

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X

DOUGLAS G. PERRY, individually and as
Personal Representative of the Estate of Marjorie
Perry and on behalf of all heirs and next of kin of
Marjorie Perry, deceased,

Plaintiff,

COMPLAINT

v.

Case No.:

SHORLELINE CRUISE, INC., RICHARD PARIS,
SHORELINE TOURS, INC., d/b/a/ SHORELINE
TOURS, LTD., a/k/a SHORELINE TOURS AND
TRAVEL, INC., a Canadian Corporation, LAKE
GEORGE STEAMBOAT COMPANY, INC.,
SCARANO BOAT BUILDING INC, CUMMINS,
INC., CUMMINS MERCUISER DIESEL
MARINE LLC, HYPRO LLC, PENTAIR PUMP
GROUP, INC. and PENTAIR, INC.,

Plaintiff Demands A Trial By Jury

Defendants.

-----X

DOUGLAS G. PERRY, individually and as Personal Representative of the Estate of Marjorie
Perry and on behalf of all heirs and next of kin of Marjorie Perry, deceased, by and through his
attorneys, Kreindler & Kreindler LLP, states as and for a Complaint against the defendants as
follows:

JURISDICTION AND VENUE

1. Jurisdiction is founded on diversity of citizenship, 28 U.S.C. §1332, in that:
 - a. The decedent, Marjorie Perry, was a citizen of the State of Michigan;
 - b. Plaintiff Douglas G. Perry is a citizen of the State of Michigan and was appointed the duly authorized Personal Representative of the Estate of Marjorie Perry by the Wayne County Probate Court, State of Michigan on March 10, 2006 in Case Number 2006-702125-DE.

c. Defendant Shoreline Cruise, Inc. (hereinafter “Shoreline”) is a corporation organized and existing under the laws of the State of New York, maintains its principal place of business in the State of New York, and is engaged in business in the State of New York within this District;

d. Defendant Richard Paris (“Paris”) is a citizen of the State of New York and an employee of defendant Shoreline;

e. Defendant Shoreline Tours, Inc., d/b/a Shoreline Tours, Ltd., a/k/a Shoreline Tours and Travel, Inc. (hereinafter “Shoreline Tours”) is a corporation organized and operating under the laws of Canada, maintains its principal place of business in Canada, and is engaged in business in the State of New York within this District;

f. Defendant Lake George Steamboat Company, Inc. (hereinafter “Steamboat”) is a corporation organized and existing under the laws of the State of New York, maintains its principal place of business in the State of New York, and is engaged in business in the State of New York within this District;

g. Defendant Scarano Boat Building Inc. (hereinafter “Scarano”) is a corporation organized and existing under the laws of the State of New York, maintains its principal place of business in the State of New York, and is engaged in business in the State of New York within this District;

h. Defendant Cummins Inc. (hereinafter “Cummins”) is a corporation organized and existing under the laws of the State of Indiana, maintaining its principal place of business in the State of Indiana and is registered to do, and is engaged in, business in the State of New York within this District;

i. Defendant Cummins Mercruiser Diesel Marine LLC (hereinafter “Cummins Mercruiser”) is a limited liability corporation organized and existing under the laws of the State of Delaware, maintaining its principal place of business in the State of South Carolina, and is engaged in business in the State of New York within this District; and

j. Upon information and belief, defendant Hypro LLC (hereinafter “Hypro”) is a limited liability corporation organized and existing under the laws of the State of Delaware, maintaining its principal place of business in the State of Minnesota, and is engaged in business in the State of New York within this District;

k. Upon information and belief, defendant Pentair Pump Group, (hereinafter “Pentair Pump”) is a corporation organized and existing under the laws of the State of Minnesota, maintaining its principal place of business in the State of Ohio and is registered to do, and is engaged in, business in the State of New York within this District;

l. Upon information and belief, defendant Pentair, Inc. (hereinafter “Pentair”) is a corporation organized and existing under the laws of the State of Minnesota, maintaining its principal place of business in the State of Minnesota, and is engaged in business in the State of New York within this District;

m. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

2. Venue in this District satisfies the requirements of 28 U.S.C. § 1391, in that, as set forth in paragraph 1, the defendants reside within and/or are subject to personal jurisdiction in this District.

GENERAL ALLEGATIONS

3. At all times relevant to this lawsuit, defendant Shoreline was a common carrier engaged in the business of providing boat tours on Lake George, Village of Lake George, State of New York, using vessels such as the “Ethan Allen” which it owned and operated.

4. At all times relevant to this lawsuit, defendant Paris was the Captain of the Ethan Allen and in the course and scope of his employment with Shoreline was responsible for the safe operation and seaworthiness of the Ethan Allen

5. On October 2, 2005, Marjorie Perry was a fare paying passenger on board the Ethan Allen.

6. On October 2, 2005, the Ethan Allen was caused to capsize (hereinafter the “subject incident”) causing Marjorie Perry severe physical and emotional injuries and death.

7. The decedent, Marjorie Perry, is survived by her four children, Douglas G. Perry, Joyce Barnard, Diane Fallot and John Perry.

8. At all times relevant to this lawsuit, defendant Shoreline owned, operated, controlled, maintained, serviced, repaired and/or inspected the Ethan Allen, as well as the equipment on board including, but not limited to, personal floatation devices, seating, seat restraints, seating platform, canopy, engine, engine coolant pump, ballast, and bilge pump, and defendant Shoreline controlled, directed, instructed and trained the crew of the Ethan Allen and was otherwise responsible for the conduct of the crew of the Ethan Allen.

9. At all times relevant to this lawsuit, defendant Steamboat was a common carrier engaged in the business of providing boat tours on Lake George, Village of Lake George, State of New York, using vessels such as the “Mohican” which it owned and operated.

10. At all times relevant to this lawsuit including on October 2, 2005, defendant Steamboat owned, operated and/or controlled the Mohican and controlled, directed, instructed and trained the crew of the Mohican and was otherwise responsible for the operation of the Mohican.

11. At all times relevant to this lawsuit, defendant Shoreline Tours was engaged in the business of arranging and organizing tour groups throughout the northeast, including New York.

12. At all times relevant to this lawsuit, defendant Shoreline Tours arranged, organized and/or selected to have the Ethan Allen, and its crew, used on the tour which resulted in the subject incident.

13. At all times relevant to this lawsuit, defendant Scarano was engaged in the business of designing, manufacturing, modifying, repairing, equipping, installing, testing and/or inspecting passenger vessels.

14. At all times relevant to this lawsuit, defendant Scarano designed, manufactured, assembled, modified, repaired, serviced, equipped, installed, tested and/or inspected the Ethan Allen and its component parts including, but not limited to, its canopy, seating, engine, engine coolant pump, ballast and bilge pump.

15. At all times relevant to this lawsuit, defendant Cummins was engaged in the business of designing, manufacturing, assembling, modifying, repairing, equipping, installing, testing and/or inspecting marine engines and their component parts, including, but not limited to, engine coolant pumps and writing or approving accompanying manuals, instructions and warnings.

16. At all times relevant to this lawsuit, defendant Cummins designed, manufactured, assembled, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine on

the Ethan Allen and its component parts including, but not limited to, its engine coolant pump and wrote or approved accompanying manuals, instructions and warnings.

17. At all times relevant to this lawsuit, defendant Cummins Mercruiser was engaged in the business of designing, manufacturing, assembling, modifying, repairing, equipping, installing, testing and/or inspecting marine engines and their component parts, including, but not limited to, engine coolant pumps and writing or approving accompanying manuals, instructions and warnings.

18. At all times relevant to this lawsuit, defendant Cummins Mercruiser designed, manufactured, assembled, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine on the Ethan Allen and its component parts including, but not limited to, its engine coolant pump and wrote or approved accompanying manuals, instructions and warnings.

19. Prior to October 2, 2005, defendant Cummins formed a joint venture with Mercury Mercruiser to form Cummins Mercruiser. By reason of said transaction and the underlying agreements between those corporate entities and their subsidiaries, defendant Cummins assumed responsibility for any injury or deaths to passengers or property losses that were caused or contributed to by the wrongful, negligent, reckless, wanton or wilful acts and omissions in the design, manufacture, assembly, modification, repair, servicing, equipping, installing, testing and/or inspecting and sale of the engine, including the coolant pump, on the Ethan Allen or as a result of defects in the engine, including the coolant pump, on the Ethan Allen and failures to issue necessary and appropriate warnings.

20. Hereinafter in this Complaint the defendants Cummins and Cummins Mercruiser are collectively referred to as the "Engine defendants."

21. At all times relevant to this lawsuit, defendant Hypro was engaged in the business of designing, manufacturing, assembling, modifying, repairing, equipping, installing, testing and/or inspecting marine engine coolant pumps and writing or approving accompanying manuals, instructions and warnings.

22. At all times relevant to this lawsuit, defendant Hypro designed, manufactured, assembled, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine coolant pump on the Ethan Allen and wrote or approved accompanying manuals, instructions and warnings.

23. At all times relevant to this lawsuit, defendant Pentair was the parent company of defendant Pentair Pump, controlled Pentair Pump, and designed, manufactured, assembled, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine coolant pump on the Ethan Allen and wrote or approved accompanying manuals, instructions and warnings.

24. At all times relevant to this lawsuit, defendant Pentair Pump was a division and wholly owned subsidiary under the control of Pentair and designed, manufactured, assembled, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine coolant pump on the Ethan Allen and wrote or approved accompanying manuals, instructions and warnings.

25. At all times relevant to this lawsuit, defendant Pentair was the parent company of defendant Hypro, controlled Hypro, and designed, manufactured, assembled, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine coolant pump on the Ethan Allen and writing or approving accompanying manuals, instructions and warnings.

26. At all times relevant to this lawsuit, defendant Hypro was a wholly owned subsidiary under the control of Pentair and designed, manufactured, assembled, modified, repaired, serviced,

equipped, installed, tested and/or inspected the engine coolant pump on the Ethan Allen and wrote or approved accompanying manuals, instructions and warnings.

27. Prior to October 2, 2005, defendant Pentair acquired the assets of Wicor Industries (“Wicor”) and assumed its liabilities. By reason of said transaction and the underlying agreements between those corporate entities and their subsidiaries, defendant Pentair, individually and as successor in interest to all Wicor assets and liabilities, assumed responsibility for any injury or deaths to passengers or property losses that were caused or contributed to by the wrongful, negligent, reckless, wanton or wilful acts and omissions in the design, manufacture, assembly, modification, repair, servicing, equipping, installing, testing and/or inspecting and sale of the engine coolant pump on the Ethan Allen or as a result of defects in the engine coolant pump on the Ethan Allen and failures to issue necessary and appropriate warnings.

28. Hereinafter in this Complaint the defendants Pentair, Pentair Pump and Hypro are collectively referred to as the “Pump defendants.”

**A CLAIM FOR WRONGFUL DEATH AND
SURVIVAL DAMAGES AGAINST SHORELINE**

29. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs “1” through “28” as if fully set forth herein at length.

30. At all times relevant to this lawsuit, defendant Shoreline owed plaintiff a duty to exercise reasonable care in the ownership, operation, control, maintenance, service, repair and inspection of the Ethan Allen and all of the equipment on board the Ethan Allen and owed plaintiff a duty to exercise reasonable care in the control, direction, instruction and training of the crew of the Ethan Allen.

31. At all times relevant to this lawsuit, defendant Shoreline was negligent and reckless in that, among other things, it: failed to have sufficient crew members on board; failed to ensure that personal floatation devices were readily accessible and immediately available to all passengers; failed to warn or otherwise instruct passengers of the location of the personal floatation devices and/or other life saving equipment, as well as failed to instruct them on how to evacuate the boat in the event of an emergency; failed to determine the boat was overcrowded, overweight and/or inherently unstable due to the excessive weight of the passenger load under the circumstances; failed to properly design, install or otherwise utilize appropriate seating on the Ethan Allen to prevent passengers from suddenly being thrown or shifted; failed to properly operate the Ethan Allen under the conditions then and there existing; failed to ensure the proper stability, lack of free standing water in the bilge, and overall seaworthiness of the Ethan Allen; failed to adequately design, construct, maintain and/or test the stability of the Ethan Allen after alterations to the structure of the Ethan Allen; failed to employ an automatic bilge pump; failed to properly operate the bilge pump; and failed to properly repair, modify, maintain, alter and/or inspect the Ethan Allen to ensure it was in a seaworthy manner.

32. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

33. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship, protection, parental care, advice, guidance and training, and inheritance and/or net estate

accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

34. As a consequence of the foregoing, defendant Shoreline is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

**A CLAIM FOR WRONGFUL DEATH AND
SURVIVAL DAMAGES AGAINST PARIS**

35. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "28" as if fully set forth herein at length.

36. At all times relevant to this lawsuit, defendant Paris owed plaintiff a duty to exercise reasonable care in the operation, control, maintenance, service, repair, testing and inspection of the Ethan Allen and all of the equipment on board the Ethan Allen and owed plaintiff a duty to exercise reasonable care in the control, direction, instruction and training of the crew of the Ethan Allen.

37. At all times relevant to this lawsuit, defendant Paris was negligent and reckless in that, among other things, he: failed to have sufficient crew members on board; failed to ensure that personal floatation devices were readily accessible and immediately available to all passengers; failed to warn or otherwise instruct passengers of the location of the personal floatation devices and/or other life saving equipment, as well as failed to instruct them on how to evacuate the boat in the event of an emergency; failed to determine the boat was overcrowded, overweight and/or inherently unstable due to the excessive weight of the passenger load under the circumstances; failed

to properly design, install or otherwise utilize appropriate seating on the Ethan Allen to prevent passengers from suddenly being thrown or shifted; failed to properly operate the Ethan Allen under the conditions then and there existing; failed to ensure the proper stability, lack of free standing water in the bilge, and overall seaworthiness of the Ethan Allen; failed to adequately design, construct, maintain and/or test the stability of the Ethan Allen after alterations to the structure of the Ethan Allen; failed to employ an automatic bilge pump; failed to properly operate the bilge pump; and failed to properly repair, modify, maintain, alter and/or inspect the Ethan Allen to ensure it was in a seaworthy manner.

38. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

39. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship, protection, parental care, advice, guidance and training, and inheritance and/or net estate accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

40. As a consequence of the foregoing, defendant Paris is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

**A CLAIM FOR WRONGFUL DEATH AND SURVIVAL
DAMAGES AGAINST STEAMBOAT**

41. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs “1” through “28” as if fully set forth herein at length.

42. At all times relevant to this lawsuit, Steamboat owed plaintiff a duty to exercise reasonable care in the ownership, operation and control of the Mohican and owed plaintiff a duty to exercise reasonable care in the control, direction, instruction and training of the crew of the Mohican.

43. At all times relevant to this lawsuit defendant Steamboat was negligent and reckless in that, among other things, it created a dangerous and unsafe wake on Lake George that caused or contributed to the capsizing of the Ethan Allen.

44. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

45. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship, protection, parental care, advice, guidance and training, and inheritance and/or net estate accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

46. As a consequence of the foregoing, defendant Steamboat is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie

Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

**A CLAIM FOR WRONGFUL DEATH AND
SURVIVAL DAMAGES AGAINST SHORELINE TOURS**

47. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "28" as if fully set forth herein at length.

48. At all times relevant to this lawsuit, defendant Shoreline Tours owed plaintiff a duty to exercise reasonable care in the organization, transport, selection, operation, and control of the Ethan Allen and owed plaintiff a duty to exercise reasonable care in the control, direction, instruction and training of the crew of the Ethan Allen.

49. At all times relevant to this lawsuit, defendant Shoreline Tours was negligent and reckless in that, among other things, it: failed to have sufficient crew members on board; failed to ensure that personal floatation devices were readily accessible and immediately available to all passengers; failed to warn or otherwise instruct passengers of the location of the personal floatation devices and/or other life saving equipment, as well as failed to instruct them on how to evacuate the boat in the event of an emergency; failed to determine the boat was overcrowded, overweight and/or inherently unstable due to the excessive weight of the passenger load under the circumstances; failed to properly operate the Ethan Allen under the conditions then and there existing; failed to ensure the overall seaworthiness of the Ethan Allen; and failed to use reasonable care in the selection of the Ethan Allen for tour boat operations.

50. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

51. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship, protection, parental care, advice, guidance and training, and inheritance and/or net estate accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

52. As a consequence of the foregoing, defendant Shoreline Tours is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

**A CLAIM FOR WRONGFUL DEATH AND
SURVIVAL DAMAGES AGAINST SCARANO**

53. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "28" as if fully set forth herein at length.

54. At all times relevant to this lawsuit, defendant Scarano owed plaintiff a duty to exercise reasonable care in the design, manufacture, modification, repair, service, equipping, installation, testing and/or inspection of the Ethan Allen and its component parts including, but not limited to, its canopy, seating, engine, engine water coolant pump system and bilge pump system.

55. At all times relevant to this lawsuit, defendant Scarano was negligent and reckless in that, among other things, it undertook alterations to the structure of the Ethan Allen including, but not limited to, its canopy, seating, engine, engine water coolant pump system, ballast and bilge pump system which caused or contributed to the Ethan Allen being unstable, unseaworthy and/or otherwise unsafe.

56. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

57. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship, protection, parental care, advice, guidance and training, and inheritance and/or net estate accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

58. As a consequence of the foregoing, defendant Scarano is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

**A CLAIM FOR WRONGFUL DEATH AND
SURVIVAL DAMAGES AGAINST CUMMINS**

59. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs “1” through “28” as if fully set forth herein at length.

60. At all times relevant to this lawsuit, defendant Cummins owed plaintiff a duty to exercise reasonable care in the design, manufacture, modification, repair, service, equipping, installation, testing and/or inspection of the engine on the Ethan Allen.

61. At all times relevant to this lawsuit defendant Cummins was negligent and reckless in that, among other things, it designed, manufactured, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine including, but not limited to the engine coolant pump, on the Ethan Allen in such a manner that it caused or contributed to the Ethan Allen being unstable, unseaworthy and/or otherwise unsafe.

62. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

63. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship, protection, parental care, advice, guidance and training, and inheritance and/or net estate accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

64. As a consequence of the foregoing, defendant Cummins is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

**A CLAIM FOR WRONGFUL DEATH AND
SURVIVAL DAMAGES AGAINST CUMMINS MERCUISER**

65. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "28" as if fully set forth herein at length.

66. At all times relevant to this lawsuit, defendant Cummins Mercruiser owed plaintiff a duty to exercise reasonable care in the design, manufacture, modification, repair, service, equipping, installation, testing and/or inspection of the engine on the Ethan Allen.

67. At all times relevant to this lawsuit defendant Cummins Mercruiser was negligent and reckless in that, among other things, it designed, manufactured, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine including, but not limited to the engine coolant pump, on the Ethan Allen in such a manner that it caused or contributed to the Ethan Allen being unstable, unseaworthy and/or otherwise unsafe.

68. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

69. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship,

protection, parental care, advice, guidance and training, and inheritance and/or net estate accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

70. As a consequence of the foregoing, defendant Cummins Mercruiser is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

**A CLAIM FOR WRONGFUL DEATH AND
SURVIVAL DAMAGES AGAINST HYPRO**

71. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "28" as if fully set forth herein at length.

72. At all times relevant to this lawsuit, defendant Hypro owed plaintiff a duty to exercise reasonable care in the design, manufacture, modification, repair, service, equipping, installation, testing and/or inspection of the engine coolant pump on the Ethan Allen.

73. At all times relevant to this lawsuit defendant Hypro was negligent and reckless in that, among other things, it designed, manufactured, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine coolant pump on the Ethan Allen in such a manner that it could allow water to accumulate in the hull which caused or contributed to the Ethan Allen being unstable, unseaworthy and/or otherwise unsafe.

74. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

75. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship, protection, parental care, advice, guidance and training, and inheritance and/or net estate accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

76. As a consequence of the foregoing, defendant Hypro is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

**A CLAIM FOR WRONGFUL DEATH AND
SURVIVAL DAMAGES AGAINST PENTAIR PUMP**

77. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "28" as if fully set forth herein at length.

78. At all times relevant to this lawsuit, defendant Pentair Pump owed plaintiff a duty to exercise reasonable care in the design, manufacture, modification, repair, service, equipping, installation, testing and/or inspection of the engine coolant pump on the Ethan Allen.

79. At all times relevant to this lawsuit defendant Pentair Pump was negligent and reckless in that, among other things, it designed, manufactured, modified, repaired, serviced, equipped, installed, tested and/or inspected the engine coolant pump on the Ethan Allen in such a manner that it could allow water to accumulate in the hull which caused or contributed to the Ethan Allen being unstable, unseaworthy and/or otherwise unsafe.

80. As a proximate cause of the foregoing, the decedent, Marjorie Perry, was forced to endure severe pre-death physical pain and mental anguish, fear of impending death, and severe physical injuries which caused her death.

81. As a result of the foregoing, plaintiff Douglas G. Perry, individually, and on behalf of the heirs and next of kin of Marjorie Perry and the Estate of Marjorie Perry, is entitled to recover damages for loss of earnings, support, services, society, love, consortium, companionship, protection, parental care, advice, guidance and training, and inheritance and/or net estate accumulations of the decedent, and grief, together with the decedent's mental and physical pain and suffering and pre-death fright and terror, funeral and burial expenses and exemplary damages and other damages.

82. As a consequence of the foregoing, defendant Pentair Pump is liable to the plaintiff for money damages in the amount of Ten Million (\$10,000,000) Dollars on account of causing Marjorie Perry's death and Two and One Half Million (\$2,500,000) Dollars for the pain and suffering she sustained prior to her death.

