

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ESCO MARINE INC.,

Plaintiff,

No. CIV S-11-1353 KJM-GGH

vs.

SS PACIFIC STAR; et al.,

Defendants.

ORDER

AND COUNTERCLAIMS.

This matter was referred to a United States Magistrate Judge in accordance with Local Rule 302(c)(3).

On October 11, 2011, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to parties that any objections to the findings and recommendations were to be filed within five days<sup>1</sup> after service of the findings and

<sup>1</sup> The unique procedural posture of this case must be addressed. The typical practice in this court is to allow fourteen days to respond to a magistrate judge’s findings and recommendations. See E.D. LOCAL RULE 304(b). However, “[t]he court may require a response within a shorter period if exigencies of the calendar require.” *United States v. Barney*, 568 F.2d 134, 136 (9th Cir. 1978). Here, not only did defendants fail to file objections, but they also failed to file oppositions to the motion the findings and recommendations address; moreover, were the court to allow a longer objection period, plaintiff would be irrevocably prejudiced.

1 recommendations. The five-day period has expired, and defendants have not filed objections to  
2 the findings and recommendations.

3 Accordingly, the court presumes that any findings of fact are correct. *See Orand*  
4 *v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law  
5 are reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir.  
6 1983). Having carefully reviewed the file, the court finds the findings and recommendations to  
7 be supported by the record and by the proper analysis.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The findings and recommendations filed October 11, 2011 (ECF 163) are  
10 adopted in full;

11 2. Plaintiff's motion for default judgment and interlocutory sale of vessel,  
12 construed as a motion for interlocutory sale of vessel only, filed on September 16, 2011 (ECF  
13 148), is GRANTED; and

14 3. The proposed order filed by plaintiff on October 7, 2011 (ECF 162) is  
15 approved as to form and substance, except that the date of the sale is rescheduled to November 7,  
16 2011.<sup>2</sup>

17 IT IS SO ORDERED.

18 DATED: October 21, 2011.

19  
20   
21 \_\_\_\_\_  
22 UNITED STATES DISTRICT JUDGE  
23  
24

25 <sup>2</sup> On October 18, 2011, plaintiff filed a request for amendment of the findings and  
26 recommendations, changing the date of sale from October 28, 2011 to November 7, 2011. (ECF  
164.)