

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 19-20782-CIV-MORENO/LOUIS

ATLANTIS MARINE TOWING, SALVAGE  
& SERVICES, INC.,

Plaintiff,

v.

DEEP IMPACT, Hull Number  
IMX33T33H415, Florida Registration Number  
FL0796PW, her engines, tackle, appliances,  
Appurtenances, furniture, gear, and all other  
Necessaries thereto and belonging, *in rem*, and  
ALBERTO VALDES, as owner of Deep  
Impact, *in personam*,

Defendants.

\_\_\_\_\_ /

**REPORT AND RECOMMENDATIONS**

**THIS CAUSE** is before the Court upon Defendant ALBERTO VALDES' Motion for Summary Judgment (ECF No. 11). This Motion was referred to the undersigned United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1) and the Magistrate Judge Rules of the Local Rules of the Southern District of Florida, by the Honorable Federico A. Moreno, United States District Judge, for a report and recommendations (ECF No. 17). The Court held a hearing on the Motion on December 9, 2019 and has carefully reviewed the Parties' submissions and is otherwise duly advised in the premises. Upon consideration, the undersigned respectfully recommends that Defendant's Motion be **DENIED**.

**I. BACKGROUND**

This suit arises out of Plaintiff Atlantis Marine Towing, Salvage & Services Inc.'s rescue

of the Defendant vessel Deep Impact, which is owned by Defendant Alberto Valdes. Plaintiff filed this action seeking a full salvage award.

On the night of April 5, 2017, Defendant Alberto Valdes boarded Defendant Deep Impact and set out of Dinner Key Marina in Miami, Florida. *See* Pl.’s. Statement of Facts (ECF No. 14); Decl. of Albert Valdes (ECF No. 11–1). While proceeding through the channel, the vessel struck an unlit channel marker, causing Valdes to be ejected from the vessel. Valdes swam to another channel marker and was picked up by a couple on another boat. The Deep Impact sailed away unmanned.

Shortly thereafter, a collision of two boats in Dinner Key was reported over marine VHF radio. Captain Bert Korpela and his wife Erika Burkwest, owners of Plaintiff Atlantis Marine Towing Salvage & Service (“Atlantis Marine”), heard the call and immediately boarded one of their patrol boats, a 17’ Boston Whaler, and made way towards the scene of the collision. Captain Korpela and Ms. Burkwest reached the scene within minutes of receiving the call. Upon their arrival they witnessed the Deep Impact collide with and slide onto a catamaran in its path. Captain Korpela and Ms. Burkwest both testified that they were the first on the scene and did not see anyone else aboard the Deep Impact or the catamaran.

Ms. Burkwest testified that the Deep Impact’s engines were running while it was atop of the catamaran and that the vessel “was continually turning the catamaran, [s]o the catamaran itself was not stationary at that time.” (ECF No. 11–4, 13:23–25, 14:1–2). Ms. Burkwest boarded the Deep Impact and shut off the vessel’s engines, and then began checking the remainder of the boat for injured persons (*Id.* at 17:1–20). After she had shut down the engines, she noticed William Girard, who also heard the report of a collision and responded to the scene. According to Ms. Burkwest, Mr. Girard boarded the Deep Impact after her. Ms. Burkwest inquired whether Mr.

Girard was the owner of the Deep Impact, to which he responded he was not (*Id.* at 15:18–21). Ms. Burkwest then directed Mr. Girard not to touch anything on the vessel; Mr. Girard similarly testified that Ms. Burkwest and Captain Korpela gave him orders “like they were in charge” (ECF No. 11–3, 15:24–25). Ms. Burkwest then proceeded to board the catamaran to continue looking for passengers (ECF No. 11–4, 17:21–24). Upon finding that there were no injured passengers in either boat, Ms. Burkwest boarded the Boston Whaler (*Id.* at 18:16–17).

Captain Korpela and Ms. Burkwest then heard over the VHF radio that Mr. Valdes had been rescued by another good Samaritan nearby and left the scene to find Mr. Valdes (*Id.* at 18:17–22). Mr. Valdes confirmed that he had been the only passenger on the Deep Impact.

Mr. Korpela and Ms. Burkwest returned to the scene of the collision, where the Florida Fish and Wildlife Conservation (“FWC”) had arrived (ECF No. 11–4, 20:22–25, 21:1–15). At that time, there were also other boats nearby, including the boat that had rescued Mr. Valdes. Mr. Korpela and Ms. Burkwest saw the Deep Impact slide off the catamaran and left free floating (*Id.* at 19:17–23). Mr. Korpela maneuvered the Boston Whaler closer to the Deep Impact, secured it with a tow line between the ships and began towing it between the various boats at the scene. FWC Officer Sarmiento ordered Mr. Korpela to release the Deep Impact (*Id.* at 27:21–22). Ultimately, the Deep Impact was towed by a separate towing company contacted by Defendant Valdes.

The Parties dispute whether Captain Korpela and Ms. Burkwest were the first to arrive at the scene. Defendant relies on the deposition testimony of Mr. Girard, a retired Navy salvage diver and Army pilot, who claims that he was the first person at the scene and that he was the one who stopped the boat’s forward movement. At his deposition, Mr. Girard testified that on the night of April 5, 2017, he was aboard his sailboat in Dinner Key and awoken by emergency helicopters, when he saw the Deep Impact sailing in circles (ECF No. 11–3, 11:16–25, 12:11–16). Mr. Girard

confirmed the ship was unmanned and began sailing towards it (*Id.* at 12:11–16, 13:5–8). As he neared the scene of the Deep Impact, he saw it crash and ride up a catamaran, pushing the catamaran forward towards a monohulled boat with two people on it. (*Id.* at 13:8–14). When Mr. Girard reached the Deep Impact, he boarded the vessel, placed the throttles in neutral, then momentarily in reverse to stop the forward onto the catamaran, and back in neutral once the vessel had ceased moving forward (*Id.* at 14:11–14). Mr. Girard testified that at the time he reached and boarded the Deep Impact, there was no one else on the vessel (*Id.* at 19:15–20). Shortly after Mr. Girard placed the throttles in neutral, a second salvage boat, operated by Mr. Burt Korpela and Ms. Erica Burkwest, approached the Deep Impact (*Id.* at 15:21–25). Mr. Girard further testified that once the Deep Impact had slid off the catamaran, another tow boat, not the Deep Impact, put a tow line on the vessel (ECF No. *Id.* at 26:1–24). He further testified that he never saw Capt. Korpela or Ms. Burkwest tow the Deep Impact (*Id.* at 26:17–19). Defendant also advances as evidence the FWC accident report, which makes no mention of Burkwest or Korpela (or Plaintiff Atlantis Marine) but describes only the efforts and interview of Girard. *See* Accident Report (ECF No. 11–6).

## **II. LEGAL STANDARD**

### **a. Summary Judgment**

Pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, “[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). Thus, a movant is entitled to summary judgment only if the record evidence demonstrates that there are no genuine issues of material fact. *St. Michael Press Publ’g Co., Inc. v. One Unknown Wreck Believed to be the Archangel Michael*, No. 12–80596–CIV, 2013 WL 12171821, at \*2 (S.D. Fla. Oct. 29, 2013).

A material fact is a fact that is critical to the outcome of the action. *Id.* A dispute about a genuine material fact exists if the evidence “is such that a reasonable jury could return a verdict for the nonmoving party.” *Id.* (citations omitted).

The movant bears the initial responsibility of informing the district court of the basis for its motion and demonstrating the absence of a genuine issue of material fact. *Coastal Towing & Salvage, Inc. v. One (41') Morgan Sailing Vessel Named S/B Windhorse*, No. 06–60133–CIV, 2007 WL 6853977, at \*1 (S.D. Fla. Apr. 16, 2007) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). To satisfy this burden movant must point out to the Court that there is an absence of evidence to support the nonmoving party’s case. *Celotex Corp.*, 477 U.S. at 325; *Warrington Marine v. Frankel*, No. 04-61312-CIV, 2005 WL 8155336, at \*2 (S.D. Fla. July. 29, 2005) (“The moving party bears the initial responsibility of showing the Court, by reference to the record, that there are no genuine issues of material fact that should be decided at trial.”). After the movant has met its burden under Rule 56(c), the burden of production shifts, and the nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986).

In deciding whether a motion for summary judgment should be granted, a court must view the record and all reasonable inferences in the light most favorable to the nonmoving party. *Matsushita*, 475 U.S. at 587; *JSM Marine LLC v. Gauf*, No. 4:18-CV-151, at \*4 (S.D. Ga. Sept. 11, 2019) (citing *Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee Cty.*, 630 F.3d 1346, 1353 (11th Cir. 2011)). The Court must avoid weighing conflicting evidence or making credibility determinations. *Warrington Marine, Inc.*, 2005 WL 8155336, at \*2 (citing *Hilburn v. Murata Elec. N. Am., Inc.*, 181 F.3d 1220, 1225 (11th Cir. 1999)).

### **b. Salvage Law**

The law of maritime salvage rewards the voluntary salvor for his successful rescue of life or property endangered at sea. *Cape Ann Towing v. M/Y “Universal Lady”*, 268 F. App’x 901, 902 n.1 (11th Cir. 2008); *Ocean Servs. Towing & Salvage, Inc. v. Brown*, 810 F. Supp. 1258, 1262 (S.D. Fla. 1993); *Fine v. Rockwood*, 895 F. Supp. 306, 308 (S.D. Fla. 1995). In order to succeed on a salvage claim, a plaintiff must show that: (1) a maritime peril placed the vessel at risk for loss, destruction, or deterioration; (2) the salvage service was voluntarily rendered and not the result of an existing duty or contract; and (3) the salvage efforts must be wholly or partially successful. *Triplecheck, Inc. v. Creole Yacht Charters Ltd.*, No. 05–21182-CIV, 2007 WL 91726, at \*3 (S.D. Fla. Mar. 25, 2007); *Girard v. M/V ‘Blacksheep,’* 840 F.3d 1351, 1353–54 (11th Cir. 2016).

### **III. DISCUSSION**

The Complaint alleges two separate acts of salvage: the first, when Ms. Burkwest, on behalf of Atlantis Marine, boarded the Deep Impact and shut down its motors; and the second when Mr. Korpela attached a line to the Deep Impact after it slid off the catamaran. Defendant argues that he is entitled to summary judgment on Plaintiff’s salvage claim because the Deep Impact was not in peril at the time Captain Korpela or Ms. Burkwest took action, and alternatively, their rescue efforts were neither partially nor wholly successful. Defendant relies heavily on the deposition testimony of Mr. Girard, who testified that he was the first to arrive at the scene of the collision and that he turned the Deep Impact’s throttles to neutral, to support his argument that the ship was not in peril at the time Ms. Burkwest shut off the boat’s engine. With respect to the second salvage attempt, Defendant argues that the Deep Impact was not in peril or need of a secure line because the FWC boat was “within eyeshot” of the vessel when it slid off the catamaran.

In opposition, Plaintiff responds that the Deep Impact was in peril in both salvage situations

(ECF No. 14). Plaintiff cites to the deposition testimony of Captain Korpela and Ms. Burkwest to directly refute Mr. Girard's statement that he was the first at the scene, and offer a different account where Ms. Burkwest shut the engines off before anyone else had the opportunity to rescue the vessel. Plaintiff further avers that the FWC being close enough to the Deep Impact is not dispositive of the question of whether the ship was in peril when it slid off the catamaran.

### **A. First Act of Salvage**

The Court first examines whether Plaintiff has adduced competent evidence that there existed a maritime peril when Captain Korpela and Ms. Burkwest first encountered the Deep Impact, and whether their efforts to rescue the vessel were successful at least in part.

To determine if a vessel was in marine peril, the Court reviews whether, at the time assistance was rendered, the vessel was in a situation that might expose it to loss or destruction. *Klenner v. M/Y El Presidente*, No. 11-60642-CIV, 2012 WL 3150050, at \*11 (S.D. Fla. Aug. 1, 2010). The peril does not need to be immediate or actual; all that is necessary to establish this element is whether there was a reasonable apprehension of peril. *Id.* (citing *Fort Myers Shell & Dredging Co. v. Barge NBC*, 404 F.2d 137, 139 (5th Cir. 1968)). If the vessel has the situation under control, such that there is no reasonable apprehension for her safety if left to her own unaided efforts, then there is an absence of a peril. *Id.* (citing *Fine v. Rockwood*, 895 F. Supp. 306, 309 (S.D. Fla. 1995)). Courts have found a peril where destruction of the vessel appeared imminent,<sup>1</sup> or where the vessel was free floating as the result of a collision. *Fine*, 895 F. Supp. at 309.

With respect to the first salvage, Plaintiff avers that "a vessel that has been in a collision is a classic example of a vessel in peril." (ECF No. 14, at 5). Plaintiff points to the deposition

---

<sup>1</sup> *The Craster Hall*, 213 F. 436, 438 (5th Cir. 1914) (finding a maritime peril because the vessel was rescued from imminent danger as the ship was "so hard and high aground on a sound bank exposed to the open ocean that at high tide she could not be floated with her own engines....")

testimony of Ms. Burkwest and Captain Korpela. Ms. Burkwest testified that when she arrived at the scene “the Deep Impact was on top of the catamaran . . . and with the engines running. It was continually turning the catamaran. So the catamaran itself was not stationary at that time.” (ECF No. 11–4, 13:23–25, 14:1–2). She noticed that there was no one around the immediate vicinity of the vessels, and that the catamaran also appeared to be unmanned. (*Id.* at 14:4–8). Ms. Burkwest immediately shut off the Deep Impact’s engines (*Id.* at 17:7–8). Ms. Burkwest then proceeded to check the bow of the Deep Impact for injured passengers (*Id.* at 17:16–20). She then saw Mr. Girard “po[p] up off the port side of the vessel” (*Id.* at 17:16–20) and instructed him not to touch anything (*Id.* at 17:16–20, 15:18–24).

The fact that the Deep Impact had been in a collision does not establish *per se* that it was in peril; whether there is a maritime peril in collision cases depends on the facts surrounding the collision. For example, in *The Clarita*, cited in support by Plaintiff, the United States Supreme Court noted that a collision between two boats resulting in a fire creates a maritime danger which could result in a salvage award. 90 U.S. 1, 12 (1874). Likewise, in *Southernmost Marine Serv., Inc. v. One (1) 2000 Fifty Four Foot (54’) Sea Ray named M/V Potential*, the court found, after holding a trial, that a maritime peril existed because the subject vessel had collided with a rock jetty, sustaining severe damage to its hull resulting in water filling the boat. 250 F. Supp. 2d 1367, 1377 (S.D. Fla. 2003). In *The Sabine*, the Court affirmed a finding that a maritime peril existed because the steamer struck an obstruction in the river, breaking its flooring and resulting in the taking of water. 101 U.S. 384, 385 (1879). On the other hand, in *Fine*, after holding a trial, the court did not find that a ship that had collided with rocks and was taking in water was in maritime peril because it was not in reasonable danger of sinking or further damage as the vessel had been secured prior to the plaintiff’s salvage attempts. 895 F. Supp. at 308, 310.



While Plaintiff has not adduced evidence that the Deep Impact was taking water or in risk of sinking, Plaintiff contends that there was nonetheless a reasonable apprehension of damage to the unmanned Deep Impact and the catamaran, or other vessels in the area, which a trier of fact could interpret as a reasonable apprehension of further damage or destruction. Ms. Burkwest described the risk she perceived upon arrival at the scene:

Q: Okay. And in your experience of participating in hundreds of salvage operations, was there anything in this particular salvage operation which you think would cause a significant risk or more risk out of the ordinary than—in this particular operation?

[ . . . ]

A: Absolutely yes . . . Each salvage operation is different. Not one is the same. A vessel that is under power atop another vessel, there is great harm that could be done if there is anybody that's in the water. Approaching a vessel, jumping onto a vessel that is moving, you know, takes skill. And this one, yeah, with engines running and possible people in the water or injured.

(ECF No. 11–4, 33:6–23). Ms. Burkwest's deposition testimony supports Plaintiff's contention that there were several boats in close vicinity to the Deep Impact, (*Id.* at 16:11–15); her testimony in this regard is also supported by Mr. Girard's testimony (ECF No. 11–3, 14:11–14). Drawing all inferences in the light most favorable to the Plaintiff, the evidence adduced by Plaintiff creates a material disputed fact as to the existence of a reasonable apprehension of further damage to the vessels involved. *Miss. Valley Barge Line Co. v. Indian Towing Co.*, 232 F.2d 750, 755 n.8 (5th Cir. 1956) (affirming a finding of maritime peril noting that “[t]he MV603 was at the gateway of a thriving port and whether headed towards Santa Rosa or by Maury's current in the other direction, she was adrift at sea in the track of the ocean-going vessels. Whether she went aground or was in collision, she was obviously in some danger. . .”). Additionally, as was the case in the authorities cited by Plaintiff, the circumstances around the purported collision should be resolved by the trier of fact. *See Southernmost Marine Serv., Inc.*, 250 F. Supp. 2d at 1369; *Fine*, 895 F.

Supp. at 310.

Plaintiff's evidence that Ms. Burkwest was the first person on the Deep Impact is hotly disputed; Defendant's contention that Mr. Girard was first on the scene and was the one to stop the vessel's forward movement is supported by significant competent evidence. Defendant has advanced the testimony of Mr. Girard, who testified that he was awoken by helicopter noise and looked out towards the north channel of Dinner Key and saw the Deep Impact going around in circles, which prompted him to sail towards it (ECF No. 11-3, 11:16-25, 12:11-16, 13:5-8). Upon boarding the Deep Impact, Mr. Girard testified that he noticed "the back of the boat was pretty much under water," so he turned the throttles down to neutral (*Id.* at 13:22-25, 14:11-12). However, the boat kept moving towards another sailboat and to prevent the boat from further movement, he "throttled back both engines ever so slightly to arrest forward movement." (*Id.* at 14:11-13). Once the forward movement had halted, Mr. Girard testified that he turned the throttles back down to neutral (*Id.* at 15:2-4). After Mr. Girard had stopped the Deep Impact's movement, Mr. Girard made a call over the VHF radio and then he saw another boat arrive with Burkwest and Korpela, who are both known to him (*Id.* at 15:21-25). Mr. Girard testified that he did not witness either Mr. Korpela or Ms. Burkwest board the Deep Impact at any point during the salvage (*Id.* at 20:7-18).

Defendant contends that because Mr. Girard arrived first on the scene and turned the throttles down to neutral, the Deep Impact was no longer in danger of causing more harm to itself or the catamaran it was on top of, and therefore, Plaintiff cannot establish a maritime peril. Defendant urges the Court to reject Ms. Burkwest's testimony as speculative, because she testified that she did not believe anyone else had reached the boat first and could not be sure whether the engines were in neutral when she turned off the motor. This does not render her testimony

speculative; she testified from her personal knowledge. Where there is a material dispute as to an element of a salvage claim, the movant is not entitled to summary judgment. *Warrington Marine, Inc.*, 2005 WL 8155336, at \*2. Viewing the disputed facts in the light most favorable to Plaintiff, as I am required to do, I find that a genuine issue of material fact exists regarding the sequence of events and the extent of the salvage efforts expended by Ms. Burkwest and Captain Korpela.

Similarly, the Parties dispute whether Plaintiff's efforts succeeded in whole or in part in saving the Deep Impact. Defendant's argument focuses here primarily on the evidence that it was not Plaintiff but Girard who stopped the vessel from moving forward, evidence that it directly disputed by the sworn testimony of Burkwest and Girard. While Burkwest's testimony is not entirely clear in what impact turning off the engine had on the Deep Impact, a reasonable inference may be drawn that if the jury accepts her testimony, it may similarly find that this action stopped the boat's forward motion.

These questions should be decided by the trier of fact and as such, summary judgment should be denied with respect to the first salvage.

## **B. Second Salvage Attempt**

Turning to the second salvage, Defendant argues that the Deep Impact was not in peril when it slid off the catamaran because FWC officers were present at the scene and could have rescued the vessel if it had actually been in danger. Specifically, Defendant contends "[i]n this case, the Deep Impact slid off the catamaran within eyesight of Officer Sarmiento. . . [t]his fact, considered in conjunction with the benign weather conditions at the time, makes it impossible for [Plaintiff] to prove that the Deep Impact was in danger ..." (ECF No. 11, at 10).

Plaintiff challenges Defendant's argument on the basis that it presumes that the FWC could have secured the vessel, without any evidence supporting that the FWC could or would have done

so. Plaintiff contends that simply because others could have also rescued the Deep Impact does not defeat its claims for the rescue efforts expended. *Miss. Valley Barge Line Co. v. Indian Towing Co.*, 232 F.2d 750, 755 n.8 (5th Cir. 1956) (“In evaluating risk of loss or damage to MV 603, we disregard the assertion that the [vessel] would have rescued her before she went aground or got in trouble. First, the salvor knew nothing of this and the likely peril is to be viewed through his eyes at the time he is determining whether to respond to the gallant call of the sea.”).

A vessel that is free floating as a result of a collision and is facing imminent danger of further destruction has been held to be in maritime peril. *Miss. Valley Barge Line Co.*, 232 F.2d at 754–55. Moreover, the Eleventh Circuit has expressly rejected the contention that a salvor plaintiff be required to show that a salvage could not have occurred without the salvor’s assistance in order to succeed on a salvage claim. *Girard*, 840 F.3d at 1354–55. Accordingly, Plaintiff need not show that a salvage could not have occurred without its assistance, and its claim is not foreclosed by either the presence of FWC or the fact that Defendant had called a different tow boat to the scene, if the jury accepts Plaintiff’s evidence that Plaintiff in fact aided the Deep Impact.

Defendant contends that Plaintiff did not save the Deep Impact from further damage after it slid off the catamaran because it towed the vessel in “complete disregard” of the FWC’s orders. As the Court explained above, there are factual disputes with respect to the question of who arrived at the scene first and what actions were taken. However, taking the disputed facts in the light most favorable to the nonmovant, I find that this issue is for the trier of fact to decide at a later date. Moreover, as I noted above, Defendant cannot succeed on its Motion simply by claiming that other persons could have saved the Deep Impact.

Accordingly, I recommend that Plaintiff’s Motion be **DENIED**.

### C. *In Rem* Jurisdiction

In the subject Motion, Defendant contends that the Complaint is deficient because Plaintiff had not served *in rem* Defendant Deep Impact (ECF No. 11, pg. 6). In its statement of facts, Plaintiff admits such assertion and does not offer an explanation for the failure to serve (ECF No. 14, at 4). Notably, Defendant does not seek dismissal of the Complaint or any relief, but simply argues that the Complaint is defective.

Federal Rule of Civil Procedure 4(m) requires service of summons and complaint to be perfected upon a defendant within 90 days after the filing of the complaint. Plaintiff filed this action on February 27, 2019, and to date, there is no indication in the Court docket that *in rem* Defendant has been served with the summons and Complaint. Accordingly, I recommend that the Court enter an order to show cause directing Plaintiff to perfect service on Defendant Deep Impact within 14 days of the Court's Order on this Report and Recommendations, or explain why its delay of service does not render the complaint defective. *See Fast Response Marine Towing & Salvage, LLC v. M/Y "Jolly Good,"* No. 17-22748-CIV, ECF Nos. 3, 4, 6 (S.D. Fla. 2017).

### IV. RECOMMENDATIONS

For the foregoing reasons, the undersigned **RECOMMENDS** Defendants' Motion For Summary Judgment (ECF No. 11) be **DENIED**, and that an Order to Show Cause be entered requiring Plaintiff to perfect service on Defendant Deep Impact.

Pursuant to Local Magistrate Rule 4(b), the parties have fourteen (14) days to serve and file written objections, if any, with the Honorable Federico A. Moreno, United States District Judge. Failure to file objections by that date shall bar the parties from *de novo* determination by the District Judge of any factual or legal issue covered in the Report and shall bar the parties from challenging on appeal the District Judge's Order based on any unobjected-to factual or legal

conclusions included in the Report. *See* 28 U.S.C. § 636(b)(1); 11th Cir. Rule 3-1; *Patton v. Rowell*, 2017 WL 443634 (11th Cir. Feb. 2, 2017).

**RESPECTFULLY SUBMITTED** in Chambers this 31st day of December, 2019.

A handwritten signature in black ink, appearing to read "Lauren Louis", is written above a horizontal line.

LAUREN LOUIS  
UNITED STATES MAGISTRATE JUDGE

The Honorable Federico A. Moreno  
Counsel of Record