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IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT IN AND
FOR DUVAL COUNTY, FLORIDA.

JOANNA JOHNSON, as Personal
Representative of the Estate of
LONNIE JORDAN,

CASE NO.:

Plaintiffs,

v.

TOTE SERVICES INC, a Florida
Corporation d.b.a. TOTE MARITIME
Puerto Rico, and MICHAEL DAVIDSON,
Ship Captain,

Defendant.

COMPLAINT

JOANNA JOHNSON, as Personal Representative of the Estate of LONNIE JORDAN
sues TOTE SERVICES, INC. d.b.a. TOTE MARITIME PUERTO RICO, and MICHAEL
DAVIDSON, Ship Captain Individually, Defendants, and alleges upon information and belief as
follows:

JURISDICTION AND VENUE

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00)
, exclusive of interest and costs brought pursuant to the general maritime law of the United States
and the Wrongful Death Act, Florida Statutes §§768.16-26.
2. At all times material hereto, pursuant to Florida Statute §48.193, Tote Services,
Inc., Defendant ("Tote Services") is subject to personal jurisdiction in Florida because it

operates, conducts, engages in or carries on a business venture within this state and has an office within this state.

3. At all times material hereto, pursuant to Florida Statute §48.193 Tote Maritime Puerto Rico (“Tote Maritime”) is subject to personal jurisdiction in Florida because it operates, conducts, engages in or carries on a business venture within this state and has an office within this state.

4. At all times material hereto pursuant to Florida Statute §48.193, Michael Davidson is subject to personal jurisdiction in Florida because he resided and operated, conducted, engaged or carried on a business venture within the State of Florida.

5. At all times material hereto, pursuant to Florida Statutes §§47.021, 47.041, and 47.051, venue, is proper in Duval County, Florida because Defendants, Tote Services, Inc., Tote Maritime Puerto Rico and Defendant Michael Davidson maintained their principal place of business in Jacksonville, Duval County, Florida.

6. At all times material hereto, Plaintiff Joanna Johnson has been appointed and is the Personal Representative of the Estate of Lonnie Jordan, deceased.

7. At all times material hereto, the following are the survivors and beneficiaries of a recovery for the wrongful death of Lonnie Jordan:

- a. Ricky Johnson
- b. Joanna Johnson

8. At all times material hereto, Tote Services was a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 10550 Deerwood Park Boulevard, Jacksonville, Duval County, Florida 32256.

9. At all times material hereto, Defendant Tote Maritime, was a corporation organized and existing under the laws of the State of Florida, with its principal place of business located at 10550 Deerwood Park Blvd., Jacksonville, Duval County, Florida 32256.

10. At all times material hereto, Defendant Michael Davidson was an individual residing and/employed in Duval County, Florida.

GENERAL ALLEGATIONS

11. At all times material hereto, Defendant, Tote Services, Inc. owned, conducted and/or operated a freight transportation business in the navigable waters offshore from Jacksonville, Florida

12. At all times material hereto, Defendant, Tote Maritime owned, conducted and/or operated a freight transportation business in the navigable waters offshore from Jacksonville, Florida.

13. At all-time material hereto, Defendant Michael Davidson was the captain, operator and or in charge of a vessel from which freight was transported in the navigable waters offshore from Jacksonville, Florida.

14. Pursuant to the rules and practice of general maritime law and the provisions of Florida Statutes §§327.33 and 327.37, Defendant, Tote Services was required to properly maintain the vessel (El Faro) and equipment used so that the vessel would be operated safely.

15. Pursuant to the rules and practice of general maritime law and the provisions of Florida Statutes §§327.33 and 327.37, Defendant, Maritime was required to properly maintain the vessel (El Faro) and equipment used so that the vessel would be operated safely.

16. Pursuant to the rules and practice of general maritime law and the provisions of Florida Statutes §§327.33 and 327.37, Defendant Michael Davidson was required to maintain

and operate the vessel and equipment used in the transportation of freight and to establish and/or observe policies and procedures so that the transportation of freight that he supervised and/or conducted would be operated safely.

17. As the owner and/or operator of the El Faro, Defendant Tote Services owed its crewman and seamen the highest degree of care given the circumstances and risks of attempting to navigate waters through a major hurricane, to wit "Joaquin."

18. As the owner and/or operator of the El Faro, Defendant Tote Maritime owed its crewman and seamen the highest degree of care given the circumstances and risks of attempting to navigate waters through 140 M.P.H. winds.

19. As operator of the El Faro, Defendant owed the crewmen and seamen aboard the El Faro the highest degree of care given the circumstances and risks of navigating the El Faro through high seas and into a 140 M.P.H. winds and fifty (50) foot waves on or about October 1, 2015.

20. Defendants Tote Services, Tote Maritime and Michael Davidson's failure to exercise the highest degree of care considering the circumstances and the risks resulted in the death of Plaintiff, Lonnie Jordan.

COUNT I – NEGLIGENCE – WRONGFUL DEATH
AGAINST DEFENDANT TOTE SERVICES

21. Joanna Johnson, as Personal Representative of the Estate of Lonnie Jordan re-alleges and reaffirms the allegations contained in paragraphs 1 through 20 above, and further alleges:

22. Defendant Tote Services negligently permitted the El Faro to go to sea despite warnings of impending hurricane winds blowing contrary to the direction of travel.

23. Defendant Tote Services was warned prior to leaving port that there was a tropical storm in the Atlantic that was intensifying to hurricane strength.

24. Defendant Tote Services was informed of the direction of travel of the storm and the probability of having to directly confront the storm days prior to leaving port on its intended voyage to Puerto Rico.

25. Defendant Tote Services, negligently permitted the El Faro to sail out to sea despite being in an unseaworthy condition to handle the conditions of a violent storm.

26. Defendant Tote Services, despite being informed of the direction of the storm failed to take a safe route in order to avoid the direct impact of the storm.

27. Defendant Tote Services, negligently entered the path of a category 4 storm knowing the unseaworthy condition of the El Faro prior to leaving port.

28. Defendant Tote Services, negligently failed to comply with the rules and practice of general maritime law to exercise reasonable care under the circumstances for the safety of passengers/business invitees traveling aboard the El Faro.

29. Defendant Tote Services, negligently failed to comply with requirements of Florida Statutes with respect to reckless or careless operation of a vessel.

30. The acts or omissions of Defendant Tote Services, as aforesaid, were a direct, proximate, and legal cause of the incident which occurred on or about October 1, 2015, which resulted in the death of Lonnie Jordan.

31. As a further and direct proximate result of the negligence of Defendant Tote Services, the Estate of Lonnie Jordan has suffered the unnecessary loss of a son, incurred memorial expenses, and suffered the loss of future earnings, net accumulations, including future pensions and retirement benefits, as well as mental anguish, pain and suffering.

32. The Estate also seeks recovery for the pre-death pain and suffering and emotional distress suffered by the decedent, Lonnie Jordan.

33. The conduct of Defendant Tote Services rises to a level sufficient to warrant the imposition of punitive damages, which will be pled by Plaintiff at a later date.

WHEREFORE, Joanna Johnson as Personal Representative of the Estate of Lonnie Jordan demands judgment in excess of \$15,000.00 against Tote Services, Inc. for damages, costs and interest allowable by law, and trial by jury.

COUNT II – NEGLIGENCE – WRONGFUL DEATH
AGAINST DEFENDANT TOTE MARITIME PUERTO RICO, INC.

34. Joanna Johnson, as Personal Representative of the Estate of Lonnie Jordan re-alleges and reaffirms the allegations contained in paragraphs 1 through 20 above, and further alleges:

35. Defendant Tote Maritime negligently permitted the El Faro to go to sea despite warnings of impending hurricane winds blowing contrary to the direction of travel.

36. Defendant Tote Maritime was warned prior to leaving port that there was a tropical storm in the Atlantic that was intensifying to hurricane strength.

37. Defendant Tote Maritime was informed of the direction of travel of the storm and the probability of having to directly confront the storm days prior to leaving port on its intended voyage to Puerto Rico.

38. Defendant Tote Maritime negligently permitted the El Faro sail out to sea despite being in an unseaworthy condition to handle the conditions of a violent storm.

39. Defendant Tote Maritime, Inc., despite being informed of the direction of the storm failed to take a safe route in order to avoid the direct impact of the storm.

40. Defendant, Tote Maritime, negligently entered the path of a category 4 storm knowing the unseaworthy condition of the El Faro prior to leaving port.

41. Defendant Tote Maritime negligently failed to comply with the rules and practice of general maritime law to exercise reasonable care under the circumstances for the safety of passengers/business invitees traveling aboard the El Faro.

42. Defendant Tote Maritime negligently failed to comply with requirements of Florida Statutes with respect to reckless or careless operation of a vessel.

43. The acts or omissions of Defendant Tote Maritime, as aforesaid, were a direct, proximate, and legal cause of the incident which occurred on or about October 1, 2015, which resulted in the death of Lonnie Jordan.

44. As a further and direct proximate result of the negligence of Defendant Tote Maritime, the Estate of Lonnie Jordan has suffered the unnecessary loss of a son, incurred memorial expenses, and suffered the loss of future earnings and net accumulations, including future pensions and retirement benefits, as well as mental anguish, pain and suffering.

45. The Estate also seeks recovery for the pre-death pain and suffering and emotional distress suffered by the decedent Lonnie Jordan.

46. The conduct of Defendant Tote Maritime, rises to a level sufficient to warrant the imposition of punitive damages, which will be pled by Plaintiff at a later date.

WHEREFORE, Joanna Johnson as Personal Representative of the Estate of Lonnie Jordan demands judgment in excess of \$15,000.00 against Tote Maritime Puerto Rico, Inc. for damages, costs and interest allowable by law, and trial by jury.

COUNT III- NEGLIGENCE – WRONGFUL DEATH
AGAINST DEFENDANT MICHAEL DAVIDSON

47. Joanna Johnson, as Personal Representative of the Estate of Lonnie Jordan

Re-alleges and reaffirms the allegations contained in paragraphs 1 through 20 above, and further alleges:

48. Defendant Captain Michael Davidson negligently navigated the El Faro out to sea despite warnings of impending hurricane winds blowing contrary to the direction of travel.

49. Defendant Captain Michael Davidson was warned prior to leaving port that there was a tropical storm in the Atlantic that was intensifying to hurricane strength.

50. Defendant Captain Michael Davidson was informed of the direction of travel of the storm and the probability of having to directly confront the storm days prior to leaving port on its intended voyage to Puerto Rico.

51. Defendant Captain Michael Davidson, despite being informed of the direction of the storm failed to take a safe route in order to avoid the direct impact of the storm.

52. Defendant, Captain Michael Davidson, negligently entered the path of a category 4 storm knowing the unseaworthy condition of the El Faro prior to leaving port.

53. Defendant Captain Michael Davidson negligently permitted the El Faro sail out to sea despite being in an unseaworthy condition to handle the conditions of a violent storm.

54. Defendant, Captain Michael Davidson negligently failed to comply with the rules and practice of general maritime law to exercise reasonable care under the circumstances for the safety of passengers/business invitees traveling aboard the El Faro.

55. Defendant, Captain Michael Davidson negligently failed to comply with requirements of Florida Statutes with respect to reckless or careless operation of a vessel.

56. The acts or omissions of Defendant, Captain Michael Davidson, as aforesaid, were a direct, proximate, and legal cause of the incident which occurred on or about October 1, 2015, which resulted in the death of Lonnie Jordan.

57. As Captain of the El Faro, Defendant, Michael Davidson owed the crewmen and seamen aboard the El Faro the highest degree of care given the circumstances and risks of navigating the El Faro through high seas and into a 140 winds and fifty (50) foot waves on or about October 1, 2015.

58. As a further and direct proximate result of the negligence of Defendant, Captain Michael Davidson, the Estate of Lonnie Jordan has incurred the unnecessary loss of a son, memorial expenses, the loss of future earnings and net accumulations, including future pensions and retirement benefits, as well as mental distress, pain and suffering.

59. As a direct and proximate cause of Defendant Captain Michael Davidson's negligent acts, the Estate of Lonnie Jordan seeks recovery for the pre-death pain and suffering endured by decedent Lonnie Jordan, as well as for his severe emotional distress..

60. The conduct of Defendant, Captain Michael Davidson, rises to a level sufficient to warrant the imposition of punitive damages, which will be pled by Plaintiff at a later date.

WHEREFORE, Joanna Johnson as Personal Representative of the Estate of Lonnie Jordan demands judgment in excess of \$15,000.00 against Captain Michael Davidson, Inc. for damages, costs and interest allowable by law, and trial by jury.

DATED THIS 14 DAY OF October, 2015

/s/ Willie E. Gary, Esquire

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