

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

	*	
<b>POTOMAC RIVERBOAT CO., LLC,</b>	*	
<b>Plaintiff</b>	*	
<b>v.</b>	*	<b>CIVIL NO. JKB-13-1970</b>
<b>CURTIS MARINE OF N.Y., INC., et al.,</b>	*	
<b>Defendants</b>	*	
* * * * *		

**MEMORANDUM AND ORDER**

Pending before the Court is Potomac Riverboat Company, LLC’s (“Potomac”) motion for default judgment (ECF No. 36) against Curtis Marine of New York, Inc. (“Curtis Marine”). The motion will be granted.

This case was filed on July 8, 2013, with four counts, three of which were against Curtis Marine and the fourth against Curtis Marine as well as individual defendants Curtis C. Polly, Jr., Curtis C. Polly, Sr., and Nicholas Costa. (Compl., ECF No. 1.) On December 18, 2013, the Court granted in part Defendants’ motion to dismiss; only the first count against Curtis Marine for breach of contract remained in the case. (ECF Nos. 27, 28.) Thus, the three individual defendants had no viable counts remaining against them. The Clerk will be directed to terminate them as parties to the case.

The Court notes that Curtis Marine’s counsel was granted leave to withdraw from the case on May 16, 2014. (ECF No. 35.) As support for the motion to withdraw, Curtis C. Polly, Sr., the sole shareholder and president of Curtis Marine, executed an affidavit indicating the company was “out of business and has no income.” (Aff. Polly, Sr., at 3, ECF No. 34-2.) Additionally, Mr. Polly stated, “It is my understanding that after counsel withdraws, the plaintiff

will move to obtain a default judgment against Curtis Marine. Curtis Marine will not oppose that motion.” (*Id.*) The motion for default judgment, therefore, is unopposed.

Subsequent to the filing of Plaintiff’s motion, former counsel for Curtis Marine filed a letter to the Court raising the question of whether Plaintiff’s motion requested too much in damages, based on the wording of Federal Rule of Civil Procedure 54(c). (ECF No. 37.) Plaintiff was directed to respond (ECF No. 38), which Plaintiff has done (ECF No. 39). The Court accepts the reasoning set forth in Plaintiff’s response. The complaint sought damages “in excess of \$350,000” and further stated, “To date, not all damages have been calculated or ascertained by Plaintiff.” (Compl. ¶¶ 60, 62.) Consequently, the figure of \$350,000 is not the maximum amount sought by Plaintiff, and the motion for default judgment properly seeks judgment for damages in excess of \$350,000—more specifically, \$422,564.79—which have been proved to the Court’s satisfaction by supporting evidence. As a result, the motion complies with Rule 54(c), which states, “A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings.”

Accordingly, Plaintiff’s motion for entry of default judgment (ECF No. 36) is GRANTED. Defendants Curtis C. Polly, Sr., Curtis C. Polly, Jr., and Nicholas Costa are DISMISSED. The Clerk shall TERMINATE them as parties in the case. A separate order of judgment will enter.

DATED this 15th day of August, 2014.

BY THE COURT:

\_\_\_\_\_  
/s/  
James K. Bredar  
United States District Judge