

IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JEFFREY B. HAGOPIAN
Plaintiff

v.

NOBLE DRILLING (U.S.) LLC
Defendant

CIVIL ACTION NO.:

3:16-cv-00099

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff JEFFREY B. HAGOPIAN (hereinafter referred to as "Plaintiff"), by and through his undersigned attorney, brings this civil action against NOBLE DRILLING (U.S.) LLC, (hereinafter referred to as "Defendant") to assert a claim under 46 U.S.C.A. §2114 *et. seq.*, which provides in pertinent part that a person may not discharge or in any manner discriminate against a seaman because the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate federal agency or department that the seaman believes that a violation of maritime safety law or regulation proscribed under that law or regulation has occurred, and shows the Court the following:

1. PARTIES

- 1.1. Plaintiff JEFFREY B. HAGOPIAN is a resident of Naples, Florida. At all times pertinent herein he was a seaman as contemplated by 46 U.S.C.A. §2114 *et. seq.*
- 1.2. Defendant NOBLE DRILLING (U.S.) LLC is a Delaware corporation with its principal place of business in the state of Texas. Defendant can be served with process through its

registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

2. JURISDICTION AND VENUE

- 2.1. The Court has subject matter jurisdiction over this case based on federal question jurisdiction, under 28 U.S.C. §1331 and 29 U.S.C. §216(b).
- 2.2. Venue is proper in the Southern District of Texas – Galveston Division pursuant to the admiralty and maritime laws of the United States, Fed. R. Civ. P. Rule 82.

3. EXHAUSTION OF ADMINISTRATIVE REMEDIES

- 3.1. Plaintiff has exhausted his administrative remedies in accordance with 46 USC § 2114, Seaman’s Protection Act, because 210 days has passed since the filing of Plaintiff’s complaint with the Department of Labor, the Secretary has not issued a final decision within that time, and the delay is not due to the Plaintiff’s bad faith. 49 U.S.C. §31105(c).

4. FACTUAL AND LEGAL BACKGROUND

- 4.1. Plaintiff, a United States Coast Guard Unlimited Tonnage Captain, began his employment with Defendant in April 2009 as the Chief Mate on a vessel known as the “Danny Adkins.” In March 2010 he was promoted to be the Captain of the “Danny Adkins” and remained in that position until his termination on March 31, 2015.
- 4.2. The “Danny Adkins” is considered by Defendant to be the “flagship” of its fleet and under Plaintiff’s command, had been contracted to the Shell Oil Corporation until September 2014, to the contentment of Shell. The “Danny Adkins” was a top-performing rig and Plaintiff consistently received evaluations that were above standard on what was regarded as the best performing and safest drilling rig in Defendant’s fleet.

- 4.3. The “Danny Adkins” also had another Captain in place, given that a typical shift tour would consist of 21 days on duty followed by 21 days off duty. Consequentially, when one Captain was on the vessel, the other was off. The other Captain on the “Danny Adkins” was named Dan Askins who had previously served as a Chief Mate under Plaintiff who was instrumental and an advocate in Askins being promoted to Captain.
- 4.4. Both Plaintiff and Askins reported to Noble’s Drilling Superintendent, John Hawkins.
- 4.5. On February 10, 2015, the United States Coast Guard came to the “Danny Adkins” for a scheduled inspection. The “Danny Adkins” has four life boats on board as well as one “fast rescue craft.” The fast rescue craft is launched through a process known as a gravity davit which is a metal arm counterweight that is lifted up and then disengages the brake which allows the boat to descend. Three days prior to the Coast Guard inspection, it was discovered that the davit was not working properly. Plaintiff was not on the vessel at the time this was discovered.
- 4.6. Under 46 USC, 33 CFR § 3315, the proper protocol in this situation would be to have a meeting before the inspection and to be candid and up front with the Coast Guard, advising them of the problem and advise that it was under control and being fixed. Section 3315 requires an individual holding a license issued by the Coast Guard to assist in inspection authorities and to make defects and imperfections known to those authorities.
- 4.7. Plaintiff discovered that the failure of the davit upset Askins to the point that he attempted to get his Chief Mate to lie to the Coast Guard about the effect of the problem. The davit was manipulated to temporarily work so that it would not raise a flag to the Coast Guard. The Chief Mate refused to lie, for several reasons; one being that the Coast

Guard's inspection team would notice the temporary fix. The Coast Guard did, in fact, notice that the davit was not operating properly and subsequently wrote this up as a "work-list" item.

- 4.8. Askins reported to Hawkins that the malady was due to operator error, blaming it on the Chief Mate. He then tried to point the finger at Plaintiffs crew contending that they did not do the requisite inspections. He also suggested to Hawkins that they needed to change crews around because things were "not getting done." Askins also suggested that he and Plaintiff change crews and was able to get Hawkins to agree to in, all in an effort to disguise the true reason for the incident with the Coast Guard.
- 4.9. After Plaintiff learned from the Chief Mate that Askins wanted him to lie to the Coast Guard and that the Chief Mate refused, Plaintiff placed a call to Defendant's Alternate Designated Person Ashore ("ADPA"). The DPA/ADPA is used in situations where an employee wants to report safety concerns so they can be handled neutrally. The DPA/ADPA process is mandated by the International Maritime Organization ISM Code / Safety Management System. The DPA/ADPA is the link between the vessels and the shore-based management. Plaintiff was able to confirm that his report was accepted by the DPA/ADPA. Plaintiff received email confirmation of this from the ADPA. ISM Compliance is required by law and without a compliant ISM Code Safety Management System the vessel cannot operate. In addition, Plaintiff also learned from the Chief Mate that there was a false entry in the vessels deck log book on January 29, 2015 pertaining to the "launching and maneuvering" of all four lifeboats. In Plaintiff's same report to the ADPA, the false entry of the "launching and maneuvering" of the lifeboats was also conveyed. This was a knowing and deliberate action to falsify the inspection of lifesaving

equipment. Making false log book entries is a violation of 18 USC, Section 1001. The DPA's subsequent investigation into the "launching and maneuvering" of the lifeboats concluded that this was, in fact, a false entry and that all four lifeboats were not "launched and maneuvered" as was reported in the vessels log book. Lastly, email correspondence of February 9th and 10th, 2015 between Drilling Superintendent John Hawkins and Captain Dan Askins showed a "knowing and willful" intent to not be forthright with the Coast Guard during their above mentioned inspection of February 10, 2015. This intent was suggested to Captain Dan Askins from the Alternate Designated Person Ashore (ADPA).

- 4.10. Plaintiff attended a class at Defendant's training center the following week. He contemporaneously sent an e-mail to Defendant's Human Resources department requesting a face to face meeting. On March 26, 2015 Plaintiff attended a meeting with Greg Broussard, Joe Knight and Priscela Heistad, wherein he spelled out the entire situation regarding the attempts to lie to the United States Coast Guard. On March 31, 2015, Plaintiff's employment was terminated via telephone and shortly thereafter his internal e-mail of April 2, 2015 was ordered deleted from all rig's computers and his personal e-mail access was blocked from Defendant's server.

5. JURY DEMAND

- 5.1. Plaintiffs demand a jury trial.

6. DAMAGES AND PRAYER

- 6.1. Plaintiff asks that the Court issue citation for Defendant to appear and answer, and that Plaintiff be awarded a judgment against Defendant for the following:
 - a. Actual damages consistent with 46 U.S.C.A. § 2114 *et. seq.*;

- b. Prejudgment and post-judgment interest;
- c. Court costs;
- d. Reasonable attorneys' fees; and
- e. All other relief to which Plaintiff is entitled under 46 U.S.C.A. § 2114 *et. seq.*

Respectfully submitted,

/s/ **Gregg M. Rosenberg**

Gregg M. Rosenberg
USDC SD/TX No. 7325
Texas State Bar ID 17268750
ROSENBERG & SPROVACH
3518 Travis Street, Suite 200
Houston, Texas 77002
(713) 960-8300
(713) 621-6670 (Facsimile)
Attorney-in-Charge for Plaintiff

OF COUNSEL:
ROSENBERG & SPROVACH

ATTORNEYS FOR PLAINTIFF