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**ATTORNEYS FOR SARMA WILLIAMS,
PERSONAL REPRESENTATIVE OF
THE ESTATE OF VAIDEHI DEVI
CAMPBELL WILLIAMS,
CLAIMANT/RESPONDENT**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
IN ADMIRALITY

In the Matter of the Complaint of
TRUTH AQUATICS, INC. and GLEN
RICHARD FRITZLER and DANA
JEANNE FRITZLER, Individually and
as Trustees of the Fritzler Family Trust
DTD 7/27/92 as owners and/or owners
pro hac vice of the dive vessel
CONCEPTION, Official Number
638133, for Exoneration from or
Limitation of Liability

Case No. CV 19-7693 PA (MRWx)

**CLAIMANT/RESPONDENT SARMA
WILLIAMS' COUNTERCLAIM FOR
COMPENSATORY AND PUNITIVE
DAMAGES**

PLEASE TAKE NOTICE that Respondent/Counter Claimant SARMA
WILLIAMS, acting in his capacity as the specially appointed Personal
Representative of the Estate of VAIDEHI DEVI CAMPBELL WILLIAMS (Deceased)
(hereinafter "the DECEDENT"), hereby makes due proof of his claim, under Rule
F(5) of the Supplemental Admiralty Rules of the Federal Rules of Civil Procedure,

1 against Petitioners TRUTH AQUATICS, INC. and GLEN RICHARD FRITZLER and
 2 DANA JEANNE FRITZLER, Individually and as Trustees of the Fritzler Family
 3 Trust DTD 7/27/92, as follows:

4 1. The incident that gave rise to this claim occurred upon the navigable
 5 waters of the United States within the territorial waters of the State of California,
 6 had an actual and potential impact on maritime commerce, involved a traditional
 7 maritime activity, and is subject to admiralty tort jurisdiction, as hereinafter more
 8 fully appears.

9 2. At all times material hereto, Respondent/Counter Claimant SARMA
 10 WILLIAMS ("Respondent/Counter Claimant WILLIAMS") was and still is an adult
 11 resident of the State of California and the "spouse" of VAIDEHI DEVI CAMPBELL
 12 WILLIAMS, Deceased ("DECEDENT") as that term is used in 46 U.S.C. § 30302. He
 13 is the duly appointed Personal Representative of DECEDENT's Estate and the father
 14 of DECEDENT's two children, MAKANI WILLIAMS and DAELEN WILLIAMS.

15 3. DECEDENT was born on September 4, 1977. At all times material
 16 hereto, she was a "passenger for hire," as that phrase is used in 33 CFR § 101.105,
 17 aboard the dive vessel CONCEPTION (O.V.N. 638133) and a "non-seafarer" within
 18 the meaning of *Yamaha Motor Corp. v. Calhoun*, 516 U.S. 199, 215 (1996). As
 19 hereinafter more fully appears, she died aboard that vessel during the early morning
 20 hours of September 2, 2019, when it caught fire and sank in Platts Harbor off Santa
 21 Cruz, Island, upon navigable waters within the territorial limits of the State of
 22 California, see *Tidewater Marine Western, Inc. v. Bradshaw*, 14 Cal.4th 557, 564
 23 (1996) (citing Cal. Const., art. III, § 2; Gov. Code, § 170, 171), less than one hundred
 24 yards from shore.

25 4. MAKANI WILLIAMS is DECEDENT's daughter and a "child" as that
 26 term is used in 46 U.S.C. § 30302. She was born on December 5, 2008.

27 5. DAELEN WILLIAMS is DECEDENT's son and a "child" as that term is
 28 used in 46 U.S.C. § 30302. He was born on August 14, 2011.

1 6. At all times material hereto, Petitioner TRUTH AQUATICS, INC. was
2 and still is a corporation organized and existing under the laws of the State of
3 California that maintained, and still maintains, its principal place of business at 301
4 Cabrillo Boulevard, Santa Barbara, California, 93101.

5 7. At all times material hereto, Petitioner RICHARD FRITZLER was and
6 still is an individual resident of the State of California.

7 8. At all times material hereto, Petitioner DANA JEANNE FRITZLER was
8 and still is an individual resident of the State of California.

9 9. At all times material hereto, Petitioners, and each of them, owned,
10 maintained, equipped, controlled, and operated the dive boat CONCEPTION as a
11 “small passenger vessel” within the meaning of 46 C.F.R. § 175.110(a).

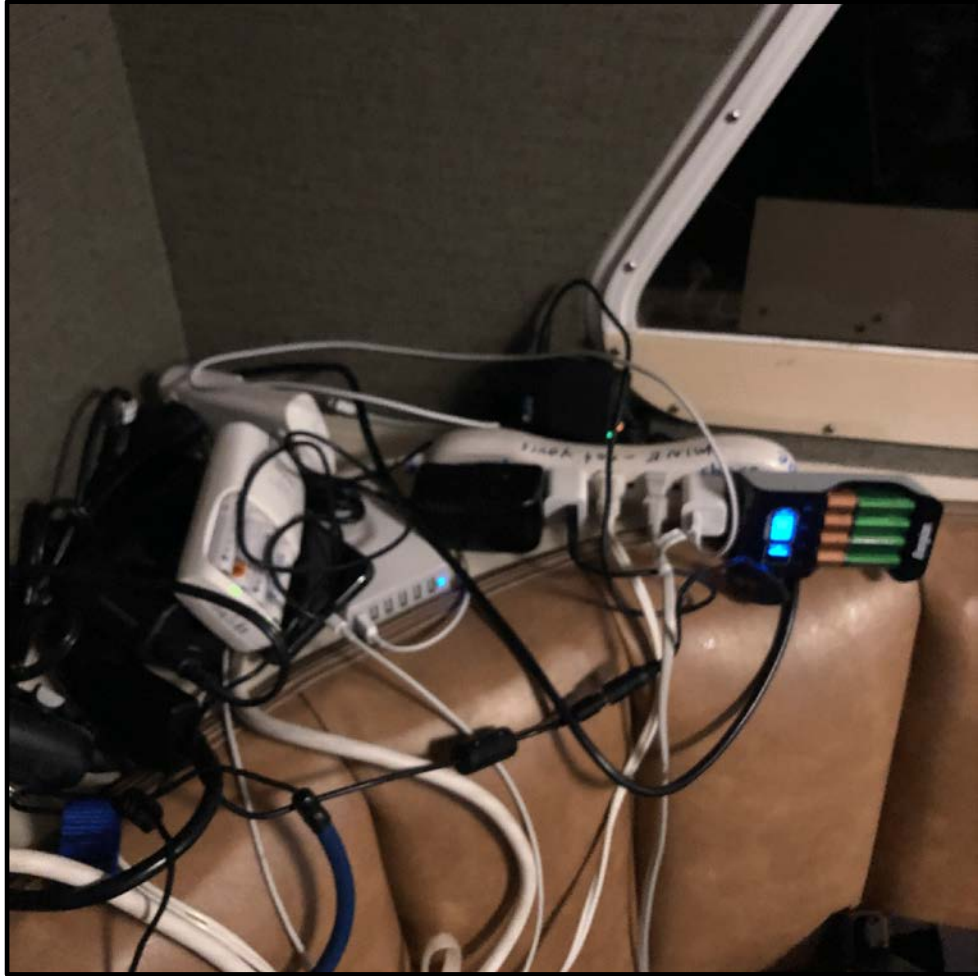
12 10. On Monday, August 31, 2019, VAIDEHI DEVI CAMPBELL WILLIAMS
13 departed the Port of Santa Barbara aboard the CONCEPTION, along with six crew
14 members and thirty-two other passengers, for a three-day voyage through the
15 Channel Islands (“accident voyage”) that would take the vessel “between ports in the
16 United States” as that phrase is used in 46 U.S.C. § 30509(a)(1).

17 11. The CONCEPTION, which is depicted below, was built of wood and
18 fiberglass in 1981. She had a registered tonnage of 66 net tons, and as of August 31,
19 2019, was licensed by the United States Coast Guard to conduct overnight, near-
20 coastal voyages upon the territorial waters of California between Port San Louis and
21 Monterey. The CONCEPTION had three decks. The pilot house and crew’s quarters
22 were located on the vessel’s uppermost, or “sun,” deck. The galley and salon were
23 situated in a deck house at the forward end of the main deck, and the passenger
24 accommodations were located beneath the main deck, in a below-deck space deep
25 down in the hull itself that had no portholes, skylights, or windows. The only ways
26 into or out of that below-decks, accommodation space were via a narrow, overhead
27 escape hatch into the galley and a companionway from the salon. The vessel’s engine
28 room, generator space, and fuel tanks were also situated in the hull, below the main

1 deck, aft of the passenger accommodations.



12. CONCEPTION was equipped with an onboard electrical system that was powered by diesel generators. Petitioners, and each of them, not only permitted but actively encouraged passengers like DECEDENT to use that electrical system to charge digital cameras, video-cameras, smartphones, cell phones, strobe lights, GoPros, laptops, tablets, underwater-scooter power packs, and other battery-powered electronic equipment. Petitioners, and each of them, even equipped CONCEPTION's galley – in the main deck house directly above the passenger accommodations – with a battery-charging station comprising power strips and the octopus charger depicted below.



13. The CONCEPTION's dive station was situated back on the fantail, behind the galley and salon. Among other things, that station housed multiple high pressure air compressors, one or more nitrox membrane systems, high-pressure piping, one or more banks of high-pressure, oxygen storage bottles, and thirty or more scuba bottles.

14. Some of the CONCEPTION's passengers made a night dive on Tuesday, September 1, 2019, that concluded some time before 2400. By 0230, on Wednesday, September 2, 2019, everyone, including all six of the vessel's crewmembers, were in their berths and sound asleep. The vessel lay at anchor, in Platts Harbor off Santa Cruz, Island. No roving watch was set; neither the master nor anyone else directed any crew members to patrol the vessel through the night, monitor the battery-charging station, or sound the alarm in the event of a fire, man overboard, or other

1 dangerous situation.

2 15. Some time after 0300, in the early morning hours of Wednesday,
3 September 2, 2019, a fire started in or near the galley and quickly spread throughout
4 the vessel, burning the CONCEPTION to the water line, and killing DECEDENT
5 and everyone else in the below-deck, passenger accommodations. The five crew
6 members berthed on the sun deck escaped with their lives and abandoned the vessel.

7 FIRST CAUSE OF ACTION

8 (Wrongful Death)

9 16. Respondent/Counter Claimant Williams herewith refers to, and by that
10 reference incorporates as though fully set forth herein, each and every allegation set
11 forth in paragraphs 1 through 15 hereinabove.

12 17. This Cause of Action arises under the General Maritime Law of the
13 United States as handed down in *Moragne v. States Marine Lines, Inc.*, 398 U.S. 375
14 (1970), *Sea-Land Services v. Gaudet*, 414 U.S. 573 (1974), *Norfolk Shipbuilding &*
15 *Drydock Corp. v. Garriss*, 532 U.S. 811 (2001), and *Yamaha Motor Corp. v. Calhoun*,
16 516 U.S. 199 (1996), *inter alia*.

17 18. As the owners and operators of the dive vessel CONCEPTION,
18 Petitioners and each of them owed DECEDENT and every other passenger aboard
19 that vessel on the morning of the accident a very high duty of care under *Kermarec v.*
20 *Compagnie Generale Transatlantique*, 358 U.S. 625, 632 (1959), *Rainey v. Paquet*
21 *Cruises, Inc.* 709 F.2d 169, 170 (2d. Cir. 1983), and *In re Catalina Cruises, Inc.*, 137
22 F.3d 1422, 1425-1426 (9th Cir. 1998), *inter alia*. At all times material hereto,
23 Petitioners, and each of them, acting individually and by and through their
24 managing agents, violated that duty of care and acted in reckless disregard for the
25 safety and health of DECEDENT and her fellow passengers in that, among other
26 things:

27 a. They failed to exercise even scant care to equip the
28 CONCEPTION with an electrical system that was safe, suitable, and reasonably fit

1 for its intended use;

2 b. They failed to exercise even scant care to equip the
3 CONCEPTION with a fire-detection system that was safe, suitable, and reasonable
4 fit for its intended use;

5 c. They failed to exercise even scant care to equip the
6 CONCEPTION with fire-fighting equipment that was safe, suitable, and reasonably
7 fit for its intended purpose;

8 d. They failed to exercise even scant care to equip the
9 CONCEPTION's below-decks passenger accommodations with emergency exits that
10 were safe, suitable, properly designed, and sufficient in size and number, and;

11 e. They ignored a manifest duty and failed to post a roving watch
12 aboard the CONCEPTION on the morning of the accident, in violation of the
13 blackletter provisions of 46 CFR § 185.410 and the requirements of the
14 CONCEPTION'S vessel's Certificate of Inspection.

15 19. As a direct, proximate, and legal result of the hereinabove delicts of
16 Petitioners, and each of them, DECEDENT died, along with thirty-three others, in
17 the CONCEPTION's below-decks passenger accommodations during the fire
18 described in Paragraph 15 hereinabove.

19 20. DECEDENT was only 41 years old on the date of her death.
20 Immediately prior to her death, she was a devoted wife and a loving mother in
21 excellent physical and mental health and condition. As a direct, proximate, and legal
22 result of DECEDENT's death, Claimant/Respondent WILLIAMS has suffered and
23 will continue to suffer the permanent loss of his wife's services, support, nurture, and
24 advice all to his **pecuniary damage** in an amount to be proven at the time of trial.

25 21. As a further direct, proximate, and legal result of DECEDENT'S death,
26 MAKANI WILLIAMS and DALEN WILLIAMS, and each of them, have suffered
27 and will continue to suffer the permanent loss of their mother's services, nurture,
28 guidance, training, instruction, advice, and example, all to their pecuniary damage in

1 an amount to be proven at the time of trial.

2 22. As a further direct, proximate, and legal result of DECEDENT's death,
3 Claimant/Respondent WILLIAMS has suffered and will continue to suffer the
4 permanent loss of his wife's love, affection, comfort, care, consortium, and society, all
5 to his **non-pecuniary damage** in an amount to be proven at the time of trial.

6 23. As a further direct, proximate, and legal result of DECEDENT's death,
7 MAKANI WILLIAMS and DALEN WILLIAMS have suffered and will continue to
8 suffer the permanent loss of their mother's love, affection, comfort, care, and society,
9 all to their non-pecuniary damage in an amount to be proven at the time of trial.

10 24. In performing the acts and committing the omissions alleged herein,
11 Petitioners, and each of them, acted outrageously, and were guilty of gross
12 negligence, willful, wanton, and reckless indifference for the rights of others, or
13 behavior even more deplorable, justifying an award of punitive or exemplary
14 damages in an amount to be determined at the time of trial herein.

15 WHEREFORE, Respondent/Counter-Claimant WILLIAMS prays judgment
16 against Petitioners as is hereinafter more fully set forth.

17 **SECOND CAUSE OF ACTION**

18 (Survival Damages)

19 25. Respondent/Counter Claimant WILLIAMS herewith refers to and by
20 that reference incorporates, as though fully set forth herein, each and every
21 allegation averred in his First Cause of Action.

22 26. This Cause of Action arises under the General Maritime Law of the
23 United States as handed down in *Moragne v. States Marine Lines, Inc.*, 398 U.S. 375
24 (1970), *Yamaha Motor Corp. v. Calhoun*, 516 U.S. 199, 211 (1996), *Davis v. Bender*
25 *Shipbuilding and Repair Co.*, 27 F.3d 426, 430 (9th Cir. 1994), and *Koirala v. Thai*
26 *Airways International, Ltd.*, 126 F.3d 1205, 1212 (9th Cir. 1997) *inter alia*.

27 27. On or about September 2, 2019, when the within cause of action arose in
28 her favor, DECEDENT, who would have been the Claimant in this action had she

1 lived, died by fire and asphyxiation.

2 28. As a direct, proximate, and legal result of the hereinabove alleged
3 delicts of the Petitioners, and each of them, DECEDENT was placed in great fear for
4 her life and physical well-being, and consciously suffered extreme, severe, and
5 relentless mental and emotional anguish and physical pain, and continued to suffer
6 such pain and anguish for a substantial period of time, until she died by fire and
7 asphyxiation, all to her general, nonpecuniary damage in an amount to be proven at
8 the time of trial herein.

9 29. At the time of her death, DECEDENT had a statistical life expectancy of
10 approximately 40.8 years. As a further direct and proximate result of the
11 hereinabove alleged delicts of the Petitioners, DECEDENT has incurred a loss of
12 future earnings and income, all to her special, pecuniary damage in an amount to be
13 determined at the time of trial.

14 30. As a further direct and proximate result of the hereinabove alleged
15 delicts of the Petitioners, DECEDENT's Estate has incurred expenses of funeral and
16 cremation, all to the Estate's special, pecuniary damage in an amount to be
17 determined at the time of trial.

18 WHEREFORE, Respondent/Counter Claimant prays judgment against
19 Petitioners as follows:

20 a. For funeral and cremation expenses in accordance with the
21 allegations in Paragraph 30 hereinabove;

22 b. For pecuniary and nonpecuniary survival damages in accordance
23 with the allegations in Paragraphs 28, 29, and 30 hereinabove;

24 c. For pecuniary and nonpecuniary wrongful death damages in
25 accordance with the allegations of Paragraphs 20-23 hereinabove;

26 d. For punitive damages in accordance with the allegations of
27 Paragraph 24 hereinabove;

28 e. For pre-judgment interest;

1 f. For costs of suit; and
2 g. For such other and further relief as the Court may deem just and
3 proper.

4 Dated: February 6, 2020

WALKUP, MELODIA, KELLY & SCHOENBERGER

7 By: /S/ Michael A. Kelly

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