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9 Attorneys for CHRISTINE DIGNAM
 10 Personal Representative of the Estate of
 JUSTIN CARROLL DIGNAM
 11 Claimant/Respondent

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 13
 14 UNITED STATES DISTRICT COURT
 15
 16 CENTRAL DISTRICT OF CALIFORNIA
 17
 18 IN ADMIRALTY

19 In the Matter of the Complaint of) Case No. CV 19-7693 PA (MRWx)
 TRUTH AQUATICS, INC. and)
 20 GLEN RICHARD FRITZLER and) **CLAIMANT/RESPONDENT**
 DANA JEANNE FRITZLER,) **CHRISTINE DIGNAM'S**
 21 Individually and as Trustees of the) **ANSWER TO THE FIRST**
 22 Fritzler Family Trust DTD 7/27/92 as) **AMENDED COMPLAINT FOR**
 23 owners and/or owners *pro hac vice* of) **EXONERATION FROM OR**
 the dive vessel CONCEPTION,) **LIMITATION OF LIABILITY**
 24 Official Number 638133, for)
 25 Exoneration from or Limitation of)
 Liability)

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1 COMES NOW CLAIMANT/RESPONDENT CHRISTINA DIGNAM
2 (“CLAIMANT/RESPONDENT”) WHO, acting as the Duly Appointed Personal
3 Representative of the Estate of JUSTIN CARROLL DIGNAM (Deceased),
4 hereby answers the Complaint for Exoneration from or Limitation of Liability
5 filed herein by admitting, denying, and alleging, on information and belief, as
6 follows:
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8

9 **ADMISSIONS AND DENIALS**

10 1. Admits the allegations and accepts the legal conclusions set forth in
11 Paragraph 1.

12 2. Admits that Plaintiffs and Petitioners allege they are the owners or
13 owners *pro hac vice* of the CONCEPTION, but currently lacks sufficient
14 information to form a belief about the other allegations in Paragraph 2 and, on
15 that basis, denies those allegations.
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18 3. Admits that Venue is proper in this Court pursuant to Fed.R.Civ.P.
19 Supp. Adm. R. F(9), and that the incident which forms the basis of this action
20 occurred upon the navigable waters of the Santa Barbara Channel, within the
21 territorial waters of the State of California, but currently lacks sufficient
22 information to form a belief about the other allegations of Paragraph 3 and, on
23 that basis, denies those allegations.
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26 4. Admits that thirty-three passengers and one crew member died
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1 aboard the CONCEPTION as a direct and proximate result of the Fire on
2 September 2, 2019, but currently lacks sufficient information to form a belief
3 about the other allegations of Paragraph 4 and, on that basis, denies those
4 allegations.
5

6 5. Admits that she has not yet filed suit against the Plaintiffs and
7 Petitioners in any other forum by reason of the premises herein, but otherwise
8 lacks sufficient information to form a belief about the other allegations of
9 Paragraph 5 and, on that basis, denies those allegations.
10

11 6. Currently lacks sufficient information to form a belief about the
12 allegations of Paragraph 6 and, on that basis, denies those allegations.
13

14 7. Currently lacks sufficient information to form a belief about the
15 allegations of Paragraph 7 and, on that basis, denies those allegations.
16

17 8. Currently lacks sufficient information to form a belief about the
18 allegations of Paragraph 8 and, on that basis, denies those allegations.
19

20 9. Currently lacks sufficient information to form a belief about the
21 allegations of Paragraph 9 and, on that basis, denies those allegations.
22

23 10. Denies the allegations in Paragraph 10.

24 11. Admits that the CONCEPTION departed Santa Barbara, California
25 on August 31, 2019, with thirty-three passengers and six crew members on board
26 for a three-day voyage upon the navigable waters of the Santa Barbara Channel,
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1 within the territorial limits of the State of California, but denies each and every
2 one of the other allegations in Paragraph 11.

3
4 12. Admits that a fire broke out on board the CONCEPTION during the
5 early morning hours of September 2, 2019, while that vessel was anchored upon
6 the navigable waters of the Santa Barbara Channel less than one marine league
7 from shore and within the territorial waters of the State of California, but denies
8 each and every one of the other allegations in Paragraph 12.

9
10 13. Currently lacks sufficient information to form a belief about the
11 allegations of Paragraph 13.

12
13 14. Currently lacks sufficient information to form a belief about the
14 allegations of Paragraph 14.

15
16 15. Denies the allegations of Paragraph 15.

17
18 16. The allegations and legal conclusions set forth in Paragraph 16 do
19 not call for an answer from CLAIMANT/RESPONDENT DIGNAM.

20
21 17. Denies and disputes the allegations, beliefs, and legal conclusions set
22 forth in Paragraph 17.

23
24 18. The allegations and legal conclusions set forth in Paragraph 18 do
25 not call for an answer from CLAIMANT/RESPONDENT DIGNAM.

26
27 19. Admits the allegations of Paragraph 19.

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FIRST AFFIRMATIVE DEFENSE

20. As and for a first affirmative defense, CLAIMANT/RESPONDENT alleges that:

a.) She is prepared to join with the other Claimants and Respondents herein and offer stipulations that will fully protect Plaintiffs’ and Petitioners’ right to limitation, if any;

b.) This action should therefore be abated under *Langnes v. Green*, 282 U.S. 531 (1931), *Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438 (2001), *Lake Tankers Corp. v. Henn*, 354 U.S. 147, 152 (1957), *Newton v. Shipman*, 718 F.2d 959, 962 (9th Cir. 1983), and;

b.) CLAIMANT/RESPONDENT should be allowed to pursue her claims against Plaintiffs and Petitioners, at law and in the forum of her choice before a jury of her peers, under the “Saving to Suitors Clause,” 28 U.S.C. § 1333(1).

SECOND AFFIRMATIVE DEFENSE

21. As and for a Second Affirmative Defense, CLAIMANT/RESPONDENT alleges that:

a. Insofar as she is prepared to protect Plaintiffs’ and Petitioners’ right to limitation, if any, as was alleged in Paragraph 20 hereinabove, the Vessel Owners Limitation Act, 46 U.S.C. §§ 30501 *et seq.*, and its rules of

1 practice do not create a freestanding right to exoneration herein, and;

2 b. This Court should therefore defer any decisions about the
3 merits of her claims to the California Superior Courts in accordance with
4 the decisions in *Lewis v. Lewis & Clark Marine*, 531 U.S. 438, 453 (2001),
5 *Lake Tankers Corp. v. Henn*, 354 U.S. 147, 152 (1957), and *In re*
6 *Tidewater Inc.*, 249 F.3d 342, 347 (5th Cir. 2001).
7
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9 **THIRD AFFIRMATIVE DEFENSE**

10 22. As and for a Third Affirmative Defense,

11 CLAIMANT/RESPONDENT alleges that the CONCEPTION was unseaworthy at
12 the outset of her alleged August 31, 2019 voyage in that:
13

14 a. She was outfitted and furnished with dangerous and defective
15 features, equipment, and apparel including, but not limited to, escape
16 hatches, smoke detectors, fire extinguishers, electrical systems, and battery
17 chargers which were not fit for their intended purposes;
18

19 b. She was commanded by an unfit master and manned by an
20 unfit crew, and;
21

22 c. She was deliberately and habitually operated in violation of
23 Sub-chapter T of the United States Coast Guard Regulations, including but
24 not limited to the provisions of 46 CFR § 185.410, as well as the
25 requirements of her own Certificate of Inspection.
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4. The Court grant such other and further relief as it deems just and proper.

Dated: November 11, 2019

McGUINN, HILLSMAN & PALEFSKY

By: JOHN R. HILLSMAN

JOHN R. HILLSMAN

Attorneys for CLAIMANT/RESPONDENT
CHRISTINE DIGNAM, Personal
Representative of the Estate of
JUSTIN CARROLL DIGNAM

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