

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

MARCIA TURNER,

Plaintiff,

vs.

NEPTUNE TOWING & RECOVERY, INC.,

Defendant.

\_\_\_\_\_ /

*Consolidated with*

Consolidated Case No. 8:09-CV-1071-T-27AEP

NEPTUNE TOWING & RECOVERY, INC.,

Plaintiff,

vs.

DRUMBEAT II, et al.,

Defendants.

\_\_\_\_\_ /


**ORDER**

**BEFORE THE COURT** is the Magistrate Judge’s Report and Recommendation (Dkt. 109) recommending that Neptune’s motion to dismiss and/or, in the alternative, for summary judgment as to Turner’s amended complaint (Dkt. 67) be denied. Neither party filed timely objections to the Report and Recommendation. After careful consideration of the Report and Recommendation in conjunction with an independent examination of the file, the Report and Recommendation (Dkt. 109) is adopted, confirmed, and approved in all respects and is made part of this order for all purposes, including appellate review.

Accordingly, Neptune’s motion to dismiss and/or, in the alternative, for summary judgment as to Turner’s amended complaint (Dkt. 67) is **DENIED**. Neptune shall answer the amended

complaint within 14 days.

**DONE AND ORDERED** this 8<sup>th</sup> day of June, 2010.

  
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**JAMES D. WHITTEMORE**  
**United States District Judge**

Copies to:  
Counsel of Record  
Unrepresented parties