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6  
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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF VENTURA**

10 RYAN SIMS, an individual,	)	Case No.
Plaintiff,	)	<b>COMPLAINT FOR DAMAGES</b>
11 -vs.-	)	<b>1. JONES ACT;</b>
12 TRUTH AQUATICS, INC., a California	)	<b>2. MAINTENANCE AND CURE;</b>
13 Corporation, GLEN FRITZLER, is an	)	<b>3. UNSEAWORTHINESS;</b>
Individual and Trustee of THE FRITZLER	)	<b>4. GENERAL MARITIME NEGLIGENCE</b>
14 FAMILY TRUST DTD 7/27/92, a California	)	
Trust, WORLDWIDE DIVING	)	
15 ADVENTURES, LLC, a California Limited	)	
Liability Company, and DOES 1 through 40	)	
16 Defendants.	)	

17  
18 COMES NOW PLAINTIFF, RYAN SIMS, who alleges and complains as follows:

19 **JURISDICTION AND VENUE**

20 1. This action is within the jurisdiction of this Court because it is governed by  
21 the Jones Act, 46 U.S.C.A. § 30104, et seq. and the General Maritime Law. This Court has jurisdiction  
22 under the Savings to Suitors clause. (28 U.S.C. § 1333.) Further, it is well-settled that a Jones Act case  
23 is not removable. (*Sellick v. Sun Harbor Marina, Inc.* (9th Cir. 1967) 384 F.2d 870, 871.)

24 2. Venue is proper because some or all of the incidents which give rise to Plaintiff RYAN  
25 SIMS' claims occurred in the County of Ventura.

**PARTIES**

1           3.     Plaintiff incorporates all foregoing paragraphs of this Complaint as though fully set  
2 forth herein.

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4           4.     Plaintiff is a California resident and citizen of the United States.

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6           5.     Defendant, TRUTH AQUATICS, INC., is and was a California corporation doing  
7 business in this County, and subject to jurisdiction and venue within this County. This Defendant was  
8 and is domiciled in Santa Barbara, California and it may be served through its registered agent. At all  
9 material times, Defendant TRUTH AQUATICS, INC. was the Jones Act employer of Plaintiff, RYAN  
10 SIMS. Defendant TRUTH AQUATICS, INC. may be served through its registered agent, Glen Fritzler,  
11 at 301 W Cabrillo Blvd, Santa Barbara, CA 93101 or wherever he may be located.

12           6.     Defendant GLEN FRITZLER, is an individual and Trustee of the FRITZLER FAMILY  
13 TRUST DTD 7/27/92, a California trust. Defendant THE FRITZLER FAMILY TRUST DTD 7/27/92  
14 is a legal trust formulated under the laws of California, and subject to the jurisdiction of this Court. This  
15 Defendant may be served through personal service of its Trustee, wherever he may be found. Defendant  
16 THE FRITZLER FAMILY TRUST DTD 7/27/92 is the U.S. Coast Guard documented owner of the  
17 VESSEL. Defendants GLEN FRITZLER 301 W Cabrillo Blvd, Santa Barbara, CA 93101 or wherever  
18 he may be located. Defendant THE FRITZLER FAMILY TRUST DTD 7/27/92 may be served through  
19 its registered agent, Glen Fritzler, at 301 W Cabrillo Blvd, Santa Barbara, CA 93101, or wherever he  
20 may be located.

21           7.     Defendant WORLDWIDE DIVING ADVENTURES, LLC is and was a California  
22 limited liability company doing business in this County, and subject to jurisdiction and venue within this  
23 County. This Defendant was and is domiciled in Santa Cruz, California, and it may be served through its  
24 registered agent. Upon information and belief, Defendant WORLDWIDE DIVING ADVENTURES,  
25 LLC was the charterer of the VESSEL. Defendant WORLDWIDE DIVING ADVENTURES, LLC may  
26 be served through its registered agent, Todd Abbott, located at 2127 Olympic Pkwy, Suite 1006-348,  
27 Chula Vista, CA 91915.  
28

**NATURE OF THE ACTION**

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2           8.       Plaintiff incorporates all foregoing paragraphs of this Complaint as though fully set forth  
3 herein.

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5           9.       On or about September 2, 2019, Plaintiff was employed by Defendant, TRUTH  
6 AQUATICS, INC. (Hereinafter referred to as “TRUTH”) as a crew member of of the vessel *M/V*  
7 *CONCEPTION* (hereinafter referred to as “VESSEL”). While Plaintiff was aboard the VESSEL, which  
8 is owned, operated and/or managed by both Defendant TRUTH and Defendant THE FRITZLER  
9 FAMILY TRUST DTD 7/27/92 (hereinafter referred to as “TRUST”), and while Plaintiff was  
10 contributing to and aiding such VESSEL to accomplish its mission, Plaintiff was seriously injured.  
11 Moreover, upon information and belief, at all material times Defendant WORLDWIDE DIVING  
ADVENTURES, LLC (hereinafter referred to as “WORLDWIDE”) was the charterer of the VESSEL.

12  
13           10.       In the early morning hours of September 2, 2019 Plaintiff was asleep on the top deck of  
14 the VESSEL, as was required in his job parameters. Suddenly and without warning, Plaintiff was  
15 abruptly started awake by loud noises, and quickly realized a significant fire had broken out in the  
16 VESSEL. The fire moved fast and swift throughout the VESSEL trapping Plaintiff and other persons  
17 aboard the VESSEL. Given the significance of the fire, and the layout of the VESSEL, Plaintiff was  
18 required to jump from the top deck of the VESSEL to avoid fire at which time he fractured his leg in  
19 three places, as well as injured his back, neck and other parts of his body. As a result of these injuries,  
Plaintiff has required extensive medical treatment.

20  
21           11.       At all times relevant, the VESSEL was and is a U.S. Coast Guard inspected passenger  
22 carrying vessel, documented under the flag of the United States with the U.S. Coast Guard official  
23 number 638133. At all times herein mentioned, the VESSEL was afloat upon navigable waters of the  
24 Pacific Ocean. At all times relevant, the VESSEL sailed on voyages to and from U.S. ports and was at  
25 least 97 gross tons as measured under 46 U.S.C. § 14502, § 14302, and § 14104. Further, at all times  
26 relevant, the VESSEL was anchored in Ventura County, California at the time of the fire.

**FIRST CAUSE OF ACTION — JONES ACT**

**(against Defendant TRUTH)**

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3       12.     Plaintiff incorporates all foregoing paragraphs of this Complaint as though fully set forth  
4 herein.

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6       13.     On or about September 2, 2019, Plaintiff was employed by Defendant, TRUTH, and was  
7 working aboard the VESSEL as a seaman under the general maritime law of the United States and the  
8 Jones Act, at the specific request and for the benefit of the VESSEL and Defendant.

9       14.     Defendant was negligent for the following reasons:

- 10           a. Failure to properly maintain the VESSEL;  
11           b. Failure to properly train their employees;  
12           c. Failure to provide adequate safety equipment;  
13           d. Failure to provide adequate safety rules;  
14           e. Failure to perform a job hazard analysis and to take corrective action;  
15           f. Failure to provide adequate medical equipment;  
16           g. Failure to provide adequate maintenance and cure;  
17           h. Failure to provide adequate warnings of a known hazard;  
18           i. Failure to comply with industry standards, customs and practices;  
19           j. Operating the VESSEL with an obvious dangerous condition;  
20           k. Failure to recognize danger and take corrective action;  
21           l. Failure to avoid or minimize foreseeable dangers to the crew resulting from potential fire;  
22           m. Failure to provide adequate means of emergency evacuation;  
23           n. Failure to adequately repair and/or maintain the VESSEL;  
24           o. Failure to timely eliminate known hazards;  
25           p. Failure to timely rectify known deficiencies;  
26           q. Failure to inspect the VESSEL  
27           r. Failure to comply with local, state, and/or federal law; and  
28           s. Other acts deemed negligent.

15.     As a legal result of the aforesaid negligent acts or wrongful acts or omissions, among  
others, Defendants breached the duty of care they owed to Plaintiff.

1  
2 16. As a direct and proximate result of the aforesaid acts and omissions of the Defendant  
3 Plaintiff sustained severe injuries to his body, which resulted in physical pain, mental anguish, and other  
4 medical problems. Plaintiff has sustained severe physical pain, mental anguish, physical impairment,  
5 and disfigurement. In all reasonable probability, Plaintiff's physical pain, mental anguish, physical  
6 impairment, and disfigurement will continue indefinitely.

7  
8 17. As a further legal result of the aforesaid negligent acts or wrongful acts or omissions,  
9 Plaintiff has sustained and will continue to sustain damages, including without limitation, general non-  
10 economic damages, special economic damages, life care expenses, emotional distress and pain and  
11 suffering, all of which will be established at trial according to proof.

12  
13 18. As a further direct and proximate result of the aforesaid acts and omissions of the  
14 Defendant, Plaintiff has sustained and will in the future sustain loss of earnings, and loss of earning  
15 capacity, in an amount not presently ascertainable to Plaintiff, who will seek leave of court to amend this  
16 complaint to allege the amount of said losses when the same have been ascertained.

17  
18 19. As a further, direct and proximate result of the aforesaid acts and omissions of the  
19 Defendant, Plaintiff was compelled to and did employ the services of physicians, surgeons, nurses and  
20 the like, to handle and care for Plaintiff's treatment, and did incur medical, professional and incidental  
21 expenses. Plaintiff is informed and believes and based upon such information and belief alleges that he  
22 will necessarily and by reason of his injuries incur additional like expenses for an indefinite period of  
23 time in the future. Plaintiff will ask leave of court to amend this allegation once said amounts have been  
24 ascertained.

25  
26 20. The foregoing wrongful acts or omissions occurred as a result of Defendant's willful  
27 and/or arbitrary and/or wanton and/or conscious and/or reckless disregard of their obligations under the  
28 Jones Act. As a result, Plaintiff is entitled to an award of punitive damages, including without limitation,  
general punitive damages and reasonable attorney's fees and costs against Defendant.

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3                   **SECOND CAUSE OF ACTION — MAINTENANCE AND CURE**

4                                   **(against Defendant TRUTH)**

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6                   21.     Plaintiff incorporates all foregoing paragraphs of this Complaint as though fully set forth  
7 herein.

8                   22.     Despite Plaintiff's severe and extensive injuries, he has not been paid adequate  
9 maintenance and cure. As a Jones Act seaman, Plaintiff is entitled to maintenance and cure benefits due  
10 to his injuries suffered on the job. Thus, Plaintiff seeks recoupment of past maintenance and cure  
11 benefits, and requests that the Court order that Defendant begin paying adequate maintenance and cure  
12 benefits from this day forward.

13                   23.     Moreover, Plaintiff alleges that Defendant's failure to pay maintenance and cure is  
14 arbitrary, capricious, willful, and wanton given the undeniable fact that Plaintiff was injured on the job  
15 and has not reached maximum medical improvement. Thus, Plaintiff seeks punitive damages. Further,  
16 Plaintiff is entitled to recover reasonable attorney's fees and costs. For the purposes of this claim herein,  
17 recoverable attorney's fees and costs include all reasonable attorney's fees and costs expended on this  
18 case that are not solely related to the Jones Act and Unseaworthiness claims herein alleged.

19                   24.     As a further legal result of the aforesaid negligence, Plaintiff is entitled to recover  
20 prejudgment interest on all damages awarded on this claim.

21                                   **THIRD CAUSE OF ACTION — UNSEAWORTHINESS**

22                                   **(against Defendant TRUTH & TRUST)**

23                   25.     Plaintiff incorporates all foregoing paragraphs of this Complaint as though fully set forth  
24 herein.

25                   26.     On the date in question the VESSEL was unseaworthy.

26                   27.     At all times herein relevant, Plaintiff was acting in the service of the VESSEL and  
27 Defendants and was performing duties of the type traditionally performed by a seaman.

1           28.     At the time and place alleged herein, by the provisions of the General Maritime Law of  
2 the United States, Defendants and their agents, employees and servants warranted to Plaintiff that the  
3 VESSEL, its decks, gear, equipment, guardrails, handrails, galley, appurtenances, tools, safety  
4 equipment, crewmembers, training, instruction, safety policies, safety procedures, safety management  
5 system and work methods were seaworthy and in compliance with applicable statutes and regulations  
6 enacted for the safety of the crew.

7           29.     Defendants, and each of them, breached this warranty in that the VESSEL, its decks, gear,  
8 equipment, guardrails, handrails, galley, appurtenances, tools, safety equipment, crewmembers, training,  
9 instruction, safety policies, safety procedures, safety management system and work methods were  
10 neither seaworthy nor in compliance with applicable laws, rules, regulations, industry customs and  
11 practices enacted or followed for the safety of the crew. Further, the acts of negligence set forth in this  
12 Claim for Relief were of such a duration as to become conditions of the VESSEL and therefore were  
13 further breaches of the warranty of seaworthiness. Upon information and belief, Defendants had actual  
14 and subjective awareness of the issues with the VESSEL and failed to rectify them.

15           30.     As a further legal result of the aforesaid unseaworthiness, Plaintiff has sustained and will  
16 continue to sustain damages, including without limitation, general non-economic damages, special  
17 economic damages, life care expenses, emotional distress and paid and suffering, all of which will be  
18 established at trial according to proof.

19           31.     As a direct and proximate result of the VESSEL's unseaworthiness, Plaintiff sustained  
20 severe injuries to his body, which resulted in physical pain, mental anguish, and other medical problems.  
21 Plaintiff has sustained severe physical pain, mental anguish, physical impairment, and disfigurement. In  
22 all reasonable probability, Plaintiff's physical pain, mental anguish, physical impairment, and  
23 disfigurement will continue indefinitely.

24           32.     As a further direct and proximate result of the VESSEL's unseaworthiness, Plaintiff has  
25 sustained and will in the future sustain loss of earnings, and loss of earning capacity, in an amount not  
26 presently ascertainable to Plaintiff, who will seek leave of court to amend this complaint to allege the  
27 amount of said losses when the same have been ascertained.  
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1           33.     As a further, direct and proximate result of the VESSEL's unseaworthiness, Plaintiff was  
2 compelled to and did employ the services of physicians, surgeons, nurses and the like, to handle and care  
3 for Plaintiff's treatment, and did incur medical, professional and incidental expenses. Plaintiff is  
4 informed and believes and based upon such information and belief alleges that he will necessarily and  
5 by reason of his injuries incur additional like expenses for an indefinite period of time in the future.  
6 Plaintiff will ask leave of court to amend this allegation once said amounts have been ascertained.

7           34.     As a further legal result of the aforesaid unseaworthiness, Plaintiff is entitled to recover  
8 prejudgment interest on all damages awarded on this claim.

9                           **FORTH CAUSE OF ACTION — GENERAL MARITIME NEGLIGENCE**

10   **(against Defendant WORLDWIDE & TRUST)**

11  
12           35.     Plaintiff incorporates all foregoing paragraphs of this Complaint as though fully set forth  
13 herein.

14           36.     Defendants, and each of them, were negligent for the following reasons:

- 15           a. Failure to properly maintain the VESSEL;
- 16           b. Failure to properly train their employees;
- 17           c. Failure to provide adequate safety equipment;
- 18           d. Failure to provide adequate safety rules;
- 19           e. Failure to provide adequate medical equipment;
- 20           f. Failure to provide adequate warnings of a known hazard;
- 21           g. Failure to comply with industry standards, customs and practices;
- 22           h. Failure to recognize danger and take corrective action;
- 23           i. Failure to avoid or minimize foreseeable dangers to the personnel aboard the VESSEL  
24             resulting from potential fire;
- 25           j. Failure to provide adequate means of emergency evacuation;
- 26           k. Failure to adequately repair and/or maintain the VESSEL;
- 27           l. Failure to timely eliminate known hazards;
- 28           m. Failure to timely rectify known deficiencies;
- n. Failure to adequately plan the underlying voyage;
- o. Failure to inspect the VESSEL; and

1 p. Other acts deemed negligent.

2 37. As a legal result of the aforesaid negligent acts or wrongful acts or omissions, among  
3 others, Defendants breached the duty of care they owed to Plaintiff.

4 38. As a direct and proximate result of the aforesaid acts and omissions of the Defendants,  
5 and each of them, Plaintiff sustained severe injuries to his body, which resulted in physical pain, mental  
6 anguish, and other medical problems. Plaintiff has sustained severe physical pain, mental anguish,  
7 physical impairment, and disfigurement. In all reasonable probability, Plaintiff's physical pain, mental  
8 anguish, physical impairment, and disfigurement will continue indefinitely.

9 39. As a further legal result of the aforesaid negligent acts or wrongful acts or omissions,  
10 Plaintiff has sustained and will continue to sustain damages, including without limitation, general non-  
11 economic damages, special economic damages, life care expenses, emotional distress and pain and  
12 suffering, all of which will be established at trial according to proof.

13 40. As a further direct and proximate result of the aforesaid acts and omissions of the  
14 Defendants, plaintiff has sustained and will in the future sustain loss of earnings, and loss of earning  
15 capacity, in an amount not presently ascertainable to Plaintiff, who will seek leave of court to amend this  
16 complaint to allege the amount of said losses when the same have been ascertained.

17 41. As a further, direct and proximate result of the aforesaid acts and omissions of the  
18 Defendants, and each of them, Plaintiff was compelled to and did employ the services of physicians,  
19 surgeons, nurses and the like, to handle and care for Plaintiff's treatment, and did incur medical,  
20 professional and incidental expenses. Plaintiff is informed and believes and based upon such information  
21 and belief alleges that he will necessarily and by reason of his injuries incur additional like expenses for  
22 an indefinite period of time in the future. Plaintiff will ask leave of court to amend this allegation once  
23 said amounts have been ascertained.

24 42. The foregoing wrongful acts or omissions occurred as a result of Defendants' willful  
25 and/or arbitrary and/or wanton and/or conscious and/or reckless disregard of their obligations under the  
26 General Maritime Law. As a result, Plaintiff is entitled to an award of punitive damages, including  
27  
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1 without limitation, general punitive damages and reasonable attorney's fees and costs against  
2 Defendants.

3 **PRAYER FOR RELIEF**

4  
5 WHEREFORE, Plaintiff prays for damages against Defendants, both jointly and severely, and  
6 each of them, as follows:

- 7 1. Actual damages;  
8 2. Exemplary damages as allowed by law;  
9 3. Pre-judgment and post-judgment interest as allowed by law;  
10 4. Costs of suit;  
11 5. All claims for relief;  
12 6. Attorney's fees; and  
13 7. All other relief, in law and equity, to which Plaintiff may be entitled.

14 Dated: September 12, 2019

15 Respectfully submitted,

16 **ARNOLD & ITKIN LLP**

17 By: 

18 Roland T. Christensen, Esq.  
19 Jason A. Itkin (Pro Hac Vice pending)  
20 Cory D. Itkin (Pro Hac Vice pending)  
21 Ryan S. Macleod (Pro Hac Vice pending)  
22 Jacob Karam (Pro Hac Vice pending)

23 Attorneys for Plaintiff  
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