

CAUSE NO. CV-0081158

ROSIE YANAS and CHRISTOPHER STONE,
individually and as next friends of CHRISTOPHER
JAKE STONE,

Plaintiffs,

MARK MCLEOD and GAIL MCLEOD,
individually and as next friends of AARON KYLE
MCLEOD,

PAMELA STANICH, individually and as next friend
of JARED CONARD BLACK,

SHANNAN CLAUSSEN, individually and as next
friend of CHRISTIAN RILEY GARCIA,

CLAYTON HORN,

RHONDA HART, individually and as the
representative of the estate of KIMBERLEY
VAUGHAN,

ABDUL AZIZ and FARAH NAZ, individually and
as next friends of SABIKA AZIZ SHEIKH, and

FLO RICE

Plaintiffs-Intervenors,

vs.

ANTONIOS PAGOURTZIS, ROSE MARIE
KOSMETATOS, and DIMITRIOS PAGOURTZIS

Defendants.

COUNTY COURT AT LAW

GALVESTON COUNTY,
TEXAS

COURT NO. 3

JURY TRIAL DEMANDED

**FIRST AMENDED PETITION
AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE EWING:

COMES NOW ROSIE YANAS and CHRISTOPHER STONE, individually and as next friends of CHRISTOPHER JAKE STONE; MARK MCLEOD and GAIL MCLEOD, individually and as next friend of AARON KYLE MCLEOD; PAMELA STANICH, individually and as next friend of JARED CONARD BLACK; SHANNAN CLAUSSEN, individually and as next friends of CHRISTIAN RILEY GARCIA; CLAYTON HORN; ABDUL AZIZ and FARAH NAZ, individually and as next friends of SABIKA AZIZ SHEIKH, and FLO RICE file this FIRST AMENDED PETITION AND REQUEST FOR DISCLOSURE would show unto this Honorable Court, as follows:

I.
DISCOVERY CONTROL PLAN

1. Pursuant to Texas R. Civ. P. 190.4(a) and (b), Plaintiffs and Plaintiffs-Intervenors request that discovery be conducted by Court Order (Level 3). Plaintiffs and Plaintiffs-Intervenors affirmatively plead that this suit is not governed by the expedited-actions process in Rule 169 of the Texas Rules of Civil Procedure.

II.
PARTIES

2. Plaintiffs CHRISTOPHER STONE and ROSIE YANAS, as well as the minor for whom they appear as next friends, resided in Galveston County, Texas at the time of the Incident made the basis of this lawsuit.

3. Plaintiffs-Intervenors MARK MCLEOD and GAIL MCLEOD, as well as the minor for whom they appear as next friends, resided in Galveston County, Texas at the time of the Incident made the basis of this lawsuit.

4. Plaintiff-Intervenor PAMELA STANICH, as well as the minor for whom she appears as next friend, resided in Galveston County, Texas as the time of the Incident made the basis of this lawsuit.

5. Plaintiff-Intervenor SHANNAN CLAUSSEN, as well as the minor for whom she appears as next friend, resided in Galveston County, Texas as the time of the Incident made the basis of this lawsuit.

6. Plaintiff-Intervenor CLAYTON HORN resided in Galveston County, Texas at the time of the Incident made the basis of this lawsuit.

7. Plaintiffs-Intervenors ABDUL AZIZ and FARAH NAZ, as well as their deceased daughter for whom they appear as next friends, are domiciled in Karachi, Pakistan. Plaintiffs-Intervenors resided in Karachi, Pakistan at the time of the Incident that is the basis of this lawsuit. Plaintiffs-Intervenors' daughter, Sabika Aziz Sheikh, was a minor who resided in Santa Fe, Texas at the time of the Incident that is the basis of this lawsuit.

8. Plaintiff-Intervenor FLO RICE resided in Galveston County, Texas at the time of the Incident made the basis of this lawsuit.

9. Defendant ANTONIOS PAGOURTZIS is a resident and citizen of the State of Texas. Defendant has been served and made an appearance.

10. Defendant ROSE MARIE KOSMETATOS is a resident and citizen of the State of Texas. Defendant has been served and has made an appearance.

11. Defendant DIMITRIOS PAGOURTZIS is a resident and citizen of the State of Texas and can be served with process care of: the Galveston County Sheriff, 601 54th St, Galveston, TX 77551 and the U.S. Marshals Service for the Southern District of Texas, U.S. Courthouse, 515 Rusk Avenue, Room 10130, Houston, TX 77002.

III. **JURISDICTION AND VENUE**

12. Venue for this action properly lies in Galveston County, Texas, pursuant to Texas Civ. Prac. & Rem. Code § 15.002(a)(1) because all or a substantial portion of the events giving rise to the claim occurred in Galveston County.

13. Jurisdiction is proper because this is a civil case in which the matter in controversy is within the Court's jurisdictional limits. Pursuant to Texas R. Civ. P. 47(c)(5), Plaintiffs and Plaintiffs-Intervenors seek more than \$1,000,000 in monetary damages.

IV. **FACTS**

14. On May 18, 2018, Defendant Dimitrios Pagourtzis took a shotgun and a handgun to his high school and carried out one of the worst school shootings in American history. Using his parents' firearms, Dimitrios Pagourtzis shot and killed ten of his classmates and teachers and wounded at least thirteen others. This lawsuit is brought on behalf of those who were shot that day. Because many of Dimitrios Pagourtzis' victims did not survive, their estates are represented in this lawsuit by their parents.



15. Plaintiffs Christopher Stone and Rosie Yanas are, or more exactly were, the parents of their beloved son Christopher Jake Stone, a 17-year-old junior at Santa Fe High School who went by Chris. On May 18, 2018, Chris awoke, breakfasted and went on his way to school, to spend another happy and productive day educating and preparing himself for all the dreams, goals and promise youth presents.

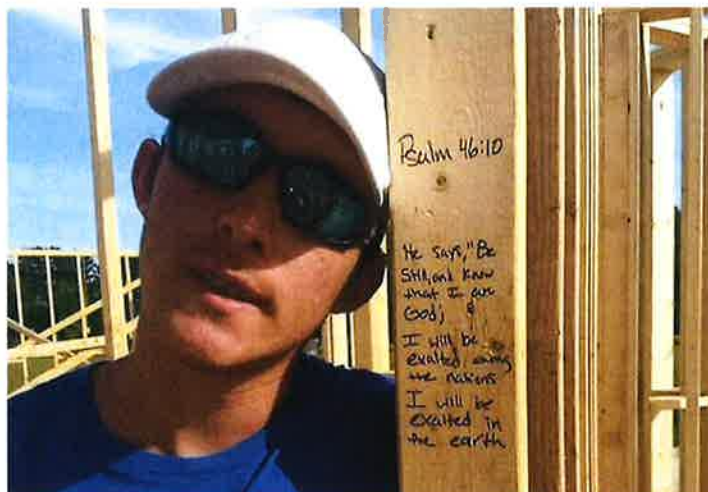
16. Chris was a football player and was on the ultimate frisbee team. He looked forward to being a plant operator after graduation. He loved football, and his friends described him as the “life of the party” with an infectious laugh. Just a week before he was shot, Chris had taken his girlfriend to prom, and his family had watched him get dressed up in his tuxedo.



17. Plaintiffs-Intervenors Mark McLeod and Gail McLeod are the parents of Aaron Kyle McLeod, a freshman at Santa Fe High School who went by Kyle. Kyle was a bright student who enjoyed playing tennis, watching musicals, and playing PlayStation. Kyle’s friends remembered him as cheerful and smiling – he made a point of waving at friends and neighbors. He was close to his family, and he is missed by them every single day.



18. Plaintiff-Intervenor Pamela Stanich is the mother of Jared Conard Black, a student at Santa Fe High School. Jared was a bright, optimistic student who enjoyed art, science fiction and playing video games. Jared had just turned 17 on May 16, 2018. On the morning he was murdered, Jared was looking forward to his birthday party, which he had planned for the next day. His family remembers him as someone who was caring and loving and who looked out for little children and others needing help. Jared loved anime and comic books, wrestling, wolves and super heroes.



19. Plaintiff-Intervenor Shannan Claussen is the mother of Christian Riley Garcia, a freshman at Santa Fe High School who went by Riley. Riley was a bright student who enjoyed football, basketball, music and being outdoors.

20. Riley enjoyed being on the lake whether he was water skiing or night-fishing; he had just gotten his boating license. He loved board games, the outdoors, cake, and his little sister for whom he gladly wore a costume and plastic sword to be guard while she was the princess. He was a devoted member of his church and beloved by his family.

21. Plaintiff-Intervenor Clayton Horn, 18, is now a senior at Santa Fe High School. On May 18, 2018, Clayton Horn, who was a picture of youth and health, was a junior at Santa Fe High School and enjoyed pole vaulting, riding bulls, playing football and other outdoor activities. Clayton was shot in the arm and lower extremities. He was hospitalized after the shooting and underwent multiple surgeries. His life has been irreparably changed by the shooting.



22. Plaintiffs-Intervenors Abdul Aziz and Farah Naz are the parents of Sabika Aziz Sheikh, who came to the United States in August 2017 from Pakistan as an exchange student. Sabika was placed with a host family in Santa Fe, Texas and enrolled as a senior at Santa Fe High School for the 2017-2018 academic year. She came to the United States on a mission of diplomacy – she wanted to learn about life in the United States and women’s empowerment, but she also wanted to share Pakistani culture with Americans. She wanted what teenagers the world over want: friendship, a chance to grow and learn, and adventure.

23. Sabika excelled academically and threw herself into life in America – she volunteered at the local library, dressed up as a pirate for Halloween, kept score at the high school’s baseball games, and went to prom with friends. She became close to her host family, traveling to West Texas with them, celebrating holidays, and engaging in lip sync contests with her host siblings. On the morning she was murdered, Sabika was thinking about how excited she was to return to Pakistan to see her beloved family and friends, who she had dearly missed while studying abroad in America.

24. Plaintiff-Intervenor Flo Rice was the 2018 substitute Teacher of the Year at Santa Fe High School. She is married to Scot Rice, has two daughters, and was an avid runner. On May 18, 2018, Plaintiff-Intervenor Flo Rice was working as a substitute teacher at Santa Fe High School overseeing a gym class playing basketball. She was shot five times in the legs. She was hospitalized and underwent multiple surgeries before spending weeks in rehabilitation. She struggles with post-traumatic stress disorder. She once ran over twenty miles a week, but now needs a cane to walk. Her life has been irreparably changed by the shooting.

25. Defendant Dimitrios Pagourtzis is an eighteen-year-old former junior at Santa Fe High School who deliberately murdered ten of his classmates and teachers and wounded many others on May 18, 2018, using his parents' weapons, a .38 caliber handgun and a sawed-off shotgun.

26. Chris, Kyle, Jared, Riley and Sabika were among the murdered students; Clayton and Flo were among those injured by Defendant Dimitrios Pagourtzis. They were murdered less than three weeks before the end of the school year. Each person shot by Dimitrios Pagourtzis was looking forward to the end of school and to spending their summer with family and friends.

27. Dimitrios Pagourtzis planned his attacks to kill, wound, and maim as many of his teachers and fellow students as he could. He took steps to secure weapons and ammunition, and even planted homemade explosives on school grounds.

28. This mass shooting was enabled by the negligent actions of Defendants Antonios Pagourtzis and Rose Marie Kosmetatos, who knew that their son was at risk of harming himself or others but still irresponsibly and negligently stored their firearms, so that their son could access them. Although Dimitrios Pagourtzis was the shooter, he could not have carried out this mass murder if he had not had access to weapons.

29. In the months and weeks leading up to the shooting, Defendant Dimitrios Pagourtzis exhibited many warning signs that Defendants Antonios Pagourtzis and Rose Marie Kosmetatos noticed but did not address. After the shooting, Defendant Antonios Pagourtzis told a Greek radio station that he had been worried about his son for weeks before the shooting – “as if I knew something would happen.”

30. Any reasonable parent would have ensured that their child, who was exhibiting signs of emotional distress and violent fantasies, did not have access to weapons that he could use to kill others (or himself). Defendants Antonios Pagourtzis and Rose Marie Kosmetatos did not

do even the bare minimum to prevent their son from accessing deadly weapons. Without their negligent actions and irresponsible firearms storage, their son would not have had access to the firearms that he used to kill and injure so many people in one of the worst mass shootings in Texas history.

Defendants Antonios Pagourtzis and Rose Marie Kosmetatos Knew Their Son Was At Risk of Harming Others But Still Did Not Prevent Their Son From Accessing Their Firearms.

31. There were many warnings that Defendant Dimitrios Pagourtzis harbored violent and hateful impulses and was a danger to himself and others. Had Defendants Antonios Pagourtzis and Rose Marie Kosmetatos heeded the obvious warning signs and prevented their son from accessing their firearms, Defendant Dimitrios Pagourtzis would have been unable to access their guns to murder ten of his classmates and teachers and injure thirteen more.

32. Defendant Dimitrios Pagourtzis had a fascination with the Columbine High School shooting that should have been a red flag to his family.

33. Defendant Dimitrios Pagourtzis took pains to dress like the Columbine shooters – wearing a full-length black trench coat and black combat boots regularly to school, despite the South Texas heat. Among the insignia pinned to his trench coat was a medallion identical to one worn by one of the Columbine shooters.

34. Defendant Dimitrios Pagourtzis' fixation on the Columbine shooting was so obvious that his friends even joked that he dressed like the Columbine shooters.

35. Many of the details of Defendant Dimitrios Pagourtzis' attack on his classmates and teachers indicate that he took inspiration from the Columbine shooters – down to details such as how he constructed explosive devices that he planted around the school.

36. There were other warning signs that would have been visible or accessible to his parents. On social media, Defendant Dimitrios Pagourtzis followed numerous gun-related

accounts and evinced a fascination with firearms. On his Instagram account, he posted a photograph of a semiautomatic pistol, a knife, and a flashlight, captioned “Hi fuckers,” in late April 2018 – only a few weeks before the day of the shooting.

37. Also in the weeks before the shooting, Defendant Dimitrios Pagourtzis uploaded a photograph to his Facebook page of a t-shirt reading, “BORN TO KILL”; he wore this t-shirt along with his trench coat and combat boots on the day he murdered ten of his schoolmates and teachers.

38. Defendant Dimitrios Pagourtzis had also demonstrated an interest in the guns used by the German army in World War II. He posted on Facebook an image of a jacket with Nazi and fascist insignia. On his Facebook page, he also posted artwork inspired by an electronic musician with a following among neo-Nazi groups.

39. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos knew that something was gravely wrong with their son.

40. In an interview that he provided to a Greek radio station not long after the shooting, Defendant Antonios Pagourtzis said that he believed that his son had been teased and bullied at school.

41. Defendant Antonios Pagourtzis also told the Greek radio station that he had been so worried about his son’s well-being in the two weeks leading up to the shooting that he had stayed home from work to be with him – “as if I knew something would happen.”

42. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos owned the two weapons that their son used on the day of the Incident and knew that their son was experiencing extreme emotional distress. Yet they did not take basic steps to prevent their son from accessing the guns.

43. To the contrary, Defendants Antonios Pagourtzis and Rose Marie Kosmetatos stored firearms in an irresponsible and negligent manner that allowed them to be accessible to their emotionally unstable son – a son who was so troubled that his father had taken two weeks off of work to stay at home with him.

44. At seventeen years of age, Defendant Dimitrios Pagourtzis could not lawfully purchase a firearm from a dealer. He depended upon his parents' irresponsible and negligent storage of their firearms in order to carry out his murderous plans.

45. If Defendant Dimitrios Pagourtzis had not had his parents' weapons, he would not have been able to carry out the massacre at Santa Fe High School.

Defendant Dimitrios Pagourtzis Murdered Ten Victims with Firearms He Obtained from Defendants Antonios Pagourtzis and Rose Marie Kosmetatos.

46. Early on the morning of May 18, 2018, Defendant Dimitrios Pagourtzis took his parents' two firearms from his family's house.

47. The weapons taken by Defendant Dimitrios Pagourtzis and used in his killing spree were a .38 caliber handgun and a Remington Model 870 shotgun.

48. At or around 7:30 a.m. on May 18, 2018, Defendant Dimitrios Pagourtzis carried the two firearms onto the campus of Santa Fe High School.

49. When he arrived on campus, Defendant Dimitrios Pagourtzis hid his parents' guns in his trench coat. He went to a four-room arts complex within Santa Fe High School and opened fire. Defendant Dimitrios Pagourtzis later told authorities that he spared some students he liked, so that they could tell his story.

50. Defendant Dimitrios Pagourtzis coldly and calculatingly shot his football teammate, Plaintiff-Intervenor Clayton Horn, while Clayton was in art class. The first bullet struck and shattered Clayton's left arm. While Clayton was laying on the ground after being shot,

Defendant Dimitrios Pagourtzis moved closer and stood over the top of Clayton Horn. Defendant Dimitrios Pagourtzis then raised the .38 caliber handgun and pointed it directly at Clayton.

51. As Clayton looked up at the gun barrel and saw Defendant Dimitrios Pagourtzis begin to squeeze the trigger, Clayton moved at the last instant. Consequently, the bullet intended to end his life, instead ripped through and exited his leg, struck the cellphone in his jeans pocket, and ricocheted into his left arm before coming to rest. As Defendant Dimitrios Pagourtzis moved to the adjacent room to continue his killing spree, Clayton pulled himself up and exited the crime scene to a nearby soccer field and awaited medical attention. Clayton suffered injuries to his arm, elbow, leg and other parts of his body.

52. In the immediate panic after the shooting began in one classroom, students in an adjacent classroom tried to exit through a back door in the art room complex but found that it was locked. These students then took refuge in the storage closets or fled through the first classroom's front door after Defendant Dimitrios Pagourtzis came into the second classroom.

53. Chris Stone, Riley Garcia, Jared Conard Black and Sabika Aziz Sheikh had sought refuge in the supply closets, but the shooter knew that several people were hiding there, and he began shooting into the closets. He taunted the students as he fired. As Defendant Dimitrios Pagourtzis was shooting into the supply closet where she lay hidden, Sabika began praying. Riley blocked the door with his body so that several of his classmates could escape through another exit. His bravery allowed others to escape, but it also cost him his life, as Defendant Dimitrios Pagourtzis shot through the door and killed him.

54. Kyle McLeod was shot and texted his sister as the shooting went on around him. He had been hit in the arm and was crying and scared. His sister told him she loved him and sought to comfort him. He did not survive.

55. At some point during Defendant Dimitrios Pagourtzis' attack, school police officer John Barnes confronted him, but Defendant Dimitrios Pagourtzis responded by shooting Officer Barnes in the arm.

56. Plaintiff-Intervenor Flo Rice was overseeing a gym class playing basketball when she heard the fire alarm go off. Defendant Dimitrios Pagourtzis coldly and calculatingly fired five bullets that struck Flo Rice, shattering her legs. While waiting for help to arrive, Flo Rice pretended to be dead for fear that the shooter would return.

57. More police officers from various agencies arrived, exchanging gun fire with the shooter. At around 8 a.m., after negotiations with the police, Defendant Dimitrios Pagourtzis left the classrooms and surrendered.

58. In total, Defendant Dimitrios Pagourtzis killed eight students and two teachers by shooting them with his parents' guns. He wounded an additional thirteen others.

59. Defendant Dimitrios Pagourtzis' violent acts destroyed many lives. For the families of his victims and for those who he wounded, there is no end to their suffering. Each person that he killed had dreams, hopes, and aspirations, but Defendant Dimitrios Pagourtzis ended those dreams and cut off those hopes and aspirations.

60. Had Defendants Antonios Pagourtzis and Rose Marie Kosmetatos responsibly stored their firearms in the face of their son's dangerous disposition and erratic behavior, the Plaintiffs and Plaintiffs-Intervenors' loved ones would be alive and uninjured, along with all of their classmates and teachers.

61. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos failed to take basic measures to ensure that their emotionally disturbed son who harbored violent fantasies did not have access to deadly weapons.

62. Had Defendants Antonios Pagourtzis and Rose Marie Kosmetatos had taken these basic measures – securing firearms and warning the school district – Chris, Kyle, Jared, Riley, Sabika and the other victims of the shooter’s rampage would still be alive, and Clayton and Flo would not have suffered multiple gunshot wounds and trauma.

63. While Defendant Dimitrios Pagourtzis pulled the trigger, Defendants Antonios Pagourtzis and Rose Marie Kosmetatos’ negligence and irresponsible storage practices placed the guns in his hands.

V.
CAUSES OF ACTION

COUNT I – NEGLIGENCE

AS TO DEFENDANTS ANTONIOS PAGOURTZIS AND ROSE MARIE KOSMETATOS

64. Plaintiffs and Plaintiffs-Intervenors incorporate and re-allege the above paragraphs as if stated fully here.

65. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos were subject to the general duty imposed on all persons not to expose others to reasonably foreseeable risks of injury and had a duty to exercise reasonable care in making available firearms and to refrain from engaging in any activity creating reasonably foreseeable risks of injury to others.

66. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos breached their duty in one or more of the following ways:

- a. In storing their firearms in such a manner that they could be accessed by their teenage son, who was emotionally unstable and harbored violent fantasies;
- b. In failing to pay attention or reasonably respond to Defendant Dimitrios Pagourtzis’ emotional disturbance;

- c. In failing to intervene to prevent Defendant Dimitrios Pagourtzis from acting in furtherance of his violent fantasies;
- d. In failing to seek assistance from mental health professionals to prevent their son from acting in furtherance of his violent fantasies;
- e. In failing to inform the school district that their son was emotionally disturbed and harboring violent fantasies;
- f. In failing to inform law enforcement that their son was emotionally disturbed and harboring violent fantasies; and
- g. In failing to secure all dangerous objects in their home so that their son could not access them.

67. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos knew or should have known that acting responsibly required them to store their firearms in a manner that would not have allowed access by their teenage son.

68. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos nonetheless stored their firearms in an irresponsible manner in which they were easily accessed by Defendant Dimitrios Pagourtzis.

69. Defendant Dimitrios Pagourtzis' behavior in the weeks leading up to the shooting made criminal activity reasonably foreseeable.

70. Each of the above facts or omissions by Defendants Antonios Pagourtzis and Rose Marie Kosmetatos constitutes negligence, and that negligence was a proximate cause of the wrongful deaths of Christopher Jake Stone, Aaron Kyle McLeod, Jared Conard Black, Christian Riley Garcia, and Sabika Aziz Sheikh; and the injuries to Clayton Horn and Flo Rice.

COUNT II – NEGLIGENCE ENTRUSTMENT

AS TO DEFENDANTS ANTONIOS PAGOURTZIS AND ROSE MARIE KOSMETATOS

71. Plaintiffs and Plaintiffs-Intervenors incorporate and re-allege the above paragraphs as if stated fully here.

72. Defendant Dimitrios Pagourtzis was an incompetent entrustee for a .38 caliber handgun and a Remington model 870 shotgun. As described in detail above, the shooter evinced a fascination with the Columbine shooting and Nazis and made social media posts advocating violence.

73. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos were so worried about Defendant Dimitrios Pagourtzis in the weeks leading up to his massacre of his fellow students and teachers that Defendant Antonios Pagourtzis stayed home from work for two weeks to take care of his son.

74. A reasonably prudent person would have recognized that Defendant Dimitrios Pagourtzis was an incompetent entrustee for the firearms at issue.

75. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos had, at all material times, control of the firearms at issue and permitted them to be used by Defendant Dimitrios Pagourtzis.

76. Defendant Dimitrios Pagourtzis was able to be in possession of the firearms at issue only by consent of Defendants Antonios Pagourtzis and Rose Marie Kosmetatos.

77. A firearm is an exceedingly dangerous article to keep in a manner that allows an emotionally disturbed teenager with violent fantasies, such as Defendant Dimitrios Pagourtzis, to access it.

78. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos knew or reasonably should have known that by not entrusting the firearms at issue to Defendant Dimitrios Pagourtzis,

they could have prevented him from possessing and dangerously using the guns against himself or innocent third parties.

79. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos nonetheless permitted Defendant Dimitrios Pagourtzis to use the firearms, knowing or having reason to know, that he would use the product in a manner involving unreasonable risk of physical injury to himself or others.

80. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos' negligent entrustment of the firearms to Defendant Dimitrios Pagourtzis was a direct and proximate cause of the wrongful deaths of Christopher Jake Stone, Aaron Kyle McLeod, Jared Conard Black, Christian Riley Garcia, and Sabika Aziz Sheikh; and the injuries to Clayton Horn and Flo Rice later that day.

COUNT III – GROSS NEGLIGENCE

AS TO DEFENDANTS ANTONIOS PAGOURTZIS AND ROSE MARIE KOSMETATOS

81. Plaintiffs and Plaintiffs-Intervenors hereby assert a claim for gross negligence. Pursuant thereto, Plaintiffs and Plaintiffs-Intervenors seek punitive or exemplary damages in order to punish and deter the outrageous conduct taken in the needless, reckless and conscious indifference for the safety of Christopher Jake Stone, Aaron Kyle McLeod, Jared Conard Black, Christian Riley Garcia, Clayton Horn, Sabika Aziz Sheikh and Flo Rice and their fellow students and teachers.

82. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos were grossly negligent in permitting Defendant Dimitrios Pagourtzis to have access to their weapons.

83. Plaintiffs and Plaintiffs-Intervenors allege that the conduct of Defendants Antonios Pagourtzis and Rose Marie Kosmetatos amounted to gross neglect and/or malice as those terms

are defined under Tex. Civ. Prac. & Rem. Code Ch. 41, (§§ 41.001, *et. seq.*), as well as Texas common law.

COUNT IV– ASSAULT

AS TO DEFENDANT DIMITRIOS PAGOURTZIS

84. Plaintiffs and Plaintiffs-Intervenors incorporate and reallege the above paragraphs as if stated fully here.

85. Defendant Dimitrios Pagourtzis intended to cause physical harm to Christopher Jake Stone, Aaron Kyle McLeod, Jared Conard Black, Christian Riley Garcia, Clayton Horn, Sabika Aziz Sheikh and Flo Rice.

86. Defendant Dimitrios Pagourtzis acted to cause Christopher Jake Stone, Kyle McLeod, Jared Conard Black, Riley Garcia, Clayton Horn, Sabika Aziz Sheikh and Flo Rice to reasonably believe that he had the present intent and ability to harm them by aiming his gun at each of them and firing his gun in their direction.

87. As a result of this assault, as alleged, Christopher Jake Stone, whose estate is represented herein by Plaintiffs Christopher Stone and Rosie Yanas, suffered personal injuries that resulted in his death, awareness of impending death; and other compensable injuries and damages, all to the damage of his estate in an amount to be determined at a trial of this matter.

88. As a result of this assault, Aaron Kyle McLeod, whose estate is represented herein by Plaintiffs-Intervenors Mark McLeod and Gail McLeod, suffered personal injuries that resulted in his death, awareness of impending death; and other compensable injuries and damages, all to the damage of his estate in an amount to be determined at a trial of this matter.

89. As a result of this assault, Jared Conard Black, whose estate is represented herein by Plaintiff-Intervenor Pamela Stanich, suffered personal injuries that resulted in his death,

awareness of impending death; and other compensable injuries and damages, all to the damage of his estate in an amount to be determined at a trial of this matter

90. As a result of this assault, Christian Riley Garcia, whose estate is represented herein by Plaintiff-Intervenor Shannan Claussen, suffered personal injuries that resulted in his death, awareness of impending death; and other compensable injuries and damages, all to the damage of his estate in an amount to be determined at a trial of this matter.

91. As a result of this assault, Plaintiff Clayton Horn suffered personal injuries and damages including significant past and future pain, suffering, disability, emotional distress, disfigurement, and loss of enjoyment of life; past and future medical expenses; past wage loss and impairment of future earning capacity; severe emotional distress in witnessing the injuries and deaths of his peers; and other compensable injuries and damages, all to his damage in an amount to be determined at trial of matter.

92. As a result of this assault, Sabika Aziz Sheikh, whose estate is represented herein by Plaintiffs-Intervenors Abdul Aziz and Farah Naz, suffered personal injuries that resulted in her death, awareness of impending death; and other compensable injuries and damages, all to the damage of her estate in an amount to be determined at a trial of this matter.

93. As a result of this assault, Flo Rice suffered personal injuries and damages including significant past and future pain, suffering, disability, emotional distress, disfigurement, and loss of enjoyment of life; past and future medical expenses; past wage loss and impairment of future earning capacity; severe emotional distress in witnessing the injuries and deaths of others; and other compensable injuries and damages, all to his damage in an amount to be determined at trial of matter.

COUNT V – BATTERY

AS TO DEFENDANT DIMITRIOS PAGOURTZIS

94. Plaintiffs and Plaintiffs-Intervenors incorporate and reallege the above paragraphs as if stated fully here.

95. Defendant Dimitrios Pagourtzis intentionally caused bodily harm to Christopher Jake Stone, Aaron Kyle McLeod, Jared Conard Black, Christian Riley Garcia, Clayton Horn, Sabika Aziz Sheikh and Flo Rice.

96. As a result of this battery, as alleged, Christopher Jake Stone, whose estate is represented herein by Plaintiffs Christopher Stone and Rosie Yanas, suffered personal injuries that resulted in his death, and damages including significant pain, suffering, fear of impending death; awareness of impending death and other compensable injuries and damages, all to the damage of his estate in an amount to be determined at a trial of this matter.

97. As a result of this battery, Aaron Kyle McLeod, whose estate is represented herein by Plaintiffs-Intervenors Mark McLeod and Gail McLeod, suffered personal injuries that resulted in his death, and damages including significant pain, suffering, fear of impending death; awareness of impending death and other compensable injuries and damages, all to the damage of his estate in an amount to be determined at a trial of this matter.

98. As a result of this battery, Jared Conard Black, whose estate is represented herein by Plaintiff-Intervenor Pamela Stanich, suffered personal injuries that resulted in his death, and damages including significant pain, suffering, fear of impending death; awareness of impending death and other compensable injuries and damages, all to the damage of his estate in an amount to be determined at a trial of this matter.

99. As a result of this battery, Christian Riley Garcia, whose estate is represented herein by Plaintiff-Intervenor Shannan Claussen, suffered personal injuries that resulted in his death, awareness of impending death; and other compensable injuries and damages, all to the damage of his estate in an amount to be determined at a trial of this matter.

100. As a result of this battery, Plaintiff Clayton Horn suffered personal injuries and damages including significant past and future pain, suffering, disability, emotional distress, disfigurement, and loss of enjoyment of life; past and future medical expenses; past wage loss and impairment of future earning capacity; severe emotional distress in witnessing the injuries and death of his peers; and other compensable injuries and damages, all to his damage in an amount to be determined at trial of matter.

101. As a result of this battery, Sabika Aziz Sheikh, whose estate is represented herein by Plaintiffs-Intervenors Abdul Aziz and Farah Naz, suffered personal injuries that resulted in her death, awareness of impending death; and other compensable injuries and damages, all to the damage of her estate in an amount to be determined at a trial of this matter.

102. As a result of this battery, Flo Rice suffered personal injuries and damages including significant past and future pain, suffering, disability, emotional distress, disfigurement, and loss of enjoyment of life; past and future medical expenses; past wage loss and impairment of future earning capacity; severe emotional distress in witnessing the injuries and death of others; and other compensable injuries and damages, all to her damage in an amount to be determined at trial of matter.

VI. **WRONGFUL DEATH AND SURVIVAL CLAIMS**

103. Plaintiffs and Plaintiffs-Intervenors, individually and as next friends of Christopher Stone, Aaron Kyle McLeod, Jared Conard Black, Christian Riley Garcia and Sabika Aziz Sheikh

are statutory beneficiaries of the deceased. Plaintiffs and Plaintiffs-Intervenors are therefore entitled to bring these causes of action pursuant to the Texas Wrongful Death Act and Texas Survival Statutes set out in Texas Civ. Prac. & Rem. Code Ch. 71. Plaintiffs and Plaintiffs-Intervenors, as heirs and next friends of Christopher Jake Stone, Aaron Kyle McLeod, Jared Conard Black, Christian Riley Garcia and Sabika Aziz Sheikh seek damages for the injuries and deaths of the deceased and their own consequent injuries and damages.

VII.
COMPENSATORY DAMAGES

104. Plaintiffs Christopher Stone and Rosie Yanas are the surviving parents of Christopher Jake Stone, who was fifteen years old at the time of his death. His parents have lost the love, support, nurture and companionship they would have shared with their son for the rest of their lives. Further, as a result of the wrongful death of Christopher Jake Stone, his estate is entitled to seek damages for the pain, suffering, and mental anguish he suffered prior to his death, and the damages his estate will have incurred for his funeral and burial expenses

105. Plaintiffs-Intervenors Mark McLeod and Gail McLeod are the surviving parents of Aaron Kyle McLeod, who was fifteen years old at the time of his death. His parents have lost the love, support, nurture and companionship they would have shared with their son for the rest of their lives. Further, as a result of the wrongful death of Aaron Kyle McLeod, his estate is entitled to seek damages for the pain, suffering, and mental anguish he suffered prior to his death, and the damages his estate will have incurred for his funeral and burial expenses.

106. Plaintiff-Intervenor Pamela Stanich is the surviving parent of Jared Conard Black, who was seventeen years old at the time of his death. His mother has lost the love, support, nurture and companionship she would have shared with her son for the rest of their lives. Further, as a result of the wrongful death of Jared Conard Black, his estate is entitled to seek damages for the

pain, suffering, and mental anguish he suffered prior to his death, and the damages his estate will have incurred for his funeral and burial expenses

107. Plaintiff-Intervenor Shannan Claussen is the surviving parent of Christian Riley Garcia, who was fifteen years old at the time of his death. His mother has lost the love, support, nurture and companionship she would have shared with her son for the rest of their lives. Further, as a result of the wrongful death of Christian Riley Garcia, his estate is entitled to seek damages for the pain, suffering, and mental anguish he suffered prior to his death, and the damages his estate will have incurred for his funeral and burial expenses.

108. Plaintiff-Intervenor Clayton Horn suffered injuries to his arm, elbow, leg and other parts of his body as a result of gunshot wounds inflicted by Defendant Dimitrios Pagourtzis. In all reasonable probability, Plaintiff-Intervenor Clayton Horn will continue to suffer in this manner for a long time into the future, if not for the balance of his natural life. The injuries have had a serious effect on Plaintiff-Intervenor Clayton Horn's health and well-being.

109. Plaintiffs-Intervenors Abdul Aziz and Farah Naz are the surviving parents of Sabika Aziz Sheikh, who was seventeen years old at the time of her death. Her parents have lost the love, support, nurture and companionship they would have shared with their daughter for the rest of their lives. Further, as a result of the wrongful death of Sabika Aziz Sheikh, her estate is entitled to seek damages for the pain, suffering, and mental anguish she suffered prior to her death, and the damages her estate will have incurred for her funeral and burial expenses.

110. Plaintiff-Intervenor Flo Rice suffered injuries to her legs, head and other parts of her body as a result of gunshot wounds inflicted by Defendant Dimitros Pagourtzis. Plaintiff-Intervenor Flo Rice now has an 18 inch titanium rod in her left leg, has PTSD, and walks with the assistance of a cane. In all reasonable probability, Plaintiff-Intervenor Flo Rice will continue to

suffer in this manner for a long time into the future, if not for the balance of her natural life. The injuries have had a serious effect on Plaintiff-Intervenor Flo Rice's health and well-being.

111. The acts and omissions of Defendants Antonios Pagourtzis, Rose Marie Kosmetatos, and Dimitrios Pagourtzis were each a proximate cause of the deaths of Chris, Kyle, Jared, Riley and Sabika and the injuries of Clayton and Flo. As a result thereof, Plaintiffs and Plaintiffs-Intervenors have suffered damages, including the following elements:

- a. Medical expenses;
- b. Burial expenses;
- c. Lost wages;
- d. Physical pain and suffering;
- e. Mental anguish; and
- f. Disfigurement.

VIII. **EXEMPLARY/PUNITIVE DAMAGES**

112. At the time Defendants Antonios Pagourtzis and Rose Marie Kosmetatos permitted their son to access the firearms, they were acting with reckless disregard for the safety of others. Defendants Antonios Pagourtzis and Rose Marie Kosmetatos possessed information that alerted them that Defendant Dimitrios Pagourtzis was likely to harm himself or others. Their gross negligence was a proximate cause of the damages to Plaintiffs and Plaintiffs-Intervenors who are entitled to recover exemplary or punitive damages.

113. The conduct of Defendants Antonios Pagourtzis and Rose Marie Kosmetatos, when reviewed objectively from their standpoint at the time of the conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and they were

actually, subjectively aware of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others.

114. At the time Defendant Dimitrios Pagourtzis used firearms to shoot and kill 10 people and injure 13 more, he was acting with the intent to cause substantial injury to his victims. His malicious actions were a proximate cause of the damages to Plaintiffs and Plaintiffs-Intervenors who are entitled to recover exemplary or punitive damages.

IX.
PREJUDGMENT INTEREST

115. In addition to the above and foregoing allegations, Plaintiffs and Plaintiffs Intervenors further plead that they are entitled to prejudgment interest at the highest rate allowed by law.

X.
REQUEST FOR DISCLOSURE

116. Under Texas Rule of Civil Procedure 194.1, Plaintiffs and Plaintiffs-Intervenors request that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2(a) through (l) (to the extent not previously disclosed).

XI.
AUTHENTICATION AND PRESERVATION

117. In accordance with Texas Rule of Civil Procedure 193.7, notice is hereby given that Plaintiffs and Plaintiffs-Intervenors intend to use at trial and/or in pre-trial proceedings, all documents produced in discovery. Defendants are hereby given notice that any document or other material, including electronically stored information, that may be evidence or relevant to any issue in this case is to be preserved in its present form until this litigation is concluded. Pursuant to the doctrine of spoliation, as that term is understood in Texas law, Defendants are further placed on notice of their obligation to safeguard and preserve all documents or other physical evidence now

in their possession which might bear in any way upon either discovery or the discovery of admissible evidence in this case and of Plaintiffs and Plaintiffs-Intervenors' intention to seek sanctions of the Court should they fail, either intentionally or by neglect, to do so.

XII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs and Plaintiffs-Intervenors pray that Defendants Antonios Pagourtzis, Rose Marie Kosmetatos and Dimitrios Pagourtzis be cited to appear and answer herein, and that upon final hearing, Plaintiffs and Plaintiffs-Intervenors have judgement against Defendants, jointly and severally, for damages described, for costs of suit, pre-judgment interested permitted by law, and for such other relive, at law and in equity, to which Plaintiffs and Plaintiffs-Intervenors may show themselves justly entitled.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of FIRST AMENDED PETITION AND REQUEST FOR DISCLOSURE was served on the following counsel of record on June 12, 2019, addressed as follows:

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