

SALTZ MONGELUZZI BENDESKY P.C.
ROBERT J. MONGELUZZI/ANDREW R. DUFFY/
E. DOUGLAS DISANDRO, JR.
Identification Nos: 017051990/031021995/089412013
8000 Sagemore Drive; Suite 8303
Marlton, NJ 08053
T: (856) 751-8383
F: (856) 751-0868
Attorneys For Plaintiff

<p>HOPE COHEN, as Executrix of the Estate of NORMA JANET MICHAELS, deceased, and in her own right 210 W. Washington Square, Apt. 10 SW Philadelphia, PA 19106</p> <p style="text-align: center;"><i>Plaintiff</i></p> <p style="text-align: center;">v.</p> <p>JEFFREY JASTRZEMBSKI 3714 South Boulevard Atlantic City, NJ 08401</p> <p>and</p> <p>JOHN DOE INDIVIDUALS 1-10; JOHN DOE PARTNERSHIPS 1-10; JOHN DOE PROFESSIONAL CORPORATIONS 1-10; and JOHN DOE INCORPORATED 1-10</p> <p style="text-align: center;"><i>Defendants</i></p>	<p>SUPERIOR COURT OF NEW JERSEY ATLANTIC COUNTY LAW DIVISION</p> <p>NO. ATL - L - 000974-24</p> <p style="text-align: center;"><u>COMPLAINT – CIVIL ACTION</u></p>
---	---

Plaintiff, Hope Cohen, as Executrix of the Estate of Norma Janet Michaels, deceased, and in her own right, by way of Complaint against Defendants, says:

I. INTRODUCTION

1. On the evening of August 12, 2023, the life of 79-year-old Norma Michaels was senselessly snuffed out when a speeding 20-foot Robalo boat operated by an impaired and intoxicated Defendant, Jeffrey Jastrzembski (hereinafter “Defendant Jastrzembski”), ran her over while she was swimming within yards of her home’s dock in the Intracoastal Waterway in Atlantic City, New Jersey.

2. Norma was an entirely innocent victim in this tragedy, which was caused by the outrageous conduct of Defendant Jastrzembki, who was boating under the influence of alcohol.

3. In the moments prior to running her over, Defendant Jastrzembki sped the Robalo directly toward Norma as she was swimming in the water, before making a late, aggressive port-side turn, causing the boat's outboard propeller to directly strike Norma, delivering fatal injuries to her head, neck, torso, arms, and legs.

4. At the time of the horrific collision, Defendant Jastrzembki was impaired and intoxicated, with a blood alcohol content well in excess of 0.19%.

5. Those who interacted with Defendant Jastrzembki in the aftermath of the collision detected a strong odor of alcohol on his breath.

6. Additionally, after killing Norma, Defendant Jastrzembki was seen throwing empty beer cans over the side of the Robalo into the water.

7. The negligent, careless, reckless, grossly negligent, and outrageous conduct of Defendant Jastrzembki was a substantial factor in bringing about the devastating, and ultimately fatal injuries, to Norma Michaels.

II. PARTIES

8. Plaintiff, Hope Cohen, is an adult individual residing in the Commonwealth of Pennsylvania at the above-captioned address.

9. Plaintiff, Hope Cohen, was duly appointed Executrix of the Estate of Norma Janet Michaels, pursuant to Letters Testamentary issued on September 7, 2023. *See* Letters, attached hereto as **Exhibit "A"**.

10. Plaintiff brings this action on behalf of the Estate of Norma Janet Michaels, deceased, and on behalf of the wrongful death beneficiaries of Norma Michaels, her three adult daughters:

- Hope Cohen,
- Lori Kushner, and
- Cristy Michaels.

11. In addition to her daughters, Norma is also survived by her treasured partner, Harvey Rimerman.

12. Defendant, Jeffrey Jastrzemski, is an adult individual residing in the State of New Jersey at the above-captioned address.

13. Defendants, John Doe Individuals 1-10, John Doe Partnerships 1-10, John Doe Professional Corporations 1-10, and John Doe Incorporated 1-10 (hereinafter the “John Doe Defendants”) are fictitious names for the other individuals and/or entities that negligently entrusted, permitted, and/or allowed Defendant Jastrzemski to possess the Robalo prior to causing the death of Norma Michaels.

III. JURISDICTION AND VENUE

14. This Court has personal jurisdiction over Defendant because he is a citizen of the State of New Jersey.

15. Atlantic County is an appropriate venue for this litigation because it is the county where the cause of action arose. *See* N.J. R.C.P 4:3-2(a)(3).

IV. THE EVENTS OF AUGUST 12, 2023

16. At all times relevant hereto, on August 12, 2023, Defendant Jastrzemski controlled a certain vessel, namely a Robalo bearing Hull Identification Number ROBC0140D212 (hereinafter the “Robalo”).

17. At approximately 5:14 p.m. on August 12, 2023, the Robalo which was operated by Defendant Jastrzemski was traveling in the Intracoastal Waterway in Atlantic City, at/near the Albany Avenue Bridge, traveling southbound.

18. At that time, Plaintiff’s Decedent was swimming in the water with a friend, within yards of the dock located at 3726 South Boulevard in Atlantic City, and well out of the way of the boating public.

19. As Defendant Jastrzemski approached the dock near where Plaintiff’s Decedent was swimming, he suddenly sped the Robalo directly toward Norma, before making a late, aggressive port-side turn, causing the boat’s outboard propeller to directly strike Norma.

20. As a result of the propeller strike, Norma suffered multiple traumatic injuries, which caused immense conscious pain and suffering and ultimately caused her untimely death, including, but not limited to: comminuted open skull fractures of calvarium and basilar skull with avulsive loss of bone; parenchymal brain destruction with avulsive loss of right cerebral hemisphere; multiple open facial bone fractures with laceration of tongue; extensive shredding lacerations of her face and scalp; multiple rib fractures; fractures of the 5th and 6th lumbar vertebrae; sacro-iliac fractures; multiple open pelvic fractures with evisceration of bowel; laceration with bisection of right kidney; extensive shredding lacerations of torso with exposure and disruption of chest and abdomen; open fractures of right femur and knee; open fractures of mid left femur;

shredding lacerations of the bilateral thighs with extensive soft tissue damage; and laceration of the left upper arm, among other injuries.

21. Before her death, Norma suffered agonizing pain and mental anguish from these devastating injuries.

22. Defendants are jointly and/or severally liable for Plaintiff's Decedent's injuries and death.

FIRST COUNT – NEGLIGENCE

PLAINTIFF v. DEFENDANT, JEFFREY JASTRZEMBSKI

23. Plaintiff incorporates herein by reference all preceding paragraphs.

24. At all relevant times, Defendant Jastrzembski had a duty to use reasonable care in the control, management and operation of the Robalo.

25. At all relevant times, Defendant Jastrzembski had a duty to observe and adhere to New Jersey law with respect to the operation of vessels for the safety of other vessels, personal watercraft, and swimmers in and on the water, including Plaintiff's Decedent.

26. At all relevant times, Defendant Jastrzembski had a duty to refrain from operating the vessel in a manner that could foreseeably cause injury to other vessels, personal watercraft, and swimmers in and on the water, including Plaintiff's Decedent.

27. At all relevant times, Defendant Jastrzembski had a duty to refrain from operating the vessel while under the influence of alcohol or other intoxicating substances.

28. The collision and impact with Plaintiff's Decedent and resulting injuries and death were caused by the negligent, careless, reckless, grossly negligent, and outrageous conduct of Defendant Jastrzembski in that he:

a. Struck Plaintiff's Decedent with the Robalo and/or the Robalo's propeller;

- b. Was intoxicated and/or under the influence of alcohol while operating the Robalo;
- c. Consumed alcohol prior to operating the Robalo;
- d. Failed to safely operate the vessel;
- e. Was incapable of safely and responsibly operating a vessel;
- f. Failed to operate the vessel at a reasonably safe speed;
- g. Failed to provide sufficient maneuvering room to safely operate the vessel;
- h. Failed to take early and substantial action to stay well clear of Plaintiff's Decedent;
- i. Failed to maintain a proper lookout at all times;
- j. Failed to keep the vessel under safe and proper control at all times;
- k. Failed to regain control of the vessel before the collision occurred;
- l. Failed to give proper and adequate warning of his intentions;
- m. Failed to operate the vessel in a reasonably safe manner;
- n. Failed to avoid the collision;
- o. Failed to follow and abide by all applicable waterway and boating rules and laws;
- p. Failed to operate the vessel in conformity with the laws and statutes of New Jersey;
- q. Failed to operate the vessel with due care and regard for the rights, safety, and position of Plaintiff's Decedent;
- r. Failed to observe safe operating precautions and procedures under all circumstances;
- s. Violated N.J.S.A. 12:7-46 – Operating or permitting another to operate vessel under influence of alcohol or drug;
- t. Violated N.J.S.A. 12:7-47 – Reckless operation;
- u. Was otherwise negligent under the circumstances.

29. By reason of the negligence, carelessness, recklessness, gross negligence, and other liability-producing conduct of Defendant Jastrzembki, Plaintiff's Decedent sustained injuries that led to her death; she sustained conscious pain and suffering and fear of impending death; she has sustained a permanent loss of earnings and loss of earning capacity; she has sustained permanent loss of enjoyment of life and life's pleasures; and she has been permanently prevented from performing all of her usual duties, occupations, recreational activities and avocations, all to her and her beneficiaries' loss and detriment.

30. As a direct and proximate result of the negligence, carelessness, recklessness, gross negligence, and other liability-producing conduct of Defendant Jastrzembki, Plaintiff's Decedent suffered severe and painful bodily injuries and conscious pain and suffering prior to her death.

31. As a direct and proximate result of the negligence, carelessness, recklessness, gross negligence, and other liability-producing conduct of Defendant Jastrzembki, Plaintiff's Decedent suffered a loss of past, present and future loss of employment and earnings capacity, and her beneficiaries likewise lost economic benefits and support.

32. The actions and inactions of Defendant Jastrzembki were a substantial/factual cause and/or increased the risk of Plaintiff's Decedent's injuries, death and damages and all damages sought herein.

WHEREFORE, Plaintiff, Hope Cohen, as Executrix of the Estate of Norma Janet Michaels, deceased, and in her own right, demands judgment against Defendant, Jeffrey Jastrzembki, for compensatory damages, punitive damages, interest, attorney's fees and costs of suit.

SECOND COUNT – NEGLIGENT ENTRUSTMENT

PLAINTIFF V. DEFENDANTS, JOHN DOE INDIVIDUALS 1-10, JOHN DOE PARTNERSHIPS 1-10, JOHN DOE PROFESSIONAL CORPORATIONS 1-10, and JOHN DOE INCORPORATED 1-10

33. Plaintiff incorporates herein by reference all preceding paragraphs.

34. At all times material hereto, Defendants, John Doe Individuals 1-10, John Doe Partnerships 1-10, John Doe Professional Corporations 1-10, and/or John Doe Incorporated 1-10, knew or should have known that Defendant Jastrzembski should not have been entrusted with, and/or allowed to possess, the Robalo.

35. Despite this knowledge, Defendants, John Doe Individuals 1-10, John Doe Partnerships 1-10, John Doe Professional Corporations 1-10, and/or John Doe Incorporated 1-10, negligently entrusted, permitted, and/or allowed Defendant Jastrzembski to possess the Robalo prior to causing the death of Norma Michaels.

36. By reason of the carelessness and negligence of Defendants, John Doe Individuals 1-10, John Doe Partnerships 1-10, John Doe Professional Corporations 1-10, and/or John Doe Incorporated 1-10, in permitting Defendant Jastrzembski to operate the vessel in question, Defendant Jastrzembski operated said vessel on the date of this catastrophe and as a result, Norma Michaels sustained the fatal injuries at issue.

WHEREFORE, Hope Cohen, as Executrix of the Estate of Norma Janet Michaels, deceased, and in her own right, demands judgment against Defendants, John Doe Individuals 1-10, John Doe Partnerships 1-10, John Doe Professional Corporations 1-10, and John Doe Incorporated 1-10, jointly and/or severally, and each of them, for compensatory damages, punitive damages, interest, attorney's fees and costs of suit.

THIRD COUNT – WRONGFUL DEATH ACTION

PLAINTIFF v. ALL DEFENDANTS

37. Plaintiff incorporates herein by reference all preceding paragraphs.

38. By reason of the negligent, careless, reckless, and grossly negligent conduct of Defendants as aforesaid, Plaintiff's Decedent, Norma Michaels, was caused to sustain devastating, catastrophic and fatal injuries as a result of the collision at issue.

39. Plaintiff brings this action on behalf of Plaintiff's Decedent's statutory beneficiaries against Defendants for wrongful death.

40. Decedent, Norma Michaels, is survived by her adult daughters, Hope Cohen, Lori Kushner, and Cristy Michaels.

41. In addition to her daughters, Norma is also survived by her treasured partner, Harvey Rimerman.

42. Plaintiff, on behalf of all persons entitled to recover under law, claims all medical, funeral, burial, and estate administration expenses, the loss of services, society, comfort, guidance and tutelage due to the death of Norma Michaels, all pecuniary loss suffered by Plaintiff's Decedent's next of kin/statutory beneficiaries by reason of the death of Norma Michaels, and all other damages recoverable under applicable law.

43. Plaintiff's Decedent left surviving her three adult daughters, Hope Cohen, Lori Kushner, and Cristy Michaels, who are entitled to damages for her death in accordance with N.J.S.A. 2A:31-1, and on whose behalf this claim for wrongful death is being brought.

44. By reason of the death of Plaintiff's Decedent, her adult daughters, Hope Cohen, Lori Kushner, and Cristy Michaels, suffered pecuniary losses, including but not limited to the following:

- a. For the losses of her probable lifetime earnings, less probable lifetime costs of maintenance; and
- b. For the value of the society, assistance, comfort, training, and services of Plaintiff's Decedent, which she would have rendered to her daughters had she lived.

45. Plaintiff brings this action by virtue of the Wrongful Death Act, N.J.S.A. 2A:31-1, and claims all benefits and recoverable damages under the Wrongful Death Act on behalf of all persons entitled to recover under law.

WHEREFORE, Hope Cohen, as Executrix of the Estate of Norma Janet Michaels, deceased, and in her own right, demands judgment against Defendants, Jeffrey Jastrzembki, John Doe Individuals 1-10, John Doe Partnerships 1-10, John Doe Professional Corporations 1-10, and John Doe Incorporated 1-10, jointly and/or severally, and each of them, for compensatory damages, punitive damages, interest, attorney's fees and costs of suit.

FOURTH COUNT – SURVIVAL ACTION

PLAINTIFF v. ALL DEFENDANTS

46. Plaintiff incorporates herein by reference all preceding paragraphs.

47. Plaintiff, Hope Cohen, as Executrix of the Estate of Norma Janet Michaels, deceased, brings this action under the New Jersey Survival Act and claims all benefits of the Survival Act or law governing the survival of actions.

48. Plaintiff, Hope Cohen, as Executrix of the Estate of Norma Janet Michaels, deceased, claims all damages suffered by the Estate by reason of the death Norma Michaels, including without limiting the generality of the foregoing: damages for the anxiety, fear, serious injuries, the great and unspeakable conscious pain and suffering, both physical and emotional, and other intangible losses which Norma Michaels underwent prior to her death; the loss of life and of life's pleasures, the loss of future earning capacity suffered by Norma Michaels from the date of

her death until the time in the future that she would have lived had she not died as a result of the injuries she sustained; the total limitation and deprivation of Norma Michaels's normal activities, pursuits, and pleasures from the date of her death until such time in the future as she would have lived had she not died as a result of the injuries sustained; and all hospital, funeral, medical, and other pecuniary expenses incurred by reason of the negligence, carelessness, recklessness, gross negligence and other liability-producing conduct of Defendants.

49. Plaintiff, Hope Cohen, as Executrix of the Estate of Norma Janet Michaels, deceased, claims damages for the heirs-at-law for the fright and mental suffering attributable to the peril leading to the physical manifestation of mental injuries, physical injuries, and ultimately death occurring to Plaintiff's Decedent, Norma Michaels, which was caused by Defendants' negligence, carelessness, recklessness, gross negligence and other liability-producing conduct.

WHEREFORE, Hope Cohen, as Executrix of the Estate of Norma Janet Michaels, deceased, and in her own right, demands judgment against Defendants, Jeffrey Jastrzembki, John Doe Individuals 1-10, John Doe Partnerships 1-10, John Doe Professional Corporations 1-10, and John Doe Incorporated 1-10, jointly and/or severally, and each of them, for compensatory damages, punitive damages, interest, attorney's fees and costs of suit.

SALTZ MONGELUZZI BENDESKY, P.C.

BY: /s/ Robert J. Mongeluzzi
 ROBERT J. MONGELUZZI
 ANDREW R. DUFFY
 DOUGLAS DISANDRO JR.
Attorneys for Plaintiff

Dated: May 13, 2024

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

SALTZ MONGELUZZI BENDESKY, P.C.

BY: /s/ Robert J. Mongeluzzi
ROBERT J. MONGELUZZI
ANDREW R. DUFFY
DOUGLAS DISANDRO JR.
Attorneys for Plaintiff

Dated: May 13, 2024

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that pursuant to R.4:25-4, Robert J. Mongeluzzi, Esquire, and Andrew R. Duffy, Esquire are hereby designated as Plaintiff's trial counsel in the aforementioned litigation on behalf of the law.

SALTZ MONGELUZZI BENDESKY, P.C.

BY: /s/ Robert J. Mongeluzzi
ROBERT J. MONGELUZZI
ANDREW R. DUFFY
DOUGLAS DISANDRO JR.
Attorneys for Plaintiff

Dated: May 13, 2024

CERTIFICATION PURSUANT TO R. 4:5-1

I, Robert J. Mongeluzzi, Esquire, hereby certify that the facts contained in the within matter are not the subject of any other civil action pending in any other court or of a pending arbitration proceeding to the best of my knowledge or belief. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. I also certify that the facts contained in the within matter are true and correct to the best of my knowledge and belief. If any of the statements made by me are willfully false, I am subject to punishment.

SALTZ MONGELUZZI BENDESKY, P.C.

BY: /s/ Robert J. Mongeluzzi
 ROBERT J. MONGELUZZI
 ANDREW R. DUFFY
 DOUGLAS DISANDRO JR.
Attorneys for Plaintiff

Dated: May 13, 2024

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(c)

I, Robert J. Mongeluzzi, Esquire, certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

SALTZ MONGELUZZI BENDESKY, P.C.

BY: /s/ Robert J. Mongeluzzi
 ROBERT J. MONGELUZZI
 ANDREW R. DUFFY
 DOUGLAS DISANDRO JR.
Attorneys for Plaintiff

Dated: May 13, 2024

DEMAND FOR INSURANCE COVERAGE INFORMATION

PLEASE TAKE NOTICE that the plaintiff hereby requests that each of the defendants herein furnish information concerning the existence and contents of any and all insurance agreements (including, among others, primary, excess and/or umbrella coverage) under which any insurance company may or shall be liable to satisfy all or part of any judgment which may be entered in this action. This information shall include, name and address of insurance company, policy number, effective dates of the policy, policy limits, excess coverage available thereunder, separate claim number (if applicable) and a legible copy of any and all declaration pages. This demand is pursuant to R. 4:10-2 and 4:17-1.

SALTZ MONGELUZZI BENDESKY, P.C.

BY: /s/ Robert J. Mongeluzzi
ROBERT J. MONGELUZZI
ANDREW R. DUFFY
DOUGLAS DISANDRO JR.
Attorneys for Plaintiff

Dated: May 13, 2024

EXHIBIT A

Office of the Register of Wills of Philadelphia County, Pennsylvania

File #: W4076-2023

Commonwealth of Pennsylvania

County of Philadelphia

} ss.

I, **TRACEY L. GORDON**, Register for the Probate of Wills and Granting Letters of Administration in and for the County of Philadelphia, in the Commonwealth of Pennsylvania

DO HEREBY CERTIFY AND MAKE KNOWN That on the 7th day of September

in the year of our Lord 2023 LETTERS TESTAMENTARY

on the Estate of Norma Janet Michaels

(AKA: Norma Michaels)

Deceased, were granted unto Hope Cohen

having first been qualified well and truly to administer the same. And I further certify that no revocation of said Letters appears of record.

Date of death 8/12/2023

Given under my hand and seal of office, this 7th day of September, 20 23

Justine G. K.
Deputy Register



NOT VALID WITHOUT ORIGINAL SIGNATURE AND IMPRESSED SEAL

Civil Case Information Statement

Case Details: ATLANTIC | Civil Part Docket# L-000974-24

Case Caption: COHEN HOPE VS JASTRZEMBSKI
JEFFREY

Case Initiation Date: 05/13/2024

Attorney Name: ROBERT J MONGELUZZI

Firm Name: SALTZ MONGELUZZI ET AL.

Address: 8000 SAGEMORE DR SUITE 8303

MARLTON NJ 08053

Phone: 8567518383

Name of Party: PLAINTIFF : Cohen, Hope

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: PERSONAL INJURY

Document Type: Complaint with Jury Demand

Jury Demand: YES - 12 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Hope Cohen? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO Medical Debt Claim? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

05/13/2024

Dated

/s/ ROBERT J MONGELUZZI

Signed

