

**ENTERED**

August 11, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IME INTERNATIONAL MARINE &  
ENERGY DMCC,

Plaintiff,

VS.

M/V SADLERS WELLS,

Defendant.

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CIVIL ACTION NO. 4:20-CV-03395

**ORDER**

Before the Court are Plaintiff’s Motion to Dismiss Amended Counterclaim for Lack of Subject Matter Jurisdiction (the “Motion”) (Doc. #35), Defendant’s Response (Doc. #36), and Plaintiff’s Reply (Doc. #39). Having reviewed the parties’ arguments and applicable legal authority, the Court grants the Motion.

**I. Background**

**a. Factual Background**

This is a maritime breach of contract case regarding unpaid invoices and a subsequent letter of undertaking (“LOU”). Doc. #1 and Doc. #34 at 4. Defendant M/V Sadlers Wells (“Defendant”) is a maritime vessel owned by St. Leger Shipping Limited (“St. Leger”). Doc. #35 at 1. At all material times, Defendant was chartered by CLDN Cobelfret S.A. (“CLDN”) and sub-chartered by Nordia Bulk A/S (“Nordia”). Doc. #36 at 3. In October 2018, Plaintiff IME International Marine & Energy DMCC (“Plaintiff”), an Emirati business that supplies bunkers, or fuel, to ocean going maritime vessels, received an order from Nordia to supply bunkers to Defendant. Doc. #1 ¶ 7. Plaintiff supplied and delivered to Defendant 599.444 metric tons of fuel invoiced at

\$356,069.74. *Id.* ¶¶ 7, 8. After Nordia failed to pay the invoice, a maritime lien was created over Defendant. *Id.* ¶ 14. On October 1, 2020, Plaintiff filed an *in rem* claim for the maritime arrest of Defendant pursuant to Supplemental Admiralty and Certain Maritime Claims Rule C. *Id.* ¶ 2. The Court granted and issued a warrant for maritime arrest of Defendant while Defendant was docked at the Port of Houston. Doc. #8. On October 8, 2020, before the United States Marshal executed the warrant for arrest, non-party Gard P. & I. (Bermuda) Ltd. issued an LOU to Plaintiff. Doc. #35 at 3. Pursuant to the LOU, Plaintiff agreed to accept security in the amount of \$825,000 in return for not arresting Defendant or attaching any other property that is owned or controlled by St. Leger or CLDN. Doc. #22, Ex. 1 at 3.

Defendant was not arrested and left the Port of Houston in October 2020. Doc. #35 at 2. On December 24, 2020, Plaintiff sought additional security, claiming that the LOU did not provide adequate security as to Plaintiff's claim against Nordia. *Id.* at 3. After no additional security was provided, Plaintiff applied to a Moroccan court for the arrest of Defendant as security for Plaintiff's claim against Nordia. *Id.* On December 30, 2020, the Moroccan court issued a Precautionary Detention Order and authorized the arrest of Defendant. *Id.* at 4.

#### **b. Procedural History**

After being arrested in Morocco, Defendant filed an Emergency Motion for Injunctive Relief, Declaratory Relief, and Security regarding the immediate release of Defendant in light of the alleged breach of the LOU. Doc. #9. On January 20, 2021, Defendant advised the Court that it had been released from detention in Morocco after "the Vessel Interests" posted additional security in Morocco. Doc. #14 at 2. As such, Defendant no longer sought emergency injunctive relief. *Id.* at 1–2. On January 25, 2021, Plaintiff moved to dismiss this case, claiming that there were "no active claims or causes of action before it." Doc. #20 at 1. The following day, Defendant

filed an answer to Plaintiff's *in rem* complaint and asserted counterclaims against Plaintiff for breach of the LOU. Doc. #22. At the same time, Defendant filed a statement of interest stating that St. Leger has an ownership interest in Defendant. Doc. #21. On February 16, 2021, Plaintiff moved to dismiss Defendant's counterclaims, claiming that Defendant and St. Leger lack standing to file a counterclaim. Doc. #24 at 2. In response, Defendant sought leave to amend the statement of interest and counterclaims. Doc. #26 at 5 n.4. On September 22, 2021, the Court granted Defendant and/or St. Leger leave to file an amended statement of interest and amended counterclaims, mooted Plaintiff's motions to dismiss. *Id.* at 1–2. On October 13, 2021, Defendant filed an amended statement of interest on behalf of St. Leger claiming St. Leger's ability to "assert its rights to defend all claims asserted by Plaintiff" and "seek security and damages for any and all breaches of the" LOU.<sup>1</sup> Doc. #33 at 1. On the same day, Defendant filed an amended answer and amended counterclaims seeking damages for breach of the LOU caused by its arrest in Morocco. Doc. #34 at 4. Plaintiff now moves to dismiss all counterclaims asserted against it for lack of subject matter jurisdiction, arguing that neither St. Leger nor Defendant have standing to assert a counterclaim. Doc. #35.

## II. Legal Standard

Federal Rule of Civil Procedure 12(b)(1) permits a motion to dismiss for lack of subject matter jurisdiction. FED. R. CIV. P. 12(b)(1). "A case is properly dismissed for lack of subject matter jurisdiction when the court lacks the statutory or constitutional power to adjudicate the case." *Smith v. Reg'l Transit Auth.*, 756 F.3d 340, 347 (5th Cir. 2005). "Standing is a component of subject matter jurisdiction, and it is properly raised by a motion to dismiss under Rule 12(b)(1)."

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<sup>1</sup> Charterer, CLDN, assumes the role of the vessel owner and is pursuing the defense of the claim on behalf of St. Leger. Doc. #33 at 1.

*Cobb v. Cent. States*, 461 F.3d 632, 635 (5th Cir. 2006). A motion to dismiss for lack of subject matter jurisdiction should be granted “where it appears certain that the [party] cannot prove a plausible set of facts that establish subject matter jurisdiction.” *Venable v. La. Workers’ Comp. Corp.*, 740 F.3d 937, 941 (5th Cir. 2013). The Court “take[s] well-pled factual allegation[s] of the complaint as true and view[s] them in the light most favorable to the [non-moving party].” *In re Mirant Corp.*, 675 F.3d 530, 533 (5th Cir. 2012). “The burden of proof for a Rule 12(b)(1) motion to dismiss is on the party asserting jurisdiction.” *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001).

### **III. Analysis**

#### **a. Vessel Owner’s Statutory Standing**

Plaintiff first argues that Defendant’s counterclaims must be dismissed because the only entity that could have standing to assert a counterclaim for breach of the LOU, St. Leger, is not a party to the suit. Doc. #35 at 1 and Doc. #39 at 3. Defendant responds that St. Leger can defend claims against Defendant because it filed a Statement of Interest in compliance with Supplemental Admiralty Rule C(6) and a restricted appearance in compliance with Supplemental Admiralty Rule E(8). Doc. #36 at 11. “A person who asserts a right of possession or any ownership interest in the property that is the subject of the action must” (1) “file a verified statement of right or interest,” also known as a claim, “within 14 days after the execution of process or within the time that the court allows” and (2) “serve an answer within 21 days after filing the statement of interest or right.” FED. R. CIV. P. C(6)(a)(i),(iv). Additionally, an “appearance to defend against an admiralty and maritime claim with respect to which there has issued process in rem . . . may be expressly restricted to the defense of such claim.” FED. R. CIV. P. E(8). “Courts [require] strict compliance with the provisions of Rule C(6) of the Supplemental Rules for Certain Admiralty and Maritime

Claims, the rule that governs the filing of claims and answers.” *United States v. Real Prop. Located at 14301 Gateway Blvd. West, El Paso County Tex.*, 123 F.3d 312, 313 (5th Cir. 1997); *see also McKinlay v. Morrish*, 62 U.S. 343, 345 (1858) (“The rules of pleading in admiralty must be strictly complied with.”). “Statutory standing is achieved by strictly complying with” Rule C(6)’s requirement that the claimant file a verified claim and answer. *United States v. Aero Jet Commander Aircraft*, No. CIV. A. H-04-4844, 2005 WL 2000670, at \*2–3 (S.D. Tex. Aug. 18, 2005) (striking owner’s verified claim and denying owner’s motion to intervene because owner failed to file an answer).

Here, Defendant filed an answer and asserted counterclaims on its own behalf. Doc. #34 at 1, 4 (stating that “Defendant, M/V SADLERS WELLS . . . for its Answer . . . hereby states as follows” and “As and for its Amended Counterclaims, Defendant / Counterclaim Plaintiff M/V SADLERS WELLS (‘Defendant’ or ‘Vessel’) states as follows”). St. Leger has not done the same. Rather, Defendant’s amended answer notes that St. Leger “has filed an Amended Statement of Interest in the Vessel” and makes no mention of St. Leger filing its own answer or joining Defendant’s answer. *See id.* at 1 n.1 and Doc. #33. As the entity asserting an ownership interest in Defendant, St. Leger was required to file an answer within 21 days of filing its statement of interest and failed to do so. *See* FED. R. CIV. P. C(6)(a)(iv).

In addition to Rule C(6), Defendant claims that St. Leger may assert its rights because it has filed a restricted appearance under Rule E(8). Doc. #36 at 11. The only authority Defendant offers in support of its argument that an owner can pursue counterclaims by filing a statement of interest and restricted appearance are two out-of-circuit cases where the owner did in fact file an answer and counterclaims. *See* Doc. #36 at 11–12; *Praxis Energy Agents Pte. Ltd. v. M/V Pebble Beach*, No. CV 17-559-LPS, 2021 WL 3145610 at \*1 (D. Del. July 26, 2021) (“Sithonia appeared as owner of Defendant *in rem*, answered the Complaint, filed a counterclaim, and sought

countersecurity.”); *Gatsby Yacht Grp., LLC. v. M/Y “East Bound & Down,”* No. 218CV4242ADSGRB, 2018 WL 5266874 at \*1 (E.D.N.Y. Oct. 23, 2018) (noting that “counterclaims [were] asserted by Defendant’s owner”). As such, the Court finds that Defendant has failed to carry its burden of establishing that St. Leger has standing to assert Defendant’s counterclaims.

### **b. Defendant’s Article III Standing**

Plaintiff also argues that Defendant does not have standing to assert its counterclaim because any alleged injury based on the breach of the LOU was suffered by Defendant’s owners, not Defendant itself. Doc. #35 at 7. The doctrine of standing “ensure[s] that federal courts do not exceed their authority as it has been traditionally understood.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). To have standing to assert a claim, a claimant “must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the [opposite party], and (3) that is likely to be redressed by a favorable judicial decision.” *Id.* The “parties invoking federal jurisdiction bear the burden of showing standing by establishing that they have suffered an injury in fact, *i.e.*, a concrete and particularized, actual or imminent invasion of a legally protected interest.” *Lujan v. Def. of Wildlife*, 504 U.S. 555, 555 (1992).

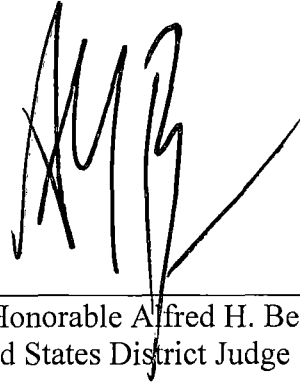
In response to Plaintiff’s argument that Defendant has not suffered an injury in fact, Defendant proclaims that Rule C(6) permits St. Leger to assert its rights through the vessel. Doc. #36 at 10. Not only is this argument non-responsive, but, as explained above, St. Leger did not comply with Rule C(6) because it failed to file an answer. Moreover, Defendant concedes that any damages awarded on its counterclaim would go to St. Leger, not Defendant. Doc. #36 at 13 (“The damages awarded would go to . . . the vessel owner.”). As such, the Court finds that Defendant has failed to meet its burden of showing that it has suffered an injury in fact sufficient to create standing. *See Lujan*, 504 U.S. 555 at 555.

**IV. Conclusion**

In conclusion, the Court finds that Defendant has failed to meet its burden of showing that St. Leger or Defendant have standing to assert Defendant's counterclaim for breach of the LOU and provide the Court with subject matter jurisdiction over the same. Additionally, because Plaintiff states that the "only claim before the Court is the counterclaim filed by" Defendant, no claims remain. *See* Doc. #39 at 2. Accordingly, the Motion is hereby GRANTED and this case is DISMISSED.

It is so ORDERED.

          AUG 10 2022            
Date



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The Honorable Alfred H. Bennett  
United States District Judge