

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO 1437 Bannock Street Denver, CO 80202</p>	
<p>Plaintiffs: JOSHUA THALLAS (Father of Isabella Joy Thallas, Deceased), and DARIAN SIMON</p> <p>v.</p> <p>Defendants: MICHAEL CLOSE, DANIEL POLITICA, and TYRANT ARMS, LLC</p>	
<p>Attorney for Plaintiff Joshua Thallas: Joshua Maximon Mann &amp; Maximon, LLC 900 Arapahoe Avenue Boulder, Colorado 80302 303-991-2233 303-991-1895 jm@manmaxlaw.com Atty Reg #: 33870</p> <p>Attorney for Plaintiff Darian Simon Craig Silverman Springer and Steinberg, P.C. Craig Silverman, Esq. Springer &amp; Steinberg, P.C. 1600 Broadway, Suite 1200 Denver, CO 80202 (303) 861-2800 (303) 327-5974 fax <a href="mailto:csilverman@springersteinberg.com">csilverman@springersteinberg.com</a> Atty Reg. #: 11224</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> <p style="text-align: center;">Case Number:</p> <p>Div.:                      Ctrm:</p>
<p><b>COMPLAINT AND JURY DEMAND</b></p>	

Plaintiffs Joshua Thallas and Darian Simon, by and through their attorneys of record, Joshua Maximon and Craig Silverman respectively, respectfully submit this Complaint and Jury Demand against the defendants, and as grounds state and allege the following:

## **JURISDICTION AND VENUE**

1. Plaintiff, Joshua Thallas, was at all times relevant to this complaint, a resident of the State of Colorado.

2. Plaintiff, Darian Simon, was at all times relevant to this complaint, a resident of the State of Colorado.

3. Upon information and belief, Defendant Michael Close is a resident of the State of Colorado.

4. Upon information and belief, Defendant Daniel Politica is a resident of the State of Colorado.

5. Upon information and belief, Defendant Tyrant Arms, LLC is a business licensed in the State of Colorado.

6. Venue is proper because the alleged torts were committed in Denver County pursuant to C.R.C.P. 98(c)(5).

## **GENERAL ALLEGATIONS**

7. Plaintiffs incorporate by reference herein all previous paragraphs.

8. On June 10, 2020, Defendant Close shot Isabella Thallas and Darian Simon. Isabella Thallas died on scene. Darian Simon was critically injured. The shooting occurred at 3001 N. Fox Street in Denver, CO.

9. Defendant Close shot Ms. Thallas and Mr. Simon with a weapon believed to be an AK-47 (the "Weapon").

10. The Weapon was owned by Defendant Daniel Politica and/or Tyrant Arms, LLC.

11. Defendant Close shot Ms. Thallas and Mr. Simon with ammunition that also belonged to defendant Politica and/or Tyrant Arms, LLC.

12. Upon information and belief, Defendants Close and Politica were close friends and grew up together in metro Denver.

13. Upon information and belief, Defendant Politica was concerned about defendant Close's mental health and was going to take him to a mental health facility on June 10, 2020.

14. Upon information and belief, Defendant Close was aware that Defendant Politica was in possession of the Weapon.

15. Upon information and belief, the Weapon was transferred from Defendant Politica and/or Tyrant Arms, LLC to Defendant Close.

16. Upon information and belief, the Weapon was reported stolen by Defendant Politica 10-12 days after the shooting.

17. Joshua Thallas is the surviving father of the late Isabella Joy Thallas.

18. Upon information and belief, the Weapon and ammunition were not stored in a weapons locker.

19. Upon information and belief, the Weapon was purchased by Defendant Politica or Tyrant Arms, LLC.

20. Upon information and belief, Defendant Politica and/or Defendant Tyrant Arms, LLC did not secure the Weapon and ammunition.

21. Upon information and belief, Defendant Politica allowed the Weapon to come into the possession of Defendant Close.

**FIRST CLAIM FOR RELIEF**  
**(Wrongful Death -- Defendant Close)**

22. Plaintiffs incorporate by reference herein the allegations contained in previous paragraphs.

23. Pursuant to C.R.S. § 13-21-202, Plaintiff Thallas has a statutory claim for wrongful death against the Defendants. Plaintiff is the father of the deceased.

24. Ms. Isabella Thallas died as a result of the injuries she suffered when Michael Close fired the Weapon out of his apartment window on June 10, 2020.

25. The firing of a bullet that killed Ms. Thallas is a battery because it is a harmful or offensive touching.

26. Defendant Close intended to make a harmful or offensive physical contact with Isabella Thallas or knew that he would probably make such contact.

27. Defendant Close knew or should have known that his actions would likely cause harmful or offensive contact with Isabella Thallas.

28. By intentionally shooting Ms. Thallas, Defendant Close committed a felonious killing.

29. Defendant engaged in extreme and outrageous conduct when he fired the Weapon out of the window in the direction of plaintiffs. Defendant engaged in such extreme and outrageous conduct recklessly or with the intent to cause Isabella Thallas severe emotional distress as a result of defendant's conduct. Isabella Thallas suffered extreme emotional distress and death. She suffered injuries, damages, and losses in an amount to be proven at trial.

30. As a direct and proximate result of Defendant's battery, outrageous conduct and other wrongful conduct, Plaintiff has sustained economic damages, including but not limited to, loss of the relationship between a parent and child, loss of services, loss of wages, loss of investments, support and maintenance, as well as non-economic damages as set forth below.

### **SECOND CLAIM FOR RELIEF**

#### **(Assault and Battery against Darian Simon -- Defendant Close)**

31. Plaintiffs incorporate by reference herein the allegations contained in previous paragraphs.

32. Defendant Close intended to make a harmful and offensive physical contact with Plaintiff Darian Simon and knew that he would probably make such contact.

33. Defendant Close intended to place Plaintiff Simon in apprehension of such contact.

34. Defendant placed Plaintiff in apprehension of immediate physical contact.

35. Defendant Close knew and should have known that his actions would likely cause harmful or offensive contact with Plaintiff Simon.

36. Defendant's acts resulted in physical contact with Plaintiff Simon.

37. Defendant's contact was harmful and offensive to Plaintiff Simon.

38. As a result of Defendant's harmful and offensive contact with Plaintiff, he suffered injuries, damages, and losses in an amount to be proven at trial, including economic, non-economic and impairment damages.

### **THIRD CLAIM FOR RELIEF**

#### **(Intentional Infliction of Emotional Distress/Outrageous Conduct -- Defendant Close)**

39. Plaintiffs incorporate by reference herein the allegations contained in previous paragraphs.

40. Defendant engaged in extreme and outrageous conduct when he fired the Weapon out of the window in the direction of Plaintiff Simon and the late Isabella Thallas.

41. Defendant engaged in such extreme and outrageous conduct recklessly or with the intent to cause Plaintiff Simon severe emotional distress.

42. As a result of Defendant's conduct, Plaintiff Simon suffered severe emotional distress.

43. As a result of the severe emotional distress caused by Defendant, Plaintiff Simon suffered injuries, damages, and losses in an amount to be proven at trial, including economic, non-economic and impairment damages.

**FOURTH CLAIM FOR RELIEF**  
**(Wrongful Death -- Defendants Politica and Tyrant Arms, LLC)**

1. Plaintiffs incorporate by reference herein the allegations contained in previous paragraphs.

2. Pursuant to C.R.S. § 13-21-202, Plaintiff Thallas has a statutory claim for wrongful death against the Defendants Politica and Tyrant Arms, LLC. Plaintiff is the father of the deceased.

3. Plaintiff has suffered economic and non-economic damages, including, but not limited to, loss of parental services, loss of financial support, grief, loss of companionship, pain and suffering and emotional distress.

4. Defendant Politica's and Defendant Tyrant Arms, LLC's negligence, negligence *per se*, and negligent entrustment caused the wrongful death of Isabella Thallas.

5. As a direct and proximate result of Defendants' negligence, Isabella Thallas suffered fatal injuries and died on June 10, 2020.

6. As a direct and proximate result of defendant's negligence, negligence *per se*, negligent entrustment and other wrongful conduct, Plaintiff Thallas has sustained economic damages, including but not limited to, loss of the relationship between a parent and child, loss of services, loss of wages, loss of investments, support and maintenance, as well as non-economic damages as set forth below.

**FIFTH CLAIM FOR RELIEF**  
**(Negligence and Negligence *per se* -- Defendants Politica and Tyrant Arms, LLC)**

7. Plaintiffs incorporate by reference herein the allegations contained in previous paragraphs.

8. Defendant Politica and or Defendant Tyrant Arms, LLC have a common law duty to exercise proper care in the purchase, storage, sharing, selling, maintenance, supervision of weapons and ammunition that are purchased, including a weapon such as an AK-47 and the ammunition used to fire at Isabella Thallas and Darian Simon.

9. Defendant Politica and/or Defendant Tyrant Arms, LLC breached these common law duties by allowing Defendant Close to gain possession of the Weapon and ammunition and to use the weapon to kill or injure others.

10. Defendant Politica and or Defendant Tyrant Arms, LLC have statutory duties to comply with Colorado statutes.

11. Defendants breached the statutory duties by violating the following statutes:

- C.R.S. § 18-12-114 by failing to responsibly and securely store the Weapon to prevent access by unauthorized users;
- C.R.S. § 18-12-405 by failing to use a locking device on the Weapon;
- C.R.S. § 18-12-302 transferring a large capacity magazine to individuals not permitted to possess large capacity ammunition magazines;
- C.R.S. § 18-12-112 transferring a firearm to Defendant Close without performing a background check.
- Denver Code Chapter 38, Article IV, Division 2, Section 38-130 (e): Denver Assault Weapon Ban

12. Plaintiffs are part of the class of persons whom the above statutes are meant to protect.

13. As a direct and proximate result of Defendants' negligence and negligence *per se*, Plaintiffs suffered injuries, damages, and losses, including but not limited to economic, non-economic, and impairment damages such as permanent physical impairment, emotional distress, loss of enjoyment of life, and great mental and physical pain and suffering.

#### **SIXTH CLAIM FOR RELIEF**

**(Joint and Several Liability C.R.S. § 13-21-111.5(4) –Defendants Close, Politica)**

14. Plaintiffs incorporate by reference herein the allegations contained in previous paragraphs.

15. Defendants Close and Politica consciously conspired and deliberately pursued a common plan or design which resulted in wrongful conduct causing injuries and damages.

16. The common plan or design was to allow Defendant Close to possess the Weapon despite their knowledge regarding his past behaviors, activities, and personal characteristics.

17. As a direct and proximate result of Defendants' negligence, Plaintiffs suffered injuries, damages, and losses, including but not limited to physical impairment, physical injury emotional distress, loss of enjoyment of life, and great mental and physical pain and suffering.

#### **SEVENTH CLAIM FOR RELIEF**

**(Conspiracy Common Venture – Defendants Close, Politica)**

18. Plaintiffs incorporate by reference herein the allegations contained in previous paragraphs.
19. The Defendants agreed by words and conduct to accomplish a goal by unlawful means.
20. The Defendants performed unlawful acts to accomplish a goal.
21. The conspiratorial acts of Defendants caused Plaintiffs to suffer injuries and damages.
22. As a direct and proximate result of Defendants' conspiracy, Plaintiffs suffered injuries, damages, and losses, including but not limited to physical impairment, physical injury emotional distress, loss of enjoyment of life, and great mental and physical pain and suffering.

**EIGHTH CLAIM FOR RELIEF**  
**(Negligent Entrustment –Defendant Politica)**

23. Plaintiffs incorporate by reference herein the allegations contained in previous paragraphs.
24. Defendant Politica owed a common law duty of reasonable care in entrusting the use of his Weapon and ammunition to other persons.
25. Defendant Politica breached his duty by negligently entrusting the use of his Weapon and ammunition to Michael Close knowing he was a person with a history of irresponsible, reckless, and negligent behavior.
26. Defendant Politica knew or had reason to know that Defendant Close's use of the Weapon and ammunition would create an unreasonable risk of harm to others, including Plaintiffs.
27. By breaching this common law duty, Defendant Politica's negligent entrustment was the direct, foreseeable and proximate cause of the economic, non-economic, and impairment, injuries, damages, and losses suffered by Plaintiffs.
28. As a direct and proximate result of Defendants' negligence, Plaintiffs suffered injuries, damages, and losses, including but not limited to physical impairment, physical injury emotional distress, loss of enjoyment of life, and great mental and physical pain and suffering.

WHEREFORE, Plaintiffs, respectfully request that this Court enter judgment in their favor and against the Defendants in an amount which will fairly and reasonably compensate the plaintiffs for their injuries, damages and losses, including but not limited to economic, non-economic and

impairment damages, plus interest from the date of the incident, costs, expert witness fees, attorneys' fees, and such other and further relief as the Court may deem appropriate.

DATED this 8<sup>th</sup> day of June, 2021.

MANN & MAXIMON, LLC

By: /s/Joshua Maximon  
Joshua Maximon, # 33870  
Attorney for Plaintiff Thallas

SPRINGER & STEINBERG, PC

By: /s/Craig Silverman  
Craig Silverman, #11224  
Attorney for Plaintiff Simon

PLAINTIFFS HEREBY REQUEST TRIAL TO A JURY OF SIX (6)  
ON ALL ISSUES SO TRIABLE

Addresses of Plaintiffs:

Joshua Thallas  
1565 S Wolff Street  
Denver, Colorado 80219

Darian Simon  
6675 South Robertsdale Way  
Aurora, CO 80016