

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

ALL UNDERWRITERS SUBSCRIBING
TO POLICY NO. PK-15-208, as subrogees
of and on behalf of Ocean Constructor
Holdings, LLC, and OCEAN SERVICES, LLC,

Plaintiffs,

v.

CASE NO. 8:18-cv-891-T-26TGW

TRANS MARINE PROPULSION SYSTEMS, INC.,

Defendant.

ORDER

UPON DUE AND CAREFUL CONSIDERATION of the well-pleaded factual allegations of Plaintiffs' complaint, which this Court must accept as true at this early juncture of the proceedings, and construing those allegations and the reasonable inferences from those allegations in the light most favorable to Plaintiffs,¹ the Court denies Defendant's Rule 12(b)(6) Motion to Dismiss Plaintiffs' Complaint (Dkt. 9).² After drawing upon this Court's judicial experience and common sense,³ the Court is satisfied that those factual allegations are more than sufficient to survive Defendant's

¹ See Bishop v. Ross Earle & Bonan, P.A., 817 F.3d 1268, 1270 (11th Cir. 2016).

² In light of this disposition of the motion, the Court needs no response from Plaintiffs.

³ See Resnick v. AvMed, Inc., 693 F.3d 1317, 1324 (11th Cir. 2012).

attempt to dismiss the complaint in that those allegations state claims for relief under theories of negligence and breach of the implied warranty of workmanlike performance that are plausible on their face against Defendant.⁴ Consequently, the Court is satisfied that Plaintiffs' factual allegations are more than sufficient to allow the Court to draw the reasonable inference that Defendant is liable to Plaintiffs for the tortious misconduct alleged in both counts of the complaint. Defendant shall file its answer and defenses within fourteen (14) days of this order.

DONE AND ORDERED at Tampa, Florida, on May 17, 2018.

s/Richard A. Lazzara
RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

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Counsel of Record

⁴ See Bishop, 817 F.3d at 1270.