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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

MALIN INTERNATIONAL SHIP REPAIR & DRYDOCK, INC. : **DOCKET NO. 2:08-cv-743**

VS. : **JUDGE MINALDI**

M/V GLOBAL ORION, ET AL. : **MAGISTRATE JUDGE KAY**

REPORT AND RECOMMENDATION

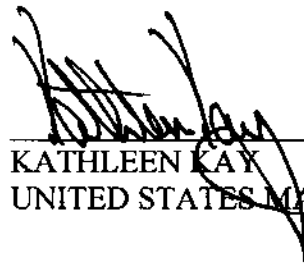
According to LR 41.3W, “[a] civil action may be dismissed . . . for lack of prosecution . . . [w]here a cause has been pending six months without proceedings being taken within such period.” Plaintiff Malin International Ship Repair & Drydock, Inc. filed the instant suit on May 28, 2008 and issued summons on defendant Condive, Inc. the same day. As of February 25, 2009, Condive has not responded and plaintiff has not sought the entry of a default judgment pursuant to Fed. R. Civ. P. 55. It is THEREFORE RECOMMENDED that plaintiff’s claims against defendant Condive, Inc. be DISMISSED WITHOUT PREJUDICE.

Pursuant to LR41.3W, plaintiff is allowed ten calendar days from the mailing of this notice to file evidence of good cause for failure to act. Additionally, under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), parties aggrieved by this recommendation have ten (10) business days from service of this report and recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party’s objections within ten (10) days after being served with a copy of any objections or response to the District judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed

legal conclusions reflected in this Report and Recommendation within ten (10) days following the date of its service, or within the time frame authorized by Fed. R. Civ. P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996).

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 26th day of February, 2009 .



KATHLEEN KAY
UNITED STATES MAGISTRATE JUDGE