

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

IVON TOE, Individually and as Next )  
 Friend of RICHMOND WRIGHT )  
 and PAULEEN TOE, minors; )  
 ACHOL DENG MAWIEN; )  
 JAI SEKOU; JAILAH NAYOU; )  
 JOSEPHINE COLE; and )  
 GAYE KARLAR, Individually and as )  
 Heir of ASSATA KARLAR and as Next )  
 Friend of TARLEY, ESTER, NIONBIAO, )  
 KULEY, AND LOVETTA KARLAR, )  
 minor children of ASSATA KARLAR )

Plaintiffs, )

vs. )

COOPER TIRE AND RUBBER )  
 COMPANY; DAIMLER CHRYSLER )  
 CORPORATION; STEW HANSEN - )  
 CHRYSLER DODGE JEEP; and )  
 ALFRED LANG )

Defendants. )

Law No. CL 106914

**PETITION AT LAW  
 AND JURY DEMAND**

FILED  
 POLK COUNTY IA  
 07 OCT 16 PM 1:03  
 IOWA DISTRICT COURT

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**COME NOW** Plaintiffs, IVON TOE, Individually and as Next Friend of RICHMOND WRIGHT and PAULEEN TOE, minors; ACHOL DENG MAWIEN; JAI SEKOU; JAILAH NAYOU; JOSEPHINE COLE; and GAYE KARLAR, Individually and as Heir to ASSATA KARLAR, deceased, and as Next Friend of TARLEY, ESTER, NIONBIAO, KULEY and LOVETTA KARLAR, minor children of ASSATA KARLAR, for their cause of action against Defendants, COOPER TIRE AND RUBBER COMPANY; DAIMLER CHRYSLER CORPORATION; STEW HANSEN – CHRYSLER DODGE JEEP; and ALFRED LANG state:

**I.**  
**PARTIES**

1.1 Plaintiff, IVON TOE, individually and as Next Friend of RICHMOND WRIGHT and PAULEEN TOE, minors, is a resident of the State of Iowa and currently resides at 1450 E. Grand Ave., Apt. 203, Des Moines, IA 50316.

1.2 Plaintiff, ACHOL DENG MAWIEN, is a resident of the State of Iowa and currently resides at 2555 Wedgewood Rd., Des Moines, IA 50317.

1.3 Plaintiff, JAI SEKOU, is a resident of the State of Iowa and currently resides at 10801 22<sup>nd</sup>, Apt. 5, Des Moines, IA 50317.

1.4 Plaintiff, JAILAH NAYOU, is a resident of the State of Iowa and currently resides at 3700 Elm Drive, Apt. 1, Urbandale, IA 50322.

1.5 Plaintiff, JOSEPHINE COLE, is a resident of the State of Iowa and currently resides at 727 E. 5<sup>th</sup> St., Apt. #2, Des Moines, IA 50309.

1.6 Plaintiff, GAYE KARLAR, Individually and as Heir to ASSATA KARLAR, deceased, and as Next Friend of TARLEY, ESTER, NIONBIAO, KULEY and LOVETTA KARLAR, minor children of ASSATA KARLAR, is a resident of the State of Iowa and currently resides at 727 E. 5<sup>th</sup> St., Apt. #2, Des Moines, IA 50309.

1.7 Defendant, COOPER TIRE & RUBBER COMPANY ("COOPER"), is a foreign corporation doing business in the State of Iowa for the purpose of accumulating monetary profits and may be served with citation through its registered agent, C.T. Corporation System, 2222 Grand Ave., Des Moines, IA 50312.

1.8 Defendant, DAIMLER CHRYSLER CORPORATION ("CHRYSLER"), is a Defendant doing business in the State of Iowa for the accumulation of profits, and may be served

with citation through its registered agent, Iowa Secretary of State, Lucas State Office Building, Des Moines, IA 50319.

1.9 Defendant, STEW HANSEN – CHRYSLER DODGE JEEP (“HANSEN”), is a Defendant doing business in the State of Iowa for the accumulation of profits, and may be served with citation through its registered agent, National Registered Agents, Inc., 604 Locust St., Suite 222, Des Moines, IA 50309.

1.10 Defendant, ALFRED LANG, is a resident of the State of Iowa and currently resides at 8604 Carole Circle # 12, Urbandale, IA 50322.

## **II. VENUE**

2.1 Venue is proper and maintainable in Polk County, Iowa, since defendant, Alfred Lang is a resident of Polk County. This Court has jurisdiction in this matter since Plaintiffs’ damages exceed this Court’s minimum jurisdictional requirements.

## **III. BACKGROUND FACTS**

3.1 On or about September 17, 2007, Achol Deng Mawien, Josephine Cole, Ivon Toe, Sekou Jai, Jailah Nayou, and Assata Karlar were passengers of a 1997 Plymouth Grand Voyager van bearing VIN 2P4GP4433VR406630 when the left rear tire suffered a catastrophic tread separation. As a result of the tread separation, the driver, Alfred Lang, was unable to maintain control and the Grand Voyager rolled over and came to rest in a ditch.

3.2 In the subsequent rollover, IVON TOE, was rendered a quadriplegic who will be dependent upon a ventilator for the remainder of her life. She supports two (2) minor children and is currently six (6) weeks pregnant.

3.3 In the subsequent rollover, ASSATA KARLAR, was killed. She is survived by her husband, Gaye Karlar, and her five (5) children Tarley Karlar, Ester Karlar, Nionbiao Karlar, Kuley Karlar and Lovetta Karlar.

3.4 In the subsequent rollover, ACHOL DENG MAWIEN, suffered a fractured neck as well as suffered a miscarriage while being five (5) weeks pregnant.

3.5 In the subsequent rollover, JAI SEKOU, suffered neck, back and left leg injuries.

3.6 In the subsequent rollover, JAILAH NAYOU, suffered a broken tibia, severe road rash to the back and required stitches in her head and wrist.

3.7 In the subsequent rollover, JOSEPHINE COLE, suffered a broken hip and a broken neck.

#### **CAUSES OF ACTION AGAINST COOPER TIRE & RUBBER COMPANY**

#### **IV.**

#### **CAUSE OF ACTION: STRICT LIABILITY (COOPER TIRE & RUBBER COMPANY)**

4.1 The tire that failed is identified as a Cooper Lifeliner Classic II (hereinafter referred to as the tire, the failed tire or the accident tire). Plaintiffs would show that the failed tire in question was designed, manufactured, and marketed and placed into the stream of commerce by Defendant COOPER in a defective condition and was substantially unchanged from the time it was placed into the stream of commerce.

4.2 Plaintiffs would show that the tire was unreasonably dangerous as that term is understood in Iowa law. COOPER defectively designed, marketed, and manufactured the failed tire, which rendered it unreasonably dangerous for its intended and foreseeable use and which was the producing cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and

Plaintiffs' resulting damages herein. This action is therefore brought under Sections 402(A) and 402(B) of the Restatement of Torts, Second.

V.

**CAUSE OF ACTION: DESIGN DEFECT (STRICT LIABILITY)**  
**(COOPER TIRE & RUBBER COMPANY)**

5.1 The design of the tire was defective and unreasonably dangerous because it did not incorporate available features to resist initiation and growth of separation between the tire's internal components. The design of the tire was defective by design in that it did not incorporate internal components with requisite fatigue resistance to counter the constant centrifugal force incurred in normal and foreseeable operation. The tire was defective by design in that the skim stock rubber was defectively designed. The skim stock did not incorporate an anti-degradant package sufficient to counter degradation as the result of age and as the result of the escape of inflationary gases into the internal structures of the tire. Moreover, the skim stock was defective in that it prevented bonding between the tire's internal components, thus allowing for unintended movement between the steel belts.

5.2 As a result of the defective design of the failed tire, including but not limited to the above identified defects, the failed tire's tread/belt would unexpectedly separate during normal and foreseeable operation. This propensity to suddenly and violently lose the tire's tread/belt under normal and foreseeable conditions will cause the person operating the vehicle to lose total control, thus producing a catastrophic accident as is at issue at present. Comparing the utility versus risk of harm, the tire as sold by the Defendant was defective and unreasonably dangerous with regard to design, manufacture and marketing.

5.3 Cooper was consciously aware that the incorporation of a belt edge gum strip (BEGS), nylon overlay (SNOW), and a different skim stock composition would reduce, retard,

or eliminate the occurrence of tread separation failures in the subject tire line. Moreover, Cooper Tire made the conscious decision to forego the incorporation of these design features in an effort to reduce costs and in doing so risked Plaintiffs' safety for the sake of additional profits.

#### **SAFER ALTERNATIVE DESIGN**

5.4 At the time the tire left Defendant's control, there were safer alternative designs available, including but not limited to belt edge gum strip, nylon overlay, and alternative chemical composition for belt skim stock. These alternative designs were technologically and economically feasible at the time the subject tire was designed and manufactured and would have prevented the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages. Such safer alternative designs would not have materially impaired the utility of the failed tire.

### **VI.**

#### **CAUSE OF ACTION: MANUFACTURING DEFECT (STRICT LIABILITY) (COOPER TIRE & RUBBER COMPANY)**

6.1 The tire was manufactured defectively in that it would lose its tread/belt under normal and foreseeable operating conditions. The tire was manufactured defectively in that the rubber between the failed tire's components was not manufactured to a specification that would withstand fatigue caused by the constant centrifugal forces incurred during normal and foreseeable operation. As a direct result of this inadequate fatigue resistance, the rubber between the tire's components tear apart, thus causing catastrophic failure and driver loss of control. Additionally, the failed tire was manufactured defectively in that the bonding of the rubber components was not uniform throughout the tire. This bonding failure was a cause of the initial separation between the tire's internal components, including the steel belts. Because of this initial separation between the internal components, the separation was permitted to propagate

thus leading to catastrophic failure and driver loss of control. The manufacturing defect was the producing and proximate cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

## **VII.**

### **CAUSE OF ACTION: MARKETING DEFECT (STRICT LIABILITY) (COOPER TIRE & RUBBER COMPANY)**

7.1 Defendant defectively marketed the failed tire. Defendant failed to give adequate warnings of the tire's dangers. These dangers include, but are not limited to, the tire's propensity for tread/belt separation under normal and foreseeable operation and the dangers associated with aged tires. This failure to warn and/or give adequate instructions rendered the tire unreasonably dangerous as marketed by Defendants. The marketing defects were the producing and proximate cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

## **VIII.**

### **CAUSE OF ACTION: NEGLIGENCE (COOPER TIRE & RUBBER COMPANY)**

8.1 The death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages were proximately caused by Defendant's negligent acts in designing, manufacturing, marketing and/or selling the failed tire as described more thoroughly herein. Additionally, Defendant failed to adequately test and inspect the failed tire before its sale. Defendant owed a legal duty of care to Plaintiffs concerning the design, manufacture, marketing and sale of the failed tire. This duty of care was breached by Defendant in that the failed tire had a propensity to lose its tread/belt

under normal and foreseeable operating conditions. Because this propensity was unknown by Plaintiffs and because this propensity caused the underlying accident, Defendants breached their duty of care legally owed to Plaintiffs. This breach was the proximate cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

**IX.**

**CAUSE OF ACTION: EXPRESS WARRANTIES**  
**(COOPER TIRE & RUBBER COMPANY)**

9.1 There was a breach of express warranty that when the tire was properly cared for and maintained, it would not unexpectedly de-tread. The tire in question was lightly loaded, had minimal wear, yet failed by detreading. Such failure was a proximate cause of this incident, the occurrence, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

**X.**

**CAUSE OF ACTION: IMPLIED WARRANTY**  
**(COOPER TIRE & RUBBER COMPANY)**

10.1 Defendant sold the failed tire which was unfit for merchantability. In the sale of the failed tire, Defendant impliedly warranted that the failed tire was fit for its intended, foreseeable, and ordinary purpose and as such was merchantable. However, the failed tire was not fit for its intended, foreseeable, and ordinary purpose and was thus not merchantable. Instead, the failed tire was unreasonably dangerous because of its defective design and manufacture. Defendant had actual knowledge, or exercising reasonable care should have known, that the tire was unmerchantable and unfit for its intended, foreseeable, and ordinary purpose because of its propensity to lose its tread/belt. Defendant's knowledge of the defective propensities of the failed tire constitutes a material breach of implied warranty. This breach was



the proximate cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

10.2 At the time Achol Deng Mawien bought the tire, COOPER knew the particular purpose for which the tire was required, and COOPER knew Ms. Mawien was relying on the skill and judgment of COOPER to select or furnish a suitable tire. The tire sold to Achol Deng Mawien was unfit for the particular purpose for which it was purchased, namely, a tire which would not unexpectedly de-tread.

### CAUSES OF ACTION AGAINST CHRYSLER AND STEW HANSEN

#### **XI.**

#### **CAUSE OF ACTION: DESIGN DEFECT**

##### **STRICT LIABILITY**

11.1 Defendants CHRYSLER and HANSEN developed, designed, manufactured, inspected, distributed, marketed and sold the 1997 Plymouth Grand Voyager SE van bearing VIN 2P4GP4433VR406630. At the time of the incident, the vehicle was in the same condition as it was in when originally manufactured, marketed, distributed and sold by Defendants CHRYSLER and HANSEN. This action is therefore brought under Sections 402(A) and 402(B) of the Restatement of Torts, Second.

11.2 The vehicle was unfit and unsafe for its intended use and purposes when it left the control of CHRYSLER and HANSEN because of design, manufacturing, testing and inspection defects. Specifically, the vehicle's defects include:

- a. The passenger sliding door is defective in that it has a propensity to unlatch, open, and detach from the vehicle during a roll. This event creates a portal through which occupants are easily ejected. It is well-known by Defendant that occupant ejection during a crash event substantially increases the likelihood of serious or fatal injuries;

- b. The vehicle restraint system was defective in that it incorporated the Gen 3 seatbelt, a known defective restraint system. The Gen 3 restraint buckle has a propensity to inadvertently unlatch at no fault of the occupant during a crash event. The seatbelt unlatched and/or failed to properly restrain Plaintiffs during the rollover incident;
- c. The vehicle's roof structure was defective in that it sustained excessive crush and deformation of the A and B pillars which allowed for partial and/or complete ejection during foreseeable rollover events;
- d. The use of tempered glass in the side windows created an unreasonable risk of partial or complete ejection and constitutes a design defect;
- e. The vehicle was defective in that it did not incorporate a safety feature that would have prevented the vehicle from rolling over on a dry flat roadway, i.e. an electronic stability control system. Further, the vehicle is defective in that in the event of a foreseeable rear tread separation, the driver cannot maintain control;
- f. The vehicle was improperly and inadequately tested by Defendants; and
- g. Marketing the vehicle in such a way as to mislead consumers as to safety and crashworthiness of Plymouth Grand Voyager SE vans; and

### **GEN 3 BUCKLE**

11.3 Between 1993 and 2002 Chrysler manufactured and placed into the stream of commerce approximately 14 million vehicles with Gen 3 seatbelt buckles. In doing so, Chrysler knowingly provided consumers with defective safety restraints. The Gen 3 buckle has a propensity to inadvertently release in a crash event due to its release button.

11.4 Chrysler designed, manufactured, and sold the Gen 3 buckles with knowledge of the fact the Gen 3 buckle could not pass the 30MM ball drop test, passed by all other major auto manufacturers and subsequent buckles designed, manufactured, and sold by Chrysler, namely the Gen 4 buckle.

11.5 Evidence of Chrysler's knowledge of the defective Gen 3 is overwhelming. In the design and testing of the Gen 3 buckle crash test dummies Chrysler discovered the Gen 3 buckle design failed to properly restrain crash test dummies in simulated crash testing events. Due to

the design of the buckle, test dummies were ejected from test vehicles. Because of the overwhelming evidence supporting the defective nature of the Gen 3 buckle, Chrysler engineers made the conscious decision to forego the industry standard 30MM ball drop test.

#### **SAFER ALTERNATIVE DESIGN**

11.6 There were safer alternative designs that would have prevented these defects. A safer alternative design to the Gen 3 buckle includes, but is not limited to the Gen 4 buckle and the multitude of other designs which incorporate a flush release button. A safer alternative design to the passenger side sliding door includes, but is not limited to The safer alternative designs would have prevented or significantly reduced the risk of injury without substantially impairing the vehicle's utility. Furthermore, the safer alternative designs were economically and technologically feasible at the time the vehicle left the control of Defendants, CHRYSLER and HANSEN, by the application of existing or reasonably achievable scientific knowledge. These safer alternative designs include, but are not limited to, the incorporation of an electronic stability control system, a wider track width, lower center of gravity, reinforced roof structures, an integrated seatbelt system, and laminated glass. Defendants, CHRYSLER and HANSEN are strictly liable for these design and manufacturing defects and the resulting damages to Plaintiffs under Iowa law. The defective design and manufacture was a producing cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

### **XII.**

#### **CAUSE OF ACTION: EXPRESS AND IMPLIED WARRANTIES**

12.1 Defendants CHRYSLER and HANSEN acting by and through its agents, engaged in a course of advertising, marketing and promoting of the subject vehicle, which included express and implied misrepresentations of material fact concerning the character and quality of

the subject vehicle. Plaintiffs justifiably relied upon Defendants' misrepresentations to their detriment. These misrepresentations were a producing cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

12.2 The subject vehicle in question is a "good" and at the time the vehicle was sold, CHRYSLER and HANSEN were "merchants" with respect to goods of that kind. Defendants, CHRYSLER and HANSEN breached the implied warranty of merchantability by selling the subject vehicle in question when the vehicle was not fit for the ordinary purpose for which such goods are intended. This breach of warranty was a proximate cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

12.3 Additionally, CHRYSLER and HANSEN breached express warranties created by the representations described more fully above. This breach of express warranties were the cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

### **XIII.**

#### **CAUSE OF ACTION: NEGLIGENCE**

13.1 Defendants, CHRYSLER and HANSEN developed, designed, manufactured, inspected, distributed, marketed and sold the 1997 Plymouth Grand Voyager SE van bearing VIN 2P4GP4433VR406630. CHRYSLER and HANSEN breached the duty of reasonable care that it owed to Plaintiffs, and its negligence included, but is not limited to, the following acts and/or omissions:

- a. The passenger sliding door is defective in that it has a propensity to unlatch, open, and detach from the vehicle during a roll. This event creates a portal through which occupants are easily ejected. It is well-known by Defendant that occupant ejection during a crash event substantially increases the likelihood of serious or fatal injuries;
- b. The vehicle restraint system was defective in that it incorporated the Gen 3 seatbelt, a known defective restraint system. The Gen 3 restraint buckle has a propensity to inadvertently unlatch at no fault of the occupant during a crash event. The seatbelt unlatched and/or failed to properly restrain Plaintiffs during the rollover incident;
- c. The vehicle's roof structure was defective in that it sustained excessive crush and deformation of the A and B pillars which allowed for partial and/or complete ejection during foreseeable rollover events;
- d. The use of tempered glass in the side windows created an unreasonable risk of partial or complete ejection and constitutes a design defect;
- e. The vehicle was defective in that it did not incorporate a safety feature that would have prevented the vehicle from rolling over on a dry flat roadway, i.e. an electronic stability control system. Further, the vehicle is defective in that in the event of a foreseeable rear tread separation, the driver cannot maintain control;
- f. The vehicle was improperly and inadequately tested by Defendants; and
- g. Marketing the vehicle in such a way as to mislead consumers as to safety and crashworthiness of Plymouth Grand Voyager SE vans; and

13.2 The negligence as outlined above proximately caused this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

**XIV.**  
**CAUSE OF ACTION: NEGLIGENCE**  
**(STEW HANSEN)**

14.1 Defendant, STEW HANSEN was the seller of the vehicle. STEW HANSEN inspected and sold the vehicle in Warren County, Iowa. As STEW HANSEN was the seller of the vehicle, STEW HANSEN exercised control over the content of the warning that accompanied it. STEW HANSEN failed to detect and failed to warn ACHOL DENG MAWIEN and/or the purchaser of the vehicle's defective nature regarding the design, manufacture, and

marketing and current condition, which is more adequately described hereafter. Further, CHRYSLER and STEW HANSEN made express factual representations regarding the vehicle which proved to be incorrect. In purchasing the vehicle, said representations were relied upon by Plaintiffs.

**XV.**

**CAUSE OF ACTION: FAILURE TO WARN**  
**(STEW HANSEN)**

15.1 While it was the duty of CHRYSLER to warn of and protect against the dangers associated with tread separation, Plaintiffs allege in the alternative that STEW HANSEN knew or should have known of these same dangers. STEW HANSEN'S sale of the subject vehicle breached a legal duty of care owed to the seller and intended beneficiaries, Ms. Mawien and Plaintiffs. This breach was the proximate cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

**XVI.**

**CAUSE OF ACTION: EXPRESS WARRANTIES**  
**(STEW HANSEN)**

16.1 STEW HANSEN made factual representations regarding the quality and/or characteristic of the subject vehicle. Specifically, STEW HANSEN represented as fact that the subject vehicle was free from any and all defects. Ms. Mawien relied on STEW HANSEN'S express warranty. The subject vehicle did not, however, comply with STEW HANSEN'S factual representations. STEW HANSEN had actual knowledge, or exercising reasonable care should have known, that the subject vehicle did not meet the factual representations because of its propensity to lose its tread/belt. STEW HANSEN'S knowledge of the defective propensities of the failed tire constitutes a material breach of implied and express warranty. This breach was the

proximate cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs' resulting damages.

**XVII.**  
**CAUSE OF ACTION: NEGLIGENCE**  
**(ALFRED LANG)**

17.1 ALFRED LANG was the driver of the subject vehicle. Plaintiffs, in exercising their right to plead in the alternative and in understanding that Defendants often attempt to shift blame to others regardless of their percentage, if any, of potential liability bring suit against ALFRED LANG for negligence as defined by Iowa law.

**DAMAGES**

**XVIII.**  
**WRONGFUL DEATH ACTION**

18.1 Plaintiff, Gaye Karlar, brings this action as the surviving spouse of Decedent, Assata Karlar, and on behalf of Assata Karlar's surviving minor children, Tarley Karlar, Ester Karlar, Nionbiao Karlar, Kuley Karlar, and Lovetta Jacquell Karlar. This action is brought by Plaintiffs pursuant to I.C.A. Section 611.20. This action is also brought under and pursuant to any and all other laws and legal entitlements, including but not limited to, Iowa common law.

18.2 Plaintiff, Gaye Karlar, is the heir and statutory beneficiary of Decedent, Assata Karlar.

**XIV.**  
**GENERAL DAMAGES**

19.1 Defendants' wrongful acts, neglect and carelessness are the proximate and producing cause of this incident, the death of Assata Karlar, the serious injuries sustained by Ivon Toe, Achol Deng Mawien, Jai Sekou, Jailah Nayou, and Josephine Cole and Plaintiffs'

resulting damages. Plaintiffs have incurred damages in the following form, including but not limited to, loss of spousal and parental services, loss of advice and counsel, loss of inheritance, funeral expenses, mental anguish, disfigurement, loss of companionship and society that Plaintiffs would in reasonable probability, have experienced were it not for the premature death of Assata Karlar. Plaintiffs' mental anguish flows from the emotional pain and torment caused, and which will continue, by the sudden and unforeseeable death of Assata Karlar.

**XX.**  
**EXEMPLARY DAMAGES**

20.1 Plaintiffs seek exemplary damages caused by Defendants' willful and wanton disregard for the safety of others, gross negligence and willful omissions. Exemplary damages are sought under I.C.A. Section 668A.1.

**XXI.**  
**PRE AND POST-JUDGMENT INTEREST**

21.1 Plaintiffs would additionally say and show that they are entitled to recovery of pre-judgment interest in accordance with law and equity as part of their damages herein, and Plaintiffs here and now sue for recovery of pre-judgment interest as provided by law and equity, under the applicable provision of the laws of the State of Iowa.

WHEREFORE, Plaintiffs pray for judgment against Defendants in a fair and reasonable amount exceeding the jurisdictional requirement of Rule 6.3, Iowa Appellate Procedure, with interest as provided by law, and for the costs of this action, including attorney's fees.



Respectfully submitted,

**DAY MEEKER LAMPING SCHLEGEL & SALAZAR**

  
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