

Ex. A

State of Alabama Unified Judicial System Form C-34 Rev. 4/2017	SUMMONS - CIVIL -	Court Case Number 63-CV-2019-901037.00
IN THE CIRCUIT COURT OF TUSCALOOSA COUNTY, ALABAMA MARK REED ADMIN'OR V. TRACKER MARINE RETAIL LLC ET AL		
NOTICE TO: MERCURY MARINE, W6250 PIONEER ROAD P.O. BOX 1939, FOND DU LAC, WI 54936 <div style="text-align: right; margin-right: 100px;"><i>(Name and Address of Defendant)</i></div>		
THE COMPLAINT OR OTHER DOCUMENT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT, AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT OR OTHER DOCUMENT, WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF(S) OR ATTORNEY(S) OF THE PLAINTIFF(S), WILLIAM STANLEY BROBSTON MR. <div style="text-align: right; margin-right: 100px;"><i>(Name(s) of Attorney(s))</i></div>		
WHOSE ADDRESS(ES) IS/ARE: 304 NORTH 13TH STREET, BESSEMER, AL 35020 <div style="text-align: right; margin-right: 100px;"><i>(Address(es) of Plaintiff(s) or Attorney(s))</i></div>		
THE ANSWER MUST BE MAILED OR DELIVERED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT OR OTHER DOCUMENT WERE SERVED ON YOU OR A JUDGMENT BY DEFAULT MAY BE RENDERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT OR OTHER DOCUMENT.		
TO ANY SHERIFF OR ANY PERSON AUTHORIZED BY THE ALABAMA RULES OF CIVIL PROCEDURE TO SERVE PROCESS:		
<input type="checkbox"/> You are hereby commanded to serve this Summons and a copy of the Complaint or other document in this action upon the above-named Defendant.		
<input checked="" type="checkbox"/> Service by certified mail of this Summons is initiated upon the written request of <u>MARK REED ADMIN'OR</u> pursuant to the Alabama Rules of the Civil Procedure. <i>(Name(s))</i>		
<u>8/26/2019 8:12:53 PM</u> <i>(Date)</i>	<u>/s/ MAGARIA HAMNER BOBO</u> <i>(Signature of Clerk)</i>	By: _____ <i>(Name)</i>
<input checked="" type="checkbox"/> Certified Mail is hereby requested. <u>/s/ WILLIAM STANLEY BROBSTON MR.</u> <i>(Plaintiff's/Attorney's Signature)</i>		
RETURN ON SERVICE		
<input type="checkbox"/> Return receipt of certified mail received in this office on _____ <i>(Date)</i>		
<input type="checkbox"/> I certify that I personally delivered a copy of this Summons and Complaint or other document to _____ _____ in _____ County. <i>(Name of Person Served)</i> <i>(Name of County)</i>		
Alabama on _____ <i>(Date)</i>		
_____ <i>(Type of Process Server)</i>	_____ <i>(Server's Signature)</i>	_____ <i>(Address of Server)</i>
_____ <i>(Server's Printed Name)</i>		_____ <i>(Phone Number of Server)</i>

DOCUMENT 1



ELECTRONICALLY FILED
8/26/2019 8:11 PM
63-CV-2019-901037.00
CIRCUIT COURT OF
TUSCALOOSA COUNTY, ALABAMA
MAGARIA HAMNER BOBO, CLERK

State of Alabama
Unified Judicial System
Form AR Civ-93 Rev. 9/18

COVER SHEET
CIRCUIT COURT - CIVIL CASE
(Not For Domestic Relations Cases)

Case No: **63**
Date of Filing: **08/26/2019**
Judge Code:

GENERAL INFORMATION

IN THE CIRCUIT COURT OF TUSCALOOSA COUNTY, ALABAMA
MARK REED ADMIN'OR v. TRACKER MARINE RETAIL LLC ET AL

First Plaintiff: Business Individual Government Other
First Defendant: Business Individual Government Other

NATURE OF SUIT: Select primary cause of action, by checking box (check only one) that best characterizes your action:

TORTS: PERSONAL INJURY

- WDEA - Wrongful Death
- TONG - Negligence: General
- TOMV - Negligence: Motor Vehicle
- TOWA - Wantonness
- TOPL - Product Liability/AEMLD
- TOMM - Malpractice-Medical
- TOLM - Malpractice-Legal
- TOOM - Malpractice-Other
- TBFM - Fraud/Bad Faith/Misrepresentation
- TOXX - Other: _____

TORTS: PERSONAL INJURY

- TOPE - Personal Property
- TORE - Real Property

OTHER CIVIL FILINGS

- ABAN - Abandoned Automobile
- ACCT - Account & Nonmortgage
- APAA - Administrative Agency Appeal
- ADPA - Administrative Procedure Act
- ANPS - Adults in Need of Protective Services

OTHER CIVIL FILINGS (cont'd)

- MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/Enforcement of Agency Subpoena/Petition to Preserve
- CVRT - Civil Rights
- COND - Condemnation/Eminent Domain/Right-of-Way
- CTMP - Contempt of Court
- CONT - Contract/Ejectment/Writ of Seizure
- TOCN - Conversion
- EQND - Equity Non-Damages Actions/Declaratory Judgment/Injunction Election Contest/Quiet Title/Sale For Division
- CVUD - Eviction Appeal/Unlawful Detainer
- FORJ - Foreign Judgment
- FORF - Fruits of Crime Forfeiture
- MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
- PFAB - Protection From Abuse
- EPFA - Elder Protection From Abuse
- FELA - Railroad/Seaman (FELA)
- RPRO - Real Property
- WTEG - Will/Trust/Estate/Guardianship/Conservatorship
- COMP - Workers' Compensation
- CVXX - Miscellaneous Circuit Civil Case

ORIGIN: F INITIAL FILING
R REMANDED

A APPEAL FROM DISTRICT COURT
O OTHER
T TRANSFERRED FROM OTHER CIRCUIT COURT

HAS JURY TRIAL BEEN DEMANDED? YES NO
Note: Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala. R. Civ. P., for procedure)

RELIEF REQUESTED: MONETARY AWARD REQUESTED NO MONETARY AWARD REQUESTED

ATTORNEY CODE:

BRO005

8/26/2019 8:11:38 PM

/s/ WILLIAM STANLEY BROBSTON

Date

Signature of Attorney/Party filing this form

MEDIATION REQUESTED: YES NO UNDECIDED

Election to Proceed under the Alabama Rules for Expedited Civil Actions: YES NO



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CIRCUIT COURT OF
TUSCALOOSA COUNTY, ALABAMA
MAGARIA HAMNER BOBO, CLERK

IN THE CIRCUIT COURT OF TUSCALOOSA COUNTY, ALABAMA

MARK REED, Administrator of the)
Estate and personal)
representative of MADISON REED,)
deceased,)

Plaintiff,)

vs.)

CIVIL CASE NO:

TRACKER MARINE RETAIL, L.L.C.,)
MERCURY MARINE, BRUNSWICK)
CORPORATION XYZ, an individual,)
partnership or corporation,)
whose correct name and legal)
identity are otherwise unknown,)
being that individual,)
partnership or corporation who)
was the manufacturer of the)
product or products)
alleged to be defective in the)
complaint; ABC, an individual)
partnership or corporation being)
that individual, partnership or)
corporation who designed the)
product, or products, or an)
integral part)
thereof, alleged to be defective)
in the complaint; DEF, an)
individual, partnership or)
corporation whose correct name)
and legal identity are otherwise)
unknown, being that individual,)
partnership or corporation who)
created, caused, or contributed)
to the design alleged to be)
defective in the complaint;)
GHI, an individual, partnership)
or corporation whose)
correct name and legal identity)
are otherwise unknown, being)
that individual, partnership or)

corporation who assembled or)
contributed to the assembly of)
the product, or products alleged)
to be)
defective in the complaint;)
JKL, an individual, partnership)
or corporation whose correct)
name and legal identity are)
otherwise unknown, being that)
individual, partnership or)
corporation who distributed the)
product, or products,)
alleged to be defective)
in the complaint; MNO, an)
individual Partnership or)
corporation whose correct name)
and legal identity are otherwise)
unknown, being that individual,)
partnership or corporation who)
sold the product, or products)
alleged to be)
defective in the complaint;)
PQR, an individual, partnership)
or corporation whose correct)
name and legal identity are)
otherwise unknown, being that)
individual, partnership or)
corporation who otherwise placed)
into the stream of commerce, the)
product, or products, alleged)
to be defective in the)
Complaint, S,T,U, is an)
individual, partnership or)
corporation being that)
individual, partnership or)
corporation who altered the)
product alleged to be defective,)
or otherwise disabled, removed)
or failed to properly install)
or maintain a safety device)
used with or incorporated)
into said product.)

Defendants.)

COMPLAINT

COMES now the Plaintiff, Mark Reed, and files this his Complaint and states as grounds thereof the following:

1. The Plaintiff is an individual over the age of nineteen (19) and is a resident of Tuscaloosa County, Alabama. The said Mark Reed is the personal representative of, as administrator of the Estate of, Madison Reed, deceased, having been duly appointed in said capacity by the Probate Court of Jefferson County, Bessemer Division on May 30, 2019 in case number 19BES00397 and styled *In the Matter of the Estate of Madison Reed, deceased*.
2. The Defendant, Tracker Marine Retail, L.L.C. is a limited liability company doing business in Jefferson County, Alabama and at all times referred to in the Complaint, was so doing business. The Defendant, Mercury Marine is a corporation or other entity doing business in Jefferson County, Alabama and at all times referred to in the complaint was so doing business. The Defendant, Brunswick Corporation is a corporation or other entity doing business in Jefferson County, Alabama and at all times referred to in the complaint was so doing business
3. X,Y,Z, whether one or more, is an individual Partnership or Corporation whose correct name and legal identity are otherwise unknown, who was the manufacturer of the vessel or the engine or propulsion device alleged to be defective herein.
4. A,B,C, whether one or more, is an individual Partnership or Corporation being that individual Partnership or Corporation who designed the vessel or the engine or propulsion device, or an integral part thereof, alleged to be defective herein.
5. D,E,F, whether one or more, is an individual Partnership or Corporation whose correct name and legal identity are otherwise unknown, being that individual Partnership or Corporation who caused or contributed to

the design of vessel or the engine or propulsion device alleged to be defective herein.

6. G,H,I, whether one or more, is an individual Partnership or Corporation whose correct name and legal identity are otherwise unknown, being that individual Partnership or Corporation who assembled or contributed to the assembly of the vessel or the engine or propulsion device alleged to be defective herein.

7. J,K,L, whether one or more, is an individual Partnership or Corporation whose correct name and legal identity are otherwise unknown, being that individual Partnership or Corporation who distributed the vessel or the engine or propulsion device alleged to be defective herein.

8. M,N,O, whether one or more, is an individual Partnership or Corporation whose correct name and legal identity are otherwise unknown, being that individual Partnership or Corporation who sold the vessel or the engine or propulsion device alleged to be defective herein.

9. P,Q,R, whether one or more, is an individual Partnership or Corporation whose correct name and legal identity are otherwise unknown, being that individual Partnership or Corporation who otherwise placed into the stream of commerce, the vessel or the engine or propulsion device alleged to be defective herein.

10. S,T,U, whether one or more, is an individual, Partnership or Corporation who altered the product alleged to be defective, or otherwise disabled, removed or failed to properly install or maintain a safety device used with or incorporated into said product.

11. On or about August 26, 2017, the Plaintiff's decedent, a minor, fourteen (14) years of age, was a passenger on a vessel manufactured, sold and distributed as a "Sun Tracker Party Barge 20," a pontoon boat, by defendant Tracker Marine Retail, L.L.C. and the fictitious parties referred to herein, being operated on a lake in Tuscaloosa County, Alabama.

12. At said time and in said place the plaintiff's decedent was situated upon the unenclosed bow of said vessel which was of an area approximately five (5) feet in depth and approximately eight (8) feet in width, unprotected by railing or other restraint, while the same was underway. At said time and in said place, Plaintiff's decedent was caused to fall from said bow, entering the water and was caused to strike the propeller of the engine or propulsion device mounted at or near the stern of said vessel, proximately causing her fatal personal injury.

13. Said vessel, as manufactured and sold, created an attractive nuisance, inviting plaintiff's decedent onto the bow thereof, under the circumstances as they existed at said time, and as described herein.

14. Said product was designed, manufactured, assembled, sold and placed in the stream of commerce by the defendants with a defect or in a defective condition. Said product was unreasonably dangerous when put to its intended use and said product reached said plaintiff's decedent, the ultimate consumer, without substantial change as designed, manufactured, assembled and sold.

15. As a proximate consequence of the defect and the unreasonably dangerous condition of said product, the plaintiff's decedent, was caused to suffer personal injuries and said injuries were fatal.

16. Said defect was occasioned under circumstances such that the Defendants knew or should have known by the design, manufacture, assembly, sale and the placement of said product into the stream of commerce that such injury or injuries would, or would be likely to, occur.

WHEREFORE, Plaintiff demands judgment for the wrongful death of his minor child in such amount as the jury, or other fact finder, may assess and costs.

COUNT TWO

Plaintiff reavers each and every above paragraph of Plaintiffs' Complaint as if set out here in full and further alleges:

17. Said vessel was designed, manufactured, assembled, sold and placed in the stream of commerce by the defendants with a defect or in a defective condition. Said product was unreasonably dangerous when put to its intended use and said product reached said plaintiff's decedent, the ultimate consumer, without substantial change as designed, manufactured, assembled and sold.

18. Said defendants, having superior knowledge of the unreasonably dangerous condition and defects described herein above, failed to adequately warn intended users of said product, including Plaintiff's decedent, of said defects.

19. Under all of the circumstances, said defendants had a duty to warn of the defective condition as described, and negligently and wantonly failed to adequately warn of the hazards presented thereby.

20. As a proximate consequence of said failure to warn, the Plaintiff's decedent suffered a fatal personal injury.

WHEREFORE, Plaintiff demands judgment for the wrongful death of his minor child in such amount as the jury, or other fact finder, may assess and costs.

COUNT THREE

Plaintiff reavers each and every above paragraph of Plaintiffs' Complaint as if set out here in full and further alleges:

21. Said Defendants, Tracker Marine Retail, L.L.C. and other fictitious defendants, introduced into the stream of commerce a vessel which incorporated an outboard motor or propulsion device which was designed,

manufactured, assembled, sold and placed in the stream of commerce by the defendants, Mercury Marine, Brunswick Corporation and other fictitious defendants. Said product, incorporating said engine or propulsion device was in a defective condition. Said product was unreasonably dangerous when put to its intended use and said product reached said plaintiff's decedent, the ultimate consumer, without substantial change as designed, manufactured, assembled and sold.

22. Said defendants knew or should have known that the product with application for said product for use on a pontoon boat created and unreasonable risk of harm and therefore said defendants had a duty to install a known and available safety device.

23. Said defendants manufactured, distributed, sold and otherwise introduced into the stream of commerce said product without providing an adequate warning for the use of said product in connection with said application and failing to equip said product with a known safety device or devices.

24. As a proximate consequence of the defect and the unreasonably dangerous condition of said product, the plaintiff's decedent, was caused to suffer personal injuries and said injuries were fatal.

25. Said defect was occasioned under circumstances such that the Defendants knew or should have known by the design, manufacture, assembly, sale and the placement of said product into the stream of commerce that such injury or injuries would, or would be likely to, occur.

WHEREFORE, Plaintiff demands judgment for the wrongful death of his minor child in such amount as the jury, or other fact finder, may assess and costs.

COUNT FOUR

Plaintiff reavers each and every above paragraph of Plaintiffs' Complaint as if set out here in full and further alleges:

26. The Defendants, Mercury Marine, Brunswick Corporation and other fictitious defendants, introduced into the stream of commerce an outboard motor or propulsion device which was designed, manufactured, assembled, sold and placed in the stream of commerce by the defendants with a defect or in a defective condition. Said product was unreasonably dangerous when put to its intended use and said product reached said plaintiff's decedent, the ultimate consumer, without substantial change as designed, manufactured, assembled and sold.

27. Said defendants knew or should have known of the foreseeable application for said product for use on a pontoon boat.

28. Said defendants manufactured, distributed, sold and otherwise introduced into the stream of commerce said product without providing an adequate warning for the use of said product in connection with said application and failing to equip said product with a known safety device or devices.

29. As a proximate consequence of the defect and the unreasonably dangerous condition of said product, the plaintiff's decedent, was caused to suffer personal injuries and said injuries were fatal.

30. Said defect was occasioned under circumstances such that the Defendants knew or should have known by the design, manufacture, assembly, sale and the placement of said product into the stream of commerce that such injury or injuries would, or would be likely to, occur.

WHEREFORE, Plaintiff demands judgment for the wrongful death of his minor child in such amount as the jury, or other fact finder, may assess and costs.

COUNT FIVE

Plaintiff reavers each and every above paragraph of Plaintiffs' Complaint as if set out here in full and further alleges:

31. The defendants negligently and/or wantonly manufactured, assembled, designed, sold and otherwise placed into the stream of commerce a product in a defective condition.

32. The manufacture, assembly, design and sale was done under circumstances such that said Defendants knew or should have known injury would, or was likely to, occur. As a proximate consequence of Defendants' negligence and/or wantonness the Plaintiff's decedent was caused to suffer the injuries as aforesaid.

WHEREFORE, Plaintiff demands judgment for the wrongful death of his minor child in such amount as the jury, or other fact finder, may assess and costs.

COUNT SIX

Plaintiffs reaver each and every above paragraph of Plaintiffs' Complaint as if set out here in full and further allege:

33. Plaintiffs' injuries as aforesaid are the proximate consequence of the Defendants' breach of implied warranties, including those of the merchantability and fitness for a particular purpose. The quality of the product causing the injuries complained of herein failed to meet the reasonable expectations of an ordinary consumer proximately causing Plaintiff's decedent's injuries as herein above described.

WHEREFORE, Plaintiff demands judgment for the wrongful death of his minor child in such amount as the jury, or other fact finder, may assess and costs.

/s/ Stan Brobston
Stan Brobston,
Attorney for the Plaintiff
304 North 18th Street
Bessemer, Alabama 35020
(205)425-4361
stanbrobston@xspedius.net

/s/ Clifford W. Hardy, Jr.
Clifford W. Hardy, Jr. (HAR003)
Attorney for Plaintiff
1600 3rd Avenue North
Bessemer, Alabama 35020
(205)428-7348
hardyc@bellsouth.net

For the trial of this cause Plaintiff demands a jury.

/s/ Stan Brobston
Stan Brobston



AlaFile E-Notice

63-CV-2019-901037.00

To: MERCURY MARINE
W6250 PIONEER ROAD
P.O. BOX 1939
FOND DU LAC, WI, 54936

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF TUSCALOOSA COUNTY, ALABAMA

MARK REED ADMIN'OR V. TRACKER MARINE RETAIL LLC ET AL
63-CV-2019-901037.00

The following complaint was FILED on 8/26/2019 8:12:53 PM

Notice Date: 8/26/2019 8:12:53 PM

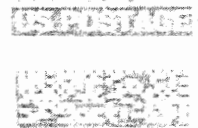
MAGARIA HAMNER BOBO
CIRCUIT COURT CLERK
TUSCALOOSA COUNTY, ALABAMA
714 GREENSBORO AVENUE
TUSCALOOSA, AL, 35401

205-349-3870
magaria.bobo@alacourt.gov



MAGARIA H. BOBO
CIRCUIT CLERK
TUSCALOOSA COUNTY COURTHOUSE
714 GREENSBORO AVENUE, ROOM 214
TUSCALOOSA, ALABAMA 35401

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