

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA  
CIRCUIT CIVIL DIVISION

PARKER SCHENECKER, individually and  
as Personal Representative and Executor  
de Son Tort of the ESTATE OF CALYX  
SCHENECKER and the ESTATE OF  
BEAU SCHENECKER, and on behalf of  
the beneficiary PARKER SCHENECKER,

CASE NO.: 11-005646

DIVISION: I

Plaintiff,

vs.

JULIE POWERS SCHENECKER,

Defendant.

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**JULIE POWERS SCHENECKER'S**  
**ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT**

**COMES NOW**, the Defendant, JULIE POWERS SCHENECKER, by and through her undersigned attorneys and files this Answer and Affirmative Defenses to Plaintiff's Complaint and states as follows:

1. Admitted for jurisdictional purposes only; otherwise, denied.
2. (a) Admitted.  
(b) Admitted that Parker Schenecker is the father of Calyx Powers Schenecker and Powers Beau Schenecker; otherwise, denied.  
(c) Admitted that Julie Powers Schenecker is the mother of Calyx Schenecker and Beau Schenecker; Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the remaining allegations of said paragraph.

**Statement of Facts**

3. Admitted.
4. Admitted.

5. Denied as stated.
4. Admitted.
5. Admitted.
6. Without knowledge; therefore, denied.
7. Without knowledge; therefore, denied.
8. Admitted that Parker Schenecker and Julie Powers Schenecker purchased a home in Tampa, Florida; otherwise, denied.
9. Without knowledge; therefore, denied.
10. Without knowledge; therefore, denied.
11. Without knowledge; therefore, denied.
12. Without knowledge as to the first sentence in the paragraph; therefore, denied. Denied as stated to the remaining allegations of said paragraph.
13. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.
14. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.
15. Admitted as to the first sentence of the paragraph. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of the second and third sentences of said paragraph.
16. Without knowledge; therefore, denied.
17. Without knowledge; therefore, denied.
18. Without knowledge; therefore, denied.
19. Without knowledge; therefore, denied.
20. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.
21. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.
22. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.
23. Julie Powers Schenecker asserts her Fifth Amendment privilege in

response to the allegations of said paragraph.

24. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

25. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

26. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

27. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

28. Without knowledge; therefore, denied.

29. Without knowledge; therefore, denied.

### **Count I**

#### **Wrongful Death of Beau Schenecker**

The Defendant re-alleges her responses to paragraphs 1 through 29, as if recited herein.

30. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

31. Without knowledge; therefore, denied.

32. Without knowledge; therefore, denied.

33. Without knowledge; therefore, denied.

34. Admitted.

### **Count II**

#### **Wrongful Death of Calyx Schenecker**

The Defendant re-alleges her responses to paragraphs 1 through 29, as if recited herein.

35. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

36. Without knowledge; therefore, denied.

37. Without knowledge; therefore, denied.

38. Without knowledge; therefore, denied.

39. Admitted.

### **Count III**

#### **Intentional Infliction of Emotional Distress**

The Defendant re-alleges her responses to paragraphs 1 through 39, as if recited herein.

40. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

41. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

42. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

43. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

44. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

45. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

46. Julie Powers Schenecker asserts her Fifth Amendment privilege in response to the allegations of said paragraph.

**WHEREFORE**, having fully answered the Complaint, the Defendant, Julie Powers Schenecker, prays that this Honorable Court cause the Complaint to be dismissed, with prejudice, and that the Plaintiff take nothing by virtue of the Complaint, and that this Honorable Court thereupon allow Defendant to go hence without day, and to award unto Defendant the reasonable costs incurred by her in connection with the defense of this action and for such other and further relief as appears to this Honorable Court to be just and proper in the premises. Defendant further demands trial by jury of all issues thereby triable.

### **First Affirmative Defense**

#### **Insanity**

The Defendant, Julie Powers Schenecker, affirmatively alleges that at the time of the death of Beau Schenecker and Calyx Schenecker, Julie Powers Schenecker, by reason of a mental disease or defect, did not know the nature or consequences of her actions, and was incapable of distinguishing that which is right from that which is wrong.

### **Second Affirmative Defense**

#### **Contributory Negligence of Parker Schenecker**

The Defendant, Julie Powers Schenecker, affirmatively alleges that Plaintiff's, Parker Schenecker, damages, both individually and as beneficiary, if any, were proximately caused by or contributed to by Plaintiff's own negligence, and therefore, the claims of Plaintiff, Parker Schenecker, both individually and as beneficiary, should be either barred or diminished in accordance with the degree of Plaintiff's own negligence. Plaintiff was negligent by leaving Defendant, Julie Powers Schenecker, alone to take care of their children, Beau Schenecker and Calyx Schenecker, even though he was well aware that Julie Powers Schenecker had suffered for many years from mental disease or defect.

The parties were married in 1991. At some point in 1992, Julie Powers Schenecker was first diagnosed with depression and was treated with medication by a psychiatrist. Parker Schenecker was aware of the diagnosis and prescribed medication.

From 1997-2001 Julie Powers Schenecker took medication for depression on a daily basis, except for brief periods when she was pregnant and nursing her children. Parker Schenecker was well aware of this, as well as the fact that Julie Powers Schenecker suffered from significant post-partum depression after the birth of Beau, and went back on medications at that time.

In 2001 Julie Powers Schenecker suffered a severe and debilitating episode of depression for which she was hospitalized for nine (9) months at the National Institute of Health. During this time when she was receiving intensive in-patient treatment for her depression, Parker Schenecker hired a nanny to

assist with the children, and his mother came to live with Parker Schenecker to assist with the children.

In 2001 Julie Powers Schenecker was diagnosed with severe depression, bi-polar disorder and schizoaffective disorder. Parker Schenecker was made aware of this diagnosis. After 2001, Julie Powers Schenecker continued to be treated by psychiatrists and to take medication. From 2002 to 2004, Julie Powers Schenecker continued to see her psychiatrist and was diagnosed with personality disorder, in addition to the above referenced disorders.

In 2005-2006 Julie Powers Schenecker went through a manic phase for six (6) months wherein she refused to take her medications. This was well known to Parker Schenecker. Eventually, Parker Schenecker took Julie Powers Schenecker to Walter Reed Hospital for treatment of her ongoing mental disorders. From that time to the present there was no period during which Julie Powers Schenecker was not being treated by medication and seeing psychiatrists.

In the fall of 2010 Julie Powers Schenecker fell into a severe depression. During this time she began to pull away from friends and family and began to undergo a series of surgeries that resulted in her addiction to pain killers, in particular Oxycontin. Julie Powers Schenecker became dependent upon the Oxycontin and began to abuse it during 2010. Parker Schenecker was aware of this substance abuse, as well as the fact that Julie Powers Schenecker began to drink heavily at home during the day. Eventually, Parker Schenecker forbade Julie Powers Schenecker from driving in the car with her children because of her substance abuse and mental instability.

On November 8, 2010, Julie Powers Schenecker was in a car accident at 11:00 a.m. She was intoxicated and under the influence of Oxycontin at the time. Parker Schenecker kicked Julie Schenecker out of the marital home that same date, forcing her to temporarily reside on her own in a local hotel. Two days later, Parker Schenecker picked her up from the hotel and drove her to a substance abuse rehabilitation center in Clearwater, Florida. She spent twenty-one (21) days in rehab. While Julie Powers Schenecker was in the

rehabilitation center, Parker Schenecker arranged for family members to help him take care of the children.

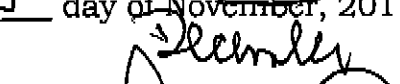
From November 28, 2010 through late January 2011, Julie Powers Schenecker was at home, in bed virtually all of the time, and was still abusing alcohol and Oxycontin. During this period, Julie Powers Schenecker had no contact with friends or family members and had virtually no interaction with her husband or her children. Although Parker Schenecker was aware that Julie Powers Schenecker was in bed for twenty (20) hours per day, severely depressed and bedridden, he did nothing to get her back in a rehabilitation center, obtain other treatment for her or contact her psychiatrist for assistance.

Parker Schenecker was well aware that Julie Powers Schenecker had, through the course of their marriage, been hospitalized in a mental health institution. Further, Parker Schenecker was aware that Julie Powers Schenecker had been taking prescription pain medication, and abusing alcohol, and had spent two months in bed in a state of serious depression, just prior to the deaths of the children.

On January 15, 2011, less than two (2) weeks before the deaths of the children, Parker Schenecker sent an email to family members in which he describes Julie Powers Schenecker as having "the judgment of a 10-year-old." A copy of the January 15, 2011 email is attached hereto as Exhibit "A". Despite knowledge of his wife's condition, Parker Schenecker left her alone and the children alone, without anyone to look after her or the children, while he was deployed overseas.

Because of Parker Schenecker's knowledge of Julie Powers Schenecker's mental infirmities, and because of their relationship as husband and wife and as parents, Parker Schenecker owed a duty of care to Julie Powers Schenecker, Beau Schenecker and Calyx Schenecker, to see that Julie Powers Schenecker received proper care for her condition and infirmities. Parker Schenecker breached this duty by leaving Julie Powers Schenecker and his children alone while he travelled overseas, thereby, by his conduct, creating a foreseeable zone of risk of harm to his children, Beau Schenecker and Calyx Schenecker.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished via U.S. Mail  Facsimile 850/422-3449  to James E. Messer, Jr., Esquire, Fonvielle Lewis Foote & Messer, 3375 Capital Circle, Northeast, Bldg. A, Tallahassee, Florida 32308, this 5 day of ~~November~~, 2011.

  
ARNOLD D. LEVINE & ASSOCIATES, P.A.

By: 

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----- Original Message -----

From: "Schenecker, Parker B COL MIL USA USINSCOM"

<parker.schenecker@us.army.mil>

To: <nschenecker@juno.com>; <eschenecker@linchping.com>; <dave.powers@blockimaging.com>;

<Carol\_Walsh@di-mgmt.com>; <patjpowers@gmail.com>; <jameslpowers@gmail.com>

Cc: <parker.schenecker@us.army.mil>

Sent: Saturday, January 15, 2011 9:48 PM

Subject: Update - 15 Jan 2011

I appreciate your concern about our current situation. For those of you who have committed to help, by both showing up at our home to lend a hand and those of you who have committed to be here immediately if there's a problem we can't handle, I will forever be in your debt.

For those who have expressed your criticism about how I'm handling the current crisis or how I parent my children, I appreciate your concern...and no worries, I'll write off your criticism as ignorance. However, before any of you decide you want to judge me on how I am dealing with what's been ongoing here in my family or judge my children on how they're (re)acting, I would ask you to consider a couple of things:

1. Although she didn't tell me until after we were married for a year or so, Julie was broken BEFORE I met her. She knew beforehand, but didn't tell me.

I didn't break her, but have been patiently working behind the scenes to pick up the pieces and pick up the slack when she falters. I am still here, 20+ years later...still picking up the pieces and the slack...probably 20+ against

my better judgment.

2. Have you ever lived with someone with Bipolar Disorder? Did you stay in that relationship or leave? If you stayed, you have my utmost respect and I'd appreciate your insight on how best to deal with the daily uncertainty and unpredictability and the exhaustion that it brings.

3. Have you ever lived with a 50-year old who has the judgment of a 10-year old? Did you stay in that relationship or leave? If you stayed, you have my utmost sympathy and I'd appreciate your insight on how to explain it to your kids and keep it from negatively affecting them and others.

4. Have you ever lived with an alcoholic/addict? I've lived with two of them. If so, did you stay in that relationship or did you leave? If you stayed, you have my utmost empathy and I'd appreciate your insight on how to commit every day to stay with him/her when they're not willing to admit they have a problem or help themselves.

5. Have you ever had to deal with your spouse hitting you in front of your children? Have you ever had to deal with your spouse hitting your child in the face while your child was driving the car? Did you stay in that relationship or leave? If you stayed, I share your embarrassment and anger.

I'm not sure there's any useful insight you can give me on that topic.

I don't need folks taking shots or lobbing grenades over the wall at me or my children.

I don't want your pity, but I DESERVE your respect. What I don't deserve is your judgment...unless you want to come jump in the foxhole with me and fight #1-5 mentioned above.

Would ask you to channel your energy toward getting Julie to help herself. Although I'm still trying, I've been unsuccessful in that respect.

Speaking of respect; you all still have mine, regardless. Just remember, the most obvious and simple solutions work in math, but usually not in human relationships.

Respectfully, Parker