

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

<p>DOUGLAS ROBERT SCHNEIDER AND MICHELLE SCHNEIDER, each individuals as parents and next of friends of T.A.S, a minor, AND as personal representatives of the ESTATE OF T.A.S., a minor,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>MICHAEL D. MAZZA AND TRINA JAE MAZZA,</p> <p>Defendants.</p>	<p>CASE NO: _____</p> <p>PETITION AT LAW AND JURY DEMAND</p>
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COMES NOW, Plaintiffs, Douglas Schneider and Michelle Schneider, each as individuals as parents and next of friends of T.A.S., a minor, and as Personal Representatives of the Estate of T.A.S., a minor, and for their Petition at Law state as follows:

PARTIES, JURISDICTION, AND VENUE

1. At all times material, the decedent, T.A.S., a minor was a resident of Polk County, Iowa.
2. T.A.S. died on February 17, 2019, domiciled in and a resident of Polk County, Iowa.
3. Douglas and Michelle Schneider are the personal representatives of the Estate of T.A.S., their deceased, minor child.
4. At all times material, Plaintiffs were residents of Polk County, Iowa.
5. Upon information and belief and at all times material hereto, Defendants Michael D. Mazza and Trina Jae Schneider were domiciled in and residents of Polk County, Iowa.
6. All of the facts giving rise to this cause of action occurred in Polk County, Iowa.

7. Pursuant to Iowa Code §616.18, Polk County is the appropriate venue because that is where Plaintiffs sustained damages.

8. The amount in controversy exceeds the Court's jurisdictional minimum.

FACTS TO ALL COUNTS

9. On or about February 15, 2019, Defendants resided at a personal residence/house located at 6610 Brook Ridge Ct. in Johnston, Iowa (hereinafter "Property").

10. On or about February 15, 2019, Defendant Michael Mazza and/or Defendant Trina Mazza owned the Property.

11. On or about February 15, 2019, T.A.S. was at the Property under the care and supervision of Defendants.

12. On or about February 15, 2019, there were pieces of furniture, including furniture commonly referred to as "pack-in-plays", set up throughout the house.

13. On or about February 15, 2019, T.A.S. was at the Property and got stuck on or between pieces of furniture arranged and placed by Defendants, causing him to sustain severe personal injuries.

14. T.A.S. was subsequently rushed to the hospital for treatment of his injuries, but never recovered and ultimately died from his injuries on or about February 17, 2019.

15. Upon information and belief and at all times material hereto, Defendants were the valid deed holder(s) of the Property, and exercised control over the Property and all houses, buildings, or structures on the Property.

16. At the time of said incident, T.A.S. was a minor and Plaintiffs Douglas Schneider and Michelle Schneider were his two parents, rendering services and support to T.A.S.

COUNT I: NEGLIGENCE OF DEFENDANTS AND WRONGFUL DEATH OF

T.A.S

17. Plaintiffs re-state and re-allege all Paragraphs above.

18. On February 15, 2019, T.A.S. entered the house at the Property and was an invited guest/visitor of the Property and was also under the care and supervision of Defendants.

19. Upon information and belief, Defendants controlled and maintained the house and the Property, including all fixtures and furnishings therein.

20. Defendants negligently controlled and maintained the house at the Property and all fixtures and furnishing therein, of the Property, creating an unsafe condition on the premises, in one or more of the following ways:

- a. Failing to arrange the rooms and furnishing therein in a safe condition for minor children;
- b. Failing to act as a reasonable property owner prior to the above-described incident that caused the death of T.A.S.;
- c. Failing to act as a reasonable property owner following the above-described incident, by failing to promptly and reasonably notify and request EMS services for guests/visitors of the Property;
- d. Failing to maintain the pack-in-plays and other furnishing in the house in a safe and appropriate manner;
- e. Failing to ensure the safety of visitors and guests of the house and Property; and
- f. Failing to give any warning of a condition that was known (or a reasonable owner/possessor should have known) to be dangerous.

21. While at the Property, T.A.S. got stuck between two furnishing located on the property by the Defendants, which caused T.A.S. to asphyxiate, leading to his death.

22. Plaintiffs have incurred damages, including but not limited to:

- a. The present worth or value of the Estate of T.A.S. that would reasonably be expected to have saved and accumulated as a result of T.A.S.'s life;

- b. Reasonable costs of medical bills from the date of the injury until the date of death;
- c. Pre-death physical pain and suffering, and loss of function of mind and body;
- d. Funeral and burial expenses, as well as interest on the cost of the funeral and burial expenses for the period between the date of her premature death and the date on which she could have been expected to die; and/or
- e. Other such damages as may arise through the course of discovery, and as allowable by Iowa law.

WHEREFORE, Plaintiffs respectfully request judgment against Defendants in an amount that will fully and reasonably compensate Plaintiffs for their injuries and damages, with pre- and post-judgment interest, the costs of this action, and for any and all other relief this Court deems proper.

**COUNT II: PLAINTIFFS DOUGLAS SCHNEIDER AND MICHELLE SCHNEIDER'S
LOSS OF CONSORTIUM CLAIM**

23. Plaintiffs re-state and re-allege all Paragraphs above.

24. As a result of the wrongful and negligent acts of the Defendants, Plaintiffs, as individuals as parents and next of friends of T.A.S., a minor, were and have been deprived of T.A.S.'s aid, services, support, affection, society and companionship.

WHEREFORE, Plaintiffs respectfully request judgment against Defendants in an amount that will fully and reasonably compensate Plaintiffs for their injuries and damages, together with pre- and post-judgment interest, and for costs of this action, and for any and all other relief this Court deems proper under the circumstances.

JURY DEMAND

COME NOW, the Plaintiffs, and hereby request a trial by jury on all issues in the above-referenced matter.

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Original E-filed.