

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

ANA CLARA RAVAZZANI,

CASE NO.:

Plaintiff,

vs.

YAMAHA MOTOR CORPORATION, U.S.A.,
and YAMAHA MOTOR MANUFACTURING
CORPORATION OF AMERICA,

Defendants.

PLAINTIFF'S COMPLAINT FOR DAMAGES
AND DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, ANA CLARA RAVAZZANI, in the above styled cause, by and through her undersigned attorneys, sues the Defendants, YAMAHA MOTOR CORPORATION, U.S.A., a foreign corporation, and YAMAHA MOTOR MANUFACTURING CORPORATION OF AMERICA, a foreign corporation, and states as follows:

JURISDICTION

1. This is an action for damages in an amount in excess of Fifteen Thousand and 00/100 (\$15,000.00) Dollars exclusive of interest and costs.

2. The Plaintiff, ANA CLARA RAVAZZANI (hereinafter "RAVAZZANI"), is and at all times relevant to this lawsuit was a resident of Uruguay.

3. The Defendant, YAMAHA MOTOR CORPORATION, U.S.A. (hereinafter "YMUS"), is upon information and belief, a corporation organized and existing under the laws of one of the States of the United States other than Florida; that its principal place of business is in Cypress, California, where, at all times relevant hereto it was engaged in the business of

distributing and selling personal watercrafts known as "Waverunners"; that among other places the Defendant's products were sold, distributed, and used within the State of Florida.

4. That the Defendant YAMAHA MOTOR MANUFACTURING CORPORATION OF AMERICA (hereinafter "YMMC"), is upon information and belief, a corporation organized and existing under the laws of one of the States of the United States other than Florida; that its principal place of business is in Newnan, Georgia, where, at all times relevant hereto it was engaged in the business of designing and manufacturing personal watercrafts known as "Waverunners."

5. Both Defendants, YMUS and YMMC, are wholly owned subsidiaries of Yamaha Motor Co., Ltd., a foreign corporation with its principal place of business in Iwata, Japan.

6. That the Waverunner at issue in this matter was designed, manufactured, and sold by Defendants, jointly and severally.

7. That the subject Waverunner was purchased in 2014 at Riva Motorsports, in Florida, and the incident at issue occurred in Miami-Dade County, Florida.

8. This Court has jurisdiction pursuant to Florida's "Long Arm Statute" as Defendants were operating, conducting, engaging in, or carrying on a business or business venture in this State; the catastrophic injuries to the Plaintiff occurred within this State (in Miami-Dade County) arising out of an act or omission by the Defendants outside this State; and the Defendants were engaged in substantial and not isolated activity within this State. Fla. Stat. § 48.193 (2016).

9. All conditions precedent to bringing this cause of action have occurred, or have been performed, excused, discharged, satisfied or waived.

FACTS

10. The product which is the subject of this Complaint is a 2015 Yamaha FX Series Personal Watercraft, serial number US-YAM A2968J415 (hereinafter "Subject Waverunner").

11. That at some time before June 14, 2016, Defendants, YMUS and YMMC, jointly and severally, designed, developed, tested, manufactured, distributed, and sold the Subject Waverunner.

12. At all times material hereto, the Subject Waverunner was substantially unchanged from its condition when manufactured and sold by YMUS and YMMC.

13. On the date and time in question, the Subject Waverunner was brought to Boca Chita Key, in Miami-Dade County, Florida, which is where the incident occurred.

14. On or about June 14, 2016, the Plaintiff, RAVAZZANI, was riding as a passenger on the Subject Waverunner in the seat position closest to the rear of the watercraft. The operator had turned the Subject Waverunner at idle speed and then had begun to slowly accelerate when the Plaintiff slid off the seat falling directly behind the Waverunner in close proximity to the jet thrust of the jet drive propulsion system. As a direct and proximate result of the Plaintiff's contact with the output pressure from the jet drive, she sustained mutilating injuries to her anus, rectum and internal organs, which will be described more fully later herein.

COUNT I: **STRICT LIABILITY DEFECTIVE DESIGN**

15. Paragraphs 1 through 14 are incorporated herein reference.

16. Defendants, YMUS and YMMC, were engaged in the business of designing, manufacturing, constructing, selling, and distributing products to the public, including the Subject Waverunner.

17. The Defendants had a duty to design, test, manufacture, assemble, and inspect its

Waverunners so as not to subject purchasers and/or users to an unreasonable risk of harm through a product which was in a defective and unreasonably dangerous condition. The Waverunner in question was defective and unsafe for its intended purposes at the time it left the control of Defendants, and at the time it was sold.

18. Defendants, YMUS and YMMC, placed its personal watercrafts, including the Subject Waverunner, on the market with knowledge that it would be used without inspection for defects and dangers. YMUS and YMMC knew or should have known that ultimate users, operators, passengers or consumers would not and could not properly inspect this product for defects and dangerous conditions, and that detection of such defects and dangers would be beyond the capabilities of such persons.

19. The product was defectively designed so as to render it unreasonably dangerous to Plaintiff. In particular, Waverunners, including the Subject Waverunner, do not provide riders with adequate mobility restraints, handholds, straps, grips, seating configuration and/or tail design which would prevent the rearmost passenger from sliding backward off the seat upon acceleration and falling directly into the path of the jet thrust of the jet drive propulsion system.

20. Several safer alternative designs existed at the time the product was manufactured. Those safer alternatives would have incorporated:

- a) A simple grip strap across the seat which could be held between the passenger's legs thereby allowing them to independently secure themselves to the watercraft;
- b) Handholds in or adjacent to the seat that are high enough and located sufficiently in front of the last passenger so as to allow her the ability to reach and

grip the handles, while at the same time allowing her to keep her center of gravity sufficiently forward;

c) A contoured seat with a bolster or backrest high enough to prevent the last passenger from sliding off the rear of the craft; and

d) Lengthening of the rear deck of the craft far enough to allow the output pressure of the jet drive to dissipate prior to the point where a fallen passenger could be seriously injured by such flow.

21. Each of the foregoing alternative designs would have prevented or significantly reduced the risk of Plaintiff's injuries, without substantially impairing the product's utility. Furthermore, each of these safer alternative designs were economically and technologically feasible at the time the product left Defendants control by the application of existing or reasonably achievable scientific knowledge.

COUNT II:
STRICT LIABILITY DEFECTIVE WARNING

22. Paragraphs 1 through 21 are incorporated herein reference.

23. The Subject Waverunner was defective and unreasonably dangerous because it was placed on the market without adequately warning the users of the watercraft that a passenger could slide or topple off the back of the craft and land directly into the path of an extremely dangerous jet of water which was likely to inflict severe and permanent damage to human tissue and organs.

24. Moreover, the product was placed on the market without adequately warning the users of the watercraft that the rearmost passenger could fall directly into the path of an extremely dangerous jet of water which was likely to inflict severe and permanent damage to human tissue and organs, or death, when it was well known that the warnings provided did not

comply with industry and manufacturing standards, and that the warnings could have been placed in better, more conspicuous locations, and incorporated much clearer language which would convey the true extent of the risks involved.

25. The warnings which were provided were small, inconspicuous, hidden within a barrage of warnings, unclear, non-specific, vague and therefore, in violation of industry and manufacturing standards, and entirely inadequate to provide the protection needed by passengers invited to ride on such a watercraft.

COUNT III:
NEGLIGENCE AGAINST YAMAHA MOTOR CORPORATION &
YAMAHA MOTOR MANUFACTURING

26. Paragraphs 1 through 25 are incorporated herein reference.

27. Defendants, YMUS and YMMC, knew or in the exercise of due care should have known that the Subject Waverunner would be used without inspection in an unreasonably dangerous condition and would create a foreseeable and unreasonable risk of harm to users, including Plaintiff, RAVAZZANI. Defendants, YMUS and YMMC, were under a duty to properly and adequately design, manufacture, assemble, test, inspect, label, provide adequate warnings for, package, distribute and sell the Subject Waverunner in a reasonably safe condition so as not to present a danger to members of the general public who reasonably and expectedly under ordinary circumstances would come into contact with the Subject Waverunner, including Plaintiff.

28. Defendants, YMUS and YMMC, breached its duty of reasonable care owed to Plaintiff, RAVAZZANI, in one or more of the following ways:

- (a) Failing to design, manufacture, assemble, distribute, and sell the Subject Waverunner so that it was safe for its intended use;

- (b) Failing to design, manufacture, assemble, distribute, and sell the Subject Waverunner so that passengers, including Plaintiff, RAVAZZANI, would be prevented from being ejected off of the seat during foreseeable use;
- (c) Failing to design, manufacture, assemble, distribute, and sell the Subject Waverunner so that passengers, including Plaintiff, RAVAZZANI, could remain seated on the Personal Watercraft during foreseeable use;
- (d) Failing to warn and/or incorporate adequate warnings as to the known risk to passengers, including Plaintiff, RAVAZZANI, of being ejected due to the design and/or manufacture of the Subject Waverunner;
- (e) Failing to design, manufacture, assemble, distribute, and sell the Subject Waverunner so that it would prevent passengers, including Plaintiff, RAVAZZANI, from being severely injured as a result of the design and/or location of its water jets during foreseeable use;
- (f) Failing to design, manufacture, assemble, distribute, and sell the Subject Waverunner so that it would incorporate available design alternatives to ensure that passengers, including Plaintiff, RAVAZZANI, would be protected from water jet streams/thrust during foreseeable use;
- (g) Failing to warn and/or incorporate adequate warnings as to the known risk to passengers, including Plaintiff, RAVAZZANI, of being injured by water jet streams/thrust due to the design and/or manufacture of the Subject Waverunner;
- (h) Failing to design, manufacture, assemble, distribute, and sell the Subject Waverunner so that it would prevent passengers, including Plaintiff, from being

injured as a result of the inherent design combining no restraints and rapid acceleration;

(i) Failing to exercise reasonable care in the testing, inspection, examination, and evaluation of the Subject Waverunner so that passengers, including Plaintiff, RAVAZZANI, would not be ejected off of the seat during foreseeable use;

(j) Failing to exercise reasonable care in the testing, inspection, examination, and evaluation of the Subject Waverunner so that passengers, including Plaintiff, RAVAZZANI, could remain seated on the Personal Watercraft seat during foreseeable use; and

(k) Failing to exercise reasonable care in the testing, inspection, examination, and evaluation of the Subject Waverunner so that passengers, including Plaintiff, RAVAZZANI, would not be injured by water jet streams/thrust during foreseeable use.

29. The negligence described above directly and proximately caused the incident and injuries sustained by Plaintiff, RAVAZZANI, in that it directly and in natural and continuous sequence produced or contributed substantially to her injuries.

30. As a direct and proximate result of the foregoing, Plaintiff, RAVAZZANI, sustained severe mutilating injuries, including an anorectal rupture from forceful injection of water, resulting in pain and suffering, impairment, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical care and treatment, and loss of the ability to earn money. The injuries to the Plaintiff are permanent and she will continue to suffer losses in the future.

31. Furthermore, the Defendants, jointly and severally, were grossly negligent, reckless, and acted in willful and wanton disregard of a person's safety and the safety of others in the following respects:

- a) In that they designed a product that allows the last passenger to ride without adequate restraints or handholds or rear deck configuration which would prevent them from falling backwards and directly into the jet water thrust from the jet drive propulsion system;
- b) In that they placed a product on the market without adequately warning its users that a passenger falling from the rear seat of the craft could fall directly into the path of an extremely dangerous jet of water which was likely to inflict severe and permanent damage to human tissue and organs or death; and
- c) In that they were aware and knew of the above described defective design and the foreseeable risk of severe and permanent bodily injury or death, and rather than correcting this defective design, Defendants purposefully and deliberately placed money over safety and human life.

32. Plaintiff further alleges that Defendants, jointly and severally, acted with gross negligence, recklessness, and willful and wanton disregard of a person's safety and the safety of others, in particular, rather than properly addressing the admittedly known risk and altering the design of the machine, Defendants designed, manufactured and marketed the product knowing that the design was far too dangerous for use by the public as it allowed the last passenger to ride without adequate restraints, handholds, seating configuration or a proper tail design which would prevent the last passenger from falling backwards and directly into the tissue-cutting jet thrust from the jet drive propulsion system, which can and does result in injuries and damages of an

entirely different nature and far more severe than any injuries or damages which a typical user having the normal amount of knowledge and experience with the watercraft in question would find foreseeable.

33. The harsh truth is that Defendants' upper management determined that such injuries were "statistically insignificant" and chose to address the issue by trying to shift the duty to warn passengers to the owners of the crafts, and by joining together with the other manufacturers of such machines to jointly fund a self-serving "report" which recommended a warning sticker that was far too subtle to be effective, and which advised operators to take an action (wearing heavy protective clothing or wet suits) which it has known for years was totally ineffective and ridiculous to believe that a spontaneous rider/passenger would have access to a wetsuit, particularly in warmer climates like South Florida.

34. As a direct and proximate result of the aforementioned acts and/or omissions by the Defendants, jointly and severally, which constituted strict liability, negligence, gross negligence, recklessness, and willful and wonton disregard for a person's safety and the safety of the public, the Plaintiff sustained multiple injuries to her anus, rectum, and perineum, as well as unknown permanent and debilitating damages to various internal organs, thereby causing her to suffer from conscious pain and suffering, medical expenses, including hospitalizations and five (5) surgeries, together with the costly expense of several physicians; that further, the Plaintiff sustained a loss of earnings as a result of her injuries; that furthermore, the Plaintiff continues to suffer from pain and discomfort as a result of her injuries and is informed and believes that the same will continue indefinitely, all to the Plaintiff's loss and damage in a sum to be determined by the jurors for actual damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, RAVAZZANI, prays that Defendants, jointly and severally, be cited to appear and answer herein as the law directs, and that upon final hearing, Plaintiff recovers judgment of and from the Defendants, pursuant to the above and foregoing allegations in such amounts as the evidence may show proper at the time of trial, which will be in excess of Eleven Million One Hundred Thousand (\$11,100,000.00) dollars, to which Plaintiff may be justly entitled.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues so triable as a matter of right.

Respectfully submitted this 25th day of May, 2017.

BAKER & ZIMMERMAN, P.A.
Attorneys for Plaintiff
6991 North State Road 7, 2nd Floor
Parkland, Florida 33073
Telephone: (954) 509-1900
Facsimile: (954) 509-9910
By: s/Robert B. Baker
ROBERT B. BAKER, ESQ.
Florida Bar No.: 0992460
rbb@defendingtheinjured.com
tnatto@bakerzimmerman.com