

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, : CA 11-0223-KD-C

MIDSOUTH BANK, N.A., :  
Plaintiff/Counter-Defendant : IN ADMIRALTY  
In Personam and In Rem

vs. :

M/V BARBARY COAST, her engines, :  
tackle, furniture, and appurtenances, etc., :  
In Rem, and RODD CAIRNS, an :  
individual, and ATCHAFALAYA 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. :

ORDER

This matter is before the Court on a “Motion to Dismiss Claims With Prejudice” filed by Intervenor Plaintiff Midsouth Bank, N.A., with the consent of all parties. (Doc. 236).

As grounds, Midsouth states that it has resolved all of its claims and/or counterclaims against Plaintiff Marc E. Oliver individually and/or d/b/a Gulf Coast Environmental and Recovery, LLC, such that dismissal with prejudice of same is proper with each party to bear its

own costs and attorneys' fees. (Id.) In so doing, Midsouth asserts that the dismissal shall have no effect upon, and Midsouth expressly reserves, its U.S. Preferred Ship Mortgage lien claim against the proceeds from the sale of the M/V BARBARY COAST currently held in the registry of this Court. (Id.)

The motion is construed as Rule 41(a)(2) voluntary motions to dismiss "at the plaintiff's request only by court order, on terms that the court considers proper[]," given that the motion are not signed by all parties to this case, is not joint stipulations, and the opposing parties have already served answers.

Upon consideration, it is **ORDERED** that Midsouth Bank, N.A.'s "Motion to Dismiss Claims With Prejudice" (Doc. 236) is **GRANTED** such that Midsouth Bank's claims and/or counterclaims against Plaintiff Marc E. Oliver individually and d/b/a Gulf Coast Environmental and Recovery, LLC, are hereby **DISMISSED with prejudice**.

**DONE and ORDERED** this the 21<sup>st</sup> day of **June 2012**.

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