

IN THE CIRCUIT COURT OF 14TH
JUDICIAL CIRCUIT IN AND FOR
BAY COUNTY, FLORIDA

ANNA KIMBLEY, as Personal
Representative of the Estate of
KEVIN KIMBLEY, deceased

GENERAL JURISDICTION DIVISION

CASE #: 16000959CA

Plaintiff,

VS.

FLORIDA BAR #:861618

COAST ADVENTURES, LLC., D/B/A
DIVING PCB; DIVING PCB, Individually AND
THE PROFESSIONAL ASSOCIATION
OF DIVE INSTRUCTORS,

Defendants.

WRONGFUL DEATH COMPLAINT

COMES NOW the Plaintiff, ANNA KIMBLEY, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF KEVIN KIMBLEY, DECEASED, and sues the Defendants, COAST ADVENTURES, LLC., D/B/A DIVING PCB, DIVING PCB, Individually and THE PROFESSIONAL ASSOCIATION OF DIVE INSTRUSTORS and further states as follows:

GENERAL ALLEGATIONS

1. That this is an action for damages in excess of \$15,000.00 exclusive of interest, attorneys' fees and costs.
2. The Plaintiff, ANNA KIMBLEY, is the duly appointed qualified and acting Personal Representative of the Estate of KEVIN KIMBLEY, deceased. The Plaintiff brings this action for the benefit of the decedent's estate and for the benefit of the decedent's survivors under the provisions of Florida Statute 768.16 et seq and in their capacity as such Personal Representative.

3. The potential beneficiaries of the recovery in this action and their relationship to the decedent are:

Anna Kimbley	wife of the decedent Kevin Kimbley
Amber Benson	daughter of the decedent Kevin Kimbley
Pete Michael Kimbley	son of the decedent Kevin Kimbley
Kayla Kimbley	daughter of the decedent Kevin Kimbley
The Estate of Kevin Kimbley	

4. That at all times relevant hereto, the Defendant, COAST ADVENTURES, LLC., D/B/A DIVING PCB, (hereinafter referred to as “COAST ADVENTURES”) is a corporation authorized to do and doing business in Bay County, Florida.

5. That the Defendant, DIVING PCB, (hereinafter referred to as “PCB”) is an entity doing business in Bay County, Florida.

6. That at all times relevant hereto, the Defendant, THE PROFESSIONAL ASSOCIATION OF DIVE INSTRUCTORS, (hereinafter referred to as “PADI”) is a professional association authorized to do and doing business in Bay County, Florida.

7. That on or about July 11, 2016, the Defendant, COAST ADVENTURES, operated a scuba diving shop located at 11128 Front Beach Road Bay County, Panama City, Florida.

8. That on said date, the Decedent, KEVIN KIMBLEY, his son and nephew were customers of the Defendants, COAST ADVENTURES, PCB and PADI.

9. That the decedent and the two minors had never gone scuba diving before. The defendants were well aware of this fact, as they advertise for just such customers. The decedent and family were accompanied by one dive instructor. The dive instructor was at all times material hereto an employee or agent of the defendants, acting within the scope of his employment or agency. Based on the facts listed

below, the defendants were, either individually, or in combination, directly responsible for the death of Kevin Kimbley, age 52.

COUNT I
KIMBLEY VS. COAST ADVENTURES

The Plaintiff herein re-alleges and re-adopts paragraphs number 1 through 9 and would further state as follows:

10. The defendant owned and maintained all equipment provided to the decedent and his family. As the owner, the defendant had a duty to be certain all equipment was working properly, and fit the decedent. The defendants breached said duty by providing equipment that did not work or wasn't sized properly. This includes flippers not appropriate for the size of the decedent, a malfunction in buoy compensator, insufficient oxygen in the scuba tank. This negligent failure to maintain the equipment in question directly caused the death of Kevin Kimbley.

11. Further, the defendant provided one dive instructor for the three divers. No diver was assigned a dive buddy. The instructor swam in front of the group of novice divers. The instructor had a duty to keep watch over these divers, so as to keep them from getting left behind from the group. The instructor in this case failed to follow these basic guidelines. As a result of negligently failing to provide proper lookout, and instruction, and proper safety responsibilities, the decedent was lost from the group without the instructor knowing he was gone. He was found by other divers, as he was too far from the instructor to even know where he was. He was found without flippers, as these flippers were inappropriately sized.

12. The defendants further owed the decedent a duty to keep watch of the weather conditions necessary for safe diving. This includes current, wind speed and chop. The defendants breached said duty by failing to check the conditions. The current was such that the defendant, through its employee,

negligently failed to account for the current. As a result, the defendant let the decedent get far behind the group, ultimately losing sight of him, sending him to his demise.

13. Plaintiff, ANNA KIMBLEY, Personal Representatives of the Estate of KEVIN KIMBLEY, deceased, claims all damages against the Defendant, COAST ADVENTURES, permissible under Florida Statute 768.21 known as the "Florida Wrongful Death Act" including but not limited to loss of earnings, net accumulations, medical and funeral expenses, mental pain and suffering, parental companionship, instruction and guidance, lost support and services.

WHEREFORE, the Plaintiff, ANNA KIMBLEY, as Personal Representative of the Estate of KEVIN KIMBLEY, deceased, demands judgment for compensable damages, costs and other relief as this Court deems appropriate against the Defendant, COAST ADVENTURES, and further demand trial by jury of all issues so triable as a matter of right by jury.

COUNT II
KIMBLEY VS. PCB

The Plaintiff herein re-alleges and re-adopts paragraphs number 1 through 9 and would further state as follows:

14. The defendant owned and maintained all equipment provided to the decedent and his family. As the owner, the defendant had a duty to be certain all equipment was working properly, and fit the decedent. The defendants breached said duty by providing equipment that did not work or wasn't sized properly. This includes flippers not appropriate for the size of the decedent, a malfunction in buoy compensator, insufficient oxygen in the scuba tank. This negligent failure to maintain the equipment in question directly caused the death of Kevin Kimbley.

15. Further, the defendant provided one dive instructor for the three divers. No diver was assigned a dive buddy. The instructor swam in front of the group of novice divers. The instructor had a duty to keep watch over these divers, so as to keep them from getting left behind from the group. The

instructor in this case failed to follow these basic guidelines. As a result of negligently failing to provide proper lookout, and instruction, and proper safety responsibilities, the decedent was lost from the group without the instructor knowing he was gone. He was found by other divers, as he was too far from the instructor to even know where he was. He was found without flippers, as these flippers were inappropriately sized.

16. The defendants further owed the decedent a duty to keep watch of the weather conditions necessary for safe diving. This includes current, wind speed and chop. The defendants breached said duty by failing to check the conditions. The current was such that the defendant, through its employee, negligently failed to account for the current. As a result, the Defendant let the decedent get far behind the group ultimately losing sight of him, sending him to his demise.

17. Plaintiff, ANNA KIMBLEY, Personal Representatives of the Estate of KEVIN KIMBLEY, deceased, claims all damages against the Defendant, PCB, permissible under Florida Statute 768.21 known as the "Florida Wrongful Death Act" including but not limited to loss of earnings, net accumulations, medical and funeral expenses, mental pain and suffering, parental companionship, instruction and guidance, lost support and services.

WHEREFORE, the Plaintiff, ANNA KIMBLEY, as Personal Representative of the Estate of KEVIN KIMBLEY, deceased, demands judgment for compensable damages, costs and other relief as this Court deems appropriate against the Defendant, PCB, and further demand trial by jury of all issues so triable as a matter of right by jury.

COUNT III
KIMBLEY VS. PADI

The Plaintiff herein re-alleges and re-adopts paragraphs number 1 through 9 and would further state as follows:

18. The defendant owned and maintained all equipment provided to the decedent and his family. As the owner, the defendant had a duty to be certain all equipment was working properly, and fit the decedent. The defendants breached said duty by providing equipment that did not work or wasn't sized properly. This includes flippers not appropriate for the size of the decedent, a malfunction in buoy compensator, insufficient oxygen in the scuba tank. This negligent failure to maintain the equipment in question directly caused the death of Kevin Kimbley.

19. Further, the defendant provided one dive instructor for the three divers. No diver was assigned a dive buddy. The instructor swam in front of the group of novice divers. The instructor had a duty to keep watch over these divers, so as to keep them from getting left behind from the group. The instructor in this case failed to follow these basic guidelines. As a result of negligently failing to provide proper lookout, and instruction, and proper safety responsibilities, the decedent was lost from the group without the instructor knowing he was gone. He was found by other divers, as he was too far from the instructor to even know where he was. He was found without flippers, as these flippers were inappropriately sized.

20. The defendants further owed the decedent a duty to keep watch of the weather conditions necessary for safe diving. This includes current, wind speed and chop. The defendants breached said duty by failing to check the conditions. The current was such that the defendant, through its employee, negligently failed to account for the current. As a result, the Defendant let the decedent get far behind the group, ultimately losing sight of him, sending him to his demise.

21. Plaintiff, ANNA KIMBLEY, Personal Representatives of the Estate of KEVIN KIMBLEY, deceased, claims all damages against the Defendant, PADI, permissible under Florida Statute 768.21 known as the "Florida Wrongful Death Act" including but not limited to loss of earnings, net

accumulations, medical and funeral expenses, mental pain and suffering, parental companionship, instruction and guidance, lost support and services.

WHEREFORE, the Plaintiff, ANNA KIMBLEY, as Personal Representative of the Estate of KEVIN KIMBLEY, deceased, demands judgment for compensable damages, costs and other relief as this Court deems appropriate against the Defendant, PADI, and further demand trial by jury of all issues so triable as a matter of right by jury.

DATED this 30 day of August, 2016.

COHEN & JUDA, P.A.
Attorneys for Plaintiff
8211 W. Broward Blvd.
Suite 310
Plantation, FL 33324
(954) 424-1440, Broward
(954) 424-6365 Telefax
pleadings@cohenandjuda.com Primary

BY: 
GARY H. JUDA, ESQ.