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CASE #: 23-2-21460-9 KNT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

MATTHEW DOLAN, THERESA STELTER,  
PAUL STEPHEN, individually and on behalf of all  
others similarly situated, and DOES 1-76;

Plaintiffs,

v.

ALASKA AIRLINES, INC., a foreign profit  
corporation, and HORIZON AIR INDUSTRIES,  
INC., a Washington profit corporation;

Defendants.

NO.

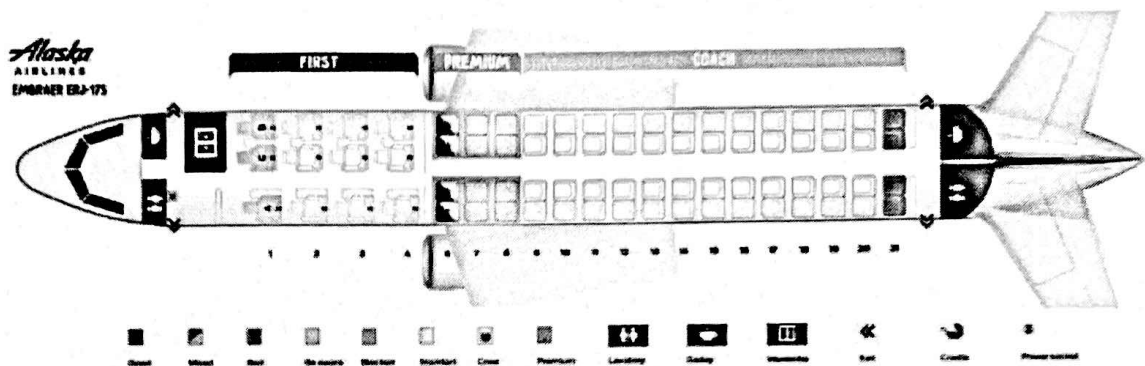
COMPLAINT FOR DAMAGES  
AND CLASS RELIEF

Plaintiffs allege:

I. THE INCIDENT

1.1 Alaska Airlines Flight 2059. On Sunday, October 22, 2023, Alaska Airlines Flight 2059, operated by Horizon Air, departed on a regularly scheduled domestic flight from Paine Field in Everett, Washington, bound for San Francisco International Airport. In the cockpit were two Horizon Air pilots (captain and first officer), and an "off duty" Alaska Airlines pilot, Captain Joseph David Emerson, who is a large man at 6 feet 1 inch tall and weighs about 205 pounds. In the passenger compartment of the aircraft were, apparently, 81 other souls; presumed to be 79 passengers and 2 flight attendants. The aircraft was an Embraer E175 regional jet. While the flight was at cruise altitude, Emerson ripped off his earphones, announced to the entire cockpit that he

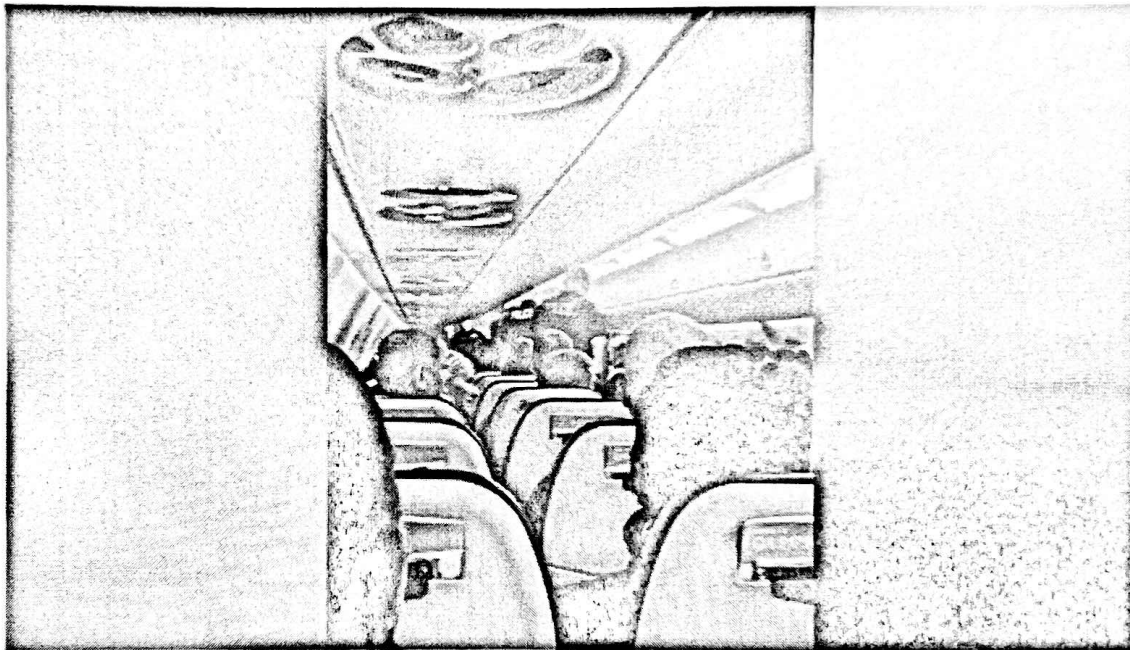
1 was "not OK," and tried to crash the aircraft by activating the fire suppression system to shut  
2 down the fuel to the engines. The system is designed to close valves that supply fuel to the engines.  
3 Later, the flight crew would tell investigators that the aircraft was mere seconds away from being  
4 turned into a glider. The pilots and Emerson then wrestled for seconds over control of the aircraft  
5 before Emerson stopped and said he was okay, and left the flight deck. The crew apparently was  
6 able to open them quickly enough to restore the flow. Emerson walked from the cockpit to the  
7 rear of the aircraft, and tried to open an emergency exit door while in flight, only to be stopped by  
8 a flight attendant. A flight attendant reportedly told authorities she overheard Emerson say, "I  
9 messed everything up," and "tried to kill everybody."<sup>1</sup>



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15 1.2 Passengers. Passengers on the plane had been experiencing a normal flight for 45  
16 minutes to 1 hour, when the plane suddenly experienced what felt like a nosedive. A flight  
17 attendant on the intercom announced to the passengers of the plane needed to land immediately.  
18 The surprised Plaintiffs were left in the dark about what was happening. Passengers did not know  
19 what was wrong. Thoughts of a complete plane malfunction or terrorist activity naturally entered  
20 their minds. Some passengers with in-flight internet access were able to follow the flight's path  
21 from their seats in the cabin. Passengers observed Emerson walk from the cockpit to the back of  
22

23 <sup>1</sup> [https://www.scribd.com/document/679867104/Charging-documents-in-Joseph-Emerson-  
24 case?doc\\_id=679867104&download=true&order=619585705](https://www.scribd.com/document/679867104/Charging-documents-in-Joseph-Emerson-case?doc_id=679867104&download=true&order=619585705)

1 the aircraft. There, and while still in flight, he attempted to open the cabin door. Some passengers  
2 saw the zip ties and were confused why that would be the case. At least one passenger reportedly  
3 was in contact with a sibling who used the commercial internet application Flightradar to relay to  
4 that passenger the in-flight communication updates between the cockpit and Air Traffic Control.  
5 Air Traffic Control asked the flight crew to identify the "threat level". The crew responded, "Just  
6 to give you a heads up, we've got the guy who tried to shut the engines down out of the cockpit.  
7 And he doesn't sound like he's causing any issue in the back right now and I think he is subdued.  
8 Other than that, yeah, we want law enforcement as soon as we get on the ground and parked." At  
9 some point a pilot announced to the passengers that there had been a disturbance in the cockpit.



A photo taken by passenger Aubrey Gavello shows police on Flight 2059 after it made an emergency landing in Portland, Oregon, on Sunday.

1.3 Landing and arrest. Fortunately, the flight crew was able to divert the flight to the Portland, Oregon airport and land the aircraft safely. Law enforcement agents boarded the plane and removed Emerson as the passengers watched. The flight attendants told passengers Emerson had a mental breakdown. Emerson was arrested. Upon Emerson's arrest, he told the FBI that he

1 had not slept in 40 hours and had consumed psychedelic mushrooms 48 hours beforehand.  
2 Emerson was later charged with 167 crimes, including 83 counts of attempted murder, 83 counts  
3 of reckless endangerment and one count of endangering an aircraft.

4 1.4 Spin. Alaska Airlines' public statement about the incident is disappointingly self-  
5 serving. It reads, in part, "On Oct. 22, Alaska Airlines Flight 2059 operated by Horizon Air from  
6 Everett, WA (PAE) to San Francisco, CA (SFO) reported a credible security threat related to an  
7 off-duty Alaska Airlines pilot, identified as Captain Joseph Emerson, who was traveling in the  
8 flight deck jumpseat. Captain Emerson unsuccessfully attempted to disrupt the operation of the  
9 engines. The Horizon Captain and First Officer quickly responded, and the crew secured the  
10 aircraft without incident." However, the clever rhetoric attempts to soften the undeniable: An  
11 attempt to crash an airliner actually was not merely a "security *threat*"; an actual *security breach*  
12 occurred; Emerson attempted to kill everyone aboard. And the aircraft was not, in fact, secured  
13 "without incident." Rather, there was a struggle in the cockpit and later Emerson tried again to  
14 sabotage the airplane. As Alaska Airlines admits, "Our crew also confirmed that Emerson  
15 attempted to grab the handle of the emergency exit during the aircraft's descent before being  
16 stopped by a Flight Attendant." The statement goes on: "Upon exiting the flight deck, both Flight  
17 Attendants confirmed that Emerson was escorted by a Flight Attendant to the rear of the aircraft  
18 where Emerson was placed in wrist restraints and belted into the aft jumpseat. Our crew also  
19 confirmed that Emerson attempted to grab the handle of the emergency exit during the aircraft's  
20 descent before being stopped by a Flight Attendant." Clearly, in the airline's narrative, the only  
21 wrongdoer is Emerson. However, this is the defendant airlines' way of misdirecting attention not  
22 only from the fact that even while not assigned to fly but traveling in the cockpit's jumpseat,  
23 Emerson had responsibilities for aircraft safety that made him an agent of both airlines, but also  
24

1 from their *own* failures of their primary responsibility as common carriers to their passengers and  
2 crew; namely, their apparent failures to even question whether he was fit to fly shortly before he  
3 was allowed to occupy the cockpit for the duration of the flight. Had they done so, he more  
4 likely than not would have been denied admission and could not have been in position to nearly  
5 kill everyone aboard.

## 6 II. PARTIES

7 2.1 Plaintiff Matthew Dolan. Plaintiff Matthew Dolan was a passenger on October 22,  
8 2023, Horizon Airlines Flight 2059, departing Everett, Washington to San Francisco, California.  
9 At that time and at the commencement of this action, he was a resident of San Francisco,  
10 California.

11 2.2 Plaintiff Theresa Stelter. Plaintiff Theresa Stelter was a passenger on October 22,  
12 2023, Horizon Airlines Flight 2059, departing Everett, Washington to San Francisco, California.  
13 At that time and at the commencement of this action, she was a resident of San Francisco,  
14 California.

15 2.3 Plaintiff Paul Stephen. Plaintiff Paul Stephen was a passenger on October 22, 2023,  
16 Horizon Airlines Flight 2059, departing Everett, Washington to San Francisco, California. At that  
17 time and at the commencement of this action, he was a resident of Kenmore, King County,  
18 Washington.

19 2.4 Defendant Horizon Air Industries, Inc. Defendant Horizon Air Industries, Inc.  
20 ("Horizon Air") is a corporation organized and existing under the laws of the state of Washington  
21 with its headquarters in Washington, located at 17930 International Blvd., Ste. 800, SeaTac, WA,  
22 98188-4231. Its registered agent for service of process in Washington is Kyle Levine, 19300  
23 International Blvd., Ste. 800, SeaTac, WA, 98188-4231. Since 1986, Horizon Airlines has been  
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1 secret that 'probably greater than 85 percent of pilots are lying on their medical forms' because  
2 they don't want to flag conditions that might drag out approval or renewal of their licenses." On  
3 information and belief, the defendant airlines were aware of these facts and/or similar concerns  
4 before Emerson boarded Flight 2059 on October 22, 2023.

5       3.2 Airline knowledge of concealed health conditions. None of this disturbing reality can  
6 be news to airlines, including Alaska Airlines and Horizon Air. Airline management is (or at least  
7 should be) also highly familiar with aviation regulations and knows that a pilot's concealment  
8 within the course and scope of the pilot's employment of conditions that disqualify the pilot from  
9 flight may lead to civil liability for the airline if that pilot injures or kills passengers. A pilot's  
10 concealment of being unfit to fly is an indisputable violation of the employer airline's duty of  
11 highest care for the safety of its passengers. The defendant airlines were aware of these facts  
12 before Emerson boarded Flight 2059 on October 22, 2023.

13       3.3 Pilot confessions. Not all pilots have concealed their conditions that could disqualify  
14 them. Some pilots tell one another. The Washington Post article quotes a pilot who says, know of  
15 a lot of pilots who have told me about [medical conditions] they aren't telling the FAA about[.]”<sup>3</sup>  
16 Because those pilots are agents of the airlines and their medical condition is essential to the safe  
17 performance of their employment duties, the pilots' knowledge is imputed by law to the pilots'  
18 employer airlines should it be relevant to any claim for injury the pilot may cause to an airline's  
19 passenger. The defendant airlines were aware of these facts before Emerson boarded Flight 2059  
20 on October 22, 2023.

21       3.4 Drug testing. The Federal Aviation Administration is an agency of the United States  
22 Department of Transportation, which in Title 40, Subtitle A, part 40 of the Code of Federal  
23

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24 <sup>3</sup> See note 3 above.

1 Regulations, has adopted regulations governing drug and alcohol tests. These tests can include  
2 random testing before or after a flight, or testing based on reasonable suspicion. However, they  
3 do not specifically address hallucinogenic drugs such as mushrooms containing psilocybin. The  
4 defendant airlines were aware of these regulations and their scope before Emerson boarded Flight  
5 2059 on October 22, 2023. On information and belief, the defendant airlines were aware of those  
6 regulations but did not administer to Emerson or require administration of such a test, or any test  
7 capable of detecting exposure to psilocybin, to Emerson between the time of his last medical  
8 examination and boarding Flight 2059 on October 22, 2023.

9       3.5 The duality of familiarity. According to Alaska Airlines, “Captain Emerson joined  
10 Alaska Air Group as a Horizon First Officer in August 2001. In June 2012, Emerson left Horizon  
11 to join Virgin America as a pilot. Emerson became an Alaska Airlines First Officer following  
12 Alaska’s acquisition of Virgin America in 2016. He became an Alaska Airlines Captain in 2019.  
13 Throughout his career, Emerson completed his mandated FAA medical certifications in  
14 accordance with regulatory requirements, and at no point were his certifications denied, suspended  
15 or revoked.” The education and training he received to acquire his pilot license and certifications  
16 and to serve on flight crews for Horizon Air and Alaska Airlines familiarized him with the Embraer  
17 E175 cockpit in ways not generally known to the public and that could make him a hero or a mass  
18 murderer.

19       3.1 Knowledge of danger. Emerson’s self-described weeks-long struggle with mental  
20 health, his lack of sleep, and drug abuse, were known to him, and thus as a matter of law known  
21 to Defendants, immediately before he boarded Flight 2059 on October 22, 2023. Alternatively,  
22 Defendants reasonably should have known of the danger Emerson presented to Flight 2059 on  
23 October 22, 2023, because Defendants should have known of the general hazards presented by  
24

1 unfit pilots, that the current regulatory system is only minimally effective in screening them out,  
2 and that at least some unfit pilots could be effectively detected at minimal cost and disruption to  
3 the airline's business and profit.

4       3.2 Airline drug and alcohol policies. In 2013, Mark Hutcheson, an attorney hired by  
5 Horizon Air in a matter involving a pilot the airline accused of being impaired by marijuana, has  
6 publicly stated, "Horizon is not willing to place an impaired pilot back in the cockpit," and "Doing  
7 so would violate federal law and contravene a well-settled public policy prohibiting a pilot from  
8 flying while using drugs."<sup>4</sup> Alaska Airlines, and on information and belief, Horizon Air, each  
9 have "zero-tolerance" drug policies for their employees. The published Code of Ethics of their  
10 holding company, Alaska Air Group, Inc. (as revised September 2021) states:

11           Drugs and alcohol

12           To ensure public safety, we are held to a higher  
13           standard when it comes to having drugs or alcohol  
14           in our system while at work. Additionally, employees  
15           who perform certain safety-sensitive duties are  
16           subject to DOT-FAA drug and alcohol regulations  
17           and the Companies' policies, which are in many  
18           cases more stringent than DOT-FAA regulations.

19           There may be occasions where we serve alcohol at an  
20           AAG, Alaska, or Horizon event. If you choose to drink  
21           at these events, use good judgment. If you are planning  
22           an event, make sure you get the necessary approval.

23  
24 <sup>4</sup> <https://www.seattlepi.com/local/article/Horizon-Air-sues-to-fire-pot-puffing-pilot-4449113.php>

1           These guidelines also apply during:

- 2           • Business trips
- 3           • Layovers
- 4           • Functions hosted by one of our suppliers
- 5           • Other professional or community meetings

6 Each of the defendant airlines has also adopted a drug and alcohol policy. Even so, and despite  
7 the defendant airlines' duty to protect their passengers from unfit pilots, on information and belief,  
8 shortly before Emerson boarded Flight 2059 on October 22, 2023, neither defendant airline tested  
9 or examined him or anyone else for evidence of using psychedelics.

10           3.3 Limitations of security credentials. An airline pilot's cockpit-access security  
11 credential, usually issued through the Cockpit Access Security System ("CASS"), only serves to  
12 validate the pilot's employment and identity criteria. It is not proof of compliance with federal  
13 rest requirements, recent drug use, or mental fitness in the moment. This fact was known to  
14 Emerson and to the defendant airlines before Emerson boarded Flight 2059 on October 22, 2023.

15           3.4 Medical silence. Medical certificates required to certify a pilot of Emerson's age and  
16 flying responsibilities require an examination to be conducted by an Aviation Medical Examiner  
17 designated by the FAA every 6 months. It requires pilots to disclose all existing physical and  
18 psychological conditions and medications. Conditions and medications that arise after such an  
19 exam but before the next one are thus not reported to those examiners. Also, the FAA does not  
20 require Aviation Medical Examiners to review medical records outside the aviation system. A  
21 pilot's health care providers are not under a legal obligation to advise the pilot's employer that the  
22 pilot has a physical or mental condition that might impact the pilot's fitness for duty. The FAA  
23 does not require airlines to conduct their own pilot medical evaluations or any ongoing screening  
24

1 for sleep, drug use, or mental health; nor does the FAA restrict airlines from doing so. These facts  
2 were known to Emerson and to the defendant airlines before Emerson boarded Flight 2059 on  
3 October 22, 2023.

4 3.5 Rest mandates. Federal law for commercial airline pilots, specifically 14 CFR  
5 § 121.471, establishes strict rest mandates for commercial pilots engaged in regularly scheduled  
6 air carrier operations. For example, during any consecutive 24-hour period before the completion  
7 of the scheduled flight time, a flight crew member is required by law to have 9 consecutive hours  
8 of rest for less than 8 hours of scheduled flight time. Longer flight times require more rest.

9 3.6 Jumpseat. A flight deck jumpseat is an auxiliary seat generally not assigned to paying  
10 passengers, but most often used by airline crew. In most airliners, jumpseats exist in the front  
11 and/or the rear of the passenger cabin, which are generally used by flight attendants and other  
12 airline employees who are nonpaying passengers. Often one jumpseat is also in the cockpit.  
13 Airline crew and some other airline employees generally rely on these seats to transit to their  
14 assignment and to fly home. Sometimes pilots in training and their instructors use them. Federal  
15 safety and law enforcement officials use them as well.



1       3.7 Jumpseat pilot's role. A jumpseat pilot who is merely in transit is not assigned the  
2 primary duty to fly the aircraft but may be called upon to assist the flight crew fly the aircraft in  
3 an emergency (for example, a stroke or heart attack among the assigned crew, or a hijacking).

4 According to the Airline Pilots Association, International primer on jumpseat policies:

5               If sitting on the flight deck, a pilot should keep his or her eyes and  
6 ears open; an additional crewmember is a valuable safety asset.  
7 Jumpseaters should turn off cell phones when entering and wear a  
8 headset. Sterile cockpit rules, which are in effect at 10,000 feet and  
9 below in the cockpit environment (and, in some cases, above 10,000  
10 feet also), should be observed, but speak up when necessary.  
11 Reading, talking, and other nonpertinent activities are prohibited  
12 when jumpseating.

13               Jumpseaters may also serve as a security asset by helping with flight  
14 deck door openings and, in an extreme case, protecting the flight  
15 crew from an assault on the flight deck.

16       3.8 Captain's discretion. A person can be deemed fit to occupy a cockpit jumpseat only  
17 at the assigned captain's discretion. But the captain's exercise of that discretion must follow  
18 federal aviation security regulations and the airline's security policies. Given what Emerson told  
19 the cockpit crew aloft and later told investigators, it is reasonable to conclude that, more likely  
20 than not, if any of defendants' agents before the flight had asked Emerson how he was feeling,  
21 whether he had the mandated rest, whether he had taken any drugs before being allowed to fly,  
22 and whether he felt himself in his right mind, he would have made a statement that would have  
23 led the defendant airlines and/or flight's captain to bar him from the cockpit, and likely from the  
24 aircraft.

25       3.9 Pilot's knowledge and experience. Due to Emerson's pilot training and experience,  
26 unlike the vast majority of the 32 million revenue passengers Alaska Airlines carried in mainline  
27 operations in 2022, and presumably in similar quantities in 2023, who are barred from entering or  
28 even standing outside the cockpit during flight, Emerson could be a greater threat to aircraft safety

1 than nearly any other passenger could be; particularly if he was allowed into the cockpit while  
2 sleepless, mentally ill, and possibly intoxicated, or even when he apparently had not been screened  
3 by the defendant airlines to meet on-duty requirements for rest, mental fitness and sobriety.

4       3.10 Public relations. In an effort to reassure its future customers, Alaska Airlines'  
5 public relations statement published on its website on October 24, 2023, included these remarks:

6 "All Gate Agents and Flight Attendants are trained to identify signs and symptoms of impairment."

7 "At no time during the check-in or boarding process did our Gate Agents or flight crew observe  
8 any signs of impairment that would have led them to prevent Emerson from flying on Flight 2059."

9 Alaska Airlines is "deeply disturbed by what we have learned." Those carefully worded statements  
10 conveniently sought to suggest – without demonstrable proof — not only that its gate agents and  
11 flight attendants did their jobs, but that they were sufficiently trained, equipped and directed to  
12 detect lack of rest, recent psychedelic use, or a mental illness in jumpseat pilots. Tellingly, the  
13 airline does not address those details specifically. Moreover, the airline does *not* state that the  
14 airline's gate agents or flight crew *made any effort* to determine whether Emerson was impaired  
15 in one or more of those ways. For example, the airline does not say that it inquired about his rest,  
16 his drug use, his state of mind, or even looked at him for more than a second or two, perhaps to  
17 check his identification badge and permission to fly. Obviously, Alaska Airlines failed to detect  
18 that Emerson was "impaired" by lack of sleep, intoxicants, and/or state of mind.

19       **V. INCIDENT CONTEXT: THE KNOWN RISK ENVIRONMENT**

20       5.1 Sky crime. Since well before September 11, 2001, the possibility that terrorists,  
21 suicidal pilots, or other rogue actors may enter a cockpit to hijack or sabotage an aircraft in flight  
22 has been well-known to the entire world.

1           5.2    Hijackings. Hijackings involving cockpit intrusions too numerous to list here have  
2 occurred over the last 60 years. By one account, in the period 1968 to 1972, the world experienced  
3 a hijacking on average every 5.6 days. Numerous infamous attacks against civil aviation resulted  
4 in death and destruction. In 1998, an Air China captain disgruntled with policies and pay hijacked  
5 his own plane and flew to Taiwan. In 2014, **Ethiopian Airlines Flight 702** was hijacked by its  
6 own co-pilot, who locked the pilot out of the cockpit when he went to the restroom. In 1972, the  
7 FAA mandated screening of carry-on baggage, and passenger screening soon followed, with x-  
8 rays, metal detectors, and pat-downs. In 1974, a federal death penalty for air piracy was enacted.  
9 Even so, terrorism through cockpit takeovers, such as **Ethiopian Airlines Flight 961** in 1996  
10 which crashed in to the ocean, and in-flight bombings -- for example, **Air India 192** over the  
11 Atlantic Ocean in 1985 and **PanAm 103** over Lockerbie, Scotland in 1988 -- resulted in terrible  
12 losses of life. Furthermore, the adoption of passenger-focused security measures prioritized  
13 protection of the cockpit and minimized or even ignored the risks posed by the airline employees  
14 within it. On information and belief, all of these facts were known to the defendant airlines before  
15 Emerson boarded Flight 2059 on October 22, 2023.

16           5.3    Auburn Calloway. On April 7, 1994, a Federal Express flight engineer and former  
17 Navy pilot Auburn Calloway, apparently facing imminent dismissal for falsifying flight hours,  
18 obtained FedEx's permission to fly from Memphis, Tennessee to San Jose, California in the  
19 cockpit jumpseat of a McDonnell Douglas DC-10 cargo jet designated **FedEx Flight 705**. In an  
20 event famous in the commercial aircraft community, shortly after takeoff, Calloway used a sledge  
21 hammer he had brought aboard in a guitar case to bludgeon the three flight crew members in the  
22 head and body, triggering a dramatic, bloody and horrific struggle to subdue him and continue to  
23 fly the aircraft. Despite the crew's brain injuries and loss of large amounts of blood, the co-pilot  
24

1 and assigned flight engineer, joined occasionally by the pilot, struggled to hold onto the barbed  
2 end of a spear gun Calloway had aimed at them and keep him contained. They wrestled with him  
3 as the pilot flew aerobatic maneuvers in the aircraft to keep him at bay. The crew finally  
4 overpowered Calloway and were miraculously able to return to Memphis and land the aircraft  
5 safely, leaving the cockpit covered in blood, and were never able to fly again. Calloway is serving  
6 two consecutive life sentences. On information and belief, all of these facts were known to the  
7 defendant airlines before Emerson boarded Flight 2059 on October 22, 2023.

8       5.4     Jonathan J. Dunn. In August 2022, on a commercial flight, a **Delta Airlines** co-  
9 pilot Jonatha J. Dunn allegedly assaulted and threatened to shoot the pilot with a gun to prevent  
10 the pilot from diverting due to a passenger's medical event.

11       5.5     Killer pilots. As disturbing, if not more so, airline pilots themselves have  
12 intentionally killed hundreds of people, as seen in the following frightening examples, all of which  
13 were presumably known to the defendant airlines before Emerson boarded Flight 2059 on October  
14 22, 2023:

15             5.5.1   Suspected Pilot Suicide/Homicide-**Silk Air Flight 185 (1997)**. Pilot locked  
16 the co-pilot out of the cockpit, turned off the flight data recorder, and dove the airliner at extreme  
17 velocity until it broke apart midair and crashed into a river, killing 104 people.

18             5.5.2   Intentional Mayhem-**Air Botswana ATR 42-320 incident (1999)**. Pilot  
19 commandeered an airliner, took off, announced his grudge against airline management and his  
20 intention to kill himself, then landed and intentionally rammed the aircraft into other aircraft at the  
21 airport, killing himself.

1           5.5.3 Suspected Pilot Suicide/Homicide-**Egyptair Flight 990 (1999)**. The first  
2 officer turned off the engines after pilot left the cockpit and dove the airliner into the ocean, killing  
3 217 people.

4           5.5.4 Suspected Pilot Suicide/Homicide - **LAM Mozambique Airlines Flight**  
5 **470 (2013)**. The pilot locked the co-pilot out of the cockpit and crashed the airliner, killing 33  
6 people.

7           5.5.5 Suspected Pilot Suicide/Homicide-**Malaysia Airlines Flight 370 (2014)**.  
8 The aircraft diverted off course, ceased communication and crashed, killing 239 people.

9           5.5.6 Pilot Suicide/Homicide-**Germanwings Flight 9525 (2015)**. The co-pilot,  
10 who had been hospitalized for depression and suicidal tendencies, and later released by a  
11 psychiatrist, locked the captain out of the cockpit and crashed the airliner into a mountain, killing  
12 150 people.

13           5.5.7 Pilot Suicide - **Horizon Air Q400 (2018)** – In a relatively recent security  
14 breach by Defendants, a mentally disturbed Horizon Air ground service agent with no pilot  
15 experience stole a De Havilland Canada Dash 8-400 airliner from Seattle-Tacoma International  
16 Airport. After describing himself as “a broken guy; I’ve got a few screws loose,” he eventually  
17 crashed the aircraft into a populated island in Puget Sound.

18           5.5.8 Suspected Pilot Suicide/Homicide-**China Eastern Airlines Flight 5735**  
19 **(2022)**. The airliner suddenly descended, killing 132 people.

20           5.5.9 According to a **June 13, 2022 Bloomberg News analysis**, “intentional  
21 crashes [are] a leading cause of airline travel deaths.” Between 2011 and 2020 pilot murder-  
22 suicides ranked as the second most prevalent cause of airline crash deaths in western-built airliners,  
23 although fatalities due to accidental causes decreased markedly.

1           5.6    Other examples. Numerous other examples of pilot suicide and other mental  
2 instability exist in general aviation.

3           5.7    9/11. Still vivid in the minds of any person with a memory of the most horrific of  
4 intentional airline disasters is September 11, 2001, which killed nearly 3,000 people and injured  
5 over twice as many. Terrorists trained as pilots and armed with box cutters took over four airliners,  
6 American Airlines 11 and 77, and United Airlines 93 and 175; crashing two into the World Trade  
7 Center in New York City, one into the Pentagon in Washington, DC, and by virtue of heroic  
8 passengers, one into the ground at Shanksville, Pennsylvania; killing thousands of innocent people.

9           5.8    Cockpit security: Response to 9/11. The complacencies in airline security that  
10 allowed these events of 9/11 to happen, despite the specific warnings of a Minnesota flight school  
11 to the FBI, and despite CIA and FBI concerns about those terrorists, forced not only a wholesale  
12 re-thinking of intelligence information sharing, but as we all know, a radical tightening of airliner  
13 access security; again, focused primarily verifying identity credentials for assigned airline and  
14 airport employees and imposing physical barriers and screening for access to the aircraft and  
15 especially the cockpit, to guard against intrusion or destruction generated from within the cargo  
16 hold, passenger cabin, and/or the ramp area. Not the least of those measures was the reinforcement  
17 of cockpit doors. Less than two years after the 9/11 attacks, the FAA adopted 14 C.F.R. §§ 25.795  
18 and 121.313. Those provisions mandated, among other things, that airlines install reinforced  
19 cockpit doors with internal locks to prevent unauthorized entry, and strong enough to minimize  
20 penetration of shrapnel from small arms fire or a fragmentation device. The rules required all new  
21 cockpit doors to “remain locked.” In a compromise with airlines, the rule also stated, “Operators  
22 must develop a more stringent approval process and better identification procedures to ensure  
23 proper identification of a jump seat rider.”  
24

1           5.9    Open the pod bay doors, Hal. In 2007, the FAA responded to pilot needs to eat,  
2 use the lavatory, and occasionally switch crew on longer flights. The FAA permitted necessary  
3 opening of the cockpit door so long as FAA-approved procedures were followed. Those  
4 procedures suggested using crew monitoring, galley carts and/or an installed physical secondary  
5 barrier while opening the cockpit door for no more than three seconds. The FAA left to the airlines  
6 how to comply, and in 2011 an advisor to the FAA, RTCA, Inc., published guideline DO-329,  
7 entitled "Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures." In 2015,  
8 the FAA published Advisory Circular 20-110, "Aircraft Secondary Barriers and Alternate Flight  
9 Deck Security Procedures." On June 1, 2023, the FAA adopted Advisory Circular 20-110A, which  
10 superseded 20-110. The new one generally reiterates the prior means of compliance, but also  
11 starting in August 2025 requires new airliners that are required to have cockpit doors to install  
12 secondary barriers that will prevent entry to the cockpit while the door is open.

13           5.10   Complacency. In describing the failure to prevent the 9/11 attacks, one airline pilot,  
14 Patrick Smith, observed, "What the men actually exploited was a weakness in our mind-set – a set  
15 of presumptions based on decades-long track record of hijackings."<sup>5</sup> Unfortunately, the fortunate  
16 lack since 9/11 of an event similar in scale, possibly together with hero stories such as that of  
17 Captain Chesley Sullenberger ("Captain Sully"), who saved US Airways Flight 1549 by ditching  
18 successfully in the Hudson River in 2009 when both engines were disabled by a bird strike, has  
19 apparently lulled the defendant airlines into complacency with respect to the potential dangers  
20 presented by their own employees, or the relative infrequency of event such as those described

21 \_\_\_\_\_  
22 <sup>5</sup> *Smith, Patrick (2018-06-05). Cockpit confidential : everything you need to know about air*  
23 *travel : questions, answers & reflections (Revised and updated ed.). Naperville, Illinois.*  
*ISBN 978-1492663973. OCLC 1039369001.*

1 above has been regarded as a cost of doing business caused by rogue aviation industry personnel  
2 who the airlines disingenuously suggest they cannot do more to stop.

3       5.11 Reinforcement of cockpit security requirements. In apparent recognition of the  
4 ongoing need to improve protection against in-flight threats, on June 14, 2023, the FAA adopted  
5 a new cockpit security regulation, which requires new airliners to have an additional barrier to  
6 protect flight decks from intrusion when the flight deck door is open. As the rule states, “When  
7 the flightdeck door must be opened for lavatory breaks, meal service, or crew changes, the  
8 flightdeck could be vulnerable to attack. The benefit of this rule, requiring installation and use of  
9 IPSBs on airplanes in part 121 service, is to slow such an attack long enough so that an open  
10 flightdeck door can be closed and locked before an attacker could reach the flightdeck.”

11       5.12 The monetization of security. Airport security screening has become utterly  
12 insufferable for all but the wealthiest among us. The screening lines are interminable. They  
13 demand hours-long advance arrival and demeaning public examination of one’s body and clothes.  
14 Carry-on restrictions on bringing aboard razor blades, pocket knives, scissors, baby formula,  
15 normal shampoo containers, antiperspirant spray, jars of homemade jams and pasta sauce, and  
16 other routine household items bring to mind methods of attack that only the truly committed  
17 terrorists could exploit. Audits of TSA screening show that it has historically failed to discover up  
18 to 95 percent of prohibited items, which suggest that thousands of guns, knives other weapons and  
19 “potential weapons” each year go unnoticed. Because very few if any incidents involving those  
20 missed items have occurred, it is fair to infer that the great majority of those are in the hands of  
21 safe passengers that cause nobody any harm. More to the point here, searching for them does  
22 nothing to protect the public against those in the flightdeck who are as susceptible as anyone to  
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1 mental illness, drug abuse, and lack of sleep, and are at the aircraft controls, making them capable  
2 of killing everyone aboard without a gun, razor, or bottle of body lotion loaded with explosives.

3       5.13 Alaska Airlines privileges. Like many airlines, Alaska Airlines has chosen to push  
4 the envelope of the risk calculus in order to extract more money from a public sick of long and  
5 intrusive TSA screening. First Class fare passengers, premium fare passengers, those who have  
6 MVP or greater status in the Alaska Airlines frequent flyer club, which allows them to enter a less  
7 crowded "premium" class TSA security line at Sea Tac Airport and to board the aircraft earlier than  
8 common folk. Passengers who pay the annual fee for the Alaska Airlines Visa Signature credit  
9 card enjoy "priority" boarding status as well. Sometimes Alaska Airlines give boarding privileges  
10 to passengers willing to dress in costume, such as on Halloween or National Ugly Sweater Day.

11       5.14 Relaxation of security. Ironically, while the public has been squeezing its liquids  
12 into tiny bottles and forced to buy miniature deodorants and toothpastes at inflated prices, and up-  
13 charging for exit row seats (the only reason for which is safety), the airlines have loosened their  
14 grip on in-flight security. It is no surprise that the market response has been an economic  
15 opportunity for airlines and other businesses to extract yet more money from travelers to reduce  
16 those inconveniences, by way of purchased status privileges that not only shorten security lines,  
17 but exempt them from suspicion. Wealthy and privileged populations, who in general suffer much  
18 less contact with law enforcement, are allowed to keep their shoes on, as presumably, they will not  
19 try to use them as a bomb or hide a weapon inside.

20       5.15 The rise of domestic massacres. Mass shootings are a rising epidemic. They, seem  
21 to occur everywhere and constantly in the United States, including in streets, schools, marketplaces  
22 and workplaces. That sad reality has brought to the forefront of public discussion not only the  
23 hundreds of millions of guns now available in our society, but that mental illness leading to  
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1 violence makes some individual outbursts appear predictable, but others not. There is no reason to  
2 think that whatever pathology is driving such events cannot be present in an airline employee.

3       5.16 Better safe than sorry. The airlines' lackadaisical reliance on the presumption of  
4 flightcrew safety, half-yearly medical exams, an ID badge and assignment, physical screening and  
5 a possible once-over look by a gate agent as sufficient to allow otherwise unchallenged entry to  
6 the cockpit by flightcrew, and especially jumpseaters, is inexplicable. Specific violent acts are  
7 generally unpredictable. Assessing mental stability of individuals with access to lethal weapons,  
8 or of people who may turn aircraft into lethal weapons, is difficult. Security screening to identify  
9 and deter bad actors before they do harm must consider the means available to them. Routine and  
10 class-based presumptions and exceptions create opportunities for bad actors. Directly questioning  
11 flightcrew seeking entry to a cockpit regarding compliance with regulations is low cost and is a  
12 reasonable expectation to increase the safety of the traveling public. Even if it does not catch all  
13 dangerous actors, it will catch some and save lives. If a grandmother in a wheelchair is forced  
14 check her knitting needles and to prove before each flight that her Pepto Bismol is in a small bottle,  
15 that her underwear does not conceal a knife, and that her comfy shoes do not contain a bomb, and  
16 anyone sitting in an airliner exit row is asked whether they are qualified and willing to assist in the  
17 event of an emergency, then trained pilots who will be on the flight deck – whether assigned to fly  
18 or not – should be asked before boarding about their required sleep and other physical and mental  
19 fitness to be trusted with the lives of those barred from access to the flight controls. If such  
20 questions had been asked of Emerson at the airport gate or in the cockpit of Flight 2059, in light  
21 of the statements he made in the air and after being arrested, it is more likely than not that he would  
22 have answered consistent with those statements and would never have been permitted aboard.

1 **VI. AGENCY**

2 6.1 Agency. At all times and for all purposes material to this action, Emerson was an  
3 agent of both Alaska Airlines and Horizon Air, acting within the course and scope of Emerson's  
4 duties as such, and Horizon Air was an agent of Alaska Airlines acting within the course and scope  
5 of Horizon Air's duties as such. On information and belief, Horizon Air and/or Alaska Airlines  
6 authored and/or prescribed policies, procedures and practices used by Horizon Airlines to manage  
7 jumpseat passengers, cockpit access, in-flight security, and in-flight emergencies, including but  
8 not limited to mandating truthfulness in disclosing disqualifications from serving as flight crew  
9 and prevention of criminal misconduct by airline crew and/or passengers on Horizon Air flights,  
10 including but not limited to Horizon Air Flight 2059 on October 22, 2023.

11 **VII. INJURIES & DAMAGES**

12 7.1 Emotional distress. Defendants breaches of their duties to Plaintiffs that permitted  
13 Emerson to fly in the cockpit and to attempt to sabotage Alaska Airlines Flight 2059 on October  
14 22, 2023 caused Plaintiffs to suffer fear, anxiety and reluctance to fly.

15 7.2 Physical manifestations. As a direct and proximate result of Defendants' actions  
16 and omissions as described above, Plaintiffs experienced physical manifestations borne from the  
17 emotional distress that occurred including: nausea on later flights, insomnia, anxiety, and  
18 flashbacks of the incident. The impacts on their willingness to fly at all and future flight  
19 experiences remain to be revealed.

20 7.3 Other injuries and damages. As a direct and proximate result of Defendants' actions  
21 and omissions as described above, Plaintiffs suffered other special and general damages in  
22 amounts to be proved at trial, including but not limited to ticket fees, charges for evaluation and/or  
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1 treatment of health conditions and associated travel, damages for psychological injury, lost  
2 enjoyment of life, lost travel and economic opportunities, and inconvenience.

3 **VIII. CAUSES OF ACTION**

4 For causes of action based upon the foregoing allegations, Plaintiffs allege:

5 **A. BREACH OF COMMON CARRIER'S DUTIES**

6 8.1 Defendants Alaska Airlines and Horizon Air were by law at all times material to  
7 this action common carriers with respect to each Plaintiff.

8 8.2 Airlines and other common carriers owe their passengers the highest duty of care  
9 known to the law.

10 8.3 A common carrier has a duty to its passengers to exercise the highest degree of care  
11 consistent with the practical operation of its type of transportation and its business as a common  
12 carrier. Any failure of a common carrier to exercise such care is negligence. WPI 100.01.

13 8.4 The duty of a common carrier includes a duty to protect its passengers from harm  
14 resulting from the misconduct of others, when such conduct is known or could reasonably be  
15 foreseen and prevented by the exercise of the care required of a common carrier. For reasons  
16 described above, Emerson's misconduct was known to him and thus to the defendants Alaska  
17 Airlines and Horizon Air. Alternatively, his misconduct was reasonably foreseeable and could  
18 more likely than not have been prevented by the exercise of care required of the Defendants to ask  
19 him about his rest, drug use, and mental status. The defendant airlines' failures to do so breached  
20 their duties of highest care to their passengers aboard Flight 2059 on October 22, 2023, and each  
21 of those breaches was a proximate cause of Emerson's attempt to crash that airliner, rendering  
22 Defendants Alaska Airlines and Horizon Air directly and/or vicariously liable to Plaintiffs' injuries  
23 and damages. *See* WPI 100.01, 100.03 & 120.060.03.

1           8.5     A common carrier is liable for any injury proximately caused to its passengers by  
2 any intentional harm to them by an employee of the carrier. WPI 100.04. *See also* WPI 120.060.03.  
3 On information and belief, Emerson intended to kill or otherwise harm those aboard Flight 2059  
4 on October 22, 2023. Defendants Alaska Airlines and Horizon Air proximately caused and are  
5 directly and/or vicariously liable for Plaintiffs' resulting injuries and damages.

6           8.6     The actions and omissions of the Defendants Alaska Airlines and Horizon Air by  
7 and through their agents as described above breached their common carrier duties to their  
8 passengers to exercise the highest degree of care for their safety by securing the aircraft cockpit  
9 from being occupied by unqualified persons, and to prevent such persons from endangering the  
10 aircraft and its occupants in flight. Each such breach with respect to Flight 2059 on October 22,  
11 2023 was a proximate cause of Plaintiffs' injuries and damages.

12           8.7     Alaska Airlines and Horizon Air had the highest legal duty to protect Plaintiffs'  
13 safety through educating and training the airlines' employees, including but not limited to gate  
14 agents and flightcrew members, to question and examine jumpseaters with pilot education and  
15 training, immediately prior to boarding, about whether they were qualified to perform their duties  
16 to the same extent as flightcrew, in case the flight should require their services. Each of  
17 Defendant's failures to do so with respect to Flight 2059 on October 22, 2023 was each a proximate  
18 cause of Plaintiffs' injuries and damages.

19           8.8     Defendants' highest legal duties of care to protect their passengers were breached  
20 in the various ways described above. Each of Defendants' actions and omissions constituted a  
21 breach of trust between Alaska Airlines, Horizon Air and their passengers. That breach of trust  
22 was a cause in fact and legal cause of emotional distress.  
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1           8.9     Defendants cannot claim ignorance of Emerson's condition to escape their legal  
2 responsibilities to their passengers for harm caused by his wrongdoing. While surely Emerson's  
3 duties to Alaska Airlines and to Horizon Air did not include attempting to commit mass murder,  
4 those duties did include the duty to keep the aircraft safe, and the duty to report lack of mandated  
5 rest, his drug abuse and his mental illness. Had he done so in fulfillment of his employment duty,  
6 he should have, and more likely than not would have, been barred from the cockpit of Flight 2059,  
7 such that his effort to crash the airliner would never have occurred.

8           **B.     CLASS RELIEF**

9           8.10    The actions and omissions of the Defendants as described above breached their  
10 duties to refrain from boarding the aircraft with malicious intent or in any other state of mind that  
11 could lead to aircraft sabotage; to refrain from travel in the cockpit jumpseat while unqualified to  
12 act as a pilot if necessary and/or while in a dangerous state of mind; to report Emerson's lack of  
13 sleep, drug abuse, and mental health condition; to challenge his fitness to be in the cockpit; to  
14 educate and train their employees to prevent the foregoing breaches; and otherwise to keep their  
15 passengers safe; and were a proximate cause of Plaintiffs' injuries.

16           8.11    Plaintiffs bring this Class action pursuant to CR 23(b)(1)-(3) on behalf of the Class  
17 defined as follows: All passengers aboard Alaska Airlines Flight 2059 on October 22, 2023 who  
18 were not at that time on-duty employees of any Defendant. Pursuant to CR 23(b)(4),

19           8.12    Pursuant to CR 23(c)(4)(A), Plaintiffs bring claims on behalf of themselves and the  
20 Class to adjudicate the Defendants liabilities and to obtain the injunctive relief requested below.  
21 The extent of each individual class member's injuries and damages may be determined and  
22 resolved otherwise.

23           8.13    Plaintiffs request a Class Notice advising the Class that Emerson is alleged to have  
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1 acted as an agent of Defendants Alaska Airlines and/or Horizon Air when he attempted to kill all  
2 aboard; that Defendants Alaska Airlines and/or Horizon Air failed to take reasonable steps to  
3 determine prior to Emerson's admission to the cockpit of Alaska Airlines Flight 2059 that he was  
4 unfit to act as a pilot in view of his then-existing non-compliance with federal rest and drug/alcohol  
5 requirements and mental health status, and that the Class may be entitled to injunctive relief, a  
6 monetary award for emotional distress, and any other applicable relief the Court sees fit and just  
7 to award.

8       8.14 Numerosity. The Class is believed to include approximately 79 individuals, at least  
9 some of whom reside in Washington State, but some of whom do not. The Class is so numerous  
10 that joinder of all members is impracticable. The disposition of the liability claims of the Class in  
11 a single action will provide substantial benefits to all parties and the Court.

12       8.15 Commonality. The Class members have questions of law and fact in common,  
13 including but not limited to:

14               8.15.1.1       The facts, federal and state law pertaining to the incident aboard  
15 Flight 2059 that is the subject of this complaint;

16               8.15.1.2       Whether Defendants breached their duties to the Plaintiffs described  
17 above;

18               8.15.1.3       Whether injunctive relief Plaintiffs request should be ordered;

19       8.16 Typicality. Plaintiffs' liability claims and claims for injunctive relief are typical  
20 of the claims available to the other members of the Class and are not subject to any atypical claims  
21 or defenses. The Class liability issues are identical to the entire Class.

22       8.17 Adequacy. Plaintiffs will fairly and adequately represent the Class, and are  
23 committed to prosecuting this action, have no conflicts of interests, and have retained competent  
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1 counsel who are experienced civil trial lawyers with recent significant experience in complex and  
2 class action litigation and trial. Plaintiffs and their counsel are committed to prosecuting this action  
3 vigorously on behalf of the Class and have the financial resources to do so. Neither Plaintiffs nor  
4 their counsel have interests that are contrary to or that conflict with those of the proposed Class.

5 8.18 Predominance. The common issues identified above predominate over any  
6 individualized issues. Adjudication of these common issues in a single action has important and  
7 desirable advantages of judicial economy.

8 8.19 Superiority. Plaintiffs, Class members, and other travelers on Alaska Airlines and  
9 Horizon Air have suffered and will continue to suffer harm and damages as a result of Defendants'  
10 misconduct. Absent a Class action, most Class members would likely find litigation of their claims  
11 cost-prohibitive.

12 8.19.1.1 Class treatment is superior to multiple individual suits or piecemeal  
13 litigation because it conserves judicial resources, promotes consistency and efficiency of  
14 adjudication, and provides a single forum for all claims, which forum is where the defendants are  
15 at home. On information and belief, no member of the class has commenced any litigation  
16 concerning the controversy that is the subject of this action. If any members of the class are  
17 interested in individually controlling the prosecution of separate actions, they may opt out of the  
18 class. Whether such class members exist is presently unknown to Plaintiffs.

19 8.19.1.2 Class members can be identified by Defendants electronic search of  
20 Flight 2059's passenger manifest and/or from Defendants' other business records.

21 8.19.1.3 There will be no significant difficulty in the management of this case  
22 as a Class action. Once relief is granted on Class issues, the Class will be notified of the  
23 opportunity to come forward and assert individual claims for relief. Those claims can be grouped  
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1 or sorted into subclasses as needed if they do not resolve.

2 **IX. PRAYER FOR RELIEF**

3 Wherefore, Plaintiffs respectfully request this Court grant them the following joint and  
4 several relief against Defendants:

- 5 A. Special and general damages in amounts to be proved at trial, including but not  
6 limited to ticket fees, charges for evaluation and/or treatment of health conditions  
7 and associated travel, damages for psychological injury including but not limited  
8 to emotional distress, physical pain and suffering, lost enjoyment of life, lost travel  
9 and economic opportunities, and inconvenience Defendants caused Plaintiffs.
- 10 B. If a Defendant brings any frivolous or unfounded defenses, for attorneys' fees and  
11 costs pursuant to RCW 4.84.185 and/or Rule 11 of the Superior Court Civil Rules;
- 12 C. Reasonable attorneys' fees and costs to the extent allowed by law;
- 13 D. Pre- and post-judgment interest on any judgment awarded to Plaintiffs to the  
14 maximum extent allowed by law;
- 15 E. Class certification;
- 16 F. Class Notice of Class Member rights;
- 17 G. Injunctive relief mandating Defendants, to the extent they operate in the state of  
18 Washington, to conduct reasonable examinations, including but not limited to  
19 specific questioning and focused observation, of all anticipated flightcrew and  
20 jumpseat passengers, immediately prior to their admission to an aircraft on which  
21 they may occupy the cockpit, regarding their compliance with federal rest and  
22 drug/alcohol requirements applicable to their aviation licenses (if any) as if they  
23 were assigned to perform their licensed duties on that flight, and their then-existing  
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1 mental health status, and, and that Defendants record and maintain for a period of  
2 at least three years all responses and/or lack of response to such inquiries; and

3 **H.** Such other and further relief as this Court seems fit and just to award.

4 DATED this 2nd day of November, 2023.

5 STRITMATTER KESSLER KOEHLER MOORE

6 

7  
8 By: Daniel R. Laurence, WSBA#19697  
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10 Attorneys for Plaintiffs