

**Bonus Section A**

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January 15, 1996

Professor Barry Schreiber  
26720 Highway 169  
Zimmerman, MN 55398

Dear Professor Schreiber:

In response to our telephone conversation on Friday, January 12, 1996, wherein you requested copies of documents pertaining to my Pocase v. Cullen/Frost Bankers, Inc., et al case, enclosed are copies of our Plaintiffs' Second Amended Petition, the article from the San Antonio Express newspaper and the case report as published in *Soele's Trial Report*.

I hope this information will be of some help to you.

Yours truly,



Bob Gibbins

BG/had  
Enclosure

JAMES P. POCASE AND FERN ALICE  
POCASE, INDIVIDUALLY AND ON  
BEHALF OF THE ESTATE OF PAULA  
FERN POCASE, AND JEROMY GLENN  
TAYLOR AND JUSTIN ALLEN MADDOX,  
MINORS,

V.

CULLEN/FROST BANKERS, INC.,  
FROST NATIONAL BANK OF SAN  
ANTONIO, AS A WHOLLY-OWNED  
SUBSIDIARY OF CULLEN/FROST  
BANKERS, INC. AND D/B/A  
NORTH FROST BANK, AN  
UNINCORPORATED DIVISION  
OF FROST NATIONAL BANK  
OF SAN ANTONIO

§ IN THE DISTRICT COURT OF  
§ SEP 20 A 8:56

§ DEPUTY

§ BEXAR COUNTY, TEXAS

§ 73RD JUDICIAL DISTRICT

**PLAINTIFFS' SECOND AMENDED ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW James P. Pocase and Fern Alice Pocase, Individually and On Behalf of the Estate of Paula Fern Pocase, and Jeromy Glenn Taylor and Justin Allen Maddox, Minors, hereinafter "Plaintiffs," complaining of Cullen/Frost Bankers, Inc., Frost National Bank of San Antonio as wholly-owned subsidiary of Cullen/Frost Bankers, Inc. and d/b/a North Frost Bank, an unincorporated division of Frost National Bank of San Antonio, herein collectively called "Defendants" and/or "Frost Bank" and for cause of action would respectfully show the Court as follows:

I.

Plaintiffs would show that they are residents of Pascagoula, Mississippi.

Defendants, Cullen/Frost Bankers, Inc., Frost National Bank of San Antonio as wholly-owned subsidiary of Cullen/Frost Bankers, Inc. and d/b/a North Frost Bank, an unincorporated division of Frost National Bank of San Antonio, have previously been served with process and no further service of citation is necessary at this time.

II.

Mrs. Fern Alice Pocase is the natural mother of Paula Fern Pocase and James P. Pocase is the natural father of Paula Fern Pocase. Paula Fern Pocase is deceased. Fern Alice Pocase and her husband, James P. Pocase, bring this action individually and as parental heirs of Paula Fern Pocase, on behalf of the Estate of Paula Fern Pocase, and on behalf of Jeromy Glenn Taylor and Justin Allen Maddox, Minors to recover damages because of the Defendants' negligence herein and the resulting death of Paula Fern Pocase under the Texas Wrongful Death Act C.P.R.C. 71.001, and the Texas Survival Statutes, C.P.R.C. 71.021, et seq.

III.

Plaintiffs would show that on or about March 7, 1993 at approximately 10:30 p.m., Paula Fern Pocase, the daughter (D.O.B. March 19, 1968) of Plaintiffs Fern Alice Pocase and James P. Pocase, and as mother of Jeromy Glenn Taylor (D.O.B. 4/18/84) and Justin Allen Maddox (D.O.B. 6/19/90) was a business invitee on the premises of the Defendants. These premises are located at 1250 N.E. Loop 410, San Antonio, Bexar County, Texas. Paula Fern Pocase had gone to such business premises of Defendants to deposit some money

and make a withdrawal, that night on her way home to see her children, who were with her parents at the time. While on the Defendants' premises, Paula Fern Pocase was abducted at the Defendants' drive-through ATM machine, then was robbed, raped, shot in the head and burned almost beyond recognition with gasoline which was poured over her body. This tragedy was brought about by the negligence of said Defendants in failing to provide a safe place in which Paula Fern Pocase, business invitee and/or customer, could transact business.

#### IV.

The occurrence made the basis of this suit, referred to in the paragraph above, and the resulting injuries, death and damages were foreseeable and proximately caused by the negligent conduct of the Defendants, its agents, servants or employees by one or more of the following acts or omissions, all of which were collectively or singularly a proximate cause of her injuries and death and the resulting damages suffered by the Plaintiffs:

1. Defendants failed to provide or maintain that character of lookout for the safety of its business invitees and/or customers such as Paula Fern Pocase, as would have been maintained by an ordinary and prudent invitor business establishment under the same or similar circumstances;
2. Defendants failed to furnish Paula Fern Pocase a safe and suitable place in which to transact business;
3. Defendants failed to provide Paula Fern Pocase with adequate protective security;

4. Defendants failed to provide Paula Fern Pocase with an adequate protective security system which would alert local police in an emergency situation such as a 911 button on the ATM facility;

5. Defendants failed to provide any adequate and safe visual surveillance of its premises; and

6. Defendants failed to provide adequate lighting at the ATM facility to allow their users to notice any potential dangers in the area as well as their ability to be observed while business invitees and customers such as Paula Pocase were transacting business.

7. Defendants failed to provide a surveillance camera at their drive-through ATM machine;

8. Defendants failed to have the area surrounding the ATM machine in question cleared of vegetation (trees, bushes, hedges, etc.), which provide a criminal with the opportunity for cover and concealment;

9. Defendants failed to locate the ATM in question in an area most clearly visible from the most heavily travelled perimeter road; and

10. While the Defendants had security officers to protect their assets and their employees, the Defendants failed to have security officers to protect their business invitees and/or customers at the ATM.

Said acts or omissions, alone or in concert with one another, constituted negligence which proximately caused the occurrence made the basis of this action, i.e., Decedent's injuries, damages and death and the damages to her parents and her children.

V.

As a proximate result of the occurrence made the basis of this suit, Decedent Paula Fern Pocase sustained extremely severe and painful personal injuries which resulted in her death on March 7, 1993. Plaintiffs are entitled to recover for the damages including these damages for conscious pain and mental anguish and suffering by the Decedent, Paul Fern Pocase, prior to her death in an amount far in excess of the minimal jurisdictional amounts of this court. Plaintiffs have paid or incurred liability to pay reasonable and necessary charges for medical, funeral and burial services, for which Plaintiffs are entitled to reimbursement in full.

VI.

Plaintiffs James P. Pocase and Fern Alice Pocase have suffered substantial losses as a proximate cause of the Defendants' negligent conduct as alleged in paragraphs III and IV above. Plaintiffs have suffered great pecuniary losses, loss of companionship and society, and mental anguish and will continue to suffer such losses into the indefinite foreseeable future from the Defendants' negligence due to the tragic death of their daughter for which they seek just and adequate compensation. Plaintiffs, James P. Pocase and Fern Alice Pocase, sue for all damages in the past and foreseeable future allowed by Texas law, including, but not limited to, loss of care, maintenance, comfort, guidance, counseling, companionship, society, affection, advice, services, pecuniary support, mental pain and suffering, anguish over the death of Paula Fern Pocase; and the complete change of Plaintiffs' lifestyle because of the untimely death of their daughter, Paula.

The Decedent's parents, James P. Pocase and Fern Alice Pocase, are entitled to recover damages in an amount far in excess of minimal jurisdictional limits of this court, and indeed in excess of Three Million Dollars for actual damages.

## VII.

Plaintiffs, James P. Pocase and Fern Alice Pocase, on behalf of the minor children, Jeromy Glenn Taylor and Justin Allen Maddox, have suffered substantial losses as a proximate result of the Defendants' negligent conduct as alleged in paragraphs III and IV above. Jeromy Glenn Taylor (D.O.B. 4/18/84) and Justin Allen Maddox (D.O.B. 6/19/90), Minors have suffered pecuniary loss from the death of their mother, Paula Fern Pocase, including losses of care, maintenance, support, services, advice, counsel, and contributions of a pecuniary value that they would, in reasonable probability, have received from their mother during her lifetime, had she lived. They have suffered additional losses by virtue of the destruction of the parent-child relationship, including the right to love, affection, solace, comfort, companionship, society, emotional support, and happiness. They have suffered severe mental depression and anguish, grief and sorrow as a result of the death of their mother, Paula Fern Pocase, and are likely in reasonable probability to continue to suffer all of these damages for a long time in the future. For these losses, Jeromy Glenn Taylor and Justin Allen Maddox seek damages in a sum in excess of the minimal jurisdictional limits of the court, and indeed, in excess of Ten Million Dollars each for actual damages.

## PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that upon the trial hereof, Plaintiffs have:

1. Judgment against the Defendants for damages as set out above, which damages are far in excess of the minimal jurisdictional limits of the court, with interest thereon from the date of the judgment at the maximum legal rate until paid;

2. Pre-judgment and post-judgment interest at the maximum amount allowed by law;

3. Costs of court;

4. Such other and further relief to which Plaintiffs may be justly entitled, all of which they will ever pray.

Respectfully submitted,

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By: 

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