

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

**FREEDOM MARINE SALES, LLC and FREEDOM
BOAT CLUB, LLC,**

Petitioners,

v.

Case No. 2:22-cv-332-SPC-NPM
IN ADMIRALTY

**JOHN NITTOLO and UNKNOWN
POTENTIAL CLAIMANTS,**

Defendants/Claimants

REPORT AND RECOMMENDATION

Before the court is a motion for entry of default judgment against all unknown potential claimants. (Doc. 24). No response to the motion has been filed, and the time to respond has lapsed.

This action concerns an incident occurring on or about October 26, 2021, on the navigable waters of the United States near Naples, Florida. On May 26, 2022, plaintiffs Freedom Marine Sales, LLC and Freedom Boat Club, LLC (collectively “plaintiffs”) filed a complaint for exoneration from or limitation of liability pursuant to the Shipowner’s Limitation of Liability Act, 46 U.S.C. § 30501 *et seq*, and Supplemental Admiralty Rule F. Thereafter, the court provided notice of this action to potential claimants. (Doc. 8). And on pain of default, the court directed all potential claimants to file their claims or answers by August 12, 2022. (*Id.*) Pursuant

to 46 U.S.C. § 30511(c) and Supplemental Admiralty Rule F(3), all other proceedings against plaintiffs related to this matter were automatically stayed.

The August 12, 2022, deadline for receipt of claims and answers has expired, and, other than claimant John Nittolo, no individual or entity filed any claims or pleadings in this matter. Consequently, all potential claimants having an interest in this matter, except John Nittolo, have been declared in default. (Doc. 23). And by defaulting for failing to answer, all potential claimants except John Nittolo 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 Federal Rules of Civil Procedure, the Supplement Rules for Certain Admiralty and Maritime Claims, and the court’s Admiralty and Maritime Practice Manual. Accordingly, their motion for entry of default (Doc. 24) should be granted, and the clerk should be directed to enter a default judgment of exoneration in favor of plaintiffs against all potential claimants, except John Nittolo.

Respectfully recommended on October 21, 2022.



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.**