

**Priority: STANDARD****Field Sheet #2023047654**Received: 9/22/2023 at 4:53 pm  
Court Date: Filed:**SERVE:****Work: Estero Island Parasail, Inc. c/o R/A: Sharon F. Faircloth, 11711 Isle of Palms Drive, Ft. Myers Beach, FL 33931****SPECIAL INSTRUCTIONS:****Attempts**

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Case Number: 23-CA-010569 Lee Circuit  
Plaintiff  
CAROL BARDONDefendant  
ESTERO ISLAND PARASAIL, INC.; andType of Writ: **Individual Summons, Standing Order in Circuit Civil Cases, Complaint For Damages and Demand For Jury Trial**

I acknowledge receipt of the documents listed above and confirm that the within-named party is / is not in active military service. (To change, go to Setup&gt;Misc Text&gt;FS Acknowledgement.)

\_\_\_\_\_  
Signature of Recipient

IN THE CIRCUIT COURT OF THE 20<sup>th</sup>  
JUDICIAL CIRCUIT IN AND FOR LEE  
COUNTY, FLORIDA

CASE NO.: 23-CA-010569

**CAROL BARDON,**  
**Individually,**

Plaintiff,

vs.

**ESTERO ISLAND PARASAIL,**  
**INC.; and PAUL KENNETH**  
**ZUMAN,**

Defendants.

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**CORPORATE SUMMONS**

**To: ESTERO ISLAND PARASAIL, INC.**

*by serving the registered agent:*      **Sharon F. Faircloth**  
11711 Isle of Palms Drive  
FT. Myers Beach, FL 33931

**IMPORTANT**

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed if you want the Court to hear your case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or legal aid office (list in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court, located at Clerk of Court, Lee County you must also mail or take a carbon copy or photocopy of your written response to the Plaintiff's attorney noted below:

**IMPORTANTE**

Usted ha sido demandado legalmente. Tiene 20 días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá. Si usted desea que el tribunal considere su defensa, debe

presentar su repuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's attorney" (Demandateo Abogado del Demandante).

### **IMPORTANT**

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jour consecutifs a partir de la date de l'assignation de cette citation pour déposer une reponse ecrite a la plainte ci-jointe aupres de ce Tribunal. Un simple coup de telephone est insuffisant pour vous proteger; vous etes oblige de déposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre solaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du Tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de déposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expendier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's attorney (Plaignant ou a son avocat) nomme cidessous.

THOMAS GRAHAM, ESQ.  
MAUSNER GRAHAM INJURY LAW PLLC  
1 NE 2<sup>ND</sup> Ave, Suite 200 Miami, FL 33132  
Telephone: (305) 344-4878  
Facsimile: (305) 800-8677  
tom@mginjuryfirm.com  
yariz@mginjuryfirm.com  
eservice@mginjuryfirm.com

THE STATE OF FLORIDA

**TO EACH SHERIFF OF THE STATE:** You are commanded to serve this Summons and a copy of the Complaint in this lawsuit on the above-named Defendant.

DATED ON: 09/22/2023

Kevin C. Karnes  
as Clerk of said Court

BY *Christina Strup*  
(Seal) as Deputy Clerk



IN THE COUNTY COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR LEE  
COUNTY, FLORIDA CIVIL ACTION

CASE NO: 23-CA-010569

Bardon, Carol  
Plaintiff

vs

Estero Island Parasail Inc et al  
Defendant

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**STANDING ORDER IN CIRCUIT CIVIL CASES IN THE  
TWENTIETH JUDICIAL CIRCUIT**

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PURSUANT to Florida Rule of Civil Procedure 1.200(a), Florida Rule of Judicial Administration 2.545, and Administrative Order 1.13 (as amended) entered by the Chief Judge of this Circuit, the parties are ordered to adhere to the following information and procedures applicable to civil lawsuits:

1. **SERVICE OF THIS ORDER.** The Plaintiff is directed to serve a copy of this order with each Summons issued in this case. One copy of this Order is to be filed with the Clerk of the Circuit Court with proof of service. The Plaintiff shall pay the appropriate statutory clerk's fees on copies for each Standing Order issued and attached to the Summons.

2. **CIVIL CASE MANAGEMENT SYSTEM.** The Supreme Court of Florida has established guidelines for the prompt processing and resolution of civil cases. This Court has adopted a case management system to help meet those guidelines. In contested cases (other than residential foreclosures, involuntary commitment of sexually violent predators, Extraordinary Writs, 90 day Notice of Medical Malpractice Claim, and Administrative Appeals), the parties are required to participate in the case management system. The Court will issue a Case Management Plan after 150 days of the filing of a case in the event the parties have not submitted an Agreed Case Management Plan that has been approved by the Court. However, if it becomes necessary to amend the court-issued Case Management Plan, the parties may submit an Agreed Case Management Plan, subject to approval by the Court, or if the parties cannot agree on an Amended Plan, the parties may request a case management conference. The form of the Agreed Case Management Plan may be accessed at the Court's website at: <https://www.ca.cjis20.org/Programs/Civil-Case-Management/generalcivil.aspx>. If a case management conference is scheduled, attendance by trial counsel and those parties who are not represented by counsel is mandatory. Agreed Case Management Plans are to be submitted to Lee County Civil Case Management by email in Word format to [LeeCircuitCivilCM@ca.cjis20.org](mailto:LeeCircuitCivilCM@ca.cjis20.org) or if no access to email then mailed to Lee County Civil Case Management 1700 Monroe Street Fort Myers FL 33901. DO NOT file with the Clerk of Court.

3. **ALTERNATIVE DISPUTE RESOLUTION (ADR).** ADR provides parties with an out-of-court alternative to settling disagreements. The Court requires the parties to participate in

IN THE COUNTY COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR LEE  
COUNTY, FLORIDA CIVIL ACTION

ADR prior to trial. Mediation is mandatory unless the parties agree to another form of ADR. Mediation is a conference at which an independent third party attempts to arrange a settlement between the parties. The Court, at its discretion, may order the case be referred to Non-Binding Arbitration. Non-Binding Arbitration is the process in which the court refers a case to a registered arbitrator, or panel of arbitrators, who will hear evidence and make an award which may become a final judgment if a Motion for Trial De Novo is not timely filed pursuant to Fla.R.Civ.P. 1820(h).

4. **FAILURE TO PROSECUTE.** The Court will issue a Notice of Intent to Dismiss a case if there is no record of activity within a ten (10) month period of time.

5. **RULES OF PROFESSIONALISM.** The Twentieth Judicial Circuit has adopted Administrative Order 2.20, which sets forth standards of professional courtesy and conduct for all counsel practicing within the Circuit and self-represented litigants. The Court requires that all familiarize themselves and comply with Administrative Order 2.20. Administrative Order 2.20 may be viewed on the Court's website at: [http://www.ca.cjis20.org/web/main/ao\\_admin.asp](http://www.ca.cjis20.org/web/main/ao_admin.asp)

**DONE AND ORDERED** in Chambers at Fort Myers, Lee County, Florida.

*Michael T. McHugh (electronically signed)*  
Administrative Circuit Judge

**\*\*\*\*Original on file in the office of the Circuit Court Administrative Judge, Lee County**

IN THE CIRCUIT COURT OF THE 20<sup>th</sup>  
JUDICIAL CIRCUIT IN AND FOR LEE  
COUNTY, FLORIDA

**CAROL BARDON,**  
**Individually,**

Plaintiff,

vs.

***JURY TRIAL DEMANDED***

**ESTERO ISLAND PARASAIL,**  
**INC.; and PAUL KENNETH**  
**ZUMAN,**

Defendants.

\_\_\_\_\_ /

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

CAROL BARDON, hereby sues Defendants, ESTERO ISLAND PARASAIL INC; and, PAUL KENNETH ZUMAN, for damages, and states as follows:

1. This is an *in personam* action for damages in excess of \$50,000.00 (fifty-thousand dollars) exclusive of costs and interest, and is otherwise within the jurisdiction of this Court.
2. At all times material, Plaintiff Carol Bardon was and is a resident of the state of Indiana, over the age of eighteen (18) years, and is otherwise *sui juris*.
3. At all times material, Defendant Estero Island Parasail, Inc., (hereinafter “Estero Island Parasail”) was and is a Florida corporation for profit, authorized to do and doing business in Lee County, Florida.
4. At all times material, Defendant Paul Kenneth Zuman, was a resident of Lee County, Florida.

5. This is an action for negligence that occurred on navigable waters in or around Fort Myers Beach, Lee County, Florida.

6. Venue is proper in Lee County under Florida Statutes § 47.011 and 47.051.

**FACTS COMMON TO ALL COUNTS**

7. On May 21, 2022, Carol Bardon and her husband arranged to go parasailing with Estero Island Parasail.

8. Estero Island Parasail offers parasailing off Fort Myers Beach, and operates a location out of the Pink Shell Beach Resort and Marina beach.

9. To access the parasail vessel participants of Estero Island Parasail are made to walk out into the ocean from the beach behind Pink Shell Beach Resort and must board a tender vessel which then takes participants to the parasail boat off-shore.

10. Participants, including Carol Bardon, are told that to board the tender vessel they will have to walk into waist deep water.

11. Carol Bardon was not given a safety briefing or instructions prior to being instructed to walk out into the ocean to board the tender vessel.

12. Carol Bardon had to walk and swim approximately 100 yards into the ocean to reach the tender vessel.

13. The water was not waist deep as she had been told, but was higher, and she was treading water and swimming to access the tender vessel.

14. The weather conditions on May 21, 2022, were windy and the waves were approximately three feet.

15. The tender vessel is a small, approximately 16-foot rigid hull inflatable boat.

16. Passengers, including Carol Bardon, enter the tender vessel by using a ladder affixed to the side.

17. Upon climbing up the ladder and stepping on the deck of the boat, there are no handholds or railings that can be easily grasped by the passenger.

18. On the date of the incident the weather was very bad, and the boat was moving a lot. Carol Bardon struggled to board the tender vessel and had to make multiple attempts. During this entire time Paul Kenneth Zuman stayed in his seat at the helm of the tender vessel and did not assist Carol Bardon. Paul Kenneth Zuman did not use the anchor or turn off the engine of the boat, but rather remained seated, effectively ignoring his struggling passengers.

19. Prior to entering the water to board the tender vessel Carol Bardon had been told by staff at Estero Island Parasail that getting into the tender vessel would be very easy. There was no instruction, advertisement, or warning that adequately described and conveyed the true nature of the danger and riskiness of boarding the rocking tender vessel in large waves while treading water next to a running boat.

20. After several attempts, Carol Bardon made it into the tender vessel. Upon entering the tender vessel was rocked by a large wave that caused Carol Bardon to fall.

21. Carol Bardon suffered a serious fracture of her hip when it slammed into the hard deck of the tender vessel. The fractured hip immediately immobilized her and caused her excruciating pain.

22. Carol Bardon communicated to Paul Kenneth Zuman that she was in excruciating pain and unable to move or stand, it was obvious she had suffered a debilitating injury that required urgent emergency medical care and orthopedic specialists. Paul Kenneth Zuman immediately knew and was informed that Carol Bardon was seriously injured and needed serious medical care and treatment.

23. Carol Bardon was in obvious distress, could not stand or use her lower extremities, and was laying on the floor of the tender vessel yelling in agony.



24. Despite Carol Bardon's obvious and extreme pain and injury, the operator of the tender vessel, Paul Kenneth Zuman, disregarded her medical emergency and continued to have additional parasail participants board the tender vessel.

25. Instead of immediately reporting the injury and seeking urgent medical care, as required by multiple controlling marine safety regulations, Paul Kenneth Zuman recklessly and with willful disregard for Carol Bardon's wellbeing and safety drove the tender vessel a significant distance through choppy seas with three-foot-waves and significant wind, in order to drop the other passengers off at the parasail boat and not disrupt the business operations of Estero Island Parasail.

26. While driving the other passengers Carol Bardon was confined by her injuries to laying on the hard deck of the tender vessel. She was screaming in agony due to her broken hip, which was being worsened by the bouncing of the boat on the large waves and the corresponding movement of her body. Carol Bardon's body and broken hip was repeatedly bounced and slammed off the floor of the vessel and jostled as the tender vessel was recklessly navigated by Paul Kenneth Zuman, who drove it through the rough seas at an excessive speed.

27. Carol Bardon was exposed to additional and aggravated injury to her broken hip during the approximately thirty to forty-five minutes that Paul Kenneth Zuman operated the boat, continuing the business operations of Estero Island Parasail instead of caring for his passenger, while Carol Bardon was lying on the floor of the tender vessel in obvious pain and peril suffering additional injuries and worsening the fracture. Paul Kenneth Zuman had been told that she was catastrophically injured, he was able to see and hear her screams of pain as her body was repeatedly slammed against the deck of the boat, yet he chose to continue with the voyage driving too fast and slamming Carol Bardon repeatedly.

28. After finally returning to dock, Paul Kenneth Zuman finally contacted emergency services after excessive delay. He thereafter made the intentional decision to have Carol Bardon lifted out of the tender vessel, which resulted in additional injury and movement to her hip.

29. Applicable Federal and Florida Regulations call for the immediate reporting of incidents of injury which require medical treatment beyond immediate first aid on a passenger vessel, such as those suffered by Carol Bardon. 46 CFR § 4.05-1 (a) (6); Fla. Stat. § 327.30 (2). Paul Kenneth Zuman negligently failed to comply with such requirements, breaching the statutory mandates and standard of care.

30. Paul Kenneth Zuman acted with willful and wanton disregard for the safety of Carol Bardon in a reckless manner by continuing with business operations and operating the tender vessel through rough waters while she was so badly injured that she could not move off the deck of the vessel or use her lower extremities. His conduct violated Florida law prohibiting reckless and careless operation of a vessel in contravention of Fla. Stat. § 327.33 (1) and (2).

31. It demonstrates a conscious and willful disregard for Carol Bardon's safety and wellbeing to subject her to a boat ride for an excessive period of time while she was suffering obviously serious and catastrophic orthopedic injuries that necessitated an emergency disembarkation. Paul Kenneth Zuman was aware of the great peril to Carol Bardon, was expressly informed of her injuries, and chose to continue with business operations in dangerous fashion rather than ensuring the safety and well-being of his passenger. His conduct in doing so rises to the level of recklessness and gross negligence.

32. At all times material, the tender vessel was in navigable waterways.

33. At all times material, the tender vessel was owned, operated, managed, maintained and/or controlled by Estero Island Parasail and/or Paul Kenneth Zuman.

34. Paul Kenneth Zuman was operating the vessel at the time of the incident.

35. Paul Kenneth Zuman was acting in the course and scope of his employment with Estero Island Parasail at the time of the incident and thereafter when he was grossly negligent and reckless by subjecting Carol Bardon to a rough voyage at sea when she obviously needed urgent medical care and no movement to her body.

36. Estero Island Parasail is vicariously liable for the negligence of Paul Kenneth Zuman, its deckhands, and any other employees, or agents working on the tender vessel on the date of the incident under the doctrine of *respondeat superior*, and via the operation of actual and apparent agency principles.

37. At all material times, and as to all acts and omissions described herein, Paul Kenneth Zuman was the agent, apparent agent, servant, and/or employee of Estero Island Parasail and acting in the scope of his duties authorized, and on behalf of Estero Island Parasail while operating the tender vessel and while in charge of the safety and wellbeing of passengers including Carol Bardon.

38. Paul Kenneth Zuman was provided to passengers by Estero Island Parasail, to act on behalf of Estero Island Parasail, with respect to the safe and proper navigation and operation of the tender vessel.

39. Paul Kenneth Zuman's actions with respect to the provision of captaining services and the safe and proper operation of the tender vessel were controlled by Estero Island Parasail, or alternatively, were subject to Defendant Estero Island Parasail's right of control.

40. Defendant Estero Island Parasail is responsible for the gross negligence and recklessness of Paul Kenneth Zuman as he was performing services for which he was retained by Estero Island Parasail and expected to perform and provide to fare paying passengers.

41. Paul Kenneth Zuman was performing maritime services that were undertaken by Estero Island Parasail through its operation of a parasailing business.

42. Defendant Estero Island Parasail exercises control over the operation, working hours, payment, quality and seaworthiness of the vessel, scheduling and staffing, and provision of proper and adequate equipment for the safe operation of the tender vessel.

43. Paul Kenneth Zuman accepted and acknowledged the agency relationship between himself and Estero Island Parasail.

44. Defendant Estero Island Parasail held out to the public that Paul Kenneth Zuman was its employee.

45. Defendant Estero Island Parasail permitted Paul Kenneth Zuman to tell the public that he was its employee and advertised his was a member of Estero Island Parasail's team.

46. Paul Kenneth Zuman wore a uniform indicating that he was an employee of Estero Island Parasail on the date that the incident occurred.

47. By words and conduct, Defendant Estero Island Parasail caused or allowed passengers, including Carol Bardon, to believe that Paul Kenneth Zuman was provided by Estero Island Parasail, and had authority to act on behalf of Estero Island Parasail with respect to the provision of captaining services and the safe and proper operation of the tender vessel.

48. Carol Bardon justifiably relied upon the belief that Paul Kenneth Zuman was an agent or apparent agent of Estero Island Parasail.

49. Paul Kenneth Zuman acted with gross negligence and recklessness by subjecting Carol Bardon to a dangerous trip at sea, bouncing her off the deck of the vessel for an extended period of time, after she had suffered obvious injuries of a catastrophic nature that rendered her unable to use her lower extremities or stand.

**COUNT I—NEGLIGENCE AGAINST DEFENDANT ESTERO ISLAND PARASAIL**

Plaintiff, CAROL BARDON, re-alleges and re-adopts paragraphs 1 through 49 as though fully set forth herein, and further alleges that:

50. Defendant Estero Island Parasail owed a duty of reasonable care under the circumstances to prevent injuries to Carol Bardon and to provide her with a voyage that was safe and compliant with state and federal maritime safety and navigational regulations.

51. Defendant Estero Island Parasail, had said duty individually and by and through its agents, apparent agents, ostensible agents, servants, and/or employees including Paul Kenneth Zuman. Defendant Estero Island Parasail is vicariously liable for the negligent acts of any of its agents, apparent agents, ostensible agents, servants, and/or employees acting within the scope and course of their agency, employment and or servitude.

52. Defendant Estero Island Parasail breached its duty and was negligent by:

- a. Failing to cancel the subject trip due to the weather and waves;
- b. Failing to provide a proper and adequate safety briefing as statutorily required by 46 CFR § 26.03-1 and 2;
- c. Failing to properly staff the tender vessel to assist guests with boarding;
- d. Failing to equip the tender vessel with sufficient handrails to permit safe ingress and egress;
- e. Failing to use the anchor so the operator of the tender vessel could manually assist guests with boarding on the ladder;
- f. Failing to slow the vessel speed based upon the conditions;
- g. Failing to appropriately maneuver the vessel;
- h. Failing to maintain the steering capabilities and seaworthiness of the vessel;
- i. Failing to provide safe passage;
- j. Failing to warn of the dangers of being injured due to waves or wake;
- k. Failing to instruct passengers, including Plaintiff, on how to safely endure passage;

- l. Failing to instruct passengers, including Plaintiff, on how to remain safe during high seas;
- m. Failing to instruct passengers fully and accurately on what the boarding process would entail;
- n. Operating the vessel during hazardous weather or environmental conditions unsafe for passengers to board while swimming/ wading to the vessel;
- o. Operating the vessel at unsafe speed for the existing conditions;
- p. Failing to comply with 46 CFR § 4.05-1 (a) (6);
- q. Failing to comply with Fla. Stat. § 327.30 (2);
- r. Violating Fla. Stat. § 327.33 (1) and (2) by operating the tender vessel recklessly and carelessly with willful and wanton disregard for the safety of Carol Bardon after she had suffered serious injury;

53. As a direct and proximate result of Defendant Estero Island Parasail's negligence, Plaintiff was injured in and about her body and extremities, suffered physical pain, scarring, disability, and disfigurement, mental anguish, incurred medical expenses in the care and treatment of her injuries, suffered physical handicap, suffered a loss of earning capacity, both past and future, suffered an aggravation of known or unknown pre-existing conditions, suffered a loss of the capacity for the enjoyment of life, suffered inconvenience, humiliation, embarrassment, and severe mental and emotional distress. All of these injuries are permanent and continuing in nature, and Plaintiff shall continue to suffer such losses and impairments in the future.

**WHEREFORE**, Plaintiff demands judgment against Defendant Estero Island Parasail for damages in excess of the minimal jurisdictional limits of this Court, as well as post-judgment interest as allowable by law, costs in bringing this action as allowed by law, and demands trial by jury of all issues so triable.

**COUNT II—NEGLIGENCE AGAINST PAUL KENNETH ZUMAN**

Plaintiff, CAROL BARDON, re-alleges and re-adopts paragraphs 1 through 49 as though fully set forth herein, and further alleges that:

54. At all material times, Paul Kenneth Zuman, as captain and operator of the tender vessel, reasonable care under the circumstances to prevent injuries to Carol Bardon and to provide her with a voyage that was safe and compliant with state and federal maritime safety and navigational regulations.

55. Paul Kenneth Zuman breached this duty by:

- a. Failing to cancel the subject trip due to the weather and waves;
- b. Failing to provide a proper and adequate safety briefing as statutorily required by 46 CFR § 26.03-1 and 2;
- c. Failing to properly staff the tender vessel to assist guests with boarding;
- d. Failing to equip the tender vessel with sufficient handrails to permit safe ingress and egress;
- e. Failing to use the anchor so the operator of the tender vessel could manually assist guests with boarding on the ladder;
- f. Failing to slow the vessel speed based upon the conditions;
- g. Failing to appropriately maneuver the vessel;
- h. Failing to provide safe passage;
- i. Failing to warn of the dangers of being injured due to waves or wake;
- j. Failing to instruct passengers, including Plaintiff, on how to safely endure passage;
- k. Failing to instruct passengers, including Plaintiff, on how to remain safe during high seas;

- l. Failing to instruct passengers fully and accurately on what the boarding process would entail;
- m. Operating the vessel during hazardous weather or environmental conditions unsafe for passengers to board while swimming/ wading to the vessel;
- n. Operating the vessel at unsafe speed for the existing conditions;
- o. Failing to comply with 46 CFR § 4.05-1 (a) (6);
- p. Failing to comply with Fla. Stat. § 327.30 (2);
- q. Violating Fla. Stat. § 327.33 (1) and (2) by operating the tender vessel recklessly and carelessly with willful and wanton disregard for the safety of Carol Bardon after she had suffered serious injury;

56. As a direct and proximate result of Paul Kenneth Zuman's negligence, Plaintiff was injured in and about her body and extremities, suffered physical pain, scarring, disability, and disfigurement, mental anguish, incurred medical expenses in the care and treatment of her injuries, suffered physical handicap, suffered a loss of earning capacity, both past and future, suffered an aggravation of known or unknown pre-existing conditions, suffered a loss of the capacity for the enjoyment of life, suffered inconvenience, humiliation, embarrassment, and severe mental and emotional distress. All of these injuries are permanent and continuing in nature, and Plaintiff shall continue to suffer such losses and impairments in the future.

**WHEREFORE**, Plaintiff demands judgment against Defendant Paul Kenneth Zuman for damages in excess of the minimal jurisdictional limits of this Court, as well as post-judgment interest as allowable by law, costs in bringing this action as allowed by law, and demands trial by jury of all issues so triable.

**COUNT III—GROSS NEGLIGENCE AGAINST PAUL KENNETH ZUMAN**

Plaintiff, CAROL BARDON, re-alleges and re-adopts paragraphs 1 through 49 as though



fully set forth herein, and further alleges that:

57. At all material times, Paul Kenneth Zuman, as captain and operator of the tender vessel, owed a duty of reasonable care under the circumstances to prevent injuries to Carol Bardon and to provide her with a voyage that was safe and compliant with state and federal maritime safety and navigational regulations.

58. By continuing with the operation of the vessel after Carol Bardon fell and suffered serious injuries Paul Kenneth Zuman acted grossly negligently. A reasonable, prudent person would know that driving a small tender vessel over three foot waves while a passenger laid injured on the deck of the vessel was likely to result in injury. Paul Kenneth Zuman ignored the fact that Carol Bardon was badly injured so as to not disrupt the business operations of Estero Island Parasail.

59. Instead of immediately calling and notifying the authorities, as required by statute and regulation, Paul Kenneth Zuman subjected Carol Bardon to a rough boat ride, knowing she was injured and could not stand or use her leg. By doing so he knowingly chose to subject her to aggravated injury and unnecessary pain for an extended period.

60. Carol Bardon's condition, and the ability and requirement to immediately summon emergency services that she urgently needed constitute a composite of circumstances which together constitute an imminent or clear and present danger amounting to more than normal and usual peril to Carol Bardon.

61. Paul Kenneth Zuman had knowledge and awareness that Carol Bardon was badly injured, that she could not stand or use her broken hip, and that she needed immediate emergency medical treatment. His conduct is predicated on chargeable knowledge and awareness of imminent danger to Carol Bardon by subjecting her to an extended rough ride at sea following her injury.

62. Paul Kenneth Zuman's conduct, in driving an obviously injured passenger through

rough waters to deliver other passengers, instead of stopping business operations and summoning emergency assistance as required by statute, evinces a conscious disregard for the consequences.

63. Paul Kenneth Zuman operated the vessel so as to not disrupt the business operations of Estero Island Parasail, choosing to let his passenger suffer and placing business operations over safety. By doing so he knowingly caused significant and protracted injury and damages to Carol Bardon.

64. Paul Kenneth Zuman acted with gross negligence on the date in question.

65. As a direct and proximate result of Paul Kenneth Zuman's gross negligence, Plaintiff was injured in and about her body and extremities, suffered physical pain, scarring, disability, and disfigurement, mental anguish, incurred medical expenses in the care and treatment of her injuries, suffered physical handicap, suffered a loss of earning capacity, both past and future, suffered an aggravation of known or unknown pre-existing conditions, suffered a loss of the capacity for the enjoyment of life, suffered inconvenience, humiliation, embarrassment, and severe mental and emotional distress. All of these injuries are permanent and continuing in nature, and Plaintiff shall continue to suffer such losses and impairments in the future.

**WHEREFORE**, Plaintiff demands judgment against Defendant Paul Kenneth Zuman for damages in excess of the minimal jurisdictional limits of this Court, as well as post-judgment interest as allowable by law, costs in bringing this action as allowed by law, and demands trial by jury of all issues so triable.

**COUNT IV—GROSS NEGLIGENCE AGAINST ESTERO ISLAND PARASAIL**

Plaintiff, CAROL BARDON, re-alleges and re-adopts paragraphs 1 through 49 as though fully set forth herein, and further alleges that:

66. At all material times, Paul Kenneth Zuman, an employee or agent of Estero Island Parasail, acting in the course and scope of his employment as captain and operator of the tender

vessel, owed a duty of reasonable care under the circumstances to prevent injuries to Carol Bardon and to provide her with a voyage that was safe and compliant with state and federal maritime safety and navigational regulations.

67. By continuing with the operation of the vessel after Carol Bardon fell and suffered serious injuries Paul Kenneth Zuman acted grossly negligently. A reasonable, prudent person would know that driving a small tender vessel over three foot waves while a passenger laid injured on the deck of the vessel was likely to result in injury. Paul Kenneth Zuman ignored the fact that Carol Bardon was badly injured so as to not disrupt the business operations of Estero Island Parasail.

68. Instead of immediately calling and notifying the authorities, as required by statute and regulation, Paul Kenneth Zuman subjected Carol Bardon to a rough boat ride, knowing she was injured and could not stand or use her leg. By doing so he knowingly chose to subject her to aggravated injury and unnecessary pain for an extended period.

69. Carol Bardon's condition, and the ability and requirement to immediately summon emergency services that she urgently needed constitute a composite of circumstances which together constitute an imminent or clear and present danger amounting to more than normal and usual peril to Carol Bardon.

70. Paul Kenneth Zuman had knowledge and awareness that Carol Bardon was badly injured, that she could not stand or use her broken hip, and that she needed immediate emergency medical treatment. His conduct is predicated on chargeable knowledge and awareness of imminent danger to Carol Bardon by subjecting her to an extended rough ride at sea following her injury.

71. Paul Kenneth Zuman's conduct, in driving an obviously injured passenger through rough waters to deliver other passengers, instead of stopping business operations and summoning emergency assistance as required by statute, evinces a conscious disregard for the consequences.

72. Paul Kenneth Zuman operated the vessel so as to not disrupt the business operations of Estero Island Parasail, choosing to let his passenger suffer and placing business operations over safety. By doing so he knowingly caused significant and protracted injury and damages to Carol Bardon.

73. Paul Kenneth Zuman acted with gross negligence on the date in question.

74. Estero Island Parasail is vicariously liable for the gross negligence of Paul Kenneth Zuman described herein.

75. As a direct and proximate result of Paul Kenneth Zuman's gross negligence, Plaintiff was injured in and about her body and extremities, suffered physical pain, scarring, disability, and disfigurement, mental anguish, incurred medical expenses in the care and treatment of her injuries, suffered physical handicap, suffered a loss of earning capacity, both past and future, suffered an aggravation of known or unknown pre-existing conditions, suffered a loss of the capacity for the enjoyment of life, suffered inconvenience, humiliation, embarrassment, and severe mental and emotional distress. All of these injuries are permanent and continuing in nature, and Plaintiff shall continue to suffer such losses and impairments in the future.

**WHEREFORE**, Plaintiff demands judgment against Defendant Paul Kenneth Zuman for damages in excess of the minimal jurisdictional limits of this Court, as well as post-judgment interest as allowable by law, costs in bringing this action as allowed by law, and demands trial by jury of all issues so triable.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all claims set forth herein.

Dated: September 13, 2023

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