

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

_____)	
KENNETH G. METCALF and NANCY)	
METCALF)	
Plaintiffs)	
V.)	Civ. Act. No.:
)	
BAY FERRIES LIMITED)	
Defendant)	
_____)	

PLAINTIFF'S COMPLAINT AND DEMAND FOR TRIAL

GENERAL FACTUAL ALLEGATIONS

1. The Plaintiff, Kenneth G. Metcalf, is a resident of Oxford, Massachusetts.
2. The Plaintiff, Nancy Metcalf, is a resident of Oxford, Massachusetts and at all relevant times spouse of Kenneth G. Metcalf.
3. The Defendant, Bay Ferries Limited, is a corporation duly organized under the laws of Canada, with a principal place of business at Charlottetown, Province of Prince Edward Island, Canada.
4. On or about 2009, the Defendant, was in the business of running an international ferry service between Maine and Nova Scotia.
5. On or about 2009, the Defendant was doing business in the State of Massachusetts.
6. On or about August 14, 2009, the Defendant owned a 319 foot passenger and vehicle ferry named HSC INCAT 059, aka, THE CAT.

7. On or about August 14, 2009, the Defendant operated HSC INCAT 059, aka, THE CAT.

8. On or about August 14, 2009, the Defendant controlled HSC INCAT 059, aka, THE CAT.

9. The Defendant chartered HSC INCAT 059, aka, THE CAT from some other person or entity such that, on or about August 14, 2009, the Defendant was the owner pro hac vice of HSC INCAT 059, aka, THE CAT.

10. On or about August 14, 2009, HSC INCAT 059, aka, THE CAT was in navigable waters.

11. On or about August 14, 2009, the Plaintiff, Kenneth Metcalf was a paying passenger aboard HSC INCAT 059, aka, THE CAT.

12. On or about August 14, 2009, the Plaintiff, Nancy Metcalf was a paying passenger aboard HSC INCAT 059, aka, THE CAT.

13. On or about August 14, 2009, the Plaintiff, Kenneth Metcalf sustained serious and permanent injury.

14. Prior to and at the time he sustained the above-mentioned personal injuries, the Plaintiff, Kenneth Metcalf was exercising due care.

JURISDICTION

15. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332. The Parties are diverse in that the Plaintiffs are residents of Massachusetts and the Defendant is a Canadian Corporation. The amount in controversy, exclusive of interests and costs, exceeds the sum specified by 28 U.S.C. § 1332. In the event that diversity jurisdiction

does not apply, this matter is being brought under the admiralty and maritime jurisdiction of the Court.

COUNT I

16. The Plaintiffs reiterates the allegations set forth in paragraphs 1 through 15 above.

17. The personal injuries sustained by the Plaintiff, Kenneth G. Metcalf, were not caused by any fault on his part, but were caused by the negligence, gross negligence, willful, wanton or outrageous conduct and reckless indifference for the rights of others by the Defendant, its agents, servants and/or employees.

18. As a result of said injuries, the Plaintiff, Kenneth G. Metcalf, has suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses, and has sustained and will sustain other damages as will be shown at trial.

WHEREFORE, the Plaintiffs demands judgment against the Defendant for all damages recoverable under the law against the Defendant, together with interest and costs.

COUNT II

19. The Plaintiffs reiterates the allegations set forth in paragraphs 1 through 15 above.

20. The personal injuries sustained by the Plaintiff, Kenneth G. Metcalf, were not caused by any fault on his part, but were caused by the negligence of the Defendant, its agents, servants and/or employees.

21. As a result of the negligence of the Defendant and the resulting injuries to Plaintiff, Kenneth Metcalf, Plaintiff, Nancy Metcalf has sustained economic and non-economic damages including without limitation the loss of the comfort, companionship, support and services of her husband, Kenneth Metcalf all of which will be shown at trial.

WHEREFORE, the Plaintiff, Nancy Metcalf, in her individual capacity as wife of Kenneth Metcalf demands judgment against the Defendant for all damages recoverable under the law against the Defendant, together with interest and costs.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES RAISED HEREIN.

Respectfully submitted for the
the Plaintiffs, KENNETH METCALF and NANCY
METCALF
by their attorney,

/s/ Carolyn M. Latti
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