

**UNITED STATES DISTRICT COURT**

**DISTRICT OF MAINE**

<i>HILTON SEA, INC.,</i>	)	
	)	
<i>Plaintiff</i>	)	
	)	
<i>v.</i>	)	<i>Civil No. 89-0240 P</i>
	)	
<i>DMR YACHTS, INC. and</i>	)	
<i>DWIGHT M. RAYMOND,</i>	)	
	)	
<i>Defendants</i>	)	

***REVISED RECOMMENDED DECISION ON PLAINTIFF'S MOTION FOR LIMITED SUMMARY JUDGMENT AGAINST DEFENDANT DMR YACHTS, INC.***

At oral argument held March 9, 1990 on the plaintiff's Motion for Summary Judgment, limited to liability, against both defendants, the plaintiff was given to and including March 23, 1990 within which to file additional evidence, a revised statement of material facts and a new memorandum of law in support of its motion as against the individual defendant, and said defendant was given to and including March 30, 1990 within which to file additional evidence, a revised statement of material facts and a new memorandum of law in support of his opposition thereto. By letter dated March 21, 1990, counsel for the plaintiff advised the court that the plaintiff withdraws its motion for summary judgment against the individual defendant thus rendering moot the schedule summarized above.

At said oral argument, the corporate defendant conceded that the plaintiff is entitled to summary judgment on liability against it on Count II (breach of contract) and consented to the entry of

same. At the same time, the plaintiff indicated<sup>1</sup> that it withdrew its motion for summary judgment on all remaining counts against the corporate defendant.

Accordingly, I recommend that the plaintiff's motion for summary judgment, limited to liability, be **GRANTED** against DMR Yachts, Inc. on Count II (breach of contract).

**NOTICE**

***A party may file objections to those specified portions of a magistrate's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. ' 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within ten (10) days after being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.***

***Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.***

***Dated at Portland, Maine this 21st day of March, 1990.***

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***David M. Cohen***  
***United States Magistrate***

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<sup>1</sup> I originally understood the plaintiff to indicate that it consented to a dismissal of the remaining counts against the corporate defendant, but the plaintiff's counsel advises that I misunderstood the plaintiff's intention in this regard. See letter of Joseph H. Field, Esq. dated March 21, 1990.