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7 **ATTORNEYS FOR DEFENDANT**
8 BERGE ZOBAYAN as Successor in Interest
9 For ARA GEORGE ZOBAYAN

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**

12 VANESSA BRYANT, individually and as
13 Successor in Interest to KOBE BRYANT,
14 Deceased; VANESSA BRYANT as Successor
15 in Interest to GB, a minor, deceased;
16 NB, a minor, by her Natural Mother and
17 Guardian Ad Litem, VANESSA BRYANT;
18 BB, a minor, by her Natural Mother and
19 Guardian Ad Litem, VANESSA BRYANT;
20 and CB, a minor, by her Natural Mother and
21 Guardian Ad Litem, VANESSA BRYANT,

19 Plaintiffs,

20 vs.

21 ISLAND EXPRESS HELICOPTERS, INC., a
22 California Corporation; ISLAND EXPRESS
23 HOLDING CORP., a California Corporation;
24 and BERGE ZOBAYAN as Personal
25 Representative of and/or Successor in Interest
26 to ARA GEORGE ZOBAYAN, a California
27 Resident,

26 Defendants.

Case No. **20STCV07492**

Dept. W
Hon. Virginia Keeny

**ANSWER OF DEFENDANT BERGE
ZOBAYAN AS SUCCESSOR IN INTEREST
FOR ARA GEORGE ZOBAYAN TO FIRST
AMENDED COMPLAINT FOR
DAMAGES;**

AND

DEMAND FOR JURY TRIAL

Action Filed: 02/24/2020
Trial Date: None Set

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TO PLAINTIFFS AND TO THEIR ATTORNEYS OF RECORD:

COMES NOW Defendant BERGE ZOBAYAN as Successor in Interest for ARA GEORGE ZOBAYAN for himself only (“this answering defendant”) in answer to the First Amended Complaint on file herein, hereby admits, denies, and alleges as follows.

1. Pursuant to the relevant provisions of Section 431.30 of the California Code of Civil Procedure, this answering defendant denies generally and specifically each and every allegation and each and every cause of action of the First Amended Complaint, and the whole thereof, and denies that plaintiffs have been damaged in any amount or sums whatsoever, or at all.

For its affirmative defenses, this answering defendant alleges as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

2. The First Amended Complaint, and each purported cause of action contained therein, fails to state a claim against this answering defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Comparative Fault/Assumption of Risk of Plaintiffs)

3. This answering defendant is informed and believes and thereon alleges that any injuries or damages to plaintiffs and/or their decedent were directly caused in full or in part by the negligence or fault of plaintiffs and/or their decedent, including their knowing and voluntary encounter with the risks involved, and that this negligence was a substantial factor in causing their purported damages, for which this answering defendant bears no responsibility.

THIRD AFFIRMATIVE DEFENSE

(Comparative Fault of Third Parties)

4. This answering defendant is informed and believes and thereon alleges that any injuries or damages to plaintiffs and/or their decedent were directly caused in full or

1 in part by the negligence, fault or wrongful conduct of third parties, whom this answering
2 defendant neither controlled nor had the right to control, and for which this answering
3 defendant bears no responsibility. Said acts or omissions comparatively reduce the
4 percentage of negligence, fault and/or liability, if any of this answering defendant.

5 **FOURTH AFFIRMATIVE DEFENSE**

6 **(Superseding Cause)**

7 5. The First Amended Complaint, and each purported cause of action
8 contained therein against this answering defendant is barred because plaintiffs' damages,
9 if any, were proximately caused by superseding and/or intervening events.

10 **FIFTH AFFIRMATIVE DEFENSE**

11 **(Speculative and/or Uncertain Damages)**

12 6. This answering defendant is informed and believes and thereon alleges that
13 plaintiffs' damages, if any, are speculative and/or uncertain and therefore not
14 compensable.

15 **SIXTH AFFIRMATIVE DEFENSE**

16 **(Failure to Mitigate)**

17 7. This answering defendant is informed and believes and thereon alleges that
18 the First Amended Complaint, and each purported cause of action alleged therein, is
19 barred because plaintiffs failed to mitigate their damages, if any.

20 **SEVENTH AFFIRMATIVE DEFENSE**

21 **(Failure to Join Necessary Parties)**

22 8. The First Amended Complaint, and each purported cause of action alleged
23 therein against this answering defendant, is barred by failure to join one or more necessary
24 and indispensable parties.

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EIGHTH AFFIRMATIVE DEFENSE

(Federal Preemption)

9. Plaintiffs’ claims are barred in full or in part based upon the Federal Aviation Act and the applicable Federal Aviation Regulations and because federal law fully occupies the field of aviation safety and, therefore, preempts said claims.

NINTH AFFIRMATIVE DEFENSE

(No Substantial Factor)

10. The conduct of this answering defendant was not a substantial factor in bringing about plaintiffs’ damages, if any, and therefore was not a contributing or proximate cause.

TENTH AFFIRMATIVE DEFENSE

(Waiver and Estoppel)

11. Plaintiffs’ claims are barred in full or in part based on the doctrines of waiver and estoppel.

ELEVENTH AFFIRMATIVE DEFENSE

(Non-Economic Damages)

12. In the event that this answering defendant is found liable to plaintiffs, said liability for non-economic damages is several only and not joint so that this answering defendant shall be responsible only for the amount of non-economic damages in proportion to its percentage of fault pursuant to the provisions of California Civil Code § 1431.2.

TWELFTH AFFIRMATIVE DEFENSE

(Punitive Damages)

13. The Complaint, and each purported cause of action contained therein, fails to allege facts sufficient to state a claim for punitive damages against this answering defendant pursuant to California Civil Code § 3294.

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Leader Berkon Colao & Silverstein LLP
Attorneys at Law

THIRTEENTH AFFIRMATIVE DEFENSE

(Punitive Damages)

14. Plaintiffs’ claims for punitive damages are barred or limited by state and/or federal law, including but not limited to the guideposts set forth in *State Farm Mutual Automobile Insurance Company v. Campbell*, 538 U.S. 408 (2003).

WHEREFORE, this answering defendant prays for relief as follows:

1. That plaintiffs take nothing pursuant to the Complaint, that judgment is entered in favor of this answering defendant and against plaintiffs, and that the Complaint is dismissed with prejudice;
2. For costs of suit herein;
3. For any reasonable attorneys’ fees allowed by law; and
4. For any further relief as the Court may deem just and proper.

Dated: 5/8/2020

LEADER BERKON COLAO &
SILVERSTEIN LLP

By: s/ Arthur I. Willner
ARTHUR I WILLNER, SBN: 118480

**Attorneys for Defendant Berge Zobayan as
Successor in Interest to Ara George Zobayan**
Email: awillner@leaderberkon.com

Leader Berkon Colao & Silverstein LLP
Attorneys at Law

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DEMAND FOR JURY TRIAL

Defendant BERGE ZOBAYAN, as Successor in Interest to Ara George Zobayan hereby demands a trial by jury.

Dated: 5/8/2020

LEADER BERKON COLAO &
SILVERSTEIN LLP

By: s/ Arthur I. Willner
ARTHUR I WILLNER, SBN: 118480

**Attorneys for Defendant Berge Zobayan
as Successor in Interest to Ara George Zobayan**
Email: awillner@leaderberkon.com

Leader Berkon Colao & Silverstein LLP
Attorneys at Law

Case Name: *Vanessa Bryant, et al. v Island Express Helicopters, Inc., et al.*
LASC Case No. 20STCV07492

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 660 South Figueroa St., Suite 1150, Los Angeles, CA 90017

On **May 8, 2020** I served the foregoing documents described as:
ANSWER OF DEFENDANT BERGE ZOBAYAN AS SUCCESSOR IN INTEREST TO ARA GEORGE ZOBAYAN TO FIRST AMENDED COMPLAINT FOR DAMAGES; AND DEMAND FOR JURY TRIAL
on the interested party(ies) in this action as follows:

<p>Brad D. Brian, Esq. Luis Li, Esq. MUNGER, TOLLES & OLSON LLP 350 South Grand Avenue, 50th Floor Los Angeles, CA 90071-3426 Tel.: (213) 683-9100 Fax: (213) 687-3702 Email: brad.brian@mto.com Email: luis.li@mto.com</p> <p>Gary C. Robb (PHV Forthcoming) Anita Porte Robb (PHV Forthcoming) ROBB & ROBB LLC One Kansas City Place Suite 3900, 1200 Main Street Kansas City, Missouri 64105 Phone: 816-474-8080 Fax: 816-474-8081 Email: gcr@robbrobb.com Email: apr@robbrobb.com</p> <p><i>Attorneys for Plaintiffs</i></p>	<p>Michael J. Terhar, Esq. – SBN 89491 Ross Cunningham, Esq. (<i>PHV Pending</i>) Don Swaim, Esq. (<i>PHV Pending</i>) D. Todd Parrish, Esq. – SBN 173392 CUNNINGHAM SWAIM L.L.P. 2 North Lake Avenue, Suite 550 Pasadena, CA, 91101 Tel: 626-765-3000 Fax: 626-765-3030 mterhar@cunninghamswaim.com rcunningham@cunninghamswaim.com dswaim@cunninghamswaim.com tparrish@cunninghamswaim.com</p> <p><i>Attorneys for Defendants Island Express Helicopters, Inc., a California Corporation; and Island Express Holding Corp., a California Corporation</i></p>
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BY EMAIL: By emailing the parties email address as listed above

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **May 8, 2020** at Los Angeles, California.

s/ Arthur Willner

Arthur Willner

Leader Berkon Colao & Silverstein LLP
Attorneys at Law