

2. This is an action for damages sustained by a citizen of the State of Alabama from the death of Adam Bailey by Caleb LeGrone, Matthew Allen, Ryan Allen, Sara Gibson Allen, Matthew Hartley, Jessica Hartley, Alan Cook, and Victoria Love.

STATEMENT OF JURISDICTION

5. Jurisdiction and venue are proper in the Circuit Court of Tuscaloosa County, Alabama because Defendants reside in Tuscaloosa County, Alabama, and all acts and omissions giving rise to this lawsuit occurred in Tuscaloosa County, Alabama.

PARTIES

6. **Plaintiff James Timothy Bailey** is over the age of nineteen and is a resident and citizen of Pickens County, Alabama. He is the biological father of Adam Bailey. He is also the Administrator and Personal Representative of the Estate of Adam Bailey, deceased, by appointment of the Probate Court for Pickens County, Alabama.

7. **Plaintiff's decedent, Adam Bailey**, was an Alabama citizen and a resident.

8. **Defendant Caleb LeGrone** is over the age of nineteen and is a resident and citizen of Tuscaloosa County, Alabama

9. **Defendant Matthew Allen** is over the age of nineteen and is a resident and citizen of Tuscaloosa County, Alabama

10. **Defendant Ryan Allen** is over the age of nineteen and is a resident and citizen of Tuscaloosa County, Alabama

11. **Defendant Sara Gibson Allen** is over the age of nineteen and is a resident and citizen of Tuscaloosa County, Alabama

12. **Defendant Matthew Hartley** is over the age of nineteen and is a resident and citizen of Tuscaloosa County, Alabama

13. **Defendant Jessica Hartley** is over the age of nineteen and is a resident and citizen of Tuscaloosa County, Alabama

14. **Defendant Alan Cook** is over the age of nineteen and is a resident and citizen of Tuscaloosa County, Alabama

15. **Defendant Victoria Love** is over the age of nineteen and is a resident and citizen of Tuscaloosa County, Alabama

16. **Defendant, Fictitious Parties A through Z** are those persons, entities or parties who participated in causing injury to Plaintiff's decedent, Adam Bailey.

FACTUAL ALLEGATIONS

17. On the evening of August 7, 2016 around 8:00 pm, Defendant Victoria Love arrives at Adam Bailey and Defendant Matthew Hartley's house.

18. Adam is in his bedroom with Defendant Alan Cook and tells Defendant Victoria Love that he will be right out. From all accounts Adam displays no signs of intoxication or to be under the influence of any illicit substance.

19. After a few minutes, Adam and Defendant Victoria Love leave in Adam's truck to go eat and meet up with Defendant Caleb LeGrone and some other friends for drinks at 1831 bar in Tuscaloosa, AL. Defendant Alan Cook got in the back seat of the truck to get a ride home. Defendant Alan was dropped off at his car at the home of Eddie Bochman.

20. Almost immediately, Adam suspiciously becomes ill and is unable to drive. Defendant Victoria Love drives Defendant Alan Cook to his house and then brings Adam back home, parking the truck in the driveway. Defendant Alan Cook was dropped off at his car at the home of Eddie Bochman.

21. Around 8:30pm, Defendant Caleb LeGrone calls Adam's phone. Defendant Victoria Love answers and tells him that Adam is passed out in the truck. LeGrone tells Love to put ice under his armpits.
22. Defendant Love, despite seeing that Adam is unconscious and unwell, leaves him in his truck around 9:00 pm.
23. Adam remained alone and unconscious in his truck from 9:00 pm until roughly 11:00pm when Defendants Matthew and Jessica Hartley returned home from a party at Defendants Ryan and Sara Allen's house only a few blocks away where they discovered him lying in his seat.
24. Defendant Matthew Allen is with them to help repair a phone at the Hartley's house.
25. Defendants Matthew Hartley, Matthew Allen, and Ryan Allen take Adam's unconscious and unresponsive body and place him in the shower in a scant effort to cool him down.
26. Defendant Matthew Hartley also calls Defendant Caleb LeGrone around that same time, informs him of Adam's physical state, and demands that he come over and help.
27. Defendant LeGrone is driven to the residence from Wes Powell's home by Christian Wood. Defendant LeGrone would not allow Wood to come inside. Wood advises that Defendant LeGrone and the others needed to call 911 to which he responded "This is not my first rodeo. I've got this." Exasperated, Wood left the residence and drove home.
28. Northport Medical Center is less than a 5-minute drive from Adam Bailey's and Matthew Hartley's residence, where Adam currently lay in dire need of immediate medical attention.
29. Defendant LeGrone and the other named Defendants present at the residence took turns monitoring Adam's vital signs while he remained visibly unconscious and unresponsive. Defendant LeGrone contacted his mother, Cheryl Boswell for advice on providing care away from the hospital.

30. Defendant LeGrone choked Adam and shoved his fingers down Adam's throat in a failed attempt to induce vomiting.

31. After hours of keeping Adam secluded in the house, the occupants finally decide to call 911.

32. By the time Adam arrives at the hospital, his body temperature is at 87 degrees Fahrenheit and he had ceased ventilation/breathing on his own for a minimum of 54 minutes prior.

33. After seven days of various tests and efforts by hospital staff, Adam Bailey was taken off of life support and passed away on August 14, 2016.

CAUSES OF ACTION

COUNT I: WRONGFUL DEATH of Adam Bailey (Against all Defendants)

34. Plaintiffs hereby adopt and reallege each and every allegation in paragraphs 1 through 33 of this complaint as if fully set out herein.

35. This claim is brought pursuant to Ala. Code 1975 § 6-5-410.

36. There are at least four situations in which the failure to act may constitute breach of a legal duty. One can be held criminally liable: first, where a statute imposes a duty to care for another; second, where one stands in a certain status relationship to another; third, where one has assumed a contractual duty to care for another; and fourth, where one has voluntarily assumed the care of another and so secluded the helpless person as to prevent others from rendering aid. *Jones v. United States*, 308 F.2d 307, 310 (1962).

37. It is well settled under Alabama law that one who undertakes to perform a duty he is not otherwise required to perform is thereafter charged with the duty of acting with due care. *Rudolph v. First Southern Federal Savings & Loan Ass'n*, 414 So. 2d 64 (Ala. 1982). This is in

accord with Justice Cardozo's classic case, *Glanzer v. Shepard*, 233 N.Y. 236, 239, 135 N.E. 275, 276, 23 A.L.R. 1425 (1922): "One who assumes to act, even though gratuitously, may thereby become subject to the duty of acting carefully, if he acts at all." *King v. Nat'l Spa & Pool Inst.*, 570 So. 2d 612, 614 (Ala. 1990).

38. The Restatement (Second) of Torts § 324A (1966), states: "One who undertakes, gratuitously or for consideration to render services to another which he should recognize as necessary for the protection of a third person or his things, is subject to liability to the third person for physical harm resulting from his failure to exercise reasonable care to protect his undertaking, if "(a) his failure to exercise reasonable care increases the risk of such harm, or (b) he undertakes to perform a duty owed by the other to the third person, or (c) the harm is suffered because of reliance of the other or the third person upon the undertaking." *Id.*

39. "In *Bush v. Alabama Power Co.*, 457 So. 2d 350, 353 (Ala. 1984), this Court held: "The ultimate test of a duty to use [due] care is found in the foreseeability that harm may result if care is not exercised." In *Palsgraf*, *supra*, Justice Cardozo wrote: " The eye of vigilance perceives the risk of damage. . . . The risk reasonably to be perceived defines the duty to be obeyed, and risk imports relation; it is risk to another or to others within the range of apprehension." 248 N.Y. at , 162 N.E. at 100." *Id.* at 615.

40. Defendants negligently, recklessly, wantonly, wrongfully, and voluntarily assumed a duty of due care over Adam Bailey by moving him from a public, open space into a secluded area, denying others the ability to immediately call trained emergency medical professionals, while allegedly claiming to literally attempt to provide care to his unconscious body.

41. In addition, Adam's death was the direct and proximate result of Defendants' intentional actions evidencing a conscious indifference to Adam's rights and welfare. Thus, under Alabama Law, Plaintiff is entitled to exemplary and punitive damages.

42. WHEREFORE, JAMES TIMOTHY BAILEY, as Personal Representative of the Estate of ADAM BRYANT BAILEY, his deceased child, demands judgment against the Defendants, jointly and severally, for punitive damages, plus interest and costs.

PRAYER FOR RELIEF

43. THEREFORE, Plaintiffs respectfully request the following relief:

- a. A joint and several judgments against all Defendants for punitive damages in an amount necessary and sufficient to punish Defendants and deter Defendants and others from similar conduct;
- b. A trial by jury;
- c. All other relief to which Plaintiffs are entitled or that the Court deems just and proper.

JURY DEMAND

44. Plaintiff requests a trial by jury.

DATED this is the 7th day of August, 2018.

Respectfully submitted,

/s/ Leroy Maxwell, Jr.
Leroy Maxwell, Jr.
Attorney for Plaintiff

Of Counsel:

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**PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL AT THE
FOLLOWING ADDRESSES:**

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Matthew Allen
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Coker, AL 35452

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Sara Gibson Allen
1904 22nd Avenue
Northport, AL 35476

Matthew Hartley
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Northport, AL 35476

Jessica Hartley
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