

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

|                                |          |                            |
|--------------------------------|----------|----------------------------|
| <b>IN RE _____,</b>            | <b>§</b> |                            |
| <b>AS OWNER OF THE</b>         | <b>§</b> | <b>ADMIRALTY RULE 9(H)</b> |
| <b>M/V _____, PRAYING FOR</b>  | <b>§</b> |                            |
| <b>EXONERATION FROM OR</b>     | <b>§</b> | <b>CIVIL ACTION NO.</b>    |
| <b>LIMITATION OF LIABILITY</b> | <b>§</b> |                            |

**COMPLAINT FOR EXONERATION FROM OR LIMITATION OF  
LIABILITY OF \_\_\_\_\_,  
AS OWNER OF THE M/V \_\_\_\_\_**

COMES NOW, \_\_\_\_\_ (“<sup>1</sup>Owner”), as owner of the M/V \_\_\_\_\_, (the “Vessel”) her engines, gear, tackle, etc., in a cause of exoneration from or limitation of liability, civil and maritime, under Rule 9(h) of the Federal Rules of Civil Procedure and Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims, and in support thereof would respectfully show the Court as follows:

**Jurisdiction and Venue**

1. This is a case of admiralty and maritime jurisdiction under 28 U.S.C. §1333 and is filed pursuant to Rule 9(h) of the Supplemental Rules for Certain Admiralty and Maritime Claims & Asset Forfeiture Actions of the Federal Rules of Civil Procedure (“Supplemental Rules”), all as hereinafter more fully appears.

2. Owner is, and at all material times hereinafter mentioned was, a corporation doing business in the State of Texas, with its principal place of business in \_\_\_\_\_, Texas. Owner at all times material hereto was the <sup>2</sup>owner of the M/V \_\_\_\_\_.

3. The vessel has not been arrested or attached, and suit has been commenced against the vessel owner within this district. Accordingly, Owner affirmatively shows that venue is proper in this district pursuant to Rule F(<sup>3</sup>9) of the Supplemental Rules.

# Summary of Comments on 04\_Piccolo\_AM21\_pap1.pdf

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Number: 1 Author: Watson, Harold

Technically, the owner is the plaintiff, but describing the owner as the plaintiff can create confusion, since the parties filing claims against the owner would typically be thought of as the plaintiffs. Under the old pre-unification Admiralty Rules, the owner filed a petition for exoneration or limitation, and many admiralty lawyers use the term "petitioner" to refer to the owner seeking limitation.

Number: 2 Author: Watson, Harold

The Limitation Act defines "owner" to include "a charterer that mans, supplies, and navigates a vessel at the charterer's own expense of by the charterer's own procurement," i.e., a bareboat charterer. If the owner is a corporation, shareholders, including parent corporations, are also entitled to limit their liability. *Flink v. Paladini*, 279 U.S. 59 (1929); *In re Complaint of Shell Oil Company*, 780 F.Supp. 1086, 1992 AMC 2062, 2070 (E.D. La. 1991).

Number: 3 Author: Watson, Harold

Under Supplemental Rule F(9), proper venue depends upon whether the vessel has been arrested or attached, whether suit has been filed, or where the vessel is located. If none of these apply, venue is proper in any district.

4. Owner first received a claim in writing on \_\_\_\_\_. Thus, this Complaint has been filed within six months from the date Owner received first written notice of claim from any claimant for losses or damages that any person, firm, corporation or other entity claims to have sustained while the Vessel was on the voyage in question.

**Facts Giving Rise to Owner's Right to Exoneration from or Limitation of Liability**

5. [Describe the vessel]. Prior to and at all times hereinafter described, Owner exercised due diligence to make and maintain the Vessel in all respects seaworthy, and at all times material hereto she was, in fact, tight, staunch, strong, properly and efficiently manned, supplied, equipped and furnished, and well and sufficiently fitted with suitable engines, machinery, gear, tackle, apparel, appliances, and furniture, all in good order and condition and suitable for the service in which the Vessel was engaged.

6. [Describe casualty and claims that have been made].

7. The above-described injury, loss, destruction and damages, if any, and which are in all respects denied, were done, occasioned and incurred without the privity or knowledge of Owner, or of Owner's superintendent or management personnel. The Vessel was in all respects seaworthy and no Owner had knowledge of any condition or circumstance that contributed to the loss for which claims may be made.

8. Owner desires to contest any liability of it and the Vessel for the damage allegedly sustained by those affected by the events in question, and for any and all losses and damages, if any, which occurred during the voyage in question. Owner claims further exoneration from or limitation of liability for any damage, and damages sustained by those affected, and for the claims that have been made and those claims which hereafter may be made by any other person, firm, corporation or other entity. Owner alleges that it has valid defenses on the facts and on the law to

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