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8 **ATTORNEYS FOR DEFENDANT**
Berge Zobayan Successor-In-Interest to
9 ARA GEORGE ZOBAYAN

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

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

19 Plaintiffs,

20 vs.

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

26 Defendants.
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Case No. **20STCV07492**

Hon. Virginia Keeny

**NOTICE OF MOTION AND MOTION TO
TRANSFER VENUE BY DEFENDANT
BERGE ZOBAYAN AS SUCCESSOR-IN-
INTEREST TO ARA GEORGE ZOBAYAN;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
ARTHUR I. WILLNER**

DATE: TBD

TIME: 8:30 A.M.

DEPT: W

Van Nuys Courthouse East
6230 Sylmar Ave
Van Nuys, Ca 91401

RES ID: TBD (DUE TO COVID 19)

*(Filed Concurrently with Appendix of Exhibits;
[Proposed] Order)*

Action Filed: 02/24/2020

1 **TO THE CLERK OF THIS COURT, TO ALL PARTIES, AND TO THEIR**
2 **COUNSEL OF RECORD:**

3 PLEASE TAKE NOTICE THAT, on a date to-be-determined (TBD) by the Court
4 (because the L.A. Civil Courts are not currently issuing reservations for motion hearing dates) at
5 8:30 a.m., or as soon thereafter in Dept. W of the above-entitled court, Defendant Berge Zobayan
6 as Successor-In-Interest to Ara George Zobayan. (“Defendant”) will move this Court for an order
7 transferring venue to the Superior Court of California, County of Orange or another county the
8 Court finds fair and just under the circumstances pursuant to Code of Civil Procedure section 397,
9 due to the fact that an impartial trial cannot be had in the County of Los Angeles.

10 This Motion will be based on this notice, the attached memorandum of points and
11 authorities, the attached Declaration of Arthur I. Willner and Exhibits attached thereto, the
12 records and files of this action, and the oral and documentary evidence which may be introduced
13 at the hearing.

14
15 Dated: 6/19/2020

LEADER BERKON COLAO &
SILVERSTEIN LLP

16
17 By: *s/ Arthur I. Willner* _____

ARTHUR I WILLNER, SBN: 118480

OLGA PENA, SBN 307927

Attorney for DEFENDANT

Berge Zobayan as Successor-In-Interest to Ara
George Zobayan

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. PRELIMINARY STATEMENT**

3 Movant recognizes that a transfer of venue in a civil case is not a commonplace event.
4 This is because rarely does the presence of one party in a case create such clear prejudice as to
5 justify replacing the plaintiff’s choice of forum. However, such cases do occur from time to time.
6 There can be no doubt that the instant lawsuit makes a more compelling argument for such a
7 venue transfer than any civil case filed in Los Angeles County in memory.

8 The notoriety and popularity of the late Kobe Bryant in Los Angeles County is detailed
9 herein and reached a level that left no person in the county unaware of his role in branding Los
10 Angeles as his city. No other single individual in recent memory, sports figure or otherwise, has
11 been considered by the people to be such a personification of their city of Los Angeles. But with
12 that unprecedented level of acclaim comes a lack of impartiality and objectivity by potential
13 jurors about the merits under the law of the claims asserted in this lawsuit by the Bryant family.

14 No reasonable person can argue that an average juror will view with dispassion the claims
15 of the Bryant family in comparison to the defenses presented by the estate of the pilot. No cogent
16 argument can be asserted that the estate of the pilot, whom the Bryant family asserts was the
17 cause of the death of Mr. Bryant, will not begin trial with the proverbial “two strikes” already
18 against him due to the extreme level of popularity of plaintiff with the jury pool.

19 Yet the Court can resolve this virtually certain lack of fairness with the granting of this
20 motion. The fact that not only the Bryant family, but all of the passenger families, live in Orange
21 County makes that venue a reasonable and fundamentally fair location for trial. A pool of jurors
22 not unknown to plaintiffs would decide their claims, while at the same time providing due
23 consideration for the defenses presented. The court should transfer venue to Orange County at
24 this time.

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1 **II. FACTUAL BACKGROUND**

2 This case arises out of a January 26, 2020 accident involving the crash of a helicopter in
3 which Kobe Bryant and his daughter GB, now deceased, were passengers. Plaintiffs are survivors
4 and successors in interest to both Kobe Bryant and GB. Plaintiffs have brought suit against
5 multiple parties, including the successor-in-interest of Defendant Ara George Zobayan, Berge
6 Zobayan (“Defendant”) in the Superior Court for the County of Los Angeles. However, Kobe
7 Bryant’s status as a professional athlete and hometown celebrity makes it so that a fair trial
8 cannot be had in Los Angeles County.

9 The extreme levels of publicity and interest of the public in the Los Angeles area
10 regarding Kobe Bryant was and continues to be of a magnitude rarely seen for sports figures or
11 any other celebrities in the United States. There has not been in recent memory a person in Los
12 Angeles who was as singularly popular with the citizenry as Bryant. This level of popularity for
13 him and, by extension, for his team, was part of the fabric of the city well before the accident that
14 gives rise to this lawsuit.

15 Bryant came to Los Angeles at a time when the city lacked any of the basketball legends
16 like Magic Johnson and others who had made the Lakers a dominant force in the game.
17 (Declaration of Arthur I. Willner “Willner Decl.,” ¶2 “Exhibit A”) Bryant filled that void and
18 went on to become one of the best, by some accounts the best, player to ever put on an NBA
19 uniform. His intense level of play, scoring capabilities and dedication to playing for just one
20 team created an aura about him that captured the imagination of not just Lakers fans, but the
21 entire city of Los Angeles.

22 Bryant’s career began when Shaquille O’Neal was also a Lakers player. (Ibid.) Eventually
23 O’Neal left the Lakers and Bryant became the sole face of the team. His five championship rings
24 and scoring statistics turned him into a star well beyond the level of any former Lakers. (Willner
25 Decl. ¶3 “Exh. B”) Moreover, Bryant excelled at a time when the internet and social media
26 became the overwhelming vehicle for communication about public figures, a medium that did not
27 exist for the Lakers championship players of the 1970’s and 1980’s.

1 By all accounts, Bryant’s popularity was focused in the Los Angeles area for obvious
2 reasons of team rivalries. A quantitative study from 2016 measured by Google search traffic
3 established that Internet searches in Los Angeles accounted for more than one third of all searches
4 about Bryant and almost three times the next closest city. (Willner Decl., ¶4 “Exh. C”) Bryant
5 had more twitter followers than his team. (Willner Decl., ¶2 “Exh. A”) A 2013 article asked who
6 was more popular, Bryant or the entire Lakers franchise: “When Bryant eventually retires, his
7 brand will still temporarily surpass that of the Lakers. That will remain as such until the team
8 brings in a new superstar that shifts the balance of power. In other words, Bryant is in a
9 stratosphere all by himself, and he is probably used to it.” (Ibid)

10 After his retirement in 2016, Bryant stayed in Los Angeles and formed Granity Studios, a
11 multimedia company that creates children's books, podcasts, TV series, and films, many of which
12 focused on youth sports to teach life lessons. (Willner Decl., ¶5 “Exh. D”) He won an Oscar in
13 2018. (Willner Decl., ¶6 “Exh. E”) He remained active on social media and in the Los Angeles
14 creative industry throughout.

15 The publicity in Los Angeles surrounding the incident was extraordinary. News and
16 entertainment outlets in the city began reporting on the incident within hours and covered every
17 step of the subsequent investigation. (Willner Decl., ¶7 “Exh. F”)

18 After his death, members of the California congressional delegation led a moment of
19 silence on the floor of the House of Representatives. (Willner Decl., ¶8 “Exh. G”) The Southern
20 California Broadcasters Association organized one minute and eight seconds of silence in tribute
21 among all participating radio stations. (Willner Decl., ¶9 “Exh. H”) In the days after the incident
22 an estimated 250,000 fans visited a makeshift memorial for Bryant at the Staples Center.
23 (Willner Decl., ¶10 “Exh. I”) Fans in Los Angeles flooded to the area of the crash, moving
24 through police blockades in an effort to reach the crash site. (Willner Decl., ¶11 “Exh. J”) One
25 reporter noted 400 people assembled there, spontaneously chanting “MVP” and “Kobe.” (Ibid)
26 Landmarks throughout the City of Los Angeles were lit in purple and gold in Bryant’s memory,
27 including the entry lights for LAX, the Forum in Inglewood, the Santa Monica Pier Ferris Wheel
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1 and Los Angeles City Hall itself. (Willner Decl. ¶12 “Exh. K”) Murals sprouted throughout the
2 city seemingly overnight. Los Angeles city buses and rail cars all bore the words “RIP Kobe”
3 and the city lowered its flags to half-staff. (Ibid)

4 The celebration of his life culminated in a memorial at the Staples Center attended by
5 20,000 people. (Willner Decl., ¶10 “Exh. I”) More than 80,000 persons requested tickets to the
6 event. (Ibid) Plaintiff Mrs. Bryant spoke at the event and her remarks are annexed hereto.
7 (Willner Decl., ¶13 “Exh. L”) The event was carried live on CNN and other networks. (Ibid)

8 III.LEGAL ARGUMENT

9 A. The Court Has the Power to Change the Place of Trial When There Is Reason 10 to Believe That an Impartial Trial Cannot Be Had in the Original County of 11 Filing.

12 Under Cal. Civ. Proc. Code § 397, The Court may, on motion, change the place of trial in
13 cases in which there is reason to believe that an impartial trial cannot be had therein. The statutes
14 governing change of place of trial manifest intent to secure to every litigant the right to trial
15 before a fair and impartial tribunal, and to provide procedure for enforcement and protection of
16 such right.” (People v. Ocean Shore R.R. (App. 1 Dist. 1938) 24 Cal.App.2d 420.)

17 The Court must grant or deny a request under its sound discretion “upon resolution of
18 competing facts.” (Moreland Investment Co. v. Superior Court (1980) 106 Cal.App.3d 1017,
19 1019.) The facts here show that a change of venue is warranted.

20 B. An Impartial Trial in This Matter Cannot Be Had in Los Angeles County 21 Because of Kobe Bryant’s Status in the Community.

22 The facts in this matter show “a widespread feeling of prejudice” in favor of Kobe Bryant
23 and against the Defendant in this matter. Evidence of prejudice is required as per Nguyen v.
24 Superior Court (1996) 49 Cal.App.4th 1781, 1791 and is present here.

25 Prejudice in this case exists because of Bryant’s celebrity status in the Los Angeles
26 community and because the publicity around Bryant’s death put this case at the forefront of life in
27 the city. Courts have analyzed the effect a party’s prominence and widespread publicity have on
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1 the ability to find impartial jurors in selected venues. (Williams v. Superior Court (1983) 34
2 Cal.3d 584.) Here, those two factors combine in a way that prejudices the parties' ability to
3 empanel an impartial jury.

4 The fact that Bryant reached a level of prominence in the community weighs toward a
5 change of venue. Bryant was an undeniably talented professional athlete who rallied the entire
6 city of Los Angeles around him and around the hometown team. He brought championships and
7 hometown pride to Lakers Nation and by extension to all Angelinos. When it came to the Lakers,
8 the city of Los Angeles, while large in population has defined itself by its team with that pride
9 transferred later to Bryant whose career stood alone. Bryant reached such a level of success that
10 his own brand superseded that of the Lakers and his fame followed him into retirement. Through
11 unprecedented access into the lives of celebrities via social media and twitter, Angelinos were
12 able to follow in Bryant's daily life and see him as a three-dimensional person. Los Angeles was
13 Kobe Bryant's town. That esteem extended to Bryant's children, including GB.

14 Given Bryant's celebrity the response to his death should not be surprising. Angelinos
15 learned of his passing from the news and the city came together to mourn. Crowds came out in
16 force throughout the city to pay their respects. Los Angeles, its buses, planes and even its City
17 Hall came out in support of Bryant, GB, and the Bryant family. By contrast, Defendant was an
18 unknown to the city at large and will not receive anything close to similar treatment.

19 Kobe Bryant was so ingrained in Los Angeles that Defendant will be hard pressed to find
20 an Angelino who is not familiar with the incident to put in the jury box. If Defendant cannot
21 empanel an impartial jury, this will lead to the prejudice CCP § 397(b) was enacted to avoid.
22 Defendant cannot receive an impartial trial in Los Angeles County.

23 **C. The Court Should Transfer This Matter to Orange County of Another**
24 **County the Court Finds Fair and Just Under the Circumstances Where the**
25 **Parties Will have Access to an Impartial Jury Pool.**

26 When a motion for change of venue is granted, the case must be transferred to "a court
27 which the parties may agree upon, or if they do not so agree, then to the nearest or most
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1 accessible court where the objection or cause for making the order does not exist.” (Code Civ.
2 Proc., § 398; Ocean Shore R.R. supra 24 Cal.App.2d at 423.) The parties have not come to an
3 agreement for a new court. (Willner Decl. ¶14) The most accessible court where the parties will
4 have access to an impartial jury pool is Orange County. Although Bryant had a home in Orange
5 County, the level of Laker fan following does not even approach what exists in Los Angeles
6 County and would provide a much more fair and impartial jury pool. Since the other plaintiffs all
7 lived in Orange County, they will not be provided any less favorable a jury pool.” (Willner Decl.,
8 ¶15 “Exh. M”) Should Orange County not be an available venue, Defendant requests the Court
9 consider a move to another county the Court finds fair and just under the circumstances.

10 IV. CONCLUSION

11 Defendant will not be able to sit an impartial jury in Los Angeles County. Kobe Bryant’s
12 legacy is too far ingrained in the culture of the city. Allowing this action to continue to trial in
13 Los Angeles County is certain to result in prejudice to Defendant. Defendant respectfully
14 requests that this Court allow a transfer from Los Angeles County to Orange County or another
15 county the Court finds fair and just under the circumstances to best serve the interests of justice.

16
17 Dated: 6/19/2020

LEADER BERKON COLAO &
SILVERSTEIN LLP

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19 By: s/ Arthur J. Willner

ARTHUR I WILLNER, SBN: 118480

OLGA G PEÑA, SBN: 307927

Attorney for DEFENDANT

Berge Zobayan as Successor-In-Interest to Ara
George Zobayan

Email: awillner@leaderberkon.com
opena@leaderberkon.com

DECLARATION OF ARTHUR I. WILLNER

I, Arthur I. Willner, declare as follows:

1. I am an attorney at law duly licensed to practice before all the courts of the State of California. I am a partner of the law firm of Leader Berkon Colao & Silverstein LLP, counsel of record for Defendant Berge Zobayan as Successor-In-Interest to Ara George Zobayan (“Defendant”). I am the attorney primarily responsible for the defense of this action. If called upon to testify, I will be able to do so competently based on my personal knowledge as follows.

2. Attached as Exhibit A to the Appendix of Exhibits is a true and complete copy of an article published in the Bleacher Report on September 19, 2013 “Who's More Popular, Kobe Bryant or the LA Lakers?” by J.M. Poulard.

3. Attached as Exhibit B to the Appendix of Exhibits is a true and complete copy of an article published in the Wall Street Journal on January 27, 2020 “What Kobe Bryant Meant” by Jason Gay.

4. Attached as Exhibit C to the Appendix of Exhibits is a true and complete copy of an article published by FourFront News on April 21, 2016 “A Quantitative Analysis of Kobe Bryant’s Popularity Using Google.”

5. Attached as Exhibit D to the Appendix of Exhibits is a true and complete copy of an article published in Forbes on September 2, 2019 “Kobe Bryant Building Granity Studios One Sports Theme After Another” by Tim Newcomb.

6. Attached as Exhibit E to the Appendix of Exhibits is a true and complete copy of an article published in the Bleacher Report on March 4, 2018 “Kobe Bryant's 'Dear Basketball' Wins Oscar Award for Best Animated Short Film” by Scott Polacek.

7. Attached as Exhibit F to the Appendix of Exhibits is a true and complete copy of an article published in Poynter on January 27, 2020 “How the media covered the death of basketball superstar Kobe Bryant” by Tom Jones.

8. Attached as Exhibit G to the Appendix of Exhibits is a true and complete copy of

Leader Berkon Colao & Silverstein LLP
Attorneys at Law

1 an article published by CBS Los Angeles on January 29, 2020 “House of Representatives
2 Observes Moment Of Silence For Kobe Bryant, 8 Others Killed In Helicopter Crash.”

3 9. Attached as Exhibit H to the Appendix of Exhibits is a true and complete copy of
4 an article published by CBS Los Angeles on January 27, 2020 “Local Radio Stations to Pay
5 Tribute To Kobe Bryant With Moment Of Silence At Noon.”

6 10. Attached as Exhibit I to the Appendix of Exhibits is a true and complete copy of
7 an article published in the Los Angeles Times on February 22, 2020 “250,000 fans visited L.A.
8 Live in days after Kobe Bryant’s death. Monday will be different” by Richard Winton.

9 11. Attached as Exhibit J to the Appendix of Exhibits is a true and complete copy of
10 an article published in the Los Angeles Times on January 26, 2020 “So many Kobe Bryant fans
11 flooded helicopter crash area that authorities have closed roads” by Richard Winton.

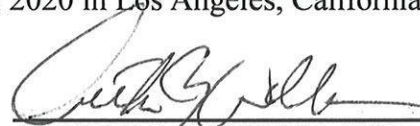
12 12. Attached as Exhibit K to the Appendix of Exhibits is a true and complete copy of
13 an article published in LAist on January 27, 2020 “LeBron Breaks Silence, New Murals, Lakers
14 Lights: The Most LA Tributes to Kobe Bryant” by Elizabeth Robinson.

15 13. Attached as Exhibit L to the Appendix of Exhibits is a true and complete copy of
16 an article published by CNN on February 24, 2020 “Read Vanessa Bryant's speech at the
17 memorial for Kobe and Gigi Bryant” by Scottie Andrew.

18 14. I personally spoke with Plaintiffs’ counsel, Gary Robb, by telephone on May 22,
19 2020. Mr. Robb was not amenable to stipulating to change the venue.

20 15. Attached as Exhibit M to the Appendix of Exhibits is a true and complete copy of
21 an article published in the Los Angeles Times on January 28, 2020 “In Orange County, Kobe
22 Bryant grew from basketball’s enfant terrible into a ‘typical dad’” by Luke Money, Gustavo
23 Arellano, and Hillary Davis.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed on June 19, 2020 in Los Angeles, California.

26 
27 ARTHUR I. WILLNER, ESQ.

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 **June 19, 2020** I served the foregoing documents described as:
**NOTICE OF MOTION AND MOTION TO TRANSFER VENUE OF DEFENDANT
BERGE ZOBAYAN AS SUCCESSOR-IN-INTEREST TO ARA GEORGE ZOBAYAN;
MEMORANDUM OF POINT AND AUTHORITIES;
DECLARATION OF ARTHUR I. WILLNER**
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 Cc: Mari.Saigal@mto.com Craig.Lavoie@mto.com</p>	<p>Michael J. Terhar, Esq. – SBN 89491 Ross Cunningham, Esq. (PHV Pending) Don Swaim, Esq. (PHV Pending) 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>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 Cc: Janello@robbrobb.com acr@robbrobb.com; bsr@robbrobb.com <i>Attorneys for Plaintiffs</i></p>	<p><i>Attorneys for Defendants Island Express Helicopters, Inc., a California Corporation; and Island Express Holding Corp., a California Corporation</i></p>

BY EMAIL: By emailing the parties email address as listed above.

BY MAIL (C.C.P. § 1013(a))—I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of a party served, service is

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Attorneys at Law

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presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

BY OVERNIGHT DELIVERY - I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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

Executed on **June 19, 2020** at Los Angeles, California.

s/ S. Alvarenga

S. Alvarenga