

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

<b>DEEPCOR MARINE, INC.</b>	*	
	*	<b>CIVIL ACTION NO.</b>
<b>VERSUS</b>	*	
	*	
<b>OFFSHORE SPECIALTY FABRICATORS, LLC, <i>in personam</i>; and the following documented vessels, with their bunkers, engines, machinery, equipment, fixtures, appurtenances, etc., <i>in rem</i>:</b>	*	<b>JUDGE</b>
<b>D/B WILLIAM KALLOP, D/B SWING THOMPSON</b>	*	<b>MAGISTRATE</b>
	*	

**VERIFIED COMPLAINT**

**NOW INTO COURT**, through undersigned counsel, comes DeepCor Marine Inc. (“DeepCor” or “Plaintiff”), and respectfully avers as follows:

**PARTIES**

1.

At all times herein mentioned, Plaintiff was and still is a corporation formed under the laws of the State of Delaware.

2.

Named herein as defendant *in personam* is Offshore Specialty Fabricators, LLC (“OSF”), a limited liability company organized and existing under the laws of the State of Louisiana.

3.

Also named herein as defendants *in rem* (collectively, the “Vessels”), with their engines, machinery, equipment, fixtures, electronics, navigational electronics and devices, appurtenances, etc., are:

- A. The vessel D/B WILLIAM KALLOP, a documented Panama-flagged vessel bearing International Maritime Organization (IMO) Number 8639455;
- B. The vessel D/B SWING THOMPSON, a documented Panama-flagged vessel bearing IMO Number 7706005.

**JURISDICTION AND VENUE**

4.

This action seeks (a) enforcement of civil and maritime contractual rights in favor of DeepCor and against the Vessels, *in rem*, and against OSF, *in personam*. This action falls within this Court's admiralty and maritime subject matter jurisdiction within the meaning of 28 U.S.C. § 1333 and 46 U.S.C. § 31301, *et seq.*, as hereinafter fully appears, and is *inter alia* an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. In addition, any claims which do not fall within this Court's admiralty and maritime subject matter jurisdiction are within this Court's supplemental jurisdiction under 28 U.S.C. § 1367. Venue is in the Eastern District of Louisiana, in that, upon information and belief, the Vessels are found and located here and will remain here during the pendency of this action.

5.

Upon information and belief, at all times herein mentioned, OSF was and still is the owner and/or operator, and in possession and control, of the Vessels, which are documented under the laws of the Panama in the name of OSF.

6.

The Vessels are now or will be, and during the pendency of this action will remain, within this Eastern District of Louisiana.

**DEEPCOR'S CLAIMS AGAINST OSF AND VESSELS**

7.

DeepCor and OSF executed a contract dated May 31, 2016 providing for services to be performed by DeepCor in favor of OSF (the "Master Service Contract").

8.

The Master Service Contract provided that invoices issued by DeepCor for services rendered under the Master Service Contract were to be paid within thirty (60) days of receipt.

9.

Between July 31, 2016 and February 20, 2017, DeepCor issued three (3) invoices ("Invoices") to OSF for diving services DeepCor rendered and diving equipment and support vessels DeepCor provided to the Vessels and OSF pursuant to the Master Service Contract. DeepCor has made multiple amicable demands on OSF to collect the invoices. OSF has failed to pay the invoices. The total outstanding balance owed by OSF to DeepCor for services rendered under the Master Service Contract is currently ONE HUNDRED SIXTY-NINE THOUSAND, EIGHT AND 10/100 U.S. DOLLARS (\$169,008.10) (the "Outstanding Balance"). The referenced invoices are attached as Exhibit "A".

10.

The Master Service Contract also accounts for interest to be paid "at a rate no greater than the prime rate as reflected in the Wall Street Journal on the date that the amount was owed."

11.

By failing to pay all of the Invoices within the agreed upon payment terms, OSF has breached the Master Services Agreement.

12.

The Master Service Contract between DeepCor and OSF constitutes, among other things, an open account pursuant to La. Rev. Stat. § 9:2781. The undersigned counsel, on behalf of DeepCor, sent a formal demand letter to OSF at its Houma, Louisiana office via email and certified mail, return receipt requested, on April 4, 2017, seeking payment of the Outstanding Balance, in accordance with La. Rev. Stat. § 9:2781 (“Initial Demand Letter”). A true and correct copy of the Initial Demand Letter is attached hereto as Exhibit “B.” Following the Initial Demand Letter, OSF requested more time to pay the Outstanding Balance, but failed to do so. The undersigned counsel, on behalf of DeepCor, then sent a second formal demand letter to OSF at its Houma, Louisiana office via email and certified mail, return receipt requested, on May 9, 2017, again seeking payment of the Outstanding Balance (“Second Demand Letter”). A true and correct copy of the Second Demand Letter is attached hereto as Exhibit “C.”

13.

To date, OSF has failed to make payment of the Outstanding Balance despite repeated amicable demands by DeepCor. Because OSF failed to make payment within thirty (30) days of DeepCor’s formal demand for payment in its Initial Demand Letter, DeepCor is entitled to recover its reasonable attorneys’ fees in the prosecution and collection of the amounts due pursuant to La. Rev. Stat. § 9:2781.

14.

All or a portion of the diving services and diving equipment and support vessels provided by DeepCor to the Vessels and OSF for which DeepCor issued the Invoices constituted the provision of “necessaries” under Section 31341 and 31342 of Title 46 of the United States Code. Consequently, DeepCor has a maritime lien on the Vessels arising by operation of law, entitling

DeepCor to bring this *in rem* action to enforce said liens.

15.

Specifically, OSF has a maritime lien for necessities on the D/B WILLIAM KALLOP in the amount of ONE HUNDRED FORTY-SEVEN THOUSAND, THREE HUNDRED TWENTY-FIVE and 40/100 U.S. Dollars (\$147,325.40) and a maritime lien for necessities on the D/B SWING THOMPSON in the amount of TWENTY-ONE THOUSAND, SIX HUNDRED EIGHTY-THREE and no/100 U.S. Dollars (\$21,683.00).

16.

OSF and the Vessels are jointly and severally liable to DeepCor for the full payment of the amounts that are currently due and owing on the account between DeepCor and OSF, plus interest from the date the Invoices were due at the applicable rate, as determined by the Court, and reasonable attorneys' fees and collection costs and expenses incurred by DeepCor.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, DeepCor Marine Inc., prays that:

1.

That process in due form of law according to the course and practice of this Honorable Court in causes in admiralty and maritime jurisdiction issue to enforce DeepCor's claims against the Vessels, and their bunkers, engines, machinery, equipment, fixtures, appurtenances, etc., and all other necessities thereunto appertaining and belonging, *in rem*, and against OSF, *in personam*, and that all persons claiming any interest in the Vessel be cited to appear and answer on oath, all and singular, in the matters aforesaid:

- A. D/B WILLIAM KALLOP, IMO Number 8639455;
- B. D/B SWING THOMPSON, IMO Number 7706005;

2.

That warrants for the arrest of the Vessels, and their engines, machinery, equipment, fixtures, appurtenances, etc., and any and all additions, improvements and replacements thereafter made, in or for the Documented Vessels be issued to enforce DeepCor's claims against OSF and the Vessels, and that all persons claiming any interest therein may be cited to appear and answer the matters aforesaid and that DeepCor have judgment against the Documented Vessels for all amounts due and owing to DeepCor;

3.

That OSF be cited to appear and answer on oath, all and singular, the matters aforesaid;

4.

That judgment be rendered herein in favor of DeepCor and against OSF *in personam* on the Outstanding Balance of \$169,008.10 as of and through June 12, 2017, plus accrued interest and reasonable attorneys' fees and collection costs and expenses incurred by DeepCor;

5.

That DeepCor further have judgment in its favor and against OSF and the Vessels for all costs of these proceedings including all *custodia legis* costs incurred in connection with the arrest of the Vessels and all costs for the custody and safekeeping of the Vessels during the course of this proceeding; and

6.

That DeepCor have such other and further relief as the justice of the cause may require.

Respectfully submitted,

*/s/ James D. Bercaw*

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**PLEASE SERVE:**

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