

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

VU MINH LE

JUDGE: _____

VERSUS

ACTION NO.: _____

**ANDY HAI HUYNH, TEXAS GULF
SEAFOOD, INC., JOHN W. AMICK,
JR., CAPTAIN CANH and CAPTAIN
DUNG**

MAGISTRATE JUDGE: _____

COMPLAINT FOR DAMAGES

NOW COMES Petitioner, **VU MINH LE**, (“**PETITIONER**”) through undersigned counsel, who is an individual of the full age and resident of and domiciled in Houston, Texas, who, with respect represents that:

1.

Made defendants in this matter are:

- a. **ANDY HAI HUYNH**, who upon information and belief, is a person of the full age of majority and a domiciliary of the City and County of Galveston, State of Texas, who can be served at Seventh and Wharf, Galveston, Texas 77553;
- b. **TEXAS GULF SEAFOOD, INC.**, a foreign corporation who, upon information and belief, is authorized to do and doing business in the state of Louisiana, having at all material times appointed **ANDY HAI HUYNH**, Seventh and Wharf, Galveston, Texas, 77553 as it’s duly authorized agent for service of process;
- c. **JOHN W AMICK JR.**, who upon information and belief, is a person of the full age of majority and a domiciliary of the State of Texas who can be served at 6500 Haden Drive, Hitchcock, Texas 77563-1955;
- d. **CAPTAIN CANH**, who upon information and belief is a person of the full age of majority and was the master the M/V **CAPTAIN ANDREW**;
- e. **CAPTAIN DUNG**, who upon information and belief is a person of the full age of majority and was the master the M/V **MISS ASHLEY**.

2.

Jurisdiction is vested under General Maritime Law of the United States of America and this matter is valued in excess of \$75,000.00 exclusive of interest and costs. This claim is also brought under 33 U.S.C.A. § 905(b) and Jones Act Seaman as an admiralty or maritime claim for purposes of Rule 14(c), Rule 38(e), Rule 82, and supplemental rules for admiralty and maritime claims.

3.

At all material times, **JOHN W AMICK JR. (“AMICK”)** was the owner and/or operator of the M/V **CAPTAIN ANDREW** bearing USCG Doc. No. 944701 with the Call Sign of WAJ2479.

4.

At all material times, Petitioner was employed as a deckhand by **AMICK** aboard the M/V **CAPTAIN ANDREW** as well as an unknown master whose name is believed to be “**CAPTAIN CANH**” on or about January 9, 2011

5.

At all material times, Petitioner was a Jones Act Seaman entitled to all rights and remedies as Petitioner was a member of the crew of the M/V **CAPTAIN ANDREW**, who, at all material times, was contributing to its navigation and function as a vessel.

6.

Upon information and belief, **ANDY HAI HUYNH (“HUYNH”)** and/or **TEXAS GULF SEAFOOD, INC. (“TEXAS GULF”)** owned and/or operated the M/V **MISS ASHLEY**, bearing USCG Doc. No. 1124642 Hull Number 898, Call number 346 and IMO No. 8984252.

7.

At all material times, **HUYNH** and/or **TEXAS GULF** employed an unknown master whose name is believed to be “**CAPTAIN DUNG**” and a deckhand whose name is unknown, on the M/V

MISS ASHLEY on or about January 9, 2011.

8.

During a voyage, a storm forced the M/V CAPTAIN ANDREW and M/V MISS ASHLEY into Southwest Pass off the coast of Louisiana, in territorial waters and within the Parish of Iberia, State of Louisiana.

9.

At approximately 2:00 o'clock p.m., the master of the M/V CAPTAIN ANDREW tied along side the M/V MISS ASHLEY. Thereafter, the two unknown captains and crew members consumed several alcoholic beverages aboard the M/V MISS ASHLEY.

10.

Shortly thereafter, a fight ensued in which Petitioner was violently struck and otherwise physically assaulted by a member or members of the crew from the M/V MISS ASHLEY. Upon information and belief, the master of the M/V MISS ASHLEY, whose name is believed to be **"CAPTAIN DUNG,"** was one of the assailants.

11.

During the assault, Petitioner was knocked unconscious and in addition to having been beaten about the head, face, chest and lower body, sustained a broken right tibia.

12.

After the assault, Petitioner was taken to the emergency room in Lafayette, Louisiana at the Regional Medical Center of Southwest Louisiana on January 10, 2011.

13.

After returning to his place of domicile in Houston, Texas, Petitioner was seen by Dr. Michael Truong, a chiropractor, who immediately sent him to the emergency room at Ben Taub

Hospital in Houston, Texas where he underwent emergency surgery for the reduction of his right tibia and the placement of approximately eighteen (18) screws to reduce and/or set the broken tibia.

14.

Upon information and belief, Petitioner's injuries and damages were caused by the negligence of the agents, representatives and/or employees of **HUYNH** and/or **TEXAS GULF SEAFOOD, INC.** and/or members of the crew of the M/V MISS ASHLEY, including "**CAPTAIN DUNG**" in the following non-exclusive particulars:

- a. Failing to provide adequate security for those who boarded the M/V MISS ASHLEY;
- b. Failing to take any and all measures necessary to prevent the harm caused to Petitioner while aboard the M/V MISS ASHLEY;
- c. Failing to follow and/or implement policies, procedures, safeguards, and protocol which would insure the safety of those aboard the M/V MISS ASHLEY;
- d. Disregard for the safety of individuals aboard the M/V MISS ASHLEY, in particular, Petitioner;
- e. Failing to provide appropriate and necessary training for the members of the crew for the M/V MISS ASHLEY so as to avoid and/or diffuse such situations;
- f. Disregard for the safety of those who boarded the M/V MISS ASHLEY, in particular, Petitioner;
- g. Failing to supervise the crew of the M/V MISS ASHLEY to ensure the security and safety of all those who board the vessel;
- h. Failing to follow all federal statutes, regulations, rules, and/or ordinances in providing a safe passage for those who board the M/V MISS ASHLEY;
- i. Failing to create and/or implement policies and procedures as to the consumption of alcoholic beverages aboard the M/V MISS ASHLEY;
- j. Failing to maintain control over employees and members of the crew aboard the M/V MISS ASHLEY;
- k. Any and all other acts of negligence which will be proven at the trial of this matter.

15.

Upon information and belief, the negligence of the agents, representatives and/or employees of **AMICK** and/or members of the crew of the M/V **CAPTAIN ANDREW**, including “**CAPTAIN CANH**” caused and/or contributed to Petitioner’s injuries and damages in the following non-exclusive particulars:

- a. Failing to provide Petitioner with a safe place to work, adequate crew, and/or safe environment in which to perform his duties;
- b. Failing to take any and all measures necessary to prevent the harm caused to Petitioner while aboard the M/V **MISS ASHLEY**;
- c. Failing to follow and/or implement policies, procedures, safeguards, and protocol which would provide Petitioner a safe place to work;
- d. Disregard for the safety of Petitioner;
- e. Failing to follow all federal statutes, regulations, rules, and/or ordinances in providing Petitioner with a safe place to work;
- f. By violating policies and/or procedures and/or general orders applicable under the circumstances;
- g. Failing to promulgate proper policies and procedures which would assure and provide for the safety and well being of the members of their crew;
- h. Failing to act in a reasonable manner at all material times; and
- i. Any and all other acts of negligence which will be proven at the trial of this matter.

16.

Due to the above described Jones Act negligence, unseaworthiness and negligence under the General Maritime Law, Petitioner has been caused to suffer the following, non-exclusive, injuries:

- a. Medical Expenses (Past, present and future);
- b. Lost wages and/or loss of earning capacity (Past, present and future);
- c. Physical pain and suffering (Past, present and future);

- d. Mental pain, suffering and anguish (Past, present and future);
- e. Loss of life's pleasures and/or loss of enjoyment of life;
- f. Maintenance and cure benefits; and
- g. All other damages that may be proven at trial.

17.

Due to the above described injuries and claims asserted by Petitioner, it is respectfully requested that this Honorable Court award unto the Petitioner a sum not less than \$750,000.00 for all damages to which he is entitled.

18.

Petitioner designates this matter as one in Admiralty to be tried by the Court without a jury pursuant to FRCP Rule 9(h).

WHEREFORE, Petitioner, **VU MINH LE**, prays that the defendants, **ANDY HAI HUYNH, TEXAS GULF SEAFOOD, INC., JOHN W AMICK JR., CAPTAIN CANH** and **CAPTAIN DUNG**, be served with a certified copy of this Complaint, and that after due proceedings had, there be judgment rendered herein in favor of Petitioner and against the defendants, **ANDY HAI HUYNH, TEXAS GULF SEAFOOD, INC., JOHN W AMICK JR., CAPTAIN CANH** and **CAPTAIN DUNG**, jointly, severally and in solido in a sum not less than \$750,000.00, as well as maintenance and cure, together with legal interest thereon from the date of judicial demand until paid, and for all costs of these proceedings.

Respectfully submitted:

JOSEPH JOY & ASSOCIATES

/S/JOSEPH R. JOY, III

JOSEPH R. JOY, III (#7575)
900 South College, Suite
Post Office Box 4929
Lafayette, Louisiana 70502
Tel: 337-232-8123; Fax: 337-235-5629
buzzyjoy@josephjoy.com

and

/S/ Gordon Schoeffler

GORDON J. SCHOEFFLER (#29412)
900 South College, Suite (70503)
Post Office Box 4829
Lafayette, Louisiana 70502
Tel: 337-232-8123; Fax: 337-235-5629
gschoeffler@josephjoy.com