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DISTRICT COURT OF GUAM
TERRITORY OF GUAM

Civil Case No. 10-00032

In the Matter of MAJESTIC BLUE
FISHERIES, LLC, AS OWNER OF THE
F/V MAJESTIC BLUE, PETITIONING
FOR EXONERATION FROM OR
LIMITATION OF LIABILITY,

**ORDER TRANSFERRING
CASE**

Petitioner.

Before the court is a Motion to Dismiss the Limitation Proceeding filed by Claimant AMY HILL (“HILL”). Docket No. 6. After reviewing the filings and relevant case law and statutes, the court hereby **TRANSFERS** this case to the United States District Court for the Southern District of Florida and issues the following opinion.¹

I. FACTUAL AND PROCEDURAL BACKGROUND

On June 14, 2010, F/V Majestic Blue sank in international waters near the Tuvalu Economic Zone. Docket No 1. at ¶ 6. Two crew members—including Captain David Hill—were still on the ship when it sank, and died. *Id.* at ¶¶ 6, 13.

On October 26, 2010, HILL filed a wrongful death and negligence action (for the death of Captain David Hill) against MAJESTIC BLUE FISHERIES, LLC (“MAJESTIC BLUE”) in the United States District Court for the Southern District of Florida. *See Hill v. Majestic Blue Fisheries,*

¹ The court finds that the motion is appropriate for disposition without hearing oral argument, and thus exercises its discretion to **DENY** HILL’s Request for Oral Argument (Docket No. 7). *See* GUAM D. CT. CIV.L.R. 7.1.

1 LLC, No. 10-CV-23886 (S.D. Fla. filed Oct. 26, 2010). In response, MAJESTIC BLUE filed a
2 Motion to Dismiss for Lack of Jurisdiction and an Alternative Motion for Transfer of Venue (“the
3 Pending Motions” or “Pending Motions”). *See id.*, Docket Nos. 4, 6.

4 On December 9, 2010, MAJESTIC BLUE filed a Complaint for Exoneration from and
5 Limitation of Liability (“the Complaint”) in this court. *See* Docket No. 1.

6 **II. DISCUSSION**

7 Pursuant to 46 U.S.C. § 305011,² MAJESTIC BLUE seeks, among other relief, exoneration
8 from or limitation of liability for losses, if any, that anyone may have incurred when F/V Majestic
9 Blue sank. *See* Docket No. 1 ¶¶ 6–12. HILL moves the court to dismiss or transfer the Complaint
10 on the ground that it was improperly filed in the District of Guam in contravention of Supplemental
11 Rule F³ of the Federal Rules of Civil Procedure. Docket No. 6 at 1–2.

12 In pertinent part, Supplemental Rule F provides—

13
14 The complaint shall be filed in any district in which the vessel has been attached or
15 arrested to answer for any claim with respect to which the plaintiff seeks to limit
16 liability; or, ***if the vessel has not been attached or arrested, then in any district in
17 which the owner has been sued with respect to any such claim.*** When the vessel has
18 not been attached or arrested to answer the matters aforesaid, and suit has not been
19 commenced against the owner, the proceedings may be had in the district in which the
20 vessel may be, but if the vessel is not within any district and no suit has been
commenced in any district, then the complaint may be filed in any district. For the
convenience of parties and witnesses, in the interest of justice, the court may transfer
the action to any district; ***if venue is wrongly laid the court shall dismiss or, if it be
in the interest of justice, transfer the action to any district in which it could have
been brought.***

21 FED. R. CIV. P. SUPP. F(9) (emphasis added).

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24 ² As relevant here, § 30511 provides that “[t]he owner of a vessel may bring a civil action
25 in a district court of the United States for limitation of liability under this chapter.” 46 U.S.C. §
30511 (2006).

26 ³ The Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions
27 of the Federal Rules of Civil Procedure govern the procedure of actions for exoneration from or
28 limitation of liability. *See* FED. R. CIV. P. SUPP. A(1)(A)(iv).

1 When MAJESTIC BLUE filed the Complaint in this court, it was aware of the pending
2 lawsuit in the Southern District of Florida, thus appearing as though MAJESTIC BLUE blatantly
3 disregarded Supplemental Rule F(9). *See* Docket No. 1 ¶¶ 13–14. However, MAJESTIC BLUE
4 puts forth two explanations for filing the Complaint in the District of Guam.

5 First, MAJESTIC BLUE argues that it has not been sued in the Southern District of Florida
6 because “a suit filed in an improper venue and in a court which lacks personal jurisdiction over the
7 defendant, is not a suit ‘commenced’ within the meaning of Rule F(9).” Docket No. 9 at 9. Federal
8 Rule of Civil Procedure 3 explicitly states that “[a] civil action is commenced by filing a complaint
9 with the court.” FED. R. CIV. P. 3; *see also In re Tug Danielle M. Bouchard Corp.*, Civil No. 98-
10 0485, 1998 WL 164849, at *2 (E.D. La. Apr. 7, 1998) (Citing to Rule 3 and finding that “[t]he day
11 the limitation plaintiffs filed their complaint in the Eastern District of Louisiana, a suit had already
12 been commenced against the owners in the Western District.”). Thus, MAJESTIC BLUE was sued
13 in the Southern District of Florida when HILL filed her complaint, and pursuant to Supplemental
14 Rule F(9), MAJESTIC BLUE should have filed the Complaint in that court.

15 Second, MAJESTIC BLUE argues that even if the District of Guam is not the proper venue,
16 it filed the Complaint in Guam to toll the statute of limitations and to preserve its argument that the
17 Florida court does not have personal jurisdiction over it. *See* Docket No. 9 at 22. The court believes
18 that MAJESTIC BLUE was acting in good faith, however, that does not cure the defect of
19 venue—the District of Guam is not the proper venue for the Complaint.

20 As stated above, “if venue is wrongly laid the court shall dismiss or, if it be in the interest
21 of justice, transfer the action to any district in which it could have been brought.” FED. R. CIV.
22 P.SUPP. F(9).⁴ The court finds that it is in the interest of justice to transfer the matter to the Southern
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24

25 ⁴ MAJESTIC BLUE requests that the court stay the proceedings in this case until the
26 Southern District of Florida decides the Pending Motions on the ground that it is in the interest of
27 judicial economy. Docket No. 9 at 17. However, Supplemental Rule F is unambiguous regarding
28 the court’s options when venue is improperly laid—dismiss or transfer the case; staying the matter

1 District of Florida. The court further notes that neither party objects to a transfer. *See* Docket Nos.
2 9 at 21, 11 at 5.

3 **III. CONCLUSION**

4 For the foregoing reasons, the court hereby **TRANSFERS** this case to the United States
5 District Court for the Southern District of Florida pursuant to Supplemental Rule F of the Federal
6 Rules of Civil Procedure.

7 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: May 06, 2011

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24 is not an enumerated option. *See* FED. R. CIV. P. SUPP. F(9); *see also* 28 U.S.C. § 1407 (providing
25 that if venue is improperly laid, the district court shall dismiss or transfer the case). Moreover,
26 transferring this case to the Southern District of Florida is a fairly simple process that imposes a
27 minimal burden on the resources of the courts; thus the argument that staying the matter is in the
28 interest of judicial economy is without merit.

MAJESTIC BLUE also requests that the court conduct its own analysis to determine whether
Florida has personal jurisdiction over it. Docket No. 9 at 7. The court declines to delve into the
merits of an issue that is within the purview of its sister court.