

1 PATRICIA BARLOW
(California State Bar No. 135637)
2 BARLOW LAW
1611 Jackson St.
3 San Francisco, CA 94109
Telephone: (415) 977-1107
4 Facsimile: (415) 977-1111
barlowairlaw@yahoo.com
5

6 Attorneys for Plaintiff
Joseph Robert Spooner
7
8
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 JOSEPH ROBERT SPOONER) CASE NO.
13)
14 **Plaintiff,**) **IN ADMIRALTY**
vs.)
15) **SEAMAN'S VERIFIED COMPLAINT IN**
THE MULTI HULL FOILING AC45) **REM AND/OR IN PERSONAM FOR**
16 VESSEL "4 ORACLE TEAM USA",) **WAGES AND PENALTIES-ALL**
her machinery, mechanical) **WITHOUT PAYMENT OF COSTS, 28**
17 drive system, hydraulic) **U.S.C. Section 1916**
operating system, electronics,)
18 platform and appendages, hard)
and soft sails and)
appurtenances, *In Rem*)
19)
ORACLE RACING, INC. A)
California Corporation d/b/a)
20 ORACLE TEAM USA, *In personam*;)
21 **Defendants**)
22 _____)

23
24 COMES NOW plaintiff and complains of the defendants alleging upon
25 information and belief as follows:

- 26 1. This District Court has original jurisdiction over this claim
27 based on its admiralty jurisdiction under 28 U.S.C. Section
28 1333.

SEAMAN'S COMPLAINT IN REM AND IN PERSONUM
FOR WAGES AND PENALTIES-ALL WITHOUT PAYMENT OF COSTS, 28 U.S.C. SECTION 1916

1 2. Plaintiff, Joseph Robert Spooner, brings and maintains this
2 admiralty action under general maritime law for his wages due
3 for discharge without cause.

4 3. Plaintiff resides in San Francisco, California. *In personam*
5 defendant Oracle Racing, Inc., doing business as ORACLE TEAM
6 USA, presently is and has been a California Corporation since
7 June 20, 2000, with its principal office located at Pier 80, 999
8 Marin Street, San Francisco, California 94124, and at all
9 material times herein is acting by and through its officers,
10 agents, servants, employees, representatives, General Counsel
11 Sam Hollis, CEO Russell Coutts, General Manager Grant Simmer and
12 Master James Spithill, and has its principal place of business
13 in San Francisco and is doing business in the Northern District
14 of California.

15 4. Plaintiff is a seaman and a ward of this Admiralty Court, and
16 elects to take advantage of the provisions of 28 U.S.C. Section
17 1916 to proceed without prepayment of costs or fees.

18 5. The defendant vessel is a 45 foot multi hull Foiling AC45
19 known as "4 Oracle Team USA" which defendant Oracle Racing, Inc.
20 owns for the purpose of ORACLE TEAM USA entering the America's
21 Cup World Series commencing in June 2015 and other purposes.
22 Said vessel is documented through the America's Cup Event
23 Authority.

24 6. Said vessel is presently located at Pier 80, 999 Marin Street,
25 San Francisco, CA 94124. The vessel is not a public vessel.

26 7. Said vessel has her home port in the Northern District of
27 California but from March 9th 2015 or thereabouts, plaintiff
28 asserts on information and belief that defendant Oracle Racing,

1 Inc. may move the said vessel's home port to Port of Hamilton,
2 Bermuda.

3 8. During all times mentioned herein said vessel was owned by
4 defendant Oracle Racing, Inc. and was engaged in maritime
5 commerce.

6 9. At all times herein, plaintiff was employed by defendants as a
7 member of the crew aboard said vessel, in the service of the
8 vessel, and in the course and scope of his duties as a seaman in
9 furtherance of the mission and commerce of the vessel plaintiff
10 crewed, maintained and repaired said vessel.

11 10. On or about December 9, 2013 plaintiff entered into a
12 maritime services contract entitled "Heads of Terms for AC35-
13 Sailing Team-Joseph Spooner" ("The Contract") with defendant
14 Oracle Racing, Inc. d/b/a Oracle Team USA, which contract
15 commenced on February 1, 2014 for the fixed term of over three
16 (3) and a half years with the expiry date being "on the date
17 that is seven (7) days immediately following the date of the
18 final race of the 35th America's Cup Finals".

19 11. The Contract provides that plaintiff was from July 1, 2014
20 through the expiry date to receive **US\$25,000.00 per calendar**
21 **month**. The Contract further provides that plaintiff is to
22 "provide, perform and deliver such duties and services required
23 of him as a member of the sailing team of ORACLE TEAM USA,
24 reporting to Russell Coutts." Russell Coutts, as defendant
25 Oracle Racing, Inc.'s CEO, directed the means and methods of
26 plaintiff's work as a seaman under The Contract as did the
27 defendant vessel's Master James Spithill also so direct.

28 12. Additionally, The Contract provides that Plaintiff is to

1 receive a bonus of an undisclosed amount but not less than six
2 (6) months of his average undisclosed wages under The Contract,
3 if the sailing team of ORACLE TEAM USA successfully defends the
4 America's Cup in the 35th America's Cup Finals.

5 13. The Contract also provides that Plaintiff shall be
6 reimbursed for "any other business expenses" that Plaintiff
7 "properly and necessarily incurs" performing services.

8 14. While performing services with at least 29 more months of
9 seaman performance contracted for, on January 16, 2015 defendant
10 Oracle Racing, Inc. wrongfully and without cause, breached its
11 contractual obligations to plaintiff by discharging plaintiff
12 from performing his contractual services as a seaman by sending
13 plaintiff a letter of discharge dated January 16, 2015.

14 15. Defendant Oracle Racing, Inc. continued to pay Plaintiff
15 under the terms of The Contract until January 31, 2015 from
16 which time plaintiff has received no further payment of his
17 wages due to him.

18 16. Having been wrongfully discharged without cause by defendant
19 Oracle Racing, Inc., plaintiff sent a demand to defendant Oracle
20 Team USA on February 3, 2015 for the payment of his wages due
21 now to him for his discharge without cause, being wages due for
22 the full term of The Contract and to be paid to plaintiff on or
23 before February 9, 2015.

24 17. Despite demand, it is now past February 9, 2015 and plaintiff
25 has not received from defendant Oracle Racing, Inc., the monies
26 owed to plaintiff and demanded by him for the full term of The
27 Contract. Having not been paid said wages due, plaintiff is
28 entitled to his contractual wages under The Contract, double

1 wages penalties and other penalties and interest, plus punitive
2 damages under general maritime law for the willful and wanton
3 failure to pay plaintiff's wages by defendants.

4 18. Plaintiff, being a seaman and person having provided
5 necessities in crewing, maintaining and repairing said vessel
6 known as "4 Oracle Team USA" on the orders of Oracle Racing,
7 Inc. CEO Russell Coutts and Master James Spithill acting under
8 the orders of the owner of said vessel, plaintiff hereby asserts
9 his maritime lien rights pursuant to 46 U.S.C. Section 31342.

10
11 WHEREFORE, plaintiff prays by its Local A & M Rule 2-2 Itemized
12 Demand for Judgment against the defendants as follows:

- 13 1. For a declaration that plaintiff holds claim to a preferred
14 maritime lien against defendant MULTI HULL FOILING AC45
15 VESSEL known as "4 ORACLE TEAM USA", and her machinery,
16 mechanical drive system, hydraulic operating system,
17 electronics, platform and appendages, hard and soft sails
18 and appurtenances;
- 19 2. For arrest, condemnation and sale of the defendant MULTI
20 HULL FOILING AC45 VESSEL known as "4 ORACLE TEAM USA", and
21 her machinery, mechanical drive system, hydraulic operating
22 system, electronics, platform and appendages, hard and soft
23 sails and appurtenances
- 24 3. For wages of **US\$725,000.00** and double wage penalties;
- 25 4. For punitive damages for the willful and wanton failure to
26 pay the wages due under The Contract;
- 27 5. For interest, costs of suit and reasonable attorney fees;
- 28 6. For such other and further relief as is fair and just in the

1 circumstances.

2 BARLOW LAW

3
4
5 DATED: February 11th, 2015

Patricia Barlow

6 Patricia Barlow CSB# 135637
7 Attorney for Plaintiff

8 **PLAINTIFF'S VERIFICATION OF THIS COMPLAINT**

9 I, Joseph Robert Spooner, am the plaintiff in this action and
10 have personal knowledge of the matters asserted in the above
11 complaint and this is also based on investigations that I have
12 personally made. Pursuant to 28 U.S.C. Section 1746, I declare
13 under penalty of perjury that the allegations of the above
14 complaint are true and correct to the best of my knowledge and
15 belief based on my personal knowledge and investigations I have
16 personally made.

17 Dated at San Francisco, California this 11th day of February, 2015

18 *Joe Spooner*
19 Joseph Robert Spooner
20
21
22
23
24
25
26
27
28