

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CIVIL ACTION NO. 4:19-CV-01049

ORDER

Before the Court are United States Magistrate Judge Frances H. Stacy’s Memorandum and Recommendation filed on January 13, 2022 (Doc. #70) and Defendant’s Objections (Doc. #72). The Magistrate Judge’s findings and conclusions are reviewed de novo. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Having reviewed the parties’ arguments and applicable legal authority, as well as Defendant’s supplemental briefing, the Court adopts the Memorandum and Recommendation as this Court’s Order.¹

Notably, Defendant objects that its negligence and bailment counterclaims should be analyzed under maritime law instead of Texas law. Doc. #72 at 5, 6. Which law applies depends on whether the now-damaged ladder falls within the scope of the Master Services Agreement. See Doc. #48, Ex. 1 at 15 (“It is understood and agreed that this Agreement is to be governed and

¹ Plaintiff did not file a response to Defendant’s Motion for Leave to File Supplemental Brief, which the Court regards as a representation of no opposition. Doc. #69; L.R. 7.4. Accordingly, Defendant’s Motion for Leave (Doc. #69) is hereby GRANTED.

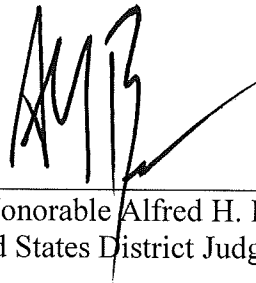
interpreted under the law of the State of Texas, without regard to its conflict of law principles.”). A genuine issue of material fact exists on this question and precludes summary judgment. *See e.g.* Doc. #48, Ex. 2 at 8, 12 (work to be performed includes “port side deck house ladder modification,” “clean and paint ladder,” and “remove and reinstall ladder”).

Accordingly, Plaintiff’s Motion for Partial Summary Judgment (Doc. #36) and Defendant’s Motion for Partial Summary Judgment (Doc. #48) are both DENIED.

It is so ORDERED.

FEB 09 2022

Date



The Honorable Alfred H. Bennett
United States District Judge