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8 Attorneys for Defendants and Cross-Complainants,  
ISLAND EXPRESS HELICOPTERS, INC., a  
California Corporation; and ISLAND EXPRESS  
9 HOLDING CORP., a California Corporation

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

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

20 vs.

21 ISLAND EXPRESS HELICOPTERS, INC.,  
a  
22 California Corporation; ISLAND EXPRESS  
HOLDING CORP., a California Corporation;  
23 and DOE 1, as Personal representative of  
and/or Successor in Interest to ARA  
24 GEORGE ZOBAYAN, a California resident,  
25  
26 Defendants.

26 ISLAND EXPRESS HELICOPTERS,  
INC., a California Corporation; and  
27 ISLAND EXPRESS HOLDING CORP., a  
28 California Corporation,

) Case No. 20STCV07492  
) (*LEAD Case Related to Cases:*  
) *20STCV14963, 20STCV14973,*  
) *20STCV17897)*

) Assigned to:  
) Judge: Hon. Virginia Keeny  
) Dept: NW-W

) **CROSS-COMPLAINT FOR**  
) **INDEMNITY AND DECLARATORY**  
) **RELIEF; DEMAND FOR JURY**  
) **TRIAL**

) First Complaint Filed: April 15, 2020  
) Trial Date: None Set



1           6.       At all times herein mentioned, each Cross-Defendant was acting as an agent,  
2 servant, employee, special employee, alter ego, successor in interest, partner, joint venturer,  
3 lessee and licensee of each of the other cross-defendants, within the course and scope of  
4 said relationship. In addition, each Cross-Defendant authorized, ratified and approved the  
5 acts of each of the other Cross-Defendants.

6           7.       Relief is sought against each Cross-Defendant as well as his agents,  
7 assistances, successors, employees, attorneys, and all persons acting in concert or  
8 cooperation with them or at their direction or under their control.

9           8.       Although Cross-Complainants do not concede the veracity of the First  
10 Amended Complaint's allegations or the Plaintiff's claims, solely for purposes of its  
11 indemnity claims set forth below, it incorporates them by this reference.

12          9.       The claims asserted by Plaintiffs, and Cross-Complainants' claims, arise out  
13 of the crash of a 1991 Sikorsky S76B helicopter, N72EX ("Aircraft" or "N72EX") on  
14 January 26, 2020, at approximately 9:45 a.m. PST. At the time of the crash, the Aircraft  
15 was being piloted by Ara George Zobayan ("Zobayan" or "Pilot"). In addition to Zobayan,  
16 the Aircraft was occupied by eight passengers.

17          10.       Prior to the crash, Zobayan had taken off from John Wayne Airport, Santa  
18 Ana, California, and was heading toward Camarillo Airport, in Camarillo, California.  
19 Zobayan was familiar with the route and had often flown this precise route for Kobe Bryant  
20 on previous occasions.

21          11.       When Zobayan entered the Los Angeles basin, visibility decreased. He had  
22 been following Highway 101, a major landmark and typically easy for helicopter pilots to  
23 follow. Between Las Virgenes and Lost Hills road, the Aircraft was 1,500' AGL and began  
24 to climb and enter a left turn. Eight seconds later, at approximately 2,300' AGL, the  
25 Aircraft began a rapid descent while continuing with the left turn. At approximately 9:45  
26 a.m. PST, the Aircraft impacted hilly terrain near Calabasas, California. A post-impact fire  
27 ensued and resulted in a brush fire. Zobayan and the eight passengers were fatally injured,  
28 and the Aircraft was destroyed.

1           12.     As a result of the accident, four lawsuits have been filed against Cross-  
2 Complainants, including this one.

3           13.     The accident was caused by a series of erroneous acts and/or omissions  
4 committed by Cross-Defendants Larsen and Conley, both of whom were acting in the  
5 course and scope of their employment as Air Traffic Controllers for the Southern California  
6 TRACON (“SOCAL”), a Federal Aviation Administration Terminal Radar Approach  
7 Control Facility, at all times relevant to this Cross Complaint.

8           14.     After transitioning from the Burbank Air Traffic Control Tower to SOCAL,  
9 the Pilot contacted SOCAL and remained on that frequency until the time of the accident.  
10 The Pilot had contact with two SOCAL controllers prior to the accident. The first was  
11 Cross-Defendant Larson. The Pilot requested flight following, but Larsen denied the  
12 request, stating “I’m going to lose radar and comms probably pretty shortly so you can just  
13 squawk V-FR- and when you get closer go to Camarillo tower.” This denial was improper  
14 because radar contact had not been lost and services were being denied based on the  
15 possibility that they might be lost at some point in the future. The fact that N72EX was able  
16 to contact SOCAL four minutes later, and its transponder was still observed by the  
17 controller, proves that the prediction of lost contact was not accurate and services could and  
18 should have been provided continuously.

19           15.     Air Traffic Control Order: JO 7110.65Y (Air Traffic Control Handbook)  
20 paragraph 2-1-1 c. states: “the provision of additional services is not optional on the part of  
21 the controller but rather required when work situation permits.” Radar advisories to VFR  
22 aircraft are considered an additional service. The SOCAL controller was not too busy to  
23 provide service. NTSB Interview Summaries of both controllers from SOCAL confirmed  
24 that they both described traffic as “normal,” and a “2” on a scale of 1 to 5.

25           16.     Three minutes after Zobayan’s initial call to SOCAL, Larsen was relieved by  
26 SOCAL controller Cross-Defendant Conley. Less than two minutes after Conley assumed  
27 the position, he was called by the Pilot, who said “and SOCAL for helicopter two echo x-  
28 ray we gonna go ahead and start our climb to go above the uh layers and uh we can stay

1 with you here.” However, despite Larsen’s obligation to do so, he had not informed Conley  
2 as to the existence of N72EX. As a result, critical time was lost as Conley struggled to  
3 identify N72EX with no help from Larsen.

4 17. Among other things, the accident was caused by Larsen’s failure to properly  
5 terminate radar services. Because Larsen never actually terminated radar services with  
6 N72EX, the Pilot would have assumed he was still being surveilled and being provided  
7 flight following. The instruction “You can just squawk VFR” was no more than an  
8 instruction to the Pilot to change his transponder setting. It is apparent that Larsen  
9 incorrectly thought he had terminated radar service for N72EX because he failed to brief  
10 Conley, his replacement, about the existence of N72EX. Conley was totally unaware of  
11 N72EX once assuming the seat, which critically delayed N72EX’s “re-identification” and  
12 provision of services to the Pilot. In his interview, Conley admitted that “[h]e remembered  
13 the Pilot [N72EX] just talking to him like he had already been in contact and was receiving  
14 services, but he had no record of him.”

15 18. Air Traffic Control Order: JO 7110.65Y (Air Traffic Control Handbook),  
16 paragraph 5-1-13 Radar Service Termination states: “Inform aircraft when radar service is  
17 being terminated. Phraseology - Radar service terminated.” This is the only method  
18 prescribed for controllers to inform an aircraft that they are not, or will no longer be,  
19 receiving radar services. This is a mandatory requirement that was not followed. And this  
20 omission clearly led the Pilot of N72EX to believe that he was continuing to receive radar  
21 services.

22 19. The pilot/controller glossary contained in the Aeronautical Information  
23 Manual tells both pilots and controllers that the definition of Radar Service Terminated is  
24 “Used by ATC to inform a pilot that he/she will no longer be provided any of the services  
25 that could be received while in radar contact.” In the absence of this phrase being used, the  
26 Pilot would have properly assumed that he was still in radar contact and receiving all of the  
27 services, like terrain callouts, provided during radar flight following.

28

1           20.     Evidence that the Pilot thought he was receiving radar services is clear from  
2 his transmission to SCT when he stated he was going to “climb above the layers and stay  
3 with you.” Such language is the opposite of a Pilot making an initial call to request services.  
4 Rather, it is consistent with continued communications with a facility from whom a pilot is  
5 receiving services.

6           21.     Zobayan thought he was still receiving radar services at the time of the  
7 accident. And because the Aeronautical Information Manual defines radar monitoring as  
8 “the use of radar for the purpose of providing aircraft with information and advice relative  
9 to significant deviations from nominal flight path,” the Pilot would have operated the  
10 aircraft under the assumption that ATC was monitoring his flight and would have warned  
11 him of unsafe proximity to terrain.

12          22.     The accident was also caused by the failure of Larson and Conley to properly  
13 execute position relief briefing. When one controller relieves another, the use of a position  
14 relief checklist is mandated to assure that a full briefing is given to the new controller and  
15 that no pertinent items are overlooked. This requirement is listed in paragraph 2-1-24  
16 Transfer of Position Responsibility, 7110.65Y. This requirement is further defined in the  
17 SOCAL Standard Operating Procedure Order 7110.65B paragraph 3-1-8 which states: “The  
18 relief briefing must involve the use of a tailored checklist. ... .”

19          23.     During his NTSB interview, Larsen (the departing controller) admitted that he  
20 does not normally use a checklist when conducting a position relief briefing. Yet Conley  
21 (the replacement controller) claims that a relief briefing was conducted and that the  
22 briefings were recorded, and a checklist was utilized.

23          24.     SOCAL Standard Operating Procedures require that the departing controller  
24 remain on position with the new controller for 2 minutes after position responsibility is  
25 transferred. This requirement is contained in 7110.65B para. 3-I-8 b. During his NTSB  
26 interview, Larsen was asked if he followed that requirement to remain on position and  
27 “plugged in” to the console so he could still monitor radio transmissions. He replied that he  
28 did. It does not appear that Larsen actually stayed “plugged in” after the relief briefing

1 because N72EX called SOCAL (Conley) 95 seconds after the position relief briefing and  
2 Larsen did not assist Conley in identifying the aircraft. It took Conley a full 9 seconds to  
3 respond to N72EX, a critical delay which would never have happened had Larsen followed  
4 procedure and stayed “plugged in” for a full two minutes after the relief handoff.

5 25. The accident was also caused by Conley’s lack of awareness as to critical  
6 weather information needed to perform Air Traffic Controller duties. Conley stated that he  
7 “noticed it was foggy and there were low ceilings when I came into work that morning.” He  
8 further recalled that “the weather around the time of the accident was IFR with low ceilings  
9 and instrument approaches were being conducted.” Paragraph 2-1-2-c. in Order 7110.65Y  
10 states “Controllers are responsible to become familiar with and stay aware of current  
11 weather information needed to perform ATC duties.” It is clear that Conley was also  
12 ignoring this mandatory procedure when he cleared Southwest Flight 451 for a visual  
13 approach. Fortunately, the Southwest pilot declined the instruction and notified Conley that  
14 it was IFR conditions.

15 26. Another cause of the accident was the simultaneous loss of radar contact and  
16 radio communications as a result of Conley’s and Larson’s negligent acts and/or omissions.  
17 Paragraph 10-2-5 of 7110.65Y states “Consider that an aircraft emergency exists and  
18 inform the RCC or ARTCC when any of the following exist ... There is an unexplained loss  
19 of radar contact and radio communication with any IFR or VFR aircraft.” Larsen admitted  
20 that he would have notified the “sup” had he lost radar and radio on N72EX when he was  
21 coming over from VNY. But Conley admitted that he did not report this occurrence [the  
22 fact that he was unaware of N72EX] because he [N72EX] had not been tagged up yet, and  
23 therefore had not yet begun receiving flight following.” Conley also admitted that he did  
24 not consider him radar identified because he did not advise the Pilot he was “radar contact.”

25 27. The fact that Conley was unaware of N72EX and did not consider him radar  
26 contacted was solely caused by Larsen's failure to properly terminate radar service for  
27 N72EX, which was compounded by his improper and incomplete position relief briefing.  
28 These critical errors by Larsen caused Conley to inherit an aircraft that he did not know

1 existed, which was operating in marginal weather conditions believing that it was receiving  
2 flight following services. Once startled by N72EX's call to climb above the layers, Conley  
3 took 9 seconds to respond to N72EX , and then proceeded to make four radio contacts,  
4 including one instruction (Ident) and question (where say intentions) during the most  
5 critical 33-second segment of the accident flight.

6 28. As a result of Larson's and Conley's negligent acts and/or omissions, the  
7 Pilot assumed he was flying in RADAR contact based on ATC verbiage, or lack thereof,  
8 prior to the crash. When in RADAR contact a pilot assumes several important items: (1)  
9 traffic separation; (2) limited assistance with terrain and obstacle clearance; (3) that  
10 communication with the controlling agency is readily available; and (4) ATC is aware of  
11 his presence. At 09:45, the pilot of N72EX was abruptly and unexpectedly made aware that  
12 he was not in RADAR contact. Calculated data indicates an initial, relatively stable, climb  
13 of  $\pm$  1460FPM beginning at approximately 09:44:35 with the Aircraft in a controlled left  
14 bank that was slowly being corrected via a controlled right bank until 09:45:03. At  
15 approximately 09:45:03, the Aircraft entered an aggressive left bank that continued until the  
16 final moments of the flight.

17 29. The pilot's workload and stress level in deteriorating weather conditions were  
18 unnecessarily overloaded by Larsen's multiple errors, including the: (1) failure to properly  
19 communicate termination of radar flight following, (2) incomplete position relief briefing,  
20 and (3) lack of knowledge of current weather conditions. These errors were compounded by  
21 Conley monopolizing the Pilot's attention during the critical phase of the flight by making  
22 multiple radio calls, requiring transponder ident, and requesting the Pilot to state where he  
23 was and what his intentions were. The combination of increased stress, workload, and  
24 distraction significantly impacted the Pilot's ability to fly the aircraft. The introduction of a  
25 simple task such as tuning a radio, or a transponder, can induce an illusion that can lead to  
26 loss of control.

27 30. Had Larsen and Conley not engaged in the numerous negligent acts and/or  
28 omissions stated herein, then the Pilot would not have been forced to respond to multiple



1 ATC requests and commands during the most critical phase of the flight. There is no  
2 indication from calculated data or radio traffic that the accident pilot was panicking or  
3 beyond his piloting capabilities and was within a few hundred feet of clearing the clouds at  
4 the time ATC required him to “ident,” which likely caused the pilot to experience a  
5 “Coriolis Effect,” which is an illusion that is created when a pilot has been in a turn long  
6 enough for the fluid in the ear canal to move at the same speed as the canal. A movement of  
7 the head in a different plane, such as looking at something in a different part of the flight  
8 deck, sets the fluid moving, creating the illusion of turning or accelerating on an entirely  
9 different axis. This action causes the pilot to think the aircraft is performing a maneuver it  
10 is not. The disoriented pilot may maneuver the aircraft into a dangerous attitude in an  
11 attempt to correct the aircraft 's perceived attitude.

12 31. Cross-Defendants Larsen’s and Conley’s actions are the proximate cause of  
13 the Accident, and the damages Plaintiffs seek to recover from Cross-Complainants.

14 **32. CAUSES OF ACTION**

15 33. As to each cause of action below, Cross-Complainants hereby incorporate by  
16 reference the allegations contained in the paragraphs above as though they were fully set  
17 forth in that cause of action.

18 **FIRST CAUSE OF ACTION**

19 **(Total Equitable Indemnity As To All Cross-Defendants)**

20 34. If Cross-Complainants are found liable upon any or all of the allegations  
21 contained in the First Amended Complaint, said liability would be based solely on the  
22 active, affirmative, and primary negligence, strict liability, and acts or omissions of the  
23 Cross-Defendants, and each of them. Any fault of Cross-Complainants, which fault it  
24 specifically denies, would be secondary and passive only.

25 35. Cross-Defendants, and each of them, are thus obligated to defend, indemnify  
26 and hold harmless Cross-Complainants against any and all liability that Cross-  
27 Complainants may incur in this action, and Cross-Complainants are entitled to  
28 reimbursement from Cross-Defendants for any and all expenditures or liabilities that Cross-

1 Complainants may incur in payment for any settlement or judgment, or in defense of this  
2 action, including costs of suit.

3 **SECOND CAUSE OF ACTION**

4 **(Equitable Indemnity As To All Cross-Defendants)**

5 36. Under principles of equity, comparative fault and contribution, Cross-  
6 Complainants are entitled to reimbursement from the Cross-Defendants for any liability that  
7 Cross-Complainants sustain in this action by way of settlement, verdict or judgment, to that  
8 extent that such liability that exceeds the percentage of fault, if any, attributable to Cross-  
9 Complainants.

10 **THIRD CAUSE OF ACTION**

11 **(Equitable Apportionment Of Fault As To All Cross-Defendants)**

12 37. Cross-Complainants request this Court to determine the extent to which each  
13 Cross-Defendant or other party in this action proximately caused or contributed to the  
14 Plaintiffs' alleged losses, damages or injuries, if any, and to assess each such party with  
15 liability equal to that proportion of fault.

16 **FOURTH CAUSE OF ACTION**

17 **(Contribution As To All Cross-Defendants)**

18 38. Cross-Complainants are in no way legally responsible for the loss, damage or  
19 injury alleged in Plaintiffs' First Amended Complaint. However, if Cross-Complainants are  
20 held liable for any such claims, Cross-Complainants request that each Cross-Defendant be  
21 held liable and be ordered to reimburse Cross-Complainants to the extent of the liability  
22 fairly attributable to that Cross-Defendant.

23 **FIFTH CAUSE OF ACTION**

24 **(Declaratory Relief As To All Cross-Defendants)**

25 39. Cross-Complainants are entitled to a judicial declaration to the effect that  
26 Cross-Defendants are obligated to defend and indemnify Cross-Complainants with respect  
27 to the alleged liabilities.

28

1 **PRAYER FOR RELIEF**

2 1. For a declaration that Cross-Defendants, and each of them, are liable to  
3 Cross-Complainants for any damages that Cross-Complainants may be caused to pay to  
4 Plaintiffs by reason of any judgment, settlement, or otherwise, in satisfaction of the  
5 Plaintiffs' claim arising out of the allegations contained in Plaintiffs' First Amended  
6 Complaint on file herein;

7 2. For a declaration that the Cross-Defendants are liable to defend and  
8 indemnify Cross-Complainants with respect to all claims against Cross-Complainants in  
9 this action;

10 3. For Judgment against Cross-Defendants, and each of them, in an amount  
11 equal to the amount of any judgment obtained by Plaintiffs and any other cross-complainant  
12 in this action against these Cross-Complainants, or such portion thereof for which Cross-  
13 Defendants are liable;

14 4. For costs of defense incurred by Cross-Complainants in defending the  
15 allegations of this First Amended Complaint and Cross-Complaints, including costs of suit  
16 incurred herein, court costs, reasonable attorney's fees where provided by contract or  
17 statute, and other expenses of preparation and investigation; and

18 5. For such further and other relief as the Court may deem just and proper.

19 Dated: August 14, 2020

CUNNINGHAM SWAIM, LLP

20  
21  
22 By: /s/ Michael J. Terhar  
23 Michael J. Terhar  
24 Ross Cunningham - *Pro Hac Vice*  
25 Don Swaim - *Pro Hac Vice*  
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28 ISLAND EXPRESS  
HELICOPTERS, INC.,  
a California Corporation; and  
ISLAND EXPRESS HOLDING  
CORP. a California Corporation

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**DEMAND FOR JURY TRIAL**

Defendants and Cross-Complainants ISLAND EXPRESS HELICOPTERS, INC., a California Corporation; and ISLAND EXPRESS HOLDING CORP., a California Corporation hereby demand a trial by jury in the above matter.

Dated: August 14, 2020

CUNNINGHAM SWAIM, LLP

By: /s/ Michael J. Terhar  
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**PROOF OF SERVICE**  
*Vanessa Bryant, et al. v. Island Express Helicopters, Inc., et al.*  
*Superior Court of California, County of Los Angeles*  
*Case No.: 20STCV07492*

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 2 North Lake Avenue, Suite 550, Pasadena, California 91101.

On August 14, 2020, I caused to be served the within document(s) described as:

**CROSS-COMPLAINT FOR INDEMNITY AND DECLARATORY RELIEF;  
DEMAND FOR JURY TRIAL**

on the interested parties in this action as stated below:

**SEE ATTACHED SERVICE LIST**

- BY E-MAIL:** By transmitting a true copy of the foregoing document(s) to the e-mail addresses set forth on the attached mailing list.
- BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day, with postage thereon fully prepaid at Pasadena, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- BY OVERNIGHT COURIER:** I caused such envelope to be placed for collection and delivery on this date in accordance with standard Federal Express delivery procedures.
- BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the offices of the addressees.
- BY FAX:** I transmitted a copy of the foregoing document(s) this date via telecopier to the facsimile numbers shown on the attached mailing list.

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

Executed on August 14, 2020, at Pasadena, California.

_____ Cynthia Vivanco (Type or print name)	_____ /s/Cynthia Vivanco (Signature)
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**SERVICE LIST**

*Vanessa Bryant, et al. v. Island Express Helicopters, Inc., et al.*  
*Superior Court of California, County of Los Angeles*  
*Case No.: 20STCV07492*

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**SERVICE LIST**

*Vanessa Bryant, et al. v. Island Express Helicopters, Inc., et al.*  
*Superior Court of California, Los Angeles*  
*Case No.: 20STCV07492*

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