

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-10239

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| FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT NOV 23, 2010 JOHN LEY CLERK |
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D.C. Docket No. 8:05-cv-00962-TBM

ST. PAUL FIRE AND MARINE INSURANCE COMPANY,

Plaintiff -Counter Defendant - Appellee,

versus

SEA QUEST INTERNATIONAL, INC.

Defendant-Counter Claimant - Appellant,

TRIDENT SHIPWORKS, INC.,

Defendant.

Appeal from the United States District Court
for the Middle District of Florida

(November 23, 2010)

Before HULL and MARCUS, Circuit Judges, and COOKE,* District Judge.

PER CURIAM:

Defendant-Appellant Sea Quest International, Inc. (“Sea Quest”) appeals the district court’s order dated December 17, 2009 granting summary judgment to St. Paul Fire and Marine Insurance Co. (“St. Paul”), Plaintiff-Appellee, and denying Sea Quest’s motion for summary judgment. After oral argument and review, this Court affirms the district court’s order concluding St. Paul has no liability to Sea Quest under its marine general liability policy of insurance (No. 368FA0038) and excess insurance policy (No. 368FA0046) issued by St. Paul to Defendant Trident Shipworks, Inc. (“Trident”).

As to any alleged third-party claims Sea Quest argues on appeal that it has brought under either of the builder’s risk insurance policies issued by St. Paul to Trident (Nos. 368FA0280 and 368FA0172), we conclude that Sea Quest failed to raise such claims in its counterclaim or in its motion for summary judgment filed in the district court, and such third-party claims are therefore not properly before us on appeal. In any event, we conclude such third-party claims under either of the builder’s risk policies lack merit for a number of reasons, including but not

*Honorable Marcia G. Cooke, United States District Judge for the Southern District of Florida, sitting by designation.

limited to the doctrine of res judicata, and the claims are foreclosed under Florida law.

AFFIRMED.