

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

MIDDLESEX SUPERIOR COURT

\_\_\_\_\_)  
 MIOSOTIS MOREL, AS PERSONAL )  
 REPRESENTATIVE OF THE ESTATE OF )  
 HENRY TAPIA, )  
 Plaintiff, )  
 v. )  
 DEAN KAPSALIS and DINEEN BARTOLO, )  
 Defendants. )  
 \_\_\_\_\_)

21-820

C.A. NO. FILED  
 IN THE OFFICE OF THE  
 CLERK OF COURTS  
 FOR THE COUNTY OF MIDDLESEX  
 APR 14 2021  
*Joseph A. [Signature]*  
 CLERK

COMPLAINT AND DEMAND FOR JURY TRIAL

PARTIES

1. The plaintiff, Miosotis Morel, is the duly appointed Personal Representative of the Estate of Henry Tapia and is a resident of Jamaica Plain, Massachusetts, and is hereinafter referred to as the "Estate of Henry Tapia."
2. This action is brought to recover for the wrongful death of Henry Tapia for the benefit of his kin, pursuant to Mass. Gen. Laws ch. 229, s. 1 et seq.
3. The defendant, Dean Kapsalis, was at all times relevant to this Complaint a resident of Massachusetts with an address of 4D Strawberry Ln., Hudson, MA 01749.
4. The defendant, Dineen Bartolo, was at all times relevant to this Complaint a resident of Massachusetts with an address of 39 Upland Road, Belmont, MA 02478.

FACTS

5. On January 19, 2021, Henry Tapia was a pedestrian near 45 Upland Road in Belmont, Massachusetts and was in the exercise of all due care for his own safety and the safety of others.

6. Around the same time, defendant Kapsalis was operating a motor vehicle on Upland Road.

7. The motor vehicle being operated by defendant Kapsalis was owned by defendant Bartolo.

8. On January 19, 2021, defendant Kapsalis operated said vehicle so negligently as to cause it to collide with and strike Henry Tapia while he was standing on the street.

9. As a direct and proximate and foreseeable result of defendant Kapsalis's operation of said motor vehicle on January 19, 2021, Henry Tapia suffered extreme conscious pain and suffering for a significant length of time before his death.

**COUNT I – WRONGFUL DEATH (NEGLIGENCE)**

**(Estate of Henry Tapia v. Dean Kapsalis)**

**(Pursuant to the Massachusetts Wrongful Death Statute, Mass. Gen. Laws ch. 229 s. 2)**

10. The Plaintiff repeats and realleges paragraphs 1 through 9 of this Complaint and incorporates same as part of this count.

11. As a direct proximate and foreseeable result of defendant Kapsalis's negligent operation of a motor vehicle, the Estate of Henry Tapia and its beneficiaries have lost the value of Henry Tapia's reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice and have incurred funeral and burial expenses.

WHEREFORE, the plaintiff, Estate of Henry Tapia, demands that this Court enter judgment in its favor against the defendant, Dean Kapsalis, in a sum which fairly and adequately compensates for the Plaintiff's injuries, conscious pain and suffering and damages, including costs of this action, a reasonable attorneys' fee and other relief as this Court may deem just.

**COUNT II – WRONGFUL DEATH (CONSCIOUS PAIN AND SUFFERING)**  
**(Estate of Henry Tapia v. Dean Kapsalis)**  
**(Pursuant to Mass. Gen. Laws ch. 229, s. 6 and the Massachusetts Wrongful Death Statute,**  
**Mass. Gen. Laws ch. 229, s. 2)**

12. The Plaintiff repeats and realleges paragraphs 1 through 11 of this Complaint and incorporates same as part of this count.

WHEREFORE, the plaintiff, Estate of Henry Tapia, demands that this Court enter judgment in its favor against the defendant, Dean Kapsalis, in a sum which fairly and adequately compensates for the Plaintiff's injuries, conscious pain and suffering and damages, including costs of this action, a reasonable attorneys' fee and other relief as this Court may deem just.

**COUNT III – WRONGFUL DEATH (PUNITIVE DAMAGES)**  
**(Estate of Henry Tapia v. Dean Kapsalis)**  
**(Massachusetts Wrongful Death Statute, Mass. Gen. Laws ch. 229, s. 2)**

13. The plaintiff repeats and realleges paragraphs 1 through 12 of this Complaint and incorporates same as part of this count.

14. Defendant Kapsalis's conduct which caused and resulted in Henry Tapia's death was willful, wanton, reckless, malicious and constituted gross negligence, all within meaning of Mass. Gen. Laws ch. 229, s. 2.

WHEREFORE, the plaintiff, Estate of Henry Tapia, demands that this Court enter judgment in its favor against the defendant, Dean Kapsalis, in a sum which fairly and adequately compensates for the Plaintiff's injuries, conscious pain and suffering and damages, including costs of this action, a reasonable attorneys' fee and other relief as this Court may deem just.

**COUNT IV – WRONGFUL DEATH (NEGLIGENCE)**

**(Estate of Henry Tapia v. Dineen Bartolo)**

**(Pursuant to the Massachusetts Wrongful Death Statute, Mass. Gen. Laws ch. 229 s. 2)**

15. The Plaintiff repeats and realleges paragraphs 1 through 14 of this Complaint and incorporates same as part of this count.

16. As a direct proximate and foreseeable result of defendant Bartolo's negligence, the Estate of Henry Tapia and its beneficiaries have lost the value of Henry Tapia's reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice and have incurred funeral and burial expenses.

WHEREFORE, the plaintiff, Estate of Henry Tapia, demands that this Court enter judgment in its favor against the defendant, Dineen Bartolo, in a sum which fairly and adequately compensates for the Plaintiff's injuries, conscious pain and suffering and damages, including costs of this action, a reasonable attorneys' fee and other relief as this Court may deem just.

**COUNT V – WRONGFUL DEATH (CONSCIOUS PAIN AND SUFFERING)**

**(Estate of Henry Tapia v. Dineen Bartolo)**

**(Pursuant to Mass. Gen. Laws ch. 229, s. 6 and the Massachusetts Wrongful Death Statute, Mass. Gen. Laws ch. 229, s. 2)**

17. The Plaintiff repeats and realleges paragraphs 1 through 16 of this Complaint and incorporates same as part of this count.

WHEREFORE, the plaintiff, Estate of Henry Tapia, demands that this Court enter judgment in its favor against the defendant, Dineen Bartolo, in a sum which fairly and adequately compensates for the Plaintiff's injuries, conscious pain and suffering and damages, including costs of this action, a reasonable attorneys' fee and other relief as this Court may deem just.

**COUNT VI – WRONGFUL DEATH (PUNITIVE DAMAGES)**  
**(Estate of Henry Tapia v. Dineen Bartolo)**  
**(Pursuant to Massachusetts Wrongful Death Statute, Mass. Gen. Laws ch. 229, s. 2)**

18. The plaintiff repeats and realleges paragraphs 1 through 17 of this Complaint and incorporates same as part of this count.

19. Defendant Bartolo's conduct which caused and resulted in Henry Tapia's death was willful, wanton, reckless, malicious and constituted gross negligence, all within meaning of Mass. Gen. Laws ch. 229, s. 2.

WHEREFORE, the plaintiff, Estate of Henry Tapia, demands that this Court enter judgment in its favor against the defendant, Dineen Bartolo, in a sum which fairly and adequately compensates for the Plaintiff's injuries, conscious pain and suffering and damages, including costs of this action, a reasonable attorneys' fee and other relief as this Court may deem just.

**COUNT VII – WRONGFUL DEATH (VICARIOUS LIABILITY)**  
**(Estate of Henry Tapia v. Dineen Bartolo)**  
**(Pursuant to Massachusetts Wrongful Death Statute, Mass. Gen. Laws ch. 229, s. 2)**

20. The Plaintiff repeats and realleges paragraphs 1 through 19 of this Complaint and incorporates same as part of this count.

21. Defendant Bartolo was the registered owner of the motor vehicle that Defendant Kapsalis was driving at the time of the incident.

22. Due to defendant Kapsalis's negligence, for whose conduct Defendant Bartolo is legally responsible as the owner of the subject motor vehicle, the Estate of Henry Tapia and its beneficiaries have lost the value of Henry Tapia's reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice and have incurred funeral and burial expenses.

WHEREFORE, the plaintiff, Estate of Henry Tapia, demands that this Court enter judgment in its favor against the defendant, Dineen Bartolo, in a sum which fairly and adequately compensates for the Plaintiff's injuries, conscious pain and suffering and damages, including costs of this action, a reasonable attorneys' fee and other relief as this Court may deem just.

**COUNT VIII – WRONGFUL DEATH (NEGLIGENT ENTRUSTMENT)**  
**(Estate of Henry Tapia v. Dineen Bartolo)**  
**(Pursuant to Massachusetts Wrongful Death Statute, Mass. Gen. Laws ch. 229, s. 2)**

23. The Plaintiff repeats and realleges paragraphs 1 through 22 of this Complaint and incorporates same as part of this count.

24. As a direct proximate and foreseeable result of defendant Bartolo's negligent entrustment of the motor vehicle to defendant Kapsalis, the Estate of Henry Tapia and its beneficiaries have lost the value of Henry Tapia's reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice and have incurred funeral and burial expenses.

WHEREFORE, the plaintiff, Estate of Henry Tapia, demands that this Court enter judgment in its favor against the defendant, Dineen Bartolo, in a sum which fairly and adequately compensates for the Plaintiff's injuries, conscious pain and suffering and damages, including costs of this action, a reasonable attorneys' fee and other relief as this Court may deem just.

**THE PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS.**

Respectfully Submitted,

The Plaintiff,

MIOSOTIS MOREL, as Personal  
Representative of the Estate of HENRY  
TAPIA,

By her attorneys,

MORGAN & MORGAN,



Garrett D. Lee, BBO# 669603  
H. Luke Mitcheson, BBO# 676386  
One State Street, Suite 1050  
Boston, MA 02109  
(857) 383-4906  
glee@forthepeople.com

Dated: April 14, 2021