

**DAVID G. BANES, ESQ. F0171**  
**O'Connor Berman Horey & Banes, LLC**  
**Second Floor, Marianas Business Plaza**  
**P.O. Box 501969**  
**Saipan, MP 96950**  
**Tel. No.: 234-5684**  
**Fax No.: 234-5683**

**Attorneys for Defendant PADI Worldwide Corp.**

**IN THE UNITED STATES DISTRICT COURT  
OF THE  
FOR THE NORTHERN MARIANA ISLANDS**

**MADELYN JONES, personal  
representative of John Jones, deceased,**

**Plaintiff,**

**vs.**

**AXE MURDERER TOURS, LLC, HARRY  
BLALOCK, GREEN FLASH, LLC, JOE  
MCDOULETT, PADI WORLDWIDE  
CORP., and PADI AMERICAS, INC., both  
dba PROFESSIONAL ASSOCIATION OF  
DIVE INSTRUCTORS,**

**Defendants.**

**Civil Action No. 1:20-CV-00004**

**DECLARATION OF CHARLES A.  
HORNSBY IN SUPPORT OF PADI  
WORLDWIDE CORP.'S MOTION TO  
DISMISS**

**Judge: Tydinco-Gatewood**

I, Charles A. Hornsby, hereby swear and state, under the penalty of perjury, as follows:

1. I am a U.S. citizen residing in the state of California, and I am over the age of 18.

2. I am the Senior Vice President Legal Affairs of PADI Worldwide Corp. ("PADI Worldwide"), a Defendant in the above-captioned lawsuit.

3. I am familiar with the structure, organization, and operations of PADI Worldwide, and the relationship between PADI member individual instructors and dive centers, and PADI Worldwide.

1           4.       PADI Worldwide is a corporation incorporated under the laws of California, and  
2 its principal place of business is located in California.

3           5.       PADI Worldwide has no direct involvement or ties with the Commonwealth of  
4 the Northern Mariana Islands (“CNMI”). It neither offers nor sells any products or services  
5 directly to CNMI.  
6

7           6.       PADI Worldwide has never had any CNMI business license, and has never  
8 maintained any office, bank account, agent, employee, or address in CNMI.

9           7.       The acronym “PADI” stands for the “Professional Association of Diving  
10 Instructors.”

11           8.       PADI is a diving training organization and an association of diving instructors  
12 and dive centers that develops and designs training courses and related educational materials for  
13 various levels of recreational scuba diving.  
14

15           9.       In order for an individual or a dive center to become a member of PADI, the  
16 individual or dive center must meet certain qualification criteria, agree to abide by PADI  
17 training standards, agree to be subjected to PADI’s quality assurance review if there is any issue  
18 regarding the individual’s or dive center’s adherence to PADI training standards, sign a PADI  
19 membership agreement with PADI Worldwide that specifies that the individual or dive center,  
20 upon being granted membership, is not an agent, employee, or franchisee of any PADI entity,  
21 and pay PADI a membership fee.  
22

23           10.      Once a PADI member, the individual member or dive center may purchase PADI  
24 course materials for resale to the individual member or dive center’s customers and use the  
25 PADI logos and trademarks when marketing services to the public.

26           11.      While the PADI membership agreement is with PADI Worldwide, regional PADI  
27 entities, rather than PADI Worldwide, administer PADI membership.  
28

1           12. For example, PADI membership in the U.S. states and territories, including  
2 CNMI, is administered by PADI Americas, Inc. (“PADI America”), another Defendant in the  
3 above-captioned lawsuit.

4           13. PADI membership administration includes determining which dive centers and  
5 individuals qualify for membership, sending educational and operational materials to such  
6 member dive centers and individual members and collecting revenues for materials sold and  
7 processing fees for student certifications for courses offered by the dive centers and individual  
8 members.

9           14. While PADI individual members and member dive centers are required to abide  
10 by PADI standards in order to maintain certification, neither PADI Worldwide nor PADI  
11 Americas has control over or involvement with PADI members’ day-to-day operations and  
12 activities and bears no responsibility for the same.

13           15. Specifically, regarding the relationship between PADI Worldwide, on one hand,  
14 and Defendants Axe Murderers, LLC (“AM Dive Shop”) and Green Flash, LLC (“GF Dive  
15 Shop”) and the individual Defendants, Messrs. Harry Blalock and Joe McDoulett (collectively,  
16 the “Dive Shop Defendants”), on the other hand, the following is true:

- 17           a. PADI Worldwide has never had any ownership interest in any of the Dive  
18 Shop Defendants;  
19           b. The Dive Shop Defendants have never been an agent or franchisee of PADI  
20 Worldwide and have never been given authority to act on behalf of PADI  
21 Worldwide as an agent;  
22           c. Instead, each of the Dive Shop Defendants would have signed an agreement  
23 stating that they were not agents of any PADI entity, including without  
24 limitation, PADI Worldwide and PADI Americas;

- 1 d. PADI Worldwide has never had any right to share in profits made by any of  
2 the Dive Shop Defendants or any fees charged by them to their customers,  
3 nor has PADI Worldwide had any obligation to share in their losses;  
4  
5 e. PADI Worldwide has never had any right to hire, fire, or control the  
6 employment of any of the employees or former employees of the Dive Shop  
7 Defendants;  
8  
9 f. PADI Worldwide has never paid any wages, salaries, or other work  
10 compensation to any of the employees or former employees of any of the  
11 Dive Shop Defendants;  
12  
13 g. PADI Worldwide has never had any right or ability to control the business  
14 operations of any of the Dive Shop Defendants, including any decision made  
15 by any of the Dive Shop Defendants, if any, relating to the pleasure dive  
16 involving the decedent- in this case, John Jones.  
17  
18 h. PADI Worldwide has never had the right or ability to monitor any of the Dive  
19 Shop Defendants as to how they conduct dives in their daily operations,  
20 including the pleasure dive with the decedent in this matter, John Jones, or as  
21 to if any of the Dive Shop Defendants are following PADI standards or not in  
22 their day-to-day operations.

23 16. PADI Worldwide has never entered into a partnership agreement, whether  
24 written, oral, informal, or otherwise, with any of the Dive Shop Defendants, has never acted as a  
25 partner of any one of them, and has never represented to any one that it has a partnership  
26 relationship with any of the Dive Shop Defendants.

27 17. The "PADI" mark and PADI logos and certifications are not designed to serve as  
28 a guarantee or assurance by PADI Worldwide of any PADI member's competence or adherence

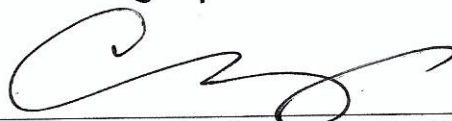
1 to PADI safety standards, and PADI Worldwide has never represented to anyone that they are  
2 designed to serve as such a guarantee or assurance by PADI Worldwide.

3 18. PADI Worldwide has never claimed or represented to divers that PADI  
4 Worldwide has a comprehensive monitoring system to ensure all of its certified instructors  
5 comply with PADI safety standards.

6 19. PADI Worldwide has never represented to John Jones that the Dive Shop  
7 Defendants adhered to PADI safety standards, or that PADI Worldwide proactively monitored  
8 and confirmed the Dive Shop Defendants met PADI safety standards.

9 I, Charles A. Hornsby, swear and state under penalty of perjury under the laws of the  
10 United States that the foregoing is true and correct, to the best of my knowledge and belief, and  
11 if called upon to testify, I would competently testify thereto.

12 Executed on this 13<sup>th</sup> day of April, 2020 in Singapore.

13  
14  
15 

16 Charles A. Hornsby, Sr. VP Legal Affairs,  
17 PADI Worldwide Corp.

18  
19  
20  
21  
22  
23  
24  
25 M:\David Banes\Civil Cases\2575-12 Madelyn Jones v Axe Murderer Tours et  
26 al\Pleadings Draft\2575-12-200401-AI Hornsby Declaration Draft 6.doc  
27  
28