# 7.5 Unseaworthiness Claim—Elements and Burden of Proof

On the plaintiff’s unseaworthiness claim, the plaintiff has the burden of proving the following elements by a preponderance of the evidence:

 First, the plaintiff was a seaman;

Second, the [*name of vessel*] was unseaworthy; and

Third, the unseaworthy condition was a cause of an injury or damage to the plaintiff.

If you find the plaintiff has proved all the elements on which [he] [she] has the burden of proof, your verdict should be for the plaintiff. If, on the other hand, the plaintiff has failed to prove any of these elements, your verdict should be for the defendant.

**Comment**

“A shipowner has an absolute duty to furnish a seaworthy ship.” *Mitchell v. Trawler Racer, Inc.*, 362 U.S. 539, 549 (1960). A seaworthy ship is one reasonably fit for its intended use. *Id.* at 550; *Ribitzki v. Canmar Reading & Bates, Ltd. P’ship*, 111 F.3d 658, 664 (9th Cir. 1997).

*See also* Comment to Instruction 7.6 (Unseaworthiness Defined).

*Revised March 2025*