

## M/V KANDI WON -NO CRIMINAL CHARGES IN FATAL BOATING ACCIDENT (January 17, 2013)

Nassau District Attorney [Kathleen Rice](#) has ruled out pursuing criminal charges in the fatal boating accident in Oyster Bay on July Fourth that killed three children.

[John Byrne](#), a spokesman for Rice, confirmed there would be no criminal charges, but he said a report of findings and safety recommendations will be forthcoming.

"The [Nassau County Police](#) Department has completed its investigation into the tragedy of July 4, 2012, that took the lives of three innocent children, Victoria Gaines, Harley Treanor and David Aureliano," [Byrne](#) said. "The Office of the District Attorney has determined that no criminal charges are appropriate."

Byrne added that "the investigation uncovered a unique combination of circumstances that led to this specific boat's capsizing. Additionally, it has also uncovered gaping holes in the maritime regulatory system and contributory design flaws in the vessel. The combination of these factors proved to be deadly but cannot support criminal charges that require proof beyond a reasonable doubt."

Byrne concluded that "the DA's office will continue to investigate this tragedy and will issue comprehensive findings and recommendations at a later time."

A source with knowledge of the investigation said while preliminary tests showed no major problems with the boat or its equipment, further investigation showed it was both unstable and unseaworthy.

While criminal charges are off the table, lawyers for the families involved expect civil lawsuits to be filed once the county issues its reports.

The 34-foot Silverton cruiser, named Kandi Won, had 27 people onboard, at least 10 of them children, when it capsized near the mouth of Oyster Bay on the way back to Huntington after a fireworks display.

Three children trapped in the cabin died: cousins David Aureliano, 12, and Harlie Treanor, 11, and family friend Victoria Gaines, 7.

James Mercante, a Manhattan maritime attorney representing boat owner and Harlie's father, Kevin Treanor of Huntington, said his client's family got the news in a call from Rice. He said the family "is thankful to the district attorney and all law enforcement that was involved, but he lost his 11-year-old daughter on the [Fourth of July](#), so his only solace in today's news is that he can continue to grieve somewhat in peace with his family. The memory of that tragic accident, and of his daughter, Harlie, nephew, David Aureliano, and friend, Victoria Gaines, will never be erased."

Anthony La Pinta, the [Hauppauge](#) attorney for Sal Aureliano, David's uncle, who has said he was steering the boat when it hit a large wake that he did not see, said "thankfully the families involved in this terrible tragedy will now be able to move forward and hopefully piece their lives back together."

La Pinta added that "I do anticipate civil litigation coming out of this."

Most boating safety experts say the cabin cruiser was overloaded but there were no federal, industry or manufacturer's occupancy limits for the boat.

The accident has spurred proposed legislation in Albany and [Washington, D.C.](#), that would require all operators to take a safety course and mandate occupancy limits for recreational boats larger than 20 feet as now required by federal law. [Suffolk](#) County approved a law last year to require boat operators to take a safety course. It takes effect in November.

**James Mercante**

***Rubin, Fiorella & Friedman LLP***

*630 Third Avenue, 3rd Floor  
New York, New York 10017*

***Phone:*** (212) 953-2381

***Fax:*** (212) 953-2462

***Email:*** [jmercante@rubinfiorella.com](mailto:jmercante@rubinfiorella.com)