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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
C.A. No.:

WILFRED JULCE, as SPECIAL PERSONAL
REPRESENTATIVE OF THE ESTATE OF
JEANICA JULCE,
Plaintiff,

v.

RYAN DENVER and
LEE ROSENTHAL,
Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff, Estate of Jeanica Julce, by and through its Attorneys, Sheff & Cook, LLC, states and alleges as follows:

PARTIES

1. This action is brought pursuant to Mass. Gen. L. c. 229, § 1 et seq. to recover for the conscious pain and suffering and wrongful death of Jeanica Julce, twenty-seven (27) years old at the time of her death, who passed away on July 17, 2021. At the time of her death, Jeanica Julce was a resident of the City of Somerville, Middlesex County, Commonwealth of Massachusetts.
2. Jeanica Julce's father, Wilfred Julce, has been duly appointed as the Special Personal Representative of the Estate of Jeanica Julce.
3. The Defendant, Ryan Denver, is an individual who, at all relevant times, maintained a principal place of residence at 50 Liberty Drive, Unit 11C, Seaport, City of Boston, County of Suffolk, Commonwealth of Massachusetts.

4. The Defendant, Lee Rosenthal, is an individual with a principal place of residence at 37 Paine Avenue, Town of Beverly, County of Essex, Commonwealth of Massachusetts.

JURISDICTION AND VENUE

5. Plaintiff repeats and incorporates by reference to the allegations previously stated.
6. The Superior Court has personal and subject matter jurisdiction over the parties and the controversy at issue. All parties are residents of Massachusetts, and this suit is brought under Mass. Gen. L. c. 229, § 1 et seq., the Massachusetts Wrongful Death Act.
7. Venue is proper in Suffolk County because all relevant events took place in Suffolk County (the waters of Boston Harbor in the vicinity of Castle Island) and, at all relevant times, Defendant Ryan Denver maintained a principal place of residence in Suffolk County.

FACTS

8. Plaintiff repeats and incorporates by reference to the allegations previously stated.
9. On July 17, 2021, at approximately 3:00 a.m., Jeanica Julce was a lawfully present passenger on a vessel, the “Make It Go Away.”
10. The vessel, “Make It Go Away,” was at all material times hereto, owned by the defendant, Ryan Denver, and operated by the defendant, Ryan Denver.
11. On or about July 17, 2021, at approximately 3:00 a.m., the vessel, “Make It Go Away,” was underway in Boston Harbor, City of Boston, Commonwealth of Massachusetts, navigable waters, under the direction, operation and control of the Defendant, Ryan Denver.
12. There were eight people on board the “Make It Go Away,” including Defendant Ryan Denver.

13. At approximately 3:00 a.m., on July 17, 2021, the Defendant, Ryan Denver, while operating his vessel, the “Make It Go Away,” operated his vessel in a negligent, grossly negligent, and/or reckless manner so as to strike an immovable navigation device, Daymarker #5, in Boston Harbor.
14. Upon information and belief, Defendant Ryan Denver consumed alcohol in the Seaport that evening, then piloted the “Make It Go Away” to Marina Bay in Quincy, where he consumed more alcohol. Defendant Ryan Denver was piloting the “Make It Go Away” back to the Seaport from Quincy when his vessel struck Daymarker #5.
15. Defendant Ryan Denver was operating his vessel at an unsafe speed when he struck Daymarker #5.
16. Defendant Ryan Denver failed to maintain a proper lookout when he struck Daymarker #5.
17. Defendant Ryan Denver failed to use and heed his navigational instruments on the “Make It Go Away” when he struck Daymarker #5.
18. When the “Make It Go Away” struck Daymarker #5, the vessel capsized and all eight (8) people on board went into the water, including Jeanica Julce.
19. With respect to this incident and the operation of the “Make It Go Away,” Jeanica Julce was in no way operating the vessel or under the direction of the Defendant, Ryan Denver, and had no duties or responsibilities with respect to the operation of the vessel; simply stated, Jeanica Julce was a passenger on a vessel being solely operated at the time of the incident by the Defendant, Ryan Denver.
20. At all material times hereto, and especially during the voyage of the “Make It Go Away” in Boston Harbor as described above, the care and safety of the passengers on the vessel was the responsibility and duty of the Defendant, Ryan Denver.

21. After the “Make It Go Away” struck Daymarker #5, a nearby tugboat, the “Steven J. Leaman” put out a distress call. The “Steven J. Leaman” could not respond itself due to its draft.
22. After the “Make It Go Away” vessel struck Daymarker #5, another vessel, the “Defensive Indifference,” came to the scene. The “Defensive Indifference” was the first vessel to arrive at the scene and was at the scene prior to any emergency vessels.
23. At all relevant times, the “Defensive Indifference” was operated by the Defendant, Lee Rosenthal. Defendant Lee Rosenthal was operating the vessel with the knowledge and consent of the vessel’s owner, and he was a named insured on the vessel’s applicable insurance policies.
24. The “Defensive Indifference” launched from the Fan Pier Marina at approximately 2:30 a.m. on July 17, 2021 with three people on board, including Defendant Lee Rosenthal.
25. Multiple emergency teams, including units from the U.S. Coast Guard, Massachusetts State Police, Massport Police, Boston Police, and the Boston Fire Department, responded to the scene.
26. The U.S. Coast Guard was the first emergency response agency to reach the scene. The Coast Guard reached the scene within minutes of the initial distress call from the “Steven J. Leaman.”
27. Upon arrival at the scene, the Coast Guard noted, “[t]here is a vessel on scene doing laps around the capsized vessel and a person is swimming towards it. The vessel takes off without retrieving anyone from the water.” That vessel was the “Defensive Indifference,” operated by Defendant Lee Rosenthal.

28. Upon information and belief, the “Defensive Indifference,” struck Jeanica Julce as Defendant Lee Rosenthal was circling the area and/or leaving the area.
29. Eventually, seven (7) of the people on board the “Make It Go Away” were rescued from the waters of Boston Harbor.
30. Jeanica Julce was never rescued, and she died in the waters of Boston Harbor that night.
31. After an extensive search, Jeanica Julce’s body was recovered from the bottom of Boston Harbor by divers with the Boston Fire Department. It was noted when her body was located that, initially, identification of the body could not be made because the body needed to be placed in multiple body bags and the Medical Examiner needed to reassemble the body to make an identification.
32. But for Defendant Lee Rosenthal’s negligence, gross negligence, and/or recklessness occurring during the time Jeanica Julce was in the waters of Boston Harbor, Jeanica Julce would not have died on July 17, 2021.
33. Defendant Lee Rosenthal knew or should have known of the dangers created by his negligence, gross negligence, and/or recklessness.
34. But for Defendant Ryan Denver’s negligence, gross negligence, and/or recklessness, which caused Jeanica Julce to enter the waters of Boston Harbor, Jeanica Julce would not have died on July 17, 2021.
35. Defendant Ryan Denver knew or should have known of the dangers created by his negligence, gross negligence, and/or recklessness.
36. Jeanica Julce suffered consciously before she died and died a premature death.

CLAIMS AGAINST DEFENDANT RYAN DENVER

COUNT I
NEGLIGENCE

37. Plaintiff restates and reavers all prior paragraphs by reference as if stated fully herein.

38. At all relevant times, Defendant owed a duty of care to prevent foreseeable risks of harm to persons on board his vessel.

39. Defendant breached said duty of care.

40. As a direct and proximate result of Defendant's negligence, Jeanica Julce was caused to suffer consciously and died a tragic and premature death.

41. As a direct and proximate result, the next of kin of Jeanica Julce are entitled to the fair monetary value of the loss of the decedent, including, but not limited to, compensation for the loss of reasonably expected services, protections, care, assistance, society, companionship, comfort, guidance, counsel, advice of the decedent, punitive damages, and all other damages recognized under law, including reasonable medical, funeral, and burial expenses incurred.

WHEREFORE, Plaintiff respectfully demands judgment against the Defendant in an amount determined to be just and fair by this Court, as well as interest, costs and all other damages recognized under law, as may apply.

COUNT II
GROSS NEGLIGENCE AND/OR RECKLESSNESS

42. Plaintiff restates and reavers all prior paragraphs by reference as if stated fully herein.

43. At all relevant times, Defendant owed a duty of care to prevent foreseeable risks of harm to persons on board his vessel.

44. Defendant breached said duty of care when he engaged in grossly negligent and/or reckless conduct in the operation of his vessel.

45. As a direct and proximate result of Defendant's grossly negligent and/or reckless conduct, Jeanica Julce was caused to suffer consciously and die a tragic and premature death.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount determined to be just and fair by this Court, including *punitive damages* as deemed appropriate, as well as interest, costs and all other damages recognized under law, as may apply.

CLAIMS AGAINST DEFENDANT LEE ROSENTHAL

COUNT III
NEGLIGENCE

46. Plaintiff restates and reavers all prior paragraphs by reference as if stated fully herein.
47. Defendant Lee Rosenthal owed a duty of care to prevent foreseeable risks of harm to persons in and around his vessel.
48. Defendant Lee Rosenthal breached said duty of care.
49. Defendant Lee Rosenthal also had a duty pursuant to certain statutes to render aid to persons in distress in and around his vessel.
50. Defendant Lee Rosenthal breached said duty of care.
51. As a direct and proximate result of Defendant Lee Rosenthal's negligence, Jeanica Julce was caused to suffer consciously and died a tragic and premature death.
52. As a direct and proximate result, the next of kin of Jeanica Julce are entitled to the fair monetary value of the loss of the decedent, including, but not limited to, compensation for the loss of reasonably expected services, protections, care, assistance, society, companionship, comfort, guidance, counsel, advice of the decedent, punitive damages, and all other damages recognized under law, including reasonable medical, funeral, and burial expenses incurred.

WHEREFORE, Plaintiff respectfully demands judgment against the Defendant in an amount determined to be just and fair by this Court, as well as interest, costs and all other damages recognized under law, as may apply.

COUNT IV
GROSS NEGLIGENCE AND/OR RECKLESSNESS

53. Plaintiff restates and reavers all prior paragraphs by reference as if stated fully herein.
54. At all relevant times, Defendant Lee Rosenthal owed a duty of care to prevent foreseeable risks of harm to persons in or around his vessel.

55. Defendant Lee Rosenthal breached said duty of care when he engaged in grossly negligent and/or reckless conduct in the operation of his vessel.
56. Defendant Lee Rosenthal also had a duty pursuant to certain statutes to render aid to persons in distress in and around his vessel.
57. Defendant Lee Rosenthal breached said duty of care when he engaged in grossly negligent and/or reckless conduct in the operation of his vessel.
58. As a direct and proximate result of Defendant Lee Rosenthal's grossly negligent and/or reckless conduct, Jeanica Julce was caused to suffer consciously and die a tragic and premature death.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount determined to be just and fair by this Court, including *punitive damages* as deemed appropriate, as well as interest, costs and all other damages recognized under law, as may apply.

PLAINTIFF DEMANDS A TRIAL BY JURY AS TO ALL COUNTS.

Date: April 8, 2024

Plaintiff Estate of Jeanica Julce,
By its attorneys,
SHEFF & COOK, LLC

/s/ Douglas K. Sheff

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