

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 20-21092-CIV-ALTONAGA**

IN RE:

**VERIFIED COMPLAINT OF GOD’S BLESSING LTD.**, legal owner, and **ROGER WEST**, beneficial owner, of a 2003 built 29.33-meter Pershing motor yacht named “*Exodus*”, Cayman Islands Shipping Registry Official Number 745268, her engines, tackle, furniture, furnishings, tender, personal watercraft and appurtenances, for Exoneration from or Limitation of Liability,

Petitioners.

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**ORDER**

**THIS CAUSE** is before the Court upon Petitioners, God’s Blessing, Ltd. and Roger West’s Motion for Summary Judgment [ECF No. 73], which is supported by Petitioners’ Statement of Uncontested Material Facts [ECF No. 74] (“SOF”). The Court ordered Claimant, Kathy Salas, to file her Response to the Motion by no later than February 28, 2023. (*See* Feb. 15, 2023 Order [ECF No. 75] 1–2).<sup>1</sup> Claimant did not file a response to the Motion, nor has she requested additional time to do so.

Based on the uncontroverted material facts and legal authorities discussed below, the Court grants the Motion and decrees that God’s Blessing Ltd. and Roger West are exonerated from all liability, responsibility, loss, damage, or injury for any claim or cause of action whatsoever in any way arising from the accident or events described in this action. The Court also dismisses with prejudice Salas’s Amended Claim [ECF No. 41].

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<sup>1</sup> The Court relies on the pagination generated by the Case Management/Electronic Case Files system, which appears in the header on all filings.

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Petitioners' Statement of Uncontested Material Facts properly cites to record evidence in accordance with Local Rule 56.1(a)(1). (*See generally* SOF). Local Rule 56.1(a)(2) required Salas to file an opposing statement of material facts to challenge any material fact asserted by the Petitioners that she contends is genuinely in dispute. Salas did not do so. Local Rule 56.1(c) provides that a party's statement of material facts may be deemed admitted if not controverted by the other party's opposing statement, so long as those material facts are supported by properly cited record evidence. *See* Local Rule 56.1(c). The SOF complies with Local Rule 56.1(c), and so the Court deems the facts admitted as such.

The M/Y *Exodus* (the "Vessel") is a 2003 built 29.33-meter Pershing motor yacht bearing Cayman Island Shipping Registry Official Number 745268. (*See* SOF ¶ 1; *id.*, Ex. 1, Tr. of British Registry [ECF No. 74-1] 2). The M/Y *Exodus* is a "vessel" as defined under 1 U.S.C. section 3 and is owned by God's Blessing Ltd. (*See* SOF ¶ 2; Tr. of British Registry 2). Roger West is the principal shareholder of God's Blessing Ltd. and beneficial owner of the Vessel. (*See* SOF ¶¶ 2–3).

Salas alleges she was injured on September 16, 2019 while working as a deckhand/stewardess aboard the M/Y *Exodus*. (*See generally* Am. Claim; *see also* SOF ¶ 8). On September 27, 2019, Salas's lawyer sent a written notice of claim to Petitioners' counsel notifying that Salas was asserting a claim for damages against the Vessel's owner/operator. (*See* SOF ¶ 9).

The Shipowner's Limitation of Liability Act (the "Limitation Act") provides a statutory remedy to vessel owners allowing them to file suit in district court, under admiralty jurisdiction, to obtain a judgment that exonerates them of all liability for a maritime incident or alternatively, to limit the owners' liability to the vessel's value. *See* 46 U.S.C. §§ 30501–30512; *see also American Dredging Co. v. Lambert*, 81 F.3d 127, 129–30 (11th Cir. 1996); *Tittle v. Aldacosta*, 544

F.2d 752, 755–56 (5th Cir. 1977). “The Supreme Court has declared the terms of the Limitation Act should be construed broadly so as to promote the Act’s purposes of encouraging and inducing investment in shipping.” *Complaint of Lady Jane, Inc.*, 818 F. Supp. 1470, 1474 (M.D. Fla. 1992) (citing *Flink v. Paladini*, 279 U.S. 59, 62–63 (1929); other citations omitted). A stockholder of a corporation that holds title to a vessel is an “owner” entitled to invoke the protection of the Limitation Act. *Id.* As a stockholder of God’s Blessing Ltd., West is entitled to petition for relief under the Act. *See id.*

The Act, at 46 U.S.C. sections 30505 and 30511, establishes the owner’s remedy. Section 30505 provides

(a) **In general.** Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner’s proportionate interest in the vessel and pending freight.

(b) **Claims subject to limitation.** Unless otherwise excluded by law, claims, debts, and liabilities subject to limitation under subsection (a) are those arising from any embezzlement, loss, or destruction of any property, goods, or merchandise shipped or put on board the vessel, any loss, damage or injury by collision, or any act, matter, or thing, loss, damage, or forfeiture, done occasioned, or incurred, without the privity or knowledge of the owner.

*Id.* § 30505(a), (b). And section 30511 states

(a) **In general.** Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner’s proportionate interest in the vessel and pending freight.

*Id.* § 30511(a).

On March 12, 2020, Petitioners filed a Verified Complaint for Exoneration from or Limitation of Liability [ECF No. 1] (“Verified Complaint”), asking the Court to either exonerate them of all liability regarding Salas’s alleged claims or, alternatively, limit their liability to the

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value of the Vessel. (*See generally id.*). On the same day, Petitioners filed an Ad Interim Stipulation of Value and Stipulation for Costs [ECF No. 3], Affidavit of Value [ECF No. 4], and Motion to Approve Ad Interim Stipulation of Value and Costs, Directing Issuance of Monition and Injunction [ECF No. 5]. Petitioners timely filed the Verified Complaint because it was filed within six months of Salas's September 27, 2019 written notice of claim. *See* 46 U.S.C. § 30511(a); *P.G. Charter Boats, Inc. v. Soles*, 437 F. 3d 1140, 1142 (11th Cir. 2006); *Paradise Divers, Inc. v. Upmal*, 402 F. 3d 1087, 1090 (11th Cir. 2005).

On March 13, 2020, the Court entered an Order [ECF No. 6] approving Petitioners' Ad Interim Stipulation of Value and Costs and issued a Monition and Injunction requiring all of Salas's claims concerning the accident to be filed in this suit. On August 14, 2020, Salas filed an Amended Claim [ECF No. 41] against Petitioners, alleging seven causes of action: Jones Act negligence claim against God's Blessing Ltd. (Count I); Jones Act negligence claim against Roger West (Count II); unseaworthiness claim against God's Blessing Ltd. (Count III); unseaworthiness claim against Roger West (Count IV); failure to provide maintenance and cure claim against both Petitioners (Count V); failure to treat claim against God's Blessing Ltd. (Count VI); and failure to treat claim against Roger West (Count VII). (*See* Am. Claim ¶¶ 34–118).

On August 31, 2020, Salas filed an Unopposed Motion to Stay These Proceedings and Lift the Injunction to Allow Her to Proceed in State Court with Amended Protective Stipulations [ECF No. 47]. On August 31, 2020, the Court entered an Order [ECF No. 48] finding that Salas's amended protective stipulations were consistent with the requirements of *Beiswenger Ent. Corp. v. Carletta*, 86 F.3d 1032, 1036 (11th Cir. 1996). (*See id.* 1). The Court thus lifted the injunction imposed by the March 13, 2020 Order and allowed Salas to proceed against Petitioners in a state court personal injury action with a right to trial by jury. (*See generally* Aug. 31, 2020 Order). The

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Court stayed this action pending the state court's adjudication of Salas's tort claims and reserved exclusive jurisdiction to determine the limitation of liability issues. (*See id.*).

On November 24, 2020, Salas initiated state court proceedings in *Salas v. God's Blessing Ltd.*, No. 2020-025304 (Fla. 11th Cir. Ct. 2023), and filed a Complaint against God's Blessing Ltd., Roger West, and James "Larry" Larman. (*See* SOF ¶ 21; *id.*, Ex. 2, State Ct. Compl. [ECF No. 74-2]). Salas's State Court Complaint alleges eight causes of action: Jones Act negligence claim against God's Blessing Ltd. (Count I); Jones Act negligence claim against Roger West (Count II); unseaworthiness claim against God's Blessing Ltd. (Count III); unseaworthiness claim against Roger West (Count IV); failure to provide maintenance and cure against God's Blessing Ltd. and Roger West (Count V); failure to treat claim against God's Blessing Ltd. (Count VI); failure to treat claim against Roger West (Count VII); and general maritime negligence claim against James Larry Larman, the master of the Vessel (Count VIII). (*See* State Ct. Compl. ¶¶ 36–130).

Salas's Amended Claim and State Court Complaint allege the same causes of action against God's Blessing Ltd. and Roger West. (*Compare* Am. Claim ¶¶ 34–118 *with* State Court Compl. ¶¶ 36–120). Indeed, Salas breached the amended protective stipulations regarding the District Court's exclusive right to determine the limitation of liability issues because she demanded the state court deny the Petitioners' right to limitation of liability. (*Compare* State Ct. Compl. ¶¶ 20, 22, 23, 50, 67, 79, 90, 100, 110 *with* Aug. 31, 2020 Unopposed Mot. 2–3; *see also* Aug. 31, 2020 Order ¶ 1).<sup>2</sup>

On January 12, 2023, the state court dismissed Salas's case with prejudice. (*See generally*

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<sup>2</sup> Petitioners reported Salas's violation of the Amended Protective Stipulations in the March 1, 2021 Status Report [ECF No. 51]. (*See id.* ¶¶ 2, 3). But since the state court dismissed Salas's case with prejudice (*see generally* SOF, Ex. 3, Order of Dismissal [ECF No. 74-3]), and Petitioners are entitled to exoneration from all liability, the limitation of liability issue is moot.

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Order of Dismissal). If Salas wanted to appeal that Order of Dismissal, she was required to file a notice of appeal by no later than February 13, 2023. *See Fla. App. R. Proc. 9.110(b)*. Salas did not do so. (*See* SOF ¶ 26; *see generally id.*, Ex. 4, State Ct. Docket [74-4]). Since Salas failed to timely appeal the Order of Dismissal, that dismissal with prejudice extinguished all her claims and causes of action on the merits. (*See* Order of Dismissal 2). And the Order of Dismissal with prejudice serves as *res judicata* regarding Salas’s Amended Claim in this case.

When federal courts are asked to give *res judicata* effect to a state court judgment, the federal court “must apply the *res judicata* principles of the law of the state whose decision is set up as a bar to further litigation.” *Wakefield v. Cordis Corp.*, No. 07-20570-Civ, 2007 WL 9709723, at \*6 (S.D. Fla. Aug. 28, 2007), *aff’d*, 304 F. App’x 804 (11th Cir. 2008) (quoting *Kizzire v. Baptist Health System, Inc.*, 441 F.3d 1306, 1308 (11th Cir. 2006)); *see also Amey, Inc. v. Gulf Abstract & Title, Inc.*, 758 F.2d 1486, 1509 (11th Cir. 1985). In Florida, “[t]he general principle behind the doctrine of *res judicata* is that a final judgment by a court of competent jurisdiction is absolute and puts to rest every justiciable, as well as actually litigated, issue.” *Gomez-Ortega v. Dorten, Inc.*, 670 So. 2d 1107, 1108 (Fla. 3d DCA 1996) (alteration added; quoting *Albrecht v. State*, 444 So. 2d 8, 11–12 (Fla. 1984)). This principle is applied “when the elements of *res judicata* are present[.]” *Id.* (alteration added; citation omitted). “When the second suit is upon the same cause of action and between the same parties as the first, *res judicata* applies.” *Id.* (citation omitted). In other words, the first judgment is conclusive as to all matters which were or could have been determined. *See id.* (citation omitted).

“In order for a matter to be subsequently barred by the doctrine of *res judicata*, several conditions must be present: ‘identity of the things sued for; identity of the cause of action; identity of the parties; [and] identity of the quality in the person for or against whom the claim is made.’”

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*Wakefield*, 2007 WL 9709723, at \*7 (alteration added; quoting *Gomez-Ortega*, 670 So. 2d at 1108). Salas's Amended Claim and State Court Complaint allege the exact same causes of action against God's Blessing Ltd and Roger West and are based on the same set of operative facts. (*See generally* Am. Claim; State Ct. Compl.). Therefore, the Order of Dismissal with prejudice serves as *res judicata* and bars Salas's Amended Claim here. *See Wakefield*, 2007 WL 9709723, at \*7.


Since the Order of Dismissal with prejudice is on the merits and extinguished all of Salas's causes of action, the Court must exonerate God's Blessing Ltd. and Roger West of all liability and responsibility concerning Salas's claims and dismiss her Amended Claim with prejudice. *See American Dredging Co.*, 81 F.3d at 129–30; *Tittle*, 544 F.2d at 755–56.

Based on the foregoing, the Court hereby **ORDERS AND ADJUDGES:**

1. Petitioners' Motion for Summary Judgment [ECF No. 73] is **GRANTED**.
2. Petitioners are not liable to any extent for the accident or events described in the parties' pleadings in this action or any other potential claim arising from or relating to the accident.
3. God's Blessing Ltd. and Roger West are exonerated from all liability, responsibility, loss, damage, or injury for any claim whatsoever in any way arising from the accident and events described in the parties' pleadings in this action.
4. Salas's Amended Claim [ECF No. 41] is **DISMISSED with prejudice**.
5. Petitioners' Ad Interim Stipulation of Value and Stipulation for Costs [ECF No. 3] is **EXTINGUISHED** and of no further legal effect.
6. The Court will issue final judgment in favor of Petitioners, God's Blessing Ltd. and Roger West, by separate order.

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**DONE AND ORDERED** in Miami, Florida, this 3rd day of March, 2023.

  
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**CECILIA M. ALTONAGA**  
**CHIEF UNITED STATES DISTRICT JUDGE**

cc: counsel of record