

STATE OF NORTH CAROLINA) **FILED** IN THE GENERAL COURT OF JUSTICE
 COUNTY OF CURRITUCK) 09 APR 20 PM 12:20 SUPERIOR COURT DIVISION
 CURRITUCK COUNTY, C.S.C. 09 CVS 193

CHRISTOPHER WAUGAMAN BY

Plaintiff,

v.

BLACKWATER SECURITY
 CONSULTING, LLC,
 U.S. TRAINING CENTER, INC., and
 JOSEPH D'ALFIO,

Defendants.

COMPLAINT

NOW COMES Plaintiff Christopher Waugaman, by counsel, and for his complaint against Defendants Blackwater Security Consulting, LLC, ("BSC"), U.S. Training Center, Inc., ("U.S. Training" and collectively with BSC, "Blackwater"), and Joseph D'Alfio ("D'Alfio"), alleges and states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is a citizen and resident of Michigan.
2. BSC is a limited liability company organized under the laws of Delaware. Its principal and registered offices are located in and it regularly carries on business in Currituck County, North Carolina. Upon information and belief, one or more of its members are citizens of North Carolina.
3. U.S. Training is a Delaware corporation with its principal and registered offices located and regularly carrying on business in Currituck County, North Carolina. U.S. Training, formerly known as Blackwater Lodge and Training, Inc., is the manager of BSC.

4. Upon information and belief, D'Alfio is a citizen and resident of California. Upon information and belief, D'Alfio has extensive contacts with North Carolina to include numerous trips to Currituck County in conjunction with his employment by U.S. Training and BSC as the Master of MCARTHUR and his execution of shipping articles for the crew of MCARTHUR in Moyock, North Carolina.

5. For the time periods relevant to his claims, Plaintiff was a licensed mariner and an assistant engineer aboard the merchant vessel MCARTHUR, a United States-flagged vessel. BSC is the registered owner, ship manager, and operator of MCARTHUR.

6. For the time periods relevant to his claims, Plaintiff was employed by U.S. Training and BSC as a Jones Act seaman aboard MCARTHUR pursuant to shipping articles signed by D'Alfio, the Master of MCARTHUR, in Moyock, North Carolina.

7. The acts and occurrences by Defendants giving rise to Plaintiff's claims occurred on navigable waters and in the course of Plaintiff's employment.

8. This Court has personal jurisdiction over the parties and subject matter jurisdiction over Plaintiff's claims under North Carolina law and 28 U.S.C. § 1333.

9. Venue is proper in this Court pursuant to N.C. Gen. Stat. § 1-82.

FACTUAL BACKGROUND

10. Plaintiff reported aboard MCARTHUR as an assistant engineer in January 2009 when the vessel was pierside in Norfolk, Virginia. Soon thereafter, MCARTHUR sailed for Aqaba, Jordan, arriving in February 2009.

11. Throughout Plaintiff's time aboard the vessel, D'Alfio was verbally abusive of the crew and permitted breaches of policies, including by permitting alcoholic beverages to be consumed aboard by officers of the vessel.

12. Upon information and belief, D'Alfio was previously employed as a ship's master by another company but was terminated because of his abusive and otherwise unsatisfactory conduct.

13. Blackwater knew or should have known of D'Alfio's propensity for abusive conduct and unfitness for the position of ship's master.

14. On February 27, 2009, D'Alfio and the Chief Engineer of MCARTHUR went ashore. D'Alfio, the Chief Engineer, and Blackwater's agent in the port consumed alcoholic beverages while ashore.

15. That evening, D'Alfio, under the influence of alcohol, called Plaintiff to D'Alfio's cabin. In the presence of the Mate on watch, D'Alfio told Plaintiff to pack his bags and leave the ship. D'Alfio gave no reason for his command.

16. Upon information and belief, D'Alfio, BSC, and U.S. Training were angry that Plaintiff had been quoted in a news article in his hometown newspaper, the Rosemount, Minnesota, "Town Pages."

17. Plaintiff left the cabin and asked the Chief Engineer what was going on. The Chief Engineer, under the influence of alcohol, responded that he did not know.

18. Plaintiff checked his email account for any email from U.S. Training regarding what was going on, but there was not any.

19. Plaintiff returned to D'Alfio's cabin. In the cabin were D'Alfio, the Chief Engineer, and the Mate on watch. Without justification or provocation, D'Alfio threatened Plaintiff with a pair of handcuffs. D'Alfio then ordered the Mate on watch to put Plaintiff in handcuffs. The Mate on watch had previously been trained in close quarter combat techniques by Blackwater. On D'Alfio's order, the Mate on watch attacked Plaintiff, threw Plaintiff to the

deck causing him physical injury, and fastened the handcuffs to Plaintiff's wrist and to a towel rack in D'Alfio's cabin. D'Alfio then threatened Plaintiff with restraint in a straightjacket.

20. Plaintiff was later released from the handcuffs and confined to his cabin that night until his departure from the vessel the next morning.

21. Plaintiff suffered physical injuries, emotional distress, anguish, and suffering as the result of Defendants' actions.

COUNT ONE – FALSE IMPRISONMENT

22. Plaintiff realleges paragraphs 1 through 21 above as if fully set forth herein.

23. Plaintiff was intentionally and unlawfully detained by D'Alfio by being placed in irons.

24. D'Alfio was acting in the course and scope of his employment in the work of and about the business of Blackwater when he falsely imprisoned Plaintiff.

25. Blackwater ratified D'Alfio's tortious conduct with full knowledge of all material facts thereof.

26. Plaintiff is entitled to recover compensatory and punitive damages from Defendants in an amount in excess of \$10,000.

COUNT TWO – JONES ACT NEGLIGENCE

27. Plaintiff realleges paragraphs 1 through 26 above as if fully set forth herein.

28. Blackwater had a duty to Plaintiff to hire and supervise the Master of MCARTHUR with the diligence and inquiry as would a reasonably prudent person in the same circumstances.

29. Blackwater knew or should have known D'Alfio did not measure up on competency, temper, and disposition to ordinary men of the calling of Master.

30. Blackwater breached its duty to Plaintiff by hiring D'Alfio as Master of MCARTHUR and by failing to supervise him thereafter.

31. On February 27, 2009, D'Alfio went beyond the customary measures of supervision that an ordinary, prudent Master would use.

32. D'Alfio created a risk that a reasonably prudent person would have foreseen would lead to injury.

33. The assault on Plaintiff by the Mate on watch was by Plaintiff's superior and for the benefit of the vessel's business.

34. D'Alfio as Master not only failed to prevent the assault when it was foreseeable but affirmatively ordered the Mate on watch to commit it on Plaintiff.

35. Blackwater's negligent hiring and supervision of D'Alfio and failure to arrest D'Alfio's course of conduct were the actual and proximate causes of Plaintiff's damages that resulted from the assault on Plaintiff by the Mate on watch on February 27, 1999.

36. Plaintiff was injured as the result of Defendants' negligence and is entitled to recover compensatory damages in an amount in excess of \$10,000.

COUNT THREE – JONES ACT UNSEAWORTHINESS

37. Plaintiff realleges paragraphs 1 through 36 above as if fully set forth herein.

38. U.S. Training and BSC had a duty to Plaintiff to provide a Master of ordinary competence, temper, and disposition.

39. D'Alfio's temper and disposition created a risk of harm to Plaintiff and were the proximate and actual cause of Plaintiff's injuries from the assault upon him by the Mate on watch, acting on D'Alfio's orders, on February 27, 2009.

40. Plaintiff is entitled to recover compensatory damages in an amount in excess of \$10,000.

WHEREFORE, Plaintiff respectfully prays the Court:

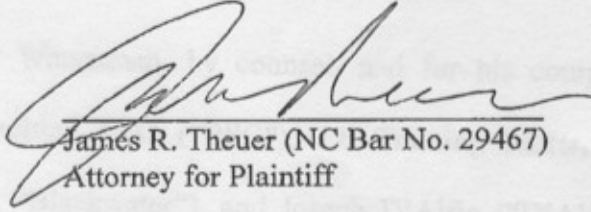
1. That he recover from Defendants compensatory and punitive damages in an amount in excess of \$10,000;

2. That the costs of this action, including attorney fees, be taxed to Defendants;

3. For a trial by jury of all issues so triable; and,

4. For such other and further relief as the Court deems just and proper.

This the 16th day of April, 2009.


James R. Theuer (NC Bar No. 29467)
Attorney for Plaintiff

OF COUNSEL:

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