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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ABDIKARIM R. SULDAN, a seaman,

Plaintiff,

v.

PHOENIX PROCESSOR LIMITED
PARTNERSHIP; a Washington limited
partnership; *In Personam*, and the M/V
EXCELLENCE, Official No. 967502, a
vessel, her engines, equipment, tackle
and appurtenances, *In Rem*,

Defendant.

AT LAW AND IN ADMIRALTY

CASE NO.

**SEAMAN’S COMPLAINT IN
REM AND IN PERSONAM FOR
PERSONAL INJURY**

JURY TRIAL DEMANDED

I. JURISDICTION

1.1 This is a claim for relief brought by Plaintiff, Abdikarim R. Suldan, a seaman, against the owner and/or operator of a vessel for personal injuries sustained aboard said vessel. Jurisdiction is vested in the Court by virtue of general maritime law, 28 U.S.C. 1333; the Jones Act, 46 U.S.C. § 688 et seq., and common law negligence.

COMPLAINT FOR DAMAGES - 1

INJURY AT SEA – SEATTLE

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SEATTLE, WASHINGTON 98112
TELEPHONE (206) 527-8008 • FAX (206) 527-0725
TOLL FREE 1-800-SEA-SALT

1 **II. PARTIES**

2 2.1 At all times material hereto Plaintiff was a seaman and employed by
3 Defendant, PHOENIX PROCESSOR LIMITED PARTNERSHIP; as a member of the
4 crew of the M/V EXCELLENCE, Official Number 967502, a vessel in navigation in
5 the navigable waters of the United States.

6 2.2 At all times material hereto Defendant was the owner and/or operator
7 of the M/V EXCELLENCE, and the employer of Plaintiff herein.

8 2.3 At all times material hereto Defendant, PHOENIX PROCESSOR
9 LIMITED PARTNERSHIP; a Washington limited partnership, was doing business
10 in the State of Washington. At all times material hereto plaintiff was a resident of
11 the State of Washington.

12 **III. FIRST CLAIM FOR RELIEF**

13 3.1 Plaintiff restates paragraphs 1.1 – 2.3.

14 3.2 On or about July 15, 2011, while working as a TFT Driver aboard the
15 M/V EXCELLENCE, in navigable waters, Plaintiff began to experience low back
16 pain, including but not limited to, pain in his lower back and extremities due to
17 the negligence of Defendant and/or the unseaworthiness of the M/V
18 EXCELLENCE. Plaintiff's injuries were sustained when Plaintiff, over time,
19 developed severe back injuries due to the awkward position of standing flexed
20 forward with his right foot forward and the left foot back in order to straddle a
21 piece of equipment that projected awkwardly into his work space. He and others,

1 had to maintain this position for over eight hours each day in order to operate the
2 TFT machine. Plaintiff's back pain increased overtime until he was unable to
3 continue working and left the vessel in October, 2011 due to this ongoing injury.
4 The full extent of Plaintiff's injuries is presently unknown.

5 **JONES ACT CLAIMS**

6 3.3 Defendant was negligent, as were the officers, agents and employees
7 acting on their behalf by reason of including but not limited to: failure to provide an
8 adequate and safe place to work; failure to adopt a safe method of work; failure to
9 failure to properly supervise; failure to have an adequately manned and competent
10 crew; failure to provide and train an adequate number of men to drive the TFT
11 machine; failure to rotate the position of TFT driver more frequently; failure to
12 provide back support for the driver of the TFT machine; failure to move the
13 protruding piece of equipment until much later and only after Plaintiff had
14 sustained injury; failure to accommodate Plaintiff's back pain complaints by
15 ordering Plaintiff back to work on the TFT machine after he complained of back pain
16 and the awkward position he was required to endure to run the machine; and
17 failure to provide necessary and timely medical treatment.

18 3.4 Defendant, and all persons acting on its behalf, failed to provide
19 Plaintiff with a safe place to work, in that the work place of Plaintiff was unsafe by
20 reason of including, but not limited to, all of the above. Further at the time and
21

1 place of his accident, Plaintiff was entirely within the scope of his employment and
2 did not contribute to any negligent act or to the cause of his injuries.

3 UNSEAWORTHINESS

4 3.5 For additional cause of action against Defendant, Plaintiff alleges
5 Defendant's vessel was unseaworthy at the time and place of Plaintiff's injuries and
6 was not reasonably fit for seamen.

7 3.6 The unseaworthiness of the vessel included but is not limited to: failure
8 to provide an adequate and safe place to work; failure to adopt a safe method of
9 work; failure to failure to properly supervise; failure to have an adequately manned
10 and competent crew; failure to provide and train an adequate number of men to
11 drive the TFT machine; failure to rotate the position of TFT driver more frequently;
12 failure to provide back support for the driver of the TFT machine; failure to move the
13 protruding piece of equipment until much later and only after Plaintiff had
14 sustained injury; failure to accommodate Plaintiff's back pain complaints by
15 ordering Plaintiff back to work on the TFT machine after he complained of back pain
16 and the awkward position he was required to endure to run the machine; and
17 failure to provide necessary and timely medical treatment.

18 3.7 Plaintiff does further allege that at the time and place of his injuries
19 Plaintiff was not contributorily negligent and did not cause or contribute to the
20 cause of his injuries nor did he assume any of the risk of his injuries.

21 3.8 As a result of the injuries sustained by Plaintiff, Plaintiff has suffered

1 substantial and debilitating personal injuries including pain, suffering,
2 disfigurement, mental anguish, psychological injury, wage loss, permanent
3 impairment of wage earning ability, future pain and suffering, mental anguish,
4 disfigurement and loss of enjoyment of life. Plaintiff sues herein as further claimed
5 in Plaintiff's prayer below for recovery for all such personal injuries, wage loss,
6 reduced income-earning capacity, including prejudgment interest on any award
7 entered in this proceeding.

8 **IV. MAINTENANCE CURE UNEARNED WAGES AND FOUND**

9 4.1 Plaintiff restates paragraphs 1.1 – 3.8.

10 4.2 As a seaman injured in the course and scope of his employment
11 aboard the M/V EXCELLENCE, Plaintiff is entitled to maintenance, cure,
12 unearned wages and found. Plaintiff has not reached maximum cure and,
13 therefore, has not received all the maintenance, cure, unearned wages and found
14 to which he is entitled.

15
16 **V. JURY DEMAND**

17 5.1 Plaintiff restates paragraphs 1.1 – 4.2.

18 5.2 Pursuant to Federal Rule of Civil Procedure 38(c), Plaintiff demands a
19 trial by jury.

20 **VI. PRAYER**

21 Plaintiff prays for the following relief:

1 UNITED STATES OF AMERICA)
2 STATE OF WASHINGTON) SS
3)

4 H.L. GEORGE KNOWLES, being first duly sworn on oath, state as follows:

5 I make the following statement upon my own personal information and belief.

6 I am the attorney for Plaintiff in the above entitled action and as such I have read
7 the foregoing Complaint; know the contents thereof and believe the same to be true
8 based upon knowledge and information provided to me by the plaintiff and my own
9 personal investigation and I have been authorized by Plaintiff to make such claims
10 on his behalf. Subscribed and sworn to under penalty of perjury of the laws of the
11 State of Washington at Seattle, Washington this 24th day of April, 2012.

12 s/ H.L. George Knowles

13 H.L. George Knowles
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