

ULKU KAYA INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE OF
TIMOTHY DREW BRYON GREENING

and

Intervenor

VS.

Defendants

[illegible]

ARANSAS COUNTY, TEXAS

156th JUDICIAL DISTRICT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Intervenor, Rob Greening, Individually for the Wrongful Deaths of his Parents Pamela Greening and Robert E. Lee Greening III and as Personal Representative of the Estate of Robert E. Lee Greening III, Deceased and makes and files this Petition in Intervention against J2 Rockport LLC d/b/a Boatmen's Club and Michael Forsberg, Defendants.

I.
DISCOVERY

1.1 Discovery in this case is intended to be conducted pursuant to Level 3 of Rule 190.1 of the Texas Rules of Civil Procedure.

II.
PARTIES AND SERVICES

2.1 Intervenor Rob Greening, adult surviving son of Decedents, is a resident of Mount Horeb, Dane County, Wisconsin.

2.2 Defendant J2 Rockport LLC d/b/a Boatmen's Club (hereinafter referred to as "Boatmen's") is a domestic for-profit corporation existing under the laws of the State of Texas and may be served with process by and through its attorney of record, Thomas G. Jacks, Schouest Bamdas Soshea BenMaier & Eastham, 5956 Sherry Lane, 20th Floor, Dallas, Texas 75225.

2.3 Defendant Michael Forsberg (hereinafter referred to as "Forsberg"), the driver of the vehicle that caused the crash that resulted in the deaths of Pamela Greening and Robert E. Lee Greening III, may be served by and through his attorney of record, Scott A. Seelhoff, Upton, Mickits & Heymann, L.L.P., 802 North Carancahua, Suite 450, Corpus Christi, Texas 78401.

III.
JURISDICTION AND VENUE

3.1 Venue is proper in Aransas County in that the crash made the basis of this suit occurred in Aransas County.

3.2 Pursuant to and as required by Rule 47 of the TEXAS RULES OF CIVIL PROCEDURE, Intervenor pleads that he seek monetary relief in excess of \$1,000,000.00. However, as stated

below, Intervenor demands this case be tried before a jury, at which time said jury shall determine the monetary relief awarded

IV. **FACTS**

4.1 On December 28, 2023, at approximately 10:18 p.m., Defendant Michael Forsberg was driving a Dodge Ram Truck under the influence and impairment of alcohol travelling westbound in the 1700 block of 16th Street in Rockport, Aransas County, Texas. As an intoxicated driver, when Defendant Forsberg approached the intersection of State Highway 35 and 16th Street, he was unable to safely operate his vehicle, failed to control his speed and sped through the intersection, disregarding his stop sign, violently striking the vehicle occupied by Ulku Kaya, Timothy Greening, Pamela Greening and Robert E. Lee Greening III.





The impact was so intense it caused Decedents' vehicle to roll two times and Defendant Forsberg to be thrown out of his vehicle.

4.2 Pamela Greening died at the scene. Timothy Greening died in route to the hospital in the ambulance. Ulku Kaya and Robert E. Lee Greening III were taken to the hospital in critical condition. Ulku Kaya survived. Robert E. Lee Greening III lived 18 horrific days and eventually succumbed to his injuries and died on January 15, 2024. The intoxicated driver that caused the crash, Michael Forsberg, survived.

4.3 Specimens from Forsberg were collected at the hospital some time later and revealed a .139 blood alcohol concentration, well above the legal limit.

4.4 For many hours prior to the collision, Defendant Forsberg had been drinking heavily at Boatmen's Club. While at Boatmen's, the Boatmen employees continuously served Forsberg

alcoholic beverages, even though he became obviously intoxicated and was a threat to himself and the general public at large. Defendant Forsberg's intoxication was obvious to anyone who observed him, but yet Boatmen's did nothing. They allowed an intoxicated Forsberg to leave their premises in a drunken state, get behind the wheel of his vehicle and drive off. Within minutes, Defendant Forsberg sped through a stop sign and violently crashed into Decedents' vehicle, ultimately killing three of the four passengers and changing the lives of the Greening family forever.



V. **NATURE OF SUIT**

5.1 This is an action for damages instituted by Intervenor, Rob Greening, Individually for the Wrongful Deaths of his Parents Pamela Greening and Robert E. Lee Greening III and as

Personal Representative of the Estate of Robert E. Lee Greening III, Deceased. Intervenor is a beneficiary entitled to bring this action.

5.2 As the only surviving adult child of Robert E. Lee Greening III, Rob Greening is a statutory beneficiary of his estate.

5.3 Defendant Boatmen's is an entity whose wrongful actions – serving alcohol to an obviously intoxicated Forsberg – caused the deaths of Timothy Greening, Pamela Greening and Robert E. Lee Greening III.

5.4 Had Robert E. Lee Greening III survived his injuries, he could have brought an action on his own against Defendants to recover for their wrongdoing. As shown above, Intervenor Rob Greening has a cause of action under the Dram Shop Act against Defendant Boatmen's and wrongful death claims for his parents.

VI.

NEGLIGENCE CAUSE OF ACTION AGAINST DEFENDANT MICHAEL FORSBERG

COUNT I: WRONGFUL DEATH FOR NEGLIGENCE OF FORSBERG

6.1 Intervenor adopts and re-alleges all previous paragraphs as if fully set forth herein.

6.2 Defendant Forsberg had consumed alcoholic beverages to the point where he was under the influence and impairment of alcohol and was legally intoxicated when he got behind the wheel of his vehicle on the date of this deadly crash.

6.3 Defendant Forsberg had a duty to exercise ordinary care in the operation of his vehicle.

6.4 Defendant Forsberg breached his duty of care, and was thus negligent and negligent *per se* by operating his vehicle in an unsafe and reckless manner while under the influence and impairment of alcohol.

6.5 In addition to the duties imposed by the Texas Penal Code, Defendant Forsberg had a duty to exercise the degree of care that a reasonably prudent person would use to avoid harm to others under the circumstances similar to those at issue in this suit.

6.6 Defendant Forsberg's intoxication caused the deaths of Timothy Greening, Pamela Greening and Robert E. Lee Greening III because the alcohol Defendant Boatmen's served him impaired his mental and physical ability to operate his vehicle and was, therefore, the cause of the crash that claimed three lives.

6.7 Defendant Forsberg's negligent, careless, heedless, and reckless actions, and total and complete disregard for the safety of others, including Timothy Greening, Pamela Greening and Robert E. Lee Greening III, as well as the traffic laws of the State of Texas, proximately caused the crash and the deaths of Timothy Greening, Pamela Greening and Robert E. Lee Greening III.

6.8 Defendant Forsberg is therefore liable to Robert E. Lee Greening III's estate and its statutory beneficiary for his damages and for exemplary damages as set forth below and for which Intervenor Rob Greening now seeks recovery at trial.

VII.
NEGLIGENCE CAUSE OF ACTION AGAINST DEFENDANT
J2 ROCKPORT LLC d/b/a BOATMEN'S CLUB

COUNT II: WRONGFUL DEATH FOR VIOLATION OF THE DRAM SHOP ACT BY BOATMEN'S CLUB

7.1 Intervenor adopts and re-alleges all previous paragraphs as if fully set forth herein.

7.2 Intervenor brings suit against Defendant Boatmen's under Texas Alcoholic Beverage Code § 2.02(b).

7.3 At all relevant times, Defendant Boatmen's and their employees were "providers" and "servers" as defined by Texas Alcoholic Beverage Code § 2.01(1).

7.4 Defendant Boatmen's had a statutory duty under Section 2.02 of the Texas

Alcoholic Beverage Code, among other sections, to ensure that its employees were properly trained and refrained from irresponsibly serving obviously intoxicated individuals, such as Forsberg, with alcoholic beverages because, while intoxicated, Forsberg posed a substantial danger to the public and himself.

7.5 Yet, Defendant Boatmen's and its employees were negligent in violation of Texas Alcoholic Beverage Code § 2.02(b) by providing, selling and/or serving alcoholic beverages to Forsberg when it was obvious Forsberg was intoxicated. Defendant Boatmen's continued to serve Forsberg even after he was obviously intoxicated to the extent he presented a clear danger to himself and the general public.

7.6 Defendant Boatmen's conduct caused Defendant Forsberg to become a danger to himself and the public and proximately caused the deaths of three people.

7.7 It was foreseeable, based on Forsberg's obvious intoxication because of the alcohol served by Defendant Boatmen's, that Forsberg could not safely operate a vehicle, and that intoxication was the substantial factor in causing the crash that claimed the lives of Timothy Greening, Pamela Greening and Robert E. Lee Greening III. Defendant Boatmen's conduct in violation of the Dram Shop Act was the proximate cause of the collision caused by Forsberg's intoxication and therefore the deaths of Timothy Greening, Pamela Greening and Robert E. Lee Greening III.

7.8 Defendant Boatmen's is liable in whole or in part to Intervenor, Rob Greening, Individually for the Wrongful Deaths of his Parents Pamela Greening and Robert E. Lee Greening III and as Personal Representative of the Estate of Robert E. Lee Greening III and its statutory beneficiary for his damages as set forth below and for which Intervenor Rob Greening now seeks recovery at trial.

VIII. **AGENCY**

8.1 At all relevant times, the managers, servers, bartenders, security guards, and other workers at Defendant Boatmen's were employees and/or agents and were subject to a right of control by Defendant Boatmen's and were acting in the course and scope of their employment, agency or authority. Therefore, Defendant Boatmen's is liable for the conduct of the managers, servers, bartenders, security guards, and other workers who supervised, observed or served Defendant Forsberg alcohol at Boatmen's.

IX. **DAMAGES**

A. Survival Damages of the Estate of Robert E. Lee Greening III

9.1 Pursuant to Texas Civil Practices & Remedies Code § 71.021, the Estate of Robert E. Lee Greening III is entitled and seek damages to Robert E. Lee Greening III for his fear of impending death, conscious pain and suffering and for the physical pain and mental anguish endured by him in the moments leading up to the crash until the time of his death and his medical bills for medical care for the 18 days he lived from the time of the crash until his death.

9.2 As a result of the foregoing, Robert E. Lee Greening III incurred injuries and damages in an amount in excess of the minimum jurisdictional limits of this court, and Intervenor Rob Greening pleads for such damages as authorized in this case. Intervenor Rob Greening further requests that this case be tried before a jury and that the Estate of Robert E. Lee Greening III be awarded fair and reasonable damages as determined by the jury.

B. Wrongful Death Damages of the Statutory Beneficiaries of Robert E. Lee Greening III

9.3 Pursuant to Texas Civil Practice and Remedies Code § 71.021, Intervenor Rob Greening is a wrongful death beneficiary, respectively, as the only surviving adult child of Pamela

Greening and Robert E. Lee Greening III and in that capacity is entitled and seeks damages as follows:

a. As a result of Defendants' wrongful conduct, Intervenor Rob Greening has suffered and continues to suffer substantial losses, including loss of services, funeral expenses, medical expenses, mental anguish, grief, and sorrow as a result of the deaths of his parents. His suffering will continue for the rest of his life. He also suffers the loss of society, companionship and consortium of his parents as a result of their deaths for which he seeks damages. Intervenor Rob Greening has also been damaged for the loss of care, support, household services, advice, counsel and reasonable contributions of pecuniary value which he, in reasonable probability, would have received from Pamela Greening and Robert E. Lee Greening III had they lived.

b. As a result of the untimely and unfortunate death of Decedents, Intervenor Rob Greening has suffered mental anguish and lost moral support, care, advise, attention, comfort, counsel, inheritance, pecuniary contribution, love, companionship and affection above described, all to the damage of Intervenor Rob Greening for a sum in excess of the minimum jurisdictional limits of the Court.

9.4 Intervenor Rob Greening, Individually and as Personal Representative of the Estate of Robert E. Lee Greening III, alleges damages far in excess of the minimum jurisdictional limits of the Court and specifically reserves the right to plead the damages with particularity when the damages are more fully known to him.



X.
EXEMPLARY DAMAGES

10.1 Intervenor adopts and re-alleges all previous paragraphs as if fully set forth herein.

10.2 Defendant Forsberg's acts and omissions described above, when viewed from his standpoint at the time of the collision, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Timothy Greening, Pamela Greening, and Robert E. Lee Greening III and others who may have been traveling on the roads that fateful night. Defendant Forsberg had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of the Greenings and others. Based on the facts stated herein, Intervenor requests that exemplary damages be awarded to him and against Defendant Forsberg in an amount sufficient to

deter future conduct and send a message that such conduct is not acceptable in our community.

10.3 Defendant Boatmen's acts and omissions described above, when viewed from their standpoint at the time of the collision, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Timothy Greening, Pamela Greening, Robert E. Lee Greening III and others who may have been traveling on the roads that fateful night. Defendant Boatmen's had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of the Greenings and others. Based on the facts stated herein, Intervenor requests that exemplary damages be awarded to him from Defendant Boatmen's in an amount sufficient to deter future conduct and send a message that such conduct is not acceptable in our community.

XI.

PRE-JUDGMENT INTEREST AND POST-JUDGMENT INTEREST

11.1 Intervenor adopts and re-alleges all previous paragraphs as if fully set forth herein.

11.2 Intervenor submits that many of the damages he sustained may be determined by known standards of value and accepted rules of evidence. Accordingly, Intervenor claims that he is entitled to pre-judgment interest from the date of the occurrence in question or the date such damages can be determined prior to judgment or as the Court otherwise directs, calculated at the legal rate or as otherwise set by law or the Court. Further, Intervenor seeks post-judgment interest in accordance with the maximum legal interest rates allowable in the State of Texas.

XII.

JURY DEMAND

12.1 Intervenor requests a jury trial.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Intervenor, Rob Greening, Individually for the Wrongful Deaths of his Parents Pamela Greening and Robert E. Lee Greening III and as Personal Representative of the Estate of Robert E. Lee Greening III, Deceased, prays that Defendants be cited to appear and answer and that upon final hearing, Intervenor Rob Greening recovers judgment against the Defendants, for their damages as they may appear at trial hereof, together with exemplary damages, prejudgment and post-judgment interest, costs of court, and such other relief to which Intervenor may be justly entitled.

Respectfully submitted,

THE COCHRAN FIRM-DALLAS, PLLC

/s/ Bryan D. Pope

Bryan D. Pope

State Bar No. 00788213

bpope@cochran texas.com

1825 Market Center Blvd, Suite 500

Dallas, Texas 75207

Telephone: (214) 651-4260

Facsimile: (214) 651-4621

For E-Service please include:

twickstrom@cochran texas.com

ATTORNEY FOR INTERVENOR
ROB GREENING

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing instrument has been served upon all counsel of record on this 4th day of February, 2025.

/s/ Bryan D. Pope

BRYAN D. POPE

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Tracy Wickstrom on behalf of Bryan Pope
Bar No. 788213
twickstrom@cochranntexas.com
Envelope ID: 96979433
Filing Code Description: Counter Claim/Cross
Action/Interpleader/Intervention/Third Party
Filing Description: Petition in Intervention
Status as of 2/4/2025 4:21 PM CST

Associated Case Party: ULKU KAYA

Name	BarNumber	Email	TimestampSubmitted	Status
Celeste Baltierra	24095479	efiling@lileswhite.com	2/4/2025 4:00:12 PM	SENT

Associated Case Party: J2 ROCKPORT LLC d/b/a BOATMEN'S CLUB

Name	BarNumber	Email	TimestampSubmitted	Status
Reid T.Hudgins		rhudgins@sbsb-eastham.com	2/4/2025 4:00:12 PM	SENT
Rasha Zeyadeh		rzeyadeh@sbsb-eastham.com	2/4/2025 4:00:12 PM	SENT
Thomas G.Jacks		tjacks@sbsb-eastham.com	2/4/2025 4:00:12 PM	SENT

Associated Case Party: MICHAELJCFORSBERG

Name	BarNumber	Email	TimestampSubmitted	Status
Scott ASeelhoff		sseelhoff@umhlaw.com	2/4/2025 4:00:12 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Bryan Pope		bpope@cochranntexas.com	2/4/2025 4:00:12 PM	SENT
Tracy Wickstrom		twickstrom@cochranntexas.com	2/4/2025 4:00:12 PM	SENT