

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY,
FLORIDA

JOHN A. VEITCH
as Personal Representative of the
Estate of FREDIA ANN VEITCH,
deceased,

CASE NO.

Plaintiff,

vs.

JAMES J. LEYRITZ

Defendant.

COMPLAINT FOR WRONGFUL DEATH

Plaintiff, JOHN A. VEITCH as Personal Representatives of the Estate of FREDIA ANN VEITCH, sues Defendant, JAMES J. LEYRITZ (ALEYRITZ@), and alleges:

1. This an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00) exclusive of interest and costs.
2. At all times material hereto the Defendant, LEYRITZ, was an individual over eighteen years of age who is sui juris residing in, Davie, Broward County, Florida.
3. Venue is proper in Broward County, Florida because the motor vehicle accident which is the subject of this complaint occurred in Broward County, Florida.
4. The Plaintiff, JOHN A. VEITCH, is the duly appointed personal representative of the Estate of FREDIA ANN VEITCH, deceased, and a copy of the Letters of Administration, is attached hereto as Exhibit "A".
5. That this action is brought pursuant to the Florida Wrongful Death Act and the

potential beneficiaries of a recovery in this matter are: Jordan Veitch, Surviving Spouse, date of birth April 24, 1978; surviving child, KAYLA O=KEEFE, date of birth September 12, 1994; surviving child, JULIAN VEITCH, date of birth November 12, 2002

6. FREDIA ANN VEITCH was born on June 13, 1977.

7. LEYRITZ was born on December 27, 1963.

8. On or about December 28, 2007, at approximately 3:20 am LEYRITZ owned, maintained, and operated a 2006 Ford Expedition (ALEYRITZ vehicle@) (VIN 1FMPU17556LA61115; Tag No. W38-XVF) northbound on S.W. Seventh Avenue south of S.W. Second Street in Fort Lauderdale, Broward County, Florida.

9. On the evening of December 27, 2007 and the early morning hours of December 28, 2007, LEYRITZ decided to celebrate his birthday by driving himself in the LEYRITZ vehicle to local establishments in Fort Lauderdale, Florida, and consumed alcoholic beverages to the point of intoxication well in excess of the legal limit of .08g%.

10. On the evening of December 27, 2007 and the early morning hours of December 28, 2007, LEYRITZ celebrated his birthday at a bar known as Blue Martini in the Galleria Mall on East Sunrise Boulevard where he was joined by friends and consumed alcoholic beverages.

11. LEYRITZ proceeded to drive himself and others from Blue Martini to another local establishment known as Automatic Slims to continue to celebrate his birthday and consume more alcoholic beverages.

12. After 3:00 a.m., in the early morning hours of December 28, 2007, LEYRITZ, after consuming alcoholic beverages in excess, proceeded to operate the LEYRITZ vehicle to drive himself

and another person from Automatic Slims towards a destination along the Seventeenth Street Causeway, which is to the south and east of Automatic Slims.

13. At that time, LEYRITZ proceeded to operate a motor vehicle while he was intoxicated with a blood alcohol content well in excess of the legal limit of .08g%.

14. Immediately prior to the accident that is the subject of this Complaint the LEYRITZ vehicle was traveling North along S.W. Seventh Avenue approaching S.W. Second Street (At the intersection@).

15. The LEYRITZ vehicle approached the intersection of S.W. Seventh Avenue and S.W. Second Street on a red light.

16. As the LEYRITZ vehicle approached the intersection of S.W. Seventh Avenue and S.W. Second Street, FREDIA ANN VEITCH had already entered the intersection traveling from East to West on a green light while operating a green 2000 Mitsubishi Montero, the VEITCH vehicle.

17. The LEYRITZ vehicle proceeded through the red light into the intersection at the same time as the VEITCH vehicle was in the intersection.

18. The front of the LEYRITZ vehicle impacted with the left rear quarter panel of the VEITCH vehicle with such force that the VEITCH vehicle veered to the right and rolled onto its right side, impacted a fence/gate and came to a final rest facing eastbound on the North swale of S.W. Second Street, West of S.W. Seventh Avenue.

19. FREDIA ANN VEITCH was ejected from the VEITCH vehicle.

20. After the point of impact, LEYRITZ continued to operate the LEYRITZ vehicle northbound along S.W. Seventh Avenue towards Broward Boulevard for several blocks across all

lanes of travel, both northbound and southbound and finally drove the LEYRITZ vehicle into the parking lot of a Burger King restaurant at the corner of S.W. Seventh Avenue and Broward Boulevard, which was out of view of the scene of the accident.

21. After the accident, LEYRITZ returned to the scene and viewed the damage that he had caused.

22. After the accident LEYRITZ identified himself to witnesses and police officers as the operator of the LEYRITZ vehicle.

23. Investigating officers noted that LEYRITZ had red watery eyes, flushed face, and the odor of an alcoholic beverage coming from his person.

24. LEYRITZ voluntarily submitted to, and subsequently failed, the HGN (nystagmus) test due to intoxication.

25. LEYRITZ voluntarily submitted to, and subsequently failed, the Walk and turn test due to intoxication.

26. LEYRITZ voluntarily submitted to, and subsequently failed, the Romberg test due to intoxication.

27. FREDIA ANN VEITCH died at Broward General Medical Center at approximately 4:08 a.m. on December 28, 2007, due to her injuries.

28. A forced blood draw was taken without the consent of LEYRITZ. The forced blood draw demonstrated a blood alcohol content of .14g% at 6:10 a.m. and .13g% at 7:12 a.m. on the morning of December 28, 2007.

29. LEYRITZ violated F.S. '316.072; F.S. '316.074(1) and F.S. '316.075 (1)(c)1

concerning failure to stop before entering an intersection facing a steady red traffic control signal.

30. LEYRITZ violated F.S. '316.193(3)(c)(1) concerning DUI with property damage.

31. LEYRITZ violated F.S. ' 316.193(3)(c)(3)(a) concerning DUI causing death to FREDIA ANN VEITCH.

32. LEYRITZ is personally guilty of intentional misconduct and/or gross negligence, acted with willful, wanton, and reckless disregard for the life, health, and safety of FREDIA ANN VEITCH through the operation of the LEYRITZ vehicle while intoxicated with a blood alcohol content in excess of .08g% causing her wrongful death.

33. LEYRITZ=s conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct, including FREDIA ANN VEITCH.

34. LEYRITZ had actual knowledge of the wrongfulness of his conduct and the high probability that injury or damage would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in the death of FREDIA ANN VEITCH.

35. Pursuant to F.S. ' 768.736, limitations on punitive damages do not apply because, at the time of the act or omission for which punitive damages are sought, LEYRITZ was under the influence of an alcoholic beverage to the extent that the Defendant=s normal faculties were impaired, or who had a blood or breath alcohol level of 0.08g% or higher should a claim for punitive damages be asserted at a later date.

COUNT I

WRONGFUL DEATH AGAINST JAMES J. LEYRITZ

Plaintiff realleges and reincorporates the allegations set forth in paragraphs 1 through 35 herein.

36. At all times material hereto, LEYRITZ had a duty to use due care in the operation of his motor vehicle.

37. At all times material hereto, LEYRITZ had a duty to keep a proper lookout for other vehicles on the road and use due care in the operation of the LEYRITZ vehicle.

38. At the time and place described above JAMES J. LEYRITZ breached his duty by negligently and recklessly operating and/or maintaining the LEYRITZ vehicle by running a red light and crashing into FREDIA ANN VEITCH's vehicle, a 2000 Mitsubishi at the intersection of S.W. Second Street and S.W. Seventh Avenue in Fort Lauderdale, Broward County, Florida.

39. At that time and place, JAMES J. LEYRITZ exercised willful, wanton, and reckless disregard for the life and safety of FREDIA ANN VEITCH because he was intoxicated and driving under the influence.

40. At the time and place described above and as a direct and proximate result of the negligence and/or reckless driving of LEYRITZ by driving the LEYRITZ vehicle while intoxicated, under the influence of alcohol and running a red light, LEYRITZ caused the LEYRITZ vehicle to collide with the VEITCH vehicle that FREDIA ANN VEITCH was driving.

41. At the time and place described above and as a direct and proximate result of the negligence and/or reckless driving of LEYRITZ the decedent, FREDIA ANN VEITCH, was severely injured and as a further direct and proximate result of LEYRITZ's negligence FREDIA ANN VEITCH died.

42. That as a direct and proximate result of the negligence of the Defendant, LEYRITZ, Jordan Veitch, as surviving spouse of FREDIA ANN VEITCH, has sustained the following damages:

- a. He has, in the past and will in the future, suffer great mental pain and suffering.
- b. He has, in the past and will in the future, suffer the loss of the companionship and protection of his wife, FREDIA ANN VEITCH.
- c. He has, in the past and will in the future, be deprived of the services of his wife, FREDIA ANN VEITCH.
- d. Medical and funeral expenses which he has paid for on behalf of his wife, FREDIA ANN VEITCH.

43. That as a direct and proximate result of the negligence of the Defendant, LEYRITZ, as aforesaid, Kayla O=Keefe, surviving minor daughter of FREDIA ANN VEITCH, has sustained the following damages:

- a. She has, in the past and will in the future, suffer great mental pain and suffering.
- b. She has, in the past and will in the future, suffer the loss of parental companionship, instruction, and guidance.
- c. She has, in the past and will in the future, be deprived of the services of
her mother, FREDIA ANN
VEITCH.

44. That as a direct and proximate result of the negligence of the Defendant, LEYRITZ, as aforesaid, JULIAN VEITCH, surviving minor son of FREDIA ANN VEITCH, has sustained the following damages:

- a. He has, in the past and will in the future, suffer great mental pain and suffering.
- b. He has, in the past and will in the future, suffer the loss of parental companionship, instruction, and guidance.
- c. He has, in the past and will in the future, be deprived of the services of his mother, FREDIA ANN VEITCH.

45. That as a direct and proximate result of the negligence of the Defendant, LEYRITZ, as aforesaid, Estate of FREDIA ANN VEITCH has sustained the following damages:

- a. Medical and funeral expenses that have become a charge against the Estate of FREDIA ANN VEITCH or that were paid on behalf of FREDIA ANN VEITCH.

WHEREFORE, Plaintiff, JOHN A. VEITCH as Personal Representative of the Estate of FREDIA ANN VEITCH, deceased, demands judgment for damages against the Defendant, JAMES J. LEYRITZ, plus the costs of this action and interest.

DEMAND FOR JURY TRIAL

46. Plaintiff hereby demands a Jury Trial for all issues triable as a matter of right by a jury.

DATED this _____ day of March 2008.

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