

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

**IN THE MATTER OF FALCON  
GLOBAL OFFSHORE II LLC, AS  
OWNER, SEACOR MARINE LLC  
AS MANAGER/OPERATOR, AND  
SEACOR LIFTBOATS LLC, AS  
ALLEGED OWNER/OPERATOR OF  
THE SEACOR POWER PETITIONING  
FOR EXONERATION FROM OR  
LIMITATION OF LIABILITY**

**CIVIL ACTION NO.: 21-01062**

**SECTION: "H" (1)**

**JUDGE JANE TRICHE MILAZZO**

**MAGISTRATE JUDGE  
JANIS VAN MEERVELD**

**ANSWER TO VERIFIED COMPLAINT IN LIMITATION AND CLAIM AND THIRD-PARTY COMPLAINT BY SHELIA WALLINGSFORD, INDIVIDUALLY AND IN HER CAPACITY AS REPRESENTATIVE OF THE ESTATE OF JAMES WALLINGSFORD**

**NOW INTO COURT**, through undersigned counsel, comes **SHELIA WALLINGSFORD, INDIVIDUALLY AND IN HER CAPACITY AS REPRESENTATIVE OF THE ESTATE OF JAMES WALLINGSFORD** (hereinafter referred to as or "**CLAIMANT**"), who respectfully files the following Answer, Claim and Third-Party Complaint to the Complaint for Exoneration from or Limitation of Liability filed by Falcon Global Offshore II LLC, Seacor Marine LLC, and Seacor Liftboats LLC (collectively "**LIMITATION COMPLAINANTS**") and respectfully represents to this Court as follows:

**FIRST DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

Limitation Complainants are not entitled to exoneration from or limitation of liability in these proceedings, since the unseaworthiness of the SEACOR POWER and the negligent conduct of Limitation Complainants occurred within the privity and knowledge of the Limitation Complainant, as the Limitation Complainants themselves were negligent in the ownership, management, operation and maintenance of the SEACOR POWER.

### **THIRD DEFENSE**

Claimant respectfully avers that the security posted herein is legally insufficient due to its failure to include pending freight, insurance proceeds and other vessels within the fleet. The limitation fund is therefore inadequate, the value of Limitation Complainants' interest in the SEACOR POWER, her pending freight, insurance proceeds and fleet sister vessels is far greater than the security and ad interim stipulation, and the limitation fund should therefore be dismissed.

### **FOURTH DEFENSE**

Claimant specifically reserves her right pursuant to 46 U.S.C. § 30501 et seq., 46 U.S.C. § 30104, 28 U.S.C. § 1333 and/or the general maritime law to pursue her claims and causes of action in the pending action entitled *Shelia Wallingsford, Individually and in her Capacity as Representative of the Estate of James Wallingsford v. Seacor Marine, LLC, et al.*, cause number 2021-25081 pending in the District Court Harris County, Texas, 269<sup>th</sup> Judicial Court filed on April 27, 2021, including her right to a trial by jury. The filing of this Answer and Claim and Third-Party Complaint in no way constitutes a waiver of these rights or an agreement to join all issues in this proceeding.

### **FIFTH DEFENSE**

The "saving to suitors" clause of the Judiciary Act of 1789 states, "the district courts shall have original jurisdiction, exclusive of the courts of the States, of ... any civil case of admiralty or maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled." 28 U.S.C. 1333. Claimant reserves all rights to proceed in state court pursuant to the Saving to Suitors Clause and Jones Act, preserving the right of trial by jury, and also reserves all rights to proceed in State Court through partial lifting of the stay in the limitation proceeding either pursuant to stipulation, bifurcation and/or parallel tracking.

**SIXTH DEFENSE**

The Limitation of Liability Act, *46 USC, Sec. 181 et seq.*, is discriminatory in that it favors vessel owners over injured claimants and deprives the above-named respondents of property rights without due process of law and in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

**SEVENTH DEFENSE**

Claimant pleads that the proceeds of any judgment, award, or settlement which may be received by Petitioner-in-Limitation in recompense of any losses or damages sustained herein to the property or interests of the Petitioner-in-Limitation as a result of the fault or alleged fault of others, must be included in the limitation fund.

**EIGHTH DEFENSE**

Claimant specifically contest the value attributed to the SEACOR POWER.

**NINTH DEFENSE**

AND NOW, answering more particularly the allegations contained in the numbered paragraphs of the Complaint, Claimant avers as follows:

1.

Claimant admits the allegations contained in Paragraph 1 of the Complaint.

2.

Claimant admits the allegations contained in Paragraph 2 of the Complaint.

3.

Claimant admits the allegations contained in Paragraph 3 of the Complaint and further avers that Limitation Complainant Seacor Liftboats LLC should be dismissed from the concursus proceeding as it lacks standing to claim the benefits of 46 U.S.C. § 30501, et seq. as a non-vessel

owner and/or operator.

4.

Claimant admits the allegations contained in Paragraph 4 of the Complaint.

5.

Claimant denies the allegations contained in Paragraph 5 of the Complaint.

6.

Claimant denies the allegations contained in Paragraph 6 of the Complaint due to lack of information to justify a reasonable belief therein.

7.

Claimant admits the allegations contained in Paragraph 7 of the Complaint.

8.

Claimant denies the allegations contained in Paragraph 8 of the Complaint .

9.

Claimant denies the allegations contained in Paragraph 9 of the Complaint.

10.

Claimant admits the allegations contained in Paragraph 10 of the Complaint.

11.

Claimant admits the allegations contained in Paragraph 11 of the Complaint.

12.

Claimant admits the allegations contained in Paragraph 12 of the Complaint.

13.

Claimant denies the allegations contained in Paragraph 13 of the Complaint due to lack of information to justify a reasonable belief therein.

14.

Claimant denies the allegations contained in Paragraph 14 of the Complaint due to lack of information to justify a reasonable belief therein.

15.

Claimant denies the allegations in Paragraph 15 of the Complaint due to lack of information to justify a reasonable belief therein.

16.

Claimant denies the allegations in Paragraph 16 of the Complaint due to lack of information to justify a reasonable belief therein.

17.

Claimant denies the allegations contained in Paragraph 17 of the Complaint.

18.

Claimant denies the allegations contained in Paragraph 18 of the Complaint.

19.

Claimant denies the allegations contained in Paragraph 19 of the Complaint.

20.

The prayer for relief does not require a response from Claimant, but to the extent one is required, Claimant denies the allegations contained therein.

**CLAIM**

**COMES NOW**, Claimant, Shelia Wallingsford, individually and in her capacity as representative of the estate of James Wallingsford, a person of majority age residing in the State of Louisiana, through undersigned counsel, and in accordance with the provisions of Supplemental Rule F(5) of the Federal Rules of Civil Procedure, avers on information and belief the facts upon

which she relies in support of this claim in limitation:

1.

Shelia Wallingsford brings this claim individually and in her capacity of the estate of James Wallingsford (hereinafter “**DECEDENT**”), having been appointed administrator of Decedent’s estate on April 26, 2021, in the matter entitled *Succession of James Wallingsford*, filed in the 5<sup>th</sup> Judicial District Court, Parish of Franklin, Docket number 47411, on behalf of all those entitled to recover damages as beneficiaries of the Decedent under applicable law.

2.

This is a Jones Act and an admiralty and maritime claim within the jurisdiction of the United States and this Honorable Court under 46 U.S.C. § 30104, 33 U.S.C. § 2717(B), 28 U.S.C. § 1333, and brought pursuant to the Savings to Suitor's Clause of the United States Constitution under the General Maritime Law and under the Jones Act. This suit is necessary to collect a legal debt and damages due and owing Claimant due to the negligence of Limitation Complainants, and the negligence and unseaworthiness of the SEACOR POWER, all of which proximately caused the drowning death of **DECEDENT** on or about April 13, 2021, while working aboard the SEACOR POWER as it operated in the Gulf of Mexico off the coast of Louisiana.

3.

At all material times, including on or about April 13, 2021, **DECEDENT** was employed by limitation complainants as a member of the crew and seaman of the SEACOR POWER in the capacity of deck hand/crane operator.

4.

On or about April 13, 2021, **DECEDENT** was assigned to work aboard the SEACOR POWER, a lift boat in navigation owned and/or operated by Limitation Complainants.

5.

At all material times herein, the SEACOR POWER was under the active control of Limitation Complainants and operating under a time charter agreement by and between Limitation Complainants and Talos Energy, LLC (hereinafter “TALOS”) as time charterer.

6.

At all material times herein, Talos owned, operated and controlled all work on a stationary production platform located in the Gulf of Mexico.

7.

On or about April 13, 2021, the SEACOR POWER was in Port Fourchon, Louisiana for service, inspections and to take on supplies, equipment, and personnel for delivery to the Talos platform and use aboard said platform.

8.

On April 13, 2021, a strong weather front was moving into the area and weather conditions in the Gulf of Mexico were deteriorating in the voyage path of the SEACOR POWER.

9.

Despite the strong weather front and dangerous weather conditions in the Gulf of Mexico, the SEACOR POWER, at the direction and control of Limitation Complainants and time charterer Talos, left Port Fourchon, Louisiana at approximately 1:30 p.m., endangering the lives of all persons aboard the vessel.

10.

At the time the SEACOR POWER departed Port Fourchon, Louisiana, the National Weather Service had already issued a series of marine warnings for locations in southeast Louisiana, including Port Fourchon. Limitation Complainants knowingly failed to properly communicate these warnings to the crew of the SEACOR POWER, and instead ordered the

SEACOR POWER to leave Port Fourchon on the ill-fated voyage to the Talos platform in the Gulf of Mexico.

11.

As weather conditions continued to predictably and foreseeably deteriorate, with winds quickly increasing and seas becoming rougher, and despite heroic efforts of her captain and crew, the SEACOR POWER took on water on her starboard side and ultimately capsized at or around 4:30 p.m. on April 13, 2021.

12.

Upon information and belief, **DECEDENT** survived the capsizing but ultimately perished while awaiting rescue onboard the Seacor Power for 3 days. At this time a portion of Seacor Power's hull protruded above the water less than 3 miles from the jetties of Port Fourchon, Louisiana. **DECEDENT** is survived by his spouse, Shelia Wallingsford, and one child, Dakota Nielson, who has two children and is presently expecting a third, all of whom were completely and fully dependent upon **DECEDENT** for economic and emotional support.

13.

The incident described herein and resulting wrongful death of **DECEDENT** were proximately caused by the negligence and fault of Limitation Complainants in the following non-exclusive particulars, each within the privity and knowledge of Limitation Complainants:

- a. Failing to use reasonable care under the circumstances;
- b. Failing to adequately address the deteriorating and dangerous weather conditions in the area prior to instructing the SEACOR POWER to leave port;
- c. Failing to follow the weather advisories and marine bulletins issued by the National Weather Service prior to instructing the SEACOR POWER to leave port;

- d. Failing to provide proper and adequate equipment and information to the crew of the SEACOR POWER to properly perform their duties and/or properly navigate the vessel during the deteriorating weather conditions;
- e. Failing to maintain the vessel and its appurtenances and/or equipment in a safe and reasonable state of repair;
- f. Failing to take reasonable precautions for the safety of all aboard the SEACOR POWER;
- g. Failing to adequately inspect and repair the SEACOR POWER before the final voyage despite knowledge of damage to the vessel sustained during the previous voyage;
- h. Failing to perform adequate safety meetings and analyses to identify and minimize the unreasonable risk of harm to all aboard the SEACOR POWER;
- i. Failing to provide **DECEDENT** with a reasonably safe and non-hazardous workplace;
- j. Failing to properly assess the weather conditions prior to dispatching the SEACOR POWER from port;
- k. Failing to have an emergency rescue plan, adequate rescue plan and/or adequate rescue appurtenances;
- l. Failing to adopt practices, policies, and procedures designed specifically to prevent the injuries and damages sustained by **DECEDENT** and all others aboard the SEACOR POWER; and
- m. Other negligent acts and/or omissions to be shown at the trial of this action.

14.

The incident described herein and resulting wrongful death of **DECEDENT** were proximately caused by the unseaworthiness of the SEACOR POWER when she departed from

Port Fourchon, Louisiana on April 13, 2021, in the following non-exclusive particulars, each within the privity and knowledge of Limitation Complainants:

- a. The vessel and all of its equipment and/or appurtenances were not safe for the performance of the operations in questions;
- b. The vessel and all of its equipment and/or appurtenances were not reasonably fit for its intended purpose;
- c. The vessel and all of its equipment and/or appurtenances were inadequately maintained;
- d. The vessel failed to have adequate rescue/response procedures;
- e. The vessel failed to have adequate life-saving equipment and/or appurtenances; and
- f. Other unseaworthy conditions to be determined at a trial of this action.

15.

Claimant, as estate representative, is entitled to recover all damages, wrongful death and survival, due and owing to all beneficiaries, including, but not limited to, pre-death pain and suffering, funeral and burial expenses, loss of inheritance, loss of economic support, loss of services, loss of nurture, loss of instruction, and physical, intellectual, and moral training suffered by all minors that they would have received from **DECEDENT** but for his wrongful death caused by the actions, inactions, and/or omissions of Limitation Complainants stated herein, and all other pecuniary and non-pecuniary damages available under applicable law and equity.

16.

At all material times, Limitation Complainants had privity and knowledge of the negligence complained of herein and the unseaworthiness of the SEACOR POWER, which unseaworthiness existed when the SEACOR POWER departed Port Fourchon on April 13, 2021.

17.

This claim is being made under protest and without prejudice to Claimant's position that this limitation action is improper and should be dismissed.

18.

Claimant's damages will exceed the limitation fund.

### **THIRD-PARTY COMPLAINT**

FURTHERMORE, Claimant, Shelia Wallingsford, individually and in her capacity as representative of the estate of James Wallingsford now files this Third-Party Complaint against Third-Party Defendants, **DONJON MARINE CO., INC.** (hereinafter "**DONJON MARINE**"), **DONJON-SMIT, LLC** (hereinafter "**DONJON-SMIT**") and **TALOS ENERGY, LLC** (hereinafter "**TALOS**") follow to-wit:

1.

The Court has admiralty and maritime jurisdiction of this Third-Party Complaint pursuant to Rule 9(h) of the Federal Rules of Civil Procedure and 28 U.S.C. §1333.

2.

Made third-party defendant herein is **DONJON-SMIT**, a Delaware limited liability company with its principal place of business in Texas, licensed to do and doing business in this district and state.

3.

Made third-party defendant herein is **DONJON MARINE**, a New Jersey corporation with its principal place of business in New Jersey, licensed to do and doing business in this district and state.

4.

Made third-party Defendant herein is **TALOS**, a Delaware limited liability company with its principal place of business in Houston, Texas, registered to do and doing business in this state and may be served through its registered agent CT Corporation System, 3867 Plaza Tower Drive, Baton Rouge, Louisiana 70816.

5.

At all material times herein, **DONJON MARINE** and **DONJON-SMIT** were responsible for underwater rescue operations following the capsizing of the **SEACOR POWER** and owed **DECEDENT** a duty to exercise ordinary care.

6.

**DONJON MARINE** and **DONJON-SMIT** were negligent in its rescue operations following the capsizing in the following particulars:

- a. failing to properly coordinate;
- b. failing to have an adequate rescue plan;
- c. failing to effectuate an appropriate rescue,
- d. any and all other acts or omissions proved between now and the time of trial herein.

7.

**TALOS** owed **DECEDENT** a duty to exercise ordinary care.

8.

The injuries and death of **DECEDENT** and resultant damages sustained by Plaintiff were proximately caused by the negligence of **TALOS**, including without limitation, one or more of the following acts:

1. failing to prepare for the dangerous weather conditions in the Gulf of Mexico on the date

- of the incident;
2. failing to adequately assess the dangerous weather conditions in the Gulf of Mexico on the date of the incident;
  3. failing to implement sufficient policies and procedures to have prevented this tragedy;
  4. failing to ensure the safety of workers aboard the vessel;
  5. failing to perform all operations in a safe and work-like manner;
  6. failing to properly plan and supervise the job;
  7. failing to adequately assess and mitigate risks before the job;
  8. ordering the vessel to sea in unsafe conditions as the charterer;
  9. failing to have an emergency rescue plan; and
  10. other acts of negligence and/or omissions to be shown at trial herein.

9.

Each of the above listed acts and/or omissions of **DONJON MARINE**, **DONJON-SMIT** and **TALOS**, taken singularly or in combination, were a proximate cause of the incident made the basis of this suit and the injuries and death of **DECEDENT** and resultant damages of Claimant.

10.

Claimant, as estate representative, is entitled to recover all damages, wrongful death and survival, due and owing to all beneficiaries, including, but not limited to, pre-death pain and suffering, funeral and burial expenses, loss of inheritance, loss of economic support, loss of services, loss of nurture, loss of instruction, and physical, intellectual, and moral training suffered by all minors that they would have received from **DECEDENT** but for his wrongful death caused by the actions, inactions, and/or omissions of **DONJON MARINE** and **DONJON-SMIT** and **TALOS** stated herein, and all other pecuniary and non-pecuniary damages available under

applicable law and equity.

**WHEREFORE**, claimant herein, **SHELIA WALLINGSFORD, INDIVIDUALLY AND IN HER CAPACITY AS REPRESENTATIVE OF THE ESTATE OF JAMES WALLINGDFORD**, prays that this answer be filed herein and served upon Limitation Complainants, that the complaint for exoneration and/or limitation be dismissed at Limitation Complainant's costs, that the claims presented herein be recognized and upheld, that claimant **hereby requests trial by jury** as to the claims presented and that all costs of these proceedings and all appropriate, general and equitable relief required or necessary in the premises be granted claimant.

**PLEASE SERVE:**

**DONJON MARINE CO., INC.  
THROUGH ITS AGENT FOR SERVICE:  
PAUL A. WHITE, ESQ.  
100 CENTRAL AVENUE  
HILLSIDE, NJ 07205**

**DONJON-SMIT, LLC  
THROUGH ITS AGENT FOR SERVICE:  
CAPITOL CORPORATE SERVICES, INC.  
8550 UNITED PLAZA BUILDING II, STE. 305  
BATON ROUGE, LA 70809**

**TALOS ENERGY, LLC  
THROUGH ITS AGENT FOR SERVICE:  
CT CORPORATION SYSTEM  
3867 PLAZA TOWER DR.  
BATON ROUGE, LA 70816**

Respectfully submitted,

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Attorneys for Shelia Wallingsford

**CERTIFICATE OF SERVICE**

I hereby certify that on June 17, 2021, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Notice of this filing will be sent by operation of the court's electronic filing system to all CM/ECF participants. I also certify that the above and foregoing has this date been forwarded by U.S. Mail, postage prepaid and properly addressed to the non-CM/ECF participants.

/s/Thomas M. Discon  
THOMAS M. DISCON