

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

2021 JAN 26 AM 9:54
JUNEAU DISTRICT COURT
BY EA
DEPUTY CLERK

DYLAN LISTBERGER, on his own behalf,
and as parent on behalf of DELTA RAE
LISTBERGER; and TIMOTHY SEAN
MORSE, Personal Representative of the
Estate of Stacie Rae Morse, solely on behalf
of and as Trustee for Dylan Listberger,

Plaintiffs,

vs.

GUARDIAN FLIGHT, LLC and d/b/a
GUARDIAN FLIGHT ALASKA;
GUARDIAN FLIGHT, INC.; GUARDIAN
FLIGHT HOLDINGS, INC.; AIR MEDICAL
GROUP HOLDINGS, INC.; TEXTRON
AVIATION, INC.; DOES 1 – 10; DOE
ENTITIES 1 – 10,

Defendants.

Case No. 1JU-21-00470 CI

COMPLAINT FOR DAMAGES

Plaintiffs bring this action to recover damages they suffered from the personal injuries and wrongful deaths of Stacie Rae Morse and Delta Rae Listberger in an aircraft crash on January 29, 2019.

PARTIES and JURISDICTION

1. Dylan Listberger at all relevant times was, and still is, a citizen of Juneau, Alaska; was Stacie Rae Morse's domestic partner and fiancé; and with Ms. Morse was the natural parent of Delta Rae Listberger.

2. Delta Rae Listberger was the unborn child of Dylan Listberger and Stacie Rae Morse. Ms. Morse was a citizen of Juneau, Alaska and was 27 weeks pregnant at the time of the crash that caused her death and the death of Delta Rae. Delta Rae's claims herein are being

LESSMELIK & WINIFER
Lawyers - LLC
8800 GLACIER HIGHWAY, SUITE 226
Juneau, Alaska 99801
Telephone (907) 796-4999

D

brought by her parent Dylan Listberger pursuant to AS 09.15.010, AS 09.AS 09.55.585 and other applicable law.

3. Timothy Sean Morse, Personal Representative of the Estate of Stacie Rae Morse, is a nominal named party, only to the extent required by AS 09.55.580 as a trustee for Dylan Listberger's individual dependent claims for the wrongful death of Stacie Rae Morse. The Estate of Stacie Rae Morse is not a party.

4. Guardian Flight LLC is a for-profit limited liability company registered in Alaska; which does business as Guardian Flight Alaska with its principal place of business in Alaska. Guardian Flight Inc. is a for-profit corporation duly organized, registered and existing with its principal place of business in Alaska. Guardian Flight Holdings Inc. is a for-profit corporation duly organized, registered an existing with its principal place of business in Alaska. Air Medical Group Holdings Inc. is a for-profit corporation that owns and controls some or all of the aforementioned entities in Alaska. Jointly, separately and together each of these affiliated entities were involved in the air flight operations, ownership, control, maintenance, inspections, oversight and training leading to and surrounding the fatal air crash on January 29, 2019. Hereafter these defendants are collectively referred to as the "Guardian Flight" defendants.

5. Upon information and belief, Textron Aviation Inc. is the current successor corporation to the manufacturer of the B200 aircraft involved in the crash, Raytheon Aircraft Company.

6. Does 1 – 10 are employees of the Guardian Flight defendants, some or all of which are residents of Alaska, who subject to further discovery may be responsible parties. Doe Entities 1 – 10 are entities that, subject to further discovery, may be responsible parties.

7. The subject crash occurred in the First Judicial District.

8. All occupants of the plane were residents of, and stationed in Juneau, Alaska, where Guardian Flight maintained a facility and aircraft.

9. This Court has jurisdiction pursuant to AS 22.10.020.

10. Venue is proper in Juneau pursuant to AS 22.10.020 and Civil Rule 3.

COMMON ALLEGATIONS

11. On January 29, 2019, Guardian Flight dispatched an air ambulance flight from Ted Stevens Anchorage International Airport to pick up a patient in Kake, Alaska. On board were pilot Patrick Coyle, EMT Margaret Langston and Registered Nurse Stacie Rae Morse. Stacie Rae Morse was 27 weeks pregnant with daughter Delta Rae Listberger.

12. During the approach to and approximately 20 miles from Kake, the plane entered a sudden, sharp right turn with a rapid loss of altitude of about 2,575 feet in 14 seconds. It lost another 1,300 feet altitude before impacting the ocean water at speed of at least 174 knots. The aircraft was destroyed.

13. No bodies have been recovered. All occupants perished in the impact or sometime thereafter, including Stacie Rae Morse and unborn child Delta Rae.

14. The National Transportation Safety Board (“NTSB”) is currently investigating the crash, but has yet to issue a probable cause report. It expects to make a probable cause determination and release evidence within the next two months.

15. Pending the NTSB’s probable cause determination and release of evidence, the Plaintiffs file this lawsuit to preserve their claims and avoid a potential statute of limitations defense. This Complaint may be amended as further reports and evidence are produced.

FIRST CAUSE OF ACTION – NEGLIGENCE AND RECKLESSNESS

16. The Guardian Flight defendants had a duty to act with due care in all ways associated with the flight so that it did not crash, including but not limited to maintenance, inspections, operations, hiring, training, supervision and control of the aircraft.

17. Negligence should be inferred under Alaska law because air crashes under the circumstances do not occur unless negligence is involved; the plane was under the complete control of defendants; and the plaintiffs did not contribute to or cause the crash.

18. The crash was caused by the Defendants’ breach of duty and their negligent and reckless conduct.

SECOND AND THIRD CAUSE OF ACTION – PRODUCT DEFECT AND NEGLIGENCE

19. The crash may have been caused by product defect or negligence of the manufacturer.

FOURTH CAUSE OF ACTION – VICARIOUS LIABILITY

20. The Guardian Flight defendants should be held vicariously liable for each defendants' conduct because they acted as a joint enterprise and because the corporate veil should be pierced.

21. As a result of the breaches and conduct asserted above, the Plaintiffs have suffered injury and incurred damages in excess of the \$100,000 minimum jurisdictional amounts of this Court, including but not limited to loss of parental consortium; loss of child consortium; anguish, grief and suffering; loss of contributions for support and expectation of pecuniary benefits; hedonic damages; and pecuniary loss.

WHEREFORE, Plaintiffs request judgment against Defendants for:

1. An award of compensatory damages, the exact amount to be determined at trial;
2. Punitive damages if warranted;
3. Costs;
4. Legal interest;
5. Attorney's fees;
6. Such other and further relief, equitable and otherwise, as the Court deems proper.

DATED this 26 day of January, 2021, at Juneau, Alaska.

LESSMEIER & WINTERS, LLC

Attorneys for Plaintiffs

By: Sheldon E. Winters
Sheldon E. Winters, AK Bar 8511209

THIS CASE FORMALLY ASSIGNED TO
JUDGE PHILIP PALLEMBERG
BY ORDER OF THE PRESIDING JUDGE