

IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI

ANTHONY DEYSEAN WARREN, Jr. a minor,)
by and through his Next Friend)
PASSION HAMBRIGHT,)

And)

D'ZION DEYSEAN WARREN, a minor,)
by and through his Next Friend)
PASSION HAMBRIGHT,)

And)

ANYSIA IMANI-ROSE WARREN, a minor,)
by and through her Next Friend)
PASSION HAMBRIGHT,)

Plaintiffs,)

vs.)

Case No.:

WAFFLE HOUSE, INC.,)
Serve: CSC-Lawyers Incorporating)
Service Company)
221 Bolivar Street)
Jefferson City, MO 65101)

And)

OZARK WAFFLES, L.L.C. d/b/a)
WAFFLE HOUSE #1531,)
Serve: Ozark Waffles, L.L.C.)
5986 Financial Dr.)
Norcross, GA 30071)

And)

R.M. JOHN DOE, Security Guard,)
Serve: Columbia, Missouri)

Defendants.)

PETITION FOR WRONGFUL DEATH

COME NOW Plaintiffs Passion Hambright, as Next Friend for Anthony Deysean Warren Jr., D’Zion Deysean Warren and Anyisia Imani-Rose Warren, by and through undersigned counsel, and for these wrongful death causes of actions against Defendants Waffle House, Inc., Ozark Waffles, L.L.C., d/b/a Waffle House #1531, and John Doe, and state as follows:

PARTIES

1. Plaintiffs bring this action pursuant to Section 537.080, RSMo, as Plaintiffs are members of the Class of individuals authorized to pursue a wrongful death claim pursuant to said Section.
2. Passion Hambright is the natural mother of Plaintiff Anthony Deysean Warren Jr. (hereinafter “Plaintiff Anthony Jr.”), and is Next Friend for Anthony Jr., a minor child.
3. Plaintiff Anthony Jr. is an individual residing in Boone County, Missouri, and all times herein was the biological son of decedent Anthony Warren.
4. Passion Hambright is the natural mother of Plaintiff D’Zion Deysean Warren (hereinafter “Plaintiff D’Zion”), and is Next Friend for D’Zion, a minor child.
5. Plaintiff D’Zion is an individual residing in Boone County, Missouri, and all times herein was the biological son of decedent Anthony Warren.
6. Passion Hambright is the natural mother of Plaintiff Anyisia Imani-Rose Warren (hereinafter “Plaintiff Anyisia”), and is Next Friend for Anyisia, a minor child.
7. Plaintiff Anyisia is an individual residing in Boone County, Missouri, and all times herein was the biological daughter of decedent Anthony Warren.
8. Defendant Waffle House, Inc., (hereinafter “Defendant Waffle House, Inc.”) at-all-times relevant hereto, is a foreign corporation, organized and existing according to the laws of

the State of Georgia, with its principal place of business located at 5986 Financial Dr., Norcross, Georgia, 30071, and who may be served with process by serving registered agent CSC-Lawyers Incorporating Service Company at 221 Bolivar Street, Jefferson City, MO 65101.

9. Defendant Ozark Waffles, LLC, d/b/a Waffle House #1531, (hereinafter “Defendant Ozark Waffles, LLC”) at-all-times relevant hereto, is a foreign corporation, organized and existing according to the laws of the State of Georgia, with its principal place of business located at 5986 Financial Dr., Norcross, Georgia, 30071, and who may be served with process by serving Ozark Waffles, LLC at 5986 Financial Dr., Norcross, Georgia, 30071.

10. Defendant R.M. John Doe, (hereinafter “Defendant John Doe”) is an individual employed as a security guard who is a resident of the State of Missouri.

11. At all times relevant hereto, Defendant Waffle House, Inc. and Defendant Ozark Waffles, LLC, and Defendant John Doe are vicariously liable for the acts and/or omissions of its agents, servants, and employees as discussed herein.

JURISDICTION

12. This is a civil action filed under Missouri state law seeking damages against Defendants for committing acts in Boone County, Missouri.

13. All acts, transactions, and occurrences referred to herein occurred in Boone County, Missouri.

14. Plaintiff Passion Hambright, and as Next Friend for Anthony Deysean Warren Jr., a Minor, D’Zion Deysean Warren, a minor, and Anysia Imani-Rose Warren, a minor (hereinafter collectively referred to as “Plaintiffs”) bring this action pursuant to Section 537.080, RSMo, as Plaintiffs are members of the class of individuals authorized to pursue a wrongful death claim pursuant to Section 537.080(1), RSMo.

15. Venue and jurisdiction are proper in this Court pursuant to Section 508.010(4), RSMo, as the events, injuries, and death of Anthony Warren, decedent, occurred in Boone County, Missouri.

FACTS COMMON TO ALL COUNTS
MADE UPON INFORMATION AND BELIEF

16. On or about January 1, 2018, decedent Anthony Warren was a patron at Waffle House #1531, located at 904 Vandiver Dr., Columbia, Missouri 65202.

17. At that same time and place, Defendant John Doe, as an agent, servant, or employee of Defendant Waffle House, Inc., Defendant Ozark Waffles, LLC d/b/a Waffle House #1531, and/or John Doe's Security Company employer, attempted to intervene in a fight between two other individual patrons of the restaurant.

18. At that same time and place, Defendant John Doe negligently fired his handgun, causing a bullet to strike Anthony Warren, causing significant bodily injuries to Anthony Warren, ultimately resulting in his death.

COUNT I
NEGLIGENT DISCHARGE OF A FIREARM

19. The actions of Defendant John Doe in shooting Anthony Warren were negligent in one or more of the following respects, to wit:

- a. Defendant John Doe negligently discharged a loaded firearm in the direction of Anthony Warren without provocation or reason and without acting in self-defense;
- b. Defendant John Doe negligently discharged a loaded firearm directly at Anthony Warren without provocation or reason and without acting in self-defense;
- c. Defendant John Doe negligently discharged a loaded firearm without knowing the direction in which the gun was pointed without provocation or reason and without acting in self-defense;

d. Plaintiffs reserve the right to amend this Petition as more facts are discovered during the investigation.

20. The negligence of Defendant John Doe, as set forth herein, directly caused the death of Anthony Warren, decedent, January 1, 2018, and caused him pain and suffering and personal injury just prior to his death.

21. Had death not ensued, Plaintiffs would have been entitled to recover damages from Defendants.

22. Defendant John Doe's negligence, as set forth herein, particularly his discharging a loaded firearm in the direction of Anthony Warren, decedent, demonstrated willful misconduct, wantonness, and/or recklessness, and as such, Defendant's negligence may be considered by the jury in this case in assessing punitive and/or aggravating damages against Defendant pursuant to Section 537.090, RSMo.

23. Defendant John Doe's negligence, as set forth herein, demonstrated an indifference to the consequences of his actions, and as such, Defendant's negligence may be considered by the jury in this case in assessing punitive and/or aggravating damages against Defendant pursuant to Section 537.090, RSMo.

24. By reason of the foregoing premises, Plaintiffs have been damaged and are entitled to recover fair and just damages under and pursuant to Section 537.090, RSMo, for the pecuniary losses suffered by the reason of the death of Anthony Warren, funeral expenses, and the reasonable value of the services, companionship, comfort, instruction, guidance, counsel, training, and support Plaintiffs have been deprived of by reason of Anthony Warren's death, together with any damages Anthony Warren may have suffered between the time of his injury and death as provided herein, which includes, but is not limited to, pain and suffering and emotional distress prior to Anthony Warren's death.

25. At all times relevant hereto, Defendant Waffle House, Inc. and Defendant Ozark Waffles, LLC, and Defendant John Doe are vicariously liable for the acts and/or omissions of its agents, servants, and employees as discussed herein.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount that the trier of fact deems fair and reasonable, plus pre-judgment interest, if any, for Plaintiffs' expenses herein incurred, for punitive and/or aggravating damages pursuant to Section 537.090, RSMo, and for such other and further relief that the Court deems fair and reasonable under the circumstances.

Respectfully submitted,

THE A.W. SMITH LAW FIRM, P.C.

/s/ A.W. Smith
A.W. Smith, MO Bar #54137
2100 West Broadway
Columbia, Missouri 65203
(573) 777-3333 office
(573) 443-7301 fax
aw@awsmithlaw.com

ATTORNEY FOR PLAINTIFFS

IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI

ANTHONY DEYSEAN WARREN JR.,	)	
D'ZION DEYSEAN WARREN, and	)	
ANYSIA IMANI-ROSE WARREN, minors,	)	
by and through their Next Friend	)	
PASSION HAMBRIGHT,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No.:
	)	
WAFFLE HOUSE, INC., et al.	)	
	)	
Defendants.	)	

MOTION FOR APPOINTMENT OF NEXT FRIEND

COMES NOW Passion Hambright, by and through undersigned counsel, and hereby states that she is the natural, biological mother of minor Plaintiff Anthony Deysean Warren Jr., and pursuant to Rule 52.02(c) of Missouri Civil Procedure, respectfully requests that this Court appoint Passion Hambright, as his Next Friend for the purpose of maintaining a suit for damages against Defendants, as a consequence of her claim as a Class I Beneficiary for the wrongful death of Anthony Warren, arising out of a wrongful death that occurred on or about January 1, 2018.

WHEREFORE, Anthony Deysean Warren Jr., hereby prays that this Court appoint Passion Hambright as Next Friend for the claim of minor Anthony Deysean Warren Jr., against Defendants.

Respectfully submitted,

THE A.W. SMITH LAW FIRM, P.C.

/s/ AW Smith

Aaron Widel Smith, MO Bar #54137

2100 W. Broadway

Columbia, Missouri 65203

573-777-3333 phone

573-443-7301 fax

aws@awsmithlaw.com

ATTORNEY FOR PLAINTIFF



IN THE 13TH JUDICIAL CIRCUIT COURT, BOONE COUNTY, MISSOURI

Judge or Division: JEFF HARRIS	Case Number: 18BA-CV00099
Plaintiff/Petitioner: ANTHONY DEYSEAN WARREN JR	Plaintiff's/Petitioner's Attorney/Address AARON WIDEL SMITH AW SMITH LAW FIRM PC 2100 W BROADWAY COLUMBIA, MO 65203
Defendant/Respondent: WAFFLE HOUSE, INC.	Court Address: 705 E Walnut COLUMBIA, MO 65201
Nature of Suit: CC Wrongful Death	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: R.M. JOHN DOE
Alias:
UNKNOWN
COLUMBIA, MO 65202

COURT SEAL OF

BOONE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

1/10/18 Date /s/ Shadoe Smith Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____

Served at _____ (address)
in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal) Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date _____ Notary Public

Sheriff's Fees		BCSD Fee Paid
Summons	\$ _____	
Non Est	\$ _____	
Sheriff's Deputy Salary	\$ _____	
Supplemental Surcharge	\$ 10.00	
Mileage	\$ _____ (_____ miles @ \$. _____ per mile)	
Total	\$ _____	

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.