

**IN THE UNITED STATES DISTRICT COURT IN AND FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

**IN THE MATTER OF THE COMPLAINT OF )  
(1) OWEN G. ODELL AS OWNER OF THE )  
VESSEL, MIRAGE, ARKANSAS )  
REGISTRATION NUMBER AR391DFY, HULL) )  
IDENTIFICATION NUMBER CDRV0126D989 )  
FOR EXONERATION FROM AND/OR )  
LIMITATION OF LIABILITY )**

**Case No. 6:09-CV-00233-FHS**

**DEFAULT JUDGMENT**

This matter comes before the Court on the petitioner's motion for default judgment (Dkt. #49). Having reviewed the motion, this Court's file, and being fully advised in the premises, the Court finds that the Motion should be and hereby is GRANTED. The Court finds as follows:

1. On June 16, 2009, Owen G. Odell as owner of the vessel, MIRAGE, Arkansas registration number AR391DFY, hull identification number CDRV0126D989 ("Odell") filed this action seeking exoneration from and/or limitation of his liability arising from the fire and subsequent sinking of the vessel on or about January 20, 2009, while the vessel was moored at Dock H of the Applegate Cove Marina upon the navigable waters of the Robert S. Kerr Reservoir.
2. On June 23, 2009, Odell filed an Ex Parte Motion for Preliminary Injunction Restraining Prosecution of Claims and for Order Directing Issuance and Publication of Notice and Brief in Support.
3. This Court granted this motion and entered its Order Directing Issuance of Notice, Publication Thereof, Granting an Injunction Restraining the Prosecution of Claims (Dkt. #11) on June 25, 2009. The Court's Order (Dkt. # 11) required that "a notice issue out of and under the seal of this Court ... to all

persons claiming damages for any and all loss, damage, destruction, or injury caused by or resulting from the aforesaid incident in the waters of the Robert S. Kerr Reservoir, occurring on January 20, 2009, referred to in the Complaint, citing them and each of them to file their respective claims on or before the 25<sup>th</sup> day of September, 2009.” The Order (Dkt. #11) also required that the notice be published in *The Oklahoman*, *Tulsa World*, *Muskogee Phoenix*, and *Sequoyah County Times* and set a schedule for the publication of the Notice.

4. On June 25, 2009, the Court entered a Notice of Complaint for Exoneration from and/or Limitation of Liability (Dkt. #13). The Notice required that “all persons or legal entities claiming damages for any and all loss, destruction, damage, injury or death caused by or resulting from the aforesaid incident must file their respective claims on or before September 25, 2009.” This Notice also required that “[a]ny claimant desiring to contest the claims of Petitioner must file an answer to said Complaint, as required by Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure and serve on or mail a copy to Petitioner’s attorneys, on or before September 25, 2009.”

5. On August 7, 2009, Odell caused notice of the pendency of this action to be provided to all known claimants. Odell also caused notice of the pendency of this action to be provided to all unknown claimants by publication in *The Oklahoman*, *Tulsa World*, *Muskogee Phoenix*, and *Sequoyah County Times*, on the 2nd, 9th, 16th and 23rd of August, 2009. Said notice complied with the requirements of this Court’s Order and Rule F of the Supplemental

Rules for Certain Admiralty and Maritime Claims, and was proper in all respects.

6. The following parties appeared by timely filing their respective claims and answers: Ralph D. Hodges, State Farm Fire and Casualty Company, as subrogee of Ralph D. Hodges, Harold E. “Barney” Welch, and The Standard Fire Insurance Company, as subrogee of Ben Cooksey.

7. Upon expiration of the Monition period set by the Court, no other claims or answers have been filed.

8. Despite the service of notice of this action and publication notice in accordance with the Court’s order, the following known claimants failed to timely answer or file a claim herein as required by the Order and Notice of this Court: Lee Liddy, Applegate Cove Marina, Inc., Morgan Vandergriff, and Environmental Remediation Specialists.

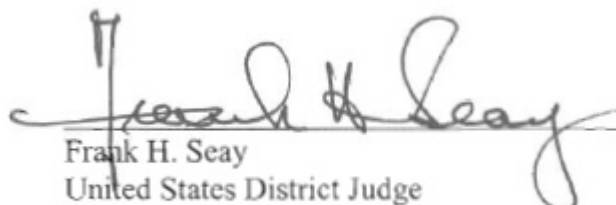
9. On November 24, 2009, the Clerk of this Court entered an Entry of Default against the non-appearing claimants in accordance with Federal Rule of Civil Procedure 55. *See* Clerk’s Entry of Default (Dkt. #48).

10. Because the non-appearing claimants failed to answer or appear in this proceeding and are in default under Federal Rule of Civil Procedure 55, the matters alleged in the Complaint are deemed true as to the non-appearing claimants.

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that petitioner, Owen G. Odell as owner of the vessel, MIRAGE, Arkansas registration number AR391DFY, hull identification number CDRV0126D989, shall have and recover judgment by default against all

persons, firms, corporations, municipalities, agencies and any other entities, known and unknown, who may have sustained any loss, destruction, damage or injury caused by or resulting from the fire and subsequent sinking of the MIRAGE on or about January 20, 2009, while the vessel was moored at Dock H of the Applegate Cove Marina upon the navigable waters of the Robert S. Kerr Reservoir, and who did not timely file a claim or answer in the above-captioned proceeding, including without limitation, Lee Liddy, Applegate Cove Marina, Inc., Morgan Vandergriff, and Environmental Remediation Specialists, that these non-appearing claimants be barred from filing any claims and answers in this or any proceeding, and that as to such non-appearing claimants, petitioner and the vessel are exonerated, and not liable to any extent for any loss or damage or for any claims whatsoever in any way arising out of or in consequence of the aforesaid sinking, voyage, or occurrence or any matters alleged in the Complaint.

It is so ordered this 19<sup>th</sup> day of January, 2010.



Frank H. Seay  
United States District Judge  
Eastern District of Oklahoma