

*ml*  
FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA  
2005 DEC -6 P 5:05  
LORETTA G. WHYTE  
CLERK

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF LOUISIANA

NORMAN PAUL TRAHAN

§  
§  
§  
§  
§

CIVIL ACTION NO.

vs.

NUMBER

LABORDE MARINE LIFTS, INC.

SECTION "\_\_\_", MAG. "

**05-6381**  
**A MAG. 4**

COMPLAINT

NOW COMES PLAINTIFF, NORMAN PAUL TRAHAN ("Trahan"), a person of the full age of majority, domiciled and residing in the Parish of Terrebonne, State of Louisiana, who, with respect, represents:

1.

This action is based on the general maritime law, the Jones Act (46 U.S.C. § 686), as shall hereinafter appear.

2.

Made Defendant herein is LABORDE MARINE LIFTS, INC., a Louisiana corporation doing business in the Parish of Orleans, State of Louisiana, and, at all times pertinent hereto, was the owner and operator of m/v Lab Lift IV.

3.

At all times pertinent hereto, Defendant owned, operated, managed, and controlled M/V Lab Lift IV, a work boat engaged in operations in the Gulf of Mexico, as well as in Louisiana lakes and tributaries.

Fee 250.00  
Process 30/21 12/9/05  
 Dktd \_\_\_\_\_  
 CtRmDep \_\_\_\_\_  
Doc. No \_\_\_\_\_

4.

Defendant employed Plaintiff as a able-bodied seaman and crane operator aboard said vessel, and Plaintiff was acting within the course and scope of his employment, when the incident described herein occurred.

5.

On or about December 6, 2004, Defendant was operating the vessel as part of decommission team for British Petroleum ("BP"), and the team included Defendant, Halliburton, Weatherford, Major Equipment Remediation, Eagle Consulting, and Brand Scaffolding.

6.

The team was assembled for the purpose of dismantling and removing BP platforms and wells in the Gulf of Mexico that were no longer in use.

7.

During or about the evening of December 6, 2004, while many employees of the various team members were assembled and watching the Monday night football game, Trahan checked his e-mail and unexpectedly encountered hundreds of e-mails from homosexuals all over the world. When the gathered team members observed Trahan reading the e-mails, they began laughing and logging on to a web site known as "Hotornot.com" and encountered a photograph of Trahan accompanied by a profile representing Trahan as a homosexual soliciting gay male encounters and as a user of illegal drugs.

8.

The photograph posted on the web site was taken by an employee of one of the team members with a camera that, on information and belief, belonged to one of the team members.

9.

On information and belief, the posting of the photograph and profile on the Internet was done onboard the vessel through the use of a computer and Internet connection belonging to BP.

10.

Trahan, who is not homosexual and does not use illegal drugs, and who had no prior knowledge of nor had he given consent to the Internet posting, became depressed, anxious, severely embarrassed and humiliated as a result of receiving the e-mails, viewing the Internet listing, and experiencing the constant ridicule and insults of many of the team member employees.

11.

Trahan complained to his captain and demanded that disciplinary action be taken against the offending team members and their employees. Trahan also complained to his employer's human resources department. When it became evident that no action was going to be taken by his captain or his employer, Trahan resigned and asked to be removed from the vessel onboard the next boat that arrived.

12.

The captain of the vessel refused to accept Trahan's resignation and ordered him to continue operating his crane, because there as no one to replace him.

13.

The captain and Trahan's employer ordered a drug team aboard the vessel to conduct a search of the vessel for contraband substances and to drug test Trahan and all of the other employees. It was evident to the entire crew, however, that the real target of the drug testing and search was Trahan. It was not until almost two (2) days following the inception of the incident that the drug team arrived on the vessel to perform its work. Trahan tested negative.

14.

Prior to the arrival of the drug team, Trahan repeatedly asked to be allowed to depart the vessel aboard one of the approximately seven or eight boats that arrived at the vessel between the inception of the incident and the arrival of the drug team. Trahan's captain not only refused to allow him to leave, but threatened to forcibly restrain him from departing the vessel.

15.

The Defendant and/or its agents and crew are guilty of negligence and failure to provide Plaintiff with a safe place to work and with an adequately trained captain, crew, and team members who could have avoided the physical and emotional injuries suffered by the Plaintiff. LaBorde Marine Lifts, Inc. had an absolute and non-delegable duty to provide a seaworthy vessel to Trahan, which said duty was breached by the failure of LaBorde to prevent the wrongful use of the camera and Internet by the various team members and their employees, and from the failure of LaBorde to immediately institute various corrective steps to right the wrong done to Trahan and alleviate his suffering, embarrassment, and humiliation.

16.

As a direct and proximate cause of the Defendant's negligence and the unseaworthiness of the vessel, Plaintiff has suffered the following injuries and damages:

Post-traumatic stress disorder;

Aggravation of a prior emotional and physical condition;

Mental and physical pain and suffering;

Loss of future earnings and earning capacity;

Discomfort and inconvenience;

Loss of enjoyment of life, and

Rendering Trahan physically unfit for duty because of his use of certain medicines prescribed by his physician to alleviate Trahan's suffering caused by the incident.

17.

The Defendant has a duty to provide the Plaintiff with maintenance and cure.

18.

Plaintiff, as a result of the aforesaid incident, Plaintiff has expended and will expend for a reasonable time in the future for his maintenance the sum of approximately \$60.00 per day while he is disabled and unable to work.

19.

Plaintiff has made demand upon Defendant to provide him with maintenance and cure. Initially, Defendant paid maintenance and cure, but in an insufficient amount, and even denied certain medical treatment prescribed by Plaintiff's psychiatrist. Subsequently, Defendant, on or

about June 16, 2005, completely discontinued payment of Plaintiff's maintenance and cure, terminated his employment and all of his employment benefits. Defendant is thereby entitled to receive penalties and attorney's fees for the failure of Defendant to pay or sufficiently pay for Plaintiff's maintenance and cure.

20.

Plaintiff demands trial by jury in accordance with the FEDERAL RULES OF CIVIL PROCEDURE.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff, Norman Paul Trahan, demands judgment against Defendant, LaBorde Marine Lifts, Inc. in the full sum of \$500,000.00 and \$60.00 per day in the form of maintenance and cure, together with any and all medical expenses incurred as a result of Plaintiff's injury aboard the m/v Lab Lift IV, for Plaintiff's attorney's fees in pursuing his claim for maintenance and cure, legal interest, trial by jury, costs, and any and all general or equitable relief that may be appropriate.

Respectfully submitted,

**BACH & WASSERMAN**



---

LEONARD M. BERINS (LSBA No. 3004)  
GERALD WASSERMAN (LSBA No. 13253)  
3939 North Causeway Blvd., Suite 200  
Metairie, Louisiana 70002  
Telephone: (504) 846-5700  
Telecopier: (504) 846-5719

Attorneys for Plaintiff Donald Paul Trahan

# CIVIL COVER SHEET

# 05-6381

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

### I. (a) PLAINTIFFS

Norman Paul TRAHAN

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Terrebonne  
(EXCEPT IN U.S. PLAINTIFF CASES)

### DEFENDANTS

LABORDE MARINE LIFTS, Inc. **A MAG. 4**

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Orleans  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Leonard M. Berins (#3004)  
Bach + Wasserman  
3939 N. Causeway, #200  
Metairie, LA 70002

ATTORNEYS (IF KNOWN)

### II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

### IV. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input checked="" type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609

### V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

### VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Jones Act (46 USC 5686) and maintenance and cure claim

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  YES  NO

### VIII. RELATED CASE(S) IF ANY

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

12/6/05

Leonard M. Berins #3004

FOR OFFICE USE ONLY