

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ESTATE OF RENISHA MARIE MCBRIDE, Deceased by
MONICA MCBRIDE and WALTER RAY SIMMONS,
As Co-Personal Representatives,

Plaintiff,

vs.

Case No.
Judge:

14-010679-NI
FILED IN MY OFFICE
WAYNE COUNTY CLERK
8/19/2014 10:20:39 AM
CATHY M. GARRETT

THEODORE WAFER,

Defendant.

_____/

GERALD E. THURSWELL (P21448)
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_____/

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There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the Complaint.

COMPLAINT AND JURY DEMAND

NOW COME the above-named Plaintiffs by their attorney GERALD E. THURSWELL and ARDIANA CULAJ of the Thurswell Law Firm P.L.L.C. and respectfully represent unto this Honorable Court as follows:

PARTIES, JURISDICTION, AND VENUE

1. That Plaintiffs Monica McBride and Walter Simmons have been duly appointed by the Probate Court for the County of Wayne, Michigan, Personal Representatives of the

Estate of Renisha Marie McBride, Deceased (2014-799729-DE), who departed this life on November 2, 2013 and said personal representatives is a resident of the City of Detroit, County of Wayne, Michigan.

2. That said deceased was a resident of the City of Detroit, County of Wayne, Michigan at the time of her death.
3. That Defendant, Theodore Wafer is an individual presently incarcerated at the Williams Dickerson Detention Facility, in Hamtramck, Wayne County, Michigan.
4. That the death of Plaintiff's decedent, Renisha McBride occurred in the County of Wayne, State of Michigan.
5. That this is both a wrongful death action and survival cause of action pursuant to MCL 600.2921 and MCL 600.2922.
6. That the amount in controversy herein exceeds Twenty-Five Thousand (\$25,000) Dollars.

GENERAL ALLEGATIONS

7. That on Saturday, November 2, 2013, Plaintiffs' Decedent, Renisha McBride, 19 years old was involved a car accident at approximately 1:30 a.m.
8. That on November 2, 2013 at approximately 4:30 am, Renisha McBride knocked on the door of Defendant Theodore Wafer's house located at 16812 West Outer Drive, Dearborn Heights, County of Wayne, Michigan.
9. That Defendant, Theodore Wafer, took his black pistol grip 12 gauge shotgun, opened the entrance door, and through the locked screen door shot her on the face and killed Plaintiffs' Decedent, Renisha McBride, who was unarmed.
10. That on August 8, 2014, a Wayne County Jury found Defendant Theodore Wafer guilty of second degree murder, manslaughter, and weapons felony firearm, for causing the death of the Renisha McBride.(Case #14-000152-01-FC)

COUNT I- ASSAULT AND BATTERY

11. That Plaintiffs incorporate by reference herein each and every allegation contained in paragraphs 1 through 10, as if fully set forth herein.

12. That on November 2, 2013, Defendant wilfully and intentionally shot Plaintiffs' decedent, Renisha McBride on the face.
13. That Defendant inflicted severe injuries upon Plaintiffs' decedent, Renisha McBride, which subsequently resulted and proximately caused her death.
14. That the acts of Defendant were intentional and constituted assault and battery.
15. That the acts of Defendants were intentional, willful, wanton and malicious giving rise to a right to recover punitive damages.
16. That as a direct and proximate result of the assault and battery by Defendant, as aforesaid, Plaintiff's decedent, Renisha McBride, suffered and sustained:
 - a. Sustained severe and permanent bodily injuries which were painful, disabling and necessitated medical care; and/or
 - b. Suffered shock, mental anguish, fright and emotional damage; and/or
 - c. Sustained possible aggravation of pre-existing conditions and/or reactivation of dormant conditions; and/or
 - d. Was unable to attend to her usual affairs, daily activities, including, but not limited to, household chores, and personal needs; and/or
 - e. Hampered said Plaintiff in the enjoyment of the normal pursuit of life; and/or
 - f. Said injuries are permanent to the degree that Plaintiff's decedent suffered a loss in ability to earn money and impaired earning capacity in the future; and/or had pain and suffering;
 - g. Death;
 - h. Any other damages which are applicable and which are recoverable pursuant to statute, case law and Michigan court rules.
17. That at all times material herein, the Estate of Renisha McBride, Deceased, suffered injuries and damages compensable under Michigan Law including, but not limited to one or more of the following:
 - a. Unimaginable pain and suffering, mental anguish, fright and shock;

- b. Denial of social pleasure and enjoyments, embarrassment, humiliation and mortification;
- c. Lost wages and lost earning capacity;
- d. Loss of support of Plaintiff's Decedent;
- e. Loss of society and companionship of Plaintiff's Decedent;
- f. Loss of gifts or valuable gratuities;
- g. All damages allowed pursuant to Michigan's Wrongful Death Statute, MCL 600.2922, et seq;
- h. Punitive and Exemplary damages for Defendants' intentional conduct resulting in death;
- i. Funeral and burial expenses;
- j. Any and all other damages allowable under Michigan Law.

WHEREFORE, Plaintiffs, Monica McBride and Walter Ray Simmons, as Personal Representatives of the Estate of Renisha McBride, Deceased, demand judgment against the Defendant, Theodore Wafer, in an amount in excess of Ten Million Dollars (\$10,000,000.00) Dollars, together with costs, interest and attorney fees so wrongfully incurred.

COUNT II- NEGLIGENCE

- 18. That Plaintiffs incorporate by reference herein each and every allegation contained in paragraphs 1 through 17, as if fully set forth herein.
- 19. That Defendant owed a duty of care to act as a reasonably prudent person under the same or similar circumstances but Defendant breached said duties, and negligently caused injury to Plaintiffs' Decedent, Renisha McBride, by virtue of Defendant's acts on November 2, 1013.
- 20. That as a direct and proximate result of Defendant's negligence, Renisha McBride suffered and sustained:

- a. Sustained severe and permanent bodily injuries which were painful, disabling and necessitated medical care; and/or
- b. Suffered shock, mental anguish, fright and emotional damage; and/or
- c. Sustained possible aggravation of pre-existing conditions and/or reactivation of dormant conditions; and/or
- d. Was unable to attend to her usual affairs, daily activities, including, but not limited to, household chores, and personal needs; and/or
- e. Hampered said Plaintiff in the enjoyment of the normal pursuit of life; and/or
- f. Said injuries are permanent to the degree that Plaintiff's decedent suffered a loss in ability to earn money and impaired earning capacity in the future; and/or had pain and suffering;
- g. Death;
- h. Any other damages which are applicable and which are recoverable pursuant to statute, case law and Michigan court rules.

21. That at all times material herein, the Estate of Renisha McBride, Deceased, suffered injuries and damages compensable under Michigan Law including, but not limited to one or more of the following:

- k. Unimaginable pain and suffering, mental anguish, fright and shock;
- l. Denial of social pleasure and enjoyments, embarrassment, humiliation and mortification;
- m. Lost wages and lost earning capacity;
- n. Loss of support of Plaintiff's Decedent;
- o. Loss of society and companionship of Plaintiff's Decedent;
- p. Loss of gifts or valuable gratuities;
- q. All damages allowed pursuant to Michigan's Wrongful Death Statute, MCL 600.2922, et seq;
- r. Punitive and Exemplary damages for Defendants' intentional conduct resulting in death;

- s. Funeral and burial expenses;
- t. Any and all other damages allowable under Michigan Law.

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COUNT III- GROSS NEGLIGENCE

- 22. That Plaintiffs incorporate by reference herein each and every allegation contained in paragraphs 1 through 21, as if fully set forth herein.
- 23. That Defendant's actions on November 2, 2013, as set forth herein, were wilful, wanton and constitute gross negligence.
- 24. That Defendant acted in a malicious fashion with a deprived indifference to the harm inflicted upon Plaintiff's Decedent, Renisha McBride.
- 25. That Defendant's conduct gives rise to a right to recover punitive damages, in addition to any damages awarded for simple negligence.
- 26. That as a direct and proximate result of Defendant's gross negligence, as aforesaid, Plaintiff's decedent, Renisha McBride, suffered and sustained:
 - a. Sustained severe and permanent bodily injuries which were painful, disabling and necessitated medical care; and/or
 - b. Suffered shock, mental anguish, fright and emotional damage; and/or
 - c. Sustained possible aggravation of pre-existing conditions and/or reactivation of dormant conditions; and/or
 - d. Was unable to attend to her usual affairs, daily activities, including, but not limited to, household chores, and personal needs; and/or
 - e. Hampered said Plaintiff in the enjoyment of the normal pursuit of life; and/or

- f. Said injuries are permanent to the degree that Plaintiff's decedent suffered a loss in ability to earn money and impaired earning capacity in the future; and/or had pain and suffering;
 - g. Death;
 - h. Any other damages which are applicable and which are recoverable pursuant to statute, case law and Michigan court rules.
27. That at all times material herein, the Estate of Renisha McBride, Deceased, suffered injuries and damages compensable under Michigan Law including, but not limited to one or more of the following:
- a. Unimaginable pain and suffering, mental anguish, fright and shock;
 - b. Denial of social pleasure and enjoyments, embarrassment, humiliation and mortification;
 - c. Lost wages and lost earning capacity;
 - d. Loss of support of Plaintiff's Decedent;
 - e. Loss of society and companionship of Plaintiff's Decedent;
 - f. Loss of gifts or valuable gratuities;
 - g. All damages allowed pursuant to Michigan's Wrongful Death Statute, MCL 600.2922, et seq;
 - h. Punitive and Exemplary damages for Defendants' intentional conduct resulting in death;
 - i. Funeral and burial expenses;
 - j. Any and all other damages allowable under Michigan Law.

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(\$10,000,000.00) Dollars, together with costs, interest and attorney fees so wrongfully incurred.

COUNT IV- EMOTIONAL DISTRESS

28. That Plaintiffs incorporate by reference herein each and every allegation contained in paragraphs 1 through 27, as if fully set forth herein.
29. That Defendant's actions on November 2, 2013, did cause Plaintiffs' Decedent severe and debilitating emotional distress prior to her death.
30. That that acts of Defendant directly and proximately caused severe emotional distress to Plaintiffs, Monica McBride and Walter Ray Simmons, in their individual capacity as parents of the deceased.
31. That at all times material herein, the Estate of Renisha McBride, Deceased, suffered injuries and damages compensable under Michigan Law including, but not limited to one or more of the following:
 - k. Unimaginable pain and suffering, mental anguish, fright and shock;
 - l. Denial of social pleasure and enjoyments, embarrassment, humiliation and mortification;
 - m. Lost wages and lost earning capacity;
 - n. Loss of support of Plaintiff's Decedent;
 - o. Loss of society and companionship of Plaintiff's Decedent;
 - p. Loss of gifts or valuable gratuities;
 - q. All damages allowed pursuant to Michigan's Wrongful Death Statute, MCL 600.2922, et seq;
 - r. Punitive and Exemplary damages for Defendants' intentional conduct resulting in death;
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COUNT V- WRONGFUL DEATH

32. That Plaintiffs incorporate by reference herein each and every allegation contained in paragraphs 1 through 31, as if fully set forth herein.
33. That Defendant directly and proximately caused the death of Renisha McBride, by his acts on November 2, 2013, without cause or justification and without and legal excuse or basis.
34. That Monica McBride and Walter Ray Simmons are acting under and by virtue of Letters of Authority issued by the Probate Court.
35. That Renisha McBride, Deceased, left surviving as her heirs at law and next of kin, the following persons with the following relationships: Monica McBride (mother); Walter Simmons (father); Lindsey Simmons (sister); Jasmine McBride (sister); Thomas Clark (grandfather); Delores McBride (grandmother).
36. That at all times material herein, the injuries and/or damages suffered by the Plaintiff's decedent were more probably than not proximately caused by the negligence, gross negligence, intentional and wanton and/or wilful acts of the Defendant.
37. That as a direct and proximate result of the negligence and/or gross negligence, and/or intentional, wanton and/or wilful acts, of the Defendant as alleged herein, Plaintiff's decedent, Renisha McBride, sustained personal injuries, conscious pain and suffering and death.
38. That as a direct and proximate result of the negligence, and/or gross negligence, and/or intentional, wanton and/or wilful acts of the Defendant as herein alleged, Plaintiff's decedent, Renisha McBride, suffered loss of enjoyment of life, hedonic damages. (See Nice v Chesapeake & O.R. Co. (1964, W.D. Mich) 305 F Supp 1167 (applying Michigan law); Dyer v U.S., (1982, W.D. Mich) 551 F Supp 1266 (applying Michigan law).
39. That at all times material herein, Plaintiff's decedent was not at fault and/or was not negligent.

40. That the within cause is brought on behalf of said Estate and the heirs and next of kin of said decedent to recover for the conscious pain and suffering suffered by Plaintiff's decedent prior to her death, the loss of love, affection, companionship, services, instruction, guidance, advice, gifts, inheritance, support, and income services sustained by Plaintiff's decedent's heirs at law and next of kin as a result of the death of Plaintiff's decedent, Renisha McBride; the funeral and burial expenses and any and all other amounts recoverable under the statutes and case law of the State of Michigan by the heirs, next of kin, and/or Estate of said deceased.
41. That the within cause of action is brought on behalf of said estate and the heirs and next of kin of said decedent to recover for all damages, both past and future, permitted by law, including, but not limited to, conscious pain and suffering suffered by Plaintiff's decedent prior to her death, loss of love, affection, companionship, society, loss of services, loss of gifts and valuable gratuities, loss of parental training and guidance, mental suffering and sorrow, hedonic damages, any other damages sustained by Plaintiff's decedent's heirs at law and next of kin as a result of the death of Plaintiff's decedent, Renisha McBride, and any and all other amounts recoverable under the statutes and the case law of the State of Michigan by the heirs, next of kin and/or the Estate of said deceased.
42. That the within cause is brought on behalf of said estate and the heirs and next of kin of said decedent to recover for any and all damages, both past and future, pursuant to law, including, but not limited to, medical care, treatment, expenses, other related expenses, funeral and burial expenses, lost wages, loss of ability to work, future loss of income, impaired earning capacity, loss of expected inheritance, loss of society and companionship, loss of services, loss of gifts and valuable gratuities, inheritance, loss of economic opportunity, loss of financial support, hedonic damages, and any and all other amounts recoverable under the statutes and the case law of the State of Michigan by the heirs, next of kin and/or the Estate of said deceased.
43. That as a direct and proximate result of Defendant's negligence and/or gross negligence, and/or intentional, wanton and/or wilful acts, as aforesaid, Plaintiff's decedent, Renisha McBride, suffered and sustained:
 - a. Sustained severe and permanent bodily injuries which were painful, disabling and necessitated medical care; and/or
 - b. Suffered shock, mental anguish, fright and emotional damage; and/or
 - c. Sustained possible aggravation of pre-existing conditions and/or reactivation of dormant conditions; and/or
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 - e. Hampered said Plaintiff in the enjoyment of the normal pursuit of life; and/or

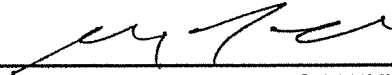
- f. Said injuries are permanent to the degree that Plaintiff's decedent suffered a loss in ability to earn money and impaired earning capacity in the future; and/or had pain and suffering;
 - g. Death;
 - h. Any other damages which are applicable and which are recoverable pursuant to statute, case law and Michigan court rules.
44. That at all times material herein, the Estate of Renisha McBride, Deceased, suffered injuries and damages compensable under Michigan Law including, but not limited to one or more of the following:
- a. Unimaginable pain and suffering, mental anguish, fright and shock;
 - b. Denial of social pleasure and enjoyments, embarrassment, humiliation and mortification;
 - c. Lost wages and lost earning capacity;
 - d. Loss of support of Plaintiff's Decedent;
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 - f. Loss of gifts or valuable gratuities;
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WHEREFORE, Plaintiffs, Monica McBride and Walter Ray Simmons, as Personal Representatives of the Estate of Renisha McBride, Deceased, demand judgment against the Defendant, Theodore Wafer, in an amount in excess of Ten Million Dollars

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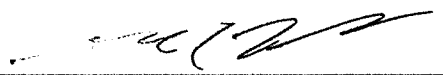

By: GERALD E. THURSWELL (P21448)
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DATED: August 19, 2014

DEMAND FOR JURY

NOW COME the above-named Plaintiffs, by their attorneys, THE THURSWELL LAW FIRM, P.L.L.C. and hereby make a formal demand for a trial by jury of the facts and issues involved in this cause of action.

THE THURSWELL LAW FIRM, P.L.L.C.


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DATED: August 19, 2014