

**IN THE CIRCUIT COURT FOR  
MONTGOMERY COUNTY, ALABAMA**

**SUE GILMORE TATUM and  
KENNETH N. TATUM,**

**Plaintiffs,**

**vs.**

**PATRICK CUMBIE and FICTICIOUS  
DEFENDANT "A," the owner of the  
Runabout operated by Patrick  
Cumbie, whose true and correct  
name is unknown at this time but  
will be substituted by amendment  
when ascertained,**

**Defendants.**

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**CIVIL ACTION NO.:**

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**COMPLAINT**

**Statement of the Parties**

1. Sue Gilmore Tatum is over the age of 19 years and is a resident of Autauga County, Alabama.
2. Kenneth N. Tatum is over the age of 19 years and is a resident of Autauga County, Alabama.
3. Sue Gilmore Tatum and Kenneth N. Tatum are husband and wife.
4. Patrick Cumbie is over the age of 19 years and is a resident of Montgomery County, Alabama.
5. Fictitious Defendant "A" is the owner of the Runabout operated by Patrick Cumbie, whose true and correct name is unknown at this time but will be substituted by amendment when ascertained.

### **Statement of the Facts**

6. On August 9, 2008, Plaintiffs were on or around a pontoon boat which was on Lake Martin in Elmore County, Alabama.
7. It was night and dark at that time and place.
8. At said time and place, Defendant Patrick Cumbie, who was legally intoxicated, was operating a Runabout.

### **COUNT ONE**

9. At said time and place, Defendant Patrick Cumbie negligently ran the Runabout he was operating into Plaintiff Sue Gilmore Tatum and into the pontoon boat.
10. As a proximate consequence of the negligence of Defendant Patrick Cumbie, Plaintiff Sue Gilmore Tatum was severely injured and is believed to be permanently impaired and disabled; she is under the care of numerous doctors and is hospitalized; and she was otherwise injured and damaged.

WHEREFORE, Plaintiff Sue Gilmore Tatum demands judgment against Defendant Patrick Cumbie in such amount of compensatory damages as a jury may award and her costs of this action.

### **COUNT TWO**

11. Plaintiff Sue Gilmore Tatum realleges paragraphs 1 through 8 of the Complaint.
12. At said time and place, Defendant Patrick Cumbie, who was legally intoxicated, wantonly ran the Runabout he was operating into Plaintiff Sue Gilmore Tatum and into the pontoon boat.
13. As a proximate consequence of the wantonness of Defendant Patrick Cumbie, Plaintiff Sue Gilmore Tatum was severely injured and is believed to be permanently impaired and disabled; she is under the care of numerous doctors and is hospitalized; and she was otherwise injured and damaged.

WHEREFORE, Plaintiff Sue Gilmore Tatum demands judgment against Defendant Patrick Cumbie in such amount of compensatory and punitive damages as a jury may award and her costs of this action.

### **COUNT THREE**

14. Plaintiff Kenneth N. Tatum realleges all prior paragraphs of the Complaint.
15. Plaintiff Kenneth N. Tatum was in the zone of danger at said time and place and observed the Runabout striking and injuring his wife.
16. Plaintiff Kenneth N. Tatum has lost the society and companionship of his wife.
17. As a proximate consequence of the negligence of Defendant Patrick Cumbie, Plaintiff Kenneth N. Tatum has been injured and damaged as follows: he has incurred medical bills and will continue to do so in

providing medical care and treatment for his wife; he suffers and will continue to suffer severe emotional damage; and he has been otherwise injured and damaged.

WHEREFORE, Plaintiff Kenneth N. Tatum demands judgment against Defendant Patrick Cumbie in such amount of compensatory damages as a jury may award and his costs of this action.

#### **COUNT FOUR**

18. Plaintiff Kenneth N. Tatum realleges all prior paragraphs of the Complaint.
19. Plaintiff Kenneth N. Tatum has lost the society and companionship of his wife.
20. Plaintiff Kenneth N. Tatum was in the zone of danger at said time and place and observed the Runabout striking and injuring his wife.
21. As a proximate consequence of the wantonness of Defendant Patrick Cumbie, Plaintiff Kenneth N. Tatum has been injured and damaged as follows: he has incurred medical bills and will continue to do so in providing medical care and treatment for his wife; he suffers and will continue to suffer severe emotional damage; and he has been otherwise injured and damaged.

WHEREFORE, Plaintiff Kenneth N. Tatum demands judgment against Defendant Patrick Cumbie in such amount of compensatory and punitive damages as a jury may award and his costs of this action.

### **COUNT FIVE**

22. Plaintiffs reallege all prior paragraphs of the Complaint.
23. Defendant Patrick Cumbie had a prior history that included drug and alcohol abuse.
24. On August 9, 2008, Defendant Patrick Cumbie was incompetent to operate a boat or any other type watercraft.
25. Fictitious Defendant "A" knew or reasonably should have known that Patrick Cumbie was an incompetent operator.
26. Fictitious Defendant "A," with such knowledge, negligently entrusted the Runabout to Patrick Cumbie.
27. As a proximate consequence of the negligence of Fictitious Defendant "A," Plaintiffs were injured and damaged as alleged hereinabove in paragraphs 10 and 21 respectively.

WHEREFORE, Plaintiffs demand judgment against Fictitious Defendant "A" in such amount of compensatory damages as a jury may award and their costs of this action.

s/ Jere L. Beasley \_\_\_\_\_  
JERE L. BEASLEY (BEA020)  
JULIA A. BEASLEY (BEA039)  
BENJAMIN E. BAKER (BAK025)

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**JURY DEMAND**

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY ON ALL ISSUES OF THIS  
CAUSE.

s/ Jere L. Beasley \_\_\_\_\_  
OF COUNSEL