

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.:

DIONNY BAEZ and,
YARISSETTE BAEZ,

Plaintiffs,

vs.

MICHAEL HUNTINGTON GRAY,
MTI-V, LLC., and
LORI ANN GRAY,

Defendants.

_____ /

COMPLAINT AND JURY DEMAND

Plaintiffs, DIONNY BAEZ and YARISSETTE BAEZ (collectively “the BAEZ’S”), by and through undersigned counsel hereby sue MICHAEL HUNTINGTON GRAY (“GRAY”), MTI-V, LLC (“MTI-V”), and LORI ANN GRAY (“L. GRAY”), (collectively Defendants), and allege:

THE PARTIES & MTI-V VESSEL

1. At all times material, DIONNY BAEZ and YARISSETTE BAEZ were U.S. citizens, resided in Miami-Dade County, Florida and were married.
2. At the time of the subject incident, DIONNY BAEZ was spearfishing and snorkeling (hereinafter “diving”) slightly north of the Dania Beach Pier and where the Dania Erojacks meet the first offshore reef (hereinafter “off Dania Beach”) in the coastal waters of Broward County, Florida.
3. At all times material, GRAY, an individual, was a U.S. Citizen and resided in Newport Beach, California.

4. At the time of the subject incident, GRAY was the operator of a fifty (50) foot 2022 MTI-V, VIN No. VIV50091J122 with Missouri Registration MO0023CB and possessing 2,250 horsepower from five outboard engines (hereinafter “MTI-V Vessel”). See below photo an exemplar of the MTI-V Vessel.



5. At the time of the subject incident, GRAY, while operating the MTI-V Vessel off Dania Beach in the coastal waters of Broward County, Florida, caused the MTI-V Vessel, its propellers and engine skegs, while traveling at a high rate of speed to strike DIONNY BAEZ causing severe and permanent bodily injury.

6. At all times material, MTI-V, was a Florida Limited Liability Company with offices located at 15600 Collins Ave., North Miami, Florida in Miami-Dade County, Florida, and owned the MTI-V Vessel.

7. At times leading up to and at the time of the subject incident, MTI-V had within Broward County, Florida, negligently entrusted the MTI-V Vessel to GRAY for his use during a pre-purchase multi-day sea trial.

8. At all times material, LORI GRAY, an individual, was a U.S. Citizen and resided in Newport Beach, California and was aboard the MTI-V Vessel leading up to, at the time of and immediately following the MTI-V striking DIONNY BAEZ.

JURISDICTION & VENUE

9. This is a personal injury claim wherein the amount in controversy, \$10,500,000.00, far exceeds this Court's minimum jurisdictional amount of \$30,000.00 exclusive of costs, interest, and attorney fees. As such, this Court has subject matter jurisdiction over this civil matter.

10. Defendants, at all times material hereto, personally or through an agent:

- a. Operated, conducted, engaged in or carried on a business or business venture in this county and/or state and had an office or agency in this state and/or county,
- b. Committed one or more tortious acts within this county and/or state,
- c. Breached contractual obligations owed within this county and/or state,
- d. Were engaged in substantial and non-isolated activity within this county and/or state,
- e. Derived substantial income from this state and within this district/county,
- f. Operated a vessel or vessels in the waters of this county and/or state,
- g. Committed one or more of the acts stated in Florida Statutes, §48.081, §48.181 or §48.193, and/or
- h. The acts of the Defendants set out in this Complaint occurred in whole or in part in this county and/or state or were initially committed in this county and/or state and were continuing in nature culminating in a later tort causing injury or harm outside this county and/or state.

11. The asserted causes of action arise under and/or are governed in whole or in part by the laws of the State of Florida, General Maritime Law and applicable Navigational Rules, including but not limited to those provided for in Florida Statute § 327.

12. Venue is proper because the tortious actions of the Defendants giving rise to the subject claims occurred within Broward County, Florida, and/or the coastal waters of Broward County, Florida, and within Florida's territorial waters.

GENERAL ALLEGATIONS

13. On or about December 13, 2021, DIONNY BAEZ was diving off Dania Beach in the coastal waters of Broward County, Florida.

14. At all times material, DIONNY BAEZ was not diving in a river, inlet, or navigation channel as those terms are used in Fla. Stat. § 327.331.

15. Danilo Garcia ("Garcia"), a friend of DIONNY BAEZ, accompanied DIONNY BAEZ on the spearfishing expedition and was present at all times material to the events described in this Complaint.

16. Garcia and DIONNY BAEZ were diving from an inflatable red with black accents XS Scuba Universal Floating Object ("UFO") with dimensions of 36" (L) x 26" (W) x 11" (H). See below exemplar photograph depicting the UFO in use at the time of the incident.



17. In accordance with Fla. Stat. § 327.331(1)(c)(1-4), DIONNY BAEZ (and Garcia), while diving, properly displayed a “divers-down warning device” in this instance a divers-down flag, meaning a flag that displayed a divers-down symbol and:

- a. Was square or rectangular and had a divers-down symbol on each face;
- b. Had white diagonal stripes on each face which began at the top, staff-side of the flag and extended diagonally to the lower opposite corner;
- c. If rectangular, was of a length that was not less than the height or more than 25% longer than the height; and
- d. Had a wire, or other stiffener, or was otherwise constructed to ensure that it remained fully unfurled and extended in the absence of wind or breeze.

18. In accordance with Fla. Stat. § 327.331(2), DIONNY BAEZ (and Garcia), while spear diving, prominently displayed their divers-down warning device in the area in which they dove.

19. In accordance with Fla. Stat. § 327.331(5), DIONNY BAEZ (and Garcia), while spear diving, made reasonable efforts to stay within three hundred (300) feet of their divers-down

warning device, in fact were within fifteen (15) feet of their divers-down warning device, at the moment the MTI-V vessel, its propellers and engine skegs, while traveling at a high rate of speed (i.e., over forty (40) mph), struck DIONNY BAEZ causing severe and permanent bodily injury.

20. In accordance with Fla. Stat. § 327.331(6), DIONNY BAEZ (and Garcia), while spear diving, caused their divers-down warning device to be displayed from the highest point of the vessel or other location to ensure the visibility of the divers-down warning device was not obstructed from any direction.

21. At all times leading up to and at the time of the subject incident, MTI-V owned the subject MTI-V Vessel.

22. The MTI-V Vessel is a vessel pursuant to Florida Statute § 327.02(43) and Section 1(b), Art. VII of the State Constitution.

23. On or about the morning of December 13, 2021, at all times leading up to the subject incident, visibility was clear and excellent with minimal sea state of less than one (1) to one and a half (1 ½) feet in wave height.

24. In the several minutes leading up to the incident, DIONNY BAEZ and Garcia were at the surface and within fifteen (15) feet of their UFO but turned away from the direction from which the MTI-V Vessel came from.

25. On or about, the morning of December 13, 2021, GRAY while at the helm of the MTI-V Vessel and while operating it caused its hull, propellers, and engine skegs, while traveling at a high rate of speed, to strike DIONNY BAEZ causing severe and permanent bodily injury.

26. GPS data downloaded from the MTI-V Vessel establish GRAY either saw DIONNY BAEZ, Garcia and/or the UFO seconds before the impact and attempted to take evasive maneuvers or only became aware of the impact afterwards.

27. Immediately following the impact, GRAY failed to stop and render aid, and continued navigating the MTI-V Vessel in a southerly direction.

28. The impact with DIONNY BAEZ caused a terribly loud noise.

29. Immediately after the impact, GRAY and/or L. GRAY looked back at DIONNY BAEZ and Garcia, who were still at the surface, made eye contact but continued on the Vessel's voyage.

30. DIONNY BAEZ, gravely injured and suffering from life threatening injuries, was unable to raise his hands to signal GRAY and L. GRAY aboard the MTI-V Vessel.

31. Garcia, within a few feet of DIONNY BAEZ was struck by the passing MTI-V Vessel. In a pool of blood and bodily tissue from the injuries suffered by DIONNY BAEZ, Garcia was, nonetheless, able to signal to GRAY and L. GRAY aboard the MTI-V Vessel for help. Garcia made direct eye contact with both individuals, signaled, and yelled for help, but all pleas for help were ignored and the MTI-V Vessel continued on its voyage.

32. Neither GRAY nor L. GRAY aboard the MTI-V Vessel called for help to assist DIONNY BAEZ or Garcia. A list of those GRAY and L. GRAY did not contact includes: local law enforcement, Marine Patrol, the United States Coast Guard (USCG), The Florida Wildlife Commission (FWC), 911, EMS or any hospital or facility for medical assistance.

33. As a part of the FWC's investigation into the subject incident, the FWC obtained permission from MTI-V, whose representative confirmed the Vessel was owned by MTI-V, to download GPS data from one or more Chart Plotter(s) aboard the Vessel. This download confirms the MTI-V Vessel was at the exact location of the point of impact at the exact time of the subject incident.

34. GRAY, knowing he had struck a diver or divers with the MTI-V Vessel and the diver(s) was/were in need of emergency medical care, knowingly, willfully, and callously failed to render aid to DIONNY BAEZ and Garcia.

35. L. GRAY, knowing that GRAY had struck a diver or divers with the MTI-V Vessel and the diver(s) was/were in need of emergency medical care, knowingly, willfully, and callously failed to render aid to DIONNY BAEZ and Garcia.

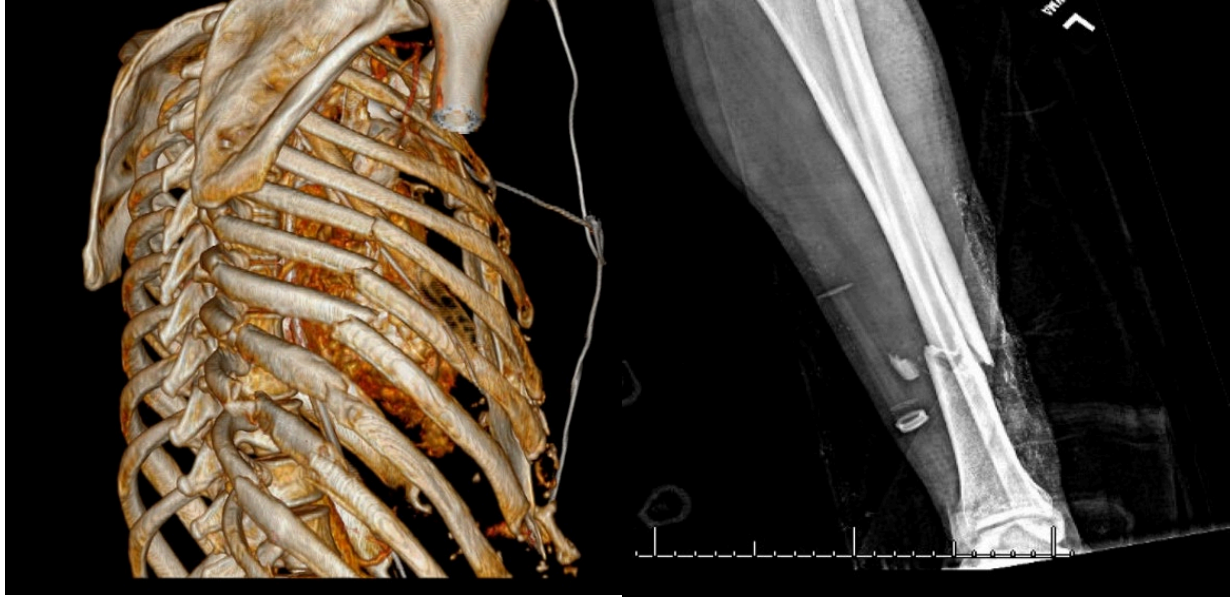
36. Meanwhile DIONNY BAEZ and Garcia were left abandoned in the Atlantic Ocean to fend for themselves. Garcia rendered immediate aid to DIONNY BAEZ, placing him on the XS Scuba UFO. Garcia then kicked and paddled swimming as hard and as fast as he could to get DIONNY BAEZ to the shoreline of Dania Beach before DIONNY BAEZ would bleed out and die from his injuries. DIONNY BAEZ, with his remaining functional leg also kicked as hard and as fast as he could to reach the beach as soon as possible, all the while passing in and out of consciousness. It took between forty-five (45) minutes to one (1) hour for DIONNY BAEZ and Garcia to swim to the beach.

37. Upon nearing the Dania Beach shoreline, Garcia screamed for help, whereupon 911 help was called. After reaching the beach, DIONNY BAEZ was provided with assistance from bystanders, law enforcement and eventually medical assistance on scene by emergency medical services (“EMS”) and later at Memorial Regional Hospital.

38. As a result of being struck by the MTI-V Vessel, its hull, propellers and engine skegs, DIONNY BAEZ began to bleed profusely into the water, and suffered severe and permanent personal injuries. Some of these injuries are depicted below, and include but are not limited to: washout, debridement and repair of complex right thigh, flank and thoracic injuries; lacerations and exposed bone to right thigh, minimally ten (10) rib fractures some fractured in multiple

locations, severe liver laceration requiring surgical intervention, procedure to repair diaphragm, appendectomy, head laceration and trauma, free air in his abdomen, orthopedic surgery to left open tibia fracture including insertion of metal rod, intubation continued after ICU due to respiratory failure related to trauma, right chest tube for most of admission, and ultimate discharge from Memorial Regional Hospital after twelve (12) days and numerous surgical procedures. *See photos of injuries depicted below:*







39. Based upon information and/or belief, one or more Officers with Florida Fish and Wildlife Conservation Commission (“FWC”) investigated the subject incident and verified GRAY was the operator of the MTI-V Vessel when it struck DIONNY BAEZ, by one or more of the following methods:

- a. GPS data downloaded from the MTI-V Vessel following the incident, which confirms the MTI-V Vessel operated by GRAY was in the exact location of the subject incident at the exact time of the incident;
- b. Video from the Dania Beach Pier and/or Haulover Inlet confirm the MTI-V Vessel operated by GRAY was in close proximity to the subject incident at the exact time of and/or shortly following the incident;
- c. Video from near-by high rise buildings, which confirm the MTI-V Vessel operated by GRAY was in close proximity to the location of the subject incident at the exact time of the incident; and
- d. Drug Interdiction Radar from the Department of Homeland Security, which confirms the MTI-V Vessel operated by GRAY was in the exact location of the subject incident at the exact time of the incident.

40. Based upon the Defendants' conduct, as alleged, in knowingly fleeing the scene, in reckless and conscious disregard for the life and safety of Plaintiff and Danilo García, Plaintiff reserves the right to amend this Complaint upon development of requisite evidence to add a claim for punitive damages, pursuant to Fla. Stat. § 768.72, and Fla. R. Civ. P. 1.190(f).

COUNT I
(NEGLIGENCE AGAINST MICHAEL HUNTINGTON GRAY)

DIONNY BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

41. As the operator of the MTI-V Vessel, GRAY owed DIONNY BAEZ the legal duty of reasonable care under the circumstances.

42. GRAY breached his legal duty to DIONNY BAEZ and was negligent by:

- a. Not having the requisite skill set or experience to safely operate a high horse powered vessel such as the MTI-V Vessel;
- b. Failing to keep a proper lookout;
- c. Failing to scan the waters ahead of the vessel for navigational markers, buoys, and obstacles, including but not limited to boats, dive boats, divers and snorkelers;
- d. Failing to operate the vessel in a reasonably safe and prudent manner under the circumstances leading up to and at the moment GRAY ran over and struck DIONNY BAEZ;
- e. Failing to exercise the highest degree of care in order to prevent injuries to others while operating the MTI-V Vessel as required by Florida Statute § 327.32;
- f. Failing to comply with the navigational rules as provided in Florida Statutes § 327.02 and § 327.33;
- g. Failing to make proper use of the MTI-V Vessel's navigational equipment, including but not limited to the vessel's chart plotter(s) and radar;
- h. Operating the MTI-V Vessel within three hundred (300) feet of a displayed divers-down flag in violation of Florida Statute § 327.331(5);
- i. Operating the MTI-V Vessel at a speed in excess of that necessary to maintain headway and steerageway while within three hundred (300) feet of the dive boat as required by Florida Statute § 327.331(6);
- j. Failing to operate the MTI-V Vessel in a reasonable and prudent manner, having regard for waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person as required by Florida Statute § 327.33;

- k. Failing to make needed speed and course adjustments on approach to DIONNY BAEZ, the dive raft and its diver's down flag;
- l. Failing to operate the MTI-V Vessel at a reasonable and safe distance from the dive raft that DIONNY BAEZ was diving from;
- m. Failing to operate the MTI-V Vessel at a reasonable and safe speed while in proximity of the dive raft that DIONNY BAEZ was diving from; and/or
- n. Failing to render assistance to the injured DIONNY BAEZ as required by Florida Statute § 327.30(1).

43. GRAY'S aforementioned negligence was the direct and proximate cause of DIONNY BAEZ's injuries and damages.

44. As a result of the above-alleged negligence, DIONNY BAEZ was injured about the body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience of the normal pursuits and pleasures of life, feelings of economic insecurity caused by the disability, disfigurement, scarring, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of the injuries, suffered physical handicap, lost past and future wages as well as impaired/diminished working ability and earning capacity. The injuries and damages are permanent or continuing in nature and DIONNY BAEZ will suffer losses and impairments in the future.

WHEREFORE, DIONNY BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT II
(STATUTORY NEGLIGENCE PER SE AGAINST MICHAEL HUNTINGTON
GRAY PURSUANT TO FLA. STAT. § 327.331(5) AND (6))

DIONNY BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

45. Florida Statute § 327.331(5) is a safety statute that requires a person operating a vessel on waters other than rivers, inlets, and navigation channels to make reasonable effort to maintain a distance of at least three hundred (300) feet from any divers-down flag or buoy.

46. Florida Statute § 327.331(6) is a safety statute that requires a person operating a vessel that approaches within three hundred (300) feet of a divers-down flag on waters other than a river, inlet, or navigation channel to proceed no faster than is necessary to maintain headway and steerageway.

47. The purpose of Florida Statutes § 327.331(5) & (6) is to protect divers and snorkelers from being injured by a boat or boat propellers.

48. DIONNY BAEZ is a member of the class of persons Florida Statutes § 327.331(5) & (6) were enacted to protect.

49. GRAY breached his legal duty to DIONNY BAEZ and was negligent *per se* by:

- a. Operating the MTI-V Vessel within three hundred (300) feet of a displayed divers-down flag in violation of Florida Statute § 327.331(5);
- b. Operating the MTI-V Vessel at a speed in excess of that necessary to maintain headway and steerageway while within three hundred (300) feet of the dive boat as required by Florida Statute § 327.331(6);

50. As a direct and proximate result of GRAY'S violation of Florida Statutes § 327.331(5) & (6), DIONNY BAEZ was injured about the body and extremities, suffered physical pain and

suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, disfigurement, scarring, impairment, inconvenience of the normal pursuits and pleasures of life, feelings of economic insecurity caused by the disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of the injuries, suffered physical handicap, lost past and future wages as well as impaired/diminished working ability and earning capacity. The injuries and damages are permanent or continuing in nature and DIONNY BAEZ will suffer losses and impairments in the future.

51. The harm alleged in the preceding paragraph above are the very harms for which the statute was designed to prevent.

WHEREFORE, DIONNY BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT III
(STATUTORY NEGLIGENCE PER SE AGAINST MICHAEL HUNTINGTON
GRAY PURSUANT TO FLA. STAT. § 327.30)

DIONNY BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

52. Florida Statute § 327.30(1) establishes a duty on the part of “the operator of a vessel involved in a collision, accident, or other casualty, so far as he or she can do so without serious danger to the operator’s own vessel, crew, and passengers, if any, to render to other persons affected by the collision, accident, or other casualty such assistance as is practicable and necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty.”

53. The purpose of Florida Statute § 327.30(1) is to protect persons affected by accidents or casualties caused by the operator of a vessel.

54. As the operator of a vessel involved in an accident or other casualty, GRAY had a duty to render assistance as was practicable and necessary in order to save DIONNY BAEZ or minimize the danger caused by the accident or casualty.

55. As a person that was affected by the accident or casualty involving the operator of the vessel, DIONNY BAEZ is within the class of people for which the statute is designed to protect.

56. GRAY breached his legal duty to DIONNY BAEZ and was negligent *per se* by:

- a. Idly standing by, failing to render assistance, and subsequently leaving the scene of the incident requiring DIONNY BAEZ and his dive companion, Garcia, to fend for themselves as they made the one (1) hour swim back to the shoreline during which an excessive amount of blood flowed from DIONNY BAEZ's body and into the water as he fell in and out of consciousness.

57. Florida Statute § 327.30(1) also establishes a duty on the part of an operator involved in a collision, accident, or other casualty to "give his or her name, address, and identification of his or her vessel in writing to any person injured..."

58. GRAY breached his legal duty to DIONNY BAEZ and was negligent *per se* by:

- a. Failing to give his name, address, and identification of his vessel in writing to DIONNY BAEZ.

59. As a direct and proximate result of GRAY'S violation of Florida Statute § 327.30(1), DIONNY BAEZ suffered additional mental pain and anguish, physical pain and suffering, anxiety, disfigurement, scarring, emotional distress and mental distress via excessive and profuse blood loss, reasonable fear of developing future physical and medical problems, loss of enjoyment of

life, fear of abandonment, and fear of death. The injuries and damages are permanent or continuing in nature and DIONNY BAEZ will suffer losses and impairments in the future.

60. The harm alleged in the preceding paragraph above are the very harms for which the statute was designed to prevent.

WHEREFORE, DIONNY BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT IV
(STATUTORY NEGLIGENCE PER SE AGAINST MICHAEL HUNTINGTON
GRAY PURSUANT TO FLA. STAT. § 327.32)

DIONNY BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

61. Florida Statute § 327.32 is a safety statute that states “[a]ll vessels, of whatever classifications, shall be considered dangerous instrumentalities in this state, and any operator of a vessel shall, during any utilization of the vessel, exercise the highest degree of care in order to prevent injuries to others.”

62. The purpose of Florida Statute § 327.32 is to protect individuals from the injuries caused by persons who fail to exercise the highest degree of care when operating a motor vessel.

63. DIONNY BAEZ is a member of the class that Florida Statute § 327.32 was enacted to protect.

64. GRAY breached his legal duty to DIONNY BAEZ and was negligent *per se* by:

- a. Not having the requisite skill set or experience to safely operate a high horse powered vessel such as the MTI-V Vessel;
- b. Failing to keep a proper lookout;

- c. Failing to scan the waters ahead of the vessel for navigational markers, buoys, and obstacles, including but not limited to boats, dive boats, divers and snorkelers;
- d. Failing to operate the vessel in a reasonably safe and prudent manner under the circumstances leading up to and at the moment GRAY ran over and struck DIONNY BAEZ;
- e. Failing to exercise the highest degree of care in order to prevent injuries to others while operating the MTI-V Vessel as required by Florida Statute § 327.32;
- f. Failing to comply with the navigational rules as provided in Florida Statutes § 327.02 and 327.33;
- g. Failing to make proper use of the MTI-V Vessel's navigational equipment, including but not limited to the vessel's chart plotter(s) and radar;
- h. Operating the MTI-V Vessel within three hundred (300) feet of a displayed divers-down flag in violation of Florida Statutes § 327.331(5);
- i. Operating the MTI-V Vessel at a speed in excess of that necessary to maintain headway and steerageway while within three hundred (300) feet of the dive boat as required by Florida Statute § 327.331(6);
- j. Failing to operate the MTI-V Vessel in a reasonable and prudent manner, having regard for waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person as required by Florida Statute § 327.33;
- k. Failing to make needed speed and course adjustments on approach to DIONNY BAEZ, the dive raft and its diver's down flag;

- l. Failing to operate the MTI-V Vessel at a reasonable and safe distance from the dive raft that DIONNY BAEZ was diving from;
- m. Failing to operate the MTI-V Vessel at a reasonable and safe speed while in proximity of the dive raft that DIONNY BAEZ was diving from; and/or
- n. Failing to render assistance to the injured DIONNY BAEZ as required by Florida Statute § 327.30(1).

65. As a direct and proximate result of GRAY'S violation of Florida Statute § 327.32, DIONNY BAEZ was injured about the body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, disfigurement, scarring, impairment, inconvenience of the normal pursuits and pleasures of life, feelings of economic insecurity caused by the disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of the injuries, suffered physical handicap, lost past and future wages as well as impaired/diminished working ability and earning capacity. The injuries and damages are permanent or continuing in nature and DIONNY BAEZ will suffer losses and impairments in the future.

66. The harm alleged in the preceding paragraph above are the very harms for which the statute was designed to prevent.

WHEREFORE, DIONNY BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT V
(STATUTORY NEGLIGENCE PER SE AGAINST MICHAEL HUNTINGTON GRAY
PURSUANT TO FLA. STAT. § 327.33)

DIONNY BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

67. Florida Statute § 327.33(2) is a safety statute that requires “[a]ny person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person.”

68. Florida Statute § 327.33(3) is a safety statute that requires “[e]ach person operating a vessel upon the waters of this state shall comply with the navigation rules.”

69. Failure to operate the vessel in the manner described in Florida Statute § 327.33(2) constitutes “careless operation.”

70. Florida Statute § 327.33(2) also describes how “[r]eckless operation of a vessel includes, but is not limited to, a violation of s. 327.331(6).”

71. The purpose of Florida Statute § 327.33 is to protect persons from dangers to their life, limb, and/or property and injuries caused by the reckless or careless operation of a vessel.

72. DIONNY BAEZ is a member of the class that Florida Statute § 327.33 was enacted to protect.

73. GRAY breached his legal duty to DIONNY BAEZ and was negligent *per se* by:

- a. Not having the requisite skill set or experience to safely operate a high horse powered vessel such as the MTI-V Vessel;
- b. Failing to keep a proper lookout;

- c. Failing to scan the waters ahead of the vessel for navigational markers, buoys, and obstacles, including but not limited to boats, dive boats, divers and snorkelers;
- d. Failing to operate the vessel in a reasonably safe and prudent manner under the circumstances leading up to and at the moment GRAY ran over and struck DIONNY BAEZ;
- e. Failing to exercise the highest degree of care in order to prevent injuries to others while operating the MTI-V Vessel as required by Florida Statute § 327.32;
- f. Failing to comply with the navigational rules as provided in Florida Statutes § 327.02 and § 327.33;
- g. Failing to make proper use of the MTI-V Vessel's navigational equipment, including but not limited to the vessel's chart plotter(s) and radar;
- h. Operating the MTI-V Vessel within three hundred (300) feet of a displayed divers-down flag in violation of Florida Statute § 327.331(5);
- i. Operating the MTI-V Vessel at a speed in excess of that necessary to maintain headway and steerageway while within three hundred (300) feet of the dive boat as required by Florida Statute § 327.331(6);
- j. Failing to operate the MTI-V Vessel in a reasonable and prudent manner, having regard for waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person as required by Florida Statute § 327.33;
- k. Failing to make needed speed and course adjustments on approach to DIONNY BAEZ, the dive raft and its diver's down flag;

- l. Failing to operate the MTI-V Vessel at a reasonable and safe distance from the dive raft that DIONNY BAEZ was diving from;
- m. Failing to operate the MTI-V Vessel at a reasonable and safe speed while in proximity of the dive raft that DIONNY BAEZ was diving from; and/or
- n. Failing to render assistance to the injured DIONNY BAEZ as required by Florida Statute § 327.30(1).

74. As a direct and proximate result of GRAY'S violation of Florida Statute § 327.33, DIONNY BAEZ was injured about the body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, disfigurement, scarring, impairment, inconvenience of the normal pursuits and pleasures of life, feelings of economic insecurity caused by the disability, disfigurement, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of the injuries, suffered physical handicap, lost past and future wages as well as impaired/diminished working ability and earning capacity. The injuries and damages are permanent or continuing in nature and DIONNY BAEZ will suffer losses and impairments in the future.

75. The harm alleged in the preceding paragraph above are the very harms for which the statute was designed to prevent.

WHEREFORE, DIONNY BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT VI
(NEGLIGENT ENTRUSTMENT AGAINST MTI-V)

DIONNY BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

76. The MTI-V Vessel is a vessel classified as a dangerous instrumentality pursuant to Florida Statute § 327.32.

77. MTI-V, at all times material thereto, owned the MTI-V Vessel.

78. MTI-V owed a duty to DIONNY BAEZ not to entrust the MTI-V Vessel to an operator that could foreseeably cause injuries to others.

79. MTI-V negligently entrusted the MTI-V Vessel to GRAY when knowing and/or having reason to know that GRAY did not have the requisite skill set and/or experience to safely operate such a high horse powered vessel.

80. MTI-V knew or had reason to know that entrusting the MTI-V Vessel to GRAY, the operator of said vessel at all times material thereto, could foreseeably cause injuries to others.

81. MTI-V breached its duty to DIONNY BAEZ when it negligently entrusted the MTI-V Vessel to GRAY, who ran over and struck DIONNY BAEZ while operating said vessel within hours of having been entrusted with the MTI-V Vessel.

82. As a result of the above-alleged negligence, DIONNY BAEZ was injured about the body and extremities, suffered physical pain and suffering, mental anguish, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, physical disability, impairment, inconvenience of the normal pursuits and pleasures of life, feelings of economic insecurity caused by the disability, disfigurement, scarring, aggravation of any previously existing conditions therefrom, incurred medical expenses in the care and treatment of the injuries, suffered physical handicap, lost past and future wages as well as impaired/diminished working ability and earning capacity. The injuries and damages are permanent or continuing in nature, and DIONNY BAEZ will suffer losses and impairments in the future.

WHEREFORE, DIONNY BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT VII
(STATUTORY NEGLIGENCE PER SE AGAINST LORI GRAY
PURSUANT TO FLA. STAT. § 327.30)

DIONNY BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

83. Florida Statute § 327.30(1) establishes a duty on the part of “the operator of a vessel involved in a collision, accident, or other casualty, so far as he or she can do so without serious danger to the operator’s own vessel, crew, and passengers, if any, to render to other persons affected by the collision, accident, or other casualty such assistance as is practicable and necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty.”

84. The purpose of Florida Statute § 327.30(1) is to protect persons affected by accidents or casualties caused by the operator of a vessel.

85. As the operator of a vessel involved in an accident or other casualty, L. GRAY had a duty to render assistance as was practicable and necessary in order to save DIONNY BAEZ or minimize the danger caused by the accident or casualty.

86. As a person that was affected by the accident or casualty involving the operator of the vessel, DIONNY BAEZ is within the class of people for which the statute is designed to protect.

87. L. GRAY breached his legal duty to DIONNY BAEZ and was negligent *per se* by:

- b. Idly standing by, failing to render assistance, and subsequently leaving the scene of the incident requiring DIONNY BAEZ and his dive companion, Garcia, to fend for themselves as they made the one-hour swim back to the shoreline during which an

excessive amount of blood streamed from DIONNY BAEZ'S body and into the water as he fell in and out of consciousness.

88. Florida Statute § 327.30(1) also establishes a duty on the part of an operator involved in a collision, accident, or other casualty to "give his or her name, address, and identification of his or her vessel in writing to any person injured..."

89. L. GRAY breached his legal duty to DIONNY BAEZ and was negligent *per se* by:

- a. Failing to give his name, address, and identification of his vessel in writing to DIONNY BAEZ.

90. As a direct and proximate result of L. GRAY'S violation of Florida Statute § 327.30(1), DIONNY BAEZ suffered additional mental pain and anguish, physical pain and suffering, anxiety, disfigurement, scarring, emotional distress and mental distress via excessive and profuse blood loss, reasonable fear of developing future physical and medical problems, loss of enjoyment of life, fear of abandonment, and fear of death. The injuries and damages are permanent or continuing in nature and DIONNY BAEZ will suffer losses and impairments in the future.

91. The harm alleged in the preceding paragraph above are the very harms for which the statute was designed to prevent.

WHEREFORE, DIONNY BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT VIII
(LOSS OF CONSORTIUM AGAINST MICHAEL HUNTINGTON GRAY)

YARISSETTE BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

92. At all times material thereto, the BAEZ'S were and are married, living together as a family.

93. As a direct and proximate result of the aforementioned negligence acts of GRAY as alleged in this Complaint, YARISSETTE BAEZ suffered in the past and will continue to suffer in the future the deprivation of her husband's, DIONNY BAEZ'S, companionship, society and consortium who, prior to the accident, had been in good health and fully capable of performing all of his family relationship and household duties, and is unable to do so now.

WHEREFORE, YARISSETTE BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT IX
(LOSS OF CONSORTIUM AGAINST MTV-I)

YARISSETTE BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

94. At all times material thereto, the BAEZ'S were and are married, living together as a family.

95. As a direct and proximate result of the aforementioned negligence acts of MTI-V as alleged in this Complaint, YARISSETTE BAEZ suffered in the past and will continue to suffer in the future the deprivation of her husband's, DIONNY BAEZ'S, companionship, society and consortium who, prior to the accident, had been in good health and fully capable of performing all of his family relationship and household duties, and is unable to do so now.

WHEREFORE, YARISSETTE BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

COUNT IX
(LOSS OF CONSORTIUM AGAINST LORI GRAY)

YARISSETTE BAEZ re-alleges all allegations pled in paragraphs 1 through 40 above as if alleged fully herein.

96. At all times material thereto, the BAEZ'S were and are married, living together as a family.

97. As a direct and proximate result of the aforementioned negligence acts of L. GRAY as alleged in this Complaint, YARISSETTE BAEZ suffered in the past and will continue to suffer in the future the deprivation of her husband's, DIONNY BAEZ'S, companionship, society and consortium who, prior to the accident, had been in good health and fully capable of performing all of his family relationship and household duties, and is unable to do so now.

WHEREFORE, YARISSETTE BAEZ demands all damages entitled by law including compensatory damages, court costs and interest.

DEMAND FOR JURY

PLAINTIFFS, DIONNY BAEZ and YARISSETTE BAEZ, demand trial by jury on all issues so triable.

Submitted this 16th Day of September 2022.

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