STATE OF MINNESOTA

COUNTY OF HENNEPIN

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Case Type: Wrongful Death

Court File No. WD 04-6680

Kimberley Kay Witczak, Surviving Spouse and Trustee for Next of Kin of Timothy Michael Witczak,

Plaintiff,

vs.

Pfizer, Inc., a New York corporation,

Defendant.

COMPLAINT

Jury Trial Demanded

The plaintiff, as and for her Complaint against the above-named defendant, alleges as follows:

Nature of Action

1. This is an action for wrongful death under Section 573.02 of the Minnesota Statutes. On or about August 6, 2003, Timothy Michael Witczak died as a result of severe side effects from the drug Zoloft which is manufactured, promoted, marketed, and distributed by the defendant Pfizer, Inc. and which was dispensed to him first in sample form and later by prescription by his family doctor.

The Parties

2. The plaintiff, Kimberley Kay Witczak, is (a) an adult resident of Minneapolis, Minnesota, (b) the surviving spouse of Timothy Michael Witczak, alternatively referred to herein as "the decedent," and (c) the Court-appointed Trustee for the decedent's next of kin as more fully described below.

3. Defendant, Pfizer, Inc. (hereinafter referred to as "Pfizer") was and still is a corporation duly existing under and by virtue of the laws of the State of New York. It is engaged in the business of

research, development, testing, manufacturing, promoting, distributing, marketing, and selling pharmaceutical drugs, including the drug Zoloft (generically known as sertraline), which are distributed throughout Minnesota, including Hennepin County. Pfizer is authorized to do business and in fact is doing business in the State of Minnesota and Hennepin County.

4. Pfizer has appointed the following as its agent for service of process in the State of Minnesota:

CT Corporation System, Inc.
405 Second Avenue South
Minneapolis, Minnesota 55401

CT Corporation System, Inc. was Pfizer's duly-authorized agent for service of process on the date the Summons and Complaint were served upon CT Corporation System, Inc. in this matter.

Trustee Appointment under Minn. Stat. §573.02 and Order Admitting Lead Counsel *Pro Hac Vice*

5. In an Order dated May 12, 2004, issued by the Honorable H. Peter Albtrecht, Judge of Hennepin County District Court, in Hennepin County District Court, File No. 04-6680, Kimberley Kay Witczak was duly appointed Trustee for the Next of Kin of the decedent Timothy Michael Witczak pursuant to and in compliance with Section 573.02 of the Minnesota Statutes and Rule 144 of the Minnesota General Rules of Practice. A true and correct copy of said Order is attached hereto as **Exhibit A.** Said appointment is valid, and said Trustee may maintain this action on behalf of the next of kin of Timothy Michael Witczak. On that same date, an Order was issued by Judge Albrecht admitting the undersigned lead counsel *pro hac vice* for purposes of this proceeding, and a true and correct copy of that Order is attached hereto as **Exhibit B**.

Compliance with Minn. Stat. §604.04

6. On April 21, 2004, in compliance with Minn. Stat. §604.04, the plaintiff provided a Notice of Claim to Pfizer. A true and correct copy of said Notice of Claim is attached hereto and incorporated by reference herein as **Exhibit C**.

The Drug Zoloft

7. Zoloft is, and at all relevant times has been manufactured, produced, marketed, sold, distributed, merchandised, packaged, promoted, and advertised by Pfizer as an allegedly safe and effective drug for the treatment of depression and other medical conditions.

8. Zoloft is a member of a class of drugs known as "selective serotonin reuptake inhibitors," or "SSRI's" which include other similar drugs such as Paxil (which has nearly identical methods of action and side-effect profile). Pfizer secured FDA approval to market Zoloft as an antidepressant in late 1991.

9. Zoloft can cause side effects such as emotional blunting, depersonalization and a condition called "akathisia," which alone or in combination with other side effects, such as emotional blunting, are associated with acts of self-harm. Akathisia is a neurological phenomenon with characteristics of intense internal restlessness, agitation and dysphoria. In addition, Zoloft can cause some patients to become manic, hypomanic, or even psychotic, with such conditions leading to their death. Zoloft "pushes" the serotonin system, which can result in reciprocal switching off of the dopamine system. In the striatum of the brain, this can result in tremor and occasional dystonia and in the frontal lobes it can result in symptoms similar to the negative symptoms of schizophrenia. These symptoms can include patients feeling as if they were

outside of their body. In short, the drug, which may be no more effective than placebo[1], can drive some people to their death.

10. Pfizer touts Zoloft as a cure for a chemical imbalance in the brain which is nothing short of speculation. As one renowned psychiatrist put it: "[SSRIs] are not correcting a biochemical imbalance, these drugs create severe imbalances in the brain. ... The idea that human suffering, psychological suffering, is biochemical is strictly a promotional campaign, perhaps the most successful in the history of the world, created by the drug companies. We do not even have a technology, a scientific technology, for measuring what happens inside the brain ... it is literally a fabrication." In fact, the Irish equivalent to the FDA (the Irish Medicines Board or "IMB"), recently forced the maker of the SSRI Paxil to withdraw claims that the drug works by normalizing serotonin levels in the brain because these claims "were not consistent with the scientific literature."

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[1] A recently published study, which analyzed the clinical trial data submitted to the FDA to establish the efficacy of six of the most widely prescribed antidepressants (including Prozac, Paxil, and Zoloft), found the efficacy of these drugs to be "clinically negligible." The Emperor's New Drugs: An Analysis of Antidepressant Medication Data Submitted to the U.S. Food and Drug Administration by Irving Kirsch (University of Connecticut), Thomas J. Moore (The George Washington University School of Public Health and Health Services) and Alan Scoboria and Sarah S. Nicholls (University of Connecticut). That is not to say the drugs have no effect, but that they lack effectiveness in treating the conditions for which they are prescribed (e.g., depression). Internal company documents demonstrate that Pfizer was *well aware* that this was the case, however, touted the drug as highly effective, despite its risks. This has left doctors incapable of conducting a proper risk/benefit analysis. Furthermore, internal FDA documents also point out "'the lack of robustness' of the clinical evidence supporting Zoloft's efficacy ..." and stressed that the FDA itself might come "under attack by constituencies that do not believe [the FDA] is an demanding as it ought to be in regard to its standards for establishing the efficacy of antidepressant drug products."

11. Pfizer has known for years that Zoloft can induce akathisia, yet has failed to warn either prescribing physicians or the consuming public about this dangerous condition.[2] In fact, Dr. Roger Lane, former Medical Director of the Zoloft Product Strategy Team at Pfizer, wrote two published, peer-reviewed scientific articles concerning akathisia and the risk of suicide for all SSRI drugs, including Zoloft. These articles are entitled ***"SSRI-Induced extrapyramidal side-effects and akathisia: implications for treatment,"*** Journal of Psychopharmacology, 12(2)(1998), pp. 192-214; and ***"Selective Serotonin Reuptake Inhibitor-Induced Serotonin Syndrome: Review,"*** Journal of Clinical Psychopharmacology, 17(3)(1997), pp. 208-22. As Dr. Lane writes, these conditions are sometimes hard to detect and

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[2] Dr. Cathryn Clary, testifying on behalf of Pfizer, admitted that Zoloft can cause akathisia during a Rule 30(b)(6) deposition in *Motus v. Pfizer, Inc.*, 127 F.Supp.2d 1085 (C.D.Cal. 2000). Dr. Clary testified as follows:

> Q Is akathisia also known as hyperkinesia?
> A Yes.
> Q And both akathisia and hyperkinesia are considered extrapyramidal symptoms or disorders?
> A Yes. Akathisia is considered an extrapyramidal symptom or disorder, as is hyperkinesia. But, again, there could be other causations. These terms are also similar to agitation, psycho motor agitation. It often could be very difficult to tell the difference between.
> Q Do you agree that Zoloft can cause some people to experience akathisia or hyperkinesia?
> A Yes.
> Q How long has that been established, to your knowledge?
> A I'm sure there were reports of the initial clinical trials of the depression database, depression studies that were occurring back in the 1980's.

Moreover, one of Pfizer's own expert witnesses testified in a jury trial related to the SSRI Paxil, that "akathisia has the potential when it is severe of contributing to suicidality and aggression." Another expert witness for Eli Lilly, the manufacturer of Prozac, similarly testified: "SSRI drugs can cause akathisia ... I believe that what akathisia does is it creates a state of severe anxiety which can exacerbate pre-existing proclivities, tendencies, in an individual to engage in either suicide or violence."

diagnose, although not so hard to treat. *E.g.* "SSRI-induced akathisia is a relatively rare event but is frequently unrecognized when it does occur." For this reason, it is imperative that both physicians and their patients be forewarned and alerted.

12. Pfizer has warned neither the medical community nor patients of the risks documented by Dr. Lane's publications and other scientific literature. In fact, Pfizer sent a company-wide memorandum instructing the Pfizer sales force not to distribute Dr. Lane's article to prescribing physicians. Additionally, its U.S. package insert and marketing materials do **not** warn about the risk of "SSRI-induced" akathisia, do **not** warn of the attendant risk of suicidality, do **not** warn about emotional blunting and depersonalization, do **not** warn about the risk of mania and psychosis and do **not** warn that this drug is associated with conditions that can directly lead to death.

13. On March 22, 2004, the FDA requested that all SSRI manufacturers warn of the above conditions and, while most manufacturers have complied with this request (for example, see excerpts of the FDA-approved warning for Paxil, attached as **Exhibit D**), Pfizer has yet to do so.

14. Pfizer has aggressively distributed and marketed Zoloft, encouraging all types of physicians (including those who have no specialized training or expertise in the mental health field such as decedent's family doctor) to dispense and prescribe Zoloft, not only for depression, but also for other maladies. As a recent publication, touting Pfizer, illustrates, this is consistent with Pfizer's corporate philosophy: "Research . . . is only half of what fuels Pfizer. The other half is marketing. . . At Pfizer marketing infuses every aspect of drug development and delivery. . . . The **marketing equation** is simple: If patients primed by TV commercials ask doctors, swayed by sales visits, about drugs with compelling clinical trial results, lots of prescriptions will get written." Woolley, ***Science & Savvy***, FORBES, Vol. 163, No. 1, p. 122, 123

(January 11, 1999)

15. Pfizer advertises Zoloft, both in professional medical publications and, more recently, in "direct to consumer" advertising. Pfizer has so aggressively marketed Zoloft, that its over-promotion has nullified what warnings Pfizer has given regarding this drug. Thus, Pfizer's legal liability is predicated, not only upon those things which it failed to tell prescribing physicians and patients, but also on its affirmative misrepresentations. Plaintiff alleges that Pfizer, acting primarily through its bonus-incentive sales force, went to great lengths to assure doctors that the side effects that can lead to death would not occur with Zoloft, and to assuage patients' concerns over the initial adverse effects which are frequently the harbingers of tragedy.

CLAIMS FOR RELIEF

COUNT ONE - NEGLIGENCE

As and for her first claim for relief against Pfizer, the plaintiff re-alleges all foregoing allegations as if fully set forth hereunder, and further alleges as follows:

16. On or about June 30, 2003, Timothy Michael Witczak first began taking Zoloft. The drug was prescribed by his family physician. Decedent ingested/consumed Zoloft for the next five weeks until his death. During this period of time, Timothy Michael Witczak experienced and endured grievous pain and suffering from the side effects of Zoloft, including but not limited to, akathisia, agitation, anxiety, an inability to concentrate, confusion, depersonalization, emotional blunting and thoughts of self-harm. On August 6, 2003, due to the severity of the side effects of Zoloft, decedent hung himself.

17. The death of decedent was the result of the negligence and misrepresentations of Pfizer, through its agents, servants and/or employees acting within the course and scope of their employment,

including, among other things:

(a) Carelessly and negligently researching, manufacturing, selling, merchandising, advertising, promoting, labeling, analyzing, testing, distributing, and marketing Zoloft;

(b) Failing to properly and adequately test Zoloft for its intended uses;

(c) Failing to fully disclose the results of the testing and other information in its possession regarding the possible adverse reactions of Zoloft;

(d) Being careless and negligent in that Pfizer knew or should have known that Zoloft was a substance known to produce life threatening side effects upon certain users, including but not limited to emotional blunting, mania, psychosis, emotional lability and akathisia, that can result in death;

(e) Negligently and carelessly failing to adequately warn the medical community, the general public and decedent's physician and Timothy Michael Witczak, in particular, of the dangers, contra-indications and side effects from the use of Zoloft;

(f) Negligently and carelessly representing that Zoloft was safe and effective for use for all purposes intended when, in fact, it was unsafe and ineffective for a significant percentage of users;

(g) Negligently and carelessly failing to conduct sufficient testing programs to determine whether or not Zoloft was safe for use as stated and advertised by defendant;

(h) Negligently and carelessly failing to act as a reasonably prudent drug manufacturer;

(i) Negligently and carelessly failing to conduct randomized clinical trials or other scientifically valid tests to determine whether and to what extent Zoloft causes some people to experience side effects that can result in their death;

(j) Negligently and carelessly failing to perform appropriate psychological post-mortems on those people who have died as the result of severe side effects of Zoloft to investigate the potential role of Zoloft in those deaths; and

(k) Negligently and carelessly over-promoting Zoloft in a zealous and unreasonable way, without regard to the potential danger that it poses for patients.

18. Prior to the date upon which the drug, Zoloft, was first taken by decedent, Pfizer, based upon the state of knowledge as it existed at the time, knew or should have known that Zoloft could be dangerous and unsafe for use by members of the general public and knew or should have known that it was a substance which could cause intense agitation and other chemically-induced conditions that could lead to self-harm and death. Accordingly, Pfizer breached it duty of reasonable care and failed to avoid any unreasonable risk of harm to anyone, including the decedent, who was likely to be exposed to harm when the product was put to its intended use.

19. As a direct and proximate result of the aforesaid conduct of Pfizer, Timothy Michael Witczak took Zoloft which caused his death and the Plaintiff has been damaged as follows:

Damages and Liability.

20. The decedent is survived by his wife, Kimberley Kay Witczak; his parents Chester Walker Witczak and Mary Ann Witczak; his brothers Christopher J. Witczak and Chester J. Witczak; and his grandmother Loretta Witczak.

21. At the time of his death, the decedent was employed full-time by XE Energy as Vice President of Sales. Had he survived, he would have earned a substantial salary along with fringe benefits, which would have continued through the date of his retirement and of which his surviving spouse and next

of kin have been deprived, for which damages Pfizer is liable to the plaintiff.

22. The plaintiff Kimberley Kay Witczak and each of the decedent's next of kin, including such other next of kin not identified above (if any), have been deprived of the counsel, guidance, advice, comfort, assistance, companionship, and protection the decedent would have given them had he not died, for which damages Pfizer is liable to the plaintiff.

23. The plaintiff Kimberley Kay Witczak incurred funeral and burial expenses related to the decedent's death, for which Pfizer is liable to the plaintiff.

24. In addition, the plaintiff Kimberley Kay Witczak, as the decedent's surviving spouse, has been deprived of rights inherent in the marital relationship, including without limitation, the comfort, companionship, and services of her husband, for which damages Pfizer is liable to the plaintiff.

25. In addition, the plaintiff has sustained other damages not described above for which Pfizer is liable.

COUNT TWO - STRICT LIABILITY

As and for her second claim for relief against the defendant, the plaintiff re-alleges all foregoing allegations as if fully set forth hereunder, and further alleges as follows:

26. At all times herein mentioned, Zoloft was unsafe as manufactured, designed, marketed, and labeled, and Pfizer knew or should have known that Zoloft was unsafe.

27. At all times herein mentioned, Zoloft produced serious and sometimes fatal side effects, and Pfizer knew or should have known that Zoloft could be unsafe because of said side-effects.

28. At all times hereinafter mentioned, neither members of the medical community nor members of the general public knew of the dangers existing with respect to the administration of Zoloft and/or of the

side effects and/or inadequate testing prior to ingestion by Timothy Michael Witczak.

29. Zoloft was used by decedent in the manner in which Pfizer intended it to be used.

30. Timothy Michael Witczak used or otherwise consumed Zoloft in the amounts and manner and for the purpose recommended by Pfizer.

31. At all times material hereto, in the U.S., Pfizer failed to provide proper and adequate information for safe, informed use of Zoloft. In particular, Pfizer did not inform either prescribing doctors or the consuming public that the use of Zoloft can result in depersonalization, emotional blunting, akathisia and other chemically-induced conditions that can increase the risk of self-harm.

32. Pfizer promoted and maintained Zoloft on the market with the knowledge of Zoloft's unreasonable risk to the public in general, and specifically to Timothy Michael Witczak.

33. Zoloft as used by decedent was defective and unreasonably dangerous when sold by Pfizer, hence Pfizer is strictly liable for the injuries arising from its manufacture and Timothy Michael Witczak's use.

34. As a direct and proximate result of the above, the plaintiff suffered and will continue to suffer the injuries and damages described above, for which damages Pfizer is liable to the plaintiff.

COUNT THREE - FRAUD

As and for her third claim for relief against the defendant, the plaintiff re-alleges all foregoing allegations as if fully set forth hereunder, and further alleges as follows:

35. Pfizer has defrauded the medical profession (including decedent's family physician), the Zoloft patient population (including decedent), and the general public (including decedent's friends and family) in that it, among other acts:

(a) Fraudulently mischaracterized and miscoded suicidal ideation and/or attempts occurring during the clinical trials so as to reduce the number of occurrences;

(b) Deliberately changed its reporting requirements so that clinical trial investigators stopped reporting akathisia, a drug-induced condition that significantly increases the risk of self-harm, and instead replaced reports of akathisia with reports of agitation, anxiety, nervousness, and a number of other terms. In addition, Pfizer fraudulently withheld vital information with respect to the risk akathisia presented to users of Zoloft, including the potential for thoughts of self-harm and subsequent actions;

(c) Failed to inform the medical and research communities that a significant number of individuals taking Zoloft during clinical trials attempted or committed acts of self-harm, particularly when compared to placebo;

(d) Fraudulently claimed that Zoloft's characteristic side effects of insomnia, agitation and anxiety were of little or no concern when in fact these effects are known to be among the most critical and deadly of the short-term risk factors for self-harm;

(e) Fraudulently redefined acts of self-harm which occurred in the clinical trials (for patients in the Zoloft group) in order to conceal the high incidence of attempts by persons on the drug to hurt or kill themselves;

(f) Fraudulently denied that Zoloft can cause serious or deadly thoughts or acts of self-harm when its own investigators informed Pfizer that Zoloft was responsible for causing such conditions. Pfizer itself has attributed such events to Zoloft;

(g) Allowing the reduction of the dosage of Zoloft in clinical trials to lessen side effects in order to avoid the reporting of treatment-emergent adverse events including but not limited to akathisia;

(h) Allowing the use of concomitant medications in clinical trials to lessen side effects in order to avoid the reporting of treatment-emergent adverse events, such as akathisia;

(i) Falsely promoted that randomized controlled clinical trials are the only way to determine whether side effects relating to Zoloft, such as Zoloft-induced acts of self-harm, are causally related to Zoloft, thus trying to hide behind convoluted statistical analyses and deceiving the medical community and the public generally thereby;

(j) Aggressively promoted Zoloft to non-psychiatric medical doctors (the group that Pfizer has targeted for its promotional activities[3]) while acknowledging that a general practitioner's knowledge, training, and ability to diagnose and treat depression is inadequate;

(k) Over-promoted Zoloft in order to increase its sale by sponsoring award programs for doctors; and conducting and sponsoring campaigns to increase the diagnosis of depression by general practitioners; sponsoring lectures and seminars under the guise of education when its true purpose was to increase the sales of Zoloft; and

(l) Encouraged patients to continue their treatment with Zoloft, through such programs as "RHYTHMS," for the stated purpose of ensuring the patient's own medical welfare, while internally admitting that the problem of patients not continuing with treatment is an enormous "economic" problem

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[3] Pfizer's promotion of Zoloft is intense in the extreme as to treating physicians. Sales people from at least four different divisions of Pfizer, i.e., Roerig, Pratt, Alta and CNS, each visit the same group of doctors within a given geographic area at different times and promote Zoloft over and over again. Their promotional tactics include bringing free lunches, giving away pens, cups, scratch pads, plates, napkins, slim jims, key chains, desk clocks, smile magnets, favorable journal article reprints, post-it stickers and promotional drug starter kits and even extend to recruiting and paying physicians to give lectures sponsored by Pfizer. Pfizer encourages doctors to prescribe Zoloft by misrepresenting the efficacy and "safety" of the drug and failing to fully inform them of side effects that must be closely monitored, such as those set forth herein.

to Pfizer, not a medical one for patients.

36. As a result of Pfizer's fraudulent acts and omissions as set forth herein, Pfizer has deceived the medical community, including decedent's physician, into believing Zoloft was safe as promoted when it was not.

37. When said representations were made by Pfizer, it knew those representations to be false, or willfully and wantonly and recklessly disregarded whether the representations were true. These representations were made by Pfizer with the intent of defrauding and deceiving the public in general and the medical community and with the intent of inducing the public to take Zoloft and the medical community to recommend, prescribe, and dispense Zoloft.

38. At the time the aforesaid representations were made by Pfizer, and at the time that Timothy Michael Witczak ingested Zoloft, both he and his prescribing physician were unaware of the falsity of said representations and reasonably relied on Pfizer's assertions, promulgated through its aggressive sales force to his physician as set forth herein, that the drug was safe and effective. In reliance upon said representations, Timothy Michael Witczak's physician did prescribe Zoloft and Timothy Michael Witczak was induced to and did take Zoloft. Had Timothy Michael Witczak known of the actual dangers of Zoloft, through his physician or otherwise, he would not have ingested Zoloft, or ceased taking it once its side effects (which were clearly known to Pfizer, but not fully disclosed to physicians or the public) became apparent.

39. Pfizer's motive in failing to advise physicians and the public of the adverse reactions that can increase the risk of suicide (and that it knew a percentage of users of the drug inevitably would experience) was for financial gain and its fear that if Pfizer provided proper and adequate information,

Zoloft would lose its share of the SSRI market.

40. At all times relevant herein, the conduct of Pfizer, as set forth hereinabove, was malicious, fraudulent, and oppressive toward the decedent and the public generally, and Pfizer conducted itself in a willful, wanton and reckless manner in the manner set forth hereinabove. Despite its specific knowledge as set forth above, Pfizer deliberately recommended, manufactured, produced, marketed, sold, distributed, merchandised, packaged, promoted and advertised the dangerous and defective drug Zoloft. All of the foregoing constitute an utter, wanton and conscious disregard of the rights and safety of a large segment of the public, and by reason thereof, Pfizer is guilty of reckless, willful and wanton acts and omissions which evidence a total and conscious disregard for the safety of the decedent and others, which proximately caused the damages set forth above, for which damages the defendant is liable to the plaintiff..

COUNT FOUR - BREACH OF WARRANTY

As and for her fourth claim for relief against the defendant, the plaintiff re-alleges all foregoing allegations as if fully set forth hereunder, and further alleges as follows:

41. At all times herein mentioned, Defendant Pfizer, utilized promotional materials and activities, and the advertising media to urge doctors, such as Timothy Michael Witczak's doctor, to prescribe Zoloft and patients, such as Timothy Michael Witczak, to purchase and use Zoloft. Pfizer expressly warranted to physicians, to decedent, and to other members of the general public, that said product was effective, safe and proper for its intended use.

42. Pfizer represented to the consumer who would use Zoloft and to the physicians who would prescribe it -- without full and complete disclosure of the risks of Zoloft's side effects -- that Zoloft was safe and efficacious, amounting to an express warranty of the safety and efficacy of Zoloft.

43. Pfizer, knew, or in the exercise of reasonable diligence should have known, that Zoloft had serious side effects such as those set forth herein that can lead to death.

44. Both decedent's physician as well as Timothy Michael Witczak relied on the express warranty representations of Pfizer, in the use of Zoloft, however, Zoloft was not effective, safe, and proper for its intended use as warranted in that Zoloft was not effective and made Timothy Michael Witczak worse, caused akathisia, emotional blunting, depersonalization and other chemically-induced conditions which led to his death.

45. As a direct and proximate result of the breach of warranty by Pfizer, the plaintiff suffered and will continue to suffer the damages described above, for which damages the defendant is liable to the plaintiff.

WHEREFORE, the plaintiff prays for entry of Judgment against Pfizer as follows:

A. Awarding the plaintiff, Kimberley Kay Witczak, as surviving spouse and Trustee for the Next of Kin, damages in excess of $50,000[4], the total to be distributed among the next of kin and the surviving spouse as provided by law;

B. Awarding the plaintiff, Kimberley Kay Witczak, the decedent's surviving spouse, damages for funeral and burial expenses, and for loss of consortium in an amount in excess of $50,000;[5]

C. Awarding the plaintiff for costs, disbursements, and prejudgment interest; and

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[4] Minn. Stat. §544.36 and Minn.R.Civ.P. 8.01 prohibit a plaintiff who seeks more than $50,000 in unliquidated damages from assigning in the complaint a dollar amount to the damages he or she seeks, and requires such a plaintiff simply to state that a recovery of reasonable damages in an amount greater than $50,000 is sought.

[5] See preceding note.

D. Awarding the plaintiff such legal and other relief as the Court or Jury deems just and equitable.[6]

PLAINTIFF DEMANDS A TRIAL BY JURY

BAUM HEDLUND
Lead Counsel for Plaintiff

Dated: May 19, 2004 By: _____

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[6] Minn. Stat. §549.191 prohibits a plaintiff from seeking punitive damages in the complaint, and requires a motion to amend the complaint before such damages may be sought. The plaintiff hereby notifies the defendant that she reserves her right to seek punitive damages in this proceeding.

ACKNOWLEDGMENT PURSUANT TO MINN. STAT. §549.211

The plaintiff, by her attorneys, acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party if the plaintiff is found to have acted in bad faith in bringing this action, to have asserted a claim or defense knowing it to be frivolous or to have engaged in other conduct described in Minn. Stat. Sec. 549.211, subd. 2.

BAUM HEDLUND
Lead Counsel for Plaintiff

Dated: May 19, 2004 By: _____

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