

IN THE CIRCUIT COURT FOR THE 16TH
JUDICIAL CIRCUIT IN AND FOR
MONROE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 2016-CA-851-K

BYUNGWOOK KIM, individually, and
as Personal Representative of the
ESTATE OF JIYOON KIM,

Plaintiff,

JURY TRIAL DEMANDED

vs.

FURY MANAGEMENT, INC, a
Florida corporation for profit,
and **RALPH MAJOR, JR.**, individually,
and **JULIEN TRAYNO**, individually,

Defendants.

**WRONGFUL DEATH COMPLAINT FOR DAMAGES
AND DEMAND FOR JURY TRIAL**

Plaintiff, BYUNGWOOK KIM, individually and as Personal Representative of the ESTATE OF JIYOON KIM, his wife, by and through undersigned counsel, hereby sue Defendant FURY MANAGEMENT, INC., a Florida corporation for profit (hereinafter "FURY"), Defendant RALPH MAJOR, JR., individually, and Defendant JULIEN TRAYNO, individually, demands a trial by jury on all issues so triable, and further states the following:

Parties and Jurisdiction

1. This is a Wrongful Death action for damages in excess of this Court's jurisdictional minimal limits of \$15,000.00, exclusive of costs and interest, and is otherwise within the jurisdiction of this Court.

2. Jurisdiction and venue are proper as all acts giving rise to the allegations in Plaintiff's Complaint arose in Monroe County, Florida.

3. At all times material, Plaintiff BYUNGWOOK KIM was and is a resident of New Jersey, over the age of 18, and is otherwise *sui juris*.

4. At all times material, Plaintiff BYUNGWOOK KIM was married to the decedent, JIYOON KIM, under the laws of New Jersey. Plaintiff BYUNGWOOK KIM is or will soon be appointed Personal Representative of the ESTATE OF JIYOON KIM.

5. Pursuant to the Florida Wrongful Death Act, Chapter 768, Florida Statutes, Plaintiff BYUNGWOOK KIM, as the husband of the decedent, JIYOON KIM, is the statutory survivor and is entitled to damages for the wrongful death of his wife.

6. At all times material, Defendant FURY was and is a Florida corporation for profit authorized to conduct and conducting its business in the State of Florida, and in particular, Monroe County.

7. At all times material, Defendant FURY owned, managed, and operated a business located in Monroe County, Florida, providing jet ski rental excursions to paying customers in the waters surrounding Key West.

8. At all times material, Defendant FURY owned and maintained a fleet of jet skis to be operated by its paying customers in the course of its rental excursions.

9. At all times material, Defendant FURY represented to the public through its sales associates, promotional literature, and website that its jet ski rental excursions were safe for individuals with little or no previous experience operating a jet ski.

10. At all times material, Defendant RALPH MAJOR, JR., was and is a resident of Monroe County, over the age of 18, and is otherwise *sui juris*.

11. At all times material, Defendant RALPH MAJOR, JR., was an employee and/or agent of Defendant FURY and was on duty acting in the course and scope of his employment.

12. At all times material, Defendant JULIEN TRAYNO was and is a resident of France, over the age of 18, and is otherwise *sui juris*. Defendant JULIEN TRAYNO was a customer of Defendant FURY participating in their jet ski rental excursion.

The Fatal Collision

13. On or about September 26, 2016, Plaintiff BYUNGWOOK KIM and his wife, JIYOON KIM, were paying customers of Defendant FURY's jet ski rental excursion. The subject excursion was operated by Defendant FURY's employee and/or agent, Defendant RALPH MAJOR, JR. There was a total of 10 customers participating in the excursion, including Plaintiff BYUNGWOOK KIM, JIYOON KIM, and Defendant JULIEN TRAYNO.

14. The 10 participants were novices with little or no experience operating a jet ski. Many of the participants, including Defendant JULIEN TRAYNO, were foreign tourists who could not fully understand English or appreciate any guidance, training, or instruction relating to the operation of a jet ski.

15. Defendant RALPH MAJOR, JR. instructed the 10 participants to begin operating their jet skis freely in a limited section of the ocean without ever providing the mandatory and/or customary pre-rental training and instruction relating to jet ski safety. Accordingly, Defendant JULIEN TRAYNO was unfit and unqualified to safely operate a jet ski.

16. In the course of the jet ski excursion, Defendant JULIEN TRAYNO, without adequate training, instruction, supervision, or experience, crashed his jet ski violently into

the rear of JIYOON KIM's jet ski. JIYOON KIM was ejected from her jet ski and rendered unconscious. Plaintiff BYUNGWOOK KIM heard the collision and observed his wife's lifeless body in the ocean. Plaintiff BYUNGWOOK KIM approached his wife and attempted to communicate with her, but she remained completely unresponsive until her sudden and traumatic death.

17. As a direct result of the negligence and carelessness of all Defendants, JIYOON KIM was pronounced dead on September 26, 2016.

18. As a further direct result of the negligence and carelessness of all Defendants, Plaintiff BYUNGWOOK KIM suffered and continues to suffer severe emotional distress upon witnessing and experiencing the sudden death of his wife.

COUNT I
WRONGFUL DEATH NEGLIGENCE CLAIM
AGAINST DEFENDANT FURY

Plaintiff re-alleges and re-adopts paragraphs 1 through 18 as if fully set forth herein and further alleges that:

19. At all times material, Defendant FURY owed a duty to its jet ski rental customers and members of the public, including and in particular, JIYOON KIM, to exercise reasonable care in the operation, supervision, and management of its jet ski rental excursions to prevent foreseeable injury.

20. At all times material, Defendant FURY was and is vicariously liable for the negligent acts and omissions of its employees, agents, and representatives pursuant to the doctrine of *respondeat superior*.

21. At all times material, Defendant FURY, by and through its employees, representatives, agents, and/or servants, breached its duty of care to JIYOON KIM and was negligent in one or more of the following ways:

- a. Failing to operate its jet ski excursion in a safe and reasonable manner;
- b. Failing to implement adequate policies and procedures for the safe operation of its jet ski excursions;
- c. Failing to provide adequate instruction and training to its jet ski excursion customers;
- d. Failure to adequately and reasonably supervise its jet ski excursion customers;
- e. Failing to comply with federal and state regulations, statutes, and codes with respect to its jet ski excursions;
- f. Failing to hire reasonably safe, competent, and experienced employees for use on its jet ski excursions;
- g. Failing to ensure that its employees meet all applicable certification requirements for the operation of jet ski excursions;
- h. Failing to provide adequate training and instruction to its employees;
- i. Failing to properly and adequately investigate the employees who supervised the subject jet ski excursion;
- j. Failing to routinely monitor and/or supervise its employees;
- k. Failing to ensure an adequate ratio of employees to participants for its jet ski excursions;
- l. Failing to select reasonably safe sections of the ocean and routes of travel for its jet ski excursions;
- m. Utilizing a particular section of ocean for its jet ski excursion which it knew or should have known was unreasonably dangerous;
- n. Leading its customers into a dangerous condition;

- o. Failing to provide adequate and proper information regarding its jet ski excursion;
- p. Failing to ensure that its jet ski excursion participants did not exceed a reasonable speed under the circumstances;
- q. Failing to ensure that its jet ski excursion participants fully understood the operational characteristics of a jet ski;
- r. Violating Fla. Stat. §327.54;
- s. Violating Fla. Stat. §327.39;
- t. Violating Fla. Admin. Code §68D-36.107;
- u. Failing to ensure that its jet ski excursion participants understood English;
- v. Failing to ensure that its jet ski excursion participants were able to understand and appreciate any training and instruction;
- w. Failing to adequately monitor, supervise, and control its jet ski excursion participants;
- x. Failing to properly evaluate Defendant JULIEN TRAYNO for fitness to operate a jet ski; and/or
- y. Failing to recognize that Defendant JULIEN TRAYNO was unfit and unqualified to operate a jet ski.

22. As a direct and proximate result of the above-mentioned negligence of Defendant FURY, Defendant JULIEN TRAYNO crashed his jet ski into JIYOON KIM and caused her untimely death.

23. As a further direct and proximate result of the negligence of Defendant FURY, which resulted in the death of JIYOON KIM, her surviving husband, Plaintiff BYUNGWOOK KIM, suffered harm therefrom, including the loss of the support and services, and love and affection of his wife; and has suffered mental pain and suffering therefrom. As a survivor under the law, Plaintiff claims all damages specified herein, as

well as all damages allowable under Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.).

24. The ESTATE OF JIYOON KIM claims all damages allowed by Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.), including, but not limited to monetary support, loss of net accumulations, loss of earnings past and future, and medical and funeral expenses.

WHEREFORE, Plaintiff BYUNGWOOK KIM, individually and as Personal Representative of the ESTATE OF JIYOON KIM, demands judgment against Defendant FURY, for damages in excess of fifteen thousand dollars (\$15,000), together with costs, attorneys fees as allowed by law, and all further relief this Court deems just and proper, and demands trial by jury of all issues so triable as of right.

COUNT II
NEGLIGENT HIRING AND RETENTION
CLAIM AGAINST DEFENDANT FURY

Plaintiff re-alleges and re-adopts paragraphs 1 through 18 as if fully set forth herein and further allege that:

25. At all times material, Defendant FURY owed a duty to its jet ski rental customers and members of the public, including and in particular, JIYOON KIM, to exercise reasonable care in the hiring, retention, and supervision of employees operating its jet ski rental excursions.

26. At all times material Defendant FURY was itself negligent and failed to use reasonable care in the hiring, retention, and supervision of its employee, Defendant RALPH MAJOR, JR., and other employees involved in the hiring and retention process.

27. Defendant FURY, by and through its employees, representatives, agents and/or servants, breached its duty of care to JIYOON KIM and was negligent in one or more of the following ways:

- a. Failing to adequately investigate and conduct reasonable background checks of its employees and guides;
- b. Failing to implement and execute a conduct review process and procedure for their employees and guides;
- c. Failing to properly investigate any and all other complaints regarding their employees and guides;
- d. Failing to take reasonable precautions to prevent reckless and/or dangerous conduct by its employees and guides;
- e. Failing to hire qualified and experienced employees and guides;
- f. Failing to retain only qualified and experienced employees and guides;
- g. Failing to terminate employees whom it knew or should have known were unfit and unqualified to operate jet ski rental excursions;
- h. Failing to implement and/or enforce adequate policies and procedures relating to the hiring of employees;
- i. Failing to implement and/or enforce adequate policies and procedures relating to the retention of employees;
- j. Failing to adequately maintain employee files;
- k. Failing to investigate inappropriate conduct of its employees and guides, and/or
- l. Failing to take reasonable precautions to guard against unqualified and unfit employees.

28. As a direct and proximate result of the above-mentioned negligence of Defendant FURY, Defendant JULIEN TRAYNO crashed his jet ski into JIYOON KIM and caused her untimely death.

29. As a further direct and proximate result of the negligence of Defendant FURY, which resulted in the death of JIYOON KIM, her surviving husband, Plaintiff BYUNGWOOK KIM, suffered harm therefrom, including the loss of the support and services, and love and affection of his wife; and has suffered mental pain and suffering therefrom. As a survivor under the law, Plaintiff claims all damages specified herein, as well as all damages allowable under Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.).

30. The ESTATE OF JIYOON KIM claims all damages allowed by Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.), including, but not limited to monetary support, loss of net accumulations, loss of earnings past and future, and medical and funeral expenses.

WHEREFORE, Plaintiff BYUNGWOOK KIM, individually and as Personal Representative of the ESTATE OF JIYOON KIM, demands judgment against Defendant FURY, for damages in excess of fifteen thousand dollars (\$15,000), together with costs, attorneys fees as allowed by law, and all further relief this Court deems just and proper, and demands trial by jury of all issues so triable as of right.

COUNT III
NEGLIGENT ENTRUSTMENT
CLAIM AGAINST DEFENDANT FURY

Plaintiff re-alleges and re-adopts paragraphs 1 through 18 as if fully set forth herein and further allege that:

31. At all times material, Defendant FURY owed a duty to exercise reasonable care to its jet ski rental customers and members of the public, including and in particular Plaintiff JIYOON KIM, in the use, operation, and entrustment of its jet skis.

32. At all times material, Defendant FURY entrusted Defendant JULIEN TRAYNO with the jet ski that he was operating on the subject excursion.

33. At all times material, the jet ski that was entrusted to Defendant JULIEN TRAYNO was under the control of Defendant FURY, which had power, authority, custody, and dominion over the jet ski.

34. At all times material, Defendant FURY had actual and/or constructive knowledge of Defendant JULIEN TRAYNO's inexperience, lack of training, lack of instruction, lack of qualification, and/or dangerous propensities in the operation of jet skis.

35. At all times material, Defendant FURY knew or should have known that Defendant JULIEN TRAYNO was likely to operate the jet ski in such a manner as to create an unreasonable risk of harm to others, including JIYOON KIM.

36. At all times material, Defendant FURY was and is vicariously liable for the negligent acts and omissions of its employees, agents, and representatives pursuant to the doctrine of respondeat superior.

37. Defendant FURY was negligent and breached its duty of care by negligently entrusting its jet ski to Defendant JULIEN TRAYNO, who was a source of danger to members of the public, including Plaintiff JIYOON KIM.

38. Defendant FURY's breach of the duty of reasonable care encompasses, but is not limited to the following acts and omissions:

- a. Allowing Defendant JULIEN TRAYNO to operate its jet ski;
- b. Allowing Defendant JULIEN TRAYNO to participate in its jet ski excursion;
- c. Allowing Defendant JULIEN TRAYNO to operate its jet ski in an unsafe and reckless manner;

- d. Allowing Defendant JULIEN TRAYNO to operate its jet ski when it knew or should have known he did not possess adequate experience, training, qualification, and/or instruction to do so in a reasonably safe manner;
- e. Allowing Defendant JULIEN TRAYNO to participate in its jet ski excursion when it knew or should have known he did not possess adequate experience, training, qualification, and/or instruction to do so in a reasonably safe manner, and/or
- f. Allowing Defendant JULIEN TRAYNO to participate in its jet ski excursion when it knew or should have known that he did not fully understand the operational characteristics of a jet ski.

39. As a direct and proximate result of the above-mentioned negligence of Defendant FURY, Defendant JULIEN TRAYNO crashed his jet ski into the jet ski operated by JIYOON KIM and caused her untimely death.

40. As a further direct and proximate result of the negligence of Defendant FURY, which resulted in the death of JIYOON KIM, her surviving husband, Plaintiff BYUNGWOOK KIM, suffered harm therefrom, including the loss of the support and services, and love and affection of his wife; and has suffered mental pain and suffering therefrom. As a survivor under the law, Plaintiff claims all damages specified herein, as well as all damages allowable under Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.).

41. The ESTATE OF JIYOON KIM claims all damages allowed by Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.), including, but not limited to monetary support, loss of net accumulations, loss of earnings past and future, and medical and funeral expenses.

WHEREFORE, Plaintiff BYUNGWOOK KIM, individually and as Personal Representative of the ESTATE OF JIYOON KIM, demands judgment against Defendant

FURY, for damages in excess of fifteen thousand dollars (\$15,000), together with costs, attorneys fees as allowed by law, and all further relief this Court deems just and proper, and demands trial by jury of all issues so triable as of right.

COUNT IV
WRONGFUL DEATH NEGLIGENCE CLAIM
AGAINST DEFENDANT RALPH MAJOR, JR.

Plaintiff re-alleges and re-adopts paragraphs 1 through 18 as if fully set forth herein and further alleges that:

42. At all times material, Defendant RALPH MAJOR, JR. owed a duty to his jet ski rental customers and members of the public, including and in particular, JIYOON KIM, to exercise reasonable care in the operation, supervision, and management of the jet ski rental excursion to prevent foreseeable injury.

43. At all times material, Defendant RALPH MAJOR, JR. breached his duty of care to JIYOON KIM and was negligent in one or more of the following ways:

- a. Failing to operate the jet ski excursion in a safe and reasonable manner;
- b. Failing to provide adequate instruction and training to his jet ski excursion customers;
- c. Failure to adequately and reasonably supervise his jet ski excursion customers;
- d. Failing to comply with federal and state regulations, statutes, and codes with respect to the jet ski excursion;
- e. Failing to ensure an adequate ratio of employees to participants for the jet ski excursion;
- f. Failing to select reasonably safe sections of the ocean and routes of travel for the jet ski excursion;

- g. Utilizing a particular section of ocean for the jet ski excursion which it knew or should have known was unreasonably dangerous;
- h. Leading his customers into a dangerous condition;
- i. Failing to provide adequate and proper information regarding the jet ski excursion;
- j. Failing to ensure that the jet ski excursion customers did not exceed a reasonable speed under the circumstances;
- k. Failing to ensure that its jet ski excursion participants fully understood the operational characteristics of a jet ski;
- l. Violating Fla. Stat. §327.54;
- m. Violating Fla. Stat. §327.39;
- n. Violating Fla. Admin. Code §68D-36.107;
- o. Failing to ensure that the jet ski excursion participants understood English;
- p. Failing to ensure that the jet ski excursion participants were able to understand and appreciate training and instruction;
- q. Failing to adequately monitor, supervise, and control the jet ski excursion participants;
- r. Failing to properly evaluate Defendant JULIEN TRAYNO for fitness to operate a jet ski, and/or
- s. Failing to recognize that Defendant JULIEN TRAYNO was unfit and unqualified to operate a jet ski.

44. As a direct and proximate result of the above-mentioned negligence of Defendant RALPH MAJOR, JR., Defendant JULIEN TRAYNO crashed his jet ski into JIYOON KIM and caused her untimely death.

45. As a further direct and proximate result of the negligence of Defendant RALPH MAJOR, JR., which resulted in the death of JIYOON KIM, her surviving husband, Plaintiff BYUNGWOOK KIM, suffered harm therefrom, including the loss of the support and

services, and love and affection of his wife; and has suffered mental pain and suffering therefrom. As a survivor under the law, Plaintiff claims all damages specified herein, as well as all damages allowable under Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.).

46. The ESTATE OF JIYOON KIM claims all damages allowed by Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.), including, but not limited to monetary support, loss of net accumulations, loss of earnings past and future, and medical and funeral expenses.

WHEREFORE, Plaintiff BYUNGWOOK KIM, individually and as Personal Representative of the ESTATE OF JIYOON KIM, demands judgment against Defendant RALPH MAJOR, JR., for damages in excess of fifteen thousand dollars (\$15,000), together with costs, attorneys fees as allowed by law, and all further relief this Court deems just and proper, and demands trial by jury of all issues so triable as of right.

COUNT V
NEGLIGENT ENTRUSTMENT CLAIM
AGAINST DEFENDANT RALPH MAJOR, JR.

Plaintiff re-alleges and re-adopts paragraphs 1 through 18 as if fully set forth herein and further alleges that:

47. At all times material, Defendant RALPH MAJOR, JR. owed a duty to exercise reasonable care to its jet ski rental customers and members of the public, including and in particular Plaintiff JIYOON KIM, in the use, operation, and entrustment of Defendant FURY's jet skis.

48. At all times material, Defendant RALPH MAJOR, JR. entrusted Defendant JULIEN TRAYNO with the jet ski that he was operating on the subject excursion.

49. At all times material, the jet ski that was entrusted to Defendant JULIEN TRAYNO was under the control of Defendant RALPH MAJOR, JR., which had power, authority, custody, and dominion over the jet ski.

50. At all times material, Defendant RALPH MAJOR, JR. had actual and/or constructive knowledge of Defendant JULIEN TRAYNO's inexperience, lack of training, lack of instruction, lack of qualification, and/or dangerous propensities in the operation of jet skis.

51. At all times material, Defendant RALPH MAJOR, JR. knew or should have known that Defendant JULIEN TRAYNO was likely to operate the jet ski in such a manner as to create an unreasonable risk of harm to others, including JIYOON KIM.

52. Defendant RALPH MAJOR, JR. was negligent and breached its duty of care by negligently entrusting its jet ski to Defendant JULIEN TRAYNO, who was a source of danger to members of the public, including Plaintiff JIYOON KIM.

53. Defendant RALPH MAJOR, JR.'s breach of the duty of reasonable care encompasses, but is not limited to the following acts or omissions:

- a. Allowing Defendant JULIEN TRAYNO to operate the jet ski;
- b. Allowing Defendant JULIEN TRAYNO to participate in the jet ski excursion;
- c. Allowing Defendant JULIEN TRAYNO to operate the jet ski in an unsafe and reckless manner;
- d. Allowing Defendant JULIEN TRAYNO to operate the jet ski when he knew or should have known he did not possess adequate experience, training, qualification, and/or instruction to do so in a reasonably safe manner;
- e. Allowing Defendant JULIEN TRAYNO to participate in the jet ski excursion when he knew or should have known he did not possess adequate experience, training, qualification, and/or instruction to do so in a reasonably safe manner, and/or

- f Allowing Defendant JULIEN TRAYNO to participate in the jet ski excursion when he knew or should have known that he did not fully understand the operational characteristics of a jet ski.

54. As a direct and proximate result of the above-mentioned negligence of Defendant RALPH MAJOR, JR., Defendant JULIEN TRAYNO crashed his jet ski into the jet ski operated by JIYOON KIM and caused her untimely death.

55. As a further direct and proximate result of the negligence of Defendant RALPH MAJOR, JR., which resulted in the death of JIYOON KIM, her surviving husband, Plaintiff BYUNGWOOK KIM, suffered harm therefrom, including the loss of the support and services, and love and affection of his wife; and has suffered mental pain and suffering therefrom. As a survivor under the law, Plaintiff claims all damages specified herein, as well as all damages allowable under Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.).

56. The ESTATE OF JIYOON KIM claims all damages allowed by Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.), including, but not limited to monetary support, loss of net accumulations, loss of earnings past and future, and medical and funeral expenses.

WHEREFORE, Plaintiff BYUNGWOOK KIM, individually and as Personal Representative of the ESTATE OF JIYOON KIM, demands judgment against Defendant RALPH MAJOR, JR., for damages in excess of fifteen thousand dollars (\$15,000), together with costs, attorneys fees as allowed by law, and all further relief this Court deems just and proper, and demands trial by jury of all issues so triable as of right.

COUNT VI
WRONGFUL DEATH NEGLIGENCE CLAIM
AGAINST DEFENDANT JULIEN TRAYNO

Plaintiff re-alleges and re-adopts paragraphs 1 through 18 as if fully set forth herein and further alleges that:

57. At all times material, Defendant JULIEN TRAYNO owed a duty to members of the public, including and in particular, JIYOON KIM, to exercise reasonable care in the operation, control, and use of his jet ski to prevent foreseeable injury.

58. At all times material, Defendant JULIEN TRAYNO breached his duty of care to JIYOON KIM and was negligent in one or more of the following ways:

- a. Failing to operate his jet ski in a safe and reasonable manner;
- b. Failing to keep a proper lookout;
- c. Failing to maintain a safe and reasonable speed under the circumstances;
- d. Failing to exercise adequate control of his jet ski;
- e. Failing to avoid and/or prevent a collision;
- f. Failing to ensure that he was capable of operating a jet ski in a reasonably safe manner, and/or
- g. Crashing his jet ski into the jet ski operated by JIYOON KIM.

59. As a direct and proximate result of the above-mentioned negligence, Defendant JULIEN TRAYNO crashed his jet ski into JIYOON KIM and caused her untimely death.

60. As a further direct and proximate result of the negligence of Defendant JULIEN TRAYNO, which resulted in the death of JIYOON KIM, her surviving husband, Plaintiff BYUNGWOOK KIM, suffered harm therefrom, including the loss of the support and

services, and love and affection of his wife; and has suffered mental pain and suffering therefrom. As a survivor under the law, Plaintiff claims all damages specified herein, as well as all damages allowable under Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.).

61. The ESTATE OF JIYOON KIM claims all damages allowed by Florida's Wrongful Death Act (Florida Statute Chapter §768 et. seq.), including, but not limited to monetary support, loss of net accumulations, loss of earnings past and future, and medical and funeral expenses.

WHEREFORE, Plaintiff BYUNGWOOK KIM, individually and as Personal Representative of the ESTATE OF JIYOON KIM, demands judgment against Defendant JULIEN TRAYNO, for damages in excess of fifteen thousand dollars (\$15,000), together with costs, attorneys fees as allowed by law, and all further relief this Court deems just and proper, and demands trial by jury of all issues so triable as of right.

COUNT VII
PLAINTIFF BYUNGWOOK KIM'S NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS CLAIM AGAINST ALL DEFENDANTS

Plaintiff re-alleges and re-adopts paragraphs 1 through 18 as if fully set forth herein and further alleges that:

62. Plaintiff BYUNGWOOK KIM suffered horrific emotional distress upon experiencing this incident and watching his wife, JIYOON KIM, floating motionless, face down, in the ocean. Plaintiff BYUNGWOOK KIM was then forced to witness several unsuccessful resuscitation attempts as his wife remained completely unresponsive while dying before his eyes.

63. At all times material, Plaintiff BYUNGWOOK KIM was himself within the zone of danger created by all Defendants' negligence, and was himself at personal risk for harm.

64. At all times material, Plaintiff BYUNGWOOK KIM was within the sensory perception of his wife, JIYOON KIM.

65. As a direct and proximate result of the above described negligence of all Defendants, Plaintiff BYUNGWOOK KIM sustained emotional distress which has manifested in physical injuries, including but not limited to post-traumatic stress disorder, depression, emotional and physical injuries, upset stomach, sleep and appetite disturbances, nausea, and an inability to stop reliving the event and other physical and medical injuries.

66. Plaintiff BYUNGWOOK KIM claims damages for the negligent infliction of emotional distress and all other elements of damages allowable under law.

WHEREFORE, Plaintiff BYUNGWOOK KIM demands judgment against all Defendants for damages in excess of fifteen thousand dollars (\$15,000), together with costs, attorneys fees as allowed by law, and all further relief this Court deems just and proper, and demands trial by jury of all issues so triable as of right.

Dated this 10th day of September, 2016.

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