

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-21918-CIV-Lenard/Garber

JONES BOAT YARD, INC.,

Plaintiff,

v.

M/V OCEAN LADY, (now M/V
HISPANIOLA, her engines, tackle,
and other appurtenances, *in rem*;
GLEBE POINT, INC., a foreign
entity, *in personam*; BANK OF
ESSEX, as mortgage holder; and
MARINE EXPLORATION, INC.,
in personam,Defendants.

REPORT AND RECOMMENDATION

THIS CAUSE is before the Court by Order of Reference from United States District Judge Joan A. Lenard on the plaintiff's Motion for Judgment Pursuant to Settlement Agreement [DE 38], to which no response in opposition has been filed by the defendant Marine Exploration, Inc. (Marine) against whom said judgment is sought.

FACTUAL BACKGROUND

A resolution of the underlying litigation was had by the plaintiff and Marine having entered into a Settlement Agreement. Said Settlement Agreement provided *inter alia* that Marine would pay plaintiff the sum of \$23,193.00 in two installments of \$11,596.50 each, the first of which was to be paid "within thirty (30) days of the execution of this Settlement Agreement" and the remaining balance was to be paid within sixty (60) days from the execution of the Settlement Agreement.

The Settlement Agreement also provided that in the event that any of the two payments are not timely received, plaintiff was to telefax notice of such default to Marine. Such telefax notice was given by plaintiff to Marine as required by the Settlement Agreement. In the event that no payment was received by plaintiff within ten (10) days from such notice, plaintiff would then be entitled to the entry of a Final Judgment for any and all amounts then due and owing. No payments were made by Marine to the plaintiff as required by the Settlement Agreement. Plaintiff has satisfied all conditions precedent prior to seek the entry of a Final Judgment in its favor.

CONCLUSION AND RECOMMENDATION

For reasons set forth above and based upon the Court's review of the record, and consideration of the submissions of the plaintiff, the undersigned respectfully

_____RECOMMENDS that the plaintiff Jones Boat Yard, Inc.'s Motion for Judgment Pursuant to Settlement Agreement be GRANTED and that a Final Judgment for the plaintiff and against the defendant Marine Exploration, Inc. in the amount of \$23,193.00 be entered together with interest as permitted by law.

The parties have ten (10) days from the date of this Report and Recommendation within which to file written objections, if any, with United States District Judge Joan A. Lenard. See 28 U.S.C. §636 (1991). Failure to file timely objections may bar the parties from attacking on appeal the factual findings contained herein. LoConte v. Dugger, 847 F.2d 745, 750 (11th Cir.), cert. denied, 488 U.S. 958 (1988).

RESPECTFULLY SUBMITTED at the United States Courthouse, Miami, Florida this 12th
day of February, 2009.


BARRY L. GARBER
UNITED STATES MAGISTRATE JUDGE
