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 6 TRUTH AQUATICS, INC. AND
 7 GLEN RICHARD FRITZLER AND DANA
 8 JEANNE FRITZLER, INDIVIDUALLY AND AS
 9 TRUSTEES OF THE FRITZLER FAMILY TRUST
 10 DTD 7/27/92

11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

13 In the Matter of the Complaint of Truth) CASE NO. 2:19-cv-07693
 14 Aquatics, Inc. and Glen Richard Fritzler and)
 15 Dana Jeanne Fritzler, individually and as) **FIRST AMENDED**
 16 Trustees of the Fritzler Family Trust DTD) **COMPLAINT FOR**
 17 7/27/92 as owners and/or owners pro hac vice) **EXONERATION FROM OR**
 of the dive vessel CONCEPTION, Official) **LIMITATION OF LIABILITY**
 Number 638133, for Exoneration from or)
 Limitation of Liability)

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18 COME NOW Plaintiffs TRUTH AQUATICS, INC. and GLEN RICHARD
 19 FRITZLER and DANA JEANNE FRITZLER, INDIVIDUALLY AND AS
 20 TRUSTEES OF THE FRITZLER FAMILY TRUST DTD 7/27/92, as owners
 21 and/or owners *pro hac vice* of the dive vessel CONCEPTION, Official Number
 22 638133, (“Plaintiffs”) in this admiralty action, alleging as follows:

23 1. This is an action for exoneration from or limitation of liability as
 24 provided by 46 U.S.C. § 30501 *et seq.* and is a case of admiralty and maritime
 25 jurisdiction, as hereinafter more fully appears, and is within the meaning of 28
 26 U.S.C. § 1333, Rule 9(h) of the Federal Rules of Civil Procedure, and Rule F,
 27 Supplemental Rules for Admiralty and Maritime Claims of the Federal Rules of

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1 Civil Procedure.

2 2. Plaintiff Truth Aquatics, Inc. is, and at all times relevant to this action
3 was, a business entity doing business within Santa Barbara County, in the State of
4 California, and was the alleged owner or owner *pro hac vice* of the
5 CONCEPTION.

6 3. Plaintiffs Glen Richard Fritzler and Dana Jeanne Fritzler, individually
7 and as Trustees of the Fritzler Family Trust DTD 7/27/92 (“Fritzler”) were, at all
8 times relevant to this action, individuals residing within Santa Barbara County, in
9 the State of California, and are or are alleged to be the legal and equitable owner of
10 the CONCEPTION, Official Number 638133, a 75 foot, wooden hulled, 97 Gross
11 Registered Tons, dive vessel (“CONCEPTION”), which was at all times relevant
12 to this action located within the jurisdictional waters of Santa Barbara or Ventura
13 County in the State of California. As alleged below the wreck and/or wreckage of
14 the CONCEPTION is located in either Ventura and/or Santa Barbara County.

15 4. Plaintiffs are informed and believe and thereon allege that thirty-three
16 passengers (“Passengers”) and six crewmembers (“Crewmembers”) were on board
17 the CONCEPTION at the time of the Fire on September 2, 2019, and at all times
18 relevant to this action, and were injured or died as a result of the below-described
19 Fire on the CONCEPTION and are potential claimants in this action.

20 5. Plaintiffs are informed and believe and thereon allege that no
21 Passengers or Crewmembers have filed suit in for alleged personal injuries,
22 property loss, death, damages and/or losses arising out of the below-described Fire
23 on the CONCEPTION on September 2, 2019.

24 6. Plaintiffs are unaware of the true names and identities of fictitiously-
25 named DOES 1 through 20, inclusive, and therefore sue them under such fictitious
26 names.

27 7. There are no known liens or mortgages on the CONCEPTION, nor is
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1 there any pending freight or hire.

2 8. Following the Fire on the CONCEPTION, only the wreck and
3 wreckage of the CONCEPTION remains, which are presently located off the coast
4 of Santa Cruz Island.

5 9. On information and belief, the wreck and wreckage of the
6 CONCEPTION is believed to have zero residual value and the CONCEPTION is a
7 total loss due to the Fire and therefore is believed to have zero residual value as a
8 result of the Fire.

9 10. At all relevant times, Plaintiffs used reasonable care to make the
10 CONCEPTION seaworthy, and she was, at all relevant times, tight, staunch, and
11 strong, fully and properly manned, equipped and supplied and in all respects
12 seaworthy and fit for the service in which she was engaged.

13 11. On information and belief, on August 31, 2019, CONCEPTION's
14 voyage commenced in Santa Barbara, California with 33 Passengers and six
15 Crewmembers on board for a three-day dive trip on the navigable waters off the
16 coast of California in the area of the Channel Islands. The CONCEPTION, prior
17 to and at the inception of the voyage, was tight, staunch and seaworthy and fit for
18 the intended trip. The CONCEPTION was not under charter, had no cargo aboard
19 and thus earned no freight or hire for the voyage within the meaning of Rule F of
20 the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture
21 Actions of the Federal Rules of Civil Procedure and 46 U.S.C. § 30501 *et seq.*

22 12. On information and belief, at approximately 3:15 AM on the morning
23 of September 2, 2019, while the CONCEPTION was anchored on the navigable
24 waters of the Pacific Ocean off Santa Cruz Island, a fire of unknown cause and
25 origin broke out on board the vessel ("Fire"). The Fire on the CONCEPTION
26 allegedly resulted in the death of all the Passengers and one Crewmember and
27 forced the remaining Crewmembers to abandon the vessel.

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1 13. Plaintiffs are informed and believe and thereon allege that no
2 Passengers or Crewmembers have filed suit against Plaintiffs.

3 14. On information and belief, one or more of the Passengers and/or
4 Crewmembers have submitted notice that they may assert claims and/or bring a
5 suit for alleged injuries and/or property damages and/or death arising from the Fire.

6 15. The Fire and all consequential alleged injuries, damages and deaths
7 occurred without the privity or knowledge on the part of Plaintiffs, and was not
8 caused or contributed to by any negligence, fault or knowledge on the part of
9 Plaintiffs, or anyone for whom Plaintiffs may be responsible, at or prior to the
10 commencement of the above-described voyage.

11 16. Plaintiffs desire to invoke the benefits of exoneration from or
12 limitation of liability as provided by 46 U.S.C. § 30501 *et seq.*, and in the same
13 proceeding Plaintiffs desire to contest their liability and the liability of the
14 CONCEPTION for any alleged loss or damages arising out of the aforesaid Fire.

15 17. Since the vessel is believed to have no value at the conclusion of the
16 voyage, Plaintiffs are not required to post security in the amount of the owners’
17 interest in the vessel and pending freight as required by Rule F(1) of the
18 Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture
19 Actions of the Federal Rules of Civil Procedure.

20 18. Plaintiffs will provide security for costs in accordance with Local
21 Admiralty Rules, Rule F.1.(83-F.1.) in an amount of \$1,000, if the Court so orders.

22 19. Not more than six months has elapsed between Plaintiffs’ receipt of
23 notice of any claim or suit arising out of the aforementioned Fire and the filing of
24 this action for exoneration from or limitation of liability.

25 WHEREFORE, Plaintiffs pray as follows:

26 1. That the Court enter an order directing the issuance of a monition to
27 all person asserting claims against Plaintiffs and/or the “CONCEPTION” with
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1 respect to the Fire and for which this Complaint seeks exoneration from, or
2 limitation of, liability, admonishing them to file their respective claims with the
3 Clerk of this Court, to serve a copy thereof on the attorneys for Plaintiffs, and to
4 appear and answer the allegations of this Complaint, on or before a date to be fixed
5 by the Court in the notice;

6 2. That the Court enter an order directing the execution of the motion
7 and publication of notice thereof in such newspapers as the Court may direct, once
8 a week for four (4) consecutive weeks prior to the date fixed by the Court for the
9 filing of such claims, all as provided for in the law and Rule F(4) of the Federal
10 Rules of Civil Procedure, Supplemental Rules for Certain Admiralty and Maritime
11 Claims;

12 3. That the Court, upon issuance of the motions, enter an order
13 restraining the prosecution of any and all suits against Plaintiffs and/or the
14 “CONCEPTION”, which may have been already commenced by any person or
15 entity to recover damages as a result of the Fire on or about September 2, 2019,
16 and for which this Complaint seeks exoneration from, or limitation of, liability, and
17 restraining the commencement and prosecution of any additional or unknown
18 lawsuits, whether new or old, or any legal proceedings, against Plaintiffs and/or the
19 “CONCEPTION”, with respect to any claims arising from the Fire, and for which
20 this Complaint seeks exoneration from, or limitation of, liability;

21 4. That the Court permit Plaintiffs to contest their liability, if any, for all
22 injuries and/or damages and/or deaths arising out of the Fire of September 2, 2019,
23 and for which this Complaint seeks exoneration from, or limitation of, liability, and
24 that this Court, in this proceeding, adjudge that Plaintiffs and the
25 “CONCEPTION”, are to be completely exonerated from liability arising out of the
26 Fire of September 2, 2019, and for which this Complaint seeks exoneration from,
27 or limitation of, liability, and that no liability exists on the part of Plaintiffs and
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1 “CONCEPTION” for any injuries or damages or deaths resulting from the Fire of
2 September 2, 2019, and for which this Complaint seeks exoneration from, or
3 limitation of, liability;

4 5. In the event it is found by this Court that liability exists on the part of
5 Plaintiffs or the “CONCEPTION”, by reason of the injuries and damages and
6 deaths, the Court adjudge that such liability shall in no case exceed the amount of
7 value of Plaintiffs’ interest in the “CONCEPTION”, if any, as the same existed
8 immediately following the Fire, and that a decree be made discharging Plaintiffs
9 from any further liability beyond that amount; and

10 6. That Plaintiffs receive such other and further relief as this Court may
11 deem just and proper under the circumstances.

12 Dated: September 5, 2019

GORDON REES SCULLY
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15 By: /s/ Russell P. Brown
16 Russell P. Brown
17 James F. Kuhne, Jr.
18 Attorney for Plaintiffs
19 TRUTH AQUATICS, INC.,
20 AND GLEN RICHARD
21 FRITZLER AND DANA
22 JEANNE FRITZLER,
23 INDIVIDUALLY AND AS
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