

**DISTRICT COURT
ARAPHOE COUNTY
STATE OF COLORADO**

7325 S. Potomac Street
Centennial, CO 80112

DATE FILED: August 10, 2022 1:35 PM
FILING ID: 883CA733931A4
CASE NUMBER: 2022CV31512

Plaintiff: **TODD BLITSTEIN, an individual, and as personal representative of the Estate of Peyton Tyler Blitstein, deceased,**

v.

Defendant: **ADAM GREGORY HOLEN**

▲ COURT USE ONLY ▲

Attorneys for Plaintiff:

S. Birk Baumgartner, #47829
Sean M. Simeson, Esq., #47675
BAUMGARTNER LAW, LLC
300 E. Hampden Ave., Ste. 401
Englewood, CO 80113
Telephone: (303) 529-3476
birk@baumgartnerlaw.com
sean@baumgartnerlaw.com

Case No.:

Div.:

COMPLAINT AND JURY DEMAND

Comes Now Plaintiff Todd Blitstein, by and through counsel, Baumgartner Law, and for his Complaint against the above-named Defendant states as follows:

PARTIES, JURISDICTION AND VENUE

1. At all times relevant hereto, Plaintiff Todd Blitstein was a resident of the State of Colorado, residing at 24723 E. Kansas Circle, Aurora, Colorado 80018. Plaintiff is the father of Peyton Blitstein, deceased, and the duly appointed Personal Representative of the Estate of Peyton Blitstein, case number 2021PR31341 in Arapahoe County, Colorado.
2. At all times relevant hereto, Defendant Adam Gregory Holen (hereinafter "Defendant") was a resident of the State of Colorado, residing at 4998 S. Addison Way, Aurora, Colorado 80016.
3. Venue is proper in this county pursuant to C.R.C.P. 98 because the alleged torts that form the basis of this action occurred in this county.

GENERAL ALLEGATIONS

4. Plaintiff hereby incorporates all preceding paragraphs by reference as if fully set forth herein.
5. This action includes claims brought by Todd Blitstein pursuant to C.R.S. § 13-21-202 for the wrongful death of his 17-year-old son, Peyton. Plaintiff is the proper party to bring this action pursuant to C.R.S. § 13-21-201(1)(c), and other relevant Colorado authority.
6. At the time of the subject incident, Peyton Blitstein was a 17-year-old boy who resided in Aurora, Colorado with his grandmother and father.
7. At the time of the subject incident, Defendant, who had just recently resigned his position as a Greenwood Village Police Department officer for unknown reasons, was a resident of Aurora, Colorado.
8. On November 24, 2021, Peyton Blitstein was shot and killed in an altercation with Defendant.
9. Peyton's death is tragic and was utterly unnecessary, brought on by an overzealous neighbor who felt it was his duty to provide security to the neighborhood by chasing down teenagers he believed were being too loud or boisterous.
10. On the evening of Peyton's death, he was riding in the back seat of a vehicle being driven by his friend, Bethany. Three other friends were in the car as well.
11. Bethany stopped outside her house at 4937 S. Addison Way, Aurora, Colorado, which is just a few doors down from Defendant's house, to change before she, Peyton, and their friends continued.
12. Prior to the altercation, Defendant had been watching a hockey game at his sister's house, and as he drove home, he observed the vehicle being driven by Bethany in which Peyton was a passenger – a red Toyota Scion.
13. Defendant felt the Toyota Scion cut him off as the road merged into a single lane and he followed the Toyota Scion through the neighborhood.
14. When the Toyota Scion stopped in front of Bethany's house, Defendant pulled up behind the Toyota Scion, blocking one of the avenues of exit.
15. Two of the teens in the vehicle, Bethany and Terence, got out of the vehicle and were standing on the front porch.
16. Defendant told Peyton and the others "This is my neighborhood." Defendant further

remarked to Bethany, a 16-year-old girl, "I love you sweetie!"

17. Peyton and Terence were standing outside of the Toyota Scion on the passenger side closest to the front porch.

18. The group of teens told Defendant to leave the area and leave them alone.

19. Defendant then displayed a handgun and pointed it at least one of the teenagers.

20. Defendant then exited his truck quickly with his loaded gun in his hand and began walking around the back of his vehicle.

21. Defendant said, "Fuck these kids, man." Defendant was in a highly agitated state.

22. As Defendant came around the back of his vehicle, the gun was again pointed outward from his body towards Peyton and Terence.

23. Peyton, who was also armed, perceived the threat and, remarkably, was able to shoot towards Defendant in an act of self-defense before Defendant began firing.

24. Defendant continued advancing on Peyton and fired nine (9) shots striking Peyton multiple times.

25. Peyton fell to the ground, bleeding from multiple gunshot wounds.

26. Terence and the other teens began screaming in terror as they watched their friend get shot in front of their eyes.

27. Defendant was heard stating "Wow, what did I do?"

28. Defendant retreated to his truck, then drove it back to his home and parked it in the driveway while a young man lay dying on the street.

29. Amber Roseborough, the mother of Bethany, and resident of 4937 S. Addison Way heard the shooting and immediately ran outside. Ms. Roseborough immediately began performing CPR on Peyton.

30. Officers and medical support began arriving on scene and took over life-saving measures. Peyton shirt was cut off to reveal at least four (4) gunshot wounds to his chest and one to his left arm.

31. Peyton was transported to Parker Adventist Hospital for immediate medical attention.

32. Dr. Byrd of Parker Adventist Hospital pronounced Peyton deceased at 11:11 p.m. on

November 24, 2022.

33. Peyton was 17 years old when he died.
34. Peyton grew up in Colorado and spent the majority of his childhood with his father, Todd Blitstein, and grandmother, Linda.
35. Peyton's ultimate desire was to become a fighter pilot in the U.S. Air Force.
36. Prior to his death, Peyton was employed at Walmart, McJordan Consulting Services & Facilities Solutions Group LLC, and Addis & Company.
37. Defendant owed a duty to exercise reasonable care with respect to known, anticipated, or potential risks that would be known in the exercise of reasonable care with regard to wielding a firearm.
38. Defendant unreasonably failed to exercise even the slightest amount of care in protecting others, such as Peyton Blitstein, from the dangers of being injured or killed as the result of a wielding a firearm during a confrontation he initiated.
39. Peyton Blitstein was not comparatively negligent in causing his own death, or Plaintiff's damages or losses.
40. As a direct and proximate result of Defendant's actions and/or omissions, Plaintiff suffered, and continues to suffer from, significant injuries, damages, and losses.

FIRST CLAIM FOR RELIEF
Wrongful Death (C.R.S. § 13-21-202)

41. Plaintiff hereby incorporates all preceding paragraphs by reference as if fully set forth herein.
42. Plaintiff is Peyton Blitstein's father and is entitled to bring a wrongful death claim as the decedent's father as provided by C.R.S. § 13-21-201(c).
43. In a wrongful death action, a plaintiff must prove that the tortfeasor negligently caused the decedent's death. C.R.S. § 13-21-202.
44. The elements of a claim of negligence consist of the following: a duty owed by the defendant to the plaintiff, a breach of that duty, injury to the plaintiff, and a proximate cause between the breach and the injury. *Casebolt v. Cowan*, 829 P.2d 352, 356 (Colo.1992).
45. Defendant owed Plaintiffs a duty to exercise reasonable care in light of the apparent risk to

avoid injury or damage to others while being armed during a tense confrontation that was precipitated by his own actions.

46. Defendant breached his duty of care by unreasonably failing to use reasonable care to protect others, including Peyton Blitstein, against the danger posed by carrying a weapon under these circumstances.

47. Defendant's breach includes, but is not limited to:

- a. Following the group of teenagers while armed;
- b. The failure to de-escalate the argument with a group of teenagers over their alleged speeding in the neighborhood;
- c. The decision to display and aim the handgun at the children;
- d. The decision to get out of the vehicle and advance on the children with a loaded weapon;
- e. The failure to reasonably leave the scene and call the police, if Defendant felt threatened;
- f. The unreasonable failure to stop shooting after he began firing.

48. Plaintiff has suffered economic damages as the result of Peyton's tragic death, including funeral expenses, burial expenses, and the financial benefit Plaintiff reasonably expected to receive from the decedent had he lived. In addition, Plaintiff has suffered, and continues to suffer from, non-economic damages stemming from the loss of his son, including grief, loss of companionship, pain and suffering, and emotional stress.

49. Plaintiff's damages are the direct and proximate result of Defendant's breach. Plaintiff's damages are a foreseeable consequence of Defendant's unreasonable failure to use even the slightest degree of care under the circumstances.

SECOND CLAIM FOR RELIEF
Survival Action (C.R.S. § 13-20-101)

50. Plaintiff hereby incorporates all preceding paragraphs by reference as if fully set forth herein.

51. Plaintiff, Todd Blitstein, is the duly appointed personal representative of the Estate of Peyton Blitstein, case number 2021PR31341, with the right to bring a survival action on behalf of the Estate pursuant to C.R.S. § 13-20-101.

52. Decedent Peyton Blitstein was shot at approximately 10:28 p.m. Peyton was transported to Parker Adventist Hospital where he was pronounced deceased at 11:11 p.m.

53. As a direct and proximate result of Defendant's negligence, Decedent Peyton Blitstein suffered a painful, unnecessarily protracted death.

54. After being shot by Defendant, Decedent Peyton Blitstein incurred expenses that are recoverable in this action by his Estate. These expenses include:

- a. expenses for medical, hospital, and related services to treat Peyton's injuries; and
- b. funeral/burial expenses.

WHEREFORE, Plaintiff prays for judgment against Defendant in an amount to be determined that will fully, adequately and justly compensate her for all damages she has sustained including economic and non-economic damages, harms and losses, all damages as provided for under Colorado law, including, but not limited to, C.R.S. § 13-20-101 (Survival Statute) and Colorado's Wrongful Death Act, as well as all costs, including expert witness fees, interest, moratory interest, attorneys fees as allowed by law, and such other and further relief as the Court may deem just and proper.

PLAINTIFF DEMANDS TRIAL TO A JURY OF SIX (6)

Dated this 10th day of August, 2022.

Respectfully submitted,
BAUMGARTNER LAW, LLC

s/ Sean M. Simeson
Sean M. Simeson

Plaintiff's Address:

c/o Baumgartner Law, LLC
300 E. Hampden Ave., Ste. 401
Englewood, CO 80113