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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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8 In the Matter of the Complaint of GLENN  
9 FAGERLIN,

No. C 08-5225 SI

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11 **ORDER ADOPTING REPORT AND  
12 RECOMMENDATION**

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14 Plaintiff Glenn Fagerlin filed this action pursuant to the Limitation of Liability Act, 46 U.S.C.  
15 § 30501 *et seq.*, which “permits a vessel owner to limit its liability to the value of the vessel and its then  
16 pending freight, provided that the loss or damage is incurred without the ‘privity or knowledge’ of the  
17 owner.” *In Re Estate of Charles A. Muer*, 146 F.3d 410, 414 (6th Cir. 1998) (quoting 46 U.S.C.  
18 § 30505(b)). Plaintiff seeks to limit his liability arising out of a June 8, 2008 collision between his  
19 vessel, the “Perception,” and another vessel, the “Touch of Gray.”

20 On November 19, 2008, plaintiff filed an *ex parte* application seeking an order enjoining the  
21 prosecution of any and all other claims, except in this Court, and an order directing the issuance of  
22 notice to potential claimants. Magistrate Judge Chen held a hearing on the application, and on January  
23 23, 2009, issued a Report and Recommendation recommending that this Court grant plaintiff’s *ex parte*  
24 application, subject to certain modifications. Judge Chen’s Report and Recommendation stated that any  
25 party may file an objection within 10 days after being served with a copy. No objections were filed.

26 The action was then reassigned to this Court, and the Court has reviewed the Report and  
27 Recommendation. The Court hereby GRANTS the *ex parte* application (with the relief as modified by  
28 the Report and Recommendation), and ADOPTS the Report and Recommendation. (Docket Nos. 2, 11).

The Court ORDERS as follows:


- (1) No later than **February 17, 2009**, plaintiff shall provide an additional \$300 as security

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- for costs, and shall file a declaration in this Court regarding evidence of the security;
- (2) Upon the filing of the additional security, this Court will issue a stay and injunction barring prosecution of any action or proceeding against plaintiff or his property “with respect to any claim subject to limitation in the action.”
- (3) Plaintiff will provide notice as directed in paragraphs (3) through (5) of the Report and Recommendation. The date for filing claims shall be **May 29, 2009**.

**IT IS SO ORDERED.**

Dated: February 13, 2009

  
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SUSAN ILLSTON  
United States District Judge