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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CATERPILLAR FINANCIAL SERVICES CORPORATION,

Plaintiff,

v.

CHARTER CONNECTION CORPORATION, *in Personam*, PETE TERREBONNE, *in Personam*, PAMELA TERREBONNE, *in Personam*, and BELLE AMIE, O.N. 1170780, its Engines, Machinery, Appurtenances, etc., *in Rem*,

Defendants.

Civil No. 07cv767-L(NLS)

ORDER DENYING EX PARTE MOTION FOR ORDER APPOINTING SUBSTITUTE CUSTODIAN

On April 26, 2007 Plaintiff filed an Ex Parte Motion for Order Appointing Substitute Custodian and Order Authorizing Movement and Inspection of Defendant Vessel. The motion is denied for several reasons.


First, the Certification of Robert McKee is made on information and belief only. Since the certification pertains to Mr. McKee's qualifications, services, insurance and similar matters, as well as the price for his services, there appears to be no reason why the certification should not be made based on first hand knowledge. Furthermore, it is unclear whether moorage is included in, or additional to, the price for Mr. McKee's services. Last, the findings stated in the proposed order, which Plaintiff proposes the court make, specifically with respect to the substitute custodian insurance and the price of substitute custodian's services relative to the cost

1 of the United States Marshal for the same services differ from, or are not supported by, the
2 motion or the accompanying certification.

3 Accordingly, Plaintiff's Ex Parte Motion for Order Appointing Substitute Custodian and
4 Order Authorizing Movement and Inspection of Defendant Vessel is **DENIED WITHOUT**
5 **PREJUDICE** to refiling it with the requisite support.

6 **IT IS SO ORDERED.**

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8 DATED: May 3, 2007

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10 
M. James Lorenz
United States District Court Judge

11 COPY TO:

12 HON. NITA L. STORMES
13 UNITED STATES MAGISTRATE JUDGE

14 ALL PARTIES/COUNSEL
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