

IN THE CIRCUIT COURT OF CAMDEN COUNTY
STATE OF MISSOURI

ELIZABETH LOUISE JOUGLARD on behalf)
of SEAN P. JOUGLARD, deceased, and as)
Class Representative pursuant to RSMo 537.080,)

Plaintiff,)

Cause No.)

vs.)

DYLAN McEWEN,)

To be served:)
405 South 2nd Street)
Caseyville, IL 62232,)

and)

ERIC GOETTE,)

To be served:)
2779 Hanover Road)
Columbia, IL 62236,)

and)

RONALD G. GOETTE,)

To be served:)
2779 Hanover Road)
Columbia, IL 62236,)

Defendants.)

COMPLAINT

COMES NOW Plaintiff, Elizabeth Louise Jougard on behalf of Sean Jougard, deceased, and as Class Representative pursuant to RSMo 537.080, by and through her undersigned counsel, and for her Complaint, states as follows:

PARTIES

1. Plaintiff, Elizabeth Louise Jougard, is the surviving mother of decedent, Sean Jougard (Sean), and is a resident and citizen of the State of Illinois.
2. Phillip Jougard is the surviving father of decedent, Sean, and is the only other class 1 member pursuant to Mo. Rev. Stat. Section 537.080 and Phillip Jougard is a resident and citizen of the State of Illinois.
3. Sean was a resident and citizen of the State of Illinois.
4. Sean died on August 8, 2021. He was 21 years old.
5. Plaintiff, Elizabeth Louise Jougard brings this action pursuant to Mo. Rev. Stat. Section 537.080, commonly referred to as the “Missouri Wrongful Death Statute,” on behalf of herself and all persons entitled to recover under said statute. Plaintiff is the proper party to bring this action for the wrongful death of her son, Sean. Plaintiff, Jougard, and Phillip Jougard are the only qualified Class 1 beneficiary pursuant to Mo. Rev. Stat. Section 537.080.
6. Defendant, Dylan McEwen, is a resident and citizen of the State of Illinois
7. Defendant, Eric Goette, is a resident and citizen of the State of Illinois.
8. Defendant, Ronald Goette, is a resident and citizen of the State of Illinois.

VENUE AND JURISDICTION

9. Jurisdiction and venue are proper in the State of Missouri and Circuit Court of Camden County pursuant to Mo. Rev. Stat. Section 508.010 because decedent was first injured and died in Camden County, Missouri.

FACTUAL ALLEGATIONS

10. On August 8, 2021, Sean was a guest of Defendants, Eric Goette and Ronald Goette, at the address known as 24812 Leona Lane, Versailles, MO, owned by Defendant, Ronald Goette, and where Ronald Goette also owned a 2008 Monterey Open Bow boat.

11. That Sean had been invited as a guest to stay at the property referred to in paragraph 10 above during the weekend of August 6, 7 and 8.

12. That Defendant, Ronald Goette, knew or should have known that Defendant, Eric Goette, was not competent to operate the Monterey boat and despite this knowledge, entrusted and provided possession and control of the boat to Defendant, Eric Goette, the weekend of August 6, 7 and 8.

13. That on August 8, 2021, Defendant, Eric Goette, and Defendant, Dylan McEwen, were incompetent to operate the 2008 Monterey boat due to improper training, licensing, impairment, intoxication, inexperience and recklessness.

14. On August 8, 2021, Defendant, Eric Goette, and Defendant, Dylan McEwen, drove, piloted and operated the 2008 Monterey boat on the Lake of the Ozarks while consuming alcohol, getting intoxicated and/or driving and piloting the boat in a reckless manner. Defendant, Eric Goette, to whom Defendant, Ronald Goette, had entrusted and given complete control and possession of the boat, operated the boat in an intoxicated condition gave permission to Defendant, Dylan McEwen, to operate and pilot the boat and entrusted the boat to McEwen, who was also intoxicated.

15. Defendant, Ronald Goette, knew or should have known of the inexperience of Eric Goette and his propensity to operate and pilot a boat in an intoxicated condition and “party” at the Lake of the Ozarks.

16. That Defendant, Ronald Goette, expressly or impliedly provided permission to Defendant, Eric Goette, and friends of Eric Goette to operate and pilot the boat and entrusted the 2008 Monterey boat to Defendant, Eric Goette, and his friend Defendant, Dylan McEwen. Defendant, Ronald Goette, knew or should have known of Defendant, Eric Goette's, and Defendant, Dylan McEwen's, incompetence to operate and pilot the 2008 Monterey boat and knew or should have known the Defendant, Eric Goette, would both operate and pilot the boat while consuming alcohol and would allow his friend Defendant, Dylan McEwen, to operate and pilot the boat in an intoxicated condition.

17. Sometime in the early evening of August 8, 2021, Defendants, Eric Goette and Dylan McEwen, were operating the 2008 Monterey boat in the Lake of the Ozarks near mile markers 20 and/or 21.

18. Sean was a passenger in the 2008 Monterey boat.

19. Defendant, Dylan McEwen, as well as Defendant, Eric Goette, were intoxicated and Defendant, Dylan McEwen, began driving/piloting the boat.

20. Defendant, Dylan McEwen, was operating/piloting the boat in a reckless and dangerous condition and was attempting to jump a large wake from another boat, driving fast into the wake, hitting the wake at a high rate of speed and too fast for conditions.

21. Sean was ejected from the boat as a result of the operation of the boat and fatally injuring Sean.

22. Sean's body was found deep in the water of the Lake of the Ozarks on August 9, 2021 and pronounced dead.

23. After the boat hit the wake, ejecting Sean from the boat, the occupants of the boat, including Defendants, Eric Goette and Dylan McEwen, left the scene and then returned to the

area and remained in the boat for up to 15 minutes with no attempt to locate Sean or call authorities. When the occupants of the boat finally called the authorities, the occupants, including Defendants, Eric Goette and Dylan McEwen, told the authorities that they had stopped to swim and when Sean jumped in to swim he disappeared under the water never to be seen again. Included in the story to authorities some occupants told authorities they simply noticed Sean was not in the boat when they all got back into the boat after going for a swim.

24. No actual attempt by anyone in the boat was made to save or rescue Sean after being ejected from the boat.

25. At all times referenced herein, Missouri Revised Statutes 306.126 and 306.140 were in effect and applicable to the operation of the boat in question.

COUNT I
WRONGFUL DEATH
Negligence Against Defendants Dylan McEwen and Eric Goette

26. Plaintiff restates and incorporates by reference each and every allegation contained in the above paragraphs 1 through 25 as is fully set forth herein.

27. Defendants, Dylan McEwen and Eric Goette, individually or as a joint venture operated and piloted the boat and negligently breached their duty to Sean in the following respects:

- a. Defendants drove and piloted the boat while being physically impaired;
- b. Defendants drove and piloted the boat while being intoxicated;
- c. Defendants drove and piloted the boat too fast for the conditions on the lake at the time;
- d. Defendants failed to keep a careful lookout while driving the boat;

- e. Defendants negligently drove and piloted the boat knowing they did not have sufficient experience or certificates or education to operate it safely;
- f. Defendants negligently drove and piloted the boat at a high rate of speed directly into a wake causing a violent collision with the wake ejecting Sean and jarring the occupants of the boat.
- g. Defendants failed to institute any required boating rescue attempts to rescue or save Sean once Sean was ejected from the boat;
- h. Defendants recklessly drove and piloted the boat in that they drove the boat at a high rate of speed into a wake while physically intoxicated and impaired in violation of Missouri law.
- i. Defendants recklessly violated Missouri's "zero tolerance law" related to operating a boat while intoxicated and being physically impaired.
- j. Defendants failed to immediately call the Missouri State Highway Patrol when Sean was ejected from the boat in violation of Missouri law and hindering the rescue and recovery efforts;
- k. When Defendants did notify the Missouri State Highway Patrol they provided a false statement as to how Sean was missing and what had happened in the events leading up to Sean's ejection from the boat;
- l. Such further negligent and reckless acts and omissions as the evidence and discovery will reveal.

28. As a direct and proximate result of Defendants' negligent and reckless acts, Sean suffered injuries and death.

29. As a direct and proximate result of the injuries to and death of Sean, Plaintiff's Class was required to expend, incur, and become indebted for medical and funeral expenses. Further, Plaintiff has forever lost the love, services, consortium, comfort, instruction, guidance, counsel and support of Sean. In addition, Plaintiffs are entitled to all damages that Sean acquired before his death.

30. The aforesaid misconduct of Defendants, Dylan McEwen and Eric Goette, constituted a gross indifference and a willful, wanton, reckless and conscious disregard for the safety of the general public, and Sean, thus justifying and requiring an award of additional damages for aggravating circumstances to be assessed in a sum that will deter Defendants, Dylan McEwen and Eric Goette, and others from such misconduct in the future.

WHEREFORE, Plaintiff prays for judgment against Defendants, McEwen and Goette, for a fair and reasonable amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), for pre and post judgment interest for costs incurred herein, for aggravating circumstances, damages and for such other for the relief as the Court deems just and proper under the circumstances.

COUNT II
WRONGFUL DEATH
Negligent Entrustment Against Defendant, Ronald Goette, and Defendant, Eric Goette

31. Plaintiff restates and incorporates by reference each and every allegation contained in the above paragraphs as is fully set out herein.

32. At all times Defendants, Ronald Goette and Eric Goette, owed a duty to Sean and the public to exercise ordinary care in the entrustment of the boat to person incompetent by reason of:

- a. impairment;
- b. intoxication;

- c. inexperience;
- d. uncertified operators of the boat;
- e. untrained and uneducated in boat safety;
- f. recklessness; and
- g. such further incompetence as the evidence and discovery will reveal.

33. Defendant, Ronald Goette, knew or had reason to know of Defendant, Eric Goette's, incompetence to drive and pilot the boat at the time he entrusted both his real estate lake home and boat to Eric Goette. That Defendant, Eric Goette, negligently and recklessly drove and piloted the boat or in joint venture with Defendant, Dylan McEwen, drove and operated the boat in the following respects:

- a. Defendants, Eric Goette and Dylan McEwen, drove and piloted the boat while being physically impaired;
- b. Defendants, Eric Goette and Dylan McEwen, drove and piloted the boat while being intoxicated;
- c. Defendants, Eric Goette and Dylan McEwen, drove and piloted the boat too fast for the conditions on the lake at the time;
- d. Defendants, Eric Goette and Dylan McEwen, failed to keep a careful lookout while driving the boat;
- e. Defendants, Eric Goette and Dylan McEwen negligently drove and piloted the boat knowing they did not have sufficient experience of certificates or education to operate it safely;

f. Defendants, Eric Goette and Dylan McEwen, negligently drove and piloted the boat at a high rate of speed directly into a wake causing a violent collision with the wake ejecting Sean and jarring the occupants of the boat.

g. Defendants, Eric Goette and Dylan McEwen, failed to institute any required boating rescue attempts to rescue or save Sean once Sean was ejected from the boat;

h. Defendants, Eric Goette and Dylan McEwen, recklessly drove and piloted the boat in that they drove the boat at a high rate of speed into a wake while physically intoxicated and impaired in violation of Missouri law.

i. Defendants, Eric Goette and Dylan McEwen, recklessly violated Missouri's "zero tolerance law" related to operating a boat while intoxicated and physically impaired.

j. Defendants, Eric Goette and Dylan McEwen, failed to immediately call the Missouri State Highway Patrol when Sean was ejected from the boat in violation of Missouri law and hindering the rescue and recovery efforts;

k. When Defendants, Eric Goette and Dylan McEwen, did notify the Missouri State Highway Patrol they provided a false statement as to how Sean was missing and what had happened in the events leading up to Sean's ejection from the boat;

l. Such further negligent and reckless acts and omissions as the evidence and discovery will reveal.

34. That Defendant, Eric Goette, through a joint venture or otherwise, entrusted the boat to Defendant, Dylan McEwen.

35. At the time Defendant Eric Goette entrusted the boat to Defendant, Dylan McEwen, Defendant McEwen was incompetent by reason of:

- a. impairment;
- b. intoxication;
- c. inexperience;
- d. uncertified operators of the boat;
- e. untrained and uneducated in boat safety;
- f. recklessness; and
- g. such further incompetence as the evidence and discovery will reveal.

36. As a direct and proximate result of Defendant, Ronald Goette, and Defendant, Eric Goette, negligent entrustment of the boat combined with the negligence of Defendant, Dylan McEwen, Sean suffered injuries and death.

37. As a direct and proximate result of the injuries to and death of Sean, Plaintiff was required to expend, incur and become indebted for substantial medical, hospital and funeral expenses. Further, Plaintiff has forever lost the love, services, consortium, comfort, instruction, guidance, counsel and support of Sean. In addition, Plaintiff is entitled to all damages that Sean sustained before his death and for which she would have been entitled to recover had Sean lived.

38. The aforesaid misconduct of Defendant, Ronald Goette, and Defendant, Eric Goette, constituted a gross indifference and a willful, wanton, reckless and conscious disregard for the safety of the general public including Sean, thus justifying and requiring an award of additional damages for aggravating circumstances to be assessed against him in a sum that will deter him and others from such misconduct in the future.

WHEREFORE, Plaintiff prays for a judgment against Defendant, Ronald Goette, and Defendant, Eric Goette, for a fair and reasonable amount in excess of Twenty Five Thousand Dollars (\$25,000.00), for pre and post judgment interest, for costs herein for aggravating

circumstances and for such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

/s/ Russell F. Watters

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