

NORTH CAROLINA  
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

FILE NO. 21 CVS 2745

DURHAM CO., NC  
MA

RUBEN VILLANO; WILLIAM W. )  
PLYLER, Guardian ad Litem for Eric )  
Villano; KIMBERLY MILLER, )  
Guardian ad Litem for Karlos Villano; )  
IRENE VILLANO; MEGAN HEITZ, )  
as Special Administratrix of the )  
Ancillary Estate of SOPHIA WILSON; )  
DEBORAH VILLANO, as Special )  
Administratrix of the Ancillary )  
Estate of TERESA VILLANO; )  
DEBORAH VILLANO, as Special )  
Administratrix of Estate of ANTONIO )  
ROMAN; DEBORAH VILLANO, as )  
Special Administratrix of the Ancillary )  
Estate of BRIDISH CRAWFORD, )  
)  
Plaintiffs, )  
)  
v. )  
)  
DUKE ENERGY CAROLINAS, LLC )  
)  
Defendant. )

**AMENDED COMPLAINT**  
**(Jury Trial Demanded)**

Now come plaintiffs, pursuant to Rule 15(a) of the N.C. Rules of Civil Procedure,  
and amend their complaint of right as follows:

The plaintiffs, complaining of the defendant, allege and say:

**PARTIES**

1. Ruben Villano is a citizen and resident of Durham County, North Carolina.  
He was injured on June 16, 2021.

2. Irene Villano is a citizen and resident of Durham County, North Carolina. She was injured on June 16, 2021.

3. Eric Villano, a minor, age 14, is a citizen and resident of Durham County, North Carolina. He appears in the action by and through his duly appointed Guardian ad Litem, William W. Plyler. Eric Villano was injured on June 16, 2021.

4. Ruben Villano is the father of Eric Villano and Irene Villano.

5. Karlos Villano, a minor, age 15, is a citizen and resident of Durham County, North Carolina. He appears in this action by and through his duly appointed Guardian ad Litem, Kimberly T. Miller. Karlos was injured on June 16, 2021.

6. Teresa Villano, a domicile of LaPorte County, Indiana, was killed on June 16, 2021. At the time of her death, Ms. Villano was healthy and the mother of three minor children, Lorenzo Roman, Natalie Roman, and Ruben Roman.

7. Deborah Villano, a citizen and resident of LaPorte, Indiana, and the mother of Teresa Villano, was duly appointed Special Administratrix in the estate of Teresa Villano for the Sole Purpose of Collecting Damages for Personal Injuries and Wrongful Death by the Circuit Court in LaPorte, Indiana, on July 1, 2021. Deborah Villano was subsequently duly appointed Administrator of the Ancillary Estate of Teresa Villano by the Clerk of Court of Mecklenburg County, North Carolina.

8. Antonio Roman, a domicile of LaPorte County, Indiana, was killed on June 16, 2021. At the time of his death, Mr. Roman was healthy, and the father of three minor children, Lorenzo Roman, Natalie Roman, and Ruben Roman.

9. Deborah Villano was duly appointed Special Administratrix in the estate of Antonio Roman for the Sole Purpose of Collecting Damages for Personal Injuries and Wrongful Death by the Circuit Court in LaPorte, Indiana, on July 1, 2021. Deborah Villano was subsequently duly appointed Administrator of the Ancillary Estate of Antonio Villano by the Clerk of Court of Mecklenburg County, North Carolina.

10. Deborah Villano was duly appointed Special Administratrix in the estate of Bridish Crawford for the Sole Purpose of Collecting Damages for Personal Injuries and Wrongful Death by the Circuit Court in LaPorte, Indiana, on July 1, 2021. Deborah Villano was subsequently duly appointed Administrator of the Ancillary Estate of Bridish Crawford by the Clerk of Court of Mecklenburg County, North Carolina.

11. Sophia Wilson, (“Sophia”), age 15, was killed on June 16, 2021. She was domiciled in LaPorte County, Indiana.

12. Megan Heitz is a citizen and resident of LaPorte, Indiana. She is the natural mother of Sophia Wilson. Ms. Heitz was duly appointed Special Administratrix in the estate of Sophia Wilson for the Sole Purpose of Collecting Damages for Personal Injuries and Wrongful Death by the Circuit Court in LaPorte, Indiana, on July 1, 2021. Megan Heitz was subsequently duly appointed Administrator of the Ancillary Estate of Sophia Wilson by the Clerk of Court of Mecklenburg County, North Carolina.

13. Defendant Duke Energy Carolinas, LLC, (hereinafter “Duke Energy”) is a North Carolina corporation duly organized and existing under the laws of the State of North Carolina with its principal place of business in Charlotte, North Carolina. Duke Energy

transacts business in the State of North Carolina, including Durham County, North Carolina.

### **BACKGROUND**

14. On June 16, 2021, Duke Energy owned and controlled a low head dam on the Dan River, in Eden, North Carolina. The dam spanned the full width of the Dan River.

15. Low head dams present a hidden danger, in that the water may appear to be tranquil but even moderate flows over such dams create strong turbulence and recirculating currents that can push victims underwater, and then pull them back to the face of the dam in a repeating cycle. Experts on the dangers of low head dams often refer to them as “drowning machines.”

16. On the afternoon of June 16, 2021, family members Teresa Villano, Antonio Roman, Sophia Wilson, Ruben Villano, Eric Villano, Irene Villano, Karlos Villano, Bridish Crawford and Isaiah Crawford, were floating on the Dan River together on flotation tubes.

17. The family members were unfamiliar with the Dan River, including the hidden dangers presented by the low head dam.

18. Upon information and belief, the low head dam is approximately 8½-feet tall, however, the dam is obscured by water as those floating on the river unknowingly approach the dam.

19. The area of the river approaching the dam was not protected by any buoys, ropes, or other barricades or adequate warnings about the danger that was ahead.

20. Teresa Villano, Antonio Roman, Bridish Crawford, Sophia Wilson, and Isaiah Crawford all went over the dam, were caught in the dam's hydraulic motion, and drowned.

21. Ruben Villano, Eric Villano, Irene Villano, and Karlos Villano all were trapped at the dam for more than 16 hours, tightly holding onto one another, until they could be pulled from the water.

22. Ruben Villano, Irene Villano, Eric Villano and Karlos Villano saw fellow family members die; were themselves injured, and sustained emotional distress and other serious personal injuries.

**CLAIM FOR RELIEF**  
**(Duke Energy Carolinas, LLC)**

23. Plaintiffs hereby reallege and incorporate paragraphs 1 through 22 of this complaint.

24. Duke Energy knew that people often swam, boated and tubed in the Dan River.

25. Duke Energy knew or should have known that the dam presented a drowning hazard.

26. Duke Energy knew that the presence of the low head dam represented a hidden danger to swimmers, kayakers, canoeists, tubers and others lawfully using the Dan River.

27. Duke Energy had a duty to exercise ordinary care to maintain the dam in a reasonably safe condition.

28. Duke Energy had a duty to give an adequate warning to those lawfully on the Dan River about any concealed or dangerous conditions about which it knew or should have known, had it conducted a reasonable inspection.

29. Duke Energy had a duty to warn users of the Dan River about the dangerous condition posed by the dam through a warning that, by placement, size and content, would bring the existence of the dangerous condition to the attention of a reasonably prudent person.

30. Duke Energy had a duty to remove or remedy any unsafe condition that posed a risk to lawful users of the river.

31. Despite knowing of the danger posed by the dam, Duke Energy failed to take adequate measures to warn of the danger posed by the dam.

32. Despite knowing of the danger posed by the dam, Duke Energy failed to use barricades, barriers, buoys and other safety devices to prevent boaters from going over the submerged dam and being caught in the recirculating currents.

33. Defendant Duke Energy Carolinas, LLC, was negligent, reckless, willful, and wanton in that it:

- a. Did not remove the Dan River Dam despite knowing the danger it posed to swimmers and boaters;
- b. Did not modify the Dan River Dam despite knowing the danger it posed to swimmers and boaters;
- c. Did not erect barriers, barricades, buoys, or other safety devices on the dam's approach area, despite knowing the danger posed to swimmers and boaters;

- d. Did not adequately warn those using the river of the danger created by the low head dam;
- e. Did not adequately safeguard the dam from inadvertent access by persons lawfully floating on the Dan River;
- f. Did not adequately inspect the Dan River Dam approach area;
- g. Did not safely operate and/or safely dismantle the low head dam after it was no longer utilized by Duke Energy;
- h. Did not observe that care and caution required of a reasonably prudent electric utility company and dam operator under the same or similar circumstances; and
- i. Was otherwise careless, negligent, reckless, willful and wanton as shall be shown in discovery and at trial.

34. As a direct and proximate result of the negligence, recklessness, willfulness, and/or wantonness of defendant Duke Energy, Teresa Villano suffered conscious pain and mental suffering, went over the dam, was caught in the dam's hydraulic "drowning machine" action, and died.

35. As a direct and proximate result of the defendant's aforesaid conduct, the estate of Teresa Villano has incurred funeral and burial expenses.

36. As a direct and proximate result of the defendant's aforesaid conduct, the estate of Teresa Villano is entitled to recover from defendant Duke Energy Carolinas, LLC, damages for the present monetary value of the deceased to her next of kin, including for the loss of the society, companionship, comfort guidance and advice of the deceased, as well as the loss of her income, services, protection, care and support. The decedent's beneficiaries are entitled to compensation for these losses, and all other damages permitted

under the wrongful death statute N.C.G.S. § 28A-18-2(b) and in an amount in excess of \$25,000.00.

37. As a direct and proximate result of the negligence, recklessness, willfulness, and/or wantonness of defendant Duke Energy, Antonio Roman suffered conscious pain and mental suffering, went over the dam, was caught in the dam's hydraulic "drowning machine" action, and died.

38. As a direct and proximate result of the defendant's aforesaid conduct, the estate of Antonio Roman has incurred funeral and burial expenses.

39. As a direct and proximate result of the defendant's aforesaid conduct, the estate of Antonio Roman is entitled to recover from defendant Duke Energy Carolinas, LLC, damages for the present monetary value of the deceased to his next of kin, including for the loss of the society, companionship, comfort guidance and advice of the deceased, as well as the loss of his income, services, protection, care and support. The decedent's beneficiaries are entitled to compensation for these losses, and all other damages permitted under the wrongful death statute N.C.G.S. § 28A-18-2(b) and in an amount in excess of \$25,000.00.

40. As a direct and proximate result of the negligence, recklessness, willfulness, and/or wantonness of defendant Duke Energy, Sophia Wilson suffered conscious pain and mental suffering, went over the dam, was caught in the dam's hydraulic "drowning machine" action, and died.

41. As a direct and proximate result of the defendant's aforesaid conduct, the estate of Sophia Wilson has incurred funeral and burial expenses.



42. As a direct and proximate result of the defendant's aforesaid conduct, the Estate of Sophia Wilson, a minor, is entitled to recover from defendant Duke Energy Carolinas, LLC, the present monetary value of the deceased to her next of kin, including for the loss of the society, companionship, comfort guidance and advice of the deceased, as well as the loss of her income, services, protection, care and support. The decedent's beneficiaries are entitled to compensation for these losses, and all other damages permitted under the wrongful death statute N.C. Gen. Stat. § 28A-18-2(b), and in an amount in excess of \$25,000.00.

43. As a direct and proximate result of the negligence, recklessness, willfulness, and/or wantonness of defendant Duke Energy, Bridish Crawford suffered conscious pain and mental suffering, went over the dam, was caught in the dam's hydraulic "drowning machine" action, and died.

44. As a direct and proximate result of the defendant's aforesaid conduct, the estate of Bridish Crawford has incurred funeral and burial expenses.

45. As a direct and proximate result of the defendant's aforesaid conduct, the estate of Bridish Crawford is entitled to recover from defendant Duke Energy Carolinas, LLC, damages for the present monetary value of the deceased to her next of kin, including for the loss of the society, companionship, comfort guidance and advice of the deceased, as well as the loss of her income, services, protection, care and support. The decedent's beneficiaries are entitled to compensation for these losses, and all other damages permitted under the wrongful death statute N.C.G.S. § 28A-18-2(b) and in an amount in excess of \$25,000.00.

46. As a direct and proximate result of the aforesaid actions and omissions of defendant Duke Energy, Ruben Villano endured physical pain and suffering, including a near drowning experience; sustained permanent and severe personal injuries; suffered severe emotional distress; and incurred and will incur medical expenses.

47. As a direct and proximate result of the aforesaid actions and omissions of defendant Duke Energy, Eric Villano endured physical pain and suffering, including a near drowning experience; sustained permanent and severe personal injuries; suffered severe emotional distress; and incurred and will incur medical expenses.

48. As a direct and proximate result of the aforesaid actions and omissions of defendant Duke Energy, Irene Villano endured physical pain and suffering, including a near-drowning experience; sustained permanent and severe personal injuries; suffered severe emotional distress; and incurred and will incur medical expenses.

49. As a direct and proximate result of the aforesaid actions and omissions of defendant Duke Energy, Karlos Villano endured physical pain and suffering, including a near-drowning experience; sustained permanent and severe personal injuries; suffered severe emotional distress; incurred and will incur medical expenses.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray the court as follows:

1. That the estate of Teresa Villano, have and recover from the defendant, compensatory damages in a sum in excess of \$25,000.00.

2. That the estate of Antonio Roman, have and recover from the defendant, compensatory damages in a sum in excess of \$25,000.00.

3. That the estate of Sophia Wilson, have and recover from the defendant, compensatory damages in a sum in excess of \$25,000.00.

4. That Bridish Crawford have and recover from the defendant, compensatory damages in a sum in excess of \$25,000.00.

5. That Ruben Villano have and recover from the defendant compensatory damages in a sum in excess of \$25,000.00.

6. That Irene Villano have and recover from the defendant compensatory damages in a sum in excess of \$25,000.00.

7. That Eric Villano, a minor, by and through his guardian ad litem William W. Plyer, have and recover from the defendant compensatory damages in a sum in excess of \$25,000.00.

8. That Karlos Villano, a minor, by and through his guardian ad litem Kimberly Miller, have and recover from the defendant, compensatory damages in a sum in excess of \$25,000.00.

9. That the Plaintiffs, and each of them, have and recover an award of punitive damages against the defendant, Duke Energy Carolinas, LLC, in an amount to be determined by the jury.

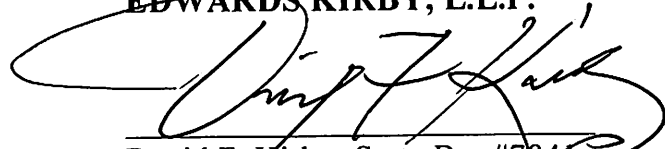
10. That the cost of this action, including pre-judgment interest, be taxed against the defendant.

11. For a trial by jury.

12. For such other and further relief as the court deems just and proper.

This the 20<sup>th</sup> day of August, 2021.

**EDWARDS KIRBY, L.L.P.**

A large, stylized handwritten signature in black ink, appearing to read "David F. Kirby", is written over a horizontal line.

David F. Kirby, State Bar #7841  
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