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KARIN SHAFFER, ADMINISTRATOR
AD PROSEQUENDUM AND GENERAL
ADMINISTRATOR OF THE ESTATE OF
BARBARA ELKE VANAMAN, DECEASED,

PLAINTIFF

Vs.

ROBERT VANAMAN,
NANCY VANAMAN,
STATE FARM INSURANCE
COMPANIES ,

DEFENDANT

SUPERIOR COURT OF NEW JERSEY
CUMBERLAND COUNTY
LAW DIVISION: CIVIL PART

Docket No.

CIVIL ACTION

VERIFIED COMPLAINT
AND JURY DEMAND

Plaintiff, KARIN SHAFFER, Administrator *ad Prosequendum* and General Administrator of the Estate of Barbara Elke Vanaman, deceased, residing in the City of Millville, Cumberland County, New Jersey, by way of verified complaint against the defendants ROBERT VANAMAN, NANCY VANAMAN and STATE FARM INSURANCE COMPANIES, says:

FIRST COUNT
Wrongful Death – Intentional Conduct

1. Plaintiff is the natural parent of Barbara Elke Vanaman, who died, a resident of Cumberland County, New Jersey on May 11, 2006.
2. On or about November 13, 2001, Letters of General Administration were issued by the Cumberland County Surrogate to the plaintiff pursuant to the order of the Superior Court of New

Jersey, Chancery Division-Probate Part, County of Cumberland dated November 2, 2007, appointing plaintiff as Administrator of the Estate of Barbara Elke Vanaman, Deceased.

Simultaneously with the filing of this complaint, plaintiff has filed a motion in the action entitled: In the Matter of the Estate of Barbara Elke Vanaman, deceased, Superior Court of New Jersey, Cumberland County Chancery Division, Probate Part, No. 018025 in which Plaintiff was named general administrator of the estate of Barbara Elke Vanaman, deceased. for the purpose of being appointed administrator *ad prosequendum* in order to prosecute this claim of the next of kin and dependents of Barbara Elke Vanaman, deceased, for her death. The order of the Chancery Division appointing plaintiff as administrator *ad prosequendum* shall apply *nunc pro tunc*.

3. Barbara Elke Vanaman, deceased is survived by her two minor children, Dylan Vanaman, (DOB-8/10/01) and Dean Vanaman (DOB-4/16/92), both of whom were dependent upon the decedent and who have sustained pecuniary loss resulting from the death of the decedent. By this action, plaintiff seeks to secure all assets legally belonging to the estate of Barbara Elke Vanaman and such damages to which the estate of Barbara Elke Vanaman is entitled as a result of her wrongful death by defendant ROBERT VANAMAN, and to secure said assets and damages for the benefit of the two minor children of plaintiff's decedent under such conditions as the court deems necessary and appropriate.

4. On or about May 11, 2006 plaintiff's decedent was lawfully at her home located at South Wedgwood Court, Bridgeton, New Jersey, which she owned with the defendant as tenants by the entirety

5. At the aforementioned time and place, defendants, ROBERT VANAMAN did willfully, maliciously and intentionally attack and with a firearm, he assaulted plaintiff's decedent by discharging two rounds of ammunition into her body, without justification and without provocation.

7. At the time and date aforesaid, defendant attacked plaintiff's decedent, the two minor children were nearby at a neighbor's home.

8. As a direct and proximate result of the willful, malicious and intentional acts of defendant, plaintiff's decedent was caused to sustain mortal injuries which proved fatal, all to the pecuniary damage, injury and economic loss to plaintiff's decedent's dependents and heirs at law. Plaintiff's decedent was pronounced dead on May 11, 2006.

9. The actions of defendant, was willful and wanton and plaintiff is entitled to an award of punitive damages.

WHEREFORE, Plaintiff demands judgment against defendant, ROBERT VANAMAN on this count for compensatory and punitive damages together with interest, counsel fees and costs of suit.

SECOND COUNT
Wrongful Death – Negligent Conduct

10. Plaintiff repeats and make a part hereof the allegations contained in each previous paragraph as if same were more fully set forth at length herein.

11. Defendant had a duty to plaintiff's decedent, including, but not limited to the following:

A. As an experienced law enforcement officer, trained in the control and use of firearms, defendant had the duty to exercise reasonable care in the use thereof while in the presence of others, including the plaintiff's decedent.

B. As an experienced law enforcement officer in the exercise of self restraint, defendant had the duty to exercise reasonable care with his conduct to avoid unprovoked and uncontrolled acts of violence while in the presence of others, including the plaintiff's decedent.

C. As an experienced law enforcement officer trained to recognize persons in distress and in need of medical attention, defendant had the duty to exercise reasonable care in

securing emergent medical attention for persons in distress and in need of medical attention by securing such medical attention in a reasonable amount of time.

12. Defendant was negligent in that he breached said duties to plaintiff's decedent as follows:
 - A. Defendant did negligently and carelessly enter his home with a loaded firearm, knowing that a loaded firearm is an inherently dangerous instrumentality that would create an unreasonable risk of harm to members of his family and to others lawfully on the premises.
 - B. Defendant did negligently and carelessly engage his firearm without sufficient cause and justification and discharge it into the body of plaintiff's decedent, resulting in injury and ultimately the death to plaintiff's decedent.
 - C. Defendant did negligently and carelessly fail to exercise self restraint, and by his admission, he lost control of his faculties, and placed himself in a state of uncontrolled and unrestrained rage that resulted in defendant discharging his firearm into the body of plaintiff's decedent, causing injury and ultimately the death to plaintiff's decedent.
 - D. Defendant did negligently and carelessly fail to exercise reasonable care in that he fired two rounds of ammunition into the body of plaintiff's decedent, and as she lay in front of him, alive and in severe distress, he failed to secure emergent medical attention for plaintiff's decedent and permitted her to die without obtaining necessary medical attention.

13. In the event the conduct of the defendant may be deemed to be intentional, nevertheless and notwithstanding such determination, the nature and extent of the injuries sustained, which ultimately resulted in the death of plaintiff's decedent, were unintended.

WHEREFORE, Plaintiff demands judgment against the defendant ROBERT VANAMAN for compensatory damages together with interest, counsel fees and costs of suit.

THIRD COUNT
Survival Action – Pain and Suffering & Loss of Enjoyment of Life

14. Plaintiff repeats and make a part hereof the allegations contained in each previous paragraph as if same were more fully set forth at length herein.

15. As a result of the aforementioned actions on the part of defendant, 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, and loss of enjoyment of life.

WHEREFORE, Plaintiff demands judgment against the defendant ROBERT VANAMAN for compensatory damages together with interest, counsel fees and costs of suit.

FOURTH COUNT
Disqualification of Killer to Recover Under Statutory and Common Law

16. Plaintiff repeats and make a part hereof the allegations contained in each previous paragraph as if same were more fully set forth at length herein.

17. Defendant is disqualified from receiving any distribution from the estate of plaintiff's decedent, from receiving any assets as surviving joint tenant or tenant by the entirety of the decedent, or as beneficiary of any life insurance policy or contract on the life of the decedent as the result of the statutes of the State of New Jersey (N.J.S.A. 3B:7-1.1. *et seq.*) and the common law decisions of the courts of this State which prohibit a wrongdoer from profiting or otherwise being unjustly enriched by his wrongful conduct.

18. Pursuant to law, defendant is deemed to have predeceased Barbara Elke Vanaman for the purposes of receiving any direct or indirect distribution as a result of her death.

19. Plaintiff is entitled to have a constructive trust imposed on all assets to which defendant, claims or may claim the right to receive as a result of the death of plaintiff's decedent.

20. As the result of the disqualification of defendant, to receive any financial benefit as a result of the death of Barbara Elke Vanaman, such assets, and financial payments are required to be distributed to the two minor children of plaintiff's decedent.

WHEREFORE, plaintiff demands judgment as follows:

A. That defendant, ROBERT VANAMAN be barred from taking in any manner, directly or indirectly, any distribution of assets from the estate of Barbara Elke Vanaman or receiving any financial benefit as heir and next of kin, surviving joint tenant, tenant by the entirety or beneficiary of any life insurance or other contract payable upon the death of plaintiff's decedent, and that a constructive trust be imposed on any such assets for the benefit of the two minor children of the plaintiff's decedent.

B. That for the purposes of the distribution of such assets or payments, defendant is deemed to have disclaimed any right to receive any assets as a result of the death of Barbara Elke Vanaman.

C. That all such assets and financial payments be distributed to the surviving heirs at law of Barbara Elke Vanaman, namely, her two minor children.

D. That defendant be compelled to account for all such assets and financial payments received by him since the date of the death of Barbara Elke Vanaman and that he file such accounting in accordance with the order of the court.

E. That a constructive trust be imposed on all assets and financial payments received by defendant.

F. Temporarily and permanently restraining and enjoining defendant from taking or otherwise using such assets pending the outcome of this matter.

G. For such further relief as this court may deem equitable and just.

FIFTH COUNT
Disqualification of Defendant Killer
Robert Vanaman and Killer's Relative,
Defendant Nancy Vanaman
to recover Life Insurance Proceeds

21. Plaintiff repeats and make a part hereof the allegations contained in each previous paragraph as if same were more fully set forth at length herein.

22. Prior to the death of plaintiff's decedent, defendant ROBERT VANAMAN engaged defendant STATE FARM INSURANCE COMPANIES to issue two life insurance policies on the life of Barbara Elke Vanaman as follows:

A. Policy LF-1367-4297 being a 10 year term policy for \$107,000 with policy date of July 18, 1994 with the following named beneficiaries:

1. Primary beneficiary: "Robert Vanaman;"
2. Successor beneficiaries: "Children."

B. Policy LF-1372-0921 being a "select-20 policy for \$250,000 with a policy date of October 7, 1999, with the following named beneficiaries:

1. Primary beneficiary: "Robert Vanaman;"
2. Successor beneficiaries: "Nancy Vanaman."

23. N.J.S.A. 3:7-5 provides:

Any other acquisition of property or interest by the decedent's killer or by a relative of the killer not covered by this chapter shall be treated in accordance with the principle that a killer or a relative of a killer cannot profit from the killer's wrongdoing. (Emphasis supplied).

24. NANCY VANAMAN is "a relative of a killer [who] cannot profit from the killer's wrongdoing." Accordingly, she is made a party defendant to this lawsuit as she is an indispensable party. No other claims are made against her.

25. STATE FARM INSURANCE COMPANIES is made a party defendant to this lawsuit in that it will be required by this court to distribute the proceeds of the life insurance policies on the life of Barbara Elke Vanaman according to law.

WHEREFORE, plaintiff demands judgment as follows:

A. That defendants, ROBERT VANAMAN and NANCY VANAMAN be barred from taking as a beneficiary of any life insurance or other contract payable upon the death of plaintiff's decedent, and that a constructive trust be imposed on any such assets for the benefit of the two minor children of the plaintiff's decedent.

- B. That defendant State Farm Insurance Companies be directed to deposit with the court the proceeds of the aforesaid life insurance policies on the life of plaintiff's decedent, pending a final adjudication of the claims of all interested parties.
- B. That all such assets and financial payments be distributed to the surviving heirs at law of Barbara Elke Vanaman as determined by the court.
- C. That a constructive trust be imposed on all assets and financial payments received by defendant.
- D. Temporarily and permanently restraining and enjoining defendants ROBERT VANAMAN and NANCY VANAMAN from taking or otherwise using such life insurance proceeds..
- E. For such further relief as this court may deem equitable and just.

SIXTH COUNT
Right of Victim's Estate to Receive
Equitable Distribution from Defendant Killer

26. Plaintiff repeats and make a part hereof the allegations contained in each previous paragraph as if same were more fully set forth at length herein.

27. Barbara Elke Vanaman and defendant were married on or about March 21, 1990, and they continued to be married up to the time when the defendant caused the death of Barbara Vanaman on or about May 11, 2006.

28. During the marriage between Barbara Elke Vanaman and the defendant, property, real and/or personal, was legally and beneficially acquired by the parties, or either of them, including the rights to future income in the form of pensions and retirement plans and the like. The Estate of Barbara Elke Vanaman is entitled by law to an equitable distribution of the marital assets that accumulated during her marriage to the defendant, because had defendant not terminated their marriage by slaying her, and the marriage instead terminated by divorce, Barbara Elke Vanaman would have been entitled to an equitable distribution of their marital estate assets. Pursuant to law, if any such assets or portions thereof represent a benefit to

defendant or profit by him, directly or indirectly, as a result of killing his wife, he must return them to her estate.

WHEREFORE, plaintiff demands judgment as follows:

- A. That the estate of Barbara Elke Vanaman receive an equitable distribution in all property, both real and personal, that was legally and beneficially acquired by Barbara Elke Vanaman and the defendant ROBERT VANAMAN during the marriage;
- B. That all such assets and financial payments be distributed to the surviving heirs at law of Barbara Elke Vanaman, namely, her two minor children.
- C. That defendant ROBERT VANAMAN be enjoined from receiving or retaining such other remaining assets and that all such assets and financial payments be distributed to the surviving heirs at law of Barbara Elke Vanaman
- D. That defendant ROBERT VANAMAN be compelled to account for all such assets and financial payments received by him during the course of his marriage to Barbara Vanaman and since the date of her death, and that he file such accounting in accordance with the order of the court.
- E. That a constructive trust be imposed for the benefit of the two minor children on all assets and financial payments received by defendant.
- F. Temporarily and permanently restraining and enjoining defendant ROBERT VANAMAN from taking or otherwise using such assets pending the outcome of this matter.
- G. For such further relief as this court may deem equitable and just.

JURY DEMAND

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

CERTIFICATION UNDER RULE 4:5-1

Plaintiff hereby certifies that the within controversy is not the subject of any other action pending in court or arbitration preceding, except that the following:

As aforesaid, there was an action filed entitled In the Matter of the Estate of Barbara Elke Vanaman, deceased, Superior Court of New Jersey, Chancery Division, Cumberland County Probate Part, No. 018025 in which Plaintiff was named general administrator of the estate of Barbara Elke Vanaman, deceased.

Further, there is an ongoing action in the Family Court involving the custody and visitation of the two minor children entitled Karin Shaffer & John Shaffer v. Robert Vanaman & Dawn Lee, Superior Court of New Jersey, Chancery Division, Cumberland County, Docket No. FD-06-266-07, FD-06-1549-09, FN-06-83-07.

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.

POMPELIO, FOREMAN & GRAY, L.L.C.
Attorneys for Plaintiff

By: _____
RICHARD D. POMPELIO, ESQ

Dated: May 5, 2009

VERIFICATION OF COMPLAINT

I hereby verify the contents of this complaint, and I certify that to the best of my knowledge and information, the facts contained herein are true. I am aware that if they are willfully false, I am subject to punishment.

Dated: May , 2009

KARIN SHAFFER