

Results list

Boating Accident

ESTATE OF THOMAS O'CONNOR VS. ADAMCZYK, ET AL;

1999 Nat. Jury Verdict Review LEXIS 2417

97-06075-NI

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Topic: WRONGFUL DEATH OF 31-YEAR-OLD HUSBAND AND FATHER IN **BOATING ACCIDENT**. NEGLIGENCE ALLEGED AGAINST DEFENDANT OWNER OF VESSEL(A LICENSED CHARTER CAPTAIN) AND AGAINST THE CO-DEFENDANT OPERATOR

Result: \$ 12,200,000 verdict

Award: \$ 12200000

State: Michigan

County: St. Clair Shores County

Court: ST CLAIR SHORES COUNTY CIRCUIT

Judge: Judge Peter Deegan

Plaintiff Counsel

[Robert F. Garvey](#) ▾ and James McKenna of Thomas Garvey Sciotti in St. Clair Shores, Mi

Case Summary

This action was brought by the estate of the 31-year-old decedent husband and father of two minor children, who drowned after falling out of a 27-foot fishing vessel owned by the individual defendant and operated by the individual co-defendant. The plaintiffs contended that the defendants were negligent in failing to exercise due care for the safety of the decedent passenger, knowing full well that he could not swim and was unfamiliar with **boating** as a recreational activity. The decedent fell from the **boat** while attempting to snap a side window into place at the request of one of the defendants.

The subject **accident** occurred on July 12, 1996, on a 27-foot long Tiara fishing vessel traveling by sea from New Baltimore to Alpena. The decedent and the defendants were all co-workers. The defendant owner of the **boat** was a licensed charter captain. The evidence indicated that the decedent was asked by one of the defendants to snap into place a removable side window to stop spray from coming into the **boat** as it traveled through rough water. The plaintiffs contended that this task required the decedent to lean over the side of the **boat** and use both his hands to snap the window in place.

Although neither defendant saw the decedent fall into the water, it was undisputed that the decedent was in the process of installing the window at the time he disappeared. The decedent's body was never recovered and it is assumed that he drowned. The evidence was undisputed that the defendants were both aware of the decedent's inability to swim and his unfamiliarity with **boats** in general. Notwithstanding this knowledge, the defendants requested that the decedent perform this awkward task and took no measures to ensure the decedent's safety. According to the plaintiff's evidence, the defendant operator continued to operate the **boat** through rough water at a speed of between 20 and 30 miles per hour while the decedent proceeded in his attempts to install the side window.

The defendants could not say at what point the decedent fell into the water, as they were distracted by the operation of the vessel and other things. They turned around to find that the decedent was gone. The defendants attempted to retrace their course in order to find where the decedent had fallen off, but their efforts were unsuccessful and the body of the decedent was never found.

The plaintiffs specifically claimed that the defendants were negligent in asking the decedent, a non-swimmer, to perform a task which required he hang over the side of the **boat** while unable to secure himself with his hands. The plaintiffs alleged that the defendants were further negligent in keeping the **boat** running at relatively high speeds given the rough sea conditions. Finally, the plaintiffs asserted that the defendants were negligent in failing to keep an eye on the decedent at all times as he proceeded to install the side window.

that the decedent, a grown man, was well aware of the dangers of falling overboard on a journey such as that undertaken by these men. The defense maintained that when the decedent was asked to install the side window to stop the spray from entering the cabin, the decedent should have immediately put on his life jacket before proceeding to lean over the **boat**.

The decedent was survived by his wife and two minor children. The plaintiffs sought to recover economic loss resulting from the death of the decedent, as well damages for loss of the decedent's society and companionship.

The case was mediated at \$ 200,000. The defendants insurance policy limits together totaled \$ 600,000. The jury deliberated three and one-half hours before awarding a verdict in favor of the plaintiffs in the amount of \$ 12,200,000. The plaintiff wife was awarded \$ 6,000,000 for the loss of the decedent's society and companionship and \$ 2,000,000 to each of the decedent's two children for loss of the decedent's society and companionship. The jury additionally awarded the plaintiffs \$ 2,200,000 for future economic loss resulting from the death of the decedent.

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