

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

9 JIM FOX,

10 Plaintiff,

Case No.:

11 v.

COMPLAINT

12 TRIDENT SEAFOODS CORPORATION,

13 Defendant.

14 Plaintiff, Jim Fox, states and alleges the following facts and causes of action against the
15 above-named Defendant:

16 **JURISDICTION AND VENUE**

17 1. This Court has diversity jurisdiction over Plaintiff's claims under 28 U.S.C. §
18 1332 because the matter in controversy exceeds \$75,000, exclusive of interest and costs, and
19 Plaintiff is a citizen of Utah and Defendant is a citizen of Washington. This Court has federal
20 question jurisdiction under 28 U.S.C. § 1331 over Plaintiff's claim arising under the Americans
21 with Disabilities Act, 42 U.S.C. 12101, *et seq.* ("ADA"), and supplemental jurisdiction over
22 Plaintiff's state law claim under 28 U.S.C. § 1367 because it is so related to Plaintiff's ADA
23 claim that it forms part of the same case or controversy under Article III of the Constitution.
24
25

1 10. In 1994, Plaintiff lost three fingers on his right hand in an accident. His missing
2 fingers, however, did not and do not interfere with his ability to do the job of Chief Engineer.

3 11. Plaintiff has approximately 25 years of experience working as Chief Engineer
4 on fishing vessels like the Dominator.

5 12. Before being hired, Trident required Plaintiff to take a physical exam to ensure
6 he was prepared for the physical duties of working on board its fishing vessels. He easily
7 passed the exam. The exam paperwork noted that he was missing three fingers.

8 13. In late July 2021, Plaintiff was flown to Alaska to board the Dominator and start
9 work.

10 14. Before boarding, Plaintiff had a phone call with Craig Jenssen, the Captain of
11 the Dominator. Jenssen and Plaintiff discussed the upcoming work. Plaintiff offered to help out
12 as a deckhand if need be, even though that was not his job. Jenssen reassured Plaintiff that
13 there were plenty of deckhands.

14 15. Shortly after this conversation, Plaintiff boarded the Dominator and they went
15 out to sea for their first fishing trip.

16 16. The first trip lasted approximately six days. On one of the final mornings,
17 Jenssen called Plaintiff up to the wheelhouse where he said that no one had told him Plaintiff
18 did not have all of his fingers. Jenssen said the condition made him really uncomfortable.

19 17. Plaintiff said he understood it could be uncomfortable to see missing fingers but
20 this was noted on his physical exam, which had been shared with Jenssen. He told Jenssen he
21 did not know he was supposed to mention it because it did not impact his ability to do his job.

22 18. Jenssen began pointing out tasks he thought Plaintiff would be unable to do,
23 such as tying the zipper on the fishing net or changing a hydraulic hose on the crane. Although
24 tying the zipper was a deckhand duty, Plaintiff told Jenssen he could do these tasks and asked
25 him to let him prove it. Plaintiff offered to perform these duties on the spot. Jenssen, however,

1 would not give Plaintiff the chance.

2 19. Although he should not have had to, Plaintiff tried to convince Jenssen of his
3 abilities. He said he had been doing this job for 25 years and asked Jenssen not to discount him
4 because of his missing fingers. He asked Jenssen to let him go on the next trip and he would
5 show him what he could do.

6 20. Jenssen refused to let Plaintiff prove to him that he could do any of the tasks he
7 had brought up. He told Plaintiff he was firing him and that he would be taken back to the
8 harbor that morning.

9 21. On July 23, 2021, Plaintiff emailed Vessel Staffing Assistant Rachel Severyns,
10 stating that “I was just called to the wheelhouse by Craig after 1 trip he has informed that due
11 to me messing 3 fingers he is firing me as Chief. I lost my fingers 25 years ago and have never
12 been fired from any of the 12 vessels I have sailed on as Chief.” Plaintiff asked Severyns to
13 arrange a hotel room and flight for him. Severyns responded she was “sorry to hear that” and
14 would book his travel arrangements.

15 22. After disembarking, another crewmember told Plaintiff that Jenssen had said to
16 him, “there’s no way I can look at that hand across the galley table all season.”

17 **COUNT I – WLAD DISABILITY DISCRIMINATION**

18 23. Plaintiff realleges and incorporates by reference each and every averment of this
19 Complaint as though fully set forth herein.

20 24. Plaintiff has a “disability,” as the term is defined by the WLAD in that he has, or
21 was perceived by Defendant as having, a medically cognizable or diagnosable physical
22 impairment.

23 25. Plaintiff’s loss of fingers is an impairment that constitutes an anatomical loss
24 affecting one or more body systems, including the musculoskeletal system.

1 26. At all relevant times, Plaintiff was able to perform the essential functions of his
2 job.

3 27. Plaintiff's disability or perceived disability was a substantial factor in Defendant's
4 decision to terminate Plaintiff's employment.

5 28. As a direct and proximate cause of Defendant's actions, Plaintiff has suffered
6 damages, including lost wages and emotional distress.

7 **COUNT II – ADA DISCRIMINATION**

8 29. Plaintiff realleges and incorporates by reference each and every averment of this
9 Complaint as though fully set forth herein.

10 30. Plaintiff is a "qualified individual with a disability" under the ADA.

11 31. Plaintiff's loss of fingers is a physical impairment that constitutes an anatomical
12 loss affecting one or more body systems, including the musculoskeletal system.

13 32. Defendant terminated Plaintiff on the basis of his disability: (1) because it
14 regarded him as having an actual or perceived physical impairment; and/or (2) because Plaintiff
15 had a physical impairment that substantially limited one or more major life activities, including
16 caring for himself.

17 33. At all relevant times, Plaintiff was able to perform the essential functions of his
18 job.

19 34. Defendant discriminated against Plaintiff by terminating him on the basis of his
20 disability.

21 35. As a direct and proximate cause of Defendant's actions, Plaintiff has suffered
22 damages, including lost wages and emotional distress.

23 36. The actions and conduct set forth herein demonstrate malice or reckless
24 indifference to the rights of Plaintiff by terminating his employment based on his disability, and
25

therefore Plaintiff is entitled to punitive damages from Defendant, to punish Defendant and deter others from similar conduct.

REQUEST FOR RELIEF

37. Plaintiff Jim Fox requests all damages allowable under Washington and federal law, including the following:

- a. Compensatory damages, including lost wages and emotional distress damages;
- b. Punitive damages;
- c. Post-judgment interest;
- d. Attorney's fees, costs, and expenses;
- e. Any and all other and further relief this Court deems just and proper.

38. Plaintiff requests a trial by jury on all issues triable by a jury.
Dated this 19th day of May, 2022.

Respectfully submitted,

By: /s/ Matt J. O'Laughlin
Matt J. O'Laughlin, WSBA 48706
Amy K. Maloney, WSBA 55610
MALONEY O'LAUGHLIN, PLLC
200 W. Mercer Street, Ste. 506
Seattle, Washington 98119
Tel: 206.513.7485
Fax: 206.260.3231
matt@pacwestjustice.com
amy@pacwestjustice.com

ATTORNEYS FOR PLAINTIFF