

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

AB PROPERTIES, LLC,)
a Minnesota limited liability company,) **CASE NO. 3:26-cv-00002**
))
Plaintiff,)
v.)
))
JAYS N SEAS, her engines, tackle, equipment,)
Appurtenances, etc., in rem,)
))
Defendant.)

ORDER

Before the Court is Plaintiff AB Properties, LLC's ("Plaintiff") motion [ECF 3] for order directing the issuance of warrant of arrest and/or summons. The motion stems from Plaintiff's verified complaint, which was filed with the Court on January 13, 2026. *See* [ECF 1]. At issue is the vessel *JAYS N SEAS*, her boats, engines, tackle, apparel, furniture and furnishings, equipment, and appurtenances (collectively the "Vessel"). *Id.* ¶ 7; *see also* [ECF 3] at 1. The Vessel itself bears Hull Identification number IRIZU206K223 and is a 50-foot 2023 Lagoon 50. [ECF 1] ¶ 7. In the complaint, Plaintiff asserts *in rem* petitory and possessory claims pursuant to Rule D of the Supplemental Rules for Admiralty and Maritime Claims. *Id.* at 3–4. Plaintiff's motion, however, does not address Rule D. *See generally* [ECF 3]. Instead, the motion cites to 46 U.S.C. § 31301, *et seq.* (i.e., the Ship Mortgage Act), general maritime law, and Rule C of the Supplemental Rules for Admiralty and Maritime Claims. *Id.* ¶¶ 2, 6, 8. Notwithstanding this differing legal basis, the motion will be granted for the reasons to follow.

I. Background

At the crux of the lawsuit is a purchase agreement for the Vessel, which Plaintiff contends it entered with Navigare Yachting USA, Inc. (“Navigare”) on April 17, 2022. [ECF 1] ¶ 9; *see also*

[ECF 1–1]. Under the agreement, the purchase price for the vessel was \$1,241,500, with Plaintiff having made three installment payments, the last of which—made on March 3, 2023—representing payment in full. *Id.* ¶¶ 9–12, 19; *see also* [ECF 1–3, 1–4, and 1–5]. Under section 2 of the agreement, title to the Vessel was to pass to Plaintiff once the balance due at closing had been deposited and cleared into Navigare’s bank account. *Id.* ¶ 20. Specifically, the provision provides as follows:

Title Transfer. Title to the Vessel shall pass to Purchaser only when the Balance Due at Closing has been deposited and cleared into Seller’s account or upon Seller’s acknowledgment in writing of other satisfactory financial arrangements in lieu of the Balance Due (“Closing”).

See [ECF 1–1] at 2, ¶ 2.

The complaint alleges, however, that in or around December 2025, Plaintiff discovered that Navigare had never transferred title of the Vessel to Plaintiff, with the Vessel remaining in the name of Navigare. [ECF 1] ¶¶ 13–14, 21. Thereafter, on December 31, 2025, Plaintiff sent Navigare a demand letter requesting the return of the purchase price, plus interest. *Id.* ¶ 17. Navigare had yet to respond to said demand as of the filing of the complaint (i.e., January 13, 2026). *Id.* Having paid the total amount due under the agreement, the complaint asserts that Plaintiff is entitled to the legal title of the Vessel in accordance with section 2 of the agreement. *Id.* ¶ 21.¹ It is also alleged that Plaintiff has been wrongfully deprived of the Vessel, with Plaintiff seeking immediate recovery of possession. *Id.* ¶ 22. Finally, the complaint alleges that Plaintiff has a “superior legal right to title and ownership of the Vessel as against Navigare.” *Id.* ¶ 23.

As for the present motion, it asserts that this is an action to foreclose a maritime lien under the terms of a first preferred ship mortgage. [ECF 3] ¶ 1. As addressed above, Plaintiff’s verified

¹ Although the complaint references an Abstract of Title having been attached as an Exhibit F, no such exhibit is found on the docket. *See* [ECF 1] ¶ 21; *see generally* the docket.

complaint indicates otherwise.

II. Legal Standard / Analysis

“[C]ontracts for the construction or sale of a vessel are not maritime contracts. *Gulf Coast Shell and Aggregate LP v. Newlin*, 623 F.3d 235, 240 (5th Cir. 2010); *Santiago v. Evans*, 2012 WL 3231025, at *4 (M.D. Fla. June 21, 2012). “[T]o establish admiralty jurisdiction over a maritime contract, the contract must be one ‘which concerns transportation by sea, relates to navigation or maritime employment, or involves navigation and commerce on navigable waters.’” *Opaskar v. 33’ 1987 Chris-Craft Amerosport Motor Vessel*, 2023 WL 3978322, at *3 (N.D. Ohio June 13, 2023) (citing *Sloop Silver Cloud*, 259 F. Supp. 187, 190 (S.D. NY 1966)). Applying the above standard to the present lawsuit, the Court finds the agreement at issue is not a maritime contract.

In its motion, Plaintiff appears to request the warrant under the wrong Supplemental Rule. As noted above, the motion contends that this is an action to foreclose a maritime lien under the terms of a first preferred ship mortgage. [ECF 3] ¶ 1. It further maintains that the action is governed by 46 U.S.C. § 31301, *et seq.* (i.e., the Ship Mortgage Act), general maritime law, and Rule C of the Supplemental Rules for Admiralty and Maritime Claims. *Id.* ¶¶ 2, 6, 8. Presumably, Plaintiff believes it has a maritime lien or an enforceable ship mortgage. *See Nimbus Boat Rental, Corp. v. Garcel*, 2022 WL 11295924, at *6 (S.D. Fla. Oct. 7, 2022). The complaint, however, does not assert a claim to enforce a maritime lien. *See generally* [ECF 1]. Rather, the sole count of the complaint is that of an *in rem* petitory and possessory claim under Rule D. *Id.* at 3. Notably absent is any attempt to address the disconnect between the motion with that of the allegations and request for relief set forth in the complaint. Nor does the motion attempt to explain how Plaintiff holds a maritime lien under the act. Instead, it just proceeds as if a foreclosure claim has been pled in the complaint, even though it has not. Given that the complaint necessarily controls, this action is

construed as proceeding under Rule D. *See Garcel*, 2022 WL 11295924, at *6.

Under Rule D, there are three identified grounds for exercising admiralty jurisdiction: “(i) a titled owner may have a vessel arrested in order to seek possession; (ii) joint title owners may seek to have a vessel arrested so that their ownership interests can be partitioned; or (iii) a titled owner may bring a petitory action to “try title” to the vessel.” *Opaskar*, 2023 WL 3978322, at *4. As it relates to the present matter, the rule provides in pertinent part as follows:

In all actions for possession, partition, and to try title maintainable according to the course of the admiralty practice with respect to a vessel ... the process shall be by a warrant of arrest of the vessel, cargo, or other property, and by notice in the manner provided by Rule B(2) to the adverse party or parties.

Not all disputes over title to a vessel, however, are within a federal court’s admiralty jurisdiction. *Santiago*, 2012 WL 3231025, at *4. A petitory action (to try title) under the rule requires a plaintiff to assert a legal title to the vessel, as a mere assertion of an equitable interest is insufficient. *Newlin*, 623 F.3d at 239. Similarly, a party seeking possession of a vessel under the rule “must have legal title or a legal claim to possession” to maintain such an action. *Id.* (citing *Cary Marine, Inc. v. M/V Papillon*, 701 F.Supp. 604, 606 (N.D. Ohio 1988), *aff’d*, 872 F.2d 751 (6th Cir.1989)). A Rule D claim that asserts only equitable interests in a vessel, with no separate basis for admiralty jurisdiction, is not cognizable in admiralty. *Id.*

Based on the facts as asserted in the complaint, the Court is faced with the question as to whether it has admiralty jurisdiction over this controversy, and thus subject matter jurisdiction. In *Newlin*, the Fifth Circuit held the plaintiff’s claims only asserted equitable interests where plaintiff acknowledged not having title to the vessel and the contract on which the suit was based did not vest title in plaintiff. *Newlin*, 623 F.3d at 239. Conversely, in the present matter, the agreement on which Plaintiff is suing does provide that title passes to Plaintiff at closing upon the satisfaction of two contingencies, both of which the complaint asserts were satisfied. [ECF 1–1] at 2, ¶ 2; [ECF

1] ¶¶ 10–12, 19–21. Notwithstanding this provision, the complaint does not assert that Plaintiff has a legal title to or ownership of the Vessel. Instead, it alleges only that Plaintiff has a “superior legal *right* to title and ownership” of the Vessel. [ECF 1] ¶ 23 (emphasis added). Barring an affirmative assertion of legal title, Plaintiff is precluded from maintaining a petitory action under Rule D. Such a finding, however, is not the final word on whether this Court has admiralty jurisdiction. This is because Rule D permits a party seeking possession of a vessel to maintain an action so long as the party has legal title *or* a legal claim to possession. It is this “legal claim to possession” that shall serve as the linchpin as to whether admiralty jurisdiction exists.

A possessory action under Rule D permits a party to adjudicate the right to possession of property that has been wrongfully taken. *Privilege Yachting, Inc. v. Teed*, 849 F.Supp. 298, 301 (D. Del. 1994) (citing *Cary Marine*, 872 F.2d at 756). In the complaint, it is alleged that Plaintiff seeks to *recover* immediate possession of the Vessel. [ECF 1] ¶¶ 18, 22. The complaint also asserts that Navigare’s “continued retention” of the Vessel is unlawful. *Id.* ¶ 23. Finally, the complaint alleges that Plaintiff has paid the entire purchase price for the Vessel, which in turn entitles Plaintiff to legal title to the Vessel in accordance with the purchase agreement. *Id.* ¶ 21. Taking these facts as alleged into consideration, the Court finds this to be a close call. A strong argument can be made that this is a contractual dispute characterized as an admiralty matter so as to permit jurisdiction in this Court. *See J.A.R., Inc. v. M/V Lady Lucille*, 963 F.2d 96, 99 (5th Cir. 1992); *see Teed*, 849 F.Supp. at 301; *see Newlin*, 623 F.3d at 240. However, given Plaintiff’s allegations recited above—which are accepted as true for purposes of the present arrest motion—the Court finds that Plaintiff has made out a *prima facie* case for a possessory action pursuant to Rule D. *See Jones v. One Fifty Foot Gulfstar Motor Sailing Yacht, Hull No. 01*, 625 F.2d 44, 47 (5th Cir. 1980) (admiralty jurisdiction found by the Fifth Circuit where the plaintiff alleged ownership of a vessel, a right to immediate possession of a vessel, and an unlawful taking and detention of the vessel); *see also*

Santiago, 2012 WL 3231025, at *7 (admiralty jurisdiction found where plaintiff sought immediate possession of the vessel and alleged that the vessel had been unlawfully taken); *cf. Newlin*, 623 F.3d at 239 (Fifth Circuit found a legal claim to the vessel did not exist where plaintiff did not have title to the vessel and the contract in which suit was brought did not vest title in the plaintiff).

The premises considered, it is hereby

ORDERED that Plaintiff's motion [ECF 3] for order directing the issuance of warrant of arrest is **GRANTED** as set forth herein; it is further

ORDERED that the Clerk of Court is **DIRECTED** to issue a **WARRANT for the ARREST** of the vessel *JAYS N SEAS*—bearing Hull Identification number IRIZU206K223—as well as said vessel's boats, engines, tackle, apparel, furniture and furnishings, equipment, and appurtenances. The *JAYS N SEAS* is further identified as a 50-foot 2023 Lagoon 50; it is further

ORDERED that Plaintiff shall file a proposed arrest warrant with the Court prior to the issuance of said warrant; it is further

ORDERED that Plaintiff is liable for costs and fees associated with the seizure of the vessel and must prepay the marshal's expenses prior to seizure; it is further

ORDERED that once the arrest warrant has been issued by the Clerk of Court, Plaintiff and/or its counsel shall take said warrant to the U.S. Marshal's Office to assist with the coordination of the arrest, as well as pay all costs and fees associated with the seizure due at that time; it is further

ORDERED that prior to the execution of the warrant of arrest, Plaintiff shall identify a substitute custodian for the vessel and file a motion to appoint said substitute custodian with the Court. Plaintiff is further liable for all costs and fees associated with this substitute custodian; it is further

ORDERED that in accordance with Rule D of the Supplemental Rules for Admiralty and Maritime Claims, Plaintiff **SHALL PROVIDE NOTICE** to all known adverse party or parties, including, but not limited to, **Navigare Yachting USA, Inc.** and **Axos Bank d/b/a LaVictoire Finance**, in the manner provided for in Rule B(2) of the Supplemental Rules for Admiralty and Maritime Claims. Such notice shall include providing a copy of the verified complaint, the motion for order directing the issuance of warrant of arrest, and this present order, as well as any other matters / filings that are on the docket. Plaintiff is to provide such notice no later than fifteen days after the vessel has been arrested; it is further

ORDERED that the U.S. Marshal is to **POST** a copy of the warrant of arrest on the *JAYS N SEAS* at the time the arrest warrant is executed on said vessel, with the U.S. Marshal further directed to provide a copy of said arrest warrant to the master of the vessel or if the master is not present, another member of the crew if present.

ENTER:

Dated: January 16, 2026

/s/ G. Alan Teague

G. ALAN TEAGUE

U.S. MAGISTRATE JUDGE