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THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

Case No. 2:21-cv-01670

**JOINT STIPULATION OF
DISMISSAL WITH PREJUDICE**

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA, ROYAL
& SUN ALLIANCE INSURANCE
COMPANY OF CANADA, STATE
NATIONAL INSURANCE COMPANY,
LIBERTY MUTUAL INSURANCE
COMPANY, ACE AMERICAN
INSURANCE COMPANY, SOVEREIGN
GENERAL INSURANCE COMPANY,
ARCH INSURANCE (UK) LIMITED, AND
CERTAIN UNDERWRITERS AT LLOYD'S
OF LONDON SUBSCRIBING TO POLICY
NO.'S ENSAM1900387, ENSAM1900206,
ENSAM1900393, AND ENSAM1900398, *as
subrogees of Petrogas Energy Corp. and its
related entities*, and PETROGAS ENERGY
CORP.,

Plaintiffs,

v.

M/T LEVANT, *in rem*; AVANCE LEVANT,
LTD c/o AVANCE GAS, LTD, EXMAR
SHIP MANAGEMENT NV, M/T LINDSEY
FOSS, *in rem*, M/T GARTH FOSS, *in rem*,
and FOSS MARITIME CO.,

Defendants.

M/T LEVANT, *in rem*; AVANCE LEVANT,
LTD and EXMAR SHIP MANAGEMENT
NV,

1 Third-Party Plaintiffs.

2 v.

3 BRIAN HENSHAW, an individual,

4 Third-Party Defendant

5
6 Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the Plaintiffs,
7 NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, ROYAL &
8 SUN ALLIANCE INSURANCE COMPANY OF CANADA, STATE NATIONAL
9 INSURANCE COMPANY, LIBERTY MUTUAL INSURANCE COMPANY, ACE
10 AMERICAN INSURANCE COMPANY, SOVEREIGN GENERAL INSURANCE
11 COMPANY, ARCH INSURANCE (UK) LIMITED, AND CERTAIN UNDERWRITERS AT
12 LLOYD'S OF LONDON SUBSCRIBING TO POLICY NO.'S ENSAM1900387,
13 ENSAM1900206, ENSAM1900393, and ENSAM1900398, as subrogees of Petrogas Energy
14 Corp. and its related entities, and PETROGAS ENERGY CORP. (hereinafter the "Plaintiffs"),
15 Defendants, M/T Levant, *in rem* Avance Levant, LTD c/o Avance Gas, LTD., and Exmar Ship
16 Management, NV (hereinafter the "Vessel Interests"), and Third-Party Defendant, Brian
17 Henshaw ("Henshaw") (collectively, Plaintiffs, Vessel Interests, and Henshaw are referred to
18 as "Parties" as stated herein) jointly stipulate and agree that all claims brought by Plaintiffs
19 against the Vessels Interests in the above-captioned manner are dismissed, with prejudice, on
20 the basis that all such claims have been fully compromised and settled, with all Parties to bear
21 their own costs.

22 The Court shall retain jurisdiction of this action, specifically the Vessel Interests'
23 third-party claim against Third-Party Defendant, Henshaw, and for purposes of enforcing the
24 Parties' settlement agreement. This Joint Stipulation of Dismissal with Prejudice addresses
25 only claims asserted in this action by Plaintiffs against the Vessel Interests; it does not affect
26 the Vessel Interests' third-party claim against Third-Party Defendant, Henshaw.

STIPULATION AND ORDER FOR DISMISSAL WITH
PREJUDICE:CASE NO. 2:21-CV-01670 - 2

DATED this 23rd day of February, 2023.



RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

Stipulated and agreed to by:

<p><u>/s/ Christopher W. Nicoll (With Consent)</u> Christopher W. Nicoll Elizabeth A. Strunk Nicoll Black & Feig, PLLC 1325 Fourth Ave., Suite 1650 Seattle, WA 98101 T: 206-838-7555 cnicoll@nicollblack.com estrunk@nicollblack.com <i>Attorneys for Defendants and Third-Party Plaintiffs M/T Levant, in rem Avanc Levant, LTD c/o Avance Gas, LTD., and Exmar Ship Management, NV</i></p>	<p><u>/s/ Brandon T. Brown</u> *Alyssa J. Endelman *Brandon T. Brown DENENBERG TUFFLEY, PLLC * <i>Admitted Pro Hac Vice</i> 28411 Northwestern Hwy., Suite 600 Southfield, MI 48034 T: 248-549-3900 F: 248-593-5808 aendelman@dt-law.com bbrown@dt-law.com <i>Attorneys for Plaintiffs</i></p>
<p><u>s/Thomas G. Waller (With Consent)</u> Thomas G. Waller Meliha Jusupovic Donald K. McLean Bauer Moynihan & Johnson LLP 2101 Fourth Ave. Suite 2400 Seattle, WA 98121 tgwaller@bmjlaw.com dkmclean@bmjlaw.com mjusupovic@bmjlaw.com (206) 443-3400 <i>Attorneys for Third Party Defendant Brian Henshaw</i></p>	<p><u>s/Adil A. Siddiki (With Consent)</u> Adil A. Siddiki (WA Bar No. 37492) Law Office of James R. Vaughan, P.C. Phone: 206.935.8077 ext 4539 Toll Free: 1.866.833.9411 Fax: 206.935.8184 1416 NW 46th St., Ste 105-436 Seattle, WA 98107 adil@recoveryatty.com <i>Attorneys for Plaintiffs</i></p>

STIPULATION AND ORDER FOR DISMISSAL WITH
PREJUDICE:CASE NO. 2:21-CV-01670 - 3

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

Case No. 2:21-cv-01670

**JOINT STIPULATION OF
DISMISSAL WITH PREJUDICE**

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA, ROYAL
& SUN ALLIANCE INSURANCE
COMPANY OF CANADA, STATE
NATIONAL INSURANCE COMPANY,
LIBERTY MUTUAL INSURANCE
COMPANY, ACE AMERICAN
INSURANCE COMPANY, SOVEREIGN
GENERAL INSURANCE COMPANY,
ARCH INSURANCE (UK) LIMITED, AND
CERTAIN UNDERWRITERS AT LLOYD'S
OF LONDON SUBSCRIBING TO POLICY
NO.'S ENSAM1900387, ENSAM1900206,
ENSAM1900393, AND ENSAM1900398, *as
subrogees of Petrogas Energy Corp. and its
related entities*, and PETROGAS ENERGY
CORP.,

Plaintiffs,

v.

M/T LEVANT, *in rem*; AVANCE LEVANT,
LTD c/o AVANCE GAS, LTD, EXMAR
SHIP MANAGEMENT NV, M/T LINDSEY
FOSS, *in rem*, M/T GARTH FOSS, *in rem*,
and FOSS MARITIME CO.,

Defendants.

M/T LEVANT, *in rem*; AVANCE LEVANT,
LTD and EXMAR SHIP MANAGEMENT
NV,

1 Third-Party Plaintiffs.

2 v.

3 BRIAN HENSHAW, an individual,

4 Third-Party Defendant

5
6 Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the Plaintiffs,
7 NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, ROYAL &
8 SUN ALLIANCE INSURANCE COMPANY OF CANADA, STATE NATIONAL
9 INSURANCE COMPANY, LIBERTY MUTUAL INSURANCE COMPANY, ACE
10 AMERICAN INSURANCE COMPANY, SOVEREIGN GENERAL INSURANCE
11 COMPANY, ARCH INSURANCE (UK) LIMITED, AND CERTAIN UNDERWRITERS AT
12 LLOYD’S OF LONDON SUBSCRIBING TO POLICY NO.’S ENSAM1900387,
13 ENSAM1900206, ENSAM1900393, and ENSAM1900398, as subrogees of Petrogas Energy
14 Corp. and its related entities, and PETROGAS ENERGY CORP. (hereinafter the “Plaintiffs”),
15 Defendants, M/T Levant, *in rem* Avance Levant, LTD c/o Avance Gas, LTD., and Exmar Ship
16 Management, NV (hereinafter the “Vessel Interests”), and Third-Party Defendant, Brian
17 Henshaw (“Henshaw”) (collectively, Plaintiffs, Vessel Interests, and Henshaw are referred to
18 as “Parties” as stated herein) jointly stipulate and agree that all claims brought by Plaintiffs
19 against the Vessels Interests in the above-captioned manner are dismissed, with prejudice, on
20 the basis that all such claims have been fully compromised and settled, with all Parties to bear
21 their own costs.

22 The Court shall retain jurisdiction of this action, specifically the Vessel Interests’
23 third-party claim against Third-Party Defendant, Henshaw, and for purposes of enforcing the
24 Parties’ settlement agreement. This Joint Stipulation of Dismissal with Prejudice addresses
25 only claims asserted in this action by Plaintiffs against the Vessel Interests; it does not affect
26 the Vessel Interests’ third-party claim against Third-Party Defendant, Henshaw.

STIPULATION AND ORDER FOR DISMISSAL WITH
PREJUDICE:CASE NO. 2:21-CV-01670 - 2

Entered this ____ day of _____, 2023.

RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

Stipulated and agreed to by:

<p><u>/s/ Christopher W. Nicoll (With Consent)</u> Christopher W. Nicoll Elizabeth A. Strunk Nicoll Black & Feig, PLLC 1325 Fourth Ave., Suite 1650 Seattle, WA 98101 T: 206-838-7555 cnicoll@nicollblack.com estrunk@nicollblack.com <i>Attorneys for Defendants and Third-Party Plaintiffs M/T Levant, in rem Avanc Levant, LTD c/o Avance Gas, LTD., and Exmar Ship Management, NV</i></p>	<p><u>/s/ Brandon T. Brown</u> *Alyssa J. Endelman *Brandon T. Brown DENENBERG TUFFLEY, PLLC * <i>Admitted Pro Hac Vice</i> 28411 Northwestern Hwy., Suite 600 Southfield, MI 48034 T: 248-549-3900 F: 248-593-5808 aendelman@dt-law.com bbrown@dt-law.com <i>Attorneys for Plaintiffs</i></p>
<p><u>s/Thomas G. Waller (With Consent)</u> Thomas G. Waller Meliha Jusupovic Donald K. McLean Bauer Moynihan & Johnson LLP 2101 Fourth Ave. Suite 2400 Seattle, WA 98121 tgwaller@bmjlaw.com dkmclean@bmjlaw.com mjusupovic@bmjlaw.com (206) 443-3400 <i>Attorneys for Third Party Defendant Brian Henshaw</i></p>	<p><u>s/Adil A. Siddiki (With Consent)</u> Adil A. Siddiki (WA Bar No. 37492) Law Office of James R. Vaughan, P.C. Phone: 206.935.8077 ext 4539 Toll Free: 1.866.833.9411 Fax: 206.935.8184 1416 NW 46th St., Ste 105-436 Seattle, WA 98107 adil@recoveryatty.com <i>Attorneys for Plaintiffs</i></p>

STIPULATION AND ORDER FOR DISMISSAL WITH
PREJUDICE:CASE NO. 2:21-CV-01670 - 3

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THE HONORABLE RICARDO S. MARTINEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA,
ROYAL & SUN ALLIANCE
INSURANCE COMPANY OF
CANADA, STATE NATIONAL
INSURANCE COMPANY, LIBERTY
MUTUAL INSURANCE COMPANY,
ACE AMERICAN INSURANCE
COMPANY, SOVEREIGN GENERAL
INSURANCE COMPANY, ARCH
INSURANCE (UK) LIMITED, AND
CERTAIN UNDERWRITERS AT
LLOYD’S OF LONDON SUBSCRIBING
TO POLICY NO.’S ENSAM1900387,
ENSAM1900206, ENSAM1900393, and
ENSAM1900398, *as subrogees of*
Petrogas Energy Corp. and its related
entities, and PETROGAS ENERGY
CORP.

Plaintiffs,

v.

M/T LEVANT, *in rem*; AVANCE
LEVANT, LTD c/o AVANCE GAS,
LTD, EXMAR SHIP MANAGEMENT
NV, ~~M/T LINDSEY FOSS, *in rem*, M/T~~
~~GARTH FOSS, *in rem*, and FOSS~~
~~MARITIME CO.~~

Defendants.

M/T LEVANT, *in rem*; AVANCE
LEVANT, LTD c/o AVANCE GAS,
LTD, EXMAR SHIP MANAGEMENT
NV,

CASE NO.: 2:21-cv-01670-RSM

**JOINT STATUS REPORT AND
DISCOVERY PLAN**

JOINT STATUS REPORT AND DISCOVERY PLAN

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Third-Party Plaintiffs,

v.

BRIAN HENSHAW, an individual,

Third-Party Defendant.

JOINT STATUS AND DISCOVERY PLAN

Plaintiffs, National Union Fire Insurance Company of Pittsburgh, PA, Royal & Sun Alliance Insurance Company of Canada, State National Insurance Company, Liberty Mutual Insurance Company, Ace American Insurance Company, Sovereign General Insurance Company, Arch Insurance (UK) Limited, and Certain Underwriters at Lloyd’s of London Subscribing to Policy No.’s ENSAM1900387, ENSAM1900206, ENSAM1900393, and ENSAM1900398, *as subrogees of Petrogas Energy Corp. and its related entities* (collectively referred to as “Insurers”) and Petrogas Energy Corp. (“Petrogas”) (Insurers and Petrogas are collectively referred to as “Plaintiffs”), and Defendants, M/T Levant, *in rem*, Avance Levant Ltd, Exmar Ship Management NV and Third-Party Defendant Brian Henshaw submit the following Joint 26(f) Report and Discovery Plan.

1. Nature and Complexity of the Case

This case arises from a December 15, 2019 incident where the vessel, the M/T LEVANT allided with the Petrogas Wharf in Ferndale, Washington, causing damages. Plaintiffs filed suit against the M/T LEVANT and its owners/managers interests, Avance Levant Ltd, Exmar Ship Management NV (the “Vessel Interests”). The Vessel Interests filed a Third-Party action against the Pilot, Brian Henshaw (“Henshaw”). The parties agree that this case is not unusually complex as defined by Local Civil Rule 10.2.

2. Proposed Deadline for Joining Additional Parties

The parties propose 90 days after initial disclosures as the deadline to add additional parties without leave of the Court.

1 **3. Consent to Magistrate Judge**

2 The parties do not consent to a Magistrate Judge.

3 **4. Proposed Discovery Plan pursuant to 26(f)(3):**

4 The parties participated in a telephonic 26(f) conference on June 29, 2022 at 11:00 am
5 (PST)/2:00 pm (EST).

6 **A. Initial Disclosures**

7 The parties' deadline to exchange initial disclosures is July 8, 2022.

8 **B. Subjects, Timing, and Potential Phasing of Discovery**

9 As stated above, Plaintiffs believe that mediation and/or facilitation is appropriate after
10 the exchange of initial disclosures and preliminary discovery. However, if the parties cannot
11 agree to mediate and/or facilitate at the early stages of the case, the parties anticipate discovery
12 on the liability and damages aspect of the case. The parties do not anticipate that discovery
13 phasing will be necessary.

14 **C. Electronically Stored Information**

15 The parties agree that electronically stored information (ESI) is likely to be responsive
16 to discovery requests in this case, and are negotiating an ESI protocol.

17 **D. Privilege Issues**

18 The parties do not anticipate any special privilege issues at this time. Should issues arise,
19 the parties will endeavor to resolve them before involvement of the Court.

20 **E. Proposed Limitations on Discovery**

21 The Parties do not propose limits on discovery.

22 **F. The Need for Any Discovery Related Orders**

23 None at this time.

24 **5. Proposed Discovery Plan pursuant to 26(f)(1):**

25 **A. Prompt Resolution of the Case**

26 Plaintiffs believe that mediation and/or facilitation is appropriate after preliminary
27 discovery.
28

1 **B. Alternative Dispute Resolution**

2 The parties agree to submit these matters to alternative dispute resolution such as
3 mediation and/or facilitation pursuant to Local Rule LCR 39.1. As stated above, the parties
4 believe mediation is appropriate after preliminary discovery.

5 **C. Related Cases**

6 None

7 **D. Discovery Management**

8 The Parties agree that the Federal Rules of Civil Procedure and the Local Civils Rules
9 shall be used to manage discovery.

10 **E. Anticipated Discovery Sought**

11 The parties anticipate discovery via written requests and depositions on the liability and
12 damages aspects of this case.

13 **F. Phasing of Motions**

14 The parties do not anticipate the need to phase any motions.

15 **G. Preservation of Discoverable Information**

16 The parties do not anticipate any issues with preservation of discoverable information.

17 **H. Privilege Issues**

18 The parties do not anticipate any special privilege issues at this time. Should issues arise,
19 the parties will endeavor to resolve them before involvement of the Court.

20 **I. Model Protocol for Discovery of ESI**

21 The parties are not intending to use this District's Model Agreement on Discovery of
22 ESI.

23 **J. Alternatives to Model Protocol**

24 The parties are not considering an alternative to the Model agreement on discovery of
25 ESI at this time, but may reassess should it be necessary.

26 **6. Date of Completion of Discovery**

27 The parties propose July 16, 2023 as the date for completion of discovery.

1 **7. Bifurcation**

2 The Parties do not agree to bifurcation in this case.

3 **8. Pretrial Statements and Pretrial Orders**

4 The parties agree that pretrial statements and a pretrial order pursuant to LCRs 16(e), (h),
5 (i), and 16.1 should be required.

6 **9. Any other suggestions for shortening or simplifying the case.**

7 Again, and as stated above, the parties believe mediation is appropriate after the early
8 stages of discovery.

9 **10. Date for Trial**

10 The parties propose October 20, 2023 as the date of Trial.

11 **11. Jury or Non-Jury Trial**

12 Non- Jury Trial

13 **12. Number of Days of Trial**

14 Plaintiffs propose 5 to 7 days for Trial

15 **13. Identification and contact information of Trial counsel**

16 **Plaintiffs**

17 Alyssa J. Endelman
18 Brandon T. Brown
19 **DENENBERG TUFFLEY, PLLC**
20 *Admitted Pro Hac Vice*
21 28411 Northwestern Hwy., Suite 600
22 Southfield, MI 48034
23 T: 248-549-3900
24 F: 248-593-5808
25 aendelman@dt-law.com
26 bbrown@dt-law.com
27 *Attorneys for Plaintiffs*

28 Adil A. Siddiki (WA Bar No. 37492)
LAW OFFICE OF JAMES R. VAUGHAN, P.C.
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adil@recoveryatty.com
Attorneys for Plaintiffs

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Defendants and Third-Party Plaintiffs

Christopher W. Nicoll
Elizabeth A. Strunk
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1325 Fourth Ave., Suite 1650
Seattle, WA 98101
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estrunk@nicollblack.com
Attorneys for Defendants and Third-Party Plaintiffs

Third-Party Defendant

Thomas G. Waller
Meliha Jusupovic
Donald K. McLean
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Seattle, WA 98121
tgwaller@bmjlaw.com
dkmclean@bmjlaw.com
mjusupovic@bmjlaw.com
(206) 443-3400
Attorneys for Third-Party Defendant

14. Dates on which Trial counsel may have complications to be considered in settling a trial date

None

15. Service on Remaining Defendants

All Defendants have been served.

16. Scheduling Conference

The parties do not request a scheduling conference prior to scheduling.

17. Dates non-governmental corporate parties filed its disclosure statements pursuant to Fed. R. Civ. P. 7.1 and Local Rule 7.1.

Plaintiffs: March 24, 2022

Defendants: February 12, 2022

1 Approved as to form and substance by:

2
3 s/Brandon T. Brown
4 Alyssa J. Endelman
5 Brandon T. Brown
6 **DENENBERG TUFFLEY, PLLC**
7 *Admitted Pro Hac Vice*
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11 Christopher W. Nicoll
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15 Seattle, WA 98101
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18 estrunk@nicollblack.com
19 *Attorneys for Defendants and Third-*
20 *Party Plaintiffs*

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dkmclean@bmjlaw.com
mjusupovic@bmjlaw.com
Attorneys for Third-Party Defendant

21 Dated this 15th day of July, 2022.

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on the 15th day of July, 2022, I caused to be served the foregoing
24 *Joint Status and Discovery Plan* via this Court's e-filing system, which sends notification to the
25 following:

26 **Service List**

27 Christopher W. Nicoll (WSBA #20771)
28 Elizabeth A. Strunk (WSBA #57894)
Chris P. Reilly (WSBA #25585)
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JOINT STATUS REPORT AND DISCOVERY PLAN

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Attorneys for Defendants M/T Levant, Avance Levant Ltd, Exmar Ship Management NV

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(206) 443-3400

Attorneys for Brian Henshaw

/s/ Brandon T. Brown
Brandon T. Brown (*Admitted PHV*)

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN ADMIRALTY

NO. 2:21-cv-01670-RSM

**ANSWER OF THIRD-PARTY
DEFENDANT BRIAN HENSHAW**

NATIONAL UNION FIRE
INSURANCE COMPANY OF
PITTSBURGH, PA, ROYAL & SUN
ALLIANCE INSURANCE COMPANY
OF CANADA, STATE NATIONAL
INSURANCE COMPANY, LIBERTY
MUTUAL INSURANCE COMPANY,
ACE AMERICAN INSURANCE
COMPANY, ARCH INSURANCE
(UK) LIMITD, AND CERTAIN
UNDERWRITERS AT LLOYD’S OF
LONDON SUBSCRIBING TO
POLICY NO.’S ENSAM1900387,
ENSAM1900206, ENSAM1900393,
and ENSAM1900398, as subrogees of
Petrogas Energy Corp. and its related
entities, and PETROGAS ENERGY
CORP.

Plaintiffs,

v.

M/T LEVANT, *in rem*; AVANCE LEVANT,
LTD c/o AVANCE GAS, LTD, EXMAR SHIP
MANAGEMENT NV,

Defendants.

M/T LEVANT, *in rem*; AVANCE
LEVANT, LTD and EXMAR SHIP
MANAGEMENT NV.

Third-Party Plaintiffs,

v.

1 BRIAN HENSHAW, an individual,
2 _____
3 Third-Party Defendant.

4 Third-party defendant Brian Henshaw answers third-party plaintiffs' *Complaint* as
5 follows:

6 **A. PARTIES**

- 7 1. Admits based on information and belief.
8 2. Denies based on lack of information.
9 3. Denies based on lack of information.
10 4. Admits.

11 **B. JURISDICTION**

- 12 5. Admits.
13 6. Admits.

14 **C. FACTS**

15 7. Admits only Henshaw boarded the ship on the date and time alleged, that tidal
16 conditions warranted movement of the ship and that the dock extends into the Strait of
17 Georgia. Denies remainder based on lack of information.

18 8. Admits only the ship maneuvered away from the dock at the approximate time
19 stated, anchored at the approximate location stated and that Henshaw remained on board.
20 Denies remainder.

21 9. Admits sentence one. Admits approximate time captain reported anchor
22 aweigh and presence of assist tugs. Denies remainder.

23 10. Admits only the crew and tugs appeared to understand communications from
24 the bridge. Denies remainder.

25 11. Admits Henshaw's pilot status on the date and time stated. Denies based on
26 lack of information specific impact points. Denies remainder.

12. Admits based on information and belief allegations of law.

13. Denies based on lack of information on other pleadings and parties.

D. CAUSES OF ACTION: NEGLIGENCE AND GROSS NEGLIGENCE

14. Incorporates answers above.

15. Denies.

a. Denies.

b. Denies.

c. Denies.

d. Denies.

16. Denies.

17. Denies.

AFFIRMATIVE DEFENSES

By way of further answer to third-party plaintiffs' *Complaint*, third-party defendant states and alleges as follows:

1. Third-party defendant reincorporates his foregoing answer as an affirmative defense.

2. Third-party plaintiffs fail in one or more causes of action to state a claim upon which relief may be granted.

3. Third-party defendant was at all times, by statute, the servant of the subject vessel and third-party plaintiffs.

4. The subject incident and damages incurred by third-party plaintiffs, if any, were caused solely by, contributed to or enhanced by third-party plaintiffs' fault and/or reckless disregard of the consequences.

5. The subject incident and damages incurred by third-party plaintiffs, if any, were caused solely by, contributed to or enhanced by the action or inaction of third parties.

6. Plaintiffs and third-party plaintiffs had and have a duty to mitigate their damages; to the extent they have not, their recovery, if any, should be barred or reduced accordingly.

PRAYER FOR RELIEF

Wherefore, third-party defendant Brian Henshaw prays:

1. that third-party plaintiffs' complaint be dismissed with prejudice and that they take nothing thereby;
2. that final judgment be entered in favor of third-party defendant on all claims and causes of action;
3. that third-party defendant be awarded costs and fees to the full extent of applicable law;
4. for such other relief as this Court deems just.

DATED this Monday, June 13, 2022.

BAUER MOYNIHAN & JOHNSON LLP

/s/ Thomas G. Waller
Thomas G. Waller, WSBA No. 22963
/s/ Donald K. McLean
Donald K. McLean, WSBA No. 24158
/s/ Meliha Jusupovic
Meliha Jusupovic, WSBA No. 54024
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