

Chicago Daily Law Bulletin®

Volume 164, No. 115

Serving Chicago's legal community for 163 years

\$27.9M deal over deadly boat outing

Boat-share vessel's disrepair stranded 4 on Lake Michigan

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The family of three individuals who died in a May 2014 boating incident on Lake Michigan and the sole survivor settled their lawsuits for \$27.9 million against the companies tasked with repairing and managing the motorboat.

Orest Sopka, 30, invited friends Shai Wolkowicki, 29, Ashley Haws, 26, and Megan Blenner, 27, to join him for a daylong boating trip on May 31, 2014, from Burnham Harbor to New Buffalo, Mich. Sopka previously bought the Axess, a 2011 31-foot Rinker motorboat.

As part of a timeshare-like agreement with Creative Yacht Management Inc., which does business as SailTime Chicago, the boat was open for rental by other members of SailTime through a timeshare-like arrangement.

SailTime served as the boat's management company and would offer members a chance to rent the boat through a "fractional boat membership program." It also coordinated the boat's maintenance and storage requirements.

Whenever their boats needed to be fixed, SailTime Chicago would bring them to boat mechanics including as Skyway Yacht Works LLC.

Two years earlier, the Sopkas' boat hit rocks while on the water, sustaining significant damage. The plaintiffs argued the boat had not been properly repaired at that time and that the vessel should not have gone onto the water in May 2014.

They also contended because Skyway also maintained and stored the boat during the winter 2013, it had an additional opportunity to repair the damage but did not do so.

The four friends were on their way back from New Buffalo, about seven to 10 miles east of Burnham Harbor, when a sound started coming from the boat and the bearing in the drive train — located between the engine transmission and the propeller shaft — disintegrated causing a hole in the back of the boat.

The boat took on water, and within three minutes the boat's battery and engines were underwater causing an electrical failure, according to the complaint. Each passenger had flotation devices and life jackets, but they were unable to call for help. Emergency radios did not work due to the electrical outage, and they did not have cellphone reception.

Wolkowicki testified the boat sunk within 10 minutes, leaving the passengers in dark, in 53 degree water. Haws, Sopka, Blenner and Wolkowicki got separated. Only Wolkowicki survived. He was found the next day about 6:15 a.m. by a fishing boat captain after suffering rhabdomyolysis and hypothermia.

Haws, an associate at Davi Law Group LLC in Wheaton, was found in the lake on June 1, 2014. Blenner, an avid soccer player and financial analyst from Arlington Heights, was found on June 28, 2014. Sopka, originally from the Cleveland area and also an active soccer player, was found on July 28, 2014.

The boat was not found until Aug. 31, 2014.

Sopka and Wolkowicki met while attending Carnegie Mellon University in Pittsburgh and became best friends.

Wolkowicki's attorney, Kenneth Hoffman of Mitchell, Hoffman & Wolf LLC, said that for his client, losing a best friend was akin to losing a brother and he thinks of him daily.

Wolkowicki and the estates of the three deceased passengers filed Wrongful Death Act and survival action claims against the fractional boat ownership company, the repair company

and the franchisor, SailTime Group LLC.

The suits, which were eventually consolidated, alleged the companies should have properly repaired the motorboat once it was damaged two years ago before it was taken out onto the water on May 31, 2014.

The case was dismissed today following extensive mediations with former Cook County judges Joseph N. Casciato and Michael J. Hogan.

Around the same time the lawsuits were filed in state court, SailTime filed an admiralty and maritime claim seeking exoneration from or limitation of liability pursuant to the Shipowner's Limitation of Liability Act.

The act is used by shipowners to stay actions, bring concurrent claims in federal court and exonerate or limit themselves from liability stemming from a casualty.

The federal case was dismissed in April 2015 as part of the settlement agreement with SailTime, according to Tracy Brammeier of Clifford Law Offices P.C., who represented the Blenner estate.

When the boat was found in August 2014, several inspections determined the gimbal bearing in the boat's Mercury Marine Mercruiser Bravo III portside engine transom assembly failed, which created a hole in the bottom of the boat, according to court documents.

Mercury's engineer, Pete Chisholm, concluded the gimbal bearing corroded by late 2013 and then failed. Greg Davis, the plaintiffs' expert marine surveyor, said Skyway failed to set the trim limit which put excessive force on the gimbal bearing, causing it to fail, court documents stated.

Skyway's expert Harry Wartivovschi concluded the gimbal bearing failed because of water intrusion at the start of the 2014 season, but the boat sinking was caused by an electrical failure.

Defense attorneys also argued the company completed the necessary repairs in 2012 and did not feel any further inspection was

needed, nor did anyone else request it.

Skyway is represented by Dennis Minichello and Shari Friedman of Marwedel, Minichello & Reed, P.C. Minichello declined to comment on the case or the settlement agreement.

SailTime Chicago's insurer, Markel American Insurance Co., previously agreed to pay its \$1 million policy limit on behalf of itself and Orest Sopka, whom it also insured. Erie Insurance, which provided SailTime's commercial policy, also paid a \$1 million policy limit.

Its franchisor SailTime Group LLC agreed to pay \$200,000. Both Rinker Boat Company, Inc. and Brunswick Corp. agreed to pay \$100,000 through their respective insurance policies.

Skyway Yacht Works agreed to pay \$25.5 million — bringing the total settlement amount to \$27.9 million.

Haws' estate is represented by Timothy Mahoney of Rolewick & Gutzke P.C. and John M. Power of Cogan & Power P.C. Mahoney said his clients wanted more than anything just to know the truth of what occurred.

Blenner's estate is represented by Kevin P. Durkin and Brammeier of Clifford Law Offices. Brammeier said without everyone working together, the boat would likely still be at the bottom of the lake and their clients would not have found out what transpired that night.

Sopka's estate is also represented by Timothy G. Martin and Robert J. Cooney Jr. of Cooney & Conway. Martin said this was a "completely avoidable tragedy" had the repair company been transparent about their ability to fix the boat.

Sopka's estate and his company, Axess Holding Co., was dismissed from the case pursuant to the SailTime Chicago settlement agreement.

The consolidated case is *Shai Wolkowicki v. Creative Yacht Management, Inc., et al.*, 14 L 7169.

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