

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DEREK ELVERD and M.A. ELVERD, LLC,

Plaintiffs,

v.

Case No. 2:22-cv-31-SPC-NPM
IN ADMIRALTY

JOSEPH CHAPMAN,

Defendant/Claimant.

REPORT AND RECOMMENDATION

This action concerns an incident that occurred on or about July 9, 2021, in waters near Bonita Springs, Florida. In January 2022, Plaintiffs Derek Elverd and M.A. Elverd, LLC filed a complaint for exoneration from or limitation of liability. Thereafter, the court approved the interim security and directed notice to all potential claimants. And on pain of default, the court directed all potential claimants to file their claims or answers by May 27, 2022. (Doc. 9).

The deadline for receipt of claims and answers expired and only Joseph Chapman answers. (Doc. 16). Consequently, non-appearing potential claimants have been declared in default. (Doc. 22). And by defaulting for failing to answer, all non-appearing claimants admit that plaintiffs are entitled to exoneration. Fed. R. Civ. P. 8(b)(6) (“An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied.”).

Plaintiffs have complied with the Civil Rules, the Supplemental Rules, and the court's Admiralty and Maritime Practice Manual. Accordingly, their motion for default judgment (Doc. 32) should be granted and the clerk should be directed to enter a default judgment of exoneration in favor of plaintiffs against all non-appearing claimants.

Respectfully recommended on January 18, 2023.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections "waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions." *See* 11th Cir. R. 3-1. **To expedite resolution, parties may file a joint notice waiving the 14-day objection period.**