

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE _____,	§ ADMIRALTY RULE 9(H)
AS OWNER	§
OF THE M/V ,	§
PRAYING FOR EXONERATION FROM	§
OR	§ CIVIL ACTION NO.
LIMITATION OF LIABILITY	§

**EX PARTE MOTION TO APPROVE VALUATION AND SECURITY,
APPROVE NOTICE TO CLAIMANTS AND MANNER OF
PUBLICATION, AND TO ENJOIN PROSECUTION OF CLAIMS**

_____, as owners of the _____ (the “Vessel”), respectfully moves this

Court to enter an order:

- a. approving the valuation and security filed in this matter ;
- b. approving the Notice to Claimants and manner of publication thereof;
and
- c. enjoining prosecution of claims.

In support of the requested relief, Owner hereby would show as follows:

1. On the date of the filing of this motion, _____ filed its Complaint for Exoneration from or Limitation of Liability (“the Complaint”). As set forth in the Complaint, _____ at all times material hereto was the owner of the Vessel within the meaning of the Limitation of Liability Act.

2. Attached to the Complaint were declarations regarding the post-

casualty value of the vessel and her pending freight, and security in the form of a letter of undertaking securing all claims that may be made in this case and for costs.

Motion to Approve Valuation and Security

3. Rule F(1) of the Supplemental Rules for Admiralty or Maritime Claims & Asset Forfeiture Actions of the Federal Rules of Civil Procedure (“Supplemental Rules”) provides that in order to invoke the protection of the Limitation of Liability Act, 46 U.S.C. §§ 30501 *et seq.*, a vessel owner

shall deposit with the court, for the benefit of claimants, a sum equal to the amount or value of the owner’s interest in the vessel and pending freight, or approved security therefor, and in addition such sums, or approved security therefor, as the court may from time to time fix as necessary to carry out the provisions of the statutes as amended. . . . 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 security.

4. Attached to the Complaint as Exhibits “A” and “B” are the Declarations under Penalty of Perjury of _____ and _____. Mr. _____ is a marine surveyor, and as per his Declaration, the value of the Vessel is _____.

5. The Limitation of Liability Act limits the liability of the vessel owner to the value of the vessel and her “pending freight,” i.e., the earnings of the vessel on the voyage in question. 46 U.S.C. § 30505. _____ is the _____ of _____, and as per his Declaration, the pending freight to be included in the limitation fund is _____. Accordingly, the value of _____’s interest in the Vessel and her pending

freight is _____.

6. Attached to the Complaint is a letter of undertaking bearing interest at the rate of six percent per annum in the amount of _____, which includes the value of the Vessel and ^[1]_____ as security for costs as required by Supplemental Rule F(1) and Local Admiralty Rule E(4).

7. Supplemental Rule F(7) provides that

any claimant may by motion demand that the funds deposited in court or the security given by the plaintiff be increased on the ground that they are less than the value of the plaintiff's interest in the vessel and pending freight. Thereupon the court shall cause due appraisalment to be made of the value of the plaintiff's interest in the vessel and pending freight; and if the court finds that the deposit or security is either insufficient or excessive it shall order its increase or reduction.

_____ stands ready and agrees to comply with any order of this Court to provide additional security pursuant to this Rule. Accordingly, claimants against the limitation fund are fully protected if for some reason the amount of security provided by the bond for any reason is insufficient. _____ also reserves the right to request the Court to reduce the security if it determines that the security is greater than the actual value of the Vessel.

8. Accordingly, Owner requests the Court to approve the security provided by the bond pending further orders of the Court.

Motion to Approve Notice to Claimants

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First appeared as part of the conference materials for the
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"A Practical Guide to Filing a Limitation of Liability Proceeding"