

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ESTERO ISLAND PARASAIL,
INC., as Owner of a 2009 Nautica
Rib 18' 8" bearing Hull
Identification No. PTJ9633E909 its
Engines, Tackle, Appurtenances,
Equipment, and ETC., in a cause of
Exoneration from or Limitation of
Liability,

Petitioner.

Case No.: 2:23-cv-1090-JLB-KCD

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ORDER

Before the Court is Petitioner's Motion for Entry of Order Approving Amended Ad Interim Stipulation and Directing Issuance of Monition and Injunction (Doc. 11) and Amended Ad Interim Stipulation (Doc. 10).

Petitioner is the owner of a 2009 Nautical Rib (the "Vessel"), that was involved in a maritime accident on May 21, 2022, in the navigable waters near Estero Island, Florida. (Doc. 8.) According to the pleadings, passenger Carol Bardon was injured during the trip. (*Id.*) Bardon has filed a negligence action in state court concerning the incident. (*Id.*)

Petitioner now asks that the Court to approve the ad interim stipulation of \$30,000, supported by a post-incident appraisal. (Doc. 11 at 6-18.) Further, and in accordance with Supplemental Rule F(1), Petitioners filed an Amended

Ad Interim Stipulation of Value not less than or equal to the amount or value of their interest in the vessel and pending freight, if any. (Doc. 10.).

In addition, Petitioner filed a Letter of Undertaking (“LOU”) signed by a representative of XL Insurance America, Inc., as security for any claims stemming from the incident. (Doc. 9.) In its LOU, the insurance company states that it will guarantee payment of any potential obligations in this action up to \$30,000, together with costs and interest at six percent. (*Id.* at 4.) Based on these representations, Petitioner now requests that the Court (1) approve the security; (2) issue a monition and notice to all potential claimants; and (3) impose an injunction under Supplemental Rule F precluding the further prosecution of any proceedings against the Petitioner arising from any claims subject to limitation. (Doc. 11.)

Upon consideration, the Motion (Doc. 11) is sufficiently supported and is **GRANTED**. Accordingly, it is hereby **ORDERED**:

1. The Petitioner’s Motion for Entry of Order Approving Amended Ad Interim Stipulation and Directing Issuance of Monition and Injunction (Doc. 11) is **GRANTED**.
2. The Amended Ad Interim Stipulation for the value of the Vessel, in the amount of \$30,000, together with costs within the meaning of Supplemental Rule F(1), and with annual interest at six percent, filed by the Petitioner as principal and T.H.E. American Insurance

Company as surety, is accepted as adequate security and is approved as to form and quantum. (*See* Doc. 9.)

3. This Court, upon motion, shall cause due appraisalment of such value and may thereupon order the said security increased or reduced to carry out the provisions of 46 U.S.C. § 30501, *et seq.* for death, personal injuries, property damage, or any other claims resulting from the incident that occurred on May 21, 2022, referred to in the Petition.
4. If the amount of the Amended Ad Interim Stipulation is not disputed by any claimant, the Amended Ad Interim Stipulation shall stand as a stipulation for value and an appraisal shall not be required.
5. The Monition (Doc. 15) will enter separately.
6. The commencement or further prosecution of any action or proceeding against the Petitioner, the Vessel, or other property of the Petitioner with respect to any claims for which the Petitioner seeks exoneration from or limitation of liability herein, including any claim arising out of or incident to or connected with any loss, damage, injury, death, or destruction, more fully described in the amended complaint, be and the same is hereby restrained, stayed, and enjoined until the hearing and determination of this action.

7. By **February 26, 2024**, all persons or entities claiming damage for any and all loss, destruction, damage, injuries, and/or death allegedly as a result of the occurrences and happenings recited in the complaint must file their respective claims with the clerk of this court and serve on or mail to plaintiffs' counsel copies thereof. By the same date, all persons or entities presenting claims and desiring to contest the allegations of the complaint must file an answer to the complaint in this court and must serve on or mail to plaintiffs' counsel copies thereof or be defaulted. The **Clerk** is **DIRECTED** to issue the attached notice of petition.
8. Publication of the aforesaid notice in the form required by Supplemental Rule F(4) be published in a newspaper of general circulation in the Lee County area once a week for four (4) successive weeks prior to the date fixed for the filing of claims, and copies of the notice shall also be mailed in accordance with Supplemental Rule F.
9. Service of this Order as a restraining order may be made through the Post Office by mailing a confirmed copy thereof to the person or persons to be restrained, or to their respective attorneys, or alternatively, by hand delivery.

ORDERED in Fort Myers, Florida this January 12, 2024.



Kyle C. Dudek
United States Magistrate Judge

Copies: All Parties of Record