

**RICHARD D. POMPELIO**  
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Attorney for Plaintiffs

: **SUPERIOR COURT OF NEW JERSEY**  
: **LAW DIVISION-PASSAIC COUNTY**

**JOSEPH J. LUONGO, JR.** :  
as Administrator ad :  
Prosequendum : **Docket No. L-6561-96**  
of the Estate of :  
**JOAN E. GISLER,** :  
Deceased, :

:  
Plaintiff, : **CIVIL ACTION**

**VS** : **COMPLAINT**

: **AND**  
**ERNEST M. GISLER** : **JURY DEMAND**  
and **JOHN DOES (A through Z),** :  
Fictitious Names :

:  
**Defendants.** :

\_\_\_\_\_:

Plaintiff, Joseph J, Luongo, Jr. as Administrator ad Prosequendum of the Estate of  
JOAN E. GISLER, deceased, residing at 37 Haggerty Road, Sussex, New Jersey 07461, by way  
of Complaint against the Defendants herein, says:

FIRST COUNT

1. Joan E. Gisler was murdered at her home in Wayne, Passaic County, New Jersey on  
September 13, 1994.

2. At the time of her death Joan E. Gisler had been predeceased by her parents and she  
died without issue. The sole and surviving heirs at law of Joan E. Gisler are the defendant,  
Ernest M. Gisler, her husband and Joseph J. Luongo, Jr., her brother.

3. Upon information and belief defendant Ernest M. Gisler did plan, conspire and arrange with defendants John Does (A through Z) for the murder of his wife Joan E. Gisler or was otherwise an accessory to said murder.

4. In accordance with the provisions of N.J.S.A. 2A:31-2 the action for wrongful death is to be brought in the name of the administrator ad prosequendum or if there is an executor, by the executor of the estate of the deceased.

5. On or about October , letters testamentary were granted by the Surrogate of Passaic County, New Jersey to Ernest M. Gisler in which he was appointed executor of the Estate of his spouse, Joan E. Gisler. As executor under the last will and testament of his spouse, he would otherwise be entitled to bring this action for her wrongful death.

6. Ernest M. Gisler is disqualified from bringing this action for the wrongful death of Joan E. Gisler, because upon information and belief, Ernest M. Gisler did participate in causing the death of Joan E. Gisler and is precluded from recovery thereby.

7. Plaintiff, Joseph J. Luongo, Jr. brings this action for the wrongful death of Joan E. Gisler on behalf of those individuals who are legally entitled to recover for the wrongful death of Joan E. Gisler as the result of being dependent upon the decedent and who have sustained pecuniary loss resulting from the death of the decedent.

8. As a direct and proximate result of the willful, malicious and intentional acts of defendants, Ernest M. Gisler and John Does (A through Z), plaintiffs' decedent was caused to sustain mortal injuries which proved fatal, all to the pecuniary damage, injury and economic loss to plaintiffs' decedent's dependents and heirs at law.

WHEREFORE, plaintiff demands judgment against defendants Ernest M. Gisler and John Does (A through Z) jointly, severally or in the alternative, on this count for compensatory and punitive damages together with interest, counsel fees and costs of suit.

#### SECOND COUNT

9. Plaintiff repeats and make a part hereof the allegations contained in the first count as if same were more fully set forth at length herein.

10. As a result of the aforementioned acts as hereinabove set forth, jointly, severally or in the alternative, plaintiff's decedent was caused to live in great pain from the time of the incident until the time of her death. During that time, she endured great pain and suffering.

WHEREFORE, plaintiff demands judgment against defendants Ernest M. Gisler and John Does (A through Z) jointly, severally or in the alternative, on this count for compensatory and punitive damages together with interest, counsel fees and costs of suit.

### THIRD COUNT

\_\_\_\_\_ 11. Plaintiff repeats and make a part hereof the allegations contained in the first and second counts as if same were more fully set forth at length herein.

12. Ernest M. Gisler is disqualified from receiving any distribution from the estate of Joan E. Gisler, because upon information and belief, Ernest M. Gisler did criminally and intentionally cause or participate in causing the death of Joan E. Gisler and pursuant to the provisions of N.J.S.A. 3B:7-1 et seq., and the judicial decisions of this state which hold that a wrongdoer may not profit or otherwise be unjustly enriched by his wrongful conduct, Ernest M. Gisler is precluded from receiving any financial benefit as a beneficiary of the estate of the late Joan E. Gisler.

13. Pursuant to the provisions of N.J.S.A. 3B:7-1, et seq., Ernest M. Gisler is deemed to have predeceased Joan E. Gisler for the purposes of receiving any distribution through her estate.

14. Joan E. Gisler died without issue and her sole surviving heir at law, other than Ernest M. Gisler, is her brother, plaintiff.

15. Plaintiff is entitled to have a constructive trust imposed on all assets to which Ernest M. Gisler claims the right to receive as distribution from the estate of Joan E. Gisler.

16. As the result of the disqualification of Ernest M. Gisler to receive as beneficiary of the estate of Joan E. Gisler, the assets of the estate of Joan E. Gisler are required to be distributed to plaintiff, her sole heir at law.

WHEREFORE, plaintiff demands judgment as follows:

A. That Ernest M. Gisler be barred from recovering or taking in any manner, any distribution of assets from the estate of Joan E. Gisler and that a constructive trust be imposed on any such assets.

B. That for the purposes of the distribution of the assets of the estate of Joan E. Gisler, Ernest M. Gisler be deemed to have predeceased Joan E. Gisler.

C. That the assets of the estate of Joan E. Gisler be distributed to Joseph J. Luongo, Jr. as sole and surviving heir at law of his sister, Joan E. Gisler.

D. That Ernest M. Gisler be compelled to account for the assets and liabilities of the estate of Joan E. Gisler and that he file such accounting in accordance with the order of the court.

E. For costs and counsel fees in connection with this matter.

F. For such further relief as this Court may deem equitable and just.

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JURY DEMAND

Plaintiffs demand a trial by jury on all issues of the within complaint.

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CERTIFICATION UNDER RULE 4:5-1

Plaintiffs hereby certify that the within controversy is not the subject of any other action pending in court or arbitration proceeding, except that the following matters represent litigation involving Joseph J. Luongo, Jr. and Ernest M. Gisler:

1. IN THE MATTER OF ESTATE OF JOAN E. GISLER, deceased, SUPERIOR COURT OF NEW JERSEY, CHANCERY DIVISION

PASSAIC COUNTY, PROBATE PART (to be filed for the purpose of appointing plaintiff herein as administrator ad prosequendum for this action).

2. IN THE MATTER OF ESTATE OF JOSEPH J. LUONGO, deceased,  
SUPERIOR COURT OF NEW JERSEY, CHANCERY DIVISION  
BERGEN COUNTY, PROBATE PART.

Further, Plaintiffs know of no other party that should be joined in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby requests the Court to record that Richard D. Pompelio, Esq., is hereby designated as trial counsel.

RICHARD D. POMPELIO

By:  
RICHARD D. POMPELIO  
Attorney for Plaintiff

Dated: September 3, 1996

