

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

Cong Pham	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	Civil Action No.
F/V ST JOSEPH VII,	§	In Admiralty Rule 9(h)
official no. 1139728 and any	§	
freights, apparel, appurtenances, tackle, etc.	§	
<i>in rem</i>	§	

CONG PHAM’S
VERIFIED MOTION FOR ARREST AND REQUEST FOR SECURITY

COMES NOW Pham(hereafter “Pham” or “Charterers”) and files its Verified Original Complaint *in rem* against the fishing vessels ST JOSEPH VII and MY JULIE and would respectfully show the Court as follows:

I.
PARTIES

1. Cong Pham is a Jones Act Seaman and resident of Jefferson County, Texas. On September 14, 2011, Mr. Pham was working aboard the F/V ST JOSEPH VII in the course and scope of his employment when he was injured by the gypsy head on the try-net winch.
2. The seagoing F/V ST JOSEPH VII is owned and operated by MY JULIE CORPORATION. The F/V ST JOSEPH VII is presently within this Court’s jurisdiction and is presently berthed in a shrimping vessel fleet in Sabine Pass, Texas.

II.
JURISDICTION

3. This Court has jurisdiction over Pham’s claim against the *F/V ST JOSEPH VII* by virtue of 28 U.S.C. § 1333 and Supplemental Rule C of the Federal Rules of Civil Procedure as this is an admiralty and maritime claim arising under article III, section 2, clause 1 of the Constitution of

the United States of America as this claim involves the enforcement of remedies allotted to Jones Act seamen under the general maritime law of the United States. Additionally, this action is brought pursuant to 28 U.S.C. § 1916, which excuses Movant Pham from payment of fees for filing this action.

III. BACKGROUND FACTS

4. On September 14, 2011, Mr. Pham was working aboard the F/V ST JOSEPH VII and operating the try-net winch, which is attached to the “try-net” Due to the unseaworthiness of the ST JOSEPH VII, Mr. Pham’s right arm was pulled into the try-net winch and his right orbital bone and jaw were crushed. His right arm and hand were severely mangled and he may never regain use of it. He was medically evacuated by helicopter to the University of Texas Medical Branch in Galveston, Texas where he underwent surgeries to his right arm, hand and jaw. These injuries form the basis of Mr. Pham’s state court lawsuit against My Julie Corporation, whom owns and operates the F/V ST JOSEPH VII. Mr. Pham is unable to return to work in his chosen profession, and will likely never be able to do so. Additionally, Mr. Pham was not paid wages for the voyage in which he injured himself.

5. Upon becoming engaged to represent Mr. Pham, undersigned counsel corresponded with the owner’s insurance representative, Mr. Halvorsen Hirschfield. See Attached letter to H&H Claims dated December 2, 2011 attached as Exhibit “A”. Mr. Hirschfield responded that he believed the insurance policy covering this incident was limited to \$500,000.00 an occurrence, and that there was no excess policy in place. See email from Halvorsen Hirschfield dated December 14, 2011 attached as Exhibit “B”.

6. Mr. Pham's medical expenses at this juncture are in excess of \$120,000.00, and he will likely require additional surgeries and possibly amputation of his right arm. Additionally, Mr. Pham will no longer be able to earn the wages he enjoyed as a commercial fisherman, and consequently, his economic damages are likely much larger than the amount of insurance alone. Given the owner's failure to maintain adequate insurance, Mr. Pham is left with no other option but to arrest the vessel and liquidate it for security to ensure there are assets adequate to satisfy any judgment in the state court action.

IV. **CONCLUSION**

7. Pham accordingly seeks jurisdiction over the *in rem* Defendant, the F/V ST JOSEPH VII, by arrest pursuant to Rule C of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions and respectfully requests the Court to grant it judgment, to order the sale of the F/V ST JOSEPH VII and to take the proceeds from that sale and place them in the Court's registry pending a verdict or settlement in the state court action.

Respectfully Submitted,

THE CREW LAW FIRM, P.C.

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