

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
IN ADMIRALTY

CASE NO.4:17-CV-10050-JLK

THE MATTER OF:
THE COMPLAINT OF HORIZON
DIVE ADVENTURES, INC., AS OWNER
OF THE M/V PISCES (HULL ID# FVL31002F707)
ITS ENGINES, TACKLE, APPURTENANCES,
EQUIPMENT, ETC., IN A CAUSE FOR
EXONERATION FROM OR LIMITATION OF
LIABILITY,

Petitioner,

vs.

PETER SOTIS, SANDRA STEWART, AS PERSONAL
REPRESENTATIVE OF THE ESTATE
OF ROBERT STEWART,

Respondents/ Claimants.

PETITIONER'S SUPPLEMENTAL RULE 26 DISCLOSURES

COME NOW, Petitioner, Horizon Dive Adventures, Inc., by and through undersigned counsel and pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, make the following supplemental disclosures to Claimants. These disclosures are based on information presently known and reasonably available to Petitioner and which Petitioner reasonably believes may be used in support of their claims and defenses. Continuing investigation and discovery may cause Petitioner to amend these initial disclosures, including by identifying other potential witnesses, documents, and by disclosing other pertinent information. Petitioner therefore reserves the right to supplement these initial disclosures.

By providing these supplemental disclosures, Petitioner does not represent that they are identifying every document, tangible things, or witness possibly relevant to this action. In addition, these disclosures are made without Petitioner in any way waiving its right to object to any discovery request or proceeding involving or relating to the subject matter of these disclosures on any grounds, including competency, privilege, relevancy and materiality, hearsay, undue burden, confidentiality, or any other appropriate grounds.

Furthermore, these disclosures are not an admission by Petitioner regarding any matter. Each and every disclosure set forth below is subject to the above qualifications and limitations

1. PERSONS LIKELY TO HAVE DISCOVERABLE INFORMATION

Petitioner hereby provides the names and available contact information for each individual likely to have discoverable information which Petitioner may use to support their claims and defenses, excluding those for impeachment purposes:

a. Daniel Dawson

Horizon Dive Adventures, Inc.
c/o Law Office of Donna E. Albert, P.A.
7999 N. Federal Hwy., Suite 320
Boca Raton, FL 33487
Tel: (561) 994-9904

Mr. Dawson has knowledge regarding the operation of Petitioner's business, as well as issues relating to the vessel, and other issues relevant to this case.

b. David Wilkerson

c/o Donna E. Albert & Associates, P.A.
7999 N. Federal Hwy., Suite 320
Boca Raton, FL 33487
Tel: (561) 994-9904

Mr. Wilkerson has knowledge regarding the incident, the vessel, and other issues relevant to this case. He was the captain on board the Pisces at the time of the incident.

c. Robert “Bobby” Steele

c/o Donna E. Albert & Associates, P.A.

7999 N. Federal Hwy., Suite 320

Boca Raton, FL 33487

Tel: (561) 994-9904

Mr. Steele has knowledge regarding the incident. He was the mate on board the Pisces at the time of the incident.

d. Sandra Stewart

c/o The Haggard Law Firm

330 Alhambra Cir., First Floor

Coral Gables, Florida 33134

Personal Representative of Decedent’s Estate; mother of Decedent

e. Brian Stewart

c/o The Haggard Law Firm

330 Alhambra Cir., First Floor

Coral Gables, Florida 33134

Father of Decedent

f. Alexandra Stewart

c/o The Haggard Law Firm

330 Alhambra Cir., First Floor

Coral Gables, Florida 33134

Sister of Decedent

g. Peter Sotis

Add Helium, LLC.

c/o Neil Bayer, Esq.

Mr. Sotis was the instructor on board the Pisces at the time of the incident and has knowledge regarding the specific charter and the events that occurred at the time of the incident.

h. Claudia Sotis

c/o Neil Bayer, Esq.

Dr. Sotis was a passenger on board the Pisces at the time of the incident and has knowledge regarding the specific charter and the events that occurred at the time of the incident.

i. Brock Cahill

2333 Clark Ave.

Venice, CA 90291

Tel: 310-795-6116

Mr. Cahill was a passenger on board the Pisces at the time of the incident and has knowledge regarding the specific charter and the events that occurred at the time of the incident and the recovery operation. He also has knowledge as to Mr. Stewart's training and skills as a diver.

j. Tim Moran

Address Unknown

Mr. Moran was a student involved in the rebreather class with Robert Stewart and Brock Cahill and therefore has knowledge of training.

k. Ben Sampson

Address Unknown

Mr. Sampson has knowledge regarding the incident as well as video footage and photographs of all dives conducted off of the MV Pisces on January 30th and 31st, 2017.

l. Dr. Thomas Beaver, M.D.

Current Address Unknown

Former Medical Examiner

Dr. Beaver performed the autopsy on the Decedent

m. Daniel Sammons

US Coast Guard – Key West Sector

100 Trumbo Road

Key West, FL 33040

Mr. Sammons was involved in the US Coast Guard investigation.

n Jason J. Dall

US Coast Guard – Key West Sector

100 Trumbo Road

Key West, FL 33040

Mr. Dall was involved in the US Coast Guard investigation.

o. Lt. Bradley Bergan

US Coast Guard – Key West Sector

100 Trumbo Road

Key West, FL 33040

Mr. Bergan was involved in the US Coast Guard investigation.

p. Jose Rosario

US Coast Guard – Key West Sector

100 Trumbo Road

Key West, FL 33040

Mr. Rosario was involved in the US Coast Guard investigation.

q. Robert Bleser

Quiescence Diving Services Inc

103680 Overseas Highway

Key Largo, FL 33037

Mr. Bleser was involved in the recovery efforts.

r. Deputy Nicholas Thaler

Monroe County Sheriff's Office

5525 College Road

Key West, FL 33040

Deputy Thaler was involved in the investigation conducted by the Monroe County Sheriff's Office.

s. Mathew O'Neil

Monroe County Sheriff's Office

5525 College Road

Key West, FL 33040

Mr. O'Neil was involved in the investigation conducted by the Monroe County Sheriff's Office.

t. Benjamin Morris

US Coast Guard – Key West Sector

100 Trumbo Road

Key West, FL 33040

Mr. Morris was involved in the investigation conducted by the U.S. Coast Guard.

u. Warren Tom Mount, CEO

International Association of Nitrox and Technical Divers ("IANTD")

231 NW Kelly Lake Ct.

Lake City, FL 32055-5067

Is believed to have knowledge regarding Sotis Claim for Intentional Infliction of Emotional Distress

v. Pedro Luis Augusto, COO

International Association of Nitrox and Technical Divers ("IANTD")

147 NW Zack Dr.

Lake City, FL 32055

Is believed to have knowledge regarding Sotis Claim for Intentional Infliction of Emotional Distress

w. Mark Fowler, Training Director

International Association of Nitrox and Technical Divers ("IANTD")

147 NW Zack Dr.

Lake City, FL 32055

Is believed to have knowledge regarding Sotis Claim for Intentional Infliction of Emotional Distress

x. Ken Wesler, Administrative Director

Add Helium

3590 NW 54th St, Unit 1

Fort Lauderdale, FL 33309

Is believed to have knowledge regarding Sotis Claim for Intentional Infliction of Emotional Distress.

y. Dr. George S. Behonick, Ph.D

AXIS Forensic Toxicology

2265 Executive Drive

Indianapolis, IN 46241

Toxicologist

2. DOCUMENTS, DATA COMPILATIONS, AND OTHER TANGIBLE THINGS

Petitioner hereby provides a list of documents, data compilations, and tangible things in the possession, custody, and control of Petitioner which may be used to support their claims and defenses, excluding those for impeachment purposes:

Documents previously identified as a-~~nnn~~ in Petitioners Initial Rule 26 Disclosure (DE 24) are incorporated into this disclosure in addition to the following additional documents.

ooo. Production received from Coast Guard in Response to Subpoena and Touhy request.

ppp. Production received from Medical Examiner in Response to Subpoena.

3. COMPUTATION OF DAMAGES

Petitioner denies liability for damages and does not seek recovery of damages from Claimants, other than recovery of costs and attorney fees. Petitioner would present evidence of their court costs and attorney fees after the claims against them have been denied or dismissed.

4. INSURANCE AGREEMENTS

Petitioner has produced all applicable insurance policies in this matter. Although these policies have been produced, it is unknown whether they provide coverage for any of the named Claimants in this claim.

Respectfully submitted,

By:/s/ Christopher R. Fertig
CHRISTOPHER R. FERTIG ESQ.
Florida Bar No: 218421
chris.fertig@fertig.com
FERTIG & GRAMLING
200 S.E. 13th Street
Fort Lauderdale, FL 33316
Telephone: 954-763-5020
Facsimile: 954-763-5412
Co-Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, on this 13th day of July, 2018, and that the foregoing document is being served this day on all counsel of record, identified on the Service List below, via transmission of Electronic Filing generated by CM/ECF.

By:/s/ Christopher R. Fertig
Florida Bar No: 218421
chris.fertig@fertig.com

SERVICE LIST

<p>Donna E. Albert LAW OFFICE OF DONNA E. ALBERT, P.A. 7999 North Federal Highway, Suite 320 Boca Raton, Florida 33487 Telephone: (561) 994-9904 Facsimile: (561) 994-9774 office@donnaalbert.com <i>Attorney for Petitioner</i></p>	<p>Pedro P. Echarte III Michael Haggard Douglas J. Mccarron THE HAGGARD LAW FIRM, P.A. 330 Alhambra Circle, First Floor Coral Gables, Florida 33134 Telephone: (305) 446-5700 Facsimile: (305) 446-1154 ppe@haggardlawfirm.com mah@haggardlawfirm.com djm@haggardlawfirm.com kvizcaino@haggardlawfirm.com <i>Attorneys for the Respondent STEWART</i></p>
<p>Philip D. Parrish PHILIP D. PARRISH, P.A. 7301 SW 57TH COURT SUITE 430 Miami, FL 33143 Telephone: (305) 670-5550 phil@parrishappeals.com betty@parrishappeals.com <i>Attorney co-counsel for Respondent STEWART</i></p>	<p>Neil Bayer, Esq. KENNEDYS AMERICAS LLP 1395 Brickell Ave, Suite 610 Miami, FL 33131 Telephone: (305) 371-1111 neil.bayer@kennedyslaw.com cindy.delgado@kennedyslaw.com <i>Attorneys for the Respondent SOTIS</i></p>