

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number:
08-22418-CIV-MORENO

CLEAR MARINE VENTURES, LTD,

Plaintiff,

vs.

BRUNSWICK CORP.; CAZADORES, INC.;
CATERPILLER, INC.; MARINE MAX, INC.;
PANTROPIC POWER, INC.; and DONALD
STEVENS,

Defendants.

**ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION
AND GRANTING IN PART AND DENYING IN PART THE MOTION TO DISMISS**

THE MATTER was referred to the Honorable Edwin G. Torres, United States Magistrate Judge for a Report and Recommendation on Defendant Caterpillar Inc.'s Motion to Dismiss Second Amended Complaint (Counts XI and XII) (D.E. No. 145), filed on June 4, 2009. The Magistrate Judge filed a Report and Recommendation (D.E. No. 326) on October 8, 2009. The Court has reviewed the entire file and record. The Court notes that no objections to the Magistrate Judge's Report and Recommendation were filed. Being fully advised in the premises, it is

ADJUDGED that United States Magistrate Judge Edwin G. Torres's Report and Recommendation (D.E. No. 326) on October 8, 2009 is **AFFIRMED** and **ADOPTED**. Accordingly, it is

ADJUDGED that:

- (1) Defendant Caterpillar's Motion to Dismiss Counts XI and XII of Plaintiff's Second

Amended Complaint (**D.E. 145**) is **GRANTED IN PART AND DENIED IN PART**.

(2) Defendant Caterpillar's Motion to Dismiss Count XI of the Second Amended Complaint is **DENIED**.

(3) Defendant Caterpillar's Motion to Dismiss Count XII of the Second Amended Complaint is **GRANTED**. The claim against Caterpillar in Count XII is hereby **DISMISSED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 10 day of February, 2010.



FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

Copies provided to:

United States Magistrate Judge Edwin G. Torres

Counsel of Record