

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

Civil Action No. _____

Cheryl-Lee Ellen Berreth and Darrell Lynn Berreth,

Plaintiffs,

v.

Patrick M. Frazee,

Defendant.

COMPLAINT AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW the Plaintiffs, by and through their counsel, Perry R. Sanders, Jr. and Angela C. Jones of Sanders Law Firm, and for cause to complain against the Defendant state and allege as follows:

PARTIES, JURISDICTION AND VENUE

1. At all times pertinent hereto, the Plaintiff Cheryl-Lee Ellen Berreth was a natural person and citizen of the state of Idaho and resides in Bonner County.

2. At all times pertinent hereto, the Plaintiff Darrell Lynn Berreth was a natural person and citizen of the state of Idaho and resides in Bonner County.

3. At all times pertinent hereto, Plaintiffs Cheryl-Lee Ellen Berreth and Darrell Lynn Berreth were husband and wife and the natural parents of Kelsey Berreth.

4. At all times pertinent hereto Defendant Patrick M. Frazee, (hereinafter referred to as “Frazee”), was a natural person and citizen of the state of Colorado and resided in Teller County.

5. This matter arises as a result of the death of Kelsey Berreth, who, upon information and belief, was murdered on or about November 22, 2018, at the direction and/or hand of Frazee in or about Woodland Park, Teller County, state of Colorado.

JURISDICTION AND VENUE

6. The situs of the incident giving rise to this cause of action is located within the jurisdiction of the United States District Court for the District of Colorado.

7. Jurisdiction is proper within the United States District Court for the District of Colorado pursuant to 28 USCS § 1332 in that:

- a. the matter in controversy exceeds the sum or value of \$ 75,000, exclusive of interest and costs, and
- b. is between citizens of different States.

8. Venue is proper pursuant to 28 USCS §1391 in that a substantial part of the events or omissions giving rise to the claim occurred within the judicial district for the United States District Court for the District of Colorado.

GENERAL ALLEGATIONS

9. All paragraphs previously set forth herein are incorporated by reference.

10. On Monday, December 24, 2018, Frazee was criminally charged with the crime of the murder of Kelsey Berreth.

11. On Monday, December 24, 2018, Frazee was also criminally charged with the crime of solicitation of the murder of Kelsey Berreth.

12. Upon information and belief, Frazee committed and/or collaborated to commit the murder of Kelsey Berreth.

13. This action seeks damages against Frazee for his actions to murder and/or collaboration to murder Kelsey Berreth.

14. Upon information and belief, the acts and/or omissions complained herein, which resulted in damages to the Plaintiffs, occurred in the State of Colorado.

FIRST CAUSE OF ACTION – WRONGFUL DEATH

15. All paragraphs previously set forth herein are incorporated by reference.

16. Upon information and belief, when Frazee enacted physical, mental, and emotional acts of violence upon Kelsey Berreth prior to her death, Frazee breached the duty of care with which a reasonable person should conduct himself toward another human being, and such breach resulted in the death of Kelsey Berreth.

17. Upon information and belief, when Frazee acted as either the perpetrator or accessory to the murder of Kelsey Berreth, Frazee breached the duty of care with which a reasonable person should conduct himself toward another human being, and such breach was the direct and proximate cause of the death of Kelsey Berreth.

18. Upon information and belief, by one or more of the actions alleged above, Frazee wrongfully caused the death of Kelsey Berreth and, as a direct and proximate result, Plaintiffs have sustained damages.

SECOND CAUSE OF ACTION – NEGLIGENCE PER SE

19. All paragraphs previously set forth herein are incorporated by reference.

20. Upon information and belief, when Frazee enacted physical, mental, and emotional acts of violence upon Kelsey Berreth prior to her death, Frazee breached the duty of care with which a reasonable person should conduct himself toward another human being, and such breach resulted in the death of Kelsey Berreth; in so doing, Frazee violated C.R.S. § 18-3-102, Homicide and/or C.R.S. § 18-3-103, Murder in the Second Degree.

21. Kelsey Berreth is a member of the class for whose protection the aforementioned statutes were enacted.

22. Upon information and belief, the events and injuries that Kelsey Berreth endured as a result of Frazee's actions prior to her death are the forms of injuries that the passage of these statutes were intended to prevent.

23. Upon information and belief, the violation(s) of these statutes by Frazee were the direct and proximate cause of each injury Kelsey Berreth suffered prior to her death.

24. Upon information and belief, as a direct and proximate cause of said violation of these statutes by Frazee, Kelsey Berreth endured fatal injuries that resulted in her untimely death on or about November 22, 2018.

25. Upon information and belief, as a direct and proximate cause of said violation of these statutes by Frazee, Plaintiffs incurred economic loss and damages, to include but not limited to net pecuniary losses and other economic losses, and non-economic losses and damages, to include but not limited to solatium, grief, emotional distress and suffering, and loss of quality of life.

THIRD CAUSE OF ACTION – CIVIL CONSPIRACY

26. All paragraphs previously set forth herein are incorporated by reference.

27. Upon information and belief, Frazee, by words and/or by conduct, agreed to the murder and/or coverup of the murder of Kelsey Berreth.

28. Upon information and belief, Frazee committed one or more unlawful acts in order to accomplish the murder of Kelsey Berreth.

29. Upon information and belief, as a direct and proximate cause of the murder and/or conspiracy by Frazee to murder Kelsey Berreth, Plaintiffs have sustained the injuries, damages, and losses set forth herein, to include but not limited to net pecuniary losses, other economic losses, and non-economic losses, to include but not limited to solatium, grief, emotional distress and suffering, and loss of quality of life.

**FOURTH CAUSE OF ACTION – INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS**

30. All paragraphs previously set forth herein are incorporated by reference.

31. Upon information and belief, Frazee engaged in extreme and outrageous conduct as alleged above.

32. Upon information and belief, Frazee engaged in such extreme and outrageous conduct before, during, and after the murder, that he did so recklessly and with the intent of causing Plaintiffs severe emotional distress.

33. Upon information and belief, Plaintiffs have suffered and continue to suffer severe emotional distress caused by Frazee's extreme and outrageous conduct.

34. Upon information and belief, as a direct and proximate cause of Frazee's extreme and outrageous conduct, Plaintiffs have sustained damages including, but not limited to, those described above.

PRAYER FOR RELIEF

35. As a result of the actions of Frazee, the Plaintiffs have sustained past and future injuries, damages, and losses.

36. Plaintiffs are also entitled to recover the following:

- a. Costs of court expended herein, specifically including deposition expenses and expert witness fees;
- b. Pre-judgment, moratory judgment, and post-judgment interest at the highest lawful rate;
- c. Such other and further awards as the Court deems just and proper under the circumstances.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment against Frazee upon each and every claim for relief asserted herein for:

- a. Compensatory and general damages in an amount, to be proven at trial and determined by the trier of fact, to fully compensate Plaintiffs for their damages;
- b. Interest from the date of Kelsey Berreth's death as provided by statute;
- c. An award of all costs of suit, as provided by law;
- d. And for such other relief as this Court deems just and proper.

JURY DEMAND

**PLAINTIFFS HEREBY REQUEST A TRIAL BY JURY ON ALL ISSUES
HEREIN.**

Respectfully submitted this 4th day of January 2019.

BY PLAINTIFFS through counsel:

Address of Plaintiffs:
Cheryl-Lee Ellen Berreth
Darrell Lynn Berreth
General Delivery
Bonner County, ID

/s/Perry R. Sanders, Jr.
Perry R. Sanders, Jr.
Angela C. Jones
SANDERS LAW FIRM
31 N. Tejon St., Suite 400
Colorado Springs, CO 80903
Telephone: (719) 630-1556
Fax: (719) 630-7004

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Cheryl-Lee Ellen Berreth and Darrell Lynn Berreth

(b) County of Residence of First Listed Plaintiff **Bonner County**

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Perry R. Sanders Jr. and Angela C. Jones

Sanders Law Firm

31 N. Tejon St., Suite 400 Colorado Springs, CO 80903 (719) 630-1556

DEFENDANTS

Patrick M. Frazee

County of Residence of First Listed Defendant **Teller County**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USCS § 1332

Brief description of cause:

Wrongful Death; Negligence Per Se; Conspiracy; Infliction of Emotional Distress

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/04/2019

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk