

FILED

SEP 12 1989

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

Douglas J. Serdahely
Bogle & Gates
1031 West 4th Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

Liaison Counsel for Defendants
and Co-Member of Defendants'
Coordinating Committee

Charles P. Flynn
Burr, Pease & Kurtz
810 N Street
Anchorage, Alaska 99501
(907) 276-6100

Co-Member of Defendants'
Coordinating Committee

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
) Case No. A89-095 Civil
the EXXON VALDEZ)
) (Consolidated)
)
_____)

Re: All Cases

DEFENDANTS' (D-1 THROUGH D-5, D-7 THROUGH D-21 AND D-24)
DISCOVERY MASTER CANDIDATES

Pursuant to Paragraph I of Pretrial Order No. 4, dated August 25, 1989, certain counsel for plaintiffs and defendants conferred for the purpose of attempting to propose a joint slate of candidates for a common Discovery Master in the state and federal oil spill litigation.

DISCOVERY MASTER CANDIDATES -1-

Bogle & Gates

Suit
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

As the parties were unable to agree upon such a joint slate of candidates, defendants hereby submit the following Anchorage attorneys as defendants' candidates for the common Discovery Master in the state and federal oil spill litigation. Copies of professional resumes for such candidates are attached hereto.

David B. Ruskin
James N. Wanamaker
Richard J. Willoughby

Defendants suggest that the parties be given an opportunity to submit comments, preferably under seal to the Court with service copies on all parties, on the adverse parties' candidates for Discovery Master. If the parties are unable to agree upon a filing deadline for such comments, they will request the Court to set such date.

Finally, defendants submit that in connection with considering the issue of the appointment of a common Discovery Master, the Court and parties should also address the related issues of the Discovery Master's duties, level of compensation and the source of funding for such compensation.

RESPECTFULLY SUBMITTED at Anchorage, Alaska this 12^R day
of September, 1989.

BOGLE & GATES

By 
Douglas J. Serdahely
Liaison Counsel for Defendants
and Co-Member of Defendants'
Coordinating Committee

BURR, PEASE & KURTZ

By 
Charles P. Flynn
Co-Member of Defendants'
Coordinating Committee

BOGLE & GATES

Suite 1003
1003 .th Avenue
Anchorage, AK 99501
(907) 276-4557

DISCOVERY MASTER CANDIDATES

-3-

R E S U M E

DAVID B. RUSKIN

EDUCATION: UNIVERSITY OF MICHIGAN SCHOOL OF LAW -
Ann Arbor, Michigan
J.D., June, 1962

UNIVERSITY OF MICHIGAN
B.A., History
June, 1959

ADMITTED: State of Alaska, U.S. District Court, Ninth
Circuit Court of Appeals, United States
Supreme Court

**WORK
EXPERIENCE:** FERGUSON, BURDELL & RUSKIN: April, 1987 - present
DAVID B. RUSKIN, P.C.: October, 1982 - April, 1987
LANE, POWELL, RUSKIN, BARKER & HICKS: October, 1979
- September, 1982
DAVID B. RUSKIN, P.C.: December, 1967 - October,
1979
MADSEN & RUSKIN: 1966 - 1967
ELY, GUESS, RUDD & HAVELOCK: 1965 - 1966
Associate
ALASKA STATE HOUSING AUTHORITY: 1964 - 1965
General Counsel
ATTORNEY GENERAL'S OFFICE, STATE OF ALASKA: 1962 -
1964, Assistant Attorney General

During the past 26 years, work has involved general practice including litigation and government practice. Since 1979, substantial tort litigation with primary emphasis on architect and engineer malpractice defense and construction contract litigation. Approximately twenty percent of practice involves representation of plaintiffs in product liability cases. Numerous appointments to arbitration panels and designated discovery master by Judge Karen L. Hunt, Superior Court, State of Alaska.

JAMES N. WANAMAKER



Education:

Bachelor of Arts, University of Washington (1957)
Bachelor of Laws (LLB), University of Washington (1959)

Bar Admissions:

Admitted to Washington Bar Association Association (Sept. 1959)
Admitted to Alaska Bar Association (Feb. 1961)

Professional Positions:

ASSISTANT ATTORNEY GENERAL (in Juneau) (1960-62):

Duties were to advise the following departments:

Department of Natural Resources;

Work included review and drafting of initial regulations, including timber sale regulations

Department of Revenue;

Advising on revenue matters and regulations

Department of Education;

Drafting a revision to the Public School Foundation Law and assisting in lobbying it into law

Local Affairs Agency;

Assist in legislation and regulations and advising Local Boundary Commission

Office of the Governor;

Drafting of legislation and lobbying, including:
(1) Initial adopting of Uniform Commercial Code; and
(2) Alaska Water Use Act

ASSISTANT DISTRICT ATTORNEY (in Anchorage) (1962-64):

Criminal prosecutions

Also advised Division of Lands, Dept. of Natural Resources on land and resource sales

ASSISTANT ATTORNEY GENERAL FOR CONSUMER PROTECTION (1964-65):

DISTRICT ATTORNEY, THIRD JUDICIAL DISTRICT (at Anchorage)
(1964-65):

Supervision of criminal and civil litigation cases
conducted by ten attorneys

Conducting monthly grand jury sessions

Trial of criminal cases

Working with the Superior Court on calendaring and
policy matters

Administration and budgeting

PRIVATE PRACTICE OF LAW (1965 TO PRESENT) WITH WANAMAKER and
DEVEAUX OR ITS PREDECESSORS:

Counsel to the Alaska Bar Association (State Bar counsel)
(1965-68)

Counsel to the Judicial Qualifications Commission on
various cases (1969-71)

Real estate and commercial practice, including preparation
of earnest money agreements, deeds of trust, security
agreements, conveyance documents, restrictive covenants
litigation of real estate and commercial issues, advising
creditors, and Deed of Trust foreclosures.

Counsel for various construction companies. This has
involved a full range of services including drafting of
construction contracts, advising the contractor during
construction, and conducting claims litigation.

Counsel for a wide variety of small businesses, including
restaurants, clothing retailers, auto dealers, and
remodeling contractors.

Counsel for South-Central Timber Development, Inc.
(1967 to present). From 1967 until 1982, South-Central was
owned by Iwakura-Gumi Lumber Co., Ltd. of Tomakomai,
Hokkaido, Japan. This representation involved working
closely with Japanese executives and directors and involved
four trips to Japan. This client logged two large State of
Alaska timber sales in the years 1969 to 1984. (Both sales
are now completed. In 1982, the company was sold to a
local investor.) This work has required expertise in
International trade; interpretation of long-term timber
sales contracts; logging law, regulations, customs, and
practices; familiarity with "stumpage" (residual value)
calculation; working with expert appraisers in the
valuation of standing timber; Alaska administrative
procedure applicable to timber and other natural resources.

Counsel for Alaska fish processors. This has involved all of the steps necessary to start, license, and maintain an Alaska fish processing company.

Counsel for Cities Service Oil Company: In 1969, 1970 and 1971, I acted as counsel for Cities Service Oil Company in Major Litigation over who was the winning bidder in bidding on a North Slope Tract. Also, I did land title opinions and various other research and advice for that company.

Professional Offices and Memberships:

President, Anchorage Bar Association (1972-73)
Executive Director, Alaska Bar Association (1965-68)
Member of Alaska Bar Association
Member of Anchorage Bar Association
Member of American Bar Association
Inactive Member of Washington Bar Association
Member of American Trial Lawyers Association

Community Service:

Member of Parking and Traffic Commission of the City of Anchorage (approx. 1969-1971)

Member of Public Transportation Commission of the Greater Anchorage Area Borough (1971-73)

Served in the U.S. Army (Artillery) in 1960, followed by service in the Alaska National Guard from 1960-68. Honorably discharged in 1968.

Member of Anchorage Charter Commission

Member of State of Alaska Board of Education and Vice Chairman (approx. 1972-77)

Associate Member of Alaska Loggers Association

President of the Alaska Chapter of the World Future Society (1989-90)

Personal Information:

Born: June 2, 1935; Seattle, Washington
Health: Good
Marital Status: Single (divorced 1978)
Children: Four; ages 20 to 27

Law Firm: Wanamaker & DeVeaux, APC
Mailing Address: 1031 West 4th Avenue, Suite 401,
Anchorage, Alaska 99501
Telephone: (907) 279-6591
Fax No.: (907) 279-6509

R E S U M E

NAME: Richard J. Willoughby
BUSINESS ADDRESS: 124 East Seventh Avenue
Anchorage, Alaska 99501
TELEPHONE: (907) 278-3641
PERSONAL: Born October 30, 1937, Los Angeles, CA.
EDUCATION: University of Colorado (at Boulder)
1955-1960, B.S. Electrical Engineering
and B.S. Business
University of Oregon, 1966-1969,
Juris Doctor

COURT ADMISSIONS:

Supreme Court of Alaska (1970)
United States District Court for Alaska (1970)
Ninth Circuit Court of Appeals (1970)
United States Supreme Court (1981)

PROFESSIONAL ASSOCIATIONS:

American Bar Association
Alaska Bar Association
Anchorage Bar Association

WORK BACKGROUND:

1981-present Lawyer/partner of the firm of Willoughby & Willard
1975-1981 Lawyer/member of the firm of Richmond, Willoughby
& Willard
1969-1975 Lawyer/member of the firm of Delaney, Wiles, Moore,
Hayes & Reitman, Inc., at Anchorage
1960-1966 Electronic/Electrical Engineer
Autonetics Division of North American Aviation
(Rockwell International)

Nature of law practice: general litigation in field of products
liability; construction industry disputes; profes-
sional malpractice of architects and engineers;
aviation; major commercial breach of contract
litigation, administrative law.

Served as discovery master under Judge James K.
Singleton when he was on the Superior Court bench.

Served as arbitrator in both commercial and personal
injury arbitrations.

Douglas J. Serdahely
Bogle & Gates
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Anchorage, Alaska 99501
(907) 276-4557

FILED

SEP 12 1989

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

Richard M. Clinton
Bogle & Gates
The Bank of California Center
900 West 4th Avenue
Seattle, Washington 98164
(206) 682-5151

Attorneys for defendant
Exxon Shipping Company (D-2)
and the T/V EXXON VALDEZ (D-6)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
)
the EXXON VALDEZ)
)
)
)

Case No. A89-095 Civil
(Consolidated)

Re: All Cases

DEFENDANT EXXON SHIPPING COMPANY'S (D-2 AND D-6)
FINAL NOTICE OF OPPORTUNITY TO EXAMINE OR TEST MATERIALS
REMOVED FROM THE EXXON VALDEZ

On June 29, 1989, and August 2, 1989, the defendant Exxon Shipping Company ("Exxon Shipping") (D-2 and D-6) notified all parties to this consolidated proceeding that it would be making the T/V EXXON VALDEZ available for inspection by any party, counsel and/or expert for a limited time after the vessel arrived in the San Diego shipyard, but before repair work was undertaken. Several

FINAL NOTICE OF OPPORTUNITY
TO EXAMINE OR TEST MATERIALS
REMOVED FROM THE EXXON VALDEZ -1-

BOGLE & GATES

Su
100 4th Avenue
Anchorage, AK 99501
(907) 276-4557

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parties requested the opportunity to conduct inspections of the vessel and of the pieces of vessel hull that are in storage at the shipyard, and all such parties have completed their inspections. The parties have been on notice to provide prior to such inspections a description of any procedures or tests they wished to perform.

Repair work has commenced on the vessel. Certain portions of the vessel hull, and debris associated with the grounding of the vessel, all of which were made available for inspection as described above, are being removed or altered as part of the vessel repair. Current plans do not contemplate the re-use or modification of all such materials, and storage costs would be considerable. Exxon Shipping requests any party wishing to conduct further examination and/or testing of such evidence after removal from the vessel to complete and return immediately the form attached hereto as Exhibit A and to indicate thereon: (1) whether it is interested in conducting any such further examination and/or testing; (2) the specific materials it wishes to examine and/or test (including a description of the precise location on the vessel) and the nature of the procedures; (3) the amount of time needed to perform such procedures; (4) any logistic requirements associated with such procedures; and (5) the names and addresses of all persons who will be conducting the procedures. The attached form should be returned to Mr. Charles C. Read of O'Melveny & Myers, 400 South Hope Street, Los Angeles, California 90071-2899,

FINAL NOTICE OF OPPORTUNITY
TO EXAMINE OR TEST MATERIALS
REMOVED FROM THE EXXON VALDEZ -2-

BOGLE & GATES

SU
10, 4th Avenue
Anchorage, AK 99501
(907) 276-4557

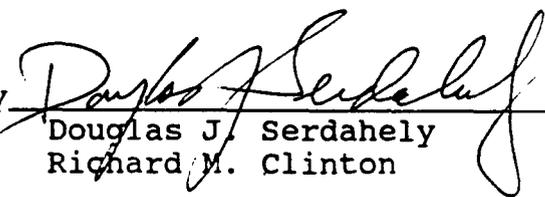
(213) 669-6378. Coordination of any further procedures will be conducted through direct communications with counsel for any interested party.

Exxon Shipping further notifies all parties that it reserves the right to release such materials to any party wishing to conduct further procedures and to require the party to remove the materials to a testing location outside the drydock or the shipyard in the event the nature of the contemplated procedure would interfere with the repair work or materially increase its expense. Any such materials removed must be returned to the shipyard after completion of testing.

Exxon Shipping further notifies all parties that upon completion of any such procedures, or in all events after ten days of the date of this notice, the above-described materials and all other portions of the vessel hull currently being stored at the shipyard will, at the option of Exxon Shipping, be released for disposal by the shipyard in accordance with normal business practices.

Dated at Anchorage, Alaska this 12th day of September, 1989.

BOGLE & GATES
Attorneys for defendant
Exxon Shipping Company (D-2)
and the T/V EXXON VALDEZ (D-6)

By 
Douglas J. Serdahely
Richard M. Clinton

FINAL NOTICE OF OPPORTUNITY
TO EXAMINE OR TEST MATERIALS
REMOVED FROM THE EXXON VALDEZ -3-

BOGLE & GATES

200
4th Avenue
Anchorage, AK 99501
(907) 276-4557

In Re Valdez Oil Spill Litigation

Request for Examination or Testing of Materials
Removed from the EXXON VALDEZ

1. Plaintiffs' Counsel: _____
Name

Address

Representing

2. Persons in Inspection Party:

(1)	_____	(2)	_____
	Name		Name
	_____		_____
	Title		Title
	_____		_____
	Address		Address
(3)	_____	(4)	_____
	Name		Name
	_____		_____
	Title		Title
	_____		_____
	Address		Address

3. Estimated time needed: _____

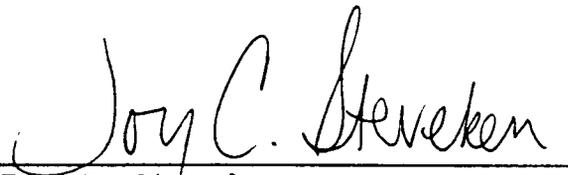
4. Specific material to be examined (include description of precise location on vessel): _____

5. Please attach a description of any procedures intended to be employed in the course of such inspection and any logistic requirements associated with such procedure (e.g., power required, space requirements, etc.).

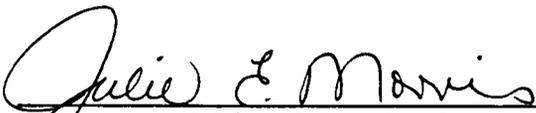
Return completed form to: Charles C. Read
David Killough
O'Melveny & Myers
400 South Hope Street
Los Angeles, California 90071-2899
(213) 669-6378
(213) 669-6375

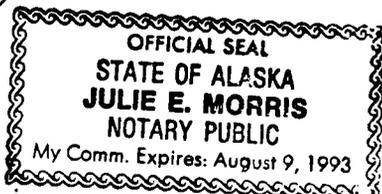
EXHIBIT A

Joy C. Steveken, being duly sworn, upon oath, deposes and says: that she is employed as a legal secretary in the offices of Bogle & Gates, 1031 West 4th Street, Suite 600, Anchorage, Alaska 99501; that the following documents: Stipulation Regarding Defendants' (D-1 Through D-5, D-7 Through D-21 and D-24) Proposed Order Regarding Defendants' Case Management Organization with attached proposed Order, Defendants' (D-1 Through D-5, D-7 Through D-21 and D-24) Discovery Master Candidates and Defendant Exxon Shipping Company's (D-2 and D-6) Final Notice of Opportunity to Examine or Test Materials Removed From the Exxon Valdez have been made upon all counsel of record based upon the Court's Master Service List of August 25, 1989 on the 12th day of September, 1989 via U.S. Mail, postage prepaid.


Joy C. Steveken

SUBSCRIBED AND SWORN to
before me this 12th day
of September, 1989.


Notary Public for Alaska



AFFIDAVIT OF SERVICE

-2-

BOGLE & GATES

Suit
103, 4th Avenue
Anchorage, AK 99501
(907) 276-4557

FILED
SEP 10 1989
UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ALASKA
9

10 In re)
11 the EXXON VALDEZ) No. A89-095 Civil
12 _____) (Consolidated)

13
14 ORDER NO. 15

15 (Order re Absence of Answers
16 from Certain Defendants)

17 By Order No. 11, the court called the parties' atten-
18 tion to the absence of answers on behalf of various purported
19 defendants. Based upon the responses of the parties to Order
20 No. 11, the court orders as follows:

21 Various Class Actions

22 There are technically pending before the court a number
23 of class action complaints which the parties advise have been
24 superseded by the filing of an amended consolidated complaint.
25 One of the early class action plaintiffs (P-77 in No. A89-129
26

1 Civil and No. A89-189 Civil) has joined in the consolidated class
2 action complaint, but has advised that he may have some desire to
3 go back into his original filings. Owing to the complexity of
4 the pleadings in this case, the court simply cannot afford to
5 have nonviable cases pending. In the event the court does not
6 certify a class action, all of the putative class action plain-
7 tiffs will have ample opportunity to reassert their individual
8 claims in an appropriate fashion. Accordingly, the following
9 class action complaints which were superseded by the consolidated
10 class action complaint are deemed superseded and are herewith
11 dismissed without prejudice:

12 A89-096 Civil, A89-099 Civil, A89-102 Civil,
13 A89-103 Civil, A89-104 Civil, A89-107 Civil,
14 A89-108 Civil, A89-109 Civil, A89-111 Civil,
15 A89-125 Civil, A89-126 Civil, A89-129 Civil,
16 A89-141 Civil, A89-165 Civil, A89-166 Civil,
17 A89-173 Civil, A89-265 Civil, A89-297 Civil,
18 and A89-299 Civil.*

19 The court's case management clerk shall enter a
20 separate minute order dismissing each of these complaints without
21 prejudice for the reason that plaintiffs have joined in the
22 consolidated complaint in No. A89-095 Civil (Consolidated).

23 Exxon Company, U.S.A.

24 It is reported to the court that the latter entity is a
25 division of Exxon Corporation, not a separate legal entity. Some
26

* The court understands that plaintiff in A89-189 Civil
is in the process of dismissing that action as well.

1 plaintiffs concur; others have not responded. The court deems it
2 sufficiently clear at this time that "Exxon Company U.S.A." is
3 not a proper party to this action, and that it should be and is
4 hereby dismissed without prejudice as to any of these consoli-
5 dated cases in which such entity has been named.

6 Hazelwood, Cousins, [and] Murphy

7 Based upon the filings made by the parties, it appears
8 that Capt. Hazelwood has probably not yet been served with any of
9 the complaints herein. Representations have been made by some
10 plaintiffs that efforts at service are underway. All plaintiffs'
11 counsel who have named Capt. Hazelwood as a defendant shall
12 forthwith confer with one another for the purpose of coordinating
13 their efforts to effect service upon Capt. Hazelwood. The court
14 urges counsel for Capt. Hazelwood to recognize the inevitable and
15 cooperate with plaintiffs' counsel, either in effecting service
16 or otherwise arranging for the appearance of counsel and the
17 filing of answers on behalf of Capt. Hazelwood. Counsel for
18 plaintiffs in the consolidated class action case shall coordinate
19 the foregoing efforts and shall report to the court, on or before
20 October 2, 1989, as regards the status of service on
21 Capt. Hazelwood.

22 It appears that defendant Cousins has answered all
23 viable complaints naming him as a defendant.

24 Edward Murphy has been named a defendant in No. A89-111
25 Civil, No. A89-138 Civil, No. A89-145 Civil, No. A89-238 Civil,
26

1 and No. A89-239 Civil. Counsel for plaintiff in No. A89-138
2 Civil shall take the same action as to defendant Murphy as has
3 been ordered in connection with Capt. Hazelwood and shall report
4 to the court on or before October 2, 1989.

5 British Petroleum Pipelines, Inc., and Others. In
6 No. A89-135 Civil, No. A89-136 Civil, No. A89-165 Civil, and
7 No. A89-270 Civil, plaintiffs have named as defendants British
8 Petroleum Pipelines, Inc. (D-13), Phillips Petroleum Company
9 (D-15), Sohio Alaska Pipeline Company (D-16 and/or D-24), and
10 Union Alaska Pipeline Company (D-17). By stipulation, the
11 parties have agreed to substitute for the foregoing named com-
12 panies the intended defendants who are owners of interests in
13 Alyeska Pipeline Service Company. The court has approved that
14 stipulation. Accordingly:

- 15 (1) BP Pipelines (Alaska), Inc. (D-19), is
16 substituted for British Petroleum Pipe-
17 lines, Inc. (D-13);
- 18 (2) Unocal Pipeline Company (D-21) is sub-
19 stituted for Union Alaska Pipeline Com-
20 pany (D-17);
- 21 (3) Phillips Alaska Pipeline Corporation
22 (D-20) is substituted for Phillips
23 Petroleum Company (D-15); and
- 24 (4) BP Pipelines (Alaska), Inc. (D-19), is
25 also substituted for Sohio Petroleum
26 Company (D-24).

1 Defendants British Petroleum Pipelines, Inc. (D-13),
2 Union Alaska Pipeline Company (D-17), Phillips Petroleum Company
3 (D-15), and Sohio Petroleum Company (D-24) are dismissed without
4 prejudice from all cases in which they were named.

5 Samish Maritime, et al. The court understands that the
6 parties are in agreement that Samish Maritime v. Exxon Shipping
7 Co., No. A89-190 Civil, should be dismissed without prejudice,
8 and it is so ordered.

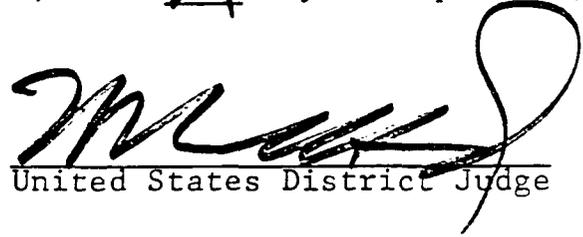
9 McCrudden, et al. The court understands that the
10 parties are in agreement that McCrudden v. Exxon Corporation,
11 No. A89-271 Civil, should be dismissed without prejudice, and it
12 is so ordered.

13 T/V Exxon Valdez. Exxon Shipping Company, as owner of
14 the T/V Exxon Valdez, proposes to file an amended answer in
15 No. A89-106 Civil and No. A89-135 Civil, indicating that Exxon
16 Shipping Company is answering on behalf of said vessel. Proposed
17 amended answers on behalf of D-2 and D-6, responding to the first
18 amended complaint of P-30 through P-39 and to the complaint of
19 P-78 and P-79 have been lodged with the court; they are hereby
20 ordered filed.

21
22 The foregoing would appear to "clear the books" or set
23 the predicate for clearing all situations where there appeared to
24 be an unanswered complaint with the exception of No. A89-106
25 Civil as to defendant D-4. In this case, the court has received
26

1 no answer on behalf of the Trans-Alaska Pipeline Liability Fund
2 and has received no input from plaintiffs in No. A89-106 Civil or
3 from said defendant. Counsel for plaintiffs in this case and for
4 the TAPL Fund (D-4) shall confer with one another and, on or
5 before September 27, 1989, shall advise the court as to how the
6 apparent absence of an answer as to the TAPL Fund is to be cured.

7 DATED at Anchorage, Alaska, this 14 day of September,
8 1989.

9
10 
11 United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
) No. A89-095 Civil
the EXXON VALDEZ)
) (Consolidated)
)
_____)
In all cases.

AFFIDAVIT OF SERVICE

On the 15th day of September, 1989, service of Order
No. **15**, has been made upon all counsel of record based upon the
court's master service list of August 25th, 1989.



Deputy Clerk

within this Court's admiralty jurisdiction. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 1.

2. Answering paragraph 2, Exxon Shipping admits that this Court has federal question jurisdiction over certain aspects of the subject matter of this action. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 2.

3. Answering paragraph 3, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 3.

4. Answering paragraph 4, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 4.

5. Answering paragraph 5, Exxon Shipping admits that Exxon Corporation is a corporation organized under the laws of the State of New Jersey and is qualified to do business in the State of Alaska, and that Exxon Company, U.S.A., is an unincorporated division of Exxon Corporation. Exxon Shipping further admits that Exxon Shipping is a corporation organized under the laws of the State of Delaware and is qualified to do business in the State of Alaska. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 5.

6. Answering paragraph 6, Exxon Shipping admits that Exxon Shipping is the owner and operator of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 6.

7. Answering paragraph 7, Exxon Shipping admits that Exxon Corporation owns the stock of Exxon Shipping, and that Exxon Company, U.S.A., is an unincorporated division of Exxon Corporation. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 7.

8. Answering paragraph 8, Exxon Shipping admits that the EXXON VALDEZ is an oil tanker vessel that is registered as a United States vessel and that Exxon Shipping is the owner of the EXXON VALDEZ. Exxon Shipping denies that the EXXON VALDEZ is now within the jurisdiction of this Court, and Exxon Shipping is without knowledge or information sufficient to form a belief as to whether the EXXON VALDEZ will return to this jurisdiction during the pendency of this action and therefore denies that allegation. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 8.

9. Answering paragraph 9, Exxon Shipping admits that Alyeska Pipeline Service Company, Inc., is a corporation organized under the laws of the State of Delaware and is qualified to do business in the State of Alaska. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 9.

LE & GATES

4th Avenue
Anchorage, AK 99501
557

Answer of Exxon Shipping Company - 3
CORESON, FED

10. Answering paragraph 10, Exxon Shipping admits that the Trans-Alaska Pipeline Liability Fund is a non-profit corporate entity established pursuant to the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c)(4). Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 10.

FACTUAL ALLEGATIONS

11. Answering paragraph 11, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 10 as though set forth in full at this place.

12. Answering paragraph 12, Exxon Shipping admits that Exxon Shipping is the owner and operator of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 12.

13. Answering paragraph 13, Exxon Shipping admits that on Thursday, March 23, 1989, the EXXON VALDEZ left the terminal of the Trans-Alaska Pipeline at the Port of Valdez, Alaska, and was bound for Long Beach, California. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 13.

14. Answering paragraph 14, Exxon Shipping admits that Exxon Corporation owned the oil aboard the EXXON VALDEZ and that Exxon Shipping controlled the oil immediately prior to its release into Prince William Sound. Except as expressly

BLE & GATES

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Juneau, AK 99501
64557

admitted, Exxon Shipping denies the allegations in paragraph 14.

15. Answering paragraph 15, Exxon Shipping admits that Alyeska operates the Trans-Alaska Pipeline System, including the shipping terminal facilities at the Port of Valdez, Alaska, and further admits that Alyeska formulated a certain oil spill contingency plan and had certain responsibilities pursuant thereto. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 15.

16. Answering paragraph 16, Exxon Shipping admits the EXXON VALDEZ was carrying approximately 53,000,000 gallons of crude oil when it left the Port of Valdez, Alaska on March 23, 1989. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 16.

17. Answering paragraph 17, Exxon Shipping admits that the EXXON VALDEZ struck Bligh Reef, which damaged a portion of the hull, and that approximately 11 million gallons of crude oil were discharged into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 17.

18. Answering paragraph 18, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the

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truth of the allegations and therefore denies the allegations in paragraph 18.

19. Answering paragraph 19, Exxon Shipping lacks information or knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 19.

ANSWER TO FIRST CAUSE OF ACTION

20. Answering paragraph 20, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 19 as though set forth in full at this place.

21. Answering paragraph 21, Exxon Shipping admits that Captain Hazelwood's duties as master of the EXXON VALDEZ were within the scope of his employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits it was the employer of Defendant Hazelwood. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 22.

ANSWER TO SECOND CAUSE OF ACTION

23. Answering paragraph 23, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 22 as though set forth in full at this place.

24. Answering paragraph 24, Exxon Shipping denies the allegations in paragraph 24.

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25. Answering paragraph 25, Exxon Shipping denies the allegations in paragraph 25.

26. Answering paragraph 26, Exxon Shipping denies the allegations in paragraph 26.

ANSWER TO THIRD CAUSE OF ACTION

27. Answering paragraph 27, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 26 as though set forth in full at this place.

28. Answering paragraph 28, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 28. Exxon Shipping denies the remaining allegations in paragraph 28.

29. Answering paragraph 29, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and the Fund and therefore denies those allegations in paragraph 29. Exxon Shipping denies the remaining allegations in paragraph 29.

30. Answering paragraph 30, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and the Fund and therefore denies those allegations in paragraph 30. Exxon Shipping denies the remaining allegations in paragraph 30.

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Answer of Exxon Shipping Company - 7

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ANSWER TO FOURTH CAUSE OF ACTION

31. Answering paragraph 31, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 30 as though set forth in full at this place.

32. Answering paragraph 32, Exxon Shipping admits that at the time of the spill the EXXON VALDEZ was engaged in the transportation of oil, and further admits that Alyeska operates the Trans-Alaska Pipeline System, through which oil is transported. Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 32 pertaining to Alyeska and therefore denies those allegations in paragraph 32. Except as expressly admitted, Exxon Shipping denies all remaining allegations in paragraph 32.

33. Answering paragraph 33, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 33. Exxon Shipping denies the remaining allegations in paragraph 33.

ANSWER TO FIFTH CAUSE OF ACTION

34. Answering paragraph 34, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 33 as though set forth in full at this place.

35. Answering paragraph 35, Exxon Shipping admits that 43 U.S.C. § 1653(a), to the extent applicable, may impose strict

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Answer of Exxon Shipping Company - 8

GORESON, FED

liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 35.

ANSWER TO SIXTH CAUSE OF ACTION

36. Answering paragraph 36, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 35 as though set forth in full at this place.

37. Answering paragraph 37, Exxon Shipping is not required to respond to the allegations against defendant Alyeska and, if required to respond, lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies the allegations in paragraph 37.

ANSWER TO SEVENTH CAUSE OF ACTION

38. Answering paragraph 38, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 37 as though set forth in full at this place.

39. Answering paragraph 39, Exxon Shipping is not required to respond to the allegations against defendant Trans-Alaska Pipeline Liability Fund and, if required to respond, lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Trans-Alaska Pipeline Liability Fund and therefore denies the allegations in paragraph 39.

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Answer of Exxon Shipping Company - 9

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ANSWER TO EIGHTH CAUSE OF ACTION

40. Answering paragraph 40, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 39 as though set forth in full at this place.

41. Answering paragraph 41, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the Fund and therefore denies those allegations in paragraph 41. Exxon Shipping denies the remaining allegations in paragraph 41.

42. Answering paragraph 42, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the Fund and therefore denies those allegations in paragraph 42. Exxon Shipping denies the remaining allegations in paragraph 42.

ANSWER TO NINTH CAUSE OF ACTION

43. Answering paragraph 43, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 42 as though set forth in full at this place.

44. Answering paragraph 44, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the Fund and therefore denies those allegations in paragraph 44.

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Answer of Exxon Shipping Company - 10
CORESON.FED

Exxon Shipping denies the remaining allegations in paragraph 44.

45. Answering paragraph 45, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the Fund and therefore denies those allegations in paragraph 45. Exxon Shipping denies the remaining allegations in paragraph 45.

46. Answering paragraph 46, Exxon Shipping submits that no response is required to paragraph 46; however, Exxon Shipping does not waive its right to contest plaintiffs' demand for a trial by jury.

RELIEF SOUGHT

47. Answering plaintiffs' prayer for relief, Exxon Shipping denies the entitlement of plaintiffs to the relief they seek.

GENERAL DENIAL

48. Exxon Shipping denies each and every other allegation in plaintiffs' complaint that was not specifically admitted.

AFFIRMATIVE AND OTHER DEFENSES

1. Independent of any legal obligation to do so, Exxon Shipping and Exxon Corporation are voluntarily paying many claims for economic loss allegedly caused by the oil spill, and incurring other expenses in connection with the oil spill. Exxon Shipping is entitled to a set-off in the full amount of

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all such payments in the event plaintiffs' claims encompass such expenditures.

2. Numerous persons and entities have filed lawsuits relating to the oil spill, some of whom purport to represent the plaintiffs in this action. In the event of any recovery in such other lawsuits by persons whose claims therein are encompassed by this action, Exxon Shipping is entitled herein to a set-off in the full amount of such payments.

3. Some or all of plaintiffs' claims for damages may be barred or reduced by the doctrine of comparative negligence.

4. Exxon Shipping is entitled to a set-off to the extent of any failure of plaintiffs properly to mitigate damages.

5. Unless otherwise agreed, Exxon Shipping is entitled to a set-off in the amount of any payment received by plaintiffs as a result of the oil spill, the containment or clean up of the oil released from the EXXON VALDEZ, or other activities or matters related to the oil spill.

6. Each of plaintiffs' theories of recovery fails to state a claim upon which relief can be granted.

7. Exxon Shipping has acted pursuant to government approval, direction, and supervision, and has no liability to plaintiffs for any acts or omissions undertaken with such approval, direction, or supervision.

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8. The amount of any liability for the acts alleged is controlled by statute including, without limitation, 43 U.S.C. § 1653(c), and AS 09.17.010, .060 and .080(d).

9. Claims are barred to the extent they would represent recovery by two or more persons or entities for part or all of the same economic loss, and thus would represent a multiple recovery for the same injury.

10. Plaintiffs lack standing to assert certain theories of recovery or to claim or recover damages based on the allegations of the complaint.

11. Plaintiffs' claims are based on an alleged maritime tort and therefore are subject to applicable federal admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

12. Plaintiffs' claims for punitive damages are unconstitutional under the United States Constitution including, without limitation, Article 1, Section 8; Amendment V; and Amendment XIV; and the Alaska Constitution including, without limitation, Article 1, Section 7; and Article 1, Section 12.

13. If punitive damages were to be awarded or civil or criminal penalties assessed in any other lawsuit against Exxon Shipping relating to the oil spill, such award bars imposition of punitive damages in this action.

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Answer of Exxon Shipping Company - 13

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14. Certain claims asserted by plaintiffs are not ripe for adjudication.

15. Plaintiffs fail to satisfy the requirements for injunctive relief.

16. Plaintiffs' claims for punitive damages are precluded by the Alaska statutory scheme for civil and criminal penalties relevant to the oil spill.

17. Those portions of AS 46.03 that were enacted after the oil spill constitute an unlawful bill of attainder violative of Article 1, Section 10 of the United States Constitution, and if applied to Exxon Shipping would also violate the due process clauses of the United States and Alaska Constitutions and the contract clause of the United States Constitution.

18. Exxon Shipping expressly reserves the full six months provided by 46 U.S.C. § 185 within which it may elect to assert its rights under 46 U.S.C. § 183.

19. Some or all of plaintiffs' claims, including claims for punitive damages, are preempted by the comprehensive system of federal statutes and regulations, including its system of criminal and civil penalties, sanctions and compensatory and other remedies relevant to the oil spill, and its scheme relevant to the protection of subsistence interests.

20. The damages alleged, if any, were caused, in part, by the actions of others not joined as defendants herein as to

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whom a right of contribution or indemnity should exist as to Exxon Shipping. Exxon Shipping may seek leave of Court to join such additional persons as third party defendants on the basis of further discovery.

21. The Fund, established under the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c), may be strictly liable for some or all of the damages alleged by plaintiffs.

22. This Court lacks in rem jurisdiction over the vessel EXXON VALDEZ, and plaintiffs have not effected service of process on the vessel.

23. Certain theories of relief may not be maintained because those theories are based upon the exercise of the state and federal constitutional right to petition the state and federal governments with respect to the passage and enforcement of laws.

WHEREFORE, Defendant Exxon Shipping prays for judgment against plaintiffs as follows:

1. That plaintiffs take nothing by their complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment of costs of suit incurred herein, including attorney's fees; and

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Answer of Exxon Shipping Company - 15
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4. That the Court award such other and further relief as it may deem just and proper.

Dated this 11th day of September, 1989.

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Answer of Exxon Shipping Company - 16
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Attorneys for Defendant
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(D-2) and (D-6)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
) No. A89-095 Civil
the EXXON VALDEZ) (Consolidated)
)

Re Case No. A89-135

D-2's and D-6's Amended Answer to P-78 and P-79's
Complaint Dated April 13, 1989

Defendant Exxon Shipping Company ("Exxon Shipping"),
as defendant and owner of the defendant vessel EXXON VALDEZ,
answers plaintiffs' complaint by the following amended answer,
which amends and completely restates its August 15, 1989 answer
filed in this case.

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Answer of Exxon Shipping Company - 1

Wisner, 135

562

PREFATORY STATEMENT

Exxon Shipping alleges that no answer to plaintiffs' prefatory statement is required and, if an answer were required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in plaintiffs' prefatory statement and, on that basis, denies them.

JURY TRIAL DEMAND

1. While no answer is required to plaintiffs' demand for trial by jury, Exxon Shipping does not waive its right to contest plaintiffs' jury demand.

JURISDICTION AND VENUE

2. Answering paragraph 2, Exxon Shipping admits that certain causes of action that plaintiffs purport to bring are within this Court's admiralty jurisdiction. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 2.

3. Answering paragraph 3, Exxon Shipping admits that plaintiffs purport to bring a civil action as set forth in paragraph 3 of the complaint. Exxon Shipping denies that the Exxon Valdez is now within the jurisdiction of the court, and lacks knowledge or information sufficient to form a belief as to whether the Exxon Valdez will return to this jurisdiction during the pendency of this action and, on that basis, denies the remaining allegations in paragraph 3.

Answer of Exxon Shipping Company - 2

Wisner. 135

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4. Answering paragraph 4, Exxon Shipping admits that plaintiffs purport to bring claims for relief pursuant to grounds set forth in paragraph 4 of the complaint. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 4.

5. Answering paragraph 5, Exxon Shipping admits that this action may be brought in this district under 28 U.S.C. § 1391(b) and (c), as well as the applicable principles of admiralty and maritime law. Exxon Shipping further admits that Exxon Corporation (also erroneously sued herein as Exxon Co., USA), Exxon Shipping Company, and Exxon Pipeline Company reside in this district for venue purposes. Except as expressly admitted, Exxon Shipping lacks knowledge sufficient to form a belief as to the truth of the allegations in paragraph 5 and, on that basis, denies them.

THE PARTIES

6. Answering paragraph 6, Exxon Shipping lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 6 and, on that basis, denies them.

7. Answering paragraph 7, Exxon Shipping admits the allegations in paragraph 7.

8. Answering paragraph 8, Exxon Shipping admits that Alyeska is a Delaware corporation owned by seven companies, consisting of the Amerada Hess Pipeline Corporation, ARCO Pipe

Answer of Exxon Shipping Company - 3

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Line Company, BP Pipelines (Alaska) Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company, who are permittees under the Agreement and Grant of Right-Of-Way for the Trans-Alaska Pipeline System. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 and, on that basis, denies them.

9. Answering paragraph 9, Exxon Shipping admits that Exxon Corporation is a corporation organized under the laws of the state of New Jersey, with its principal place of business at 1251 Avenue of the Americas, New York, New York 10021, and that the principal business of Exxon Corporation is energy, involving exploration for and production of crude oil, natural gas and petroleum products and exploration for and mining and sale of coal. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping admits it is a domestic maritime subsidiary of Exxon Corporation, separately incorporated under the laws of the State of Delaware; that its principal place of business is at 800 Bell Street, Houston, TX 77251; and that it is the owner and operator of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 10.

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Answer of Exxon Shipping Company - 4

Wlsner. 135

11. Answering paragraph 11, Exxon Shipping admits that Exxon Company, USA is an unincorporated division of Exxon Corporation responsible for the operation of Exxon Corporation's energy business within the United States; and that its headquarters is at 800 Bell Street, Houston, TX 77251. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 11.

DEFINITIONS

12-17. Answering paragraphs 12 through 17, Exxon Shipping admits that plaintiffs purport to define certain terms. Except as admitted, Exxon Shipping denies the allegations and further denies that any subsequent use of those terms in the complaint is necessarily accurate or appropriate.

FACTUAL ALLEGATIONS

18. Answering paragraph 18, Exxon Shipping admits that on Thursday evening, March 23, 1989, the Exxon Valdez, which is approximately 987 feet long and weighs 211,469 deadweight tons, left the Port of Valdez, Alaska, the southern terminal facility of the Trans-Alaska Pipeline System, bound for Long Beach, California. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 18.

19. Answering paragraph 19, Exxon Shipping admits that the Exxon Valdez contained approximately 1.2 million barrels of crude oil that had been shipped from Alaska's North Slope through the Trans-Alaska Pipeline. Except as expressly

Answer of Exxon Shipping Company - 5

Wisner 135

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557

admitted, Exxon Shipping denies the allegations in paragraph 19.

20. Answering paragraph 20, Exxon Shipping admits that the Exxon Valdez passed through the Valdez Narrows under the direction of a pilot, and that Captain Hazelwood was on the bridge when the pilot disembarked in the Valdez Arm at approximately 11:30 p.m. on March 23, 1989. Exxon Shipping further admits that Captain Hazelwood was employed by Exxon Shipping as Master of the Exxon Valdez, and that his duties as Master were within the scope of his employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 20.

21. Answering paragraph 21, Exxon Shipping admits on information and belief that Captain Hazelwood had consumed some alcohol while ashore in Valdez. Exxon Shipping further admits that after the pilot disembarked, Captain Hazelwood left the bridge, leaving Gregory Cousins, the third mate, and Robert Kagan, the helmsman, on the bridge; and that Cousins' duties as third mate and Kagan's duties as helmsman were within the scope of their employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits that the U.S. Coast Guard gave the Exxon Valdez permission to leave the southbound shipping lane for reasons that include

Answer of Exxon Shipping Company - 6

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earlier reports that it contained ice that had calved from a glacier to the northwest. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 22.

23. Answering paragraph 23, Exxon Shipping admits that the Exxon Valdez travelled through the northbound lane and subsequently struck Bligh Reef, which is depicted on charts. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 23.

24. Answering paragraph 24, Exxon Shipping admits that the Exxon Valdez struck Bligh Reef, which punctured some of the tanks and damaged a portion of the hull. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 24.

25-26. Answering paragraphs 25 and 26, Exxon Shipping denies the allegations in paragraphs 25 and 26.

27. Answering paragraph 27, Exxon Shipping admits that the grounding cut open eight of the Exxon Valdez's eleven cargo tanks, resulted in the release of approximately 11 million gallons of crude oil into Prince William Sound, and became the largest spill in the United States from a single ship. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27 and, on that basis, denies them.

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Answer of Exxon Shipping Company - 7

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28. Answering paragraph 28, Exxon Shipping denies the allegations in paragraph 28.

29-30. Answering paragraphs 29 and 30, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 29 and 30 and, on that basis, denies them.

31. Answering paragraph 31, Exxon Shipping admits that the oil has spread to some areas which are habitats for water birds, sea and land mammals, fish and shellfish. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 and, on that basis, denies them.

32. Answering paragraph 32, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 and, on that basis, denies them.

CLASS ALLEGATIONS

33-41. Answering paragraphs 33 through 41, Exxon Shipping admits that plaintiffs purport to bring an action on behalf of classes of persons and entities described in the complaint. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 33 through 41 and, on that basis, denies them.

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Answer of Exxon Shipping Company - 8

Wlsner 135

ANSWER TO COUNT I

42. Answering paragraph 42, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 41 as though set forth in full at this place.

43-47. Answering paragraphs 43 through 47, Exxon Shipping is not required to answer the allegations in paragraphs 43 through 47. If an answer were required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 43 through 47 and, on that basis, denies them.

ANSWER TO COUNT II

48. Answering paragraph 48, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 48 as though set forth in full at this place.

49. Answering paragraph 49, Exxon Shipping admits that Exxon Shipping is the owner and operator of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegation in paragraph 49.

50. Answering paragraph 50, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50 and, on that basis, denies them.

51. Answering paragraph 51, Exxon Shipping admits that the damages, if any, alleged by plaintiffs were not caused by an act of war. Except as expressly admitted, Exxon Shipping

lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 and, on that basis, denies them.

52. Answering paragraph 52, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 and, on that basis, denies them.

53. Answering paragraph 53, Exxon Shipping admits that 43 U.S.C. § 1653(c), to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 and, on that basis, denies them.

ANSWER TO COUNT III

54. Answering paragraph 54, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 53 as though set forth in full at this place.

55-67. Answering paragraphs 55 through 67, Exxon Shipping denies the allegations in paragraphs 55 through 67 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 55 through 67 and, on that basis, denies them.

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Answer of Exxon Shipping Company - 10

Wlsner 135

ANSWER TO COUNT IV

68. Answering paragraph 68, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 67 as though set forth in full at this place.

69. Answering paragraph 69, Exxon Shipping admits that public records purport to show that Captain Hazelwood has been convicted of driving while under the influence of alcohol. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 69.

70-77. Answering paragraphs 70 through 77, Exxon Shipping denies the allegations in paragraphs 70 through 77.

ANSWER TO COUNT V

78. Answering paragraph 78, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 77 as though set forth in full at this place.

79. Answering paragraph 79, Exxon Shipping denies the allegations in paragraph 79 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 79 and, on that basis, denies them.

ANSWER TO COUNT VI

80. Answering paragraph 80, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 79 as though set forth in full at this place.

Answer of Exxon Shipping Company - 11

Wisner, 135

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81. Answering paragraph 81, Exxon Shipping denies the allegations in paragraph 81 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 81 and, on that basis, denies them.

ANSWER TO COUNT VII

82. Answering paragraph 82, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 81 as though set forth in full at this place.

83. Answering paragraph 83, Exxon Shipping admits that hazardous substance is defined in AS 46.03.826(4)(B) to include oil and that approximately 11 million gallons of crude oil were released into Prince William Sound as a result of the grounding of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 83.

84. Answering paragraph 84, Exxon Shipping admits that the presence of oil in Prince William Sound has caused damage to certain property and to certain animals. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 84 and, on that basis, denies them.

85. Answering paragraph 85, Exxon Shipping admits that Exxon Corporation owned the oil and that Exxon Shipping controlled the oil immediately prior to its release into Prince

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William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 85.

86. Answering paragraph 86, Exxon Shipping admits that the initial entry of oil into Prince William Sound and the subsequent movement of the oil was not caused solely by an act of war. Except as expressly admitted, Exxon Shipping lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 86 and, on that basis, denies them.

87. Answering paragraph 87, Exxon Shipping denies the allegations in paragraph 87 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 87 and, on that basis, denies them.

88. Answering paragraph 88, Exxon Shipping admits that AS 46.03.822, to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 88 and, on that basis, denies them.

ANSWER TO COUNT VIII

89. Answering paragraph 89, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 88 as though set forth in full at this place.

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Answer of Exxon Shipping Company - 13

WISNER 135

90-93. Answering paragraphs 90 through 93, Exxon Shipping denies the allegations in paragraphs 90 through 93 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 90 through 93 and, on that basis, denies them.

ANSWER TO COUNT IX

94. Answering paragraph 94, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 93 as though set forth in full at this place.

95-98. Answering paragraphs 95 through 98, Exxon Shipping denies the allegations in paragraphs 95 through 98 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 95 through 98 and, on that basis, denies them.

ANSWER TO COUNT X

99. Answering paragraph 99, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 98 as though set forth in full at this place.

100-102. Answering paragraphs 100 through 102, Exxon Shipping denies the allegations in paragraphs 100 through 102 insofar as they concern the Exxon defendants. Insofar as the

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Answer of Exxon Shipping Company - 14

Wisner. 135

allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 100 through 102 and, on that basis, denies them.

ANSWER TO COUNT XI

103. Answering paragraph 103, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 102 as though set forth in full at this place.

104-107. Answering paragraphs 104 through 107, Exxon Shipping denies the allegations in paragraphs 104 through 107 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 104 through 107 and, on that basis, denies them.

ANSWER TO COUNT XII

108. Answering paragraph 108, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 107 as though set forth in full at this place.

109-112. Answering paragraphs 109 through 112, Exxon Shipping denies the allegations in paragraphs 109 through 112.

PRAYER FOR RELIEF

113. Exxon Shipping denies that plaintiffs are entitled to the relief they seek.

Answer of Exxon Shipping Company - 15

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GENERAL DENIAL

114. Exxon Shipping denies each and every other allegation of plaintiffs' complaint that it has not specifically admitted.

AFFIRMATIVE AND OTHER DEFENSES

1. Independent of any legal obligation to do so, Exxon Shipping and Exxon Corporation are voluntarily paying many claims for economic loss allegedly caused by the oil spill, and incurring other expenses in connection with the oil spill. Exxon Shipping is entitled to a set-off in the full amount of all such payments in the event plaintiffs' claims encompass such expenditures.

2. Numerous persons and entities have filed lawsuits relating to the oil spill, some of whom purport to represent the plaintiffs in this action. In the event of any recovery in such other lawsuits by persons whose claims therein are encompassed by this action, Exxon Shipping is entitled herein to a set-off in the full amount of such payments.

3. Some or all of plaintiffs' claims for damages may be barred or reduced by the doctrine of comparative negligence.

4. Exxon Shipping is entitled to a set-off to the extent of any failure of plaintiffs properly to mitigate damages.

5. Unless otherwise agreed, Exxon Shipping is entitled to a set-off in the amount of any payment received by

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plaintiffs as a result of the oil spill, the containment or clean up of the oil released from the Exxon Valdez, or other activities or matters related to the oil spill.

6. Each of plaintiffs' theories of recovery fails to state a claim upon which relief can be granted.

7. Claims by some persons or entities who may be within the purported class have been settled and released, or in the alternative, payments received by such persons or entities operate as an accord and satisfaction of all claims against Exxon Shipping.

8. Exxon Shipping has acted pursuant to government approval, direction, and supervision, and has no liability to plaintiffs for any acts or omissions undertaken with such approval, direction, or supervision.

9. The amount of any liability for the acts alleged is controlled by statute including, without limitation, 43 U.S.C. § 1653(c), and AS 09.17.010, .060 and .080(d).

10. Claims are barred to the extent they would represent recovery by two or more persons or entities for part or all of the same economic loss, and thus would represent a multiple recovery for the same injury.

11. Plaintiffs lack standing to assert certain theories of recovery or to claim or recover damages based on the allegations of the complaint.

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Answer of Exxon Shipping Company - 17

Wisner 135

12. Plaintiffs' claims are based on an alleged maritime tort and therefore are subject to applicable federal admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

13. Claims for punitive damages are unconstitutional under the United States Constitution including, without limitation, Article 1, Section 8; Amendment V; and Amendment XIV; and the Alaska Constitution including, without limitation, Article 1, Section 7; and Article 1, Section 12.

14. If punitive damages were to be awarded or civil or criminal penalties assessed in any other lawsuit against Exxon Shipping relating to the oil spill, such award bars imposition of punitive damages in this action.

15. Certain claims asserted by plaintiffs are not ripe for adjudication.

16. Plaintiffs fail to satisfy the requirements for injunctive relief.

17. Plaintiffs' claims for punitive damages are precluded by the Alaska statutory scheme for civil and criminal penalties relevant to the oil spill.

18. Those portions of AS 46.03 that were enacted after the oil spill constitute an unlawful bill of attainder violative of Article 1, Section 10 of the United States Constitution, and if applied to Exxon Shipping would also violate the due process clauses of the United States and Alaska

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Answer of Exxon Shipping Company - 18

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Constitutions and the contract clause of the United States Constitution.

19. Exxon Shipping expressly reserves the full six months provided by 46 U.S.C. § 185 within which it may elect to assert its rights under 46 U.S.C. § 183.

20. Some or all of plaintiffs' claims, including claims for punitive damages, are preempted by the comprehensive system of federal statutes and regulations, including its system of criminal and civil penalties, sanctions and compensatory and other remedies relevant to the oil spill, and its scheme relevant to the protection of subsistence interests.

21. The Fund, established under the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c), may be strictly liable for some or all of the damages alleged by plaintiffs.

22. The damages alleged, if any, were caused, in part, by the actions of others not joined as defendants herein as to whom a right of contribution or indemnity should exist as to Exxon Shipping. Exxon Shipping may seek leave of Court to join such additional persons as third party defendants on the basis of further discovery.

23. Certain theories of relief may not be maintained because those theories are based upon the exercise of the state and federal constitutional right to petition the state and

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federal governments with respect to the passage and enforcement of laws.

24. The Court lacks in rem jurisdiction over the vessel EXXON VALDEZ, and plaintiffs have not effected service of process on the vessel.

25. This action should abate because plaintiffs have filed and are currently maintaining a parallel, duplicative action against Exxon Shipping in this Court that is based on the same facts alleged in the complaint herein.

WHEREFORE, defendant Exxon Shipping prays for judgment against plaintiffs as follows:

1. That plaintiffs take nothing by their complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment for the costs of suit incurred herein, including attorney's fees; and

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4. That the court award Exxon Shipping such other and further relief as it may deem just and proper.

DATED this 11th day of September, 1989

BOGLE & GATES
Attorneys for Defendant
Exxon Shipping Company
(D-2) and (D-6)

By: *Douglas J. Serdahely*
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1031 West Fourth Avenue
Suite 600
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By: *Douglas J. Serdahely, for*
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J. Peter Shapiro
The Bank of California Center
900 4th Avenue
Seattle, Washington 98164

& GATES

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FILED

SEP 19 1989

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)	
)	No. A89-095 Civil
the EXXON VALDEZ)	
)	(Consolidated)
_____)	

ORDER NO. 16

(Proceedings for Appointment
of Discovery Master)

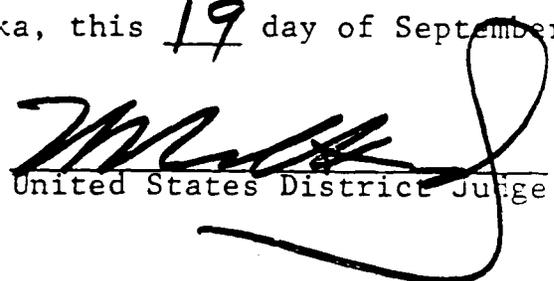
As contemplated by Pre-Trial Order No. 4, the parties have given consideration to the appointment of a discovery master. The court assumes from the filing of separate lists of candidates on behalf of plaintiffs and defendants that the parties have been unable to agree on one or more acceptable candidates.

On the assumption that the parties have not been able to agree on one or more candidates for discovery master, the court will confer with lead counsel from both sides who are charged with primary responsibility for discovery matters, once the court has approved the case management plans which will give

1 rise to such appointments, and after the filings contemplated by
2 the stipulation of September 18, 1989, and order of September 19,
3 1989, have been made. As a predicate for such conference,
4 counsel charged with the responsibility of discovery shall confer
5 with other counsel for the purpose of obtaining full authority to
6 commit their respective sides on matters of the designation of
7 and compensation for services of a discovery master.

8 In preparation for such a conference, counsel shall
9 also develop more detailed information than is now at hand with
10 respect to the availability and commitment of the proposed
11 discovery masters to undertake the work contemplated and the
12 charges and payment arrangements that will be expected by them.
13 The court reserves the right to confer in camera with potential
14 discovery masters on the subject of their availability and
15 commitment to undertake the work of discovery master in this
16 case.

17 DATED at Anchorage, Alaska, this 19 day of September,
18 1989.

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20 United States District Judge
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
) No. A89-095 Civil
the EXXON VALDEZ)
) (Consolidated)
)
_____)
In all cases.

AFFIDAVIT OF SERVICE

On the 19th day of September, 1989, service of Order
No. 18 has been made upon all counsel of record based upon
the court's master service list of August 25th, 1989.



Deputy Clerk

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

EXXON VALDEZ OIL)
 SPILL LITIGATION)
)
 This Document Relates TO:)
 Case No. 3KO-89-264)
 KIB v. Exxon Corp., et al.)
 Case No. 3KO-89-265)
 Wisner v. Exxon Corp., et al)
)
 _____)

Filed in the Trial Courts
 STATE OF ALASKA THIRD DISTRICT
 JAN 17 1990
 Clerk of the Trial Courts
 By *[Signature]* Deputy

Case No. 3AN-89-2533 Civil
 (Consolidated)

PRETRIAL ORDER NO. 9

(Regarding Stipulation for Entry of Protective Order)

Certain plaintiffs have stipulated and requested an order confirming their agreement to protect the confidentiality of documents produced by plaintiffs during class action discovery. Environmental plaintiffs have objected to entry of the proposed order.

I shall not enter the proposed order at this time. The issues raised by the stipulation and opposition will be considered at the same time I consider defendants' protective order proposal, on time limits set in the Civil Rules, and after full opportunity has been had for complete presentation of the issues.

DATED at Anchorage, Alaska this 17 day of January, 1990.

[Signature: Brian Shortell]
 BRIAN SHORTELL
 SUPERIOR COURT JUDGE

Defendant liaison counsel shall serve the parties with a copy of this order.