



IN THE CIRCUIT COURT OF JACKSON COUNTY, ALABAMA

**GERALD PAULK, AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
AMANDA NICOLE FOSTER, DECEASED;)
YANCY TYLER ROPER, AS)
ADMINISTRATOR OF THE ESTATE OF)
YANCY FARRELL ROPER, DECEASED;)
JOHN SANDERSON; ALVIN BROWN;)
ELFORD BURNS; HARREL BURNS;)
BRYAN MCGAHA; TIM PARKER;)
WAYNE WALDROP)**

PLAINTIFFS,)

v.)

Case No.)

**JACKSON COUNTY, ALABAMA; JACKSON)
COUNTY COMMISSION OF JACKSON)
COUNTY, ALABAMA; TIM)
GUFFEY; DANNY RICH; JASON VENABLE;)
MELINDA GILBERT; MIKE SISK;)
ASSOCIATION OF COUNTY)
COMMISSIONERS OF ALABAMA)
LIABILITY SELF-INSURANCE FUND, INC.;)
CITY OF SCOTTSBORO, ALABAMA;)
ELECTRIC POWER BOARD OF THE CITY)
OF SCOTTSBORO, ALABAMA; LADD)
ENVIRONMENTAL CONSULTANTS, INC.;)
K.W. RAINES ASSOCIATES, INC.;)
GREGORY W. MILLER SR., D/B/A MILLER)
ELECTRIC; WOMACK ELECTRIC, LLC;)
WHISENANT CONSTRUCTION, LLC; CHJ)
CONSTRUCTION CO., INC.; DEFENDANTS)
A-M; Whether singular or plural, entity or)
individual, who or which may have liability to)
the Plaintiffs under any theories of law advanced)
in this Complaint or in any Amended)
Complaints, including any claims concerning in)
tort or contract, negligence, wantonness,)
wrongful death, and who or which in any way)
have any liability relative to the fire that)
occurred on January 27, 2020 at the Jackson)
County Park Marina at Dock B; Defendants N-S,)
Whether singular or plural, entity or individual,)**

who or which insured any of the other)
 Defendants and undertook the duty of the other)
 Defendants to inspect for the fire hazards which)
 resulted in the Plaintiffs' injuries and damages)
 as more particularly described below;)
 Defendants T-Z whether singular or plural,)
 entity or individual, who or which designed,)
 built, maintained, repaired, or inspected Dock B)
 in such a manner as to contribute to the event in)
 question and Plaintiffs' injuries and damages)
 arising from that event, fictitious parties whose)
 true names and identities are otherwise unknown)
 but who or which will be added by amendment)
 when ascertained.,)
)
)
 DEFENDANTS.)

COMPLAINT

Plaintiffs, Gerald Paulk, as Personal Representative of the Estate of Amanda Nicole Foster, deceased; Yancy Tyler Roper, as Administrator of the Estate of Yancy Farrell Roper, deceased; John Sanderson; Alvin Brown; Elford Burns; Harrel Burns; Bryan McGaha; Tim Parker; and Wayne Waldrop, in the above-styled cause, complain of Defendants as follows:

PARTIES

1. Plaintiff Gerald R. Paulk, as Personal Representative of the Estate of Amanda Nicole Foster, deceased, is an adult resident citizen of Jackson County, Alabama.
2. Plaintiff Yancy Farrell Roper, as Administrator of the Estate of Yancy Tyler Roper, deceased, is an adult resident citizen of Shelby County, Alabama.
3. Plaintiff John Sanderson is an adult resident citizen of Claremont, New Hampshire.
4. Plaintiff Alvin Brown is an adult resident citizen of Jackson County, Alabama.

5. Plaintiff Elford Burns is an adult resident citizen of DeKalb County, Alabama.
6. Plaintiff Harrel Burns is an adult resident citizen of DeKalb County, Alabama.
7. Plaintiff Bryan McGaha is an adult resident citizen of Jackson County, Alabama.
8. Plaintiff Tim Parker is an adult resident citizen of Lincoln County, Tennessee.
9. Plaintiff Wayne Waldrop is an adult resident citizen of Jackson County, Alabama.
10. Defendant Jackson County, Alabama is a county of the State of Alabama.
11. Defendant Jackson County Commission is an organization existing in Jackson County, Alabama.
12. Defendant Tim Guffey is a citizen of Jackson County, Alabama.
13. Defendant Danny Rich is a citizen of Jackson County, Alabama.
14. Defendant Jason Venable is a citizen of Jackson County, Alabama.
15. Defendant Melinda Gilbert is a citizen of Jackson County, Alabama.
16. Defendant Mike Sisk is a citizen of Jackson County, Alabama.
17. Defendant Association of County Commissioners of Alabama Liability Self-Insurance Fund, Inc. is an insurance company authorized to do business in Alabama and doing business in Jackson County, Alabama.
18. Defendant the City of Scottsboro, Alabama is a municipality in Jackson County, Alabama.
19. Defendant Electric Power Board of the City of Scottsboro, Alabama, a Public Corporation, is a municipal corporation of the City of Scottsboro.
20. Defendant Ladd Environmental Consultants, Inc., is located in Fort Payne, Alabama, and is a corporation organized under the laws of Delaware.

21. Defendant K.W. Raines Associates, Inc., is located in Henagar, Alabama, and is a corporation organized under the laws of Alabama.

22. Defendant Gregory W. Miller, Sr., d/b/a Miller Electric is located in Scottsboro, Alabama, and is an individual citizen of Alabama.

23. Defendant Womack Electric, LLC, is located in Scottsboro, Alabama, and is an Alabama limited liability company.

24. Defendant Whisenant Construction, LLC, is located in Pisgah, Alabama, and is an Alabama limited liability company.

25. Defendant CHJ Construction Co., Inc., is located in Scottsboro, Alabama, and is an Alabama corporation.

26. Fictitious Defendants A-Z above who also do business in Alabama.

JURISDICTION AND VENUE

27. Jurisdiction and venue are properly before this Court as the incident complained of herein occurred in Jackson County, Alabama, and the damages are within the jurisdictional limits of this Court.

FACTS

28. This lawsuit involves the unnecessary deaths, injuries to, and property losses of many people, including the named Plaintiffs herein. These deaths, injuries, and property losses were the proximate result of the negligent and/or wanton conduct of the various Defendants listed in the preceding paragraphs and the style of this lawsuit. All named Defendants and/or Fictitious Defendants identified in the style of this Complaint are hereinafter referred to collectively as “Defendants.”

29. On or about October 7, 1963, the United States of America transferred certain lands to Defendant Jackson County, and this land became known as The Jackson County Park (hereinafter “the Park”). It is believed the United States of America, and in particular its independent governmental corporation known as the Tennessee Valley Authority (“TVA”), reserved certain rights and/or certain obligations and duties via the transfer document.

30. In or around 1999, Dock B was constructed at the Park. It had to be approved by the TVA through what is commonly referred to as the Section 26a permitting process.¹ Dock B was a fixed and covered dock. In or around April 2009, Dock B and the Park were destroyed and/or heavily damaged by a windstorm or tornado. As a result of this damage, Dock B was rebuilt in or around 2009 and 2010. Once again, Dock B had to be approved by the TVA through the Section 26a permitting process. As rebuilt, Dock B once again was a fixed and covered dock. On information and belief, Dock B had 36 boat slips.

31. At all pertinent times, it is believed Dock B was owned by either the Tennessee Valley Authority and/or by Defendant Jackson County. At all pertinent times, it is believed Dock B was supposed to be built, rebuilt, wired, rewired, maintained, and operated in accordance and compliance with the safety-related rules, regulations, and guidelines of the TVA, the International Fire Code, the National Fire Protection Association including NFPA 303, the National Water Safety Congress, and/or the National Electric Code.

¹ Section 26a of the TVA Act provides that:

[N]o dam, appurtenant works, or other obstruction, affecting navigation, flood control, or public lands or reservations shall be constructed, and thereafter operated or maintained across, along, or in the [Tennessee] river or any of its tributaries until plans for such construction, operation, and maintenance shall have been submitted and approved by the [TVA].

16 U.S.C. § 831y–1. Channeling its authority under the Act, TVA has issued detailed regulations outlining the permitting process for the construction of structures, facilities, and other uses that fall under Section 26a. *See* 18 C.F.R. §§ 1304.1–1304.11 (2012).

32. Hereinafter “Jackson County” shall refer to both Jackson County, Alabama, and the Jackson County Commission.

33. To the extent Defendants contend that Dock B was not required to be built, rebuilt, wired, rewired, maintained, and operated in accordance and compliance with the safety-related rules, regulations, and guidelines of the TVA, the International Fire Code, the National Fire Protection Association including NFPA 303, the National Water Safety Congress, and/or the National Electric Code, then these rules, regulations, and guidelines constituted the best practices and guidelines for the marina industry and should have been used by Defendants in all aspects of building, rebuilding, wiring, rewiring, maintaining, and operating Dock B.

34. It is believed that Defendants Tim Guffey, Danny Rich, Jason Venable, Melinda Gilbert, and/or Mike Sisk were the Jackson County Commissioners at pertinent times. Hereinafter, the five of them are collectively referred to as the “Commissioner Defendants.” All and/or each of the Commissioner Defendants are sued in their individual capacities and had the individual duty and responsibility to make sure Dock B was built, rebuilt, wired, rewired, maintained, and operated in accordance and compliance with the safety-related rules, regulations, and guidelines of the TVA, the International Fire Code, the National Fire Protection Association including NFPA 303, the National Water Safety Congress, and/or the National Electric Code. Alternatively, if they contend any of these safety practices did not actually apply to Dock B, then these Commissioner Defendants had the individual duty and responsibility to make sure these safety-related rules, regulations, and guidelines constituted the best practices and guidelines for the marina industry which should have been used by the Commissioner Defendants in all aspects of building, rebuilding, wiring, rewiring, maintaining, and operating Dock B.

35. It is believed that Defendants Jackson County and/or the Commissioner Defendants hired Defendant Ladd Environmental Consultants, Inc. to act as the County's authorized agent with regard to building, rebuilding, wiring, rewiring, maintaining, and/or operating Dock B.

36. It is believed that Defendants Jackson County and/or the Commissioner Defendants and/or Ladd Environmental Consultants, Inc. hired Defendant K.W. Raines Associates, Inc. to act as the general contractor with regard to building, rebuilding, wiring, rewiring, maintaining, and/or operating Dock B.

37. It is believed that Defendants Jackson County and/or the Commissioner Defendants and/or Ladd Environmental Consultants, Inc. and/or K.W. Raines Associates, Inc. hired Defendants Whisenant Construction, LLC, and/or CHJ Construction Co., Inc., to build, rebuild, wire, rewire, maintain, and/or operate Dock B.

38. It is believed that Defendants Jackson County and/or the Commissioner Defendants and/or Ladd Environmental Consultants, Inc. and/or K.W. Raines Associates, Inc. hired Defendant Gregory W. Miller, Sr., d/b/a Miller Electric to wire and/or rewire and/or maintain or repair the electrical wiring on Dock B to ensure it complied with all applicable safety-related rules, regulations, guidelines, and/or best practices and guidelines for the marina industry.

39. It is believed that Defendants Jackson County and/or the Commissioner Defendants and/or Ladd Environmental Consultants, Inc. and/or K.W. Raines Associates, Inc. hired Defendant Womack Electric, LLC, to inspect the wiring and/or rewiring of Dock B to ensure it complied with all applicable safety-related rules, regulations, guidelines, and/or best practices and guidelines for the marina industry.

40. It is believed that Defendant ACCA Liability Self-Insurance Fund, Inc. (ACCA) is the liability insurance carrier for Jackson County. It is believed that ACCA undertook the performance of the duty owed by its insured, to both Plaintiffs and the other similarly situated persons, to inspect and/or audit the premises of the Park and Dock B to assist in implementing and monitoring a safety program. It is believed these inspections took place annually and/or on occasions when Dock B had been damaged and needed to be rebuilt. This safety program was intended to identify, eliminate, guard against, and/or warn about potential hazards; to analyze the overall safety program; and to make suggestions and recommendations that included how to address any and all fire safety hazards that were or which could have been observed. It is believed the area inspected was of such a size and nature as to constitute a representative sampling of the Park's area including Dock B. It is believed the inspections were supposed to be done with reasonable care, and that ACCA was to report to Jackson County and/or the Commissioner Defendants any hazards which were observed and appreciated or which should have been observed and appreciated. It is believed that ACCA was to make such reports with the promptness commensurate with the degree of danger perceived or which should have been perceived, and that any corrective action within the ACCA's gambit of authority or within the scope of its undertaking should have been, but were not, instituted with appropriate haste. The causes of this fire and ways to protect against the fire once it started were within the purpose of these inspections; and the inspectors were obligated to and should have reported their findings and recommendations to Jackson County and/or the Commissioner Defendants. Therefore, ACCA assumed a duty by voluntarily undertaking inspections and the scope of the duty included a survey of Dock B and associated electrical and fire hazards; the duty was owed to tenants and users of Dock B and/or users of boats docked at Dock B such as Plaintiffs; this duty was

breached by failure to recognize the unsafe character of Dock B; and the deaths, injuries, and property losses in question suffered by Plaintiffs occurred as a proximate result of the breach of this duty and ACCA's failure to exercise reasonable care in performance of the duty.

41. Defendant City of Scottsboro (by and through the Scottsboro Fire Department) and/or Defendant Electric Power Board of the City of Scottsboro, Alabama, supplied electricity and electrical power delivery systems and/or hardware which were involved in actually delivering to Dock B the electricity which started the fire in question. These Defendants also performed safety inspections of Dock B in at least 2012 and 2016. These safety inspections were intended to benefit Plaintiffs and other persons who docked boats at Dock B and/or who spent the nights on boats docked at Dock B and/or who might otherwise be exposed to the fire hazards of Dock B. Having undertaken the duty to inspect Dock B for such safety issues, whether by obligation or even if undertaken voluntarily, these Defendants had a duty to perform such safety inspections in a proper, correct, and non-negligent fashion.

42. Prior to the fire of January 27, 2020, Defendants failed to comply with the safety-related rules, regulations, and guidelines of the TVA, the International Fire Code, the National Fire Protection Association including NFPA 303, the National Water Safety Congress, and/or the National Electric Code. Alternatively, Defendants had the duty and responsibility to make sure these safety-related rules, regulations, and guidelines constituted the best practices and guidelines for the marina industry which should have been used by Defendants in all aspects of building, rebuilding, wiring, rewiring, maintaining, and operating Dock B.

43. In fact, NFPA 303 is a section of published fire safety standards for marinas and boatyards. The industry standards in NFPA 303 provide guidance on electrical equipment, berthing and storage of boats, annual electrical inspections, marina employee fire response

training, biannual fire drills, and marina owners and operators having a fire department liaison who is responsible for submitting and gaining approval of a pre-fire plan to the local fire department.

44. Additionally, the National Water Safety Congress was established with the goal to further water safety and developed “Guidelines for the Safe Operation and Maintenance of Marinas.” These NWSC Guidelines were revised as recently as 2001 and have guidelines which are similar to the requirements of NFPA 303. Similar NWSC guidelines which should be used in the marina industry include employee fire training, annual electrical inspections, engagement with local fire departments, and having a safety skiff to tow a vessel that may be on fire to open water away from other watercraft or structures.

45. Without limiting the allegations or the evidence, the following facts and conditions existed in the relevant time prior to the fire:

- A. Defendants who conceived, approved, owned, and operated Dock B did not provide electrical wiring plans to Defendant electricians who wired Dock B;
- B. The electrical wiring system for Dock B was supposed to comply with the 2008 National Electrical Code but did not;
- C. The electrical wiring system for Dock B should have complied with the best practices and guidelines for the marina industry such as the 2008 National Electrical Code but did not;
- D. TVA approves construction of docks like Dock B and requires updated inspections every 24 months by the owner of such docks, but Defendants failed to have such updated inspections performed;
- E. As a result of Defendants’ conduct, at least the following deficiencies existed in the electrical wiring of Dock B:
 1. The two breaker boxes for Dock B used residential quality breakers, rather than using proper water-resistant breakers for a wet environment.
 2. Approximately 1 or 2 weeks before the fire, Carl Barnes—while acting in his capacity as an employee of Jackson County and the manager of the Park—

used a hammer to force a 55 Amp breaker into the slot in the breaker box which serviced the boat slip in which the Dixie Delight was berthed. This breaker was sized for a much larger boat than the Dixie Delight and therefore was dangerously oversized. Oversized breakers can cause excessive heating of wires which can result in melting, arcing, and fires.

3. Electrical sockets servicing each boat slip on Dock B failed to have any ground fault interrupters or “GFIs,” even though each boat slip should have had one. Accordingly, none of the slips had or were fitted with GFIs.
 4. Each of the 36 boat slips on Dock B had a meter box used to measure electrical usage for each slip, but these meter boxes were not water proof. This failure to use proper water proof meter boxes, coupled with the lack of GFIs, would have allowed moisture, damage, and/or the development of electrical shorts and shocks.
- F. As a result of Defendants’ conduct, Dock B had at least the following deficiencies:
1. The roof of Dock B did not have any breakout spots in it. Such breakout spots are designed and used to allow fire to escape through the break out spots, thereby slowing the spread of the fire. The lack of break out spots thereby increased the speed with which the fire could spread.
 2. Defendants failed to provide boaters at Dock B with guidance on electrical equipment and issues, failed to perform annual electrical inspections, failed to provide marina employees with fire response training, failed to hold bi-annual fire drills for their employees and the boaters; and failed to have a liaison with the local fire department who was responsible to develop a pre-fire plan and have it approved by the appropriate fire department personnel.
 3. Defendants failed to have a safety skiff at Dock B which could have been used to tow a vessel that may be on fire to open water away from other watercraft or structures and/or which could serve as a means of escape from a burning dock.
 4. Defendants allowed non-operational boats and gas grills on Dock B. One of the non-operational boats was the Dixie Delight, which subsequently caught fire. The Dixie Delight had been berthed at Dock B for years. Defendant Jackson County actually foreclosed on the Dixie Delight, and after becoming the owner of the Dixie Delight, then sold it to the man who then sold it to Plaintiff Tim Parker. On information and belief, the foreclosure on and the subsequent sale of the Dixie Delight was approved by the Commission Defendants. Therefore, Defendants as one-time owners of the Dixie Delight knew or should have known the condition of the Dixie Delight and approved the Dixie Delight to continue to be berthed in one of the slips of Dock B

without requiring any changes to the Dixie Delight, including any changes to its electrical system.

46. Defendant Womack Electric, LLC, was hired and paid to inspect the electrical wiring system of Dock B. The wiring system of Dock B is believed to have been installed by Miller Electric. Womack was charged with the responsibility to make sure the electrical wiring system of Dock B met applicable standards, including but not limited to the National Electric Code. In or around at least November 2009 and perhaps at other times, Womack performed inspections and represented that the wiring system on Dock B met the standards of the NEC and of the Scottsboro electrical codes, when the wiring system in fact did not meet those standards.

47. Defendant City of Scottsboro, by and through the Scottsboro Fire Department and/or the Scottsboro Electric Power Board, also performed inspections of the wiring system of Dock B on or about at least the dates of June 8, 2012 and June 7, 2016. These inspections resulted in reports that the electrical systems for Dock B appeared to be compliant with applicable standards when the wiring system in fact did not meet those standards.

48. One result of the inadequate, negligent, and/or wanton inspections by Defendants Womack and City of Scottsboro and ACCA was a complete failure to identify and/or correct all of the deficiencies which existed with the electrical wiring system of Dock B, as well as deficiencies in the fire response capabilities. Another result was to continue and perpetuate an atmosphere and culture of a complete lack of safety awareness, safety preparation, and safety response.

49. The conduct of Defendants combined and concurred to cause the following:

- A. Overheating of electrical wires on Dock B as evidenced by crystallization on those wires, all of which was a fire threat;

- B. People on Dock B experiencing electrical shocks or currents evidencing a lack of grounding of the electrical system, all of which was a fire threat;
- C. Ungrounded wires which could therefore overheat and/or cause arcing of electricity, all of which was a fire threat and/or a threat to overheat adjoining surfaces until they caught fire;
- D. A fire threat was created by the failure of Carl Barnes or other Park employees to properly repair the electrical system of Dock B and/or to actually force improper and wrong-sized breakers into at least one breaker box that serviced Dock B in the days leading up to the fire in question;
- E. Jackson County's foreclosure on and ownership or possession of the Dixie Delight because of unpaid slip fees, the opportunity of the Commissioner Defendants and/or Jackson County to inspect and identify any deficiencies with regard to the Dixie Delight including its inoperational status and wiring system, the Commissioner Defendants and/or Jackson County's decision to continue to allow the Dixie Delight to be moored at Dock B which lasted for approximately 10 years, and the subsequent sale of the Dixie Delight by Jackson County and/or the Commissioner Defendants in a condition which might be more susceptible to an accidental fire, all of which was a fire threat;
- F. Allowing electrical power to continue to flow into the Dixie Delight when proper wiring and breakers would have prevented such from happening, all of which was a fire threat;
- G. The likely development of the fire originating in the bulkhead between the electrical panel of the Dixie Delight and its storage closet;
- H. Inadequate training and supervision of Jackson County employees in the Park which resulted in boats including the Dixie Delight being permanently moored at Dock B for approximately 10 years in inoperational shape so that they and the Dixie Delight could not be untied from the dock and/or could not be moved from their slips in the event of fire, all of which was a threat to the lives and safety of persons and property;
- I. An abundance of combustible materials on the decks of vessels and open dock areas, along with the presence of propane tanks, all of which increased the fire load of Dock B;
- J. A lack of measures and guidelines in place to prevent and mitigate fire events for all moored boats and their occupants;
- K. A lack of personal flotation devices or life rings located on Dock B for use in an emergency situation like a fire;

- L. A lack of observance of existing safety best practices and guidelines which had been created for and used by the marina industry, including but not limited to the following: (1) annual electrical inspections, (2) employee fire training, (3) regular fire drills, (4) the development of a pre-fire plan with the local fire department which would have better prepared marina staff and/or boat owners for a vessel or dock fire, (5) the poor design and/or lack of break out spots in the roof of Dock B which resulted in more rapid spread of the fire in question, and/or (6) the lack of a safety skiff per industry guidelines which could have been used by marina staff and/or first responders and/or occupants of Dock B to respond to the emergency situation;
- M. The rapid spread of the fire from boat to boat and to and along the entire Dock B with no break out spots to slow the spread;
- N. An inability to untie the mooring ropes of the Dixie Delight so that the Dixie Delight could be removed from Dock B and the proximity to the other vessels;
- O. An inability to untie the mooring ropes of the other vessels so that they and occupants of Dock B could be removed from Dock B and their proximity to the Dixie Delight;
- P. The lack of a safety skiff which could have been used to either (1) tow the Dixie Delight away from Dock B and the other vessels and/or (2) provide a means of egress from Dock B and the fire for the occupants of Dock B that night;
- Q. An inferno which not only engulfed Dock B and the vessels moored there, but which also created a vortex of winds which drew inoperational boat(s) upon which people attempted to escape back into the inferno;
- R. Deaths of numerous people by fire, drowning, and/or smoke inhalation;
- S. Personal injuries to others; and
- T. Property loss and damages.

COUNT ONE

NEGLIGENCE

50. Plaintiffs adopt all preceding paragraphs and incorporate them by reference as if fully set forth herein.

51. Plaintiffs claim negligence against all named Defendants and all fictitiously named Defendants, separately and severally, in that their acts proximately caused or contributed to damages claimed by Plaintiffs.

52. Defendants owed a duty to Plaintiffs not to create, cause, and/or allow unreasonably dangerous conditions to exist at Jackson County State Park, including duties to inspect for, identify, eliminate, maintain, repair, guard against, and warn about such hazards.

53. The above named Defendants negligently breached their duties to Plaintiffs in one or more of the following aspects:

- A. Defendants failed to exercise reasonable care to provide and maintain reasonably safe premises for use by those persons lawfully on the premises;
- B. Defendants breached their duties to identify and eliminate hazards known or which should have been known to Defendants;
- C. Defendants breached their duty to guard against known hazards, or hazards which should have been known to them, until they were eliminated;
- D. Defendants breached their duty to warn Plaintiffs of defects and dangers associated with the premises about which Defendants knew, should have known, and/or about which they had superior knowledge;
- E. Defendants breached their duty to be reasonably sure that they were not inviting another into a situation of danger or peril;
- F. Defendants failed to construct, design, maintain and/or repair the premises in such a manner so as not to constitute a hazard to those persons on the premises;
- G. Defendants failed to inspect, remove, or alter conditions on the premises which were likely to cause injury or damage;

H. Defendants failed to identify, or remedy known or foreseeable hazards;

I. Defendants caused or allowed a hazard to occur on January 27, 2020.

54. As a direct and proximate result of the negligent actions and/or inactions of Defendants, Plaintiffs suffered loss of life, personal injuries, and/or property damage. Plaintiffs demand judgment against Defendants for such compensatory damages as the jury deems just under the circumstances.

COUNT TWO

WANTONNESS

55. Plaintiffs adopt all preceding paragraphs and incorporate them by reference as if fully set forth herein.

56. Plaintiffs claim wantonness against all named Defendants and all fictitiously named Defendants, separately and severally, in that their acts proximately caused or contributed to damages claimed by Plaintiffs.

57. Defendants owed a duty to Plaintiffs not to create, cause, and/or allow unreasonably dangerous conditions to exist at Jackson County State Park, including duties to inspect for, identify, eliminate, maintain, repair, guard against, and warn about such hazards.

58. The above named Defendants wantonly breached their duties to Plaintiffs in one or more of the following aspects:

- A. Defendants failed to exercise reasonable care to provide and maintain reasonably safe premises for use by those persons lawfully on the premises;
- B. Defendants breached their duties to identify and eliminate hazards known or which should have been known to Defendants;

- C. Defendants breached their duty to guard against known hazards, or hazards which should have been known to them, until they were eliminated;
- D. Defendants breached their duty to warn Plaintiffs of defects and dangers associated with the premises about which Defendants knew, should have known, and/or about which they had superior knowledge;
- E. Defendants breached their duty to be reasonably sure that they were not inviting another into a situation of danger or peril;
- F. Defendants failed to construct, design, maintain and/or repair the premises in such a manner so as not to constitute a hazard to those persons on the premises;
- G. Defendants failed to inspect, remove, or alter conditions on the premises which were likely to cause injury or damage;
- H. Defendants failed to identify, or remedy known or foreseeable hazards;
- I. Defendants caused or allowed a hazard to occur on January 27, 2020.

59. As a direct and proximate result of the wanton actions and/or inactions of Defendants, Plaintiffs suffered loss of life, personal injuries, and/or property damage. Plaintiffs demand judgment against Defendants for such compensatory and punitive damages as the jury deems just under the circumstances.

COUNT THREE

COMBINING AND CONCURRING NEGLIGENCE AND/OR WANTONNESS

60. Plaintiffs fully adopt all preceding paragraphs and incorporate them by reference as if fully set forth herein.

61. Plaintiffs allege that the acts of Defendants, named and unnamed, combined and concurred to cause Plaintiffs' injuries, property damage, and wrongful death and Defendants are

liable for same as a proximate result of their conduct. Plaintiffs demand judgment against the Defendants, separately and severally, for combining and concurring negligence and/or wantonness. Plaintiffs demand judgment against Defendants for such compensatory and punitive damages as the jury deems just under the circumstances.

COUNT FOUR

WRONGFUL DEATH

62. Plaintiffs adopt all preceding paragraphs and incorporate them by reference as if fully set forth herein.

63. This cause of action is asserted pursuant to Section 6-5-410 of the Alabama Code for the wrongful deaths of Amanda Nicole Foster and Yancy Farrell Roper. As a direct and proximate result of the negligent and wanton actions and/or inactions of Defendants, Amanda Nicole Foster and Yancy Farrell Roper suffered loss of life. Plaintiffs Gerald Paulk, as Personal Representative of the Estate of Amanda Nicole Foster, Deceased, and Yancy Tyler Roper, as Administrator of the Estate of Yancy Farrell Roper, Deceased, demand judgment against Defendants for such punitive damages as the jury deems just under the circumstances, for the purposes of either punishing Defendants for their conduct and/or to deter such conduct by Defendants and other similarly situated counties, cities, and companies in the future.

COUNT FIVE

BREACH OF THE UNIFORM AND RESIDENTIAL LANDLORD TENANT ACT

64. Plaintiffs adopt all preceding paragraphs and incorporate them by reference as if fully set forth herein.

65. Plaintiffs allege that there was a residential landlord-tenant relationship between Defendant Jackson County and/or the Commissioner Defendants and people who lived on their

boats which were berthed in slips at Dock B. Plaintiffs herein, to include decedents Amanda Nicole Foster and Yancy Farrell Roper, were beneficiaries and/or intended beneficiaries of the duties owed by Jackson County and/or the Commissioner Defendants in their capacity as landlords to those persons who lived on their boats.

66. Plaintiffs allege that at all times relevant to the events herein, at least some of the boats and/or boat slips at Dock B on the night on question, were used as a “dwelling unit” to include use as a “sleeping place by one or more persons” within the meaning of the definition codified at Ala. Code 1975 § 35-9A-141(4).

67. Plaintiffs allege that at all times relevant to the events herein, Defendant Jackson County and/or the Commissioner Defendants acted as “landlord,” within the definition offered in Ala. Code 1975 § 35-9A-141(7).

68. Plaintiffs allege that at all times relevant to the events herein, Dock B, the electrical breaker boxes or electrical systems associated with Dock B, the boat slips on Dock B, the boats moored at Dock B, the fire prevention and/or firefighting capabilities and equipment, and/or the covered roof of Dock B were a part of the “premises,” as defined at Ala. Code 1975 § 35-9A-141(11).

69. Plaintiffs allege that at all times relevant to the events herein, numerous persons who lived on boats berthed in slips on Dock B were “roomers” as defined by Ala. Code 1975 § 35-9A-141(14) and/or were “tenants,” as defined at Ala. Code 1975 § 35-9A-141(16).

70. Plaintiffs allege that at all times relevant to the events herein, any and all oral and/or written agreements reached between persons who lived on boats berthed in slips on Dock B and Defendants, including but not limited to any “RENTAL OF RECREATIONAL SPACE,” are “rental agreements” as defined at Ala. Code 1975 § 35-9A-141(13).

71. Plaintiffs allege that Defendant Jackson County and/or the Commissioner Defendants breached their duties of maintaining the premises, as outlined in Ala. Code 1975 § 35-9A-204. Specifically, Defendant(s), in violation of what is required of a landlord, failed to do the following:

- A. Comply with the requirements of applicable building and housing codes materially affecting health and safety;
- B. Make all repairs and do whatever is necessary to put and keep the premises in a habitable condition;
- C. Keep all common areas of the premises in a clean and safe condition; and
- D. Maintain in good and safe working order and condition all electrical and other facilities and appliances, supplied or required to be supplied by the landlord.

72. Plaintiffs allege and assert that they are entitled to all appropriate recovery, including attorney fees, in accordance with Ala. Code 1975 § 35-9A-401. Per that code section, Plaintiffs may recover actual damages and reasonable attorney fees for noncompliance by the landlord with Section 35-9A-204. Actual damages here would include reasonable compensation for property damage and/or personal injury and punitive damages for wrongful death as set out in this Complaint.

COUNT SIX

FICTITIOUS PARTIES

73. Plaintiffs fully adopt all preceding paragraphs and incorporate them by reference as if fully set forth herein.

74. Plaintiffs allege any and all causes of action as set out in this Complaint or in any Amended Complaint against the fictitious Defendants labeled, identified, described, or

referenced in the style, caption, or body of this complaint. Plaintiffs are unaware of the true names and identities of said Defendants and Defendants will be added by amendment when ascertained. Plaintiffs demand judgment against all fictitious party Defendants. Plaintiffs pray for such other and further relief as to the Court seems proper and just.

75. For the reasons set forth above, Plaintiffs request that the Jury award compensatory damages, punitive damages, and attorney fees, and that Plaintiffs further be awarded pre-judgment interest, post-judgment interest, the expenses and costs associated with prosecuting this lawsuit, and/or any further relief deemed appropriate by the Jury or the Court.

/s/ Kenneth B. Cole, Jr.
Kenneth B. Cole, Jr. (COL109)
Attorney for Plaintiffs

/s/ Gary V. Conchin
Gary V. Conchin (CON009)
Attorney for Plaintiffs

/s/ Malloray M. Diamond
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/s/ Will J. Parks, III
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PLAINTIFFS DEMAND TRIAL BY STRUCK JURY.

/s/ Kenneth B. Cole, Jr.
Kenneth B. Cole, Jr.

DEFENDANTS TO BE SERVED VIA CERTIFIED MAIL

Jackson County, Alabama
102 E. Laurel Street
Scottsboro, AL 35768

Jackson County Commission of Jackson County, Alabama
102 E. Laurel Street
Suite 47
Scottsboro, AL 35768

Tim Guffey
102 E. Laurel Street
Suite 47
Scottsboro, AL 35768

Danny Rich
102 E. Laurel Street
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Jason Venable
102 E. Laurel Street
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Melinda Gilbert
102 E. Laurel Street
Suite 47
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Mike Sisk
102 E. Laurel Street
Suite 47
Scottsboro, AL 35768

Association of County Commissioners of Alabama Liability Self-Insurance Fund, Inc.
2 N. Jackson Street
Montgomery, AL 36104

City of Scottsboro, Alabama
Scottsboro City Hall
316 South Broad Street
Scottsboro, AL 35768

Electric Power Board of the City of Scottsboro, Alabama
404 East Willow Street
Scottsboro, AL 35768

Ladd Environmental Consultants, Inc.
c/o Adam Lea
Registered Agent for Service
1207 Chitwood Avenue SE
Fort Payne, AL 35967

K.W. Raines Associates, Inc.
c/o Kenneth Rains
Registered Agent for Service
1470 Liberty Road
Henager, AL 35978

Gregory W. Miller d/b/a Miller Electric
509 Wilson Street
Scottsboro, AL 35768

Womack Electric, LLC
c/o Billy Womack
Registered Agent for Service
817 Loreda Street
Scottsboro, AL 35768

Whisenant Construction, LLC
c/o Cheyenne Whisenant
Registered Agent for Service
675 County Rd. 57
Pisgah, AL 35765

CHJ Construction, Co., Inc.
c/o Hugh Whisenant
Registered Agent for Service
60 County Road 101
Scottsboro, AL 35768