

4. At all relevant times, Thiel Truck Center, with the legal business name of Thiel Enterprises, LLC, has been a limited liability company organized under the laws of the State of Iowa. The corporation has its principal place of business in Pleasant Valley, Iowa. Its registered agent is Jean Friemel, and the agent's address is in LeClaire, Iowa.

5. Defendant James Thiel is a resident of Pleasant Valley, Scott County, Iowa.

6. Defendant Ethan Mahler is a resident of Bettendorf, Scott County, Iowa.

7. The venue and subject matter jurisdiction is proper as the events complained of herein by Plaintiff occurred on the Mississippi River in LeClaire, Scott County, Iowa.

8. The damages resulting from the injuries alleged herein exceed the jurisdictional amount from small claims court and were sustained to a significant degree in Scott County, Iowa.

COMMON ALLEGATIONS

9. On August 16, 2020, 52-year-old Anita Pinc and 61-year-old Craig Verbeke, who were engaged to be married on July 17, 2021, were enjoying an evening boat ride on the Mississippi River in LeClaire, Iowa. Pinc and Craig Verbeke were traveling northbound (or upstream) in a 19-foot 1993 Bayliner boat, and Verbeke was operating it.

10. Defendant Thiel was in a 35-foot triple-motor 2007 Triton boat, traveling southbound (or downstream). The boat was occupied by 13 people, including four adults and nine children, in spite of the boat's maximum capacity being 12 people. Defendant Thiel was assisting his son, J.T., a minor, operate the boat.

11. Defendant Thiel's company, Thiel Truck Center, owns the 35-foot Triton boat.

12. Defendant Ethan Mahler was operating a Scarab boat traveling southbound (or downstream).

13. The facts below are derived largely from a 30-page Case Activity Report and a 9-page Supplemental Report by the Iowa Department of Natural Resources (DNR). *See* DNR Report (attached as Exhibit A); DNR Supplemental Report (attached as Exhibit B).

14. Around 7:00 p.m., a Cobalt boat, carrying Mark Schoessler, Kimberly Beightler, Brian Pitt, Heather Pitt, and the Pitts' two children, was traveling southbound on the river. Exhibit A at 1–9. Schoessler was operating the boat. *Id.* at 1, 4. All of a sudden, Beightler alerted Schoessler of two boats—later determined to be Defendant Thiel's Triton boat and Defendant Mahler's Scarab boat—quickly approaching them from behind, on the right, and heading south. *Id.* at 1, 3–4.

15. Schoessler turned around and observed the Triton boat and Scarab boat “acting crazy,” and he thought the operators of the two boats were either (1) “racing each other” or (2) “upset with each other.” Exhibit A at 1.

16. The Triton boat and Scarab boat traveled at excessive speeds, Exhibit A at 1, 3, 6–7; crossed each other's paths, *id.* at 1, 4, 6–7; drove recklessly and aggressively toward each other, *id.* at 4; and operated close to each other and the shore, *id.* at 1.

17. Bystanders estimated the Triton boat and Scarab boat to be traveling above 60 mph. Exhibit A at 7, 12, 14. At one point, Beightler thought the Scarab boat was going to hit a nearby Twilight Riverboat and alerted Schoessler, *id.* at 1, who noted that the Scarab boat was “extremely close to the Twilight cruise boat,” *id.* at 4. Beightler witnessed the Triton boat and Scarab boat “almost T-bone each other.” *Id.* at 1.

18. Also traveling downstream were four others on a Jon boat. Exhibit A at 13–15. One of the Jon boat's passengers, Tony Dipple, observed the Triton boat and Scarab boat both “moving

very fast.” *Id.* at 13. Denise Huset, another passenger on the Jon boat, observed that the Triton boat and Scarab boat were “racing around” and “speeding.” *Id.* at 23.

19. Meanwhile, on the Iowa shoreline, Jazmine Bessenecker and Antonio Ramirez were sitting on a park bench, and Bessenecker noticed the Scarab boat moving “very fast” and the Triton boat following it. Exhibit A at 10. According to Bessenecker, the two boats “were clearly racing.” *Id.* Bessenecker then saw the Triton boat turn directly toward the Bayliner boat for “no good reason.” *Id.*

20. The Bayliner boat (operated by Craig Verbeke) was attempting to “get out of the way when he realized that the big boat was coming for him.” Exhibit A at 11. Both Ramirez and Bessenecker stated that it appeared as though the Triton had “purposely steer[ed] toward the Bayliner.” *Id.* at 12.

21. Dennis and Amy Whitlock were having a picnic and a cup of coffee in the Le Claire Park. Exhibit A at 29. Both observed the Triton boat and Scarab boat go “flying” by the Twilight Riverboat, close to shore. *Id.* at 29–30. Dennis Whitlock later recalled that the boats were “driving fast enough to make him flinch, which caught his attention” and that they were “traveling faster than they should have been.” *Id.* at 29. Similarly, Amy Whitlock remembered that her “first thought was jeez they [(the Triton boat and Scarab boat)] are going so fast and it was a weird match up for a race because the other boat [(the Scarab)] was so small” and that “the Triton was driving extremely fast.” *Id.* at 30.

22. The Triton boat and Scarab boat caught the attention of another witness on land, Vince Ramsey, who said that he “heard the slap of hulls hitting water” from outside the LeClaire Information Center. Exhibit A at 16.

23. The Triton boat approached the Bayliner boat at an excessive speed and hit the back and left side of the Bayliner. Exhibit A at 16.

24. The accident could have been avoided if the Triton boat and the Scarab boat “were not speeding along as fast as they were.” Exhibit A at 7.

25. Following the boat crash, the eyewitnesses in the Cobalt boat (Schoessler, Beightler, and the Pitts) called 911 and traveled to the Bayliner boat. Exhibit A at 1, 3–4, 6. There, they witnessed Defendant Thiel, who was completely dry, on the back of the Bayliner boat. *Id.* at 1–2, 6. Schoessler speculated that Defendant Thiel had been ejected from the Triton boat and landed on the back of the Bayliner boat, never entering the water. *Id.* at 5.

26. Defendant Thiel had been “thrown from [his Triton] boat.” Exhibit A at 24.

27. Defendant Thiel yelled at nearby boaters, “Whose boat is this?” and “Is this your boat?” Exhibit A at 1, 4. Thiel was, according to onlookers, confused, in a daze, and in shock. *Id.* at 13, 24. Schoessler, Beightler, the Pitts, and Huset observed Verbeke’s head and arm hanging over the side of the Bayliner boat, and Verbeke was bleeding down the side of the boat. *Id.* at 2–4, 6, 24. Eyewitnesses to the crash told Defendant Thiel to “check on the people in the [Bayliner] boat,” but instead Defendant Thiel stated that he was “not with that boat” and did not “know those people,” indicating to the eyewitnesses that “he was on one of the boats that caused the crash.” *Id.* at 3.

28. Eyewitnesses observed that Verbeke had numerous injuries to his head and face, that Verbeke was unconscious, that Pinc’s legs were on the floor of the Bayliner boat with debris sitting on top of the rest of her, and that their family dog was also mostly covered by debris. Exhibit A at 3–4, 6.

29. Defendant Mahler's Scarab boat returned to the accident scene and towed the Bayliner boat back to shore. Exhibit A at 2, 4, 6, 13, 24. By the time the Scarab boat, the Bayliner boat, and the Cobalt boat were docked on the Iowa side of the river, five to ten medics and law enforcement officers were there to assist. *Id.* at 4.

30. After the collision, in an attempt to help, Denise Huset asked one of the two women on the Triton boat what had happened, and the woman replied, "Mind your own fucking business." Exhibit A at 24. Thereafter, eyewitnesses observed the Triton boat travel away from the accident scene at an "idle speed toward the Illinois side" of the Mississippi River, and the Triton boat "never returned to the Bayliner." *Id.* at 2; *see id.* at 4, 24. Onlookers yelled at the Triton boat to return, but the passengers on the Triton boat ignored such pleas and "kept getting further away." *Id.* at 4. When the Triton boat eventually returned to the Iowa shore, the majority of the passengers—those who were on board during the boat crash—were no longer on the boat. *Id.* at 2, 4–5, 7. Only a few passengers returned. *Id.* at 4, 7. Some bystanders stated that passengers on the Triton boat had gotten off onto another boat after the accident. *See id.* at 4–5, 30.

31. Back onshore, Beightler overheard Defendant Mahler, who drove the Scarab boat, blaming the "other boat" (Defendant Thiel's Triton boat) for the boat crash, attempting to absolve himself of any responsibility for the crash. Exhibit A at 2. This upset Beightler because she believed that "both the Scarab and the Triton were speeding." *Id.*

32. Another eyewitness, Denise Huset, spoke with Defendant Thiel, who said his "son was driving." Exhibit A at 24. Huset, a bartender for over 20 years, smelled "liquor" emanating from Defendant Thiel, and described the smell as "horrible" and like "stale liquor." *Id.* It was later learned that DNR officers attempted to administer field sobriety tests, but Defendant Thiel "refused." *See* Exhibit B at 5. A passenger on Defendant Thiel's boat later told investigators that

the passengers on the Triton boat had done “the normal day drinking stuff.” *Id.* at 20. Huset also informed investigators that other witnesses on shore had observed the Triton boat and Scarab boat “operating in the same manner” the weekend before. *Id.* at 25.

33. A supplemental nine-page report by the DNR provided additional details about the boat crash. *See* Exhibit B. In particular, the supplemental DNR report concluded that the factors that contributed to the boat crash, based on the conduct of the passengers on and operators of the Triton boat, were the following: (1) excessive speed, (2) carelessness, (3) improper lookout, (4) operator inexperience, (5) rules of road violation, (6) fail to yield, and (7) alcohol use. *Id.* at 1.

34. As a result of the crash, Pinc and the family dog, died at the accident scene. Verbeke was hospitalized, and three days later, died as a result of his injuries. Verbeke, Pinc, and their dog died because of Defendants’ conduct described above.

35. In May 2021, Defendant Thiel was charged with two counts of involuntary manslaughter, both felonies, in violation of Section 707.5(1)(a) of the Code of Iowa (Counts 1 and 2); and two counts of involuntary manslaughter, misdemeanors, in violation of Section 707.5(1)(b) of the Code of Iowa (Counts 3 and 4). *See* Trial Information (attached as Exhibit C). Thiel was also charged with one count of reckless use of a watercraft, in violation of Section 462A.12(1) of the Iowa Code; and one count of operation of an unregistered watercraft, in violation of Section 462A.4 of the Iowa Code. *See* Order on Initial Appearance (attached as Exhibit D) (setting forth two related cases).

36. The State of Iowa charging documents allege that Thiel “act[ed] in a manner likely to cause death or serious injury” to Craig Verbeke and Anita Pinc and that Thiel “participate[d] and aid[ed] in the operation of a boat in a careless, reckless or negligent manner resulting in the death of [Verbeke and Pinc].” Exhibit C at 1–2.

COUNT I

NEGLIGENCE – JAMES THIEL, SR.

37. Plaintiff incorporates all other paragraphs of this petition as if fully set forth herein.

38. Defendant James Thiel was negligent and breached the applicable duty of care, and such negligence and breach included, but are not limited to one or more of the following ways:

- a. Failing to maintain a proper lookout;
- b. Allowing an inexperienced and/or unqualified person to operate the boat;
- c. Failing to exercise due care to avoid colliding with Craig Verbeke and Anita Pinc; and
- d. Failing to act as a reasonable, prudent person under the circumstances.

39. The negligence of Defendant Thiel was a cause of the decedent Craig Verbeke's injuries, death, and damages, and decedent Anita Pinc's injuries, death, and damages.

40. As a direct and proximate cause of Defendant Thiel's negligence, the Estate of Craig Verbeke, Alissa Verbeke, Rachel Webster, Rebekah McKissick, Bobby Verbeke, Robert Verbeke, and Delores Verbeke have incurred damages including, but not limited to, the following:

- a. Past and future physical and mental pain and suffering;
- b. Past and future medical expenses;
- c. Premature burial expenses;
- d. The present value of the additional amounts Craig Verbeke would reasonably be expected to have accumulated as a result of his own effort if he had lived out the term of his natural life; and
- e. The present value of the amount of financial support which Craig Verbeke would have contributed to his children and parents, but for his death.

41. As a result of the negligence of Defendant Thiel, Alissa Verbeke, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

42. As a result of the negligence of Defendant Thiel, Rachel Webster, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

43. As a result of the negligence of Defendant Thiel, Rebekah McKissick, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

44. As a result of the negligence of Defendant Thiel, Bobby Verbeke, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of his father, Craig Verbeke.

45. As a result of the negligence of Defendant Thiel, Robert Verbeke, individually, has incurred damages for past, present, and future loss of child consortium, and has lost the past, present and future consortium, aid, affection, support, and services of his son, Craig Verbeke.

46. As a result of the negligence of Defendant Thiel, Delores Verbeke, individually, has incurred damages for past, present, and future loss of child consortium, and has lost the past, present and future consortium, aid, affection, support, and services of her son, Craig Verbeke.

COUNT II

VICARIOUS LIABILITY – THIEL ENTERPRISES, LLC, d/b/a THIEL TRUCK

CENTER

47. Plaintiff incorporates all other paragraphs of this petition as if fully set forth herein.

48. Defendant James Thiel was operating a 35-foot Triton boat with the knowledge and consent of its owner, Thiel Enterprises, LLC, d/b/a Thiel Truck Center, and was acting within the scope of his employment when the negligence as set forth in this Petition occurred; that said negligence was attendant to acts necessary and intended to accomplish the purpose of employment; and that Thiel Enterprises, LLC, d/b/a Thiel Truck Center, is vicariously liable for the negligence of its agents and employees under the doctrine of respondeat superior, corporate liability, and ostensible agency.

49. Alternatively, the owner of the Boat, Thiel Enterprises, LLC, d/b/a Thiel Truck Center, through its agent(s) allowed an unqualified, inexperienced, intoxicated, or otherwise improper person to operate the boat.

50. As a direct and proximate result of the negligence of Thiel Enterprises, LLC, d/b/a Thiel Truck Center, through its agent and employee, Defendant James Thiel, the Estate of Craig Verbeke, Alissa Verbeke, Rachel Webster, Rebekah McKissick, Bobby Verbeke, Robert Verbeke, and Delores Verbeke have incurred damages including, but not limited to, the following:

- a. Past and future physical and mental pain and suffering;
- b. Past and future medical expenses;
- c. Premature burial expenses;
- d. The present value of the additional amounts Craig Verbeke would reasonably be expected to have accumulated as a result of his own effort if he had lived out the term of his natural life; and
- e. The present value of the amount of financial support which Craig Verbeke would have contributed to his children and parents, but for his death.

51. As a result of the negligence of Thiel Enterprises, LLC, d/b/a Thiel Truck Center, through its agent and employee, Defendant James Thiel, Alissa Verbeke, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

52. As a result of the negligence of Thiel Enterprises, LLC, d/b/a Thiel Truck Center, through its agent and employee, Defendant James Thiel, Rachel Webster, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

53. As a result of the negligence of Thiel Enterprises, LLC, d/b/a Thiel Truck Center, through its agent and employee, Defendant James Thiel, Rebekah McKissick, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

54. As a result of the negligence of Thiel Enterprises, LLC, d/b/a Thiel Truck Center, through its agent and employee, Defendant James Thiel, Bobby Verbeke, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of his father, Craig Verbeke.

55. As a result of the negligence of Thiel Enterprises, LLC, d/b/a Thiel Truck Center, through its agent and employee, Defendant James Thiel, Robert Verbeke, individually, has incurred damages for past, present, and future loss of child consortium, and has lost the past, present and future consortium, aid, affection, support, and services of his son, Craig Verbeke.

56. As a result of the negligence of Thiel Enterprises, LLC, d/b/a Thiel Truck Center, through its agent and employee, Defendant James Thiel, Delores Verbeke, individually, has

incurred damages for past, present, and future loss of child consortium, and has lost the past, present and future consortium, aid, affection, support, and services of her son, Craig Verbeke.

COUNT III

NEGLIGENCE J.W.T., JR., a MINOR

57. Plaintiff incorporates all other paragraphs of this petition as if fully set forth herein.

58. Defendant J.W.T., Jr., was negligent and breached the applicable duty of care, and such negligence and breach included, but are not limited to one or more of the following ways:

- a. Failing to maintain a proper lookout;
- b. Improperly operating the Triton boat;
- c. Failing to exercise due care to avoid colliding with Craig Verbeke and Anita Pinc; and
- d. Failing to act as a reasonable, prudent person under the circumstances.

59. The negligence of Defendant J.W.T., Jr., was a cause of the decedent Craig Verbeke's injuries, death, and damages, and decedent Anita Pinc's injuries, death, and damages.

60. As a direct and proximate cause of Defendant J.W.T., Jr.'s, negligence, the Estate of Craig Verbeke, Alissa Verbeke, Rachel Webster, Rebekah McKissick, Bobby Verbeke, Robert Verbeke, and Delores Verbeke have incurred damages including, but not limited to, the following:

- a. Past and future physical and mental pain and suffering;
- b. Past and future medical expenses;
- c. Premature burial expenses;

- d. The present value of the additional amounts Craig Verbeke would reasonably be expected to have accumulated as a result of his own effort if he had lived out the term of his natural life; and
- e. The present value of the amount of financial support which Craig Verbeke would have contributed to his children and parents, but for his death.

61. As a result of the negligence of Defendant J.W.T., Jr., Alissa Verbeke, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

62. As a result of the negligence of Defendant J.W.T., Jr., Rachel Webster, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

63. As a result of the negligence of Defendant J.W.T., Jr., Rebekah McKissick, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

64. As a result of the negligence of Defendant J.W.T., Jr., Bobby Verbeke, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of his father, Craig Verbeke.

65. As a result of the negligence of Defendant J.W.T., Jr., Robert Verbeke, individually, has incurred damages for past, present, and future loss of child consortium, and has

lost the past, present and future consortium, aid, affection, support, and services of his son, Craig Verbeke.

66. As a result of the negligence of Defendant J.W.T., Jr., Delores Verbeke, individually, has incurred damages for past, present, and future loss of child consortium, and has lost the past, present and future consortium, aid, affection, support, and services of her son, Craig Verbeke.

COUNT IV

NEGLIGENCE – ETHAN MAHLER

67. Plaintiff incorporates all other paragraphs of this petition as if fully set forth herein.

68. Defendant Ethan Mahler was negligent and breached the applicable duty of care, and such negligence and breach included, but are not limited to one or more of the following ways:

- a. Failing to maintain a proper lookout; and
- b. Failing to act as a reasonable, prudent person under the circumstances.

69. The negligence of Defendant Mahler was a cause of the decedent Craig Verbeke's injuries, death, and damages, and decedent Anita Pinc's injuries, death, and damages.

70. As a direct and proximate result of Defendant Mahler's negligence, the Estate of Craig Verbeke, Alissa Verbeke, Rachel Webster, Rebekah McKissick, Bobby Verbeke, Robert Verbeke, and Delores Verbeke have incurred damages including, but not limited to, the following:

- a. Past and future physical and mental pain and suffering;
- b. Past and future medical expenses;
- c. Premature burial expenses;

- d. The present value of the additional amounts Craig Verbeke would reasonably be expected to have accumulated as a result of his own effort if he had lived out the term of his natural life; and
- e. The present value of the amount of financial support which Craig Verbeke would have contributed to his children and parents, but for his death.

71. As a result of the negligence of Defendant Mahler, Alissa Verbeke, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

72. As a result of the negligence of Defendant Mahler, Rachel Webster, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

73. As a result of the negligence of Defendant Mahler, Rebekah McKissick, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of her father, Craig Verbeke.

74. As a result of the negligence of Defendant Mahler, Bobby Verbeke, individually, has incurred damages for past, present, and future loss of parental consortium, and has lost the past, present, and future consortium, aid, affection, support, and services of his father, Craig Verbeke.

75. As a result of the negligence of Defendant Mahler, Robert Verbeke, individually, has incurred damages for past, present, and future loss of child consortium, and has lost the past, present and future consortium, aid, affection, support, and services of his son, Craig Verbeke.

76. As a result of the negligence of Defendant Mahler, Delores Verbeke, individually, has incurred damages for past, present, and future loss of child consortium, and has lost the past, present and future consortium, aid, affection, support, and services of her son, Craig Verbeke.

COUNT IV

PUNITIVE DAMAGES

77. Plaintiff incorporates all other paragraphs of this petition as if fully set forth herein

78. The Defendants' conduct, actions, and inactions as set forth herein constituted a willful and wanton disregard for the rights and safety of Craig Verbeke and caused actual damages to Plaintiff, the Estate of Craig Verbeke, and Craig Verbeke's children and parents.

79. Consequently, Plaintiff is entitled to punitive damages on all counts.

WHEREFORE, Quad City Bank & Trust, as Administrator of the Estate of Craig Verbeke, and on behalf of Alissa Cari Verbeke, Rachel Verbeke Webster, Rebekah Verbeke McKissick, Bobby Harrison Verbeke, Robert Louis Verbeke, and Delores Isabell Verbeke pray for judgment against Defendants James Thiel and Ethan Mahler to fully and fairly compensate them for the injuries and damages they sustained as a result of Defendants' negligence, plus interest and costs as provided by law, and for such other and further relief as is equitable in the premises.

JURY DEMAND

Quad City Bank & Trust, as Administrator of the Estate of Craig Verbeke, on behalf of Alissa Cari Verbeke, Rachel Verbeke Webster, Rebekah Verbeke McKissick, Bobby Harrison Verbeke, Robert Louis Verbeke, and Delores Isabell Verbeke demand a trial by jury.

DATED: October 14, 2021

LANE & WATERMAN LLP

By: /s/ Ian J. Russell

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**ATTORNEYS FOR ESTATE OF CRAIG
VERBEKE, by and through the administrator of
the estate, QUAD CITY BANK & TRUST**

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2021, I electronically filed the foregoing with the Scott County Clerk of Court using the Iowa Courts E-Filing system.

/s/ Ian J. Russell