

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

2012 APR 10 AM 11:31

LORETTA G. WHYTE
CLERK

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

LARRY HUE, JR.

VERSUS

RENTROP TUGS, INC.

) **CIVIL ACTION NO.:**

) **SECTION:**

) **MAGISTRATE:**

) **SUPPLEMENTAL RULE 9(h)**

12-916
SECT. G MAG. 2

**SEAMAN'S COMPLAINT FOR CURE
AND REQUEST FOR AN EXPEDITED TRIAL**

The complaint of Larry Hue, Jr., a person of the full age of majority and resident of St. Mary Parish, State of Louisiana (hereinafter sometimes referred to as "Plaintiff"), who respectfully represents as follows:

1.

Made defendants herein are:

- (A) RENTROP TUGS, INC., (also referred to as Rentrop) a domestic corporation, licensed to do and doing business in the State of Louisiana; and
- (B) ABC INSURANCE COMPANY, origin of registration unknown

2.

The jurisdiction of this Honorable Court is based upon the provisions of 28 U.S.C. 1333(1), and is being brought pursuant to the provisions of 46 U.S.C. §30104, *et seq.* (the "Jones Act") and the provisions of the general maritime law, as the incident described herein occurred within the waters of this district. Plaintiff designates this matter as a Maritime Claim under Rule 9(h) of the Federal Rules of Civil Procedure.

Fee *Seaman*
 Process _____
 Dktd _____
 CtRmDep _____
 Doc. No. _____

3.

The defendants, Rentrop Tugs, Inc., and ABC Insurance Co., are justly and truly indebted unto your plaintiff, Larry Hue, Jr., for the following reasons, to-wit:

4.

At all material times, plaintiff, Larry Hue, Jr., was employed by Rentrop Tugs, Inc., as a Jones Act seaman.

5.

Plaintiff was assigned by defendant, Rentrop Tugs, Inc., to work aboard the M/V ZIP II, a vessel that was owned by Transinland Marine, Inc., and operated and/or chartered and/or controlled by Rentrop Tugs, Inc., at all material times herein.

6.

On or about, October 16, 2011 the plaintiff was assigned by employer, Rentrop as the second captain aboard the M/V ZIP II. Occupants aboard the vessel at that time were the first captain, "Captain Leroy" the plaintiff, and one deckhand, "John". Due to inclement weather, the ZIP II was taking barges into Venice, Louisiana. When the time came to take the Chelsea A in tow, the plaintiff walked along the ZIP II towards the Chelsea A. Due to the defendants' negligence, a slippery mixture of hydraulic fluid and water had pooled up along the portside of the ZIP II. Once aboard the CHELSEA A, as the plaintiff began to pull the larger and heavier than normal one (01) inch steel cable from the deck of the ZIP II across the deck of the CHELSEA A, he fell backwards onto the deck. As a result, plaintiff injured his back and suffered other severe and painful injuries as a result.

7.

Plaintiff shows that at all times pertinent he was where he was ordered to be and performing the duties and functions he was instructed and obliged to perform pursuant to directives of his employer, Rentrop Tugs, Inc.

8.

The accident was caused by no fault of plaintiff and was caused by the negligence of defendants.

9.

As a result of the above described incident, plaintiff, Larry Hue, Jr., suffered severe and painful personal injuries to the back, other injuries which will be shown upon trial of this matter.

10.

At all times material hereto, the M/V ZIP II was owned by Transinland Marine, Inc., navigated in navigable waters, manned, possessed, managed, controlled, chartered and/or operated by defendant, Rentrop Tugs, Inc. At the time of the incident, the M/V ZIP II was unseaworthy which caused and/or contributed to the incident and subsequent injuries sustained by plaintiff.

11.

At all times material hereto, the CHELSEA A was owned, navigated in navigable waters, manned, possessed, managed, controlled, chartered and/or operated by defendant, K & K Marine, Inc. At the time of the incident, the CHELSEA A was in an unseaworthy condition which caused and/or contributed to the incident and subsequent injuries sustained by plaintiff.

12.

Plaintiff's injuries and losses were caused by the negligence of defendants, Rentrop Tugs, Inc., Transinland Marine, Inc., M/V ZIP II, In Rem, K & K Marine, LLC. These acts of negligence render the defendants liable to the plaintiff pursuant to the general maritime law for negligence. (Suit for negligence shall follow)

13.

Plaintiff's incident was caused by defendants' violation of numerous statutes and regulations, including, but not limited to, statutes and regulations issued by the Minerals Management Service and the United States Coast Guard.

14.

Following the casualty, defendant, Rentrop, sent the plaintiff to the company physician, Dr. Parsiola in Morgan City, Louisiana. Dr. Parsiola recommended that the plaintiff undergo a MRI of the lumbar spine. Results of the November 15, 2011 MRI reveals an impression of: Severe central Canal Narrowing at L4-5, and Moderate Central Canal Narrowing at L3-4. (See exhibit "A").

15.

Following the receipt of the MRI results, the company physician, Dr. Parsiola referred plaintiff to Dr. Thomas Donner in Thibodaux, Louisiana.

16.

Dr. Donner began treating the plaintiff and on January 5, 2012 and had the plaintiff undergo a CAT Scan and a Myelogram. The CAT scan revealed: 1) Broad-based disc bulge versus protrusion at the L-5 level causing severe mass effect upon the thecal sac... 2) Moderately severe broad-based disc bulge versus protrusion asymmetric to the right at the L3-4 level causing moderately severe to severe mass effect upon the thecal sac and the median aspect of the right neural foramen... 3) Moderate broad based disc bulge at the L5-S1 level causing mild mass effect upon the thecal sac... And, the Myelogram revealed severe narrowing of the contrast column at the L4-5 level. A moderate ventral extradural defect at the L3-4 level. A partial filling of the distal thecal sac at the L5-S1 level and S1 nerve roots. (See Exhibit "B").

17.

Following all tests and results, the company physician opined that Mr. Hue needed to undergo an L4-5 lumbar laminectomy for discectomy to correct the severe and debilitating back injury he sustained at work. Dr. Donner authored a letter to Rentrop Tugs and by certified mail, sent the letter to Rentrop on January 18, 2012. Rentrop signed for the letter on January 25, 2012, but never called Dr. Donner and never authorized the necessary surgery. (See Exhibit "C"). Dr. Donner's office made several more attempts to have the treatment/surgery approved, but to no avail.

18.

Now, almost six months following the casualty, Mr. Hue lives in severe pain. To make matters worse, Rentrop fired Mr. Hue because he was/is not fit for duty. However, Rentrop's refusal to authorize treatment has caused the plaintiff's work limitations. Additionally, because Mr. Hue has been denied medical treatment, and in essence, denied the ability to return to work, the plaintiff has lost his home and has been made to sell many personal possessions.

19.

Rentrop Tugs, Inc., refusal to provide plaintiff with cure is willful, wanton, arbitrary and capricious. Plaintiff has been forced to file this lawsuit in an attempt to obtain the cure benefits to which he is entitled (irrespective of his employer, Rentrop Tug's, negligence). Consequently, plaintiff is entitled to recover attorney's fees, litigation costs and court costs with respect to Rentrop Tug's arbitrary and capricious refusal to provide cure. Additionally, plaintiff is entitled to recover enhanced compensatory damages and punitive damages with respect to this arbitrary and capricious refusal to provide maintenance and cure.

20.

The defendants are aware that the refusal to provide plaintiff with cure benefits and provide authorization for the necessary surgery recommended by the company physician is not only prolonging needlessly both the plaintiff's injury and his suffering, but will cause his condition to worsen and permanently restrict his ability to return to the workforce.

21.

As one can plainly see from the attached MRI, CAT Scan, and EMG, the only treatment that will alleviate the plaintiff's pain and suffering is the surgery proposed by the company physician, Dr. Donner. As such, it is of the utmost importance to have this matter concerning medical cure heard on an expedited basis.

22.

While defendant Rentrop continues to provide plaintiff with maintenance, it has refused to provide him with care. Plaintiff suggests that minimal discovery will be necessary to prepare for an expedited trial on the cure issue. Plaintiff would respectfully submit he can be ready to litigate the cure issue in forty-five days or less.

23.

Plaintiff is entitled to recover all costs of these proceedings, including filing fees, expert witness fees, attorney's fees and other court costs and litigation costs.

WHEREFORE, plaintiff, Larry Hue, Jr., prays that the defendant, Rentrop Tugs, Inc., and ABC Insurance Company, be duly cited and served with a copy of the Complaint and that after due proceedings are had on an expedited basis there be judgment rendered herein in favor of plaintiff and against defendants, Rentrop Tugs, Inc., and ABC Insurance Company, causing them to authorize cure benefits and punitive damages in an amount sufficient to adequately

compensate your plaintiff for his unnecessary prolonged suffering, loss of his home and possessions together with legal interest thereon from date of judicial demand until paid, for all costs of this suit and for all general and equitable relief.

Respectfully submitted,

MARTELL & ASSOCIATES, LLC


/s/ Robert C. Martell

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WITH HOLD SERVICE

ABC Insurance Company