

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION**

**RIVERFRONT DEVELOPMENT, INC.,
As Managing Agent of Mud Island, and
On Behalf of THE CITY OF MEMPHIS,
Owner of Mud Island,**

Plaintiff,

v.

No.: 2:16-cv-2553

WEPFER MARINE, INC.

Defendant.

COMPLAINT

COMES NOW the Plaintiff, Riverfront Development, Inc., as managing agent of Mud Island, and on behalf of the City of Memphis, owner of Mud Island, by and through undersigned counsel, and hereby files this Complaint against Wepfer Marine, Inc. for damages and all other relief to which the Plaintiff is entitled. For its cause of action, Plaintiff states as follows:

I. PARTIES

1. Plaintiff, Riverfront Development, Inc., is a Tennessee non-profit corporation located in Memphis, Shelby County, Tennessee. Its principal address is 22 N. Front Street, Suite 960, Memphis, Tennessee 38103-2194. At all times relevant hereto, the City of Memphis was the owner of Mud Island, and had appointed the Plaintiff, Riverfront Development, Inc. as the manager and operator of certain Memphis riverfront properties owned by the City of Memphis, including Mud Island. Plaintiff, Riverfront Development, Inc. therefore brings this action for damages as the managing

agent of Mud Island, and on behalf of the City of Memphis as the owner of Mud Island. Hereinafter, Plaintiff, Riverfront Development, Inc., will be referred to as the “Plaintiff” or “RDC”.

2. Defendant, Wepfer Marine, Inc., is a Tennessee for-profit corporation located in Memphis, Shelby County, Tennessee. Upon information and belief, Defendant, Wepfer Marine, Inc., is the owner and operator of the navigable vessel named the LUCY WEPFER. Defendant, Wepfer Marine, Inc.’s principal address is 2661 Channel Avenue, Memphis, Tennessee 38113. The Defendant’s annual report filings and profile with the Tennessee Secretary of State list its registered agent as John Wepfer, but provided its registered agent’s address improperly at a non-physical location, to wit: P.O. Box 13363 in Memphis, Tennessee 38113-0363. Therefore, Defendant, Wepfer Marine, Inc., may be served with process through its registered agent, John Wepfer, at the Defendant’s principal address, located at: 2661 Channel Avenue; Memphis, Tennessee 38113-0363. Hereinafter, Defendant, Wepfer Marine, Inc., will be referred to as the “Defendant”, “Wepfer” or “Defendant Wepfer”.

II. JURISDICTION & VENUE

1. This is an action for damages arising under federal Admiralty and Maritime law. The United States District Court for the Western District of Tennessee, Western Division, has jurisdiction over the claims asserted herein pursuant to 28 U.S.C §§ 1331 and 1333 of the Judiciary Act of 1789 and 46 U.S.C.S. § 30101 of the Extension of Admiralty Jurisdiction Act of 1948.

2. The situs of the wrongful acts, omissions and resulting damage described in this Complaint all occurred on navigable, interstate waters, to wit, the Mississippi

River in Memphis, Shelby County, Tennessee, and the incident occurred in connection with traditional maritime activity.

3. Upon information and belief, at all times relevant hereto, an employee and/or agent of the Defendant was entrusted with and was operating a navigable vessel, the LUCY WEPFER (“vessel” or “LUCY WEPFER”), owned and maintained by the Defendant, in the course and scope of the Defendant’s for-profit business of operating harbor and fleeting services in the Mississippi River and surrounding areas.

4. The Defendant’s business constitutes activities that typify, epitomize or are otherwise closely related to traditional notions of maritime activity or commerce, and/or bear a significant relationship to activities of maritime commerce with a nexus to traditional maritime activity.

5. The Defendant, as a Tennessee for-profit corporation with a principal address located in Memphis, Shelby County, Tennessee, has minimum contacts with Tennessee and its business places vessels into the navigable waters of interstate commerce, including the Mississippi River.

6. The incident complained of herein occurred on the interstate, navigable waters of the Mississippi River just west of the downtown Memphis coastline, where the LUCY WEPFER struck and became grounded on the tip of Mud Island, where the land jettisons into the Mississippi River.

7. Venue is appropriate in the United States District Court for the Western District of Tennessee, Western Division pursuant to 28 U.S.C § 1391.

3. This case has been timely filed within the applicable statutory limitations period governing Plaintiff’s cause of action.

III. ALLEGATIONS

4. Plaintiff incorporates all foregoing paragraphs herein as if restated again in full.

5. At all times relevant hereto, the City of Memphis owned Mud Island which is located on the most western edge of the Memphis shoreline.

6. At all times relevant hereto, the City of Memphis appointed RDC as the managing agent of Mud Island.

7. At all times relevant hereto, Wepfer was a marine company, advertising and holding itself out as operating harbor and fleeting services in the Mississippi River and surrounding areas.

8. On or about July 6, 2015, Wepfer had entrusted the LUCY WEPFER to an employee and/or agent of Defendant Wepfer (hereinafter referred to as the "Employee").

9. At approximately 3:00 p.m. on or about July 6, 2015, the Employee was operating a barge owned and operated by Wepfer named LUCY WEPFER, in the Mississippi River near the tip of Mud Island.

10. At approximately 3:00 p.m. on or about July 6, 2015, the LUCY WEPFER struck and became grounded on the tip of Mud Island during a time of high tide.¹

11. After the LUCY WEPFER barge grounded on the tip of Mud Island, significant efforts were utilized by the United States Coast Guard and others to dislodge and/or remove the barge from the tip of Mud Island.

12. The grounding of the LUCY WEPFER barge caused damage to the tip of Mud Island.

¹ Please see **Exhibit A**, which is a photograph of the LUCY WEPFER grounded on the tip of Mud Island.

13. The damage to Mud Island caused by the grounded LUCY WEPFER barge was two (2) large holes gorged out of the land mass.²

14. Upon information provided by the United States Coast Guard pursuant to RDC's request under the Freedom of Information Act, 5 U.S.C. § 552, the incident complained of herein is the subject of an ongoing criminal investigation.³

IV. CAUSES OF ACTION

COUNT I: NEGLIGENCE

15. Plaintiff incorporates all foregoing paragraphs herein as if restated again in full.

16. Plaintiff brings this action against the Defendant to recover damages resulting from the Defendant's negligent operation of the subject vessel, LUCY WEPFER, on or about July 6, 2015.

17. At all times relevant hereto, Defendant Wepfer was the owner and operator of the subject vessel, LUCY WEPFER.

18. At all times relevant hereto, as the owner and operator of the LUCY WEPFER, Defendant Wepfer owed the Plaintiff a duty to exercise the highest degree of care in ensuring the proper entrustment and operation of the LUCY WEPFER in order to prevent injuries and property damage to others, including the Plaintiff.

19. At all times relevant hereto, as the principal and employer of its Employee, Defendant Wepfer owed the Plaintiff a duty to exercise the highest degree of care in the operation of the LUCY WEPFER in order to prevent injuries and damage to property to others, including the Plaintiff.

² Please see **Exhibit B**, which is a photograph depicting the damage to Mud Island.

³ Please see **Exhibit C**, which is a copy of the correspondence produced by the United States Coast Guard in response to RDC's FOIA request.

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