

APR 07 1989

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA  
By PLR Deputy

W. B. T. J. Sigler  
P.O. Box 92629  
Anchorage, Alaska 99509  
No Phone  
Plaintiff, In Pro Se

Stephen Pidgeon  
943 West 19th  
Anchorage, Alaska 99503  
278-4394  
Plaintiff, In Pro Se

Donald A. Ferguson  
3605 Arctic, #419  
Anchorage, Alaska 99503  
562-2937  
Plaintiff, In Pro Se

<sup>Faye</sup>  
Judy Whitson  
5641 East 99th  
Anchorage, Alaska 99516  
346-3438  
Plaintiff, In Pro Se

Marlene Sharon Lay  
5817 South Tahiti Loop  
Anchorage, Alaska  
562-2937  
Plaintiff In Pro Se

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

W.B.T.J. SIGLER, STEPHEN PIDGEON, )  
DONALD A. FERGUSON, JUDY WHITSON, ) FAYE  
MARLENE SHARON LAY, individually )  
and on behalf of all others )  
similarly situated, )

Plaintiffs, )

vs. )

EXXON CORPORATION, a New Jersey )  
corporation, EXXON SHIPPING )  
COMPANY, a Delaware corporation, )  
ALYESKA PIPELINE SERVICE CO., a )  
Delaware corporation, JOSEPH )  
HAZELWOOD and GREGORY COUSINS, as )  
agents of EXXON SHIPPING COMPANY, )  
JOHN DOE COMPANY, an unidentified )  
corporation, JOHN DOE, an unknown )  
individual, )

Defendants. )

A89-117 CIV

Case # \_\_\_\_\_

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

AFFIDAVIT OF PRO SE  
PLAINTIFFS

NATURE OF CASE

1. This is a class action arising from the oil spill in

Prince William Sound, Alaska on March 24, 1989. This action is brought on behalf of all <sup>non-native</sup> residents of the State of Alaska, who reside in the <sup>CULF OF AK</sup> watershed ~~areas~~ from Cape ~~Douglas~~ to Unimak Pass.  
**SPENCER**

#### JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C., Sec. 1331 and principles of pendent and ancillary jurisdiction.

3. The claims arise under 43 U.S.C., Sec 1653 (c), the federal common law, Alaska Statutes 46.03.822-828 and 09.45.230, and the principles of common law.

4. Venue is proper in this district because this district is the site of the spill, and the district where a substantial portion of the injuries occurred. Plaintiffs reside in this district. The defendants reside in and/or do business in this district

#### PARTIES

5. Plaintiffs, W.B.T.J. Sigler, Stephen Pidgeon, Donald A. Ferguson, Judy <sup>Fane</sup> Whitson, and Marlene Sharon Lay are all <sup>non-native</sup> residents of the State of Alaska, residing in Anchorage. All have lived, enjoyed, recreated, fished, relaxed, and traveled within the geographical area known as the watershed between Cape <sup>SPENCER</sup> ~~Douglas~~ and Unimak Pass, utilizing in their own ways, the virgin beauty of the land, the waters, the animal and plant life of the area, as well as

the totality of an untouched wilderness which was unique. All, except Whitson, have resided with, taken, or directed their children and/or grandchildren to this same geographical area, for their own use and enjoyment as well.

6. Defendant Exxon Corporation is a New Jersey corporation with its executive offices in New York. Exxon owns and controls the oil which was transported by the Exxon Valdez and spilled into the Prince William Sound.

7. Defendant Exxon Shipping Company, a subsidiary of Exxon, is a Delaware corporation with its principal place of business in Texas. Exxon Shipping Company owns and operates the tanker Exxon Valdez.

8. Defendant, Alyeska Pipeline Service Company is a Delaware corporation with its principal place of business in Alaska. Alyeska is a consortium of eight oil companies, including Exxon, which owns and operates the Trans-Alaska Pipeline System, and the shipping terminal facilities at the Port of Valdez, Alaska. As the agent of the oil companies, Alyeska is responsible for maintaining an oil spill contingency plan for emergency response to spills in the Sound, including coordination of clean-up.

9. Defendant Joseph Hazelwood is an employee and agent of Exxon Shipping, and the Captain of the Exxon Valdez when it ran into the reef in Prince William Sound.

10. Defendant Gregory Cousins is an employee and agent of Exxon Shipping, and the third mate of the Exxon Valdez.

when it ran onto Bligh Reef.

11. Defendants John Doe Company and John Doe, an individual, are potential Defendants who might have contributed to the damages suffered by the Plaintiff class in this action. Should their identities become known, the complaint will be amended to reflect their true names. Should no other Defendants be found, the John Does will be dismissed.

#### CLASS ALLEGATIONS

12. The named Plaintiffs bring this class action pursuant to Rule 23(b)(1), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on behalf of themselves and on behalf of a class consisting of all persons, their children, and grandchildren, who are <sup>new-native</sup> residents of the State of Alaska, living within the geographical area between Cape <sup>SPEJER</sup> Douglas and Unimak Pass, who have resided, recreated, fished, enjoyed, travelled through, visited, and otherwise utilized the land, the waters, the animal life, and the totality of the virgin environment within that area, or who had a reasonable expectation of doing all of these things in the future, because their parents or grandparents had chosen to reside in that area.

13. Members of the Plaintiff class are so numerous that joinder of all members as named Plaintiffs is impractical. While the exact number of class members is unknown to Plaintiffs at this time, and can only be ascertained

through discovery, Plaintiffs believe that there are over 280,000 members of said class.

14. There are questions of law and fact common to the class which predominate over any questions solely affecting individual members of the Plaintiff class. Among the questions of law and fact common to the Plaintiff class are:

a) Whether any or all of the Defendants violated federal laws, state laws, and the common law.

b) Whether any or all Defendants are strictly liable or whether they breached a duty of care owed to the class.

c) Whether Defendants acted wilfully, recklessly, negligently, or otherwise, in allowing the oil to spill, or in response to the oil spill.

d) Whether Defendants, any or all, misrepresented or suppressed material facts concerning their capacity to respond to massive oil spills.

e) Whether members of the class have sustained damage and, if so, what is the proper measure of damages.

f) Whether punitive damages should be awarded, and if so, in what amount.

15. The claims of the named Plaintiffs are typical of the claims of the entire class. There are no conflicts among members of the class regarding the subject matter of this litigation.

16. The named Plaintiffs will fairly and adequately protect the interest of the class. Plaintiffs are

negotiating to retain counsel who is experienced in complex class action litigation. It is expected that a large number of Pro Se Plaintiffs will move this Court to join in this litigation as named Plaintiffs, with the expectation that a large number of litigants will be able to retain counsel to competently represent not only the named Plaintiffs, but the entire class, as well.

17. A class action is superior to other available means for the fair and efficient adjudication of this controversy, since joinder of each and every member of the class is impractical. Furthermore, since the damages suffered by individual class members may be relatively small, the expense and burden of individual litigation makes it impossible for individual class members to redress the wrongs done to them.

#### FACTS COMMON TO ALL CLAIMS

18. On March 23, 1989, more than a million barrels of oil were loaded onto the Exxon Valdez at the Alyeska Pipeline Terminal Facility.

19. After sailing, the Exxon Valdez departed the Port of Valdez. As the ship navigated through the Valdez Narrows in Prince William Sound, the Master Joseph Hazelwood laid below and improperly transferred the helm to Gregory Cousins, a third mate who was not qualified to navigate in that area.

20. At approximately 12:28 a.m. on March 24, 1989, the

Exxon Valdez grounded on Bligh Reef, a lighted hazard well outside the shipping lanes south of Valdez.

21. Tests done on Defendant Hazelwood more than ten hours after the accident showed that he had a blood alcohol level which significantly exceeded Coast Guard regulations. Hazelwood was discharged by Exxon and he has now been charged with criminal offenses in connection with operating a motorcraft while under the influence of alcohol.

22. Exxon Shipping as owner of the Exxon Valdez, and Exxon, knew or should have known that Hazelwood had an alcohol abuse-problem, as Exxon had previously been sued for Hazelwood's conduct while under the influence. At the time of the accident, Hazelwood's driver's license was suspended because of a DWI charge in the State of New York. Furthermore, Exxon knew, or had reason to know that local community groups in Valdez had expressed concern about crewman<sup>e</sup> boarding supertankers while intoxicated.

23. The grounding holed the vessel, releasing 11 million gallons of crude.

24. Following the spill, authorized representatives of Exxon and Exxon Shipping admitted responsibility for the spill and resulting damage.

25. At the time the pipeline was completed, Alyeska promised concerned citizens of the area, including those involved in recreational fishing, hunting, sightseeing, and other use and enjoyment of the area, that the tankers would

be designed to minimize spills through design features such as double bottoms. Alyeska also promised an adequate containment protocol.

26. Equipment was not ready and there was no contingency plan. When Exxon Valdez grounded, the barge had been dry docked for some time, its booms ashore. Alyeska failed to notify authorities that the barge was out of service. Accordingly, workers did not board Exxon Valdez for too long a time, exacerbating damages. Other resources were not available and there were virtually no properly trained personnel to respond to the grounding.

27. Alyeska has reduced its spill response protocol:

a) A full time professionally trained crew was gradually eliminated, replaced by dock and office workers with no experience or training with oil spills,

b) A chartered 218,000 gallon capacity barge, designed to take oil from spill sites, was replaced by a much smaller barge which was too badly damaged to be used.

c) Modern self-inflating booms designed to contain oil slicks immediately were not available for 24 hours.

d) A full time oil spill coordinator, which Alyeska promised to keep in Valdez was no longer stationed there.

28. Accordingly, Alyeska was unable to respond to, contain and clean up the spill from the Exxon Valdez.

#### DAMAGES

29. Coastal Alaska and surrounding area is one of the most



biologically rich ecosystems in the world and one of the most environmentally sensitive. It is one of the worst locations imaginable for a mutable ~~benzene~~ <sup>hydrocarbon</sup> infiltration. (oil 3)  
It is the crossroads for huge migrations of fish, birds, and shore animals. Algae, fungi, bacteria, and other microscopic animals in the food chain have been lost.

30. The effects of the spill are expected to damage the sport fishing, the casual recreation, the animal life, and the beauty of the area for many years. The Plaintiffs, who have enjoyed, and who expected to enjoy the untouched, pristine state of the area in the future, will now contend with an area saturated with ~~benzene~~ <sup>hydrocarbon</sup> pollution. (the oil spill)

31. The Defendants conduct was willful, wanton, malicious and so outrageous as to justify the award of punitive and/or exemplary damages against them.

#### CAUSES OF ACTION

32. a) Federal Common Law of Nuisance. Defendants' activities in causing and allowing release of the oil into Prince William Sound and the surrounding environment constitutes a nuisance under federal common law. As a direct and proximate result, Plaintiffs have been damaged.

b) Strict Liability Pursuant to Alaska Statutes Sections 46.03.822, et seq.

Pursuant to those statutes, defendants are jointly, severally and strictly liable, without regard to fault, for all damages suffered by Plaintiffs as a result of the oil

spill.

c) Nuisance. Pursuant to Alaska Statutes Sec. 09.45.230, Defendants' activities in causing the release of the oil into the surrounding environment constitutes a private nuisance. As a result, the Plaintiffs have been damaged.

d) Strict Liability--Ultra Hazardous and/or abnormally dangerous activity. The oil loading and shipping activities engaged in by Defendants are inherently dangerous to the ecological environment. The use of single hull supertankers to transport the oil is so inherently dangerous that this activity is likely to cause severe contamination and damage.

Defendants are jointly, severally and strictly liable, without regard to fault, for transporting oil under conditions which were inherently, or unreasonably dangerous.

e) Negligence. Defendants, who each owed Plaintiffs a duty of care, negligently and carelessly navigated into a lighted hazard, failed to assure the competence of the ship's master, utilized unsafe and improper methods including single hulled vessels, and failed adequately to prepare for or respond to contain and clean up the oil spill. The negligent conduct of the Defendants has proximately caused the contamination of the land mass and waters previously utilized and enjoyed by the Plaintiffs.

f) Defendants intentionally or negligently misrepresented

to Plaintiffs and others, material facts about the safety of the supertankers, and the competency of the crews. Defendants also knew that they were not equipped and they were unprepared to respond to a massive oil spill in Prince William Sound, but failed to warn Plaintiffs or state and federal authorities of these facts. These misrepresentations were made with the intent to induce the Plaintiffs to rely up the adequacy of the Defendants' conduct.

As a direct and proximate result of this reliance, the Plaintiffs suffered substantial damages.

#### JURY DEMAND

Plaintiffs demand a trial by jury.

The Plaintiffs ask for the following:

1. A determination and certification by the Court that this is a proper class action suit maintainable under Rule 23 of the Federal Rules of Civil Procedure.
2. General and special damages to the Plaintiffs in the amount of 3.4 Billion dollars.
3. Punitive damages in the amount of 6.8 Billion dollars.
4. Costs of suit, including filing fee, service fees, costs of notice, and attorney's fees to the Plaintiffs.

Dated: 4/7/89

Dated: 4/7/89

Dated: 4/7/89

W.B.F. Sigler y.S.

John J. Harrison

Stephen King

Dated: 4/7/89

Dated: 4-7-89

Donald A. Ferguson  
Marlene Sharon Lay

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

AFFIDAVIT OF PLAINTIFFS, VERIFYING COMPLAINT AND

STANDING TO SUE

On April 7, 1989, W.B.T.J. Sigler, Stephen Pidgeon,  
Donald A. Ferguson, Judy <sup>Faye</sup> Whitson, and Marlene Sharon Lay,  
who are all known to me, read the above Complaint and swore  
under oath that all of the facts that it contains,  
and in particular, the personal facts concerning themselves  
as members of the class described in the Complaint, are  
true. They then signed the Complaint.

Kathryn Kelly  
Notary Public Cm.n.exp. 1-6-92

## SERVICE OF PROCESS TRANSMITTAL FORM

**CT CORPORATION SYSTEM**CT Corporation System  
The Corporation Trust Company

Juneau, Alaska

(City)

(State)

04-10-89

(Date)

( ) Via Certified First Class Mail

(XXX) Via Messenger  
Airbill #1330601830C

(3306018284)

TO: Richard O. Gantz  
Hughes, Thorness, Gantz et al.  
509 W. Third Ave.  
Anchorage, AK 99501

RE: PROCESS SERVED IN ALASKA

(Jurisdiction)

FOR Exxon Corporation

(Name of Company)

DE

(Domestic State)

ENCLOSED ARE COPIES OF LEGAL PROCESS SERVED UPON THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

1. TITLE OF ACTION: To: Exxon Corporation  
W.B.T.J. Sigler et al. v. Exxon Corporation et al.2. DOCUMENT(S) SERVED:  
Summons; Class Action Complaint3. COURT:  
U.S. District Court for the District of Alaska

A89-117

4. NATURE OF ACTION: Alleges oil and toxic effluents were unlawfully and negligently  
discharged into waters from Exxon Valdez. As a proximate cause of negligence,  
plaintiff class (as non-native residents of the region) was  
injured. Seeking Compensatory & punitive damages; costs; interest; fees.

5. ON WHOM PROCESS WAS SERVED:

CT Corporation System, Juneau, Alaska

6. DATE AND HOUR OF SERVICE:  
4/10/89 9:30 am7. APPEARANCE OR ANSWER DUE:  
20 days

8. PLAINTIFF'S ATTORNEY(S):

Pro Se

9. REMARKS:

( ) This confirms our telephone call to your office.

( ) Above telephoned to CT office and is sent to you per their instructions.

cc(w/pleadings): Mr. W. J. McAnelly, Jr.; Richard M. Clinton  
Transmittal sheet faxed to Richard Gantz; W. J. McAnelly; Richard ClintonKINDLY ACKNOWLEDGE RECEIPT BY SIGNING  
THE CARBON COPY AND RETURNING IT TO →Signed **CT CORPORATION SYSTEM**

Melanie Mickelson

Per

Address

240 Main St., Suite 800

Juneau, AK 99801

## SERVICE OF PROCESS TRANSMITTAL FORM

CT CORPORATION SYSTEM

CT Corporation System  
The Corporation Trust Company

Juneau, Alaska

(City)

(State)

04-10-89

(Date)

TO: Richard O. Gantz  
 Hughes, Thompson, Gantz et al.  
 509 W. Third Ave.  
 Anchorage, AK 99501

( ) Via Certified First Class Mail

(XXX) Via Messenger  
 Airbill # 330801830E

(3306018284)

RE: PROCESS SERVED IN ALASKA

(Jurisdiction)

FOR Exxon Shipping Company

(Name of Company)

DE

(Domestic State)

ENCLOSED ARE COPIES OF LEGAL PROCESS SERVED UPON THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

1. TITLE OF ACTION: To: Exxon Shipping Company  
W.B.T.J. Sigler et al. v. Exxon Corporation et al.
2. DOCUMENT(S) SERVED:  
Summons; Class Action Complaint
2. COURT:  
U.S. District Court for the District of Alaska A89-117
4. NATURE OF ACTION: Alleges oil and toxic effluents were unlawfully and negligently discharged into waters from Exxon Valdez. As a proximate cause of negligence, plaintiff class (as non-native residents of the region) was injured. Seeking Compensatory & punitive damages; costs; interest; fees.
5. ON WHOM PROCESS WAS SERVED:  
CT Corporation System, Juneau, Alaska
6. DATE AND HOUR OF SERVICE:  
4/10/89 9:30 am
7. APPEARANCE OR ANSWER DUE:  
20 days
8. PLAINTIFF'S ATTORNEY(S):  
Prc Sa

## 9. REMARKS:

- ( ) This confirms our telephone call to your office.  
 ( ) Above telephoned to CT office and is sent to you per their instructions.

cc(w/pleadings): Mr. W. J. McAnelly, Jr.; Richard M. Clinton  
 Transmittal sheet faxed to Richard Gantz; W. J. McAnelly; Richard Clinton

KINDLY ACKNOWLEDGE RECEIPT BY SIGNING  
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Signed CT CORPORATION SYSTEM

Per Melanie Mickelson

Address 240 Main St., Suite 800  
 Juneau, AK 99801

W. B. T. J. Sigler  
P.O. Box 92629  
Anchorage, Alaska 99509  
No Phone  
Plaintiff, In Pro Se

Stephen Pidgeon  
943 West 19th  
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278-4394  
Plaintiff, In Pro Se

Donald A. Ferguson  
3605 Arctic, #419  
Anchorage, Alaska 99503  
562-2937  
Plaintiff, In Pro Se

**FILED**

APR 07 1989

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA  
Deputy

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

\_\_\_\_\_  
W.B.T.J. SIGLER, STEPHEN PIDGEON,  
DONALD A. FERGUSON, individually  
and on behalf of all others  
similarly situated,

Plaintiffs,

vs.

\_\_\_\_\_  
EXXON CORPORATION, a New Jersey  
corporation, EXXON SHIPPING  
COMPANY, a Delaware corporation,  
ALYESKA PIPELINE SERVICE CO., a  
Delaware corporation, JOSEPH  
HAZELWOOD and GREGORY COUSINS, as  
agents of EXXON SHIPPING COMPANY,  
JOHN DOE COMPANY, an unidentified  
corporation, JOHN DOE, an unknown  
individual,

Defendants.

**A 89-118 CIV**

Case # \_\_\_\_\_

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

AFFIDAVIT OF PRO SE  
PLAINTIFFS

NATURE OF CASE

1. This is a class action arising from the oil spill in Prince William Sound, Alaska on March 24, 1989. This action is brought on behalf of all residents of the State of Alaska, who furnish goods and services to persons

employed in or residing in the area of spill contamination, 1) by virtue of providing goods and services from their own places of business, or 2) by virtue of personal drumming activity in that area, which results in an order or purchase of goods or services.

#### JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C., Sec. 1331 and principles of pendent and ancillary jurisdiction.

3. The claims arise under 43 U.S.C., Sec 1653 (c), the federal common law, Alaska Statutes 46.03.822-828 and 09.45.230, and the principles of common law.

4. Venue is proper in this district because this district is the site of the spill, and the district where a substantial portion of the injuries occurred. Plaintiffs reside in this district. The defendants reside in and/or do business in this district

#### PARTIES

5. Plaintiff, W.B.T.J. Sigler, is a licensed pilot ~~who owns his own airplane~~. He has been doing business in the geographical area of the oil spill, by flying ~~merchants in and out of that area with equipment to be sold, serviced, or delivered~~. He also flies tourists ~~to and from the locations of the oil spill~~. He now expects his commercial activity ~~in that area~~ to be substantially diminished.

6. Plaintiff Stephen Pidgeon is a trained musician. He



has been hired to entertain in some of the areas affected by the oil spill. He now expects that his work in that area will be substantially diminished because of decreased commercial activity in the area of the spill.

7. Plaintiff Donald A. Ferguson is in the business of inspecting, maintaining, installing, selling, and/or brokering of fire and safety equipment. Fire safety consideration on fishing and other types of vessels has led him to conduct business in the area of Prince William Sound, and the other areas affected by the spill. He now expects his yearly income to be substantially reduced.

8. Defendant Exxon Corporation is a New Jersey corporation with its executive offices in New York. Exxon owns and controls the oil which was transported by the Exxon Valdez and spilled into the Prince William Sound.

9. Defendant Exxon Shipping Company, a subsidiary of Exxon, is a Delaware corporation with its principal place of business in Texas. Exxon Shipping Company owns and operates the tanker Exxon Valdez.

10. Defendant, Alyeska Pipeline Service Company is a Delaware corporation with its principal place of business in Alaska. Alyeska is a consortium of eight oil companies, including Exxon, which owns and operates the Trans-Alaska Pipeline System, and the shipping terminal facilities at the Port of Valdez, Alaska. As the agent of the oil companies, Alyeska is responsible for maintaining an oil

spill contingency plan for emergency response to spills in the Sound, including coordination of clean-up.

11. Defendant Joseph Hazelwood is an employee and agent of Exxon Shipping, and the Captain of the Exxon Valdez when it ran into the reef in Prince William Sound.

12. Defendant Gregory Cousins is an employee and agent of Exxon Shipping, and the third mate of the Exxon Valdez when it ran onto Bligh Reef.

13. Defendants John Doe Company and John Doe, an individual, are potential Defendants who might have contributed to the damages suffered by the Plaintiff class in this action. Should their identities become known, the complaint will be amended to reflect their true names. Should no other Defendants be found, the John Does will be dismissed.

#### CLASS ALLEGATIONS

14. The named Plaintiffs bring this class action, pursuant to Rule 23(b)(1), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on behalf of themselves and on behalf of a class consisting of all residents of the State of Alaska, who are merchants, drummers, or other providers of goods or services to the persons residing and/or working in the area of the oil contamination.

15. Members of the Plaintiff class are so numerous that joinder of all members as named Plaintiffs is impractical. While the exact number of class members is unknown to

Plaintiffs at this time, and can only be ascertained through discovery.

16. There are questions of law and fact common to the class which predominate over any questions solely affecting individual members of the Plaintiff class. Among the questions of law and fact common to the Plaintiff class are:

a) Whether any or all of the Defendants violated federal laws, state laws, and the common law.

b) Whether any or all Defendants are strictly liable or whether they breached a duty of care owed to the class.

c) Whether Defendants acted wilfully, recklessly, negligently, or otherwise, in allowing the oil to spill, or in response to the oil spill.

d) Whether Defendants, any or all, misrepresented or suppressed material facts concerning their capacity to respond to massive oil spills.

e) Whether members of the class have sustained damage and, if so, what is the proper measure of damages.

f) Whether punitive damages should be awarded, and if so, in what amount.

17. The claims of the named Plaintiffs are typical of the claims of the entire class. There are no conflicts among members of the class regarding the subject matter of this litigation.

18. The named Plaintiffs will fairly and adequately protect the interest of the class. Plaintiffs are

negotiating to retain counsel who is experienced in complex class action litigation. It is expected that a large number of Pro Se Plaintiffs will move this Court to join in this litigation as named Plaintiffs, with the expectation that a large number of litigants will be able to retain counsel to competently represent not only the named Plaintiffs, but the entire class, as well.

19. A class action is superior to other available means for the fair and efficient adjudication of this controversy, since joinder of each and every member of the class is impractical. Furthermore, since the damages suffered by individual class members may be relatively small, the expense and burden of individual litigation makes it impossible for individual class members to redress the wrongs done to them.

#### FACTS COMMON TO ALL CLAIMS

20. On March 23, 1989, more than a million barrels of oil were loaded onto the Exxon Valdez at the Alyeska Pipeline Terminal Facility.

21. After sailing, the Exxon Valdez departed the Port of Valdez. As the ship navigated through the Valdez Narrows in Prince William Sound, the Master Joseph Hazaelwood laid below and improperly transferred the helm to Gregory Cousins, a third mate who was not qualified to navigate in that area.

22. At approximately 12:28 a.m. on March 24, 1989, the

Exxon Valdez grounded on Bligh Reef, a lighted hazard well outside the shipping lanes south of Valdez.

23. Tests done on Defendant Hazelwood more than ten hours after the accident showed that he had a blood alcohol level which significantly exceeded Coast Guard regulations. Hazelwood was discharged by Exxon and he has now been charged with criminal offenses in connection with operating a motorcraft while under the influence of alcohol.

24. Exxon Shipping as owner of the Exxon Valdez, and Exxon, knew or should have known that Hazelwood had an alcohol abuse problem, as Exxon had previously been sued for Hazelwood's conduct while under the influence. At the time of the accident, Hazelwood's driver's license was suspended because of a DWI charge in the State of New York. Furthermore, Exxon knew, or had reason to know that local community groups in Valdez had expressed concern about crewmen boarding supertankers while intoxicated.

25. The grounding holed the vessel, releasing 11 million gallons of crude.

26. Following the spill, authorized representatives of Exxon and Exxon Shipping admitted responsibility for the spill and resulting damage.

27. At the time the pipeline was completed, Alyeska promised concerned citizens of the area, including those involved in providing goods and services to the residents and employees there, that the tankers would be designed to

minimize spills through design features such as double bottoms. Alyeska also promised an adequate containment protocol.

28. Equipment was not ready and there was no contingency plan. When Exxon Valdez grounded, the barge had been dry docked for some time, its booms ashore. Alyeska failed to notify authorities that the barge was out of service. Accordingly, workers did not board Exxon Valdez for too long a time, exacerbating damages. Other resources were not available and there were virtually no properly trained personnel to respond to the grounding.

29. Alyeska has reduced its spill response protocol:

- a) A full time professionally trained crew was gradually eliminated, replaced by dock and office workers with no experience or training with oil spills,
- b) A chartered 218,000 gallon capacity barge, designed to take oil from spill sites, was replaced by a much smaller barge which was too badly damaged to be used.
- c) Modern self-inflating booms designed to contain oil slicks immediately were not available for 24 hours.
- d) A full time oil spill coordinator, which Alyeska promised to keep in Valdez was no longer stationed there.

30. Accordingly, Alyeska was unable to respond to, contain and clean up the spill from the Exxon Valdez.

DAMAGES

31. Coastal Alaska and surrounding area is one of the most biologically rich ecosystems in the world and one of the most environmentally sensitive. It is one of the worst locations imaginable for a mutable ~~benzene~~ <sup>hydrocarbon</sup> infiltration. (Coils) It is the crossroads for huge migrations of fish, birds, and shore animals. Algae, fungi, bacteria, and other microscopic animals in the food chain have been lost.

32. The effects of the spill are expected to damage commercial fishing of all types, put tour boat operators out of business, reduce tourism, as well as reduce all forms of commercial activity in the area. The Plaintiffs, who are providers of goods or services to the persons in the area of the oil spill will now have their incomes substantially reduced because of this limited commercial activity.

33. The Defendants conduct was willful, wanton, malicious and so outrageous as to justify the award of punitive and/or exemplary damages against them.

#### CAUSES OF ACTION

34. a) Federal Common Law of Nuisance. Defendants' activities in causing and allowing release of the oil into Prince William Sound and the surrounding environment constitutes a nuisance under federal common law. As a direct and proximate result, Plaintiffs have been damaged.
- b) Strict Liability Pursuant to Alaska Statutes Sections 46.03.822, et seq.

Pursuant to those statutes, defendants are jointly, severally and strictly liable, without regard to fault, for all damages suffered by Plaintiffs as a result of the oil spill.

c) Nuisance. Pursuant to Alaska Statutes Sec. 09.45.230, Defendants' activities in causing the release of the oil into the surrounding environment constitutes a private nuisance. As a result, the Plaintiffs have been damaged.

d) Strict Liability--Ultra Hazardous and/or abnormally dangerous activity. The oil loading and shipping activities engaged in by Defendants are inherently dangerous to the ecological environment. The use of single hull supertankers to transport the oil is so inherently dangerous that this activity is likely to cause severe contamination and damage.

Defendants are jointly, severally and strictly liable, without regard to fault, for transporting oil under conditions which were inherently, or unreasonably dangerous.

e) Negligence. Defendants, who each owed Plaintiffs a duty of care, negligently and carelessly navigated into a lighted hazard, failed to assure the competence of the ship's master, utilized unsafe and improper methods including single hulled vessels, failed adequately to prepare for or respond to contain and clean up the oil spill, and/or failed to utilize available radar warning



systems to prevent the accident. The negligent conduct of the Defendants has proximately caused the contamination of the land mass and waters previously utilized and enjoyed by the Plaintiffs.

f) Defendants intentionally or negligently misrepresented to Plaintiffs and others, material facts about the safety of the supertankers, and the competency of the crews. Defendants also knew that they were not equipped and they were unprepared to respond to a massive oil spill in Prince William Sound, but failed to warn Plaintiffs or state and federal authorities of these facts. These misrepresentations were made with the intent to induce the Plaintiffs to rely up the adequacy of the Defendants' conduct.

As a direct and proximate result of this reliance, the Plaintiffs suffered substantial damages.

#### JURY DEMAND

Plaintiffs demand a trial by jury.

The Plaintiffs ask for the following:

1. A determination and certification by the Court that this is a proper class action suit maintainable under Rule 23 of the Federal Rules of Civil Procedure.
2. General and special damages to the Plaintiffs in the amount shown at trial.
3. Punitive damages in an amount awarded by the Court.
4. Costs of suit, including filing fee, service fees,

costs of notice, and attorney's fees to the Plaintiffs.

Dated: 4/9/89

W. B. T. J. Sigler S.

Dated: 4/9/89

Stephen Pidgeon

Dated: 4/7/89

Donald A. Ferguson

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

AFFIDAVIT OF PLAINTIFFS, VERIFYING COMPLAINT AND

STANDING TO SUE

On April 7, 1989, W.B.T.J. Sigler, Stephen Pidgeon, and Donald A. Ferguson, who are all known to me, read the above Complaint and swore under oath that all of the facts that it contains, particularly the personal facts concerning themselves as members of the class described in the Complaint, are true. They then signed the Complaint.

Cathryn Kelly  
Notary Public Cm. exp. 1-6-92

## SERVICE OF PROCESS TRANSMITTAL FORM

4-10

CT CORPORATION SYSTEM

CT Corporation System  
Anchorage Trust Company

Juneau, Alaska

(City)

(State)

04-10-89

(Date)

( ) Via Certified First Class Mail

(XXX) Via Messenger  
Airbill #1330601830-

(3306018284)

TO: Richard O. Gantz  
Hughes, Thornness, Gantz et al  
509 W. Third Ave.  
Anchorage, AK 99501

RE: PROCESS SERVED IN ALASKA

(Jurisdiction)

FOR Exxon Corporation

(Name of Company)

DE

(Domestic State)

ENCLOSED ARE COPIES OF LEGAL PROCESS SERVED UPON THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

1. TITLE OF ACTION: To: Exxon Corporation  
W.B.T.J. Sigler et al. v. Exxon Corporation et al.
2. DOCUMENT(S) SERVED:  
Summons; Class Action Complaint
3. COURT:  
U.S. District Court for the District of Alaska A89-118
4. NATURE OF ACTION: Alleges oil and toxic effluents were unlawfully and negligently discharged into waters from Exxon Valdez. As a proximate cause of negligence, plaintiff class (persons who furnish goods and services in the region) was injured. Seeking Compensatory & punitive damages; costs; interest; fees.
5. ON WHOM PROCESS WAS SERVED:  
CT Corporation System, Juneau, Alaska
6. DATE AND HOUR OF SERVICE:  
4/10/89 9:30 am
7. APPEARANCE OR ANSWER DUE:  
20 days
8. PLAINTIFF'S ATTORNEY(S):  
Pro Se

## 9. REMARKS:

- ( ) This confirms our telephone call to your office.  
( ) Above telephoned to CT office and is sent to you per their instructions.

cc(w/pleadings): Mr. W. J. McAnelly, Jr.; Richard M. Clinton  
Transmittal sheet faxed to Richard Gantz; W. J. McAnelly; Richard Clinton

KINDLY ACKNOWLEDGE RECEIPT BY SIGNING  
THE CARBON COPY AND RETURNING IT TO

Signed CT CORPORATION SYSTEM

Per Melanie Mickelson

Address 240 Main St., Suite 800

Juneau, AK 99801

## SERVICE OF PROCESS TRANSMITTAL FORM

CT CORPORATION SYSTEM

CT Corporation System  
the Corporation Trust Company

Juneau (City) Alaska (State)

04-10-89

(Date)

TO: Richard O. Gantz  
Hughes, Thorsness, Gantz et al  
509 W. Third Ave.  
Anchorage, AK 99501

( ) Via Certified First Class Mail

(XXX) Via Messenger  
Airbill #:3306018306

(3306018284)

RE: PROCESS SERVED IN ALASKA

(Jurisdiction)

FOR Exxon Shipping Company

(Name of Company)

DE

(Domestic State)

ENCLOSED ARE COPIES OF LEGAL PROCESS SERVED UPON THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

1. TITLE OF ACTION: To: Exxon Shipping Company  
W.B.T.J. Siglar et al. v. Exxon Corporation et al.
2. DOCUMENT(S) SERVED:  
Summons; Class Action Complaint
3. COURT:  
U.S. District Court for the District of Alaska A89-118
4. NATURE OF ACTION: Alleges oil and toxic effluents were unlawfully and negligently discharged into waters from Exxon Valdez. As a proximate cause of negligence, plaintiff class (persons who furnish goods and services in the region) was injured. Seeking Compensatory & punitive damages; costs; interest; fees.
5. ON WHOM PROCESS WAS SERVED:

CT Corporation System, Juneau, Alaska

6. DATE AND HOUR OF SERVICE:  
4/10/89 9:30 am
7. APPEARANCE OR ANSWER DUE:  
20 days
8. PLAINTIFF'S ATTORNEY(S):

Pro Se

## 9. REMARKS:

- ( ) This confirms our telephone call to your office.  
( ) Above telephoned to CT office and is sent to you per their instructions.

cc(w/pleadings):Mr. W. J. McAnally, Jr.; Richard M. Clinton  
Transmittal sheet faxed to Richard Gantz; W. J. McAnally; Richard ClintonKINDLY ACKNOWLEDGE RECEIPT BY SIGNING  
THE CARBON COPY AND RETURNING IT TO →

Signed CT CORPORATION SYSTEM

Per Melanie Mickelson

Address 240 Main St., Suite 800

Juneau, AK 98901

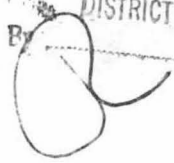
John T. Hansen  
HANSEN & LEDERMAN  
711 H Street, Suite 600  
Anchorage, AK 99501

Charles W. Ray  
TUGMAN & CLARK  
711 H Street, Suite 500  
Anchorage, AK 99501

Attorneys for Plaintiffs

FILED

APR 07 1989

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA  
By  Deputy

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

MARTIN GORESON, JAMES R. GORESON, )  
JEFFREY A. MOORE, JAMES D. EWING, )  
DOUG JENSEN, DANIEL LOWELL, )  
WHITTIER SEAFOODS, INC., CORDOVA )  
AIR SERVICE, INC., F/V DEW DROP )  
INC., and F/V DEBRA LEE, INC., )  
Plaintiffs, )

vs. )

Case No. A89-106 CIV. )

EXXON USA, Inc., a Delaware Corp. )  
EXXON CORPORATION, a Delaware )  
Corporation, EXXON SHIPPING )  
COMPANY, a Delaware Corporation, )  
ALYESKA PIPELINE SERVICE )  
COMPANY, a Delaware Corporation, )  
TRANS-ALASKA PIPELINE LIABILITY )  
FUND, in personam, and EXXON )  
VALDEZ, in rem, )

Defendants. )

FIRST AMENDED COMPLAINT

Plaintiffs, by and through counsel, HANSEN & LEDERMAN and

TUGMAN & CLARK, for their first amended complaint against Defendants, allege as follows:

JURISDICTION AND PARTIES

1. This is a matter within the admiralty and maritime jurisdiction of this court within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure, and Rule C of the Supplemental Rules for Certain Admiralty and Maritime claims, and is based upon general maritime law and 46 U.S.C. Sec. 971 et. seq.

2. The court also has jurisdiction over this matter pursuant to the Court's federal question jurisdiction in that this case arises under 43 U.S.C. §1652(a), §1653(a), §1653(c).

3. Individual Plaintiffs are Alaska residents residing in Seward and Cordova, Alaska.

4. The corporate Plaintiffs all are Alaska corporations doing business in Whittier or Cordova, Alaska. They are current with respect to all corporate taxes, fees and reports, and are authorized to bring this action.

5. Upon information and belief, Defendants EXXON U.S.A., Inc., EXXON CORPORATION and EXXON SHIPPING COMPANY [hereinafter, collectively, "EXXON"] are corporations organized under the laws of Delaware and licensed to do business in the State of Alaska.

6. Defendants EXXON, or one or more of them, are the owners of the tanker EXXON VALDEZ.

7. Defendants EXXON are wholly owned or controlled, one by

LAW OFFICES OF  
HANSEN & LEDERMAN  
711 H STREET, SUITE 900  
ANCHORAGE, ALASKA 99501  
(907) 278-4573

another, or so closely related as to be liable for the wrongful acts of each other, inter se.

8. The EXXON VALDEZ is an oil tanker vessel that, upon information and belief, is registered as a United States vessel, and is owned by Defendants EXXON. EXXON VALDEZ is now and will be within the jurisdiction of this court during the pendency of this action.

9. Upon information and belief, Defendant ALYESKA PIPELINE SERVICE COMPANY, INC. is a corporation organized under the laws of Delaware and licensed to do business in the State of Alaska.

10. The TRANS-ALASKA PIPELINE LIABILITY FUND is a fund created pursuant to federal statute to respond for damages suffered in relation to the operation of the Trans-Alaska Pipeline.

#### FACTS

11. Plaintiffs reallege and incorporate paragraphs one through 10 above as though set forth fully herein.

12. EXXON owns and operates a tanker known as the EXXON VALDEZ.

13. On or about March 24, 1989, the tanker known as the EXXON VALDEZ was en route from the Alyeska Pipeline Service Company Shipping Terminal in Valdez, Alaska to a refinery in Long Beach, California.

14. EXXON owns and controls the oil which was transported

by the EXXON VALDEZ.

15. ALYESKA PIPELINE SERVICE COMPANY controls the loading and transportation of oil from the Port of Valdez and is responsible for containment and cleanup of oil spills associated with that loading and transportation in Prince William Sound.

16. The EXXON VALDEZ was carrying approximately 53 million gallons of crude oil.

17. Approximately twenty-five miles from Valdez, the EXXON VALDEZ ran aground the Bligh Reef. At the time the EXXON VALDEZ ran aground it was under the command of an intoxicated, incompetent Master, JOSEPH HAZELWOOD. As a result of the tanker running aground it sustained damages and more than eleven million gallons of oil leaked from the tanker into the water, surface and subsurface land of Prince William Sound.

18. Said spill has damaged and will continue to damage Plaintiffs in at least the following respects: diminution in the value of their vessels, permits, real estate and other property; destruction of the marine environment with consequent loss of the fisheries upon which Plaintiffs depend; interruption and interference with Plaintiffs' business; loss of enjoyment of life; and emotional and mental distress.

19. Plaintiffs' damages were proximately caused by the torts described herein for which the defendants are liable in the sum of not less than \$500,000,000.00.



FIRST CAUSE OF ACTION  
(NEGLIGENCE - EXXON SHIPPING COMPANY)

20. Plaintiffs reallege and incorporate paragraphs 1 through 20 as though set forth fully herein.

21. At all relevant times hereto Joseph Hazelwood was acting within the scope of his employment with Defendant EXXON.

22. As the employer of Joseph Hazelwood, EXXON is liable to the Plaintiffs for all damages sustained as a consequence of Joseph Hazelwood's negligent and unlawful conduct in amounts to be proved at trial.

SECOND CAUSE OF ACTION  
(NEGLIGENCE -- EXXON SHIPPING COMPANY)

23. Plaintiffs reallege and incorporate paragraphs 1 through 22 as though set forth fully herein.

24. Defendant EXXON owed Plaintiffs a duty of care in hiring and supervising its employees to prevent a catastrophe such as the grounding of the EXXON VALDEZ.

25. Defendant EXXON was negligent in the hiring of and supervising of the Captain and the crew of the EXXON VALDEZ.

26. Defendant EXXON is liable to Plaintiffs for all damages they have sustained as a consequence of EXXON negligence as described herein in amounts to be proved at trial.

THIRD CAUSE OF ACTION  
(NEGLIGENCE - ALL DEFENDANTS)

27. Plaintiffs reallege and incorporate paragraphs 1 through 26 above as though set forth fully herein.

28. Defendants EXXON and ALYESKA PIPELINE SERVICE COMPANY owed Plaintiffs a duty of care to respond to the oil spill as quickly and responsibly as possible to minimize damage to Plaintiffs.

29. The Defendants negligently failed to respond to the oil spill in a timely and responsible manner.

30. The Defendants are jointly and severally liable to Plaintiffs for all damages they have sustained as a consequence of the Defendants' negligence as described herein in amounts to be proved at trial.

FOURTH CAUSE OF ACTION  
(STRICT LIABILITY)

31. Plaintiffs reallege and incorporate paragraphs 1 through 30 above as if set forth fully herein.

32. Defendants EXXON and ALYESKA PIPELINE SERVICE COMPANY were engaged in the transportation of oil, a hazardous activity, and are subject to strict liability for all damages resulting from the conduct of that activity.

33. Defendants EXXON and ALYESKA PIPELINE SERVICE COMPANY are strictly liable to Plaintiffs for all damages they have sustained as a consequence of the oil spilled into Prince William Sound in amounts to be proved at trial.

FIFTH CAUSE OF ACTION  
(43 U.S.C §1653(a))

34. Plaintiffs reallege and incorporate paragraphs 1

through 33 above as though set forth fully herein.

35. Defendants EXXON as owner and/or operator of EXXON VALDEZ, are strictly liable, jointly and severally, to plaintiffs for the damages caused by the discharge of oil described above as provided under 43 U.S.C §1653(a).

SIXTH CAUSE OF ACTION  
(43 U.S.C §1652(a))

36. Plaintiffs reallege and incorporate paragraphs 1 through 35 above as though set forth fully herein.

37. Defendant ALYESKA PIPELINE SERVICE COMPANY, as the holder of the right-of-way granted in accordance with 43 U.S.C §1652, is strictly liable to Plaintiffs for all damages caused by the discharge of oil described above as provided under 43 U.S.C §1652(a).

SEVENTH CAUSE OF ACTION  
(43 U.S.C. §1653(c))

38. Plaintiffs reallege and incorporate paragraphs 1 through 38 above as though set forth fully herein.

39. Defendant, TRANS-ALASKA PIPELINE LIABILITY FUND is strictly liable to Plaintiffs for damages caused by the discharge of oil described above, to the extent said damages exceed \$14,000,000.00, as provided under 43 U.S.C §1653(c).

EIGHTH CAUSE OF ACTION  
(GROSS NEGLIGENCE AND RECKLESSNESS)

40. Plaintiffs reallege and incorporate paragraphs 1 through 39 above as though set forth fully herein.

\15006\COMPLAINT

Page 7

41. The Defendants and each of them were grossly negligent in failing to prevent, contain and clean up the oil spilled into Prince William Sound.

42. Defendants and each of them are jointly and severally liable to Plaintiffs for all damages they have sustained as a consequence of Defendants' gross negligence and recklessness in amounts to be proved at trial.

NINTH CAUSE OF ACTION  
(PUNITIVE DAMAGES)

43. Plaintiffs reallege and incorporate 1 through 42 above as though set forth fully herein.

44. The Defendants' actions were committed with malice, indifference and reckless disregard of the rights of the Plaintiffs.

45. Plaintiffs are entitled to punitive damages in an amount to be determined at trial.

46. Plaintiffs demand a trial by jury.

WHEREFORE, Plaintiffs pray for the following relief:

1. Damages in amounts to be proved at trial in excess of \$500,000,000.00
2. Punitive damages in amounts to be proved at trial.
3. Costs and attorneys fees incurred in bringing this action.
4. The court issue an in rem warrant of arrest instructing the U.S. Marshal to arrest the EXXON VALDEZ, her engines, tackle,

gear, equipment and appurtenances and to detain her in his custody subject to further order of the court.

5. For judgement in rem in favor of Plaintiffs against the EXXON VALDEZ foreclosing Plaintiffs' maritime lien for maritime tort in the principal sum of \$500,000,000.00, together with interest, costs, and attorney's fees, said judgment to have priority over all other liens or claimants.

6. For an order directing the U.S. Marshal to sell EXXON VALDEZ, her engines, tackle, gear, equipment and appurtenances, and all other necessities pertaining and belonging to the vessel and directing the disbursement of the proceeds in the first instance to Plaintiffs to the extent necessary to satisfy their judgment against the Defendant.

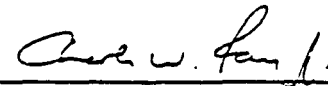
7. Such other and further relief as the court deems just in the premises.

DATED this 7 day of April, 1989 at Anchorage, Alaska.

HANSEN & LEDERMAN  
Attorneys for Plaintiffs

  
\_\_\_\_\_  
JOHN T. HANSEN

TUGMAN AND CLARK  
Attorneys for Plaintiffs

  
\_\_\_\_\_  
CHARLES W. RAY

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