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And SHARON D. HANEMAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA – COOK DIVISION

TIMOTHY BAAL and SHARON D.
HANEMAN,

Plaintiffs,

vs.

AMERICANSTAR TOURS dba
AMERICANSTAR TRAILWAYS;
NATIONAL RAILROAD PASSENGER
CORPORATION dba AMTRAK; LAURA
MAE GISH; and DOES 1 to 30, inclusive,

Defendants.

Case No.

Assigned Judge:

COMPLAINT FOR DAMAGES
**(Personal Injury – Negligence;
Exemplary Damages)**

COME NOW Plaintiffs TIMOTHY BAAL and SHARON D. HANEMAN and complain
against Defendants, LAURA MAE GISH; AMERICANSTAR TOURS dba AMERICANSTAR
TRAILWAYS; NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK; and
DOES 1 through 30, and each of them, and allege as follows:

PARTIES

1. Plaintiffs are informed and believe and thereupon allege that, at all relevant times herein, Defendant LAURA MAE GISH and DOES 1 through 10, inclusive, was the agent and/or employee of defendant AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS, and was the driver of the subject bus involved in the accident and therefore was in some way responsible for the accident of January 18, 2019, which occurred on US-101 just south of Alisos Canyon Road, Los Alamos, County of Santa Barbara, which accident caused injuries and damages to Plaintiffs TIMOTHY BAAL and SHARON D. HANEMAN.

2. Plaintiffs are informed and believe and thereupon allege that, at all relevant times herein, Defendants LAURA MAE GISH, and DOES 1 through 10, inclusive, was acting within the course and scope of her employment with Defendant AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS, and DOES 11 through 20, inclusive, which owned, operated, controlled, and maintained the subject bus driven by Defendants LAURA MAE GISH and DOES 1 through 10, inclusive.

3. Plaintiffs are informed and believe and thereupon allege that, at all relevant times herein, Defendant AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS, was and is a California Corporation doing business in the County of Santa Barbara, State of California.

4. Plaintiffs are informed and believe and thereupon allege that, at all relevant times herein, Defendant NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK, and DOES 21 through 25, was a foreign corporation authorized to do and doing business in the State of California.

5. The true names and capacities, whether individual, corporate, associate, or otherwise, of the Defendants named herein as DOES 1 through 30, inclusive, are unknown to Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs are informed and believe and upon such information and belief allege that the Defendants designated herein as DOES are responsible negligently or otherwise, in some matter, for the events and happenings herein referred to and negligently or otherwise unlawfully and legally caused injuries and

1 damages to Plaintiff. Plaintiffs will amend this Complaint to allege the true names and capacities
2 of these DOE Defendants when ascertained.

3 6. At all times herein mentioned, each of said Defendants participated in the doing of
4 the acts hereinafter alleged to have been done by the named Defendants. Furthermore, the
5 Defendants, and each of them, were the agents, servants and employees of each of the other
6 Defendants, as well as the agents of all said Defendants, and at all times herein mentioned were
7 acting within the course and scope of said agency and employment.

8 7. At all times herein mentioned, Defendants, and each of them, were members of
9 and engaged in a joint venture and common enterprise and acted within the course and scope of
10 and in pursuance of said joint venture and common enterprise.

11 8. At all times herein mentioned, the acts and omissions of the various Defendants,
12 and each of them, concurred and contributed to the various acts and omissions of each and all of
13 the other Defendants in legally causing the injuries and damages as herein alleged.

14 9. At all times herein alleged, Defendants, and each of them, ratified each and every
15 act or omission complained of herein.

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17 **FACTUAL ALLEGATIONS**

18 10. On or about January 18, 2019, Plaintiffs TIMOTHY BAAL and SHARON D.
19 HANEMAN entered into a contract with Defendants NATIONAL RAILROAD PASSENGER
20 CORPORATION dba AMTRAK, AMERICANSTAR TOURS dba AMERICANSTAR
21 TRAILWAYS, and DOES 11 through 30, for transportation from Santa Maria, California to San
22 Diego, California, purchasing tickets for said transport in the approximate amount of \$60.00
23 each.

24 11. On or about January 18, 2019, Plaintiffs were passengers in a bus owned,
25 operated, maintained and/or controlled by AMERICANSTAR TOURS dba AMERICANSTAR
26 TRAILWAYS, NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK, and
27 DOES 11 through 30, Inclusive. Plaintiffs were on the bus pursuant to their purchased tickets for
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1 travel from Santa Maria, California to San Diego, California.

2 12. At the same time, Defendant LAURA MAE GISH and DOES 1 through 10,
3 inclusive, and each of them, was driving the subject bus southbound on US 101 after knowingly,
4 willfully, and purposefully consuming intoxicating substances, to the point of legal intoxication,
5 all the while knowing she would operate a motor vehicle while impaired as a result of ingesting
6 said intoxicating substances. AMERICANSTAR TOURS dba AMERICANSTAR
7 TRAILWAYS, NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and
8 DOES 11 through 30, Inclusive, and each of them, knew or should have known that Defendant
9 LAURA MAE GISH was impaired and incapable of safely operating the bus.

10 13. At or around 5:36 a.m. on January 18, 2019, while driving southbound on US-101
11 just south of Alisos Canyon Road, Defendant LAURA MAE GISH while in an impaired state,
12 negligently drove the said bus off the paved lanes onto the dirt shoulder. The bus continued
13 traveling on the dirt shoulder until it struck a tree and traveled down an embankment into a ravine
14 where the bus overturned onto its right side.

15 14. Due to the Defendants', and each of their, negligence and breach of common
16 carrier duties, Plaintiffs sustained injuries and damages as hereinafter set forth.

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18 **FIRST CAUSE OF ACTION**
(Negligence)

19 COME NOW Plaintiffs TIMOTHY BAAL and SHARON D. HANEMAN for a First Cause
20 of Action, and complain against Defendants LAURA MAE GISH, AMERICANSTAR TOURS
21 dba AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD PASSENGER
22 CORPORATION dba AMTRAK, and DOES 1 through 30, inclusive, and each of them, alleging as
23 follows:

24 15. Plaintiffs reallege and incorporate by reference each and every allegation of
25 Paragraphs 1 through 14 as though fully set forth herein.

26 16. At all times herein mentioned, Defendants AMERICANSTAR TOURS dba
27 AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD PASSENGER CORPORATION
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1 dba AMTRAK, and DOES 11 through 30, inclusive, and each of them, owned, entrusted,
2 operated, maintained and controlled a certain bus for hire including its appurtenances, which was
3 used to transport and carry passengers for profit to and from locations, including locations in the
4 County of Santa Barbara, State of California.

5 17. At all times herein mentioned, Defendants, and each of them, owed a duty of due
6 care to Plaintiffs to act in a reasonable, prudent and careful manner in the entrustment,
7 ownership, operation, maintenance, and control of the subject vehicle, so as to avoid causing
8 harm or creating a foreseeable risk of harm to others, including Plaintiffs herein.

9 18. On or about January 18, 2019, Defendants LAURA MAE GISH,
10 AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD
11 PASSENGER CORPORATION dba AMTRAK, and DOES 1 through 30, inclusive, and each of
12 them, so negligently and carelessly serviced, leased, owned, operated, drove, maintained and
13 controlled a certain bus by operating said bus in a careless and negligent manner, causing said
14 bus to travel from the roadway onto the shoulder, continue traveling to strike a tree and then
15 travel down an embankment into a ravine where the bus overturned onto its right side, thereby
16 legally causing injuries and damages as hereinafter alleged.

17 19. By reason of the above-mentioned negligence, Plaintiffs were hurt and injured in
18 their health, strength and activity, sustaining injury to their body and shock and injury to their
19 nervous system and person, and became sick, sore, lame and disabled, all of which said injuries
20 have caused and continue to cause said Plaintiffs great mental, physical and nervous pain and
21 suffering, all to their general damage in a sum to be proven at time of trial of this action.

22 20. By reason of the above-mentioned negligence, Plaintiffs were required to and did
23 employ physicians and other health care providers to examine, treat and care for them and did
24 incur and continue to incur, medical and incidental expenses. The exact amount of such expense
25 is unknown to Plaintiffs at this time and Plaintiffs pray leave to amend this Complaint to set forth
26 the exact amount thereof when the same is finally ascertained.

27 21. By reason of the above-mentioned premises, Plaintiffs were prevented from
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1 participating in their usual activities and from enjoying their usual quality of life, and will in the
2 future be so prevented, all to their damage in an amount unknown to her at this time, and
3 Plaintiffs pray leave to amend this Complaint to set forth the exact amount thereof when the same
4 is finally ascertained.

5 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
6 hereinafter set forth.

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8 **SECOND CAUSE OF ACTION**
(Negligent Entrustment)

9 As and for a Second Cause of Action, Plaintiffs TIMOTHY BAAL and SHARON D.
10 HANEMAN complain against Defendants AMERICANSTAR TOURS dba AMERICANSTAR
11 TRAILWAYS, NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and
12 DOES 11 through 30, inclusive, and each of them, alleges as follows:

13 22. Plaintiffs reallege and incorporate by reference each and every allegation of
14 Paragraphs 1 through 21 as though fully set forth herein.

15 23. At all times relevant herein, Defendant LAURA MAE GISH and DOES 1 through
16 10 were negligent in operating the aforementioned bus. Defendants AMERICANSTAR TOURS
17 dba AMERICANSTAR TRAILWAYS and DOES 11 through 20 owned the bus operated by
18 Defendant LAURA MAE GISH and had a responsibility to make sure that the driver of their vehicle
19 was fit to drive.

20 24. Defendants AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS,
21 NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and DOES 11 through
22 30, knew or should have known that Defendant LAURA MAE GISH and DOES 1 through 10 were
23 unfit and/or incompetent to drive the bus.

24 25. Defendants AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS,
25 NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and DOES 11 through
26 30, permitted Defendant LAURA MAE GISH and DOES 1 through 10 to drive the bus. Defendant
27 LAURA MAE GISH and DOES 1 through 10's incompetence and/or unfitness to drive were a
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1 substantial factor in causing harm to Plaintiff.

2 26. By reason of Defendants' AMERICANSTAR TOURS dba AMERICANSTAR
3 TRAILWAYS, NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and
4 DOES 11 through 30 failure and breached duty, and as a proximate result thereof, Plaintiffs suffered
5 damages as set forth in paragraphs 19, 20 and 21, incorporated herein.

6 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
7 hereinafter set forth.

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9 **THIRD CAUSE OF ACTION**
(Negligent Hiring, Training and Supervision)

10 As and for a Third Cause of Action, Plaintiffs TIMOTHY BAAL and SHARON D.
11 HANEMAN complain against Defendants AMERICANSTAR TOURS dba AMERICANSTAR
12 TRAILWAYS, NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and
13 DOES 11 through 30, inclusive, and each of them, alleges as follows:

14 27. Plaintiffs reallege and incorporate by reference each and every allegation of
15 Paragraphs 1 through 26 as though fully set forth herein.

16 28. Defendants AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS,
17 NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and DOES 11 through
18 30, inclusive, and each of them, so carelessly and negligently employed, supervised, hired and
19 trained Defendant LAURA MAE GISH to drive in a careful and prudent manner while operating the
20 bus.

21 29. At all times herein mentioned herein, Defendants, and each of them, owned a duty of
22 due care to Plaintiffs to act in a reasonable, prudent and careful manner in the employing,
23 supervision, hiring and training of Defendant GISH and DOES 1 through 10, in the performance of
24 the operation of the bus, and to drive in a careful and prudent manner while operating the bus, so as
25 to avoid creating a foreseeable risk of harm to others including Plaintiffs herein. Defendants, and
26 each of them, breached said duty.

27 30. Said breach and carelessness of the aforesaid Defendants AMERICANSTAR
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1 TOURS dba AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD PASSENGER
2 CORPORATION dba AMTRAK and DOES 11 through 30, and each of them, was a substantial
3 factor in bringing about Plaintiffs' injuries, consisting of, but not limited to, severe injuries to
4 their body and injuries received by Plaintiffs has greatly impaired their health, strength, and
5 activity and have thereby caused and continue to cause them great mental, physical and nervous
6 pain and suffering and extreme shock to their nervous system as to their damages in an amount
7 according to proof.

8 31. By reason of the above-mentioned negligence, Plaintiffs suffered damages as set forth
9 in paragraphs 19, 20 and 21, incorporated herein.

10 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
11 hereinafter set forth.

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13 **FOURTH CAUSE OF ACTION**
(Exemplary Damages)

14 As and for a Third Cause of Action, Plaintiffs TIMOTHY BAAL and SHARON D.
15 HANEMAN complain against Defendants LAURA MAE GISH, AMERICANSTAR TOURS dba
16 AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD PASSENGER CORPORATION
17 dba AMTRAK and DOES 1 through 30, inclusive, and each of them, alleges as follows:

18 32. Plaintiffs reallege and incorporate by reference each and every allegation of
19 Paragraphs 1 through 31 as though fully set forth herein.

20 33. Plaintiffs allege that at all relevant times herein, Defendant LAURA MAE GISH
21 had a history of operating a motor vehicle while under the influence of drugs and in a reckless
22 manner, with willful and wanton disregard for the safety of others, and in violation of the laws of
23 the State of California, resulting in injuries and damages to other persons and members of the
24 public including Plaintiffs herein

25 34. Plaintiffs allege that at all relevant times herein, Defendant LAURA MAE GISH
26 voluntarily ingested drugs in such an amount and to such a degree that she was an unsafe,
27 reckless and incompetent driver, and that at all times relevant herein Defendant LAURA MAE
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1 GISH knew she was intoxicated and therefore an unsafe and reckless driver.

2 35. Plaintiffs allege that all relevant times herein, Defendant LAURA MAE GISH's
3 conduct was despicable conduct carried on with a willful and conscious disregard of the rights
4 and safety of others and with the full knowledge and complete awareness of the probable
5 dangerous consequences of her conduct, thereby constituting malice and oppression.

6 36. Plaintiffs allege that at all relevant times herein, Defendant LAURA MAE GISH
7 was completely aware of the probable dangerous consequences of her despicable conduct of
8 driving while under the influence of drugs, as on or about May 27, 2020, she was convicted for
9 driving under the influence of drugs causing injury, in violation of the laws of the State of
10 California.

11 37. Plaintiffs allege that all relevant times herein Defendant LAURA MAE GISH,
12 AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD
13 PASSENGER CORPORATION dba AMTRAK and DOES 1 through 30, inclusive, and each of
14 them were the agents, servants, and employees of each of the other Defendants, as well as the
15 agents of all Defendants, and at all times herein mentioned were acting within the course and
16 scope of said agency and employment.

17 38. Plaintiffs allege that all relevant times herein, Defendants, and each of them, were
18 members of, and engaged in, a joint venture and common enterprise and acting within the course
19 and scope of and in pursuance of said joint venture and common enterprise.

20 39. Plaintiffs allege that all relevant times herein, the acts and omissions of the various
21 Defendants, and each of them, concurred and contributed to the various acts and omissions of
22 each and all of the other Defendants in proximately causing the injuries and damages as herein
23 alleged.

24 40. Plaintiffs allege that at all times herein alleged, Defendants, and each of them,
25 ratified each and every act or omission complained of herein.

26 41. Plaintiffs allege that at all relevant times herein, Defendants AMERICANSTAR
27 TOURS dba AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD PASSENGER
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1 CORPORATION dba AMTRAK and DOES 11 through 30, inclusive, and each of them knew or
2 should have known of Defendant's LAURA MAE GISH's tendency to drive in a reckless manner
3 and under the influence of drugs.

4 42. Plaintiffs allege that at all relevant times herein the conduct of Defendants
5 AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD
6 PASSENGER CORPORATION dba AMTRAK and DOES 1 through 30, inclusive, was
7 despicable, carried on with a willful and conscious disregard of the rights and safety of others and
8 with the full knowledge and complete awareness of the probable dangerous consequences of their
9 conduct, thereby constituting malice and oppression.

10 43. Plaintiffs allege that at all relevant times herein Defendants AMERICANSTAR
11 TOURS dba AMERICANSTAR TRAILWAYS, NATIONAL RAILROAD PASSENGER
12 CORPORATION dba AMTRAK and DOES 1 through 30, inclusive, were completely aware of
13 the probable dangerous consequences of their despicable conduct but nevertheless permitted and
14 entrusted LAURA MAE GISH to operate vehicles in the course of her employment or agency
15 with defendants AMERICANSTAR TOURS dba AMERICANSTAR TRAILWAYS, NATIONAL
16 RAILROAD PASSENGER CORPORATION dba AMTRAK and DOES 1 through 30, such that
17 Defendants' conduct was despicable conduct, carried on with a willful and conscious disregard of
18 the rights and safety of others and with the full knowledge and complete awareness of the
19 probable dangerous consequences of their conduct, thereby constituting malice and oppression.

20 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
21 hereinafter set forth.

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PRAYER

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows:

1. For general damages in a sum to be determined at time of trial;
2. For all special and incidental damages according to proof;
3. For exemplary damages;
4. For pre-judgment and post-judgment interest as provided by law;
5. For all costs of suit herein incurred; and
6. For such other and further relief as the Court may deem just and proper in the premises.

DATED: December 28, 2020

By: 

ESTEBAN L. VALENZUELA
Attorney for the Plaintiffs