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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

(Eugene Division)

**SEAWATER SEAFOODS COMPANY**, an  
Oregon corporation, **BRET HAMRICK**, and  
**FRONT ST. MARINE LLC**, an Oregon  
limited liability company,

Plaintiffs,

v.

**FRANK DULCICH**, an individual,  
**PACIFIC SEAFOOD GROUP dba**  
**PACIFIC SHRIMP COMPANY**,  
**DULCICH REALTY ACQUISITION**,  
**LLC**, an Oregon limited liability company,  
**PACIFIC HOOKER, LLC**, an Oregon  
limited liability company and **PACIFIC**  
**FISHING LLC**, an Oregon limited liability  
company,

Defendants.

Case No.:

**COMPLAINT**

**( (15 U.S.C. § 2)**

**JURY TRIAL DEMANDED**

Plaintiff alleges as follows:

## INTRODUCTION

1. This is an action for violation of the federal laws against monopolization and attempted monopolization, specifically Section 2 of the Sherman Act, 15 U.S.C. § 2. Plaintiffs also allege claims against defendants for negligence, trespass, and tortious interference with economic relations, arising under the common law of the State of Oregon. Plaintiff Seawater Seafood Company (Seawater) and its sole owner, Plaintiff Bret Hamrick, are seafood processors, operating in direct competition with Defendant Pacific Seafood Group. Defendants are monopolists that are illegally leveraging their market power to interfere with plaintiffs' business operations and Mr. Hamrick's sole means of livelihood. This matter arises from defendants' anticompetitive conduct aimed at driving Seawater out of business.

## JURISDICTION AND VENUE

2. Pursuant to Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15 and 26, this action is for violation of Section 2 of the Sherman Act, 15 U.S.C. § 2. This Court has jurisdiction over plaintiffs' Sherman Act claims pursuant to 15 U.S.C. § 15 and 28 U.S.C. §§ 1331 and 1337(a). Supplemental jurisdiction over the Oregon common law claims is also proper pursuant to 28 U.S.C. § 1367 because those claims are so related to the Sherman Act claims that they form part of the same case and controversy under Article III of the United States Constitution.

3. Venue in this District is proper under 28 U.S.C. § 1391 because the defendants regularly transact business within this District and a substantial part of the events giving rise to plaintiffs' claims occurred in this District. Specifically, defendants' illegal conduct occurred in this District, has affected commerce in this District, and has caused injury in this District.

## **PARTIES**

4. Plaintiff Seawater Seafoods Company is an Oregon corporation engaged primarily in the business of purchasing live Dungeness crab, processing those crab in a live state and exporting the finished product to foreign markets. In 2016, Seawater expanded its business into the market for squid and Albacore tuna. Seawater also intends to expand into other markets including for coldwater shrimp and trawl-caught groundfish

5. Plaintiff Bret Hamrick (Hamrick) is a resident of Newport, Oregon and the sole owner of Seawater.

6. Plaintiff Front Street Marine LLC (Front Street) is an Oregon limited liability company that owns waterfront property on S.W. Bay Boulevard in Newport, Oregon, including tax lots 1800 and 2000. Since 2014, Front Street has leased tax lots 1800 and 2000 to Seawater.

## **BACKGROUND**

7. Defendant Frank Dulcich owns or controls and serves as president or lead executive of a combination of more than 50 entities that, collectively, hold and exercise monopoly power in the West Coast seafood markets for coldwater shrimp, trawl-caught groundfish and Pacific whiting delivered to West Coast onshore seafood processors.

8. Defendant Pacific Seafood Group (PSG) is the business name for the combination of more 50 entities owned entirely by Defendant Dulcich. PSG holds and exercises monopoly power in the West Coast seafood markets for coldwater shrimp, trawl-caught groundfish and Pacific whiting delivered to West Coast onshore seafood processors. In Newport, Oregon, PSG owns and operates a seafood processing plant on the Newport bayfront that operates under the name Pacific Shrimp Company.

9. Defendant Dulcich Realty Acquisition, LLC (“DRA”) is an affiliate of PSG that owns tax lots 1400, 1401, 1700, 1900 and 2100 on the Newport bayfront and leases that property to Pacific Shrimp Company.

10. Defendant Pacific Hooker, LLC is an Oregon limited liability company, an affiliate of PSG, and the owner of the F/V PACIFIC HOOKER, a commercial fishing vessel homeported in Newport, Oregon.

11. Defendant Pacific Fishing LLC is an Oregon limited liability company and affiliate of PSG that manages the F/V PACIFIC HOOKER and 12 other commercial fishing vessels owned by entities owned and controlled by defendant Dulcich.

### **PGS' MONOPOLY POWER**

12. Defendant PSG is a vertically integrated commercial network that, since at least 2005, has possessed monopoly power in several geographically confined seafood input markets along the West Coast, including the markets for processed trawl-caught groundfish, Pacific onshore whiting, and Pacific coldwater shrimp (collectively, the Monopolized Markets). In 2009, for example, PSG controlled market shares of 53%, 65%, and 71% in the trawl-caught groundfish, Pacific onshore whiting, and Pacific coldwater shrimp markets, respectively.

13. The monopolized markets include a geographic zone that stretches from Ft. Bragg, California north to the Canadian border. This relevant geographic market area includes smaller, more localized relevant geographic submarkets that are generally within a 60 to 100-mile distance from a port or cluster of ports. Because of the perishable character of the West Coast fisheries that make up the Monopolized Markets and the substantial transportation costs associated with catch delivery, particularly fuel, West Coast fishermen uniformly deliver

their catches to processors within 60 to 100 miles from the point of harvest. As a practical matter, due to the perishability and transportation cost factors, West Coast fishermen do not have a choice other than to deliver their raw seafood commodities to shoreside West Coast processors that are within a reasonable steaming time of the place of harvest in the Pacific Ocean.

14. During the past decade, PSG's monopoly power in each of the Monopolized Markets has been protected by significant barriers to entry and expansion, including inelastic supply, uncertainty of future supply due to intense regulation, the capital intensive nature of seafood processing, and the limited availability of waterfront locations zoned and suitable for industry participation.

15. PSG has also actively protected its monopoly power through a variety of predatory tactics calculated to exploit and reinforce existing barriers to entry in the Monopolized Markets, leverage its monopoly power to create new barriers, and specifically target incipient competitors. A non-exhaustive list of PSG's predatory conduct includes:

- **Fraudulent Acquisitions** – Throughout at least the past decade, PSG has regularly targeted and acquired competing processors at prices substantially below fair market value by leveraging fraudulent claims against them to negotiate acquisition at a discounted price;
- **Secret Anticompetitive Dealings** – Between 2014 and 2015, PSG secretly negotiated to acquire its largest competitor, Ocean Gold Seafoods, Inc. and its affiliated entities, in violation of the Sherman Act's Section 2 prohibition on monopolization and the Clayton Act's Section 7 prohibition on anticompetitive mergers and acquisitions. The illegal, anticompetitive transaction was enjoined shortly before it was scheduled to close, after West Coast fisherman successfully brought suit and obtained a preliminary injunction in *Boardman v. Pacific Seafood Group*, Civil No. 1:15-cv-00108-MC;

- **Aggressive Consolidation of Means of Production** – PSG has aggressively consolidated ownership of processing capacity, fishing vessels, and harvest permits;
- **Suppression of Ex Vessel Prices** – PSG sets and enforces ex vessel prices in the Monopolized Markets below competitive levels by intimidating competitors who offer higher ex vessel prices, setting arbitrary poundage limits on fishing vessel deliveries, and using its captive fishing fleet to hold down prices;
- **Exclusive Dealing and Tying Arrangements** – Between at least 2002 and 2012, PSG coerced fishermen into long-term exclusive dealing arrangements by: (1) illegally tying its willingness to make a market for seafood commodities in which it held substantial market power to a commitment by that fisherman to deliver other seafood commodities to PSG; (2) retaliation against non-complying fishermen; and (3) making loans and advances to fishermen conditioned on delivery of all seafood commodities harvested by those fishermen to PSG.

16. PSG's illegal tactics have proven effective. Through its predatory conduct, PSG has achieved vertical integration, economies of scale, and absolute cost advantages that protect its ability to maintain and expand its monopoly power. These entrenched advantages, coupled with PSG's reputation for cutthroat exclusionary conduct as a dominant purchaser of seafood commodities, have crippled competition in the Monopolized Markets.

17. In addition to its near total control of the Monopolized Markets, PSG has successfully used the same illegal tactics to accrue market power in the Oregon Dungeness crab market. Currently, PSG is the single largest buyer and processor of Dungeness crab within a 60 to 100-mile radius of Newport, Oregon, accounting for more than 50% of all Dungeness crab purchases in that zone in each of the last ten years. As a result, PSG holds monopoly power in the central Oregon coastal geographic market for Dungeness crab. PSG's goal is, as it did in the Monopolized Markets, to extinguish competition in the Dungeness crab market through exclusionary conduct.

18. The economic harm from PSG's entrenched anticompetitive campaign is hard to overstate. The Monopolized Markets are three of the four most valuable seafood input markets on the West Coast of the United States. Likewise, the Dungeness crab market is a critical local fishery and economic driver. Loss of competition in these markets from PSG's monopolization and attempted monopolization has restricted consumer choice by decreasing the availability of fresh seafood products, deprived fishermen and vessel owners of competitive earnings, and impaired the economic diversity of Oregon's coastal communities, including the City of Newport.

19. Defendants' monopolist enterprise substantially controls the seafood commodity industry operating out of Yaquina Bay in the City of Newport. Specifically, DRA owns real property and structures erected on tax lots 1400, 1401, 1700, 1900, and 2100 (collectively, the Properties) that comprise several hundred lineal feet of frontage along Yaquina Bay, from which PSG engages in its vertically integrated seafood products business.

20. Although DRA owns the structures erected on the Properties, most of the square footage of those structures is erected on piling over submerged and submersible lands owned by the State of Oregon. Accordingly, in addition to its ownership interest in the Properties, DRA is party to a 2003 Submerged and Submersible Land Lease ("Lease") with the State of Oregon Division of State Lands. The Lease controls the scope of defendants' legal activities on the submerged and submersible lands lying under the Properties and prohibits DRA (and its tenant, PSG) from interfering with the public's use rights. Specifically, the Lease contains the following reservation of rights to the public:

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- 5.3 Public Access and Recreational Use Reservation: All state-owned submerged and submersible land shall remain available and open to the public for commerce, navigation, fishing and recreation unless restricted or closed by State to public entry pursuant to the provisions of applicable Oregon Administrative Rules. Lessee may request State, but State is not obligated, to close the Leasehold to public entry or restrict recreational use by the public on all or portions of the Leasehold to protect person or property from harm arising from or in connection with Lessee's activities.

Notably, the State has not closed the Leasehold to public entry or in any way restricted the public's use rights.

21. The Lease also contains the following restriction on defendants' use of the Leasehold:

- 5.4 Restriction on use: In connection with the use of the leasehold, the LESSEE shall:

...

- 5.4.6 Not unreasonably interfere with the public's trust rights of commerce, navigation, fishing or recreation.

22. The Lease is consistent with long settled Oregon law holding that the State's navigable waters, including Yaquina Bay, are held in trust by the State for the benefit of the public. Defendants do not own, nor do they have any form of exclusive or preferred right to use any part of the navigable waters of Yaquina Bay, regardless of proximity to defendants' property.

23. As described in detail below, defendants have repeatedly violated the Lease and the law by wrongly exercising exclusive control of the public waterway adjacent to their property to the detriment of the public, including plaintiffs.

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### **PLAINTIFFS' ENTRY INTO THE MARKET**

24. In the face of defendants' monopolist behavior, plaintiffs have fought to bring increased economic diversity, competition, and opportunity to the Yaquina Bay-based commercial fishing industry.

25. In 2012, Front Street outbid DRA to acquire two parcels of Yaquina Bay waterfront property, tax lots 1800 and 2000, from the City of Newport. Two years later, in 2014, it purchased a third parcel located at 267 SW Bay Boulevard. Front Street's intent in these acquisitions was to add infrastructure and diversify the commercial seafood business in Yaquina Bay. To that end, the company plans to develop a 15,000 square foot seafood processing facility at the 267 SW Bay Boulevard property that will include truck bays, hoists, cold storage, seafood marketing, and administrative offices. The planned development will also engage the public by providing access to view seafood product being offloaded from fishing vessels, weighed, and graded.

26. In keeping with its goal of facilitating economic diversification, since 2014 Front Street has leased tax lots 1800 and 2000 to upstart live crab buyer Seawater Seafoods.

27. Plaintiff Bret Hamrick founded Seawater in 2012. Mr. Hamrick, who has been involved in the fishing industry since 1991, formed the company as a purveyor of live Dungeness crab. During the first two years of its operations, Seawater received live crab deliveries from commercial fishermen at the City of Newport's public docks on Yaquina Bay. Operating on the public docks was a significant hindrance to Seawater's operations, forcing it to complete administrative work offsite, offload in inclement weather, and maintain an entirely portable operation sophisticated enough to keep the crab alive during shipment.

28. Seawater's 2014 lease of tax lots 1800 and 2000 from Front Street was an important logistical improvement. Specifically, tax lot 1800 includes 30 feet of frontage on Yaquina Bay that allows Seawater to offload live crab at its own premises rather than the public dock. In anticipation of taking all crab deliveries at its new facility, Seawater formed business relationships with multiple crab fishermen and advised them that it would conveniently offload their catch using a newly installed hoist on the dock at tax lot 1800. Seawater reasonably expected that its new facility would generate increased deliveries from fisherman and enable it to grow its business.

29. The growth of live crab buying businesses such as Seawater is a boon to the local economy and consumers. Live crab buyers, because they are less capital intensive and fetch higher resale prices than traditional processors like PSG, typically pay higher ex vessel prices to fishermen for their catch. Improved ex vessel prices, of course, directly benefit local crab fishermen and create improved competitive conditions in the broader seafood products market. Likewise, consumers also benefit through increased choice and availability of fresh seafood products.

30. Seawater's facility at tax lot 1800 is sandwiched between defendants' tax lots 1400, 1401, and 1700 (to the east), and 1900 (to the west). When the City of Newport offered tax lots 1800 and 2000 for sale in 2012, DRA made a minimum bid for the properties, hoping to acquire them cheaply and further consolidate its Yaquina Bay operations. Instead, to defendants' consternation, Front Street outbid DRA, acquired the properties, and leased them to Seawater.

31. Unfortunately for plaintiffs, Seawater's new neighbor, PSG, has proven less enthusiastic about improved diversity and competitive conditions in the Yaquina Bay seafood industry. Instead, Front Street's lease of tax lots 1800 and 2000 to Seawater triggered a tortious, anticompetitive response from PSG that severely damaged plaintiffs' business and threatens Mr. Hamrick's livelihood.

#### **DEFENDANTS' ILLEGAL CONDUCT DURING THE 2014-15 CRAB SEASON**

32. Shortly after Seawater took possession of tax lots 1800 and 2000, defendants made clear their exclusionary intent. As described below, throughout the 2014-15 crab season defendants relentlessly harassed plaintiffs, intimidated Seawater's suppliers, obstructed its access to public waterways, allowed its property to be damaged by wild animals and noxious chemicals, and generally acted in a manner calculated to snuff out plaintiffs' competing business.

33. Defendants' began harassing plaintiffs at the beginning of the 2014-15 crab season when, in December, 2014, they moored an 18-foot derelict skiff immediately adjacent to the western boundary of tax lot 1800. Defendants' sole object in mooring the derelict skiff in that location was to illegally obstruct crab fishermen from delivering their catch to Seawater's facility by cutting off access to the public waterway adjacent to defendants' property. Defendants maintained the derelict skiff moored in that location for the entire crab season, made no use of the boat for any business purpose whatsoever, and did not move the boat at all until April 2015.

34. Throughout the 2014-15 crab season, Defendants Pacific Fishing, LLC and Pacific Hooker, LLC also regularly instructed the crew of the F/V PACIFIC HOOKER to moor

her at the westernmost edge of defendants' tax lot 1700. Defendants had no business purpose whatsoever for directing the F/V PACIFIC HOOKER to moor at that location. Rather, defendants did so solely out of spite and ill will for plaintiffs, to disrupt Seawater's ability to accept deliveries from its supplier fishermen, and to intimidate potential suppliers into not doing business with Seawater.

35. Defendants also installed a camera on the waterfront end of the building on tax lot 1900 and oriented the camera to observe all offloading operations at Seawater's facility. The presence of this camera was intimidating and caused multiple crab fishermen to refuse to make deliveries to Seawater.

36. Defendants' malicious mooring constantly interfered with Seawater's business operations. Specifically, Seawater's crab suppliers were blocked from accessing the hoist at its facility and, instead, were forced to offload their catch at the public docks. Thus, defendants' calculated obstructionism eliminated the precise logistical benefit that Seawater sought when it leased tax lot 1800. As a result, Seawater lost significant business from crab fishermen who, rather than use the inefficient public docks, sold their catch to other buyers, including PSG.

37. Notably, defendants' efforts to intimidate and dissuade crab fishermen from doing business with Seawater were made effective by PSG's monopoly power. Local fishermen reasonably feared that PSG would punish them for doing business with its competitor by refusing to deal with them in the future. PSG's monopolist status and cutthroat reputation made its threat credible and potentially devastating to fishermen who often rely on PSG as the only option to sell their catch.

38. Throughout the 2014-15 crab season, defendants took a host of other actions specifically intended to harass and disrupt Seawater's operations. For example, defendants, without the required permit, often sited a large dumpster and waste truck full of dead crab carcasses next to Seawater's facility in order to disrupt it from loading live crab onto its trucks. Defendants also left the roll-up doors to tax lot 1900, which shares a common building with plaintiffs' tax lot 1800, open all night. This allowed the regular entry of raccoons and other vermin into the building and resulted in damage to Seawater's property and interference with its business operations.

39. Beyond their intentional efforts to snuff Seawater out of business, defendants also showed a total disregard for plaintiffs' property and personal health by allowing ammonia gas to leak onto tax lot 1800 from defendants' adjacent cold storage facility. In one egregious instance, on February 12, 2015, the large volume of leaked ammonia gas caused more than 2,500 pounds of live crab stored at Seawater's facility to bleach white and die.

40. On several other occasions, leaked ammonia gas from defendants' cold storage facility on tax lot 1700 made Seawater's personnel physically ill, further disrupting the company's business and, in some instances, forcing employees to leave work entirely until the noxious gas dissipated.

#### **DEFENDANTS' CONTINUING ANTICOMPETITIVE INTENTIONS**

41. On December 19, 2015, after plaintiffs moved for a preliminary injunction in a now voluntarily dismissed case filed in Lincoln County Circuit Court against defendants' illegal conduct, plaintiffs and defendants entered into a Stipulation that required the parties to cooperate so that Seawater could operate without unreasonable interference by defendants.

42. During the 2015-16 crab season, the Stipulation achieved its desired effect. Defendants did not obstruct fishing vessels from delivering their catch at Seawater's facility, and Seawater was able to operate without hindrance.

43. Defendants promptly abandoned cooperation, however, after Seawater expanded the scope of its business to participate in the squid market. In May 2016, for the first time in many years, unusually warm temperatures in the Pacific Ocean drove the Eastern Pacific squid fishery north into Oregon waters. Seawater seized the opportunity to grow its business and, during the month of May, took delivery from several squid seiners at its Yaquina Bay facility. As described below, PSG reacted to the expansion of competition from Seawater by abandoning the spirit of the Stipulation in favor of reverting to harassment and anticompetitive conduct.

44. Based on its strong 2015-16 crab season and successful entry into the squid market, Seawater intends to continue to expand the scope of its business. Specifically, Seawater intends to enter or expand its participation in the Monopolized Markets for coldwater shrimp and trawl-caught groundfish.

45. In order to access specialized equipment used to offload squid, some of the seiners making delivery at Seawater's facility overhung slightly onto the public waterway adjacent to defendants' tax lot 1700. Despite the fact that the squid seiners did nothing more than make legitimate commercial use of a public waterway, defendants seized on the overhang as a pretext to renew their harassment of plaintiffs. Defendants are simply retaliating against Seawater for expanding the scope of its competition with PSG. As Seawater expands into the Monopolized Markets, defendants will increasingly revert to the predatory tactics described above in order to illegally protect their monopoly power.

46. Defendants have already signaled their intent to ramp up interference with Seawater's business. Defendants are currently engaged in a large construction project on tax lots 1400, 1401, and 1700. As part of that project, defendants intend to install a hoist to facilitate offloading of crab and other seafood products at the location. Despite having over 300 lineal feet of contiguous dock space, defendants sited the hoist at the westernmost edge of tax lot 1700, immediately adjacent to Seawater's facility.

47. Defendants have no legitimate business purpose whatsoever for siting the hoist at the westernmost edge of tax lot 1700. The proposed siting is in no way preferable to any other location along defendants approximately 300 feet of contiguous dock space. Rather, defendants selected the location solely with the intent and for the purpose of creating artificial congestion and disrupting Seawater's operations. The proposed siting also improves PSG's ability to monitor fisherman doing business with Seawater and sends a clear, intimidating message that PSG controls the offloading area.

48. PSG's use of a hoist on the westernmost edge of tax lot 1700 will inevitably put Seawater out of business by eliminating its suppliers' ability to offload their catch. That result, of course, has always been defendants' intent.

49. The scope of harm from PSG's use of the hoist at the proposed location, however, is not limited to plaintiffs. Rather, it will permanently eliminate the prospect of competition from any business operating out of tax lot 1800. If PSG is allowed to proceed as planned, it will consolidate the seafood products industry along the Yaquina Bay waterfront through the same exclusionary tactics that it successfully used to seize power over the Monopolized Markets.

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**FIRST CLAIM FOR RELIEF**

**(Monopolization)**

50. Plaintiffs reallege paragraphs 1 through 49 above.

51. Defendants' use of a hoist at the westernmost edge of tax lot 1700 will increase PSG's existing monopoly power positions in the Monopolized Markets in violation of Section 2 of the Sherman Act. As a prospective participant in the Monopolized Markets for trawl-caught groundfish and coldwater shrimp, Seawater will suffer irreparable harm in the form of decreased opportunity to compete in these markets, which in turn will restrict its commercial growth, suppress ex vessel prices paid to fishermen below competitive levels, and diminish consumer choice.

52. To prevent PSG from violating Section 2 of the Sherman Act through its ongoing monopolization efforts, this Court should order preliminary and permanent injunctions prohibiting PSG from siting a hoist at tax lot 1700 in a location and manner that interferes with Seawater's business operations.

53. Pursuant to Section 4 of the Clayton Act, 15 U.S.C. § 15, plaintiffs are entitled to their reasonable attorneys' fees incurred in connection herewith.

**SECOND CLAIM FOR RELIEF**

**(Attempted Monopolization)**

54. Plaintiffs reallege paragraphs 1 through 49 above.

55. PSG, with the specific intent to obtain monopoly power, is attempting to monopolize the Monopolized Markets and the Yaquina Bat market for Dungeness crab through the use of the exclusionary practices alleged above.

56. To prevent PSG from violating Section 2 of the Sherman Act through its ongoing monopolization efforts, this Court should order preliminary and permanent injunctions prohibiting PSG from siting and using a hoist at the western edge of tax lot 1700 in a location and manner that interferes with Seawater's business operations.

57. Pursuant to Section 4 of the Clayton Act, 15 U.S.C. § 15, plaintiffs are entitled to their reasonable attorneys' fees incurred in connection herewith.

### **THIRD CLAIM FOR RELIEF**

#### **(Tortious Interference with Business Relations)**

58. Plaintiffs reallege paragraphs 1 through 49 above.

59. Plaintiffs Hamrick, Seawater, and Front Street are engaged in business relationships among themselves. Specifically, Hamrick is the sole owner of Seawater which, in turn, is in privity with Front Street for the lease of tax lots 1800 and 2000. Additionally, Hamrick and Seawater maintain business and professional relationships with multiple local fishermen and vessel owners that supply Seawater with seafood products.

60. Defendants are not party to any of the business relationships among plaintiffs or between Seawater and its suppliers.

61. Defendants' actions, as alleged above, intentionally interfered with the lease between Front Street and Seawater by threatening to render tax lots 1800 and 2000 unfit for their intended purpose. Defendants' interference damaged Front Street's reputation and exposes it to significant risk that the year-to-year lease between the company and Seawater will not be renewed.

62. Defendants' actions, as alleged above, intentionally interfered with Seawater and Mr. Hamrick's business relationships with the fishermen and vessel owners that supply Seawater with seafood products. Defendants' actions have damaged the reputations of Mr. Hamrick and his company, Seawater, by making them appear unreliable or inefficient when in fact they are not. Further, defendants' actions have caused some fishermen and vessel owners to refuse to do business with Seawater based solely on their fear of retaliation by defendants.

63. Defendants employed improper means to accomplish their intentional interference. Specifically, defendants: (1) violated the Lease and settled Oregon law by unreasonably obstructing Seawater's commercial use of a public waterway; (2) threatened and intimidated fishermen and vessel owners; (3) negligently allowed plaintiffs' property to be damaged by vermin and noxious gas; and (4) engaged in exclusionary conduct in violation of Section 2 of the Sherman Act.

64. Defendants' actions, as alleged above, were taken for the improper purpose of disrupting and ultimately destroying Seawater's business in order to protect defendants' existing monopoly power and attempted monopolization of the Dungeness crab market.

65. As a result of defendants' actions as alleged above, Seawater suffered economic damages in the form of delay-caused inefficiencies and lost business in an amount to be proven at trial, but presently estimated at \$200,000. Seawater also suffered damage to its reputation in the amount of \$300,000.

66. As a result of defendants' actions, Front Street suffered damage to its reputation in the amount of \$100,000.

67. As a result of defendants' actions, Mr. Hamrick suffered non-economic damages in the form of extraordinary stress, loss of health, and mental suffering in the amount of \$300,000.

68. Defendants have an established history of exclusionary conduct. Plaintiffs have every expectation that defendants will continue the harassing behavior alleged herein to interfere with Seawater operations and disrupt, prevent or discourage commercial fishermen from delivering their catch. If not enjoined, defendants' illegal conduct will put Seawater out of business and destroy the commercial value of Front Street's tax lots 1800 and 2000. Plaintiffs have no adequate remedy at law and require preliminary and permanent injunctive relief.

#### **FOURTH CLAIM FOR RELIEF**

##### **(Trespass)**

69. Plaintiff Seawater realleges paragraphs 1 through 49 above.

70. Seawater has the right to occupy tax lots 1800 and 2000 and is entitled to the quiet enjoyment of those premises.

71. The substantial ammonia leak from defendants' premises on February 12, 2015 was the result of intentional or reckless actions on the part of defendants and/or defendants' agents.

72. Defendants' intentional or reckless conduct caused ammonia gas to flow onto Seawater's facility, resulting in the loss of more than 2,500 pounds of live Dungeness crab and damages to Seawater in an amount to be proved at trial, but presently estimated to be \$30,000.

73. Seawater is entitled to prejudgment interest at Oregon's legal rate of 9% from the February 12, 2015 date of that loss.

**FIFTH CLAIM FOR RELIEF**

**(Negligence)**

74. Plaintiff Seawater realleges paragraphs 1 through 49 and 68 through 73 above.

75. In allowing a major ammonia leak to be emitted from defendants' premises through a common wall into plaintiff Seawater's facility, defendants and/or defendants' agents were negligent in the following particulars:

- a. Failing to turn off ammonia supplies while making repairs within defendants' processing plant to ensure that no leak occurred during those repair activities;
- b. Failing to follow best safety practices while undertaking repairs to a system utilizing ammonia gas; and
- c. Failing to properly supervise or monitor repair work involving or in close proximity to a substantial source of stored ammonia gas.

76. As a result of defendants' negligence as alleged above, Seawater suffered the loss of more than 2,500 pounds of live Dungeness crab, resulting in damages in an amount to be proved at trial, but presently estimated to be \$30,000.

77. Plaintiff Seawater is entitled to prejudgment interest at Oregon's legal rate of 9% from the February 2015 date of that loss.

**PRAYER FOR RELIEF**

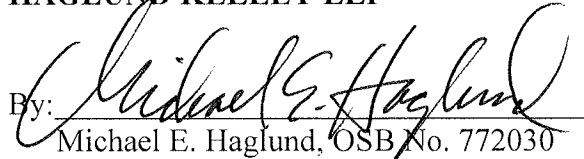
WHEREFORE, plaintiff prays that this Court award the following relief:

1. On their First and Second Claims for Relief, for preliminary and permanent injunctive relief and their reasonable attorneys' fees as provided by law;
2. On their Third Claim for Relief, for preliminary and permanent injunctive relief and for economic damages to be proven trial but presently estimated to be \$200,000 and for non-economic damages of \$700,000;
3. On Seawater's Fourth Claim for Relief, for damages in the amount of \$30,000;

4. On Seawater's Fifth Claim for Relief, for damages in the amount of \$30,000;
5. On all Claims for Relief, for their costs and disbursements incurred herein; and
6. For such other relief as the Court deems just and proper.

DATED this 9<sup>th</sup> day of August, 2016.

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Bret Hamrick and Front St. Marine LLC