

STATE OF NEW YORK
SUPREME COURT COUNTY OF JEFFERSON

DAVID M. MORSE, as Administrator of the Estate of
PEYTON L.S. MORSE, Deceased, and DAVID M.
MORSE and STACY SNYDER-MORSE, Individually,

Plaintiffs,

-against-

CHRISTOPHER REA, BRUCE E. HEBERER, SCOTT
P. DENINNO, WARREN T. WARD, and DUSTIN
CONTRI,

Defendants.

Index No.
Date Purchased:

SUMMONS

Plaintiffs designate
Jefferson County as the
place of trial.
The basis of venue is:
Plaintiffs' reside in
Jefferson Count

To the above-named Defendants:

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs' Attorney(s) within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: March 10, 2023
Albany, New York

O'CONNELL AND ARONOWITZ

By 

Thomas J. DiNovo, Esq.
Attorneys for Plaintiff
54 State Street
Albany, NY 12207
(518) 462-5601

STATE OF NEW YORK
SUPREME COURT COUNTY OF JEFFERSON

DAVID M. MORSE, as Administrator of the Estate of
PEYTON L.S. MORSE, Deceased, and DAVID M. MORSE
and STACY SNYDER-MORSE, Individually,

Plaintiffs, **VERIFIED**
COMPLAINT
Index No.:

-against-

CHRISTOPHER REA, BRUCE E. HEBERER, SCOTT P.
DENINNO, WARREN T. WARD, and DUSTIN CONTRI,

Defendants.

David M. Morse, as Administrator of the Estate of Peyton L.S. Morse, Deceased, and David M. Morse and Stacy Snyder-Morse, Individually, by and through their attorneys, O'Connell and Aronowitz, P.C., submits the following as and for a Verified Complaint herein and allege that:

1. At all times herein relevant, the Plaintiff, David M. Morse, was and still is a resident of the Hamlet of LaFargeville in the Town of Orleans, County of Jefferson, and State of New York.

2. At all times herein relevant, the Plaintiff, Stacy Snyder-Morse, was and still is a resident of the Hamlet of LaFargeville in the Town of Orleans, County of Jefferson, and State of New York.

3. At all times herein relevant, the Plaintiffs, David M. Morse and Stacy Snyder-Morse, were married and resided together as husband and wife.

4. At all times herein relevant, the Plaintiffs, David M. Morse and Stacy Snyder-Morse, were the parents of Peyton L.S. Morse.

5. At all times herein relevant, the Plaintiffs' Decedent, Peyton L.S. Morse, was a resident of the Hamlet of LaFargeville in the Town of Orleans, County of Jefferson, and State of New York.

6. On or about March 12, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, died intestate in the City of Sayre, County of Bradford, and State of Pennsylvania.

7. That pursuant to a Decree of the Jefferson County Surrogate's Court, dated May 25, 2021, the Plaintiff, David M. Morse, was issued Limited Letters of Administration, appointing him Administrator of the Estate of Peyton L.S. Morse. A copy of the aforementioned Letters of Administration is annexed hereto as Exhibit "A."

8. At all times herein relevant, the New York State Academy of Fire Science provided certain instruction and training to persons who sought to become firefighters, including the Plaintiffs' Decedent, Peyton L.S. Morse.

9. At all times herein relevant, the Defendant, Christopher Rea, upon information and belief, was a resident of the Town of Saugerties, County of Ulster, and State of New York.

10. At all times herein relevant, the Defendant, Christopher Rea, was an instructor at the New York State Academy of Fire Science in Montour Falls, New York.

11. At all times herein relevant, the Defendant, Bruce E. Heberer, upon information and belief, was a resident of the City of Johnstown, County of Fulton, and State of New York.

12. At all times herein relevant, the Defendant, Bruce E. Heberer, was an instructor at the New York State Academy of Fire Science in Montour Falls, New York.

13. At all times herein relevant, the Defendant, Scott P. Deninno, upon information and belief, was a resident of the Village of St. Johnsville, County of Montgomery, and State of New York.

14. At all times herein relevant, the Defendant, Scott P. Deninno, was an instructor at the New York State Academy of Fire Science in Montour Falls, New York.

15. At all times herein relevant, the Defendant, Warren T. Ward, upon information and belief, was a resident of the City of Middletown, County of Orange, and State of New York.

16. At all times herein relevant, the Defendant, Warren T. Ward, was an instructor at the New York State Academy of Fire Science in Montour Falls, New York.

17. At all times herein relevant, the Defendant, Dustin Contri, upon information and belief, was a resident of the City of Cortland, County of Cortland, and State of New York.

18. At all times herein relevant, the Defendant, Dustin Contri, was an instructor at the New York State Academy of Fire Science in Montour Falls, New York.

19. At all times herein relevant, the Plaintiffs' Decedent, Peyton L.S. Morse, received instruction and training by the above-named Defendants.

20. This action falls within one or more of the exceptions contained in Article 16 of the CPLR.

21. This action is being brought in the Supreme Court of the State of New York as the amount of recovery sought exceeds the jurisdictional limits of all lower courts.

**AS AND FOR A FIRST, SEPARATE AND DISTINCT
CAUSE OF ACTION AGAINST DEFENDANT,
CHRISTOPHER REA, HEREIN:**

22. Plaintiffs repeat all prior allegations.

23. On or about February 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, arrived at the New York State Academy of Fire Science for the purpose of receiving instruction and training to become a career firefighter.

24. The Plaintiffs' Decedent, Peyton L.S. Morse's instruction and training continued until March 3, 2021.

25. At all times herein relevant, the Defendant, Christopher Rea, was engaged in providing instruction, training and supervision to recruits at said facility, including the Plaintiffs' Decedent, Peyton L.S. Morse.

26. At all times herein relevant, the Defendant, Christopher Rea, represented himself as possessing appropriate training, education and experience to properly and safely train recruits at the New York State Academy of Fire Science.

27. At all times herein relevant, the Defendant, Christopher Rea, owed a duty to the Plaintiffs' Decedent, Peyton L.S. Morse, to provide proper and safe training and supervision.

28. At all times herein relevant, the Defendant, Christopher Rea, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to properly, timely and appropriately instruct, train and/or monitor the Plaintiffs' Decedent.

29. At all times herein relevant, the Defendant, Christopher Rea, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to exercise appropriate and reasonable care to supervise and monitor the Plaintiffs' Decedent during the course of his training.

30. On or about March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was a recruit attending the New York State Academy of Fire Science in Montour Falls, New York.

31. On the afternoon of March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was participating in training exercises and evolutions at the New York State Academy of Fire Science, conducted by Defendant, Christopher Rea.

32. Upon information and belief, such aforementioned training exercises and evolutions required the Plaintiffs' Decedent, Peyton L.S. Morse, to crawl through a wooden box meant to represent a confined space.

33. During the aforesaid training exercises and evolutions, the Plaintiffs' Decedent, Peyton L.S. Morse, complained of shortness of breath and inability to breathe.

34. The Plaintiffs' Decedent, Peyton L.S. Morse, expressed such distress to instructors at the New York State Academy of Fire Science who were present, including the Defendant, Christopher Rea.

35. Plaintiffs' Decedent's complaints were made to one or more of the instructors present, including the Defendant, Christopher Rea.

36. Plaintiffs' Decedent's complaints should have been heard by one or more of the instructors present, including the Defendant, Christopher Rea.

37. Despite his complaints, the Plaintiffs' Decedent, Peyton L.S. Morse, was compelled by one or more of said instructors, including, upon information and belief, the Defendant, Christopher Rea, to continue the training exercise and evolution.

38. Said instructors, including the Defendant, Christopher Rea, ignored the Plaintiffs' Decedent, Peyton L.S. Morse's complaints of shortness of breath and inability to breathe.

39. The Defendant, Christopher Rea, failed to provide proper and safe instruction to the Plaintiffs' Decedent, Peyton L.S. Morse.

40. The Defendant, Christopher Rea, failed to provide proper and safe training to the Plaintiffs' Decedent, Peyton L.S. Morse.

41. The Defendant, Christopher Rea, failed to provide proper supervision to the Plaintiffs' Decedent, Peyton L.S. Morse.

42. The Defendant, Christopher Rea, failed to properly and timely assess the Plaintiffs' Decedent, Peyton L.S. Morse's condition and health.

43. The Defendant, Christopher Rea, failed to properly and timely assist the Plaintiffs' Decedent, Peyton L.S. Morse.

44. On the aforesaid date, time and place the Defendant, Christopher Rea, breached his aforementioned duty to the Plaintiffs' Decedent, Peyton L.S. Morse, resulting in the Plaintiffs' Decedent suffering certain severe and permanent injuries.

45. As a result of the foregoing, as set forth herein, the Plaintiffs' Decedent, Peyton L.S. Morse, suffered a major medical and/or cardiac event, resulting in certain catastrophic and permanent injuries.

46. The aforementioned injuries were caused and/or contributed to by the Defendant, Christopher Rea, who breached his aforementioned duties by negligently and carelessly failing to provide safe training; failing to provide proper instruction; failing to properly supervise the Plaintiffs' Decedent; failing to properly observe and monitor the Plaintiffs' Decedent during the training exercise(s) and evolution(s); failing to properly assess and monitor the well-being of recruits, and in particular, Peyton L.S. Morse; failing to properly assess and monitor the physical health and condition of Plaintiffs' Decedent; ignoring the Plaintiffs' Decedent's complaints; ignoring the Plaintiffs' Decedent's pleas for help; denying the requests of the Plaintiffs' Decedent to exit the training evolution due to severe respiratory distress; failing to appreciate the Plaintiffs' Decedent's serious medical condition; failing to immediately evacuate the Plaintiffs' Decedent from the training evolution for necessary medical care and treatment; failing to immediately provide proper and necessary medical care and attention; failing to ensure an

Automated External Defibrillator (AED) was present; and the Defendant, Christopher Rea, was in other ways negligent and careless.

47. As a direct and proximate result of the aforesaid negligence, carelessness, and breach of duty, the Plaintiffs' Decedent, Peyton L.S. Morse, was caused to sustain certain serious and catastrophic personal injuries, including but not limited to, difficulty breathing, respiratory distress, anoxia, fear, excruciating conscious pain and suffering; prolonged period of in-patient hospitalization, and death.

48. The aforesaid injuries, damages and the sequelae thereof, sustained by the Plaintiffs' Decedent, Peyton L.S. Morse, were caused by the negligent acts, omissions and/or conduct on the part of the Defendants, including the Defendant, Christopher Rea, and his negligent, careless and reckless acts and/or conduct, without any fault on the part of the Plaintiffs' Decedent contributing thereto.

49. By reason of the foregoing, the Plaintiffs' Decedent, Peyton L.S. Morse, has been severely injured and damaged, and the Plaintiffs demand judgment against the Defendants herein for a substantial sum of money therefore.

**AS AND FOR A SECOND, SEPARATE AND DISTINCT
CAUSE OF ACTION AGAINST DEFENDANT, BRUCE E.
HEBERER, HEREIN:**

50. Plaintiffs repeat all prior allegations.

51. On or about February 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, arrived at the New York State Academy of Fire Science for the purpose of receiving instruction and training to become a career firefighter.

52. The Plaintiffs' Decedent, Peyton L.S. Morse's instruction and training continued until March 3, 2021.

53. At all times herein relevant, the Defendant, Bruce E. Heberer, was engaged in providing instruction, training and supervision to recruits at said facility, including the Plaintiffs' Decedent, Peyton L.S. Morse.

54. At all times herein relevant, the Defendant, Bruce E. Heberer, represented himself as possessing appropriate training, education, and experience to properly and safely train recruits at the New York State Academy of Fire Science.

55. At all times herein relevant, the Defendant, Bruce E. Heberer, owed a duty to the Plaintiffs' Decedent, Peyton L.S. Morse, to provide proper and safe training and supervision.

56. At all times herein relevant, the Defendant, Bruce E. Heberer, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to properly, timely and appropriately instruct, train, supervise and/or monitor the Plaintiffs' Decedent.

57. At all times herein relevant, the Defendant, Bruce E. Heberer, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to exercise appropriate and reasonable care to supervise and monitor the Plaintiffs' Decedent during the course of training.

58. On or about March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was a recruit attending the New York State Academy of Fire Science in Montour Falls, New York.

59. On the afternoon of March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was participating in training exercises and evolutions at the New York State Academy of Fire Science conducted by Defendant, Bruce E. Heberer.

60. Upon information and belief, such aforementioned training exercises and evolutions required the Plaintiffs' Decedent, Peyton L.S. Morse, to crawl through a wooden box meant to represent a confined space.

61. During the aforesaid training exercises and evolutions, the Plaintiffs' Decedent, Peyton L.S. Morse, complained of shortness of breath and inability to breathe.

62. The Plaintiffs' Decedent, Peyton L.S. Morse, expressed such distress to instructors at the New York State Academy of Fire Science who were present, including the Defendant, Bruce E. Heberer.

63. Plaintiffs' Decedent's complaints were made to one or more of the instructors present including the Defendant, Bruce E. Heberer.

64. Plaintiffs' Decedent's complaints should have been heard by one or more of the instructors present, including the Defendant, Bruce E. Heberer.

65. Despite his complaints, the Plaintiffs' Decedent, Peyton L.S. Morse, was compelled by one or more of said instructors, including, upon information and belief, the Defendant, Bruce E. Heberer, to continue the training exercise and evolution.

66. Said instructors, including the Defendant, Bruce E. Heberer, ignored the Plaintiffs' Decedent, Peyton L.S. Morse's complaints of shortness of breath and inability to breathe.

67. The Defendant, Bruce E. Heberer, failed to provide proper and safe instruction to the Plaintiffs' Decedent, Peyton L.S. Morse.

68. The Defendant, Bruce E. Heberer, failed to provide proper and safe training to the Plaintiffs' Decedent, Peyton L.S. Morse.

69. The Defendant, Bruce E. Heberer, failed to provide proper supervision to the Plaintiffs' Decedent, Peyton L.S. Morse.

70. The Defendant, Bruce E. Heberer, failed to properly and timely assess the Plaintiffs' Decedent, Peyton L.S. Morse's condition and health.

71. The Defendant, Bruce E. Heberer, failed to properly and timely assist the Plaintiffs' Decedent, Peyton L.S. Morse.

72. On the aforesaid date, time and place the Defendant, Bruce E. Heberer, breached his aforementioned duty to the Plaintiffs' Decedent, Peyton L.S. Morse, resulting in the Plaintiffs' Decedent suffering certain severe and permanent injuries.

73. As a result of the foregoing, as set forth herein, the Plaintiffs' Decedent, Peyton L.S. Morse, suffered a major medical and/or cardiac event, resulting in certain catastrophic and permanent injuries.

74. The aforementioned injuries were caused and/or contributed to by the Defendant, Bruce E. Heberer, who breached his aforementioned duties by negligently and carelessly failing to provide safe training; failing to provide proper instruction; failing to properly supervise the Plaintiffs' Decedent; failing to properly observe and monitor the Plaintiffs' Decedent during the training exercise(s) and evolution(s); failing to properly assess and monitor the well-being of recruits, and in particular, Peyton L.S. Morse; failing to properly assess and monitor the physical health and condition of Plaintiffs' Decedent; ignoring the Plaintiffs' Decedent's complaints; ignoring the Plaintiffs' Decedent's pleas for help; denying the requests of the Plaintiffs' Decedent to exit the training evolution due to severe respiratory distress; failing to appreciate the Plaintiffs' Decedent's serious medical condition; failing to immediately evacuate the Plaintiffs' Decedent from the training evolution for necessary medical care and treatment; failing to immediately provide proper and necessary medical care and attention; failing to ensure an Automated External Defibrillator (AED) was present; and the Defendant, Bruce E. Heberer, was in other ways negligent and careless.

75. As a direct and proximate result of the aforesaid negligence, carelessness, and breach of duty, the Plaintiffs' Decedent, Peyton L.S. Morse, was caused to sustain certain serious and catastrophic personal injuries, including but not limited to, difficulty breathing, respiratory distress, anoxia, fear, excruciating conscious pain and suffering, prolonged period of in-patient hospitalization, and death.

76. The aforesaid injuries, damages and the sequelae thereof, sustained by the Plaintiffs' Decedent, Peyton L.S. Morse, were caused by the negligent acts, omissions and/or conduct on the part of the Defendants, including the Defendant, Bruce E. Heberer, and his negligent and reckless acts and/or conduct, without any fault on the part of the Plaintiffs' Decedent contributing thereto.

77. By reason of the foregoing, the Plaintiffs' Decedent, Peyton L.S. Morse, has been severely injured and damaged, and the Plaintiffs demand judgment against the Defendants herein for a substantial sum of money therefore.

**AS AND FOR A THIRD, SEPARATE AND DISTINCT
CAUSE OF ACTION AGAINST DEFENDANT, SCOTT P.
DENINNO, HEREIN:**

78. Plaintiffs repeat all prior allegations.

79. On or about February 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, arrived at the New York State Academy of Fire Science for the purpose of receiving instruction and training to become a career firefighter.

80. The Plaintiffs' Decedent, Peyton L.S. Morse's instruction and training continued until March 3, 2021.

81. At all times herein relevant, the Defendant, Scott P. Deninno, was engaged in providing instruction, training and supervision to recruits at said facility, including the Plaintiffs' Decedent, Peyton L.S. Morse.

82. At all times herein relevant, the Defendant, Scott P. Deninno, represented himself as possessing appropriate training, education, and experience to properly and safely train recruits at the New York State Academy of Fire Science.

83. At all times herein relevant, the Defendant, Scott P. Deninno, owed a duty to the Plaintiffs' Decedent, Peyton L.S. Morse, to provide proper and safe training and supervision.

84. At all times herein relevant, the Defendant, Scott P. Deninno, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to properly, timely and appropriately instruct, train, supervise and/or monitor the Plaintiffs' Decedent.

85. At all times herein relevant, the Defendant, Scott P. Deninno, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to exercise appropriate and reasonable care to supervise and monitor the Plaintiffs' Decedent during the course of his training.

86. On or about March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was a recruit attending the New York State Academy of Fire Science in Montour Falls, New York.

87. On the afternoon of March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was participating in training exercises and evolutions at the New York State Academy of Fire Science, conducted by Defendant, Scott P. Dennino.

88. Upon information and belief, such aforementioned training exercises and evolutions required the Plaintiffs' Decedent, Peyton L.S. Morse, to crawl through a wooden box meant to represent a confined space.

89. During the aforesaid training exercises and evolutions, the Plaintiffs' Decedent, Peyton L.S. Morse, complained of shortness of breath and inability to breathe.

90. The Plaintiffs' Decedent, Peyton L.S. Morse, expressed such distress to instructors at the New York State Academy of Fire Science who were present, including the Defendant, Scott P. Deninno.

91. Plaintiffs' Decedent's complaints were made to one or more of the instructors present, including the Defendant, Scott P. Deninno.

92. Plaintiffs' Decedent's complaints should have been heard by one or more of the instructors present, including the Defendant, Scott P. Deninno.

93. Despite his complaints, the Plaintiffs' Decedent, Peyton L.S. Morse, was compelled by one or more of said instructors, including, upon information and belief, the Defendant, Scott P. Deninno, to continue the training exercise and evolution.

94. Said instructors, including the Defendant, Scott P. Deninno, ignored the Plaintiffs' Decedent, Peyton L.S. Morse's complaints of shortness of breath and inability to breathe.

95. The Defendant, Scott P. Deninno, failed to provide proper and safe instruction to the Plaintiffs' Decedent, Peyton L.S. Morse.

96. The Defendant, Scott P. Deninno, failed to provide proper and safe training to the Plaintiffs' Decedent, Peyton L.S. Morse.

97. The Defendant, Scott P. Deninno, failed to provide proper supervision to the Plaintiffs' Decedent, Peyton L.S. Morse.

98. The Defendant, Scott P. Deninno, failed to properly and timely assess the Plaintiffs' Decedent, Peyton L.S. Morse's condition and health.

99. The Defendant, Scott P. Deninno, failed to properly and timely assist the Plaintiffs' Decedent, Peyton L.S. Morse.

100. On the aforesaid date, time and place the Defendant, Scott P. Deninno, breached his aforementioned duty to the Plaintiffs' Decedent, Peyton L.S. Morse, resulting in the Plaintiffs' Decedent suffering certain severe and permanent injuries.

101. As a result of the foregoing, as set forth herein, the Plaintiffs' Decedent, Peyton L.S. Morse, suffered a major medical and/or cardiac event, resulting in certain catastrophic and permanent injuries.

102. The aforementioned injuries were caused and/or contributed to by the Defendant, Scott P. Deninno, who breached his aforementioned duties by negligently and carelessly failing to provide safe training; failing to provide proper instruction; failing to properly supervise the Plaintiffs' Decedent; failing to properly observe and monitor the Plaintiffs' Decedent during the training exercise(s) and evolution(s); failing to properly assess and monitor the well-being of recruits, and in particular, Peyton L.S. Morse; failing to properly assess and monitor the physical health and condition of Plaintiffs' Decedent; ignoring the Plaintiffs' Decedent's complaints; ignoring the Plaintiffs' Decedent's pleas for help; denying the requests of the Plaintiffs' Decedent to exit the training evolution due to severe respiratory distress; failing to appreciate the Plaintiffs' Decedent's serious medical condition; failing to immediately evacuate the Plaintiffs' Decedent from the training evolution for necessary medical care and treatment; failing to immediately provide proper and necessary medical care and attention; failing to ensure an Automated External Defibrillator (AED) was present; and the Defendant, Scott P. Deninno, was in other ways negligent and careless.

103. As a direct and proximate result of the aforesaid negligence, carelessness, and breach of duty, the Plaintiffs' Decedent, Peyton L.S. Morse, was caused to sustain certain serious and catastrophic personal injuries, including but not limited to, difficulty breathing, respiratory distress, anoxia, fear, severe and excruciating conscious pain and suffering, prolonged period of in-patient hospitalization, and death.

104. The aforesaid injuries, damages and the sequelae thereof, sustained by the Plaintiffs' Decedent, Peyton L.S. Morse, were caused by the negligent acts, omissions and/or conduct on the part of the Defendants, including the Defendant, Scott P. Deninno, and his negligent, careless and reckless acts and/or conduct, without any fault on the part of the Plaintiffs' Decedent contributing thereto.

105. By reason of the foregoing, the Plaintiffs' Decedent, Peyton L.S. Morse, has been severely injured and damaged, and the Plaintiffs demand judgment against the Defendants herein for a substantial sum of money therefore.

**AS AND FOR A FOURTH, SEPARATE AND DISTINCT
CAUSE OF ACTION AGAINST DEFENDANT, WARREN T.
WARD, HEREIN:**

106. Plaintiffs repeat all prior allegations.

107. On or about February 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, arrived at the New York State Academy of Fire Science for the purpose of receiving instruction and training to become a career firefighter.

108. The Plaintiffs' Decedent, Peyton L.S. Morse's instruction and training continued until March 3, 2021.

109. At all times herein relevant, the Defendant, Warren T. Ward, was engaged in providing instruction, training and supervision to recruits at said facility, including the Plaintiffs' Decedent, Peyton L.S. Morse.

110. At all times herein relevant, the Defendant, Warren T. Ward, represented himself as possessing appropriate training, education, and experience to properly and safely train recruits at the New York State Academy of Fire Science.

111. At all times herein relevant, the Defendant, Warren T. Ward, owed a duty to the Plaintiffs' Decedent, Peyton L.S. Morse, to provide proper and safe training and supervision.

112. At all times herein relevant, the Defendant, Warren T. Ward, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to properly, timely and appropriately instruct, train, supervise and/or monitor the Plaintiffs' Decedent.

113. At all times herein relevant, the Defendant, Warren T. Ward, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to exercise appropriate and reasonable care to supervise and monitor the Plaintiffs' Decedent during the course of his training.

114. On or about March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was a recruit attending the New York State Academy of Fire Science in Montour Falls, New York.

115. On the afternoon of March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was participating in training exercises and evolutions at the New York State Academy of Fire Science, conducted by the Defendant, Warren T. Ward.

116. Upon information and belief, such aforementioned training exercises and evolutions required the Plaintiffs' Decedent, Peyton L.S. Morse, to crawl through a wooden box meant to represent a confined space.

117. During the aforesaid training exercises and evolutions, the Plaintiffs' Decedent, Peyton L.S. Morse, complained of shortness of breath and inability to breathe.

118. The Plaintiffs' Decedent, Peyton L.S. Morse, expressed such distress to instructors at the New York State Academy of Fire Science who were present, including the Defendant, Warren T. Ward.

119. Plaintiffs' Decedent's complaints were made to one or more of the instructors present including the Defendant, Warren T. Ward.

120. Plaintiffs' Decedent's complaints should have been heard by one or more of the instructors present, including the Defendant, Warren T. Ward.

121. Despite his complaints, the Plaintiffs' Decedent, Peyton L.S. Morse, was compelled by one or more of said instructors, including, upon information and belief, the Defendant, Warren T. Ward, to continue the training exercise and evolution.

122. Said instructors, including the Defendant, Warren T. Ward, ignored the Plaintiffs' Decedent, Peyton L.S. Morse's complaints of shortness of breath and inability to breathe.

123. The Defendant, Warren T. Ward, failed to provide proper and safe instruction to the Plaintiffs' Decedent, Peyton L.S. Morse.

124. The Defendant, Warren T. Ward, failed to provide proper and safe training to the Plaintiffs' Decedent, Peyton L.S. Morse.

125. The Defendant, Warren T. Ward, failed to provide proper supervision to the Plaintiffs' Decedent, Peyton L.S. Morse.

126. The Defendant, Warren T. Ward, failed to properly and timely assess the Plaintiffs' Decedent, Peyton L.S. Morse's condition and health.

127. The Defendant, Warren T. Ward, failed to properly and timely assist the Plaintiffs' Decedent, Peyton L.S. Morse.

128. On the aforesaid date, time and place the Defendant, Warren T. Ward, breached his aforementioned duty to the Plaintiffs' Decedent, Peyton L.S. Morse, resulting in the Plaintiffs' Decedent suffering certain severe and permanent injuries.

129. As a result of the foregoing, as set forth herein, the Plaintiffs' Decedent, Peyton L.S. Morse, suffered a major medical and/or cardiac event, resulting in certain catastrophic and permanent injuries.

130. The aforementioned injuries were caused and/or contributed to by the Defendant, Warren T. Ward, who breached his aforementioned duties by negligently and carelessly failing to provide safe training; failing to provide proper instruction; failing to properly supervise the Plaintiffs' Decedent; failing to properly observe and monitor the Plaintiffs' Decedent during the training exercise(s) and evolution(s); failing to properly assess and monitor the well-being of recruits, and in particular, Peyton L.S. Morse; failing to properly assess and monitor the physical health and condition of Plaintiffs' Decedent; ignoring the Plaintiffs' Decedent's complaints; ignoring the Plaintiffs' Decedent's pleas for help; denying the requests of the Plaintiffs' Decedent to exit the training evolution due to severe respiratory distress; failing to appreciate the Plaintiffs' Decedent's serious medical condition; failing to immediately evacuate the Plaintiffs' Decedent from the training evolution for necessary medical care and treatment; failing to immediately provide proper and necessary medical care and attention; failing to ensure an Automated External Defibrillator (AED) was present; and the Defendant, Warren T. Ward, was in other ways negligent and careless.

131. As a direct and proximate result of the aforesaid negligence, carelessness, and breach of duty, the Plaintiffs' Decedent, Peyton L.S. Morse, was caused to sustain certain serious and catastrophic personal injuries, including but not limited to, difficulty breathing, respiratory distress, anoxia, fear, severe and excruciating conscious pain and suffering, prolonged period of in-patient hospitalization, and death.

132. The aforesaid injuries, damages and the sequelae thereof, sustained by the Plaintiffs' Decedent, Peyton L.S. Morse, were caused by the negligent acts, omissions and/or conduct on the part of the Defendants, including the Defendant, Warren T. Ward, and his negligent, careless and reckless acts and/or conduct, without any fault on the part of the Plaintiffs' Decedent contributing thereto.

133. By reason of the foregoing, the Plaintiffs' Decedent, Peyton L.S. Morse, has been severely injured and damaged, and the Plaintiffs demand judgment against the Defendants herein for a substantial sum of money therefore.

**AS AND FOR A FIFTH, SEPARATE AND DISTINCT
CAUSE OF ACTION AGAINST DEFENDANT, DUSTIN
CONTRI, HEREIN:**

134. Plaintiffs repeat all prior allegations.

135. On or about February 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, arrived at the New York State Academy of Fire Science for the purpose of receiving instruction and training to become a career firefighter.

136. The Plaintiffs' Decedent, Peyton L.S. Morse's instruction and training continued until March 3, 2021.

137. At all times herein relevant, the Defendant, Dustin Contri, engaged in providing instruction, training and supervision to recruits at said facility, including the Plaintiffs' Decedent, Peyton L.S. Morse.

138. At all times herein relevant, the Defendant, Dustin Contri, was responsible for the supervision, management, control and oversight of the instructors at the New York State Academy of Fire Science, including the named Defendants herein.

139. At all times herein relevant, the Defendant, Dustin Contri, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to properly supervise, manage, control and provide oversight of instructors.

140. At all times herein relevant, the Defendant, Dustin Contri, represented himself as possessing appropriate training, education, and experience to properly and safely train recruits at the New York State Academy of Fire Science.

141. At all times herein relevant, the Defendant, Dustin Contri, owed a duty to the Plaintiffs' Decedent, Peyton L.S. Morse, to provide proper and safe training and supervision.

142. At all times herein relevant, the Defendant, Dustin Contri, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to properly, timely and appropriately instruct, train, supervise and/or monitor the Plaintiffs' Decedent.

143. At all times herein relevant, the Defendant, Dustin Contri, owed the Plaintiffs' Decedent, Peyton L.S. Morse, a duty to exercise appropriate and reasonable care to supervise and monitor the Plaintiffs' Decedent during the course of his training.

144. On or about March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was a recruit attending the New York State Academy of Fire Science in Montour Falls, New York.

145. On the afternoon of March 3, 2021, the Plaintiffs' Decedent, Peyton L.S. Morse, was participating in training exercises and evolutions at the New York State Academy of Fire Science.

146. Upon information and belief, such aforementioned training exercises and evolutions required the Plaintiffs' Decedent, Peyton L.S. Morse, to crawl through a wooden box meant to represent a confined space.

147. During the aforesaid training exercises and evolutions, the Plaintiffs' Decedent, Peyton L.S. Morse, complained of shortness of breath and inability to breathe.

148. The Plaintiffs' Decedent, Peyton L.S. Morse, expressed such distress to instructors at the New York State Academy of Fire Science who were present.

149. Plaintiffs' Decedent's complaints should have been heard by one or more of the instructors present, including the Defendants herein.

150. Despite his complaints, the Plaintiffs' Decedent, Peyton L.S. Morse, was compelled by one or more of said instructors to continue the training exercise and evolution.

151. Said instructors ignored the Plaintiffs' Decedent, Peyton L.S. Morse's complaints of shortness of breath and inability to breathe.

152. The Defendant, Dustin Contri, failed to provide proper and safe instruction to the Plaintiffs' Decedent, Peyton L.S. Morse.

153. The Defendant, Dustin Contri, failed to provide proper and safe training to the Plaintiffs' Decedent, Peyton L.S. Morse.

154. The Defendant, Dustin Contri, failed to provide proper supervision to the Plaintiffs' Decedent, Peyton L.S. Morse.

155. The Defendant, Dustin Contri, failed to properly and timely assess the Plaintiffs' Decedent, Peyton L.S. Morse's condition and health.

156. The Defendant, Dustin Contri, failed to properly and timely assist the Plaintiffs' Decedent, Peyton L.S. Morse.

157. The Defendant, Dustin Contri, failed to properly supervise, manage, control and provide oversight to the instructors who were providing training and instruction to Plaintiffs' Decedent.

158. On the aforesaid date, time and place the Defendant, Dustin Contri, breached his aforementioned duty to the Plaintiffs' Decedent, Peyton L.S. Morse, resulting in the Plaintiffs' Decedent suffering certain severe and permanent injuries.

159. As a result of the foregoing, as set forth herein, the Plaintiffs' Decedent, Peyton L.S. Morse, suffered a major medical and/or cardiac event, resulting in certain catastrophic and permanent injuries.

160. The aforementioned injuries were caused and/or contributed to by the Defendant, Dustin Contri, who breached his aforementioned duties by negligently and carelessly failing to provide safe training; failing to provide proper instruction; failing to properly supervise the Plaintiffs' Decedent; failing to properly observe and monitor the Plaintiffs' Decedent during the training exercise(s) and evolution(s); failing to properly assess and monitor the well-being of recruits, and in particular, Peyton L.S. Morse; failing to properly assess and monitor the physical health and condition of Plaintiffs' Decedent; ignoring the Plaintiffs' Decedent's complaints; ignoring the Plaintiffs' Decedent's pleas for help; denying the requests of the Plaintiffs' Decedent to exit the training evolution due to severe respiratory distress; failing to appreciate the Plaintiffs' Decedent's serious medical condition; failing to immediately evacuate the Plaintiffs'

Decedent from the training evolution for necessary medical care and treatment; failing to immediately provide proper and necessary medical care and attention; failing to ensure an Automated External Defibrillator (AED) was present; and the Defendant, Dustin Contri, was in other ways negligent and careless.

161. As a direct and proximate result of the aforesaid negligence, carelessness, and breach of duty, the Plaintiffs' Decedent, Peyton L.S. Morse, was caused to sustain certain serious and catastrophic personal injuries, including but not limited to, difficulty breathing, respiratory distress, anoxia, fear, severe and excruciating conscious pain and suffering, prolonged period of in-patient hospitalization, and death.

162. The aforesaid injuries, damages and the sequelae thereof, sustained by the Plaintiffs' Decedent, Peyton L.S. Morse, were caused by the negligent, careless and reckless acts, omissions and/or conduct on the part of the Defendants, including the Defendant, Dustin Contri, and his negligent, careless and reckless acts and/or conduct, without any fault on the part of the Plaintiffs' Decedent contributing thereto.

163. By reason of the foregoing, the Plaintiffs' Decedent, Peyton L.S. Morse, has been severely injured and damaged, and the Plaintiffs demand judgment against the Defendants herein for a substantial sum of money therefore.

**AS AND FOR A SIXTH, SEPARATE AND DISTINCT
CAUSE OF ACTION**

164. Plaintiffs repeat all prior allegations herein.

165. By reason of the aforesaid negligent, careless, and reckless acts, omissions and/or conduct of the Defendants, Christopher Rea, Bruce E. Heberer, Scott P. Deninno, Warren T. Ward and/or Dustin Contri, the Plaintiffs' Decedent, Peyton L.S. Morse, sustained certain

serious and catastrophic personal injuries, which ultimately caused his death on or about March 12, 2021.

166. As a proximate result of the foregoing, the Plaintiffs' Decedent, Peyton L.S. Morse, left several surviving next of kin and distributees, including the Plaintiffs herein, David M. Morse and Stacy Snyder-Morse.

167. At the time of his death, the Plaintiffs' Decedent, Peyton L.S. Morse, was twenty-one (21) years of age and had been, prior to the aforesaid negligence, in good health, and was, at all times herein relevant, alert, active, industrious and in possession of his faculties.

168. At all times herein relevant, the Plaintiffs, David M. Morse and Stacy Snyder-Morse, as the parents of the Plaintiffs' Decedent, Peyton L.S. Morse, were entitled to his society, love, companionship, and affection.

169. The Plaintiffs' Decedent's distributees, including the Plaintiffs, David M. Morse and Stacy Snyder-Morse, have suffered substantial pecuniary loss and damages as a result of the Plaintiff's Decedent's death.

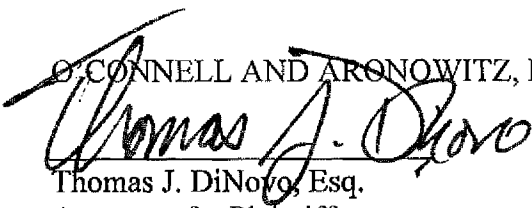
170. The Plaintiffs' Decedent's death was caused by the negligent acts, omissions and/or commissions on the part of the Defendants herein, without any fault on the part of the Plaintiffs' Decedent contributing thereto.

171. By reason of the foregoing, the Plaintiffs' Decedent's next of kin and distributees, including the Plaintiffs, David M. Morse and Stacy Snyder-Morse, have suffered substantial pecuniary loss and other damages, and demand judgment against the Defendants herein in a substantial sum of money therefore.

WHEREFORE, Plaintiffs demands judgment against the Defendants herein on the First, Second, Third, Fourth, Fifth, and Sixth Causes of Action herein, in a substantial sum of money;

together with the costs of disbursements of this action, and for such other and further relief as this Court may deem just and proper.

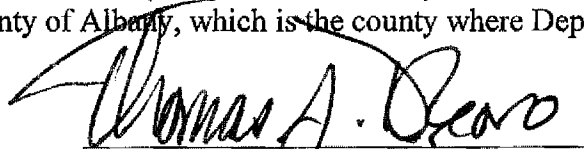
DATED: March 10, 2023

O'CONNELL AND ARONOWITZ, P.C.
By: 
Thomas J. DiNovo, Esq.
Attorneys for Plaintiffs
Office & P.O. Address
54 State Street
Albany, New York 12207
(518)-462-5601

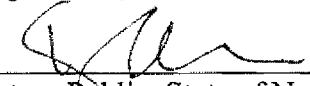
STATE OF NEW YORK)
)ss.:
COUNTY OF ALBANY)

THOMAS J. DINOVO, being duly sworn, deposes and says that he is an attorney-at-law and is a member of the law firm of O'Connell and Aronowitz, P.C., attorneys for the Plaintiffs; that he has read the foregoing Complaint and knows the contents thereof; that the same is true to the knowledge of deponent, except as to those matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

The reason why this verification is made by Deponent and not by the Plaintiffs, is that the Plaintiffs do not reside within the County of Albany, which is the county where Deponent has his offices.


Thomas J. DiNovo

Sworn to before me this
10th day of March, 2023.



Notary Public, State of New York

TRACEY A. CARTER
Notary Public, State of New York
Qualified in Albany County No. 01CA6357957
Commission Expires May 01, 2025