

LAW OFFICE OF ARNOLD J. CESTARI, JR.

P.O. BOX 821
MATTAPOISETT, MA 02739

Arnold J. Cestari, Jr.
Annmarie Gould

Telephone: [REDACTED]
Facsimile: [REDACTED]
e-mail: [REDACTED]

May 1, 2014

VIA EMAIL ONLY: [REDACTED]

LSJE, LLC
6100 Red Hook Quarters
Suite 3B
St. Thomas, VI 00802-1348

RE: Salvor: Sea Tow Virgin Islands
Yacht: LITTLE C
Date of Service: April 25 & 26, 2014
Claim for Salvage Assistance

Dear Mr. Vicars:

This office serves as Sea Tow US Virgin Islands' salvage claims administrator and with this letter submits Sea Tow's claim for marine salvage of the Pro Sport 3660 *LITTLE C* (the "Yacht.") As you will recall, on April 25, 2014, the Yacht ran aground on the rocks at Great St. James Island, was holed and needed pulling power to get off ground. Sea Tow responded to the scene and pulled the Yacht off the rocks, plugged the hole to slow the ingress of water then provided a pump and 4,000-lb. air lift bag to ensure she made it to the ramp afloat for haul out. Under the circumstances, the service provided by Sea Tow falls within the classification of no cure-no pay pure salvage. To be entitled to a pure salvage award, the salvors must prove three elements:

- that the Yacht was in peril and needed assistance;
- that the salvors came to her aid voluntarily, and
- that the salvors' service saved the Yacht in whole or in part.

All three elements were present here. Therefore, the salvors are entitled to salvage compensation. Compensation for pure salvage is dependent upon the facts of each particular incident. Unlike towage, salvage is not based on time and material charges. Rather, it is governed by federal maritime law and since 1869 the well-settled law outlines six factors used in the calculation of a salvage award.^{1/} Those factors are listed in descending order of importance as follows: the degree of danger from which the ship was rescued; the post casualty value of the property saved; the risk incurred in saving the property from impending peril; the promptitude, skill and energy displayed in rendering the salvage services; the value of the property employed by the salvors and the dangers to which it was exposed and the costs in terms of labor and materials expended by the salvors in rendering the

^{1/} See The Blackwall, 77 U.S. at 13-14, 2002 AMC at 1814-15.

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services. These factors were adopted by the International Convention on Salvage in 1989 and since then Article 13 of the Convention sets forth the criteria used to determine a pure salvage reward as follows:

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below:
 - a. the salvaged value of the vessel and other property;
 - b. the skill and efforts of the salvors in preventing or minimizing damage to the environment;
 - c. the measure of success obtained by the salvor;
 - d. the nature and degree of the danger;
 - e. the skill and efforts of the salvors in salvaging the vessel, other property and life;
 - f. the time used and expenses and losses incurred by the salvors;
 - g. the risk of liability and other risks run by the salvors or their equipment;
 - h. the promptness of the services rendered;
 - i. the availability and use of vessels or other equipment intended for salvage operations; and
 - j. the state of readiness and efficiency of the salvor's equipment and the value thereof.

In applying the above criteria to the facts here to determine the compensation sought, Sea Tow estimated the salvaged value of the Yacht and her engines at approximately \$140,000 based upon a pre-loss value of \$170,000 and estimated repair costs of \$30,000. If this estimated post loss value is incorrect, please let us know the actual pre-loss value and cost of repairs as soon as possible and the award sought will be adjusted accordingly. As to the skill and efforts of the salvors in preventing or minimizing damage to the environment, by refloating the Yacht before she broke apart under her own weight on the rocks, Sea Tow averted the potential liability of a fuel spill. As to the measure of success obtained by the salvors, that the Yacht made it to the haul out ramp afloat with a post loss value of \$140,000 is the best evidence of their success.

As to the nature and degree of danger, under maritime law, a vessel that is aground and unable to off ground without aid is presumed to be in a dangerous position as she is at risk of further destruction. In this case, when the Yacht ran aground, she became holed and was stranded high and dry on the rocks. For as long as the weight of the Yacht was not supported by the water, the hull was at risk of breaking apart. In many grounding situations, although a vessel does not possess sufficient buoyancy to float itself free, there can be enough buoyancy that when acted upon by wind and waves the vessel will momentarily be lifted completely or partially off ground and then come back into contact with the bottom as the influence of the swell or wind withdraws from the vessel. This condition, commonly referred to as "pounding," is a significant danger to any vessel in a grounding situation. Therefore, it is reasonable to assume had the Yacht remained on the rocks for an extended

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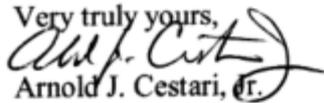
time, pounding forces would have eventually caused further structural damage. Instead, Sea Tow refloated the Yacht before further damage was sustained. Once the Yacht was floating free in deep water, as expected, she quickly began taking on water through the hole in the bow and the nature of the peril shifted from breaking apart on the rocks to sinking in deep water. Time being of the essence to get the Yacht out of the water, as soon as they pulled her off ground, the salvors deployed a high capacity 2-inch gas pump to remove water overboard and dove to plug the hole in the starboard bow with soft patching material to slow the ingress of water. Then, recognizing it was the fastest way to get ashore, the Yacht made way under her own power toward the haul out ramp. During the run to the ramp, the Yacht continued to take on water and was intentionally beached on a soft bottom in shallow water and the salvors rigged a 4,000-lb. air lift bag under the stern to support the weight of the engines while she continued toward the nearby ramp. Based on the foregoing, there can be no doubt the Yacht was exposed to many risks from breaking apart to sinking and but for the salvors' prompt intervention the outcome would have been much different.

Regarding the skill and efforts of the salvors in salvaging the Yacht, over the course of the operation, six salvors responded to the scene onboard two specially equipped salvage vessels. The salvors worked efficiently to refloat, plug and pump the Yacht to ensure she made it to the haul out ramp afloat. It was the salvors' skill and efforts that saved the Yacht from sustaining added structural damage to her hull and water damage to her engines. As to the time involved, from dispatch to demobilization, the salvors dedicated about eight hours to this undertaking. As to the risk of liability and other risks run by the salvors and their equipment, the dangers were among the many risks salvors are exposed to when providing salvage including the risk of injury while working around taut lines that often snap, cleats that break free under the strain of pulling a vessel off the rocks and diving below grounded vessels in the vicinity of rocks to assess damage and make temporary repairs. The risk to the salvors ranged from slight to high during various stages of the undertaking. The salvors' vessels were also at high risk of sustaining damage by going in and around the rocks in the dark to assist the Yacht. As to the promptness of the services rendered, Sea Tow received the call for help at approximately 2230 hours. A crew was immediately called in to respond to the scene and the salvors arrived alongside the Yacht by about 2315 hours. As to the availability and use of vessels or other equipment intended for salvage operations, a total of six salvors, including licensed captains, certified divers and deckhands participated in the operation. Also, two specially equipped commercial salvage vessels with pumps, patching material, air lift bags and standard gear needed in salvage operations responded to the scene. The two vessels have a combined value of about \$130,000. Had the situation worsened, the salvors had additional vessels and equipment available nearby, including pumps, patching material, dive gear, air lift bags, compressors, generators and miscellaneous salvage gear and materials, plus sea spill trailers containing readily available spill and containment materials used to respond to, contain and clean up fuel spills if needed.

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Based on the above factors, the salvors seek a salvage award of \$33,600, 24% of the \$140,000 estimated salvaged value. Keep in mind, but for the salvors' prompt intervention, the cost of repairs and/or replacement, plus possible wreck removal, pollution containment and clean up would have far exceeded the amount sought by the salvors for what they saved.

Since salvage is generally covered by most hull insurance policies, I suggest that you forward a copy of this claim to your marine insurer, if any. In the meantime, please contact our office if you need further information or have any questions regarding the claim or salvage in general. Finally, photographs taken and the documents signed at the time of the salvage are attached here in support of the salvage claim. I look forward to speaking with you or your agent soon.

Very truly yours,

Arnold J. Cestari, Jr.

Attachments

1. MARSALV Agreement
2. Log and Job Invoice No.904002001
3. Photographs

LAW OFFICE OF ARNOLD J. CESTARI, JR.

PO BOX 821
MATTAPOISETT, MA 02739

The Society of Maritime Arbitrators, Inc.
U.S. OPEN FORM SALVAGE AGREEMENT
Codename - MARSALV®

This **SALVAGE AGREEMENT** ("The Agreement"), between Little St James LLC
Master and/or Owner and/or Underwriter of the vessel Little St James
("The Vessel") and Seaman VI ("The Salvor"), is for salvage
services rendered or to be rendered to the Vessel, her cargo and other property currently lying at or near
St James Island, under the following terms and conditions:

FIRST: The Salvor shall use his best endeavors to save the Vessel, her cargo and other property and deliver
same safely afloat, hauled or drydocked at or near Little St James Island
at which place and time the Salvors services will terminate unless otherwise mutually agreed.

SECOND: The Master and crew of the Vessel agree to lend their aid and assistance to the Salvor, who shall be
entitled, free of expense, to the reasonable use of the Vessel's equipment.

THIRD: The Salvor's services are to be performed on the following basis (**check and initial**):

- No Cure-No Pay** (Compensation to be conditioned upon successful salvage of the Vessel and/or her cargo
and/or other property. In such case, the Salvors compensation shall be pursuant to the criteria and other
provisions of Article 13 of the 1989 International Convention on Salvage shown on the reverse of this Agreement).
- No Cure-No Pay, Fixed Fee \$** _____
- Per Diem/Hourly at** \$ _____ per day/hour pro rata
- Other** PURE SALVAGE

FOURTH: Notwithstanding the election(s) made in Paragraph THIRD, the Salvor shall in any event be entitled to
compensation for actions he takes to prevent or minimize damage to the environment, pursuant to Articles 13 and
14 of the 1989 International Convention on Salvage shown on the reverse of this Agreement.

FIFTH: The Salvor shall have a lien upon the Vessel, her cargo and other property for services rendered
pursuant to Paragraphs THIRD and FOURTH, and his statement for services rendered shall be submitted as
promptly as possible after completion or termination of such services. In lieu of arrest or attachment of the Vessel
the Salvor may demand reasonable security for such services from the Vessel and cargo interests as a condition
for releasing same.

SIXTH: This Agreement shall be governed by and construed in accordance with the Federal Maritime Law of the
United States. Any dispute arising out of this Agreement shall be referred to arbitration in the United States in
accordance with the applicable Arbitration Rules of the Society of Maritime Arbitrators, Inc. The Arbitrator(s) shall
be familiar with maritime salvage. Any award made hereunder may include interest, attorney's fees and costs, and
shall be final and binding. For the purpose of enforcement the Award may be entered for judgment in any court of
competent jurisdiction.

Dated this 26 day of April, 2017

For: **SALVOR**

[Signature]
(authorized signature)

ALAN W WIZNIEWSKI
(print name and title)

For: **VESSEL, CARGO and PROPERTY**

[Signature]
(authorized signature)

Danny F Vicars
(print name and title)

INTERNATIONAL CONVENTION ON SALVAGE, 1989

Article 13

Criteria for Fixing the Reward

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below:
 - (a) the salvaged value of the vessel and other property;
 - (b) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
 - (c) the measure of success obtained by the salvor;
 - (d) the nature and degree of the danger
 - (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
 - (f) the time used and expenses and losses incurred by the salvors;
 - (g) the risk of liability and other risks run by the salvors or their equipment;
 - (h) the promptness of the services rendered;
 - (i) the availability and use of vessels or other equipment intended for salvage operations;
 - (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.
2. Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.
3. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

Article 14

Special Compensation

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.
2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30% of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.
3. Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).
4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.
5. If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.
6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.



Sea Tow Virgin Islands
 8168 Crown Bay Marina, STE 310 - PMB 229
 St. Thomas, VI 00802

LOG AND JOB INVOICE #:

904002001

DATE: April 26 2011
 CAPTAIN:
 CREW:
 TOWBOAT:
 RADIO OPER:
 WEATHER:
 WIND SPD/DIR:
 SEA COND:
 VISIBILITY:
 TIDE:
 TIME OUT:
 ON SCENE:
 IN TOW:
 COMPLETE:
 TIME IN:

NAME: Little St James LLC MEMBER #: -
 ADDRESS:
 CITY: STATE: ZIP: 00802
 HOME PHONE: 340 775 2525 BUS/CELL PHONE:
 E-MAIL: Danny Vickers & Ythoo.com
 BOAT NAME: Little C ASSISTANCE OR DISABLED DUE TO:
 LENGTH: MAKE: 3660 CAT COLOR: white
 VESSEL HOMEPORT:
 POB: REG/DOC #: VL2907TC YEAR:
 DISPATCHED FROM: LAT/LONG:
 TOW LOCATION: LAT/LONG:
 DESTINATION: LAT/LONG:

IMPORTANT: THE AGREEMENT BELOW ALSO APPEARS ON THE REVERSE SIDE IN LARGER PRINT.
 CUSTOMER whose signature appears below acknowledges that he/she has the authority to authorize and hereby authorizes TOWER/ SALVOR to proceed on CUSTOMER'S / VESSEL MASTER'S / OWNER'S behalf or in the owner of the assisted vessel. CUSTOMER agrees to pay in full all charges and in the event of any collection procedure, including arbitration, made necessary by reason of the customer's failure to pay, agrees to pay all reasonable charges for collection including costs, attorney's fees, and interest. Charges incurred shall constitute a salvor's priority and retaining lien upon the vessel and all cargo, goods, or property on board the vessel, and all freight and/or charter at risk in respect of the cargo. SALVOR assumes no risk of loss. Accordingly, SALVOR has authority to retain exclusive possession of the vessel, its fuel, provisions, cargo and personal effects aboard until full payment is made, including storage costs during any period of retention. SALVOR has the authority to take all steps he deems reasonable or necessary to secure the vessel, its cargo, and its contents, and this does not displace Customer's priority duty to disclose all risks or special issues that may bear upon services and to properly secure all items aboard prior to commencement of any services and thereafter when the need arises. Customer agrees to defend and hereby indemnifies and holds harmless, SALVOR, its agents, servants or affiliates, and Sea Tow Services International, Inc. ("Indemnitites") for/from all claims relating to or arising out of services, including expenses, costs, fees, attorneys' fees, judgments associated therewith, and liabilities to others, and hereby waives all claims against indemnitites including negligence (but not gross negligence), and property damage, including to the vessel, fuel, freight, cargo, provisions, and personal effects. In addition to all other charges, CUSTOMER shall pay for any environmental damage or fines for pollution arising out of the saved vessel, its contents or cargo. All charges are due and payable immediately. SALVOR shall levy an interest rate of 1.5% per month (an annual rate of 18%) to any balance due over 30 days, regardless of whether contested. Any controversy or claim arising out of or relating to this agreement or the breach thereof shall be filed and/or removed (as the case may be) to Federal Court, or to compulsory, final and binding arbitration, or to a court of suitable jurisdiction, upon SALVOR'S discretionary forum election, which shall be final and binding. In determining the quantum of award and/or compensation due SALVOR, the court (or arbitrators) shall apply the criteria for fixing an award under Article 13 of the 1989 Salvage Convention or the criteria for determining special compensation for SALVOR as set forth in Article 14 of the 1989 Salvage Convention, or superseding statutory authority, or arbitration provisions, in accordance with that of the selected venue. This award shall be entered as a final judgment against CUSTOMER in every Court of competent jurisdiction. Adjudication, irrespective of venue, shall be rendered in accordance with Federal General Maritime Law of Salvage then in force and effect, and this Agreement. These terms shall govern; services rendered shall constitute SALVOR'S reliance thereon and CUSTOMER'S consent thereto.

I HAVE FULLY READ, UNDERSTAND AND AGREE TO THE TERMS AND CONDITIONS AS ABOVE WRITTEN.

CUSTOMER X DATE _____ SEA TOW DATE _____

QTY	DESCRIPTION	RATE	TOTAL
	Hours of Sea Tow On-The-Water Assistance Towboat Time		
	Pure Salvage of Little C		

CREDIT CARD IMPRINT OR WRITE IN BELOW: _____ DATE _____

VISA
 MASTER CARD
 AMEX
 DISCOVER
 CASH
 CHECK X

EXP DATE:
 V-CODE #:
 ADD #:
 ZIP:
 AUTH #:

SUBTOTAL:
 SEA TOW MEMBER SAVED:
 TOTAL INVOICE CHARGES:

I HEREBY ACKNOWLEDGE THE SATISFACTORY COMPLETION OF THE ABOVE WORK AND ACCEPT RESPONSIBILITY OF THE CHARGES FOR THE WORK.
 CUSTOMER X Danny Vickers DATE _____ PRINT NAME _____