

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

In the Matter of)
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)
MARK E. PEARSON, as Owner of) C.A. No. 16-77 S
LUCKY CHARM, RI 6511R,)
for Exoneration from or)
Limitation of Liability)
)
)

MEMORANDUM AND ORDER

WILLIAM E. SMITH, Chief Judge.

Before the Court is Plaintiff's Ex Parte Motion for Issuance of Injunction ("Motion"). (ECF No. 4.) Plaintiff's Motion asks this Court, pursuant to Supplemental Rule F(3) of the Federal Rules of Civil Procedure, to cease and enjoin all lawsuits, causes of action, and claims against Plaintiff and his property arising out of a collision involving his vessel, the Lucky Charm, on or about August 8, 2015. For the reasons that follow, Plaintiff's Motion is GRANTED.

I. Background

Plaintiff Mark Pearson ("Pearson" or "Plaintiff") is the owner of the Lucky Charm ("Lucky Charm" or "vessel"), a nineteen foot long fiberglass Runabout built in 1999. On August 8, 2015, Pearson lent the Lucky Charm to his friend, Michael Sheridan ("Sheridan"). Sheridan drove the vessel to

the Topsy Seagull in Fall River, Massachusetts around 8:00 p.m. on August 8, 2015.

At approximately 10:30 p.m., after dropping off one passenger in Warren, Rhode Island, Sheridan navigated the Lucky Charm through Mt. Hope Bay. While navigating through Mt. Hope Bay, towards the Kickamuit River, the Lucky Charm collided with an unmanned and unmoored sailboat, the BallyBay, owned by James Falcon ("Falcon"). The collision damaged both the Lucky Charm and the BallyBay. Additionally, the collision caused injury to the two passengers aboard the Lucky Charm, Peter Fairbrother and Peter Denisky. Pearson was not on board the vessel at the time of the collision.

On August 20, 2015, Falcon notified Pearson's marine insurer, AMICA, of a claim for damages to the BallyBay sustained in the August 8, 2015 collision. Prior to this Motion, Plaintiff petitioned the Court on February 19, 2015 for exoneration from or limitation of liability, pursuant to the Limitation of Shipowners' Liability Act ("Limitation Act"), 46 U.S.C. §§ 30501-12, and Supplemental Rule F of the Federal Rules of Civil Procedure. (ECF No. 3.) Plaintiff anticipates that the passengers aboard the Lucky Charm at the time of the collision will also assert claims against him or his vessel. Plaintiff does not currently know the total

amount of claims, but expects that the claims will exceed the limitation fund provided to the Court.

II. Discussion

Under the Limitation Act, the owner of a vessel may limit his liability to the value of the vessel and pending freight for "any loss, damage, or injury by collision . . . done, occasioned, or incurred, without the privity or knowledge of the owner." 46 U.S.C. § 30505(b). The procedural requirements for bringing such action under the Limitation Act are found in the Federal Rules of Civil Procedure, Supplemental Rule F for Admiralty or Maritime Claims. See Lewis v. Lewis & Clark Marine, Inc., 531 U.S. 438, 448 (2001).

The owner of a vessel must bring a civil action in federal district court seeking exoneration from or limitation of liability "within 6 months after a claimant gives the owner written notice of a claim." 46 U.S.C. § 30511(a). When the action is filed, the owner of the vessel

shall . . . deposit with the court, for the benefit of claimants - (A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and (B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter [46 U.S.C. §§ 30501 et seq.]

Id. § 30511(b)(1). In addition to the security requirement under the Limitation Act, pursuant to Supplemental Rule F(1), the plaintiff "shall also give security for costs and, if the

plaintiff elects to give security, for interest at the rate of 6 percent per annum from the date of the security." Fed. R. Civ. P. Supp. R. F(1). Local Admiralty Rule F(1) for the District of Rhode Island requires that "[t]he amount of security for costs under Supplemental Rule F(1) shall be \$1,000, and security for costs may be combined with security for value and interest unless otherwise ordered." LAR F(1). If a claimant feels that the security given by Plaintiff is insufficient "on the ground that [it is] less than the value of the plaintiff's interest in the vessel and pending freight," a claimant may, upon motion, demand that the deposited funds be increased. Fed. R. Civ. P. Supp. R. F(7).

When an owner complies with the provisions of Supplemental Rule F(1) and deposits the appropriate security with the court, "all claims and proceedings against the owner or the owner's property with respect to the matter in question shall cease." Fed. R. Civ. P. Supp. R. F(3); 46 U.S.C. § 30511(c). Supplemental Rule F(3) further provides the court with the power to, upon motion by the owner seeking limitation, "enjoin the further prosecution of any action or proceeding against the plaintiff or the plaintiff's property with respect to any claim subject to limitation in the action." Fed. R. Civ. P. Supp. R. F(3). A district court has broad discretion in the issuance of an injunction under

Supplemental Rule F(3). See In re Paradise Holdings, Inc., 795 F.2d 756, 761 (9th Cir. 1986).

Additionally, when an owner complies with Supplemental Rule F(1), Supplemental Rule F(4) provides in pertinent part that

the court shall issue a notice to all persons asserting claims with respect to which the complaint seeks limitation, admonishing them to file their respective claims with the clerk of the court and to serve on the attorneys for the plaintiff a copy thereof on or before a date to be named in the notice The notice shall be published in such newspaper or newspapers as the court may direct once a week for four successive weeks prior to the date fixed for the filing of claims. The plaintiff not later than the day of second publication shall also mail a copy of the notice to every person known to have made any claim against the vessel or the plaintiff arising out of the voyage or trip on which the claims sought to be limited arose.

Fed. R. Civ. P. Supp. R. F(4).

At this stage in the proceedings, "the district court secures the value of the vessel or owner's interest, marshals claims, and enjoins the prosecution of other actions with respect to the claims." Lewis, 531 U.S. at 448. Then, after proper notice has been given, "the court, sitting without a jury, adjudicates the claims," and "[t]he court then determines whether the owner may limit liability." Id.

Here, Plaintiff has complied with the requirements of the Limitation of Liability Act and Supplemental Rule F. Plaintiff filed his claim within six months of written notice

of Falcon's claim for damages arising out of the collision. (See ECF No. 1.) Plaintiff has asserted facts in the Complaint that demonstrate his lack of "privity or knowledge" of the collision, as well as the seaworthy condition of the vessel prior to collision, asserting a total lack of responsibility. (Am. Compl. ¶¶ 19-21, ECF No. 3); see In re Middlesex, 132 F. Supp. 3d 233, 238 (D. Mass. 2015). Plaintiff claims that the vessel is a total loss and, therefore, the value of his interest in the vessel is zero dollars, but has provided security for costs in the amount of \$1,000 plus interest at a rate of six percent, pursuant to Supplemental Rule F(1) and Local Admiralty Rule F(1).¹

Because Plaintiff has complied with all of the requirements of Supplemental Rule F(1) and Local Admiralty Rule F(1), the Court will cease and enjoin all lawsuits, causes of action, and claims against Plaintiff and his property arising out of a collision involving his vessel, pursuant to 46 U.S.C. § 30511(c) and Supplemental Rule F(3). Additionally, pursuant to Supplemental Rule F(4), the Court

¹ Plaintiff has filed a Verified Complaint attesting to the zero value of the vessel. (See Am. Compl. ¶ 26, ECF No. 3; Security for Zero Value of Plaintiff's Interest in Lucky Charm, RI 6511R, and Security Costs 1, ECF No. 3-1.) Additionally, Plaintiff and his marine insurer, AMICA, stipulate to depositing a sum of \$1,000 plus interest at six percent per annum with the Court. (Security for Zero Value of Plaintiff's Interest in Lucky Charm, RI 6511R, and Security Costs 1, ECF No. 3-1.)

will direct issuance of notice to all persons asserting claims with respect to the August 8, 2015 collision.

III. Conclusion

For the forgoing reasons, the motion is hereby GRANTED.

The Court hereby ORDERS:

- That this Court approves the security for value and costs in the total amount of ONE THOUSAND DOLLARS (\$1,000.00) plus 6% interest per annum, which represents (a) the zero value of Pearson's interest in the Lucky Charm after the collision on August 8, 2015, and (b) Pearson's obligation to provide costs, in compliance with Supplemental Rule F(1) of the Federal Rules of Civil Procedure and Local Admiralty Rule F(1);
- That, pursuant to Supplemental Rule F(3) of the Federal Rules of Civil Procedure, any and all lawsuits, causes of action, and claims against Mark Pearson and his property arising out of a collision involving his vessel, the Lucky Charm, on or about August 8, 2015, except in this civil action, shall cease and are enjoined;
- That, pursuant to Supplemental Rule F(4) of the Federal Rules of Civil Procedure, a notice shall be issued to all persons asserting claims with respect to this incident admonishing them to file their respective claims with the Clerk of the United States District Court for the District of Rhode Island, and to serve a copy on Pearson's attorneys, John A. Donovan and Matthew P. Cardosi, Sloane and Walsh, LLP, 652 George Washington Highway, Suite 302, Lincoln, Rhode Island, 02861, on or before November 5, 2016, or be defaulted;

- That, pursuant to Supplemental Rule F(4), the notice shall be published in the Providence Journal once a week for four successive weeks prior to the date fixed for filing claims, and Pearson shall mail a copy of the notice, by the day of the second publication, to every person known to have made any claims against the Lucky Charm or the plaintiff arising out of the voyage on August 8, 2015.

It is so ordered.



William E. Smith
Chief Judge
Date: September 6, 2016