

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT  
OF TENNESSEE, AT GREENEVILLE:**

**ROBIN READ, individually and in her  
Capacity as administratrix of the Estate of  
Brandon Michael Read, deceased, and  
MICHAEL A. READ, both in their capacities  
As stated above AND:**

**As representatives of the  
class of persons consisting of the heirs, either  
testate or intestate, of the members of the  
United States Armed Forces killed in the  
service of their country in the War on Terror  
in Iraq and the Middle East, from and after  
September 11, 2001 through date and continuing,  
and  
whose names have or are still being printed on  
chattels and other personal property sold for  
profit by the defendants, jointly and severally,  
their agents, servants, employees and subsidiaries,  
from and after September 11, 2001, through date and  
continuing.**

**CASE NO.: 2:08-CV-116  
JUDGE GREER  
MAG. JUDGE INMAN  
CLASS ACTION**

**Plaintiffs**

**VERSUS**

**LIFEWEAVER, LLC and DAN FRASER**

**Defendants**

**AMENDMENT TO COMPLAINT**

Come the original plaintiffs, and, pursuant to **FRCP 15(a)**, and (a) no responsive pleading having yet been filed and (b) the plaintiffs having not amended their original complaint filed on April 22, 2008, hereby amend their original complaint in the following particulars:

1. Original plaintiffs incorporate each and every averment of their original Complaint into this, their Amended Complaint.

2. Original plaintiffs hereby amend their Complaint to certify same as a class action, pursuant to **FRCP 23**, to be named as representatives of the following class of individuals:

“The heirs at law, either testate or intestate, of the members of the United States Armed Forces killed in the service of their country in the war on terror in Iraq and the Middle East, from and after September 11, 2001, through date and continuing, and whose names have or still are being printed on chattels and other personal property sold for profit by the defendants, their agents, servants, employees and subsidiaries, from and after September 11, 2001, through date and continuing.

And for their counsel to be named as class counsel, with authority to associate, if necessary and if required by the Court pursuant to **FRCP 23 (g)**, other counsel.

3. Original plaintiffs aver, in support thereof, as follows:

a) The proposed class is so numerous that joinder of all members is impracticable. Plaintiffs aver, in support thereof, that the Court need not look further than **EXHIBIT C** to plaintiff’s original complaint, in which the defendants, jointly and severally, by and through their website, admit that they have used, upon information and belief, the names of more than three thousand (3,000) deceased persons, each of whom served in one of the branches of the military, each of whom were killed while in the service of their country in the present conflict known collectively as the “Iraq War,” all of whose names were printed on a t-shirt, which was, and is, being sold for twenty-two (\$22.00) dollars per shirt, and which said price (\$22/shirt) was set so that defendants, jointly and severally, could make a profit off the blood of innocent persons, who served

their country well, who made the ultimate sacrifice, and, further, who (a) are not “public figures”, even for a limited purpose, whose (b) name and/or commercial likeness could be exploited for profit.

b) There are questions of law or fact which are common to the class, including, but not limited to, the following:

1. Whether permission needed to be obtained from the heirs of each dead soldier prior to their names being printed for a commercial purpose.

2. Notwithstanding #1, whether an ordinary, prudent person would find the commercialization of the death of innocent soldiers in the service of their country so gross that any ordinary, prudent person would scream, at the top of his or her lungs: “That’s outrageous!”

3. Whether the defendants should be enjoined from profiting off the death of dead soldiers.

4. Whether the ordinary, prudent person would find that the defendants owed a duty of care to preclude themselves from either intentionally or negligently inflicting emotional distress upon the heirs of these brave soldiers.

c) The claims of the representative parties, your original plaintiffs herein, have fully been stated in the original complaint and are typical of the claims or defenses of the class.

d) The representative parties will fairly and adequately protect the interests of the class.

e) Prosecution of separate actions by individual members of the class could create a risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for the defendants in this case.

f) Adjudications with respect to individual members of the class could be dispositive of the interests of the other members not parties to the class and would substantially impair or impede their ability to protect their interests.

g) The defendants have acted on grounds generally applicable to all members of the proposed class by utilizing, upon information and belief, the names of their loved ones, none of whom are “public figures” even for a limited purpose, for profit.

h) Questions of law and fact common to members of this class predominate over any questions affecting individual members.

4. Original plaintiffs, further, aver that the class is easily identifiable. They respectfully take exception to any extension of the Arizona court’s ruling which held that there would be a chilling effect to the defendants’ free speech rights if defendants were required to contact family members of the deceased soldiers for permission to use their names on defendants’ product to a situation where defendants have, and are still making, a profit. Original plaintiffs respect defendants’ free speech rights, but not for unauthorized commercial purposes.

Original plaintiffs and their counsel have received numerous calls and correspondence from family members of fallen soldiers, **NONE OF WHOM HAVE DISAGREED THAT DEFENDANT SHOULD BE PROHIBITED, IN A FREE COUNTRY SUCH AS OURS, FROM EXERCISING HIS FIRST AMENDMENT FREEDOM OF SPEECH.**

Typical of this response is the email counsel for plaintiffs received from the mother of a fallen soldier, killed in Iraq in 2007, who said, “I realize that he

(defendant, Fraser) has a right to voice his opinion in the country. However, I do not feel that he should use the names of those who have given their lives for this country.”

And, as your plaintiffs have averred in their original Complaint, the gravamen of their lawsuit is that **DEFENDANTS, JOINTLY AND SEVERALLY, ARE MAKING A PROFIT OFF THE SALE OF THESE ITEMS WHICH DISPLAY THE NAMES OF THEIR DEAD RELATIVES WITHOUT EITHER (1) PERMISSION, OR (2) IF OUR COURTS DECIDE THAT OBTAINING PERMISSION, EVEN FOR A COMMERCIAL VENTURE SUCH AS THIS, WOULD CHILL FIRST AMENDMENT RIGHTS, SHARING IN THE PROFITS OF THE VENTURE WITH THE HEIRS OF THE SOLDIERS WHOSE NAMES ARE BEING USED WITHOUT THEIR PERMISSION!**

Most respectfully, this is a concept that even a mentally-challenged monkey could grasp, but, apparently, defendants cannot—or, more likely, refuse--to do so, for as defendant, Fraser, stated recently to the Associated Press, he is “not worried” about the outcome of this litigation.

5. As a result of defendants, jointly and severally, stating that they are “not worried” about this litigation, your original plaintiffs, on behalf of the class of persons sought to be certified pursuant to **FRCP 23** hereby amend their demand to demand the following damages against the defendants, jointly and severally, for the benefit of the class sought to be certified.

a) Plaintiffs, on behalf of the entire class, including themselves, seek the sum of One Million (\$1,000,000.00) Dollars, multiplied by the number of servicemen killed in the Iraq War to date, or Four Thousand Fifty-Two (4,052), and, thus, sue, on

behalf of the members of the class, for total compensatory damages for the class in the sum of **Four Billion, Fifty-Two Million (\$4,052,000,000.00) Dollars.**

b) Plaintiffs, on behalf of the entire class, including themselves, seek the sum of Nine Million (\$9,000,000.00) Dollars, multiplied by the number of servicemen killed in the Iraq War to date, or Four Thousand Fifty-Two (4,052), and, thus, sue, on behalf of the members of the class, for total punitive damages for the class in the sum of **Thirty-Six Billion, Four Hundred Sixty-Eight Million (\$36,468,000,000.00) Dollars.**

Even the aforesaid “mentally-challenged monkey” should be worried about potential exposure in this amount.

WHEREFORE, original plaintiffs amend their Complaint as of right, pursuant to **FRCP 15 (a)**, in the foregoing particulars.

S/Francis X. Santore, Jr.  
Francis X. Santore, Jr., BPR011315  
Of Counsel

SANTORE AND SANTORE  
Attorneys at Law  
P.O. Box 113  
Greeneville, TN 37744-0113

Attorneys for Plaintiffs

#### **CERTIFICATE OF SERVICE**

I, Francis X. Santore, Jr., attorney for plaintiffs, certify that, on April 29, 2008, a copy of the foregoing Amendment to Complaint was filed electronically. Notice of this filing will be sent by operation of the Court’s electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail, and, in the case of the original defendants herein, a true and exact copy of this pleading shall accompany the true copy of the original complaint, and shall be personally served upon each with same along with the original process (summons). Parties may access this filing through the Court’s electronic filing system.

S/Francis X. Santore, Jr.