

CIVIL COVER SHEET

A-12-663162-C

Clark County, Nevada

XXII

Case No. _____
(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone): William B. Scott Attorney (name/address/phone): Mitchell S. Bisson, Esq. 823 Las Vegas Blvd South, Las Vegas, NV 89101 385-3343	Defendant(s) (name/address/phone): Costco Wholesale Corporation Attorney (name/address/phone):
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II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases		
Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<p>Negligence</p> <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input checked="" type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

<input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 90) <input type="checkbox"/> Securities (NRS 90)	<input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademarks (NRS 600A)	<input type="checkbox"/> Enhanced Case Mgmt/Business <input type="checkbox"/> Other Business Court Matters
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6/8/12	Mitchell S. Bisson, Esq.
Date	Signature of initiating party or representative



CLERK OF THE COURT

COMP
MATTHEW Q. CALLISTER, ESQ.
State Bar No. 001396
mqc@call-law.com
MITCHELL S. BISSON, ESQ.
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mbisson@call-law.com
CALLISTER + ASSOCIATES, LLC
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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

WILLIAM B. SCOTT, individually and as
administrator for the Estate of ERIK SCOTT,
deceased; and LINDA G. SCOTT,
individually;

Plaintiffs,

-VS-

COSTCO WHOLESALE CORPORATION,
a Foreign Corporation; SHAI LIERLEY,
individually; DOE INDIVIDUALS I-X,
inclusive; and ROE ENTITIES I-X,
inclusive,

Defendants.

Case No.: A-12-663162-C

Dept. No.: XXII

COMPLAINT

1. Negligence
2. Wrongful Death

EXEMPTION FROM ARBITRATION REQUESTED

Claims involve an amount in issue in excess of \$50,000

COMES NOW, Plaintiffs WILLIAM B. SCOTT, individually and as administrator for
the Estate of ERIK SCOTT, deceased, and LINDA G. SCOTT, individually, by and through
their attorneys of record, Matthew Q. Callister, Esq. and Mitchell S. Bisson, Esq., of the law firm
of CALLISTER + ASSOCIATES, LLC, and herein alleges, avers and complains against the
named Defendants, as follows:

/.../

PARTIES AND JURISDICTION

1. Plaintiff WILLIAM B. SCOTT is and was at all times mentioned herein, a resident of El Paso County, Colorado and is the administrator of the Estate of Erik Scott; Plaintiff William B. Scott is the father of decedent, Erik Scott.
2. Plaintiff LINDA G. SCOTT is and was at all times mentioned herein, a resident of El Paso County, Colorado; Plaintiff Linda G. Scott is the mother of decedent, Erik Scott.
3. Defendant COSTCO WHOLESALE CORPORATION (hereinafter "Costco") is and was at all times relevant hereto, a Foreign Corporation, duly licensed and doing business in the State of Nevada, County of Clark.
4. Upon information and belief, Defendant SHAI LIERLEY is and was at all times mentioned herein, a resident of Clark County, Nevada.
5. Plaintiff is ignorant of the true names and capacities of defendants sued hereunder as DOE INDIVIDUALS, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges, that each defendant designated herein as a DOE is responsible in some manner for the acts or omissions alleged in this Complaint, and that Plaintiff's injuries were proximately caused by the acts or omissions of these defendants. When Plaintiff determines the true name and identity of each DOE defendant, Plaintiff will timely seek leave to amend this Complaint and substitute the true names for the fictitious identities sued hereupon.
6. Plaintiff is ignorant of the true names and capacities of defendants sued hereunder as ROE ENTITIES, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges, that each defendant designated herein as a ROE ENTITY is responsible in some manner for the acts or omissions alleged in this Complaint, and that Plaintiff's injuries were proximately caused by the acts or omissions of these defendants. When Plaintiff determines the true name and identity of each ROE ENTITY defendant, Plaintiff will timely seek leave to amend this Complaint and substitute the true names for the fictitious identities sued hereupon.

1 7. Jurisdiction and venue are appropriate in this Court.

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3 **GENERAL ALLEGATIONS**

4 8. On July 10, 2010, Erik Scott (hereinafter, "Erik"), an individual and son of Plaintiffs, as
5 well as his then-girlfriend, Samantha Sterner (hereinafter, "Samantha"), entered the
6 Costco Wholesale location located in Summerlin, Las Vegas, Nevada, to obtain a
7 membership card and to shop for merchandise.

8 9. Erik obtained an executive membership card after filling out an application for the same,
9 and commenced shopping.

10 10. Shortly before noon on July 10, 2010, Erik had a brief conversation with a Costco
11 employee, who noticed Erik was carrying a concealed weapon.

12 11. The employee informed Erik that Costco had a no firearms policy in the store.

13 12. Erik calmly informed the employee that the firearm was properly and legally registered
14 with the Las Vegas Metropolitan Police Department and that he had a legal Concealed
15 Carry Weapons permit, and continued shopping.

16 13. At no time did the employee request that Erik either leave the store or remove the weapon
17 from the store.

18 14. Further, nowhere in the store were signs posted announcing the no firearms policy nor,
19 upon information and belief, was the policy contained in the membership application filled
20 out by Erik.

21 15. At or about 12:48 p.m. on July 10, 2010, Costco's loss prevention employee, Defendant
22 Shai Lierley, called 911 and reported that Erik was in possession of a firearm, was on
23 unspecified drugs, was acting erratically and was reaching for his firearm.

24 16. At the time, Erik was not under the influence of any illegal drug, was not acting erratically
25 and was not at any point reaching for his firearm.

26 17. Further, upon information and belief, Costco has a company policy that no employee is to
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1 contact the police, other than a store manager, which Lierley was not; upon information
2 and belief, loss prevention employees such as Lierley are specifically *prohibited* from
3 contacting the police.

4 18. Costco evacuated the store, and with no warning as to why, Erik and Samantha calmly
5 exited the store with the other patrons.

6 19. Upon exiting the store, Erik was pointed out to Las Vegas Metro Officers by Lierley.

7 20. Upon information and belief, Erik was then shot several times by Metro Officers who
8 mistook a blackberry in his hand for a firearm.

9 21. Erik passed away almost immediately; a short time after being transported to University
10 Medical Center in Las Vegas, Nevada, Erik was pronounced dead.

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13 **FIRST CLAIM FOR RELIEF**
(Negligence as against all Defendants)

14 22. Plaintiffs repeat and re-allege each and every allegation contained in the preceding
15 paragraphs as though set forth herein, and further allege, as follows:

16 23. Defendant Costco and Defendant's employees, including Defendant Shai Lierley, at the
17 time of the incidents complained of in this action, owed a general duty of care to Erik
18 Scott.

19 24. Defendants breached their general duty of care to Erik Scott by grossly and inaccurately
20 describing the Costco situation to Las Vegas Metropolitan Police over the telephone by:
21 (1) mis-characterizing the conduct of Erik Scott; (2) misrepresenting Erik Scott's
22 intentions with his firearm; and (3) falsely accusing Erik Scott of being under the
23 influence of illegal narcotics.

24 25. Defendant Costco further breached its general duty of care to Erik Scott by failing to
25 follow company protocol in allowing a non-manager employee of Costco, Defendant Shai
26 Lierley, to contact the Las Vegas Metropolitan Police Department about the situation.

27 26. As a result of Defendants' actions, Plaintiffs and Decedent have suffered monetary and
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1 emotional damages in an amount in excess of \$10,000.00.

2 27. At all relevant times herein, Defendant Lierley was an employee of Costco, acting in
3 furtherance of Costco's business interests by performing retail services and functions on
4 behalf of Costco, for which Costco was to receive economic gain.

5 28. As such, Defendant Costco is vicariously liable for the acts of its employee, Defendant
6 Lierley, which were the proximate cause of Plaintiffs' damages.

7 29. As an actual and proximate cause of Defendants' conduct, Plaintiffs have suffered
8 damages in excess of \$10,000.00.

9 30. As a result of Defendants' actions, it has been necessary for Plaintiffs to retain the services
10 of CALLISTER + ASSOCIATES, LLC., duly licensed and practicing attorneys in the
11 State of Nevada, to file this action and Defendants should be required to pay reasonable
12 attorneys fees to Plaintiffs therefor.
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15 **SECOND CLAIM FOR RELIEF**
16 ***(Wrongful Death as against all Defendants)***

17 31. Plaintiffs repeats and re-alleges each and every allegation contained in the preceding
18 paragraphs as though set forth herein, and further allege, as follows:

19 32. Plaintiffs, upon information and belief, allege that Defendants, and each of them, are
20 responsible for their actions and for the occurrences and injuries herein alleged.

21 33. The Defendants, and each of them, through their conduct alleged herein, and without just
22 provocation or cause proximately brought about the death of Erik Scott and the injuries
23 sustained by Plaintiffs. The Defendants, and each of them, created the situation which
24 resulted in Erik Scott losing his life.

25 34. Prior to his death, Erik Scott suffered great pain and suffering resulting in disfigurement
26 and loss of enjoyment of life.

27 35. That as a direct and proximate result of the Defendants' conduct, the estate of Erik Scott
28 incurred damages and is entitled to recover damages for medical expenses, medical care

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and treatment, and for burial expenses on behalf of the decedent.

36. That as a further and proximate result of the Defendants' conduct, Plaintiffs are entitled to recover damages for the pain, suffering, and disfigurement of their deceased son, Erik Scott; and further, Plaintiffs have and will suffer great grief, sorrow, loss of income, companionship, society, comfort, and consortium as a result of the death of Erik Scott.

37. As a direct and proximate result of the Defendants', and each of them, conduct as herein alleged, Plaintiffs and Decedent have been damaged in an amount in excess of \$10,000.00, the exact amount to be proven at trial.

38. As a result of Defendants' actions, it has been necessary for Plaintiffs to retain the services of CALLISTER + ASSOCIATES, LLC., duly licensed and practicing attorneys in the State of Nevada, to file this action and Defendants should be required to pay reasonable attorneys fees to Plaintiffs therefor.

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1 **PRAYER FOR RELIEF**

2 **WHEREFORE, each Plaintiff individually prays for judgment against Defendants as**
3 **follows:**

- 4 1. For compensatory damages in an amount in excess of \$10,000.00;
- 5 2. For punitive damages in an amount deemed appropriate to punish those
- 6 Defendants lawfully susceptible to punitive damages for their wrongful and
- 7 egregious conduct;
- 8 3. For general damages in an amount in excess of \$10,000.00;
- 9 4. For special damages;
- 10 5. For reasonable attorney's fees;
- 11 6. For cost of suit incurred herein; and
- 12 7. For such other and further relief as the Court deems just and proper.
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14 DATED: This 8th day of June, 2012.

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16 Respectfully submitted,

17 **CALLISTER + ASSOCIATES, LLC**

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19 By: 

20 **MATTHEW Q. CALLISTER, ESQ.**

21 Nevada Bar No. 001396

22 **MITCHELL S. BISSON, ESQ.**

23 Nevada Bar No. 011920

24 823 Las Vegas Boulevard South, Fifth Floor

25 Las Vegas, Nevada 89101

26 *Attorneys for Plaintiff*

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