

IN THE IOWA DISTRICT COURT FOR PAGE COUNTY

**ESTATE OF PAYTON MONTANA
CASTEEL, by and through its
administrator, Anna D. Hutt; and
TIRAN CASTEEL, individually;**

Plaintiffs,

vs.

**PATRICIA CHERIE WRAY,

Defendant.**

CASE NO. _____

**PETITION AT LAW and JURY
DEMAND**

COME NOW, the Plaintiffs, Estate of Payton Montana Casteel, by and through its administrator; and Tiran Casteel, individually; by and through the undersigned counsel, and in support of this Petition at Law, respectfully state as follows:

PARTIES

1. At all times material hereto, Plaintiff Estate of Payton Montana Casteel is the estate established and administered according to, and functioning under, the probate laws of the State of Iowa, with Anna D. Hutt serving as the court-appointed administrator.

2. At all times material hereto, Plaintiff Tiran Casteel is an individual residing in Leavenworth, Kansas, and is the biological father of Payton Montana Casteel.

3. At all times material hereto, Defendant Patricia Cherie Wray, is an individual residing in Coin, Page County, Iowa, and was the operator and owner of the vehicle responsible for causing the injuries and damages complained of herein.

VENUE AND JURISDICTION

4. Subject matter jurisdiction of the District Court is proper pursuant to Iowa

Code § 602.6101.

5. Venue is proper in the District Court for Page County, Iowa pursuant to Iowa Code § 616.18, as the county in which injury and damage was sustained.

6. The amount in controversy exceeds the jurisdictional amount.

GENERAL FACTUAL ALLEGATIONS

7. Plaintiffs replead Paragraphs One through Nine as if fully set forth herein.

8. On May 21, 2014, Payton Montana Casteel was operating a motorcycle in a lawful manner on Lincoln Street, a public street, in Coin, Page County, Iowa.

9. As Payton was heading eastbound on Lincoln Street, he approached a van owned and operated by Patricia Cherie Wray, which was heading eastbound in the same lane as Payton.

11. Lincoln Street is a two-lane street.

12. Payton attempted to make a legal pass of Wray's vehicle, entering the westbound lane, in which there was no oncoming traffic.

13. Wray observed Payton on the motorcycle coming up behind her.

14. As Payton was attempting his pass, Wray began making a left turn into a driveway.

15. In making this left turn, Wray's van cut in front of Payton.

16. As she began the turn, she observed Payton in one of her mirrors.

17. Payton attempted to avoid Wray's van by angling further left, but Wray continued to complete her turn.

18. Ultimately, Payton could not avoid the collision and was side-swiped by Wray's van.

19. Payton was thrown from the motorcycle.

20. As witness attempted to assist Payton, Wray exited her vehicle and yelled at the witness not to assist Payton.

21. As Wray was exiting the van, she was hanging up on a cell phone call.

22. Wray further stated to the witness she had been trying to get Payton into the driveway to tell him to slow down.

23. Wray then called for emergency assistance.

24. Payton died due to injuries suffered as a result of this collision.

COUNT I
NEGLIGENCE

25. Plaintiffs replead Paragraphs One through Twenty-Four as if fully set forth herein.

26. At the aforementioned time and place, Patricia Cherie Wray was negligent in one or more of the following particulars:

- a. Operated an automobile so that as a direct and proximate result thereof, Payton Montana Casteel suffered injuries resulting in his death;
- b. Negligently and recklessly operated the automobile without keeping a proper and sufficient lookout;
- c. Negligently and recklessly failed to exercise due care to avoid colliding with Payton Montana Casteel's vehicle; and
- d. Negligently and recklessly failed to stop the automobile in time to avoid the collision although she saw, or should have seen, that it was impending and had ample time and opportunity to avoid it.

27. Accordingly, Patricia Cherie Wray failed to exercise due care with respect to the road-traveling public, including Payton Montana Casteel.

28. The negligence of Patricia Cherie Wray was a proximate cause of the damages and injuries sustained by Payton Montana Casteel.

29. As a result of the above negligence, Payton Montana Casteel sustained damages and injuries as follows:

- a. Burial and funeral expenses;
- b. Other financial expenses;
- c. Value of Payton Montana Casteel;
- d. physical pain and mental anguish;
- e. physical impairment in the past, present and future;
- f. medical expenses; and
- g. loss of present and future earnings.

WHEREFORE, the Plaintiff, Estate of Payton Montana Casteel, pray for judgment against Defendant Patricia Cherie Wray in an amount representing full and fair compensation for the injuries and damages as set forth above, for such attorneys' fees, interest, and costs as allowed by law, and for such other relief as may be just under the circumstances.

COUNT II
LOSS OF PARENTAL CONSORTIUM

30. Plaintiffs replead Paragraphs One through Twenty-Nine as if fully set forth herein.

31. Tiran Casteel is the biological father of Payton Montana Casteel.

32. At the time of his death, Payton Montana Casteel was sixteen years old.

33. As a direct and proximate cause of Defendants' actions and/or omissions, Tiran Casteel has suffered and will suffer in the future the loss of the services,

companionship, society, affection, aid, and assistance of their son.

WHEREFORE, the Plaintiff, Tiran Casteel, individually, pray for judgment against Defendant Patricia Cherie Wray in an amount representing full and fair compensation for the injuries and damages as set forth above, for such attorneys' fees, interest, and costs as allowed by law, and for such other relief as may be just under the circumstances.

JURY DEMAND

COME NOW, the Plaintiffs, Estate of Payton Montana Casteel, by and through its administrator; and Tiran Casteel, individually, who hereby demand a trial by jury with regard to the above-captioned matter.

**PARRISH KRUIDENIER DUNN BOLES
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