

**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)
LLC, et al.,)**

Plaintiffs,

v.

**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.

CIVIL ACTION 11-00223-KD-C

In Personam and In Rem

ORDER

This matter is before the Court on the Motion for Leave to Amend the Third-Party Complaint (and supporting exhibits) filed by Defendants/Third-Party Plaintiffs Atchafalaya Marine, LLC and Rodd Cairns. (Docs. 39, 41, 42). Any party opposing this motion was provided the opportunity to file a response by July 26, 2011. (Doc. 46). To date, no such responses have been filed. Additionally, while Intervenor Plaintiff Midsouth Bank, N.A. filed a motion for leave of Court to file a reply¹ (related to what was, at the time, Defendants/Third-Party Plaintiffs Atchafalaya Marine, LLC and Rodd Cairns' proposed amended third party complaint (Doc. 40)), and this motion was granted on July 12, 2011 (Doc. 45), Midsouth did not actually file the reply. Thus, Midsouth's reply is not presently before this Court. Accordingly, it

is **ORDERED** the Motion for Leave to Amend the Third-Party Complaint filed by Defendants/Third-Party Plaintiffs Atchafalaya Marine, LLC and Rodd Cairns (Doc. 39) is unopposed, and thus, is **GRANTED**.

In light of the foregoing, it is further **ORDERED** that Intervenor Plaintiff Midsouth Bank, N.A.'s motion to strike the jury demand (Doc. 29) in the Third-Party Complaint filed by Defendants/Third-Party Plaintiffs Atchafalaya Marine, LLC and Rodd Cairns (Doc. 35), is now **MOOT**. Upon the filing of the Amended Third Party Complaint by Defendants/Third-Party Plaintiffs Atchafalaya Marine, LLC and Rodd Cairns, and Intervenor Plaintiff Midsouth Bank, N.A.'s receipt of service of same, Midsouth nevertheless has the opportunity to file a responsive pleading pursuant to the Federal Rules of Civil Procedure.

DONE and **ORDERED** this the 28th day of **July 2011**.

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

¹ Midsouth attached a Proposed Reply to this motion for the Court's review.