

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

MARC E. OLIVER, d/b/a GULF COAST ENVIRONMENTAL AND RECOVERY, And T.M. JEMISON CONSTRUCTION CO. INC. d/b/a JEMISON MARINE, INC., Plaintiffs,
MIDSOUTH BANK, N.A., Plaintiff/Counter-Defendant
vs.
M/V BARBARY COAST, her engines, tackle, furniture, and appurtenances, etc., In Rem, and RODD CAIRNS, an individual, and ATCHAFALYA MARINE, LLC, In personam, Defendants/Counter-Plaintiffs/ Third-Party Plaintiffs,
vs.
EAGLE RIVER TOWING, L.L.C., p/k/a/or a/k/a EAGLE INLAND TOWING, NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, LOUISIANA LIMESTONE & LOGISTICS, L.L.C., and CURTIS BUFORD, Third-Party Defendants.

CA 11-0223-KD-C
IN ADMIRALTY
In Personam and In Rem

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a de novo determination of those portions of the recommendation to which objection is made, the Court finds as follows:

1) That portion of the Report and Recommendation (Doc. 96) of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated August 26, 2011, recommending that Defendant Rodd Cairns' motion to dismiss (Doc. 48) be DENIED AS MOOT, is hereby ADOPTED as the opinion of this Court.

2) Concerning the Plaintiffs Mark Oliver and T.M. Jemison Construction Co.'s motion to strike/dismiss Midsouth's answer and counterclaim (Doc. 47), the Court notes that embedded in Midsouth's Objection (Doc. 103) to the Report and Recommendation (Doc. 96), is a motion for leave of Court to file its answer out of time.

Accordingly, it is **ORDERED** that any Response to Midsouth's motion for leave of Court to file its answer out of time (Doc. 103) shall be filed on or before **September 14, 2011**.

DONE and ORDERED this the **6th** day of **September 2011**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE