

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN ADMIRALTY

KRAKEN CYCLE BOATS, LLC,

Plaintiff,

v.

CASE NO. 8:18-cv-1702-T-33SPF

DIANE MOLETTTO,

Defendant.

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ORDER

This Cause is before the Court on Plaintiff Kraken Cycle Boats, LLC's Motion for Default Judgment Against Non Filing Claimants (Doc. # 29), which was filed on October 10, 2018. As explained below, the Court grants the Motion.

Discussion

On July 16, 2017, Diane Moletto was injured when she fell while boarding Plaintiff's 32-foot Kraken Cycle Boats in Tampa, Florida. (Doc. # 1 at ¶ 24). Prior to the planned excursion, Moletto signed a release. "Kraken Cycle Boats believes that the Release bars any claims by Moletto against it, the company's owners, captains, employees and agents, and against the Vessel, for the bodily injuries claimed by Moletto, but is uncertain about its rights and obligations." (Id. at ¶ 27). Therefore, on July 13, 2018, Kraken Cycle filed

a two-count Complaint against Moletto for declaratory judgment and for exoneration from or limitation of liability. On July 30, 2018, the Court entered a Monition which, *inter alia*, directed potential claimants to appear and respond to the action by September 28, 2018. (Doc. # 7).

Kraken Cycle filed a Proof of Publication indicating that the Notice of Monition was published in The Tampa Bay Times on August 1, 2018; August 14, 2018; August 18, 2018; and August 25, 2018. (Doc. # 20). The Publication further indicated that the failure to timely file a claim and/or answer by September 28, 2018, could result in the waiver of the right to file a claim and/or answer. (Id.).

Claimant Moletto filed an answer, affirmative defenses, and claim. (Doc. # 11, 12). No other potential claimants have filed answers or claims, or otherwise appeared in this action. On October 8, 2018, Kraken Cycle filed a Motion for Entry of Clerk's Default as to non-filing claimants. (Doc. # 26). The Clerk entered a default against the non-filing claimants pursuant to Rule 55(a) of the Federal Rules of Civil Procedure on October 9, 2018. (Doc. # 27). At this juncture, Kraken Cycle requests that the Court enter a default judgment against all persons and entities who have failed to file

claims or answers by the Motion deadline of September 28, 2018.

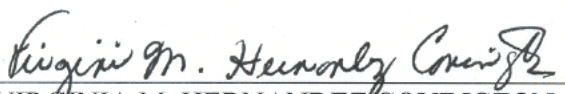
Because Kraken Cycle has complied with the applicable provisions of Supplemental Rule F and Chapter Seven of the Local Admiralty Rules, and only Moletto has timely filed a claim, Kraken Cycle's Motion For Default Against Non-Filing Claimants (Doc. # 29) is **GRANTED**.

Accordingly it is

ORDERED, ADJUDGED, and DECREED that

- (1) Kraken Cycle Boats, LLC's Motion for Default Judgment Against Non Filing Claimants (Doc. # 29) is **GRANTED**.
- (2) A Default Judgment is entered against all persons and entities that have not filed a claim in this action.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 12th day of October, 2018.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE