

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

LESLIE A. FATTORUSSO; GERALD N.
HARRINGTON,

Plaintiffs,

-vs-

Case No. 2:10-cv-201-FtM-36SPC

THE M/V WANDERER II, (official number
1052543), its engines, tackle, apparel, etc. , in rem
and BLAYNE HASS, in personam,

Defendants.

ORDER

This matter comes before the Court on the Plaintiffs Leslie A. Fattorusso and Gerald N. Harrington's Motion for Clerk's Default against the M/V Wanderer II (Doc. #85) filed on September 27, 2011. Under Fed. R. Civ. P. 55(a), default is justified "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise appear by affidavit or otherwise, the clerk shall enter the party's default."

On August 31, 2011, the Plaintiffs effectuated service (Doc. # 80) upon the M/V Wanderer II, Official Number 1052543. To date the vessel has failed to respond, file a pleading, or otherwise defend as provided for in the Federal Rules of Civil Procedure. Pursuant to Local Rule of Admiralty, a claim of owner must be filed by anyone claiming ownership of an arrested vessel within fourteen (14) days of the vessel's arrest. Supplemental Rule (C)(6)(a)(ii). Furthermore, anyone making a claim against the vessel would have to file an answer within twenty-one (21) days of the vessel's

arrest. M.D. Fla. Local Admiralty Rule 7.03(f). In this instance, no one has made a claim nor filed an answer against the M/V Wanderer II.

Additionally, the Plaintiffs met the requirements of M.D. Fla. Local Rule of Admiralty 7.03(h), which requires the Plaintiff provide notice of the claim against the M/V Wanderer II by publication in a local newspaper and delivery by certified mail to every known person or alleged owner of the vessel who might have a claim. No one responded to the Plaintiffs' claim against the M/V Wanderer II. Therefore good cause exists to grant the Motion for Clerk's Default.

Accordingly, it is now

ORDERED:

The Plaintiffs Leslie A. Fattorusso and Gerald N. Harrington's Motion for Clerk's Default against the M/V Wanderer II (Doc. #85) is **GRANTED**. The Clerk of the Court is hereby directed to enter a Clerk's default against the M/V Wanderer II, Official Number 1052543.

DONE AND ORDERED at Fort Myers, Florida, this 28th day of September, 2011.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record