

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-60449-CIV-ZLOCH

CAPTAIN GEORGE CUSTER,

Plaintiff,

O R D E R

vs.

M/V "SEA BIRD", her engines,
tackle, apparel, and other
appurtenances, in rem, and
SALSABOAT LTD., in personam,Defendants.

THIS MATTER is before the Court upon Plaintiff's Motion For Relief From Final Order Of Dismissal (DE 42). The Court has carefully reviewed said Motion and the entire court file and is otherwise fully advised in the premises.

By prior Order (DE 41) the Court dismissed the above-styled cause for failure of the Parties to file a Pre-trial Stipulation or Unilateral Pre-trial Catalog by noon on October 10, 2008. The Court noted that

[n]o request or Motion For Continuance of the Pre-Trial Conference has been filed, no request or Motion For Extension Of Time Within Which To File Pre-Trial Stipulation has been filed, and no Unilateral Pre-Trial Catalog has been filed by the Plaintiff by noon on October 10, 2008, as required by this Court's Order For Pre-Trial Conference (DE 20).

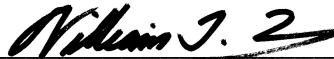
DE 41, p. 1. In the instant Motion, Plaintiff failed to state whether he conferred with Defendant prior to it being filed, and Defendant alleged in its Response (DE 43) that Plaintiff failed to

confer. Also, the Motion does not allege that any prejudice would be suffered by Plaintiff if he is required to refile the case, such as being barred by the statute of limitations. Further, as of the date of this Order, Plaintiff has failed to file a Pretrial Stipulation or Unilateral Pretrial Catalog.

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED that Plaintiff's Motion For Relief From Final Order Of Dismissal (DE 42) be and the same is hereby **DENIED**.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 17th day of October, 2008.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

All Counsel of Record