

DISTRICT COURT, COUNTY OF SUMMIT, STATE OF COLORADO

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DAVID AND AMANDA REPSHER

Plaintiffs

v.

**AIR METHODS CORPORATION,
AIRBUS HELICOPTERS, S.A.S., and
AIRBUS HELICOPTERS, INC.**

Defendants.

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Case Number: 2015CV30146

Div.: K

SECOND AMENDED COMPLAINT WITH JURY DEMAND

COME NOW Plaintiffs David and Amanda Repsher, and for their Second Amended Complaint against the Defendants Air Methods Corporation, Airbus Helicopters, S.A.S. and Airbus Helicopters, Inc., state and allege as follows:

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PLAINTIFFS

1. David Repsher is an individual residing in Silverthorne, Colorado. He was the flight nurse on board the helicopter that crashed on July 3, 2015. He is the husband of Amanda Repsher.

2. Plaintiff Amanda Repsher is an individual residing in Silverthorne, Colorado. She is the wife of David Repsher.

DEFENDANTS

DEFENDANT AIR METHODS CORPORATION

3. At all relevant times, Defendant Air Methods Corporation (hereinafter referred to as “Defendant Air Methods”) was a corporation with its corporate headquarters and principal place of business located within the State of Colorado. Defendant’s corporate headquarters address is 7301 S. Peoria Street, Englewood, Colorado 80112. Defendant Air Methods may be served through its Registered Agent, CT Corporation System, 1675 Broadway, Suite 1200, Denver, Colorado 80202.

4. Defendant Air Methods is engaged in the business of providing medical helicopter transportation to patients.

5. At all times material hereto, Defendant Air Methods operated in Colorado by and through its various employees and agents.

6. At all times material hereto, Defendant Air Methods was the parent corporation of its wholly-owned division, United Rotorcraft.

7. United Rotorcraft is a trade name of Air Methods Corporation, registered with the Colorado Secretary of State, and a division of Air Methods Corporation that manufactures, supplies and installs aircraft seats, including the rear medical crew jumpseats for the subject helicopter.

8. United Rotorcraft, as a registered trade name, is not a separate or unique corporate entity from Air Methods Corporation.

9. Air Methods Corporation is responsible for any and all wrongful acts that may have been committed by United Rotorcraft that are related to the subject helicopter crash.

10. At all times material hereto, Defendant Air Methods was acting by and through its agents, servants and/or employees, including agents and employees of United Rotorcraft, each of whom were acting within the course and scope of their employment with Defendant, including any and all maintenance personnel performing work on the subject aircraft and the pilot of the subject aircraft.

DEFENDANT AIRBUS HELICOPTERS, S.A.S.

11. At all relevant times, the Defendant Airbus Helicopters, S.A.S., was a foreign entity and the foreign counterpart of Defendant Airbus Helicopters, Inc., with its headquarters and principal place of business located at Aeroport International, Marseille Provence, 13725 Marignane – Cedex – France. Defendant Airbus Helicopters, S.A.S., may be served pursuant to the Hague Convention by private process server in that both the United States and France are signatory parties to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters, **20. U.S.T. 361; 658 U.N.T.S. 163.**

12. Defendant Airbus Helicopters, S.A.S., is liable in all respects as it is the successor corporation of Eurocopter, S.A.S., which was the original manufacturer of the subject AS350-B3e helicopter and component parts and systems and there was and continues to be an express and/or implied agreement between Defendant Airbus Helicopters, S.A.S., and Eurocopter, S.A.S., to assume all its post-sale liabilities and obligations. Plaintiffs herein have no remedy against the predecessor corporation, Eurocopter, S.A.S., due to its reorganization.

13. Defendant Airbus Helicopters, S.A.S., is engaged in the design, manufacture, testing, inspection, assembly, labeling, advertising, sale, promotion, and/or distribution of helicopters for ultimate sale and/or use in the State of Colorado.

14. At all times material hereto, Defendant Airbus Helicopters, S.A.S., has sold, delivered, and/or distributed such products, in particular the subject helicopter, for ultimate sale and/or use in the forty-eight (48) continental states of these United States of America, including the State of Colorado, to be used by a foreseeable class of persons, consisting of those persons who may be passengers of helicopters, of which David Repsher was a member.

15. At all times material hereto, Defendant Airbus Helicopters, S.A.S., operated in Colorado by and through its various employees and agents.

16. At all times material hereto, Defendant Airbus Helicopters, S.A.S., was acting by and through its agents, servants and/or employees, each of whom were acting within the course and scope of their employment with Defendant.

DEFENDANT AIRBUS HELICOPTERS, INC.

17. At all relevant times, the Defendant Airbus Helicopters, Inc., was a Delaware Corporation with its corporate headquarters and principal place of business located at 2701 Forum Drive, Grand Prairie, Texas 75053. Defendant Airbus Helicopters, Inc., may be served through its Registered Agent, National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Denver, Colorado 19904.

18. Defendant Airbus Helicopters, Inc., is liable in all respects as it is the successor corporation of American Eurocopter which was the original manufacturer of the subject AS350-B3e helicopter and component parts and there was and continues to be an express and/or implied agreement between Defendant Airbus Helicopters, Inc., and American Eurocopter to assume all its post-sale liabilities and obligations. Plaintiffs herein have no remedy against the predecessor corporation, American Eurocopter, due to its reorganization.

19. Defendant Airbus Helicopters, Inc., is engaged in the design, manufacture, testing, inspection, assembly, labeling, advertising, sale, promotion, and/or distribution of helicopters for ultimate sale and/or use in the State of Colorado.

20. At all times material hereto, Defendant Airbus Helicopters, Inc., has sold, delivered, and/or distributed such products, in particular the subject helicopter, for ultimate sale and/or use in the forty-eight (48) continental states of these United States of America, including the State of Colorado, to be used by a foreseeable class of persons, consisting of those persons who may be passengers of helicopters, of which David Repsher was a member.

21. At all times material hereto, Defendant Airbus Helicopters, Inc., operated in Colorado by and through its various employees and agents.

22. At all times material hereto, Defendant Airbus Helicopters, Inc., where vicariously liable, was acting by and through its agents, servants and/or employees, each of whom were acting within the course and scope of their employment with Defendant.

IDENTIFICATION OF AIRCRAFT

23. This aircrash involves an Airbus Helicopter, Inc., (formerly American Eurocopter) AS350-B3e helicopter, registration (tail) number N390LG.

24. The subject helicopter was designed, manufactured, assembled, distributed, and sold by Airbus Helicopters, S.A.S., (formerly Eurocopter, S.A.S.) and Airbus Helicopters, Inc., (formerly American Eurocopter) and was purchased by Air Methods Corporation.

25. Defendant Air Methods Corporation owned and operated the subject helicopter in the course of a medical transport business.

JURISDICTION

26. Defendants, and each of them, sell and promote their services in the State of Colorado.

27. Defendants, and each of them, had a reasonable expectation that they would be hailed into courts in the State of Colorado by reason of their injecting their products and services into the stream of commerce.

28. Defendant Air Methods Corporation has its corporate headquarters and principal place of business in the State of Colorado.

29. It does not offend "traditional notions of fair play and substantial justice" to require these defendants to defend themselves in this forum. The contacts, ties and relations of Defendants, and each of them, are sufficient to the exercise of personal jurisdiction within the Courts of the State of Colorado. Defendants are engaged in a persistent course of conduct within this State such that subjecting them to jurisdiction within the State of Colorado is lawful, appropriate, and fair.

VENUE

30. Pursuant to **C.R.C.P. 98(c)(5)**, venue in the District Court of Summit County, Colorado is proper in that the tort was committed in Summit County, Colorado.

STATEMENT WITH REGARD TO SIMPLIFIED PROCEDURE RULE 16.1

31. Simplified Procedure under C.R.C.P. 16.1 does not apply to this case because Plaintiffs are seeking a monetary judgment for more than \$100,000.00 against another party, including any attorney fees, penalties or punitive damages, but excluding interest and costs.

DATES AND ACTS OF CONDUCT COMPLAINED OF

32. On or about July 3, 2015, Plaintiff David Repsher was a flight nurse aboard an Airbus Helicopter AS350-B3e helicopter, registration (tail) number N390LG that was departing the Flight for Life helipad in Summit County, Colorado on a public relations flight to the American Spirit of Adventure Boy Scout Camp near Gypsum, Colorado.

33. The helicopter lifted off from the ground, rotated counterclockwise, and climbed.

34. At approximately 100 feet altitude, witnesses saw the helicopter spin counterclockwise several times before it impacted a parking lot southwest of the helipad, exploded, and burned.

35. Plaintiff David Repsher was fully restrained in his rear medical crew jumpseat both at the time of the subject flight and upon crash impact.

36. Plaintiff David Repsher was ejected with his seat from the subject helicopter during crash impact in that his rear medical crew jumpseat became disconnected from its anchoring within the cabin of the subject helicopter.

37. Plaintiff David Repsher's body was exposed to and covered with fuel in the crash.

38. Plaintiff David Repsher suffered severe burns and injury to over 90% of his body as a direct result of the crash.

39. Plaintiff David Repsher was injured by a direct result of the foregoing crash of the Airbus AS350-B3e helicopter designed, machined, manufactured, assembled, supplied, imported, distributed, sold, modified, owned, leased, operated, maintained, serviced, and/or certified by Defendants Air Methods Corporation, Airbus Helicopters, S.A.S., and Airbus Helicopters, Inc.

PLAINTIFFS' INJURIES AND DAMAGES

40. After receiving treatment at St. Anthony's Summit Medical Center, Plaintiff David Repsher was taken from the crash scene via helicopter to University Hospital in Denver, Colorado where he was admitted due to severe burns and injuries he sustained in the helicopter crash.

41. Plaintiff David Repsher has required extensive in-patient hospital care and will require in the future hospital care and rehabilitation.

42. Plaintiff David Repsher has suffered permanent injury to his health, strength and activity, and has sustained permanent injuries to his body and shock and permanent injury to his nervous system and person including, but not limited to, the following:

- a. Plaintiff suffered severe burns over ninety (90%) of his body;
- b. Plaintiff has required skin graft operations due to his severe burns;
- c. Plaintiff has suffered severe thermal injuries;
- d. Plaintiff has suffered internal injuries, extensive thermal injuries, extreme and permanent disfigurement and permanent physical impairment;
- e. Plaintiff has undergone numerous surgical procedures and will continue to do so in the future; and

f. Plaintiff has suffered extreme mental anguish.

43. Plaintiff David Repsher has experienced in the past and will experience in the future extreme mental anguish and emotional upset as a result of the helicopter crash, his injuries, and the consequences thereof.

44. Plaintiff David Repsher has experienced extreme and excruciating physical pain, suffering and disfigurement relative to the injuries and medical procedures he has endured.

45. Plaintiff David Repsher has incurred substantial medical expenses to date and will incur substantial medical expenses in the future.

46. Plaintiff David Repsher has suffered permanent physical disabilities, permanent impairment and disfigurement as a result of the injuries he received in the helicopter crash.

47. Plaintiff David Repsher further suffered mental and emotional trauma and suffering including pre-impact terror and post-impact conscious pain and suffering.

48. Plaintiff David Repsher will be unable to work and will sustain substantial lost wages.

49. Plaintiff Amanda Repsher has been deprived of the society, companionship, consortium, and support of her lawful husband, David Repsher.

50. Plaintiff Amanda Repsher will be required to care for, nurse, and take over the usual household duties of Plaintiff David Repsher as a result of his injuries.

COUNT I

(NEGLIGENCE - - FAILURE OF DEFENDANT AIR METHODS TO USE ORDINARY CARE TO MAINTAIN, SERVICE, OVERHAUL, AND INSPECT THE SUBJECT AIRCRAFT)

COME NOW Plaintiffs, as heretofore set out, and for Count I of their cause of action against Defendant Air Methods allege and state as follows:

51. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 50 inclusive of this Second Amended Complaint.

52. Defendant Air Methods had a duty to use that degree of care that an ordinarily careful and prudent air ambulance helicopter owner and operator would use under the same or similar circumstances.

53. Defendant Air Methods was responsible for setting and enforcing policies and procedures respecting the maintenance, servicing, overhaul, and inspection of its helicopters, including the subject helicopter.

54. Defendant Air Methods was also responsible for maintaining, servicing, overhauling, and inspecting its helicopters in Summit and Arapahoe counties in the State of Colorado, including the subject aircraft.

55. Defendant Air Methods breached its duty of due care and was negligent in the following respects:

- a. Defendant Air Methods provided an improperly maintained helicopter;
- b. Defendant Air Methods supplied a non-airworthy helicopter;
- c. Defendant Air Methods failed to properly repair, maintain and inspect the subject helicopter;
- d. Defendant Air Methods failed to properly inspect and examine the subject helicopter;
- e. Defendant Air Methods failed to perform safe and proper aircraft daily maintenance checks on the subject helicopter;
- f. Defendant Air Methods failed to ensure proper distribution, recognize the significance, and perform risk assessment in relation to Safety Information Notices (SINs) and/or Service Bulletins (SBs) pertaining to the subject helicopter;
- g. Defendant Air Methods failed to follow and adopt the recommended design change by Airbus for the dual hydraulics tail rotor system that would create a caution light on the caution/warning panel (CWP) in the event that the hydraulic activation switch was not engaged prior to take-off, resulting in take-off of the subject helicopter without hydraulic assistance for the tail rotor; and
- h. Defendant Air Methods was negligent in further particulars presently unknown to Plaintiffs but which will become known during the course of lawful discovery.

56. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of Air Methods' independent negligence resulting in the injuries and damages to David and Amanda Repsher.

57. The conduct and acts of negligence of Defendant Air Methods as set forth in this Count are in no way related to or tethered to the tortious acts of defendant's employee pilot. The Defendant's own independent negligence as set forth in this Count is both the independent and direct cause of the Plaintiffs' injuries and damages, unconnected to any negligent act or omission of the employee pilot.

58. As a direct and proximate result of the aforesaid negligence, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to, past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Air Methods for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT II

(NEGLIGENCE - - FAILURE OF DEFENDANT AIR METHODS TO USE ORDINARY CARE TO OPERATE THE SUBJECT AIRCRAFT)

COME NOW Plaintiffs, as heretofore set out, and for Count II of their cause of action against Defendant Air Methods allege and state as follows:

59. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 58 inclusive of this Second Amended Complaint.

60. Defendant Air Methods had a duty to use that degree of care that an ordinarily careful and prudent air ambulance helicopter owner and operator would use under the same or similar circumstances.

61. Defendant Air Methods, by and through its employees and agents, utilized pilots to operate its aircraft, including the subject helicopter, which pilot was acting in the course and scope of his employment with Defendant Air Methods at all relevant times.

62. Defendant Air Methods is vicariously liable for the actions and omissions of its employee pilot in that the pilot breached his duty of care and was negligent in the following respects:

- a. The pilot failed to properly activate the dual hydraulics tail rotor system prior to or at the commencement of the subject flight;
- b. The pilot failed to follow the warnings and instructions as to proper activation of the dual hydraulics tail rotor system;
- c. The pilot failed to maintain control of the helicopter;
- d. The pilot failed to execute a hover check of the aircraft immediately after take-off and prior to commencement of the flight;
- e. The pilot operated the helicopter without hydraulic assistance for the tail rotor; and
- f. The pilot failed to utilize safe and proper procedures during pre-flight with respect to the subject helicopter.

63. Defendant Air Methods breached its duty of care and was negligent for failure to follow safety-critical warnings, instructions and directions from Airbus relating to proper and safe operation of the helicopter, resulting in take-off of the subject helicopter without hydraulic assistance for the tail rotor.

64. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of Air Methods' vicarious negligence resulting in the injuries and damages to David and Amanda Repsher.

65. As a direct and proximate result of the aforesaid negligence, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Air Methods for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT III

(NEGLIGENCE - - FAILURE OF DEFENDANT AIR METHODS TO TRAIN ITS EMPLOYEES AND/OR AGENTS INCLUDING ITS PILOTS)

COME NOW Plaintiffs, as heretofore set out, and for Count III of their cause of action against Defendant Air Methods allege and state as follows:

66. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 65 inclusive of this Second Amended Complaint.

67. At all times material to this action, the pilot of the subject helicopter served as an employee and/or agent of Defendant Air Methods.

68. Defendant Air Methods owed Plaintiffs a duty to exercise reasonable care in the training of its employees and/or agents, including its pilots.

69. Defendant Air Methods breached its aforementioned duty to Plaintiffs by failing to exercise reasonable care in the training of its employees and/or agents, including the subject pilot, specifically, but not limited to;

- a. failing to properly train and supervise pilots on the use of the helicopter and/or component parts used therein relating to the tail rotor system, including physical restoration by the pilot of hydraulic system pressure to the yaw sensor and accumulator by returning the yaw servo hydraulic switch mounted on the collective to the "ON" or forward position prior to take-off; and
- b. failing to provide sufficient differential training on Airbus helicopter models more frequently and/or when switching pilots between differing models of helicopters.

70. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said independent negligence resulting in the injuries and damages to Plaintiffs David and Amanda Repsher.

71. The conduct and acts of negligence of Defendant Air Methods as set forth in this Count are in no way related to or tethered to the tortious acts of defendant's employee pilot. The Defendant's own independent negligence as set forth in this Count is both the independent and direct cause of the Plaintiffs' injuries and damages, unconnected to any negligent act or omission of the employee pilot.

72. That as a direct and proximate result of the aforesaid negligent conduct, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Air Methods for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT IV

**(STRICT LIABILITY - - DEFECTIVE DESIGN, MANUFACTURE AND
INSTALLATION OF REAR MEDICAL CREW JUMPSEAT
BY DEFENDANT AIR METHODS)**

COME NOW Plaintiffs, as heretofore set out, and for Count IV of their cause of action against Defendant Air Methods Corporation allege and state as follows:

73. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 72 inclusive of this Second Amended Complaint.

74. Defendant Air Methods Corporation, by and through its wholly-owned division and fictitious entity, United Rotorcraft, manufactured, supplied and installed the rear medical crew jumpseats for the subject helicopter in the ordinary course of its business.

75. The aforesaid rear medical crew jumpseats were defective and because of the defect, the helicopter was unreasonably dangerous to a person who might reasonably be expected to use, consume or be affected by the helicopter.

76. Plaintiff David Repsher occupied the left rear medical crew jumpseat in the subject helicopter at the time of the crash.

77. The aforesaid helicopter and the rear medical crew jumpseats used therein were then in a defective condition, unreasonably dangerous when put to their reasonably anticipated uses into the stream of commerce.

78. The aforesaid helicopter and the rear medical crew jumpseats referenced herein were used in a manner reasonably anticipated by this Defendant and others.

79. The helicopter and heretofore-described rear medical crew jumpseats were expected to and did reach the user or consumer without substantial change in the condition in which they were originally supplied and sold.

80. The defective condition of the left rear medical crew jumpseat in this subject helicopter was a cause of the injuries suffered by Mr. Repsher and of Plaintiffs' damages.

81. The helicopter, including the left rear medical crew jumpseat affixed therein, was defective and dangerous for reasons including, but not limited to, the following:

- a. Defendant designed, manufactured, supplied and installed an unsafe and unreasonably dangerous rear medical crew jumpseat which did not properly restrain the occupant, David Repsher, upon impact;
- b. The subject rear medical crew jumpseat for the subject helicopter was not mounted or anchored to the floor of the helicopter;
- c. The subject rear medical crew jumpseat was mounted to seat tracks and the seat tracks were attached to the aft cabin bulkhead;
- d. The anchoring of the subject left rear medical crew jumpseat was insufficient and inadequate to prevent the seat from breaking free or exiting the helicopter upon ground impact in an otherwise survivable crash;
- e. The subject rear medical crew jumpseat broke away and ejected from the cabin of the helicopter upon impact because of the dangerous and defective design of its connectivity to the interior of the subject helicopter;

- f. The subject rear medical crew jumpseat for the subject helicopter was not crashworthy;
- g. The subject rear medical crew jumpseat for the subject helicopter violated the design intent of that seat to contain the passenger in the helicopter upon impact;
- h. The seat track fittings that are structurally attached to the aft wall of the helicopter are insufficient to prevent ejection of the seat and any passenger restrained thereon from the interior of the cabin of the helicopter upon crash impact; and
- i. The subject rear medical crew jumpseat was of insufficient strength and utilized weak and inadequate material; and
- j. Defendant Air Methods failed to conduct proper and sufficient testing to determine the adequacy of the anchoring of the rear medical crew jumpseat.

82. As a direct and proximate result of the aforementioned defective condition, the subject rear medical crew jumpseat did break away and eject from the cabin of the helicopter upon impact with Plaintiff David Repsher still affixed and restrained to that seat causing injury to Plaintiff David Repsher.

83. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of the defective and unsafe condition of the subject left rear medical crew jumpseat resulting in the injuries and damages to David and Amanda Repsher.

84. The conduct and acts of negligence of Defendant Air Methods as set forth in this Count are in no way related to or tethered to the tortious acts of defendant's employee pilot. The Defendant's own independent negligence as set forth in this Count is both the independent and direct cause of the Plaintiffs' injuries and damages, unconnected to any negligent act or omission of the employee pilot.

85. As a direct and proximate result of the aforesaid defective and unsafe condition of the left rear medical crew jumpseat, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Air Methods for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT V

(NEGLIGENCE - - FAILURE OF BY DEFENDANT AIR METHODS TO USE ORDINARY CARE TO DESIGN, MANUFACTURE AND INSTALL REAR MEDICAL CREW JUMPSEAT)

COME NOW Plaintiffs, as heretofore set out, and for Count V of their cause of action against Defendant Air Methods Corporation allege and state as follows:

86. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 85 inclusive of this Second Amended Complaint.

87. Defendant Air Methods, by and through its wholly-owned division and fictitious entity, United Rotorcraft, manufactured, supplied and installed the rear medical crew jumpseats for the subject helicopter in the ordinary course of its business.

88. The aforesaid rear medical crew jumpseats were defective and because of the defect, the helicopter was unreasonably dangerous to a person who might reasonably be expected to use, consume or be affected by the helicopter.

89. Plaintiff David Repsher occupied the left rear medical crew jumpseat in the subject helicopter at the time of the crash.

90. Defendant Air Methods held itself out as an entity that could carefully and competently design, manufacture, select materials for, supply and install rear medical crew jumpseats in helicopters.

91. Defendant Air Methods had a duty to use that degree of care that an ordinarily careful and prudent designer, manufacturer, distributor, seller, supplier and installer of medical crew jumpseats in a helicopter would use under the same or similar circumstances.

92. Defendant Air Methods was negligent by failing to exercise reasonable care to prevent the helicopter containing rear medical crew jumpseats that it supplied and installed from creating an unreasonable risk of harm to the person or one who might reasonably be expected to use or be affected by the helicopter while it was being used in the manner the Defendant might have reasonably expected.

93. Plaintiff David Repsher was one of those persons the Defendant should reasonably have expected to use or be affected by this helicopter.

94. The helicopter which included the rear medical crew jumpseat designed, manufactured, sold and installed by Defendant Air Methods was not securely anchored or otherwise affixed within the cabin of the helicopter.

95. Defendant Air Methods knew or by using ordinary care should have known of a foreseeable risk of harm caused by such flawed, dangerous and unsafe condition as was created by its failure to properly design, test, manufacture, supply and install the rear medical crew jumpseat in the method and manner as described herein.

96. Defendant Air Methods was further negligent for reasons including, but not limited to, the following:

- a. Defendant designed, manufactured, supplied and installed an unsafe and unreasonably dangerous rear medical crew jumpseat which did not properly restrain the occupant, David Repsher, upon impact;
- b. The subject rear medical crew jumpseat for the subject helicopter was not mounted or anchored to the floor of the helicopter;

- c. The subject rear medical crew jumpseat was mounted to seat tracks and the seat tracks were attached to the aft cabin bulkhead;
- d. The anchoring of the subject left rear medical crew jumpseat was insufficient and inadequate to prevent the seat from breaking free or exiting the helicopter upon ground impact in an otherwise survivable crash;
- e. The subject rear medical crew jumpseat broke away and ejected from the cabin of the helicopter upon impact because of the dangerous and defective design of its connectivity to the interior of the subject helicopter;
- f. The subject rear medical crew jumpseat for the subject helicopter was not crashworthy;
- g. The subject rear medical crew jumpseat for the subject helicopter violated the design intent of that seat to contain the passenger in the helicopter upon impact;
- h. The seat track fittings that are structurally attached to the aft wall of the helicopter are insufficient to prevent ejection of the seat and any passenger restrained thereon from the interior of the cabin of the helicopter upon crash impact;
- i. The subject rear medical crew jumpseat was of insufficient strength and utilized weak and inadequate material; and
- j. Defendant Air Methods failed to conduct proper and sufficient testing to determine the adequacy of the anchoring of the rear medical crew jumpseat.

97. As a direct and proximate result of the aforesaid negligence and carelessness on the part of Defendant Air Methods, Plaintiff David Repsher suffered the injuries described herein.

98. The conduct and acts of negligence of Defendant Air Methods as set forth in this Count are in no way related to or tethered to the tortious acts of defendant's employee pilot. The Defendant's own independent negligence as set forth in this Count is both the independent and direct cause of the Plaintiffs' injuries and damages, unconnected to any negligent act or omission of the employee pilot.

99. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

100. As a direct and proximate result of the aforesaid negligence and failure to warn on the part of said defendant, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Air Methods for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT VI

**(STRICT LIABILITY - - DEFECTIVE DESIGN AND MANUFACTURE BY
DEFENDANT AIRBUS HELICOPTERS, S.A.S.)**

COME NOW Plaintiffs, as heretofore set out, and for Count VI of their cause of action against Defendant Airbus Helicopters, S.A.S., allege and state as follows:

101. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 100 inclusive of this Second Amended Complaint.

102. Defendant Airbus Helicopters, S.A.S., designed, manufactured, assembled, supplied, distributed and/or sold the aforementioned helicopter, referred to as an Airbus AS350-B3e and/or component parts thereof, including the tail rotor system and fuel tank, in the course of its business.

103. The aforesaid helicopter was defective and, because of the defect, the helicopter was unreasonably dangerous to a person who might reasonably be expected to use, consume or be affected by the helicopter.

104. The aforesaid helicopter and/or component parts used therein relating to the tail rotor system were then in a defective condition, unreasonably dangerous when put to their reasonably anticipated uses into the stream of commerce.

105. The aforesaid helicopter and/or component parts used therein relating to the fuel tank configuration were then in a defective condition, unreasonably dangerous when put to their reasonably anticipated uses into the stream of commerce.

106. The helicopter and/or component parts or systems referenced herein was expected to and did reach the user or consumer without substantial change in the condition in which it was sold.

107. The defect in the helicopter was a cause of the Plaintiffs' injuries and damages.

108. The helicopter was defective and dangerous for reasons including, but not limited to, the following:

- a. Defendant designed, manufactured, and supplied an unsafe and unreasonably dangerous tail rotor system which is uncontrollable in the event of a failure, especially at low speeds, hover and/or liftoff;
- b. Physical restoration by the pilot of hydraulic system pressure to the yaw sensor and accumulator is required in this design configuration by returning the yaw servo hydraulic switch mounted on the collective to the "ON" or forward position prior to take-off;
- c. Without affirmative action by the pilot to restore hydraulic system pressure to the yaw servo and accumulator prior to take-off, there was a complete lack of hydraulic boost to the tail rotor system because the yaw load compensator would already have been discharged in order for the pilot to verify proper operation of the HYD/ACCU test switch and valve;

- d. Take-off without hydraulic assistance is perceived by the pilot as a tail rotor control failure or jamming because of the increased workload required to operate the rudder pedals in order to safely and effectively control the tail rotor;
- e. This design flaw of the dual hydraulic system for this helicopter leads to a known and reasonably anticipated loss of control of the helicopter;
- f. Defendant failed to retrofit, recall or otherwise modify the dual hydraulic circuitry so as to adequately warn pilots with either caution lights on the caution/warning panel (CWP) or auditory warning whenever the yaw servo hydraulic switch is not timely or properly activated prior to take-off of the helicopter;
- g. The defect in the design of this helicopter's caution/warning panel (CWP) and dual hydraulic system circuitry is that it does not illuminate if there is insufficient hydraulic assist for the tail rotor or if the yaw servo hydraulic assist is not activated;
- h. Defendant utilized a hazardous and unsafe design for the initiation of the hydraulics assist for the tail rotor system;
- i. Defendant failed to issue a Safety Bulletin or other appropriate and timely notice to operators requiring a retrofit for the tail rotor hydraulics system so as to remedy this known hazardous condition;
- j. Defendant knew that the failure of the tail rotor system renders the helicopter unsafe and uncontrollable yet permitted and instructed pilots to operate the aircraft in that manner;
- k. Defendant supplied a pilot operating handbook or flight manual that did not safely and properly address failure of the tail rotor system or proper and safe emergency maneuvers;
- l. Defendant failed to provide the pilot of the subject helicopter with proper in-flight warning that the tail rotor system was inoperable or failing;
- m. Defendant supplied the subject helicopter without a proper warning system to advise the pilot of an in-flight tail rotor system failure;
- n. Defendant selected and supplied an unsafe and unreasonably dangerous fuel tank configuration which caused the helicopter to explode and/or burn upon impact; and

- o. The helicopter was not crashworthy in that the fuel tank as designed and manufactured was incapable of withstanding impact of a minimal to moderate nature.

109. As a direct and proximate result of the aforementioned defective conditions, the subject helicopter crashed and burned thereby causing injury to Plaintiff David Repsher.

110. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

111. As a direct and proximate result of the aforesaid defective conditions, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Airbus Helicopters, S.A.S., for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT VII

**(STRICT LIABILITY - - FAILURE TO WARN BY DEFENDANT
AIRBUS HELICOPTERS, S.A.S.)**

COME NOW Plaintiffs, as heretofore set out, and for Count VII of their cause of action against Defendant Airbus Helicopters, S.A.S., allege and state as follows:

112. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 111 inclusive of this Second Amended Complaint.

113. The helicopter, which crashed and burned on July 3, 2015 was then unreasonably dangerous when put to a reasonably anticipated use without knowledge of its characteristics.

114. That at all times pertinent hereto, Defendant Airbus Helicopters, S.A.S., failed to provide an adequate warning as to the dangers of use of said helicopter, including the tail rotor system and fuel tank, which was then unreasonably dangerous.

115. Defendant failed to adequately warn foreseeable users of the risk of harm from the defective design of the tail rotor system in that a failure of the system would render the helicopter uncontrollable including but not limited to, the following:

- a. Defendant failed to provide adequate instruction and warnings to operators and pilots as to the safe initiation of the dual hydraulics to assist in operation of the tail rotor system;
- b. Defendant failed to provide adequate instruction and warning to operators as to the need for a retrofit of the tail rotor hydraulics system;
- c. Defendant issued inadequate, confusing, incomplete, and misleading instructions and warnings to operators and pilots of this helicopter as to how to restore hydraulic system pressure to the yaw servo and accumulator prior to take-off of the helicopter; and
- d. Defendant failed to properly and adequately warn operators and pilots of the potentially fatal differences that exist for the pre-flight run-up hydraulic checks as between the dual and single hydraulic systems.

116. Defendant failed to use ordinary care to adequately warn foreseeable users of the risk of harm from the defective design of the fuel tank configuration in that said system was uncrashworthy allowing the helicopter to explode and/or burn upon any impact.

117. The helicopter was used in a manner reasonably anticipated.

118. Plaintiff was injured as a direct result of the sale, use, operation, and service of the defendant's helicopter without an adequate warning or direction as to its monitoring, repair, replacement, servicing, hazards, and conditions.

119. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

120. As a direct and proximate result of the aforesaid defective conditions and the failure to warn thereof, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Airbus Helicopters, S.A.S., for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT VIII

(NEGLIGENCE - - FAILURE OF DEFENDANT AIRBUS HELICOPTERS, S.A.S., TO USE ORDINARY CARE TO DESIGN AND MANUFACTURE HELICOPTER)

COME NOW Plaintiffs, as heretofore set out, and for Count VIII of their cause of action against Defendant Airbus Helicopters, S.A.S., allege and state as follows:

121. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 120 inclusive of this Second Amended Complaint.

122. Defendant Airbus Helicopters, S.A.S., designed, manufactured, assembled, supplied, distributed, or sold the aforementioned helicopter and/or related component parts used therein in the course of its business.

123. Defendant Airbus Helicopters, S.A.S., held itself out as an entity that could carefully and competently design, manufacture, select materials for, design maintenance programs for, inspect, supply, distribute and sell helicopters.

124. Defendant Airbus Helicopters, S.A.S., had a duty to use that degree of care that an ordinarily careful and prudent designer, manufacturer, importer, distributor, and seller of helicopters and component parts would use under the same or similar circumstances.

125. Defendant Airbus Helicopters, S.A.S., was negligent by failing to exercise reasonable care to prevent the helicopter from creating an unreasonable risk of harm to the person or one who might reasonably be expected to use or be affected by the helicopter while it was being used in the manner the defendant might have reasonably expected.

126. Plaintiff David Repsher was one of those persons the defendant should reasonably have expected to use or be affected by this helicopter.

127. The helicopter and related component parts designed, manufactured, and sold by Defendant Airbus Helicopters, S.A.S., were defective and otherwise flawed, which had the effect of creating a catastrophic failure during flight.

128. The aforesaid helicopter and/or component parts used therein relating to the design of the tail rotor system designed, manufactured, and sold by Defendant Airbus Helicopters, S.A.S., were defective and otherwise flawed, which had the effect of allowing the helicopter to crash after a loss of tail rotor effectiveness.

129. The aforesaid helicopter and/or component parts used therein relating to the design of the fuel tank configuration designed, manufactured, and sold by Defendant Airbus Helicopters, S.A.S., were defective and otherwise flawed, which had the effect of allowing the helicopter to explode and/or burn upon impact.

130. Defendant Airbus Helicopters, S.A.S., knew or by using ordinary care should have known of the foreseeable risk of harm caused by such flawed and dangerous condition as was created by its failure to properly design, test, manufacture, sell, monitor, field performance, accumulate field data, recall and distribute safe helicopters.

131. Defendant Airbus Helicopters, S.A.S., was further negligent for reasons including, but not limited to, the following:

- a. Defendant selected and supplied an unsafe and unreasonably dangerous tail rotor system which is unreasonably dangerous and uncontrollable in the event of a failure, especially at low speeds, hover and/or liftoff;
- b. Physical restoration by the pilot of hydraulic system pressure to the yaw sensor and accumulator is required in this design configuration by returning the yaw servo hydraulic switch mounted on the collective to the "ON" or forward position prior to take-off;
- c. Without affirmative action by the pilot to restore hydraulic system pressure to the yaw servo and accumulator prior to take-off, there was a complete lack of hydraulic boost to the tail rotor system because the yaw load compensator would already have been discharged in order for the pilot to verify proper operation of the HYD/ACCU test switch and valve;
- d. Defendant knew that the failure of the tail rotor system renders the helicopter unsafe and uncontrollable yet permitted and instructed pilots to operate the aircraft in that manner;
- e. Defendant supplied a pilot operating handbook or flight manual that did not safely and properly address failure of the tail rotor system or proper and safe emergency maneuvers;
- f. Defendant failed to provide the pilot of the subject helicopter with proper in-flight warning that the tail rotor system was failing;
- g. Defendant supplied the subject helicopter without a proper warning system to advise the pilot of an in-flight tail rotor system failure;
- h. Defendant selected and supplied an unsafe and unreasonably dangerous fuel tank configuration which allowed the helicopter to explode and/or burn upon impact; and
- i. Defendant knew that the fuel tank configuration rendered the helicopter unsafe yet permitted pilots to operate the aircraft in that manner.

132. As a direct and proximate result of the aforesaid negligence and carelessness on the part of said Defendant, the subject helicopter crashed and burned at the aforesaid location, thereby causing the injuries and damages to Plaintiff David Repsher complained of herein.

133. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

134. As a direct and proximate result of the aforesaid negligence and carelessness on the part of said Defendant, Plaintiff David Repsher has incurred and continues to incur medical expenses, possible future medical expenses, past and future loss of wages, and past and future loss of enjoyment of life.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Airbus Helicopters, S.A.S., for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT IX

**(NEGLIGENCE - - FAILURE OF DEFENDANT AIRBUS HELICOPTERS, S.A.S.,
TO WARN OF KNOWN HAZARD)**

COME NOW Plaintiffs, as heretofore set out, and for Count IX of their cause of action against Defendant Airbus Helicopters, S.A.S., allege and state as follows:

135. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 134 inclusive of this Second Amended Complaint.

136. The helicopter and component parts, manufactured and sold by Defendant Airbus Helicopters, S.A.S., were in a defective condition and unreasonably dangerous.

137. Defendant failed to use ordinary care to adequately warn foreseeable users of the risk of harm from use of the subject helicopter and component parts, including the tail rotor system and fuel tank, in that said systems contained hazards of such magnitude so as to create massive and instantaneous in-flight failure.

- a. Defendant failed to provide adequate instruction and warnings to operators and pilots as to the safe initiation of the dual hydraulics to assist in operation of the tail rotor system;
- b. Defendant failed to provide adequate instruction and warning to operators as to the need for a retrofit of the tail rotor hydraulics system;
- c. Defendant issued inadequate, confusing, incomplete, and misleading instructions and warnings to operators and pilots of this helicopter as to how to restore hydraulic system pressure to the yaw servo and accumulator prior to take-off of the helicopter; and
- d. Defendant failed to properly and adequately warn operators and pilots of the potentially fatal differences that exist for the pre-flight run-up hydraulic checks as between the dual and single hydraulic systems.

138. Defendant had both an original and continuing duty to monitor the airworthiness of its helicopter and to make such repair and maintenance modifications and recommendations and warnings as necessary to assure the reasonable safety of persons using said helicopter.

139. Defendant failed to properly and timely report known and suspected defects, malfunctions, and failures including the precise nature and mechanism of the defect, malfunction and failure in the aircraft which is the subject of this lawsuit and thereby breached its duty to repair, replace, recall, inform and warn operators, users, passengers and others of the known and anticipated malfunctions, problems, safety hazards and defects associated with the use and continued use of the helicopter and component parts.

140. Defendant failed to report, warn, instruct, recall, replace, repair, inspect, test, investigate and monitor the safety and related hazards of the subject helicopter and component parts, including the tail rotor system and fuel tank wherein it had an initial and continuing duty and obligation to do so.

141. Defendant failed to issue or issued improper and tardy service bulletins in regard to the helicopter.

142. Defendant Airbus Helicopters, S.A.S., should have issued or requested issuance of proper Airworthiness Directives.

143. As a direct result of the failure of the defendant to adequately warn of the risk of harm from the heretofore enumerated defects or hazards, Plaintiff was injured.

144. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

145. As a direct and proximate result of the aforesaid negligence and failure to warn on the part of said defendant, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Airbus Helicopters, S.A.S., for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;

- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT X

(STRICT LIABILITY - - DEFECTIVE DESIGN AND MANUFACTURE BY DEFENDANT AIRBUS HELICOPTERS, INC.)

COME NOW Plaintiffs, as heretofore set out, and for Count X of their cause of action against Defendant Airbus Helicopters, Inc., allege and state as follows:

146. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 145 inclusive of this Second Amended Complaint.

147. Defendant Airbus Helicopters, Inc., designed, manufactured, assembled, supplied, distributed and/or sold the aforementioned helicopter, referred to as an Airbus AS350-B3e and/or component parts thereof, including the tail rotor system and fuel tank, in the course of its business.

148. The aforesaid helicopter was defective and, because of the defect, the helicopter was unreasonably dangerous to a person who might reasonably be expected to use, consume or be affected by the helicopter.

149. The aforesaid helicopter and/or component parts used therein relating to the tail rotor system were then in a defective condition, unreasonably dangerous when put to their reasonably anticipated uses into the stream of commerce.

150. The aforesaid helicopter and/or component parts used therein relating to the fuel tank configuration were then in a defective condition, unreasonably dangerous when put to their reasonably anticipated uses into the stream of commerce.

151. The aforesaid helicopter was used in a manner reasonably anticipated by this defendant and others.

152. The helicopter and/or component parts or systems referenced herein were expected to and did reach the user or consumer without substantial change in the condition in which it was sold.

153. The defect in the helicopter was a cause of the Plaintiffs' injuries and damages.

154. The helicopter was defective and dangerous for reasons including, but not limited to, the following:

- a. Defendant designed, manufactured, and supplied an unsafe and unreasonably dangerous tail rotor system that is uncontrollable in the event of a failure, especially at low speeds, hover and/or liftoff;
- b. Physical restoration by the pilot of hydraulic system pressure to the yaw sensor and accumulator is required in this design configuration by returning the yaw servo hydraulic switch mounted on the collective to the "ON" or forward position prior to take-off;
- c. Without affirmative action by the pilot to restore hydraulic system pressure to the yaw servo and accumulator prior to take-off, there was a complete lack of hydraulic boost to the tail rotor system because the yaw load compensator would already have been discharged in order for the pilot to verify proper operation of the HYD/ACCU test switch and valve;
- d. Take-off without hydraulic assistance is perceived by the pilot as a tail rotor control failure or jamming because of the increased workload required to operate the rudder pedals in order to safely and effectively control the tail rotor;
- e. This design flaw of the dual hydraulic system for this helicopter leads to a known and reasonably anticipated loss of control of the helicopter;
- f. Defendant failed to retrofit, recall or otherwise modify the dual hydraulic circuitry so as to adequately warn pilots with either caution lights on the caution/warning panel (CWP) or auditory warning whenever the yaw servo hydraulic switch is not timely or properly activated prior to take-off of the helicopter;
- g. The defect in the design of this helicopter's caution/warning panel (CWP) and dual hydraulic system circuitry is that it does not illuminate if there is insufficient hydraulic assist for the tail rotor or if the yaw servo hydraulic assist is not activated;

- h. Defendant utilized a hazardous and unsafe design for the initiation of the hydraulics assist for the tail rotor system;
- i. Defendant failed to issue a Safety Bulletin or other appropriate and timely notice to operators requiring a retrofit for the tail rotor hydraulics system so as to remedy this known hazardous condition;
- j. Defendant knew that the failure of the tail rotor system renders the helicopter unsafe and uncontrollable yet permitted and instructed pilots to operate the aircraft in that manner;
- k. Defendant supplied a pilot operating handbook or flight manual that did not safely and properly address failure of the tail rotor system or proper and safe emergency maneuvers;
- l. Defendant failed to provide the pilot of the subject helicopter with proper in-flight warning that the tail rotor system was inoperable or failing;
- m. Defendant supplied the subject helicopter without a proper warning system to advise the pilot of an in-flight tail rotor system failure;
- n. Defendant selected and supplied an unsafe and unreasonably dangerous fuel tank configuration that caused the helicopter to explode and/or burn upon impact; and
- o. The helicopter was not crashworthy in that the fuel tank as designed and manufactured was incapable of withstanding impact of a minimal to moderate nature.

155. As a direct and proximate result of the aforementioned defective conditions, the subject helicopter crashed and burned thereby causing injury to Plaintiff David Repsher.

156. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

157. As a direct and proximate result of the aforesaid defective conditions, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Airbus Helicopters, Inc., for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT XI

**(STRICT LIABILITY - - FAILURE TO WARN BY DEFENDANT
AIRBUS HELICOPTERS, INC.)**

COME NOW Plaintiffs, as heretofore set out, and for Count XI of their cause of action against Defendant Airbus Helicopters, Inc., allege and state as follows:

158. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 157 inclusive of this Second Amended Complaint.

159. The helicopter, which crashed and burned on July 3, 2015, was then unreasonably dangerous when put to a reasonably anticipated use without knowledge of its characteristics.

160. That at all times pertinent hereto, Defendant Airbus Helicopters, Inc., failed to provide an adequate warning as to the danger of use of said helicopter, including the tail rotor system and fuel tank, which was then unreasonably dangerous.

161. Defendant failed to adequately warn foreseeable users of the risk of harm from the defective design of the tail rotor system in that a failure of the system would render the helicopter uncontrollable including, but not limited to, the following:

- a. Defendant failed to provide adequate instruction and warnings to operators and pilots as to the safe initiation of the dual hydraulics to assist in operation of the tail rotor system;
- b. Defendant failed to provide adequate instruction and warning to operators as to the need for a retrofit of the tail rotor hydraulics system;
- c. Defendant issued inadequate, confusing, incomplete, and misleading instructions and warnings to operators and pilots of this helicopter as to how to restore hydraulic system pressure to the yaw servo and accumulator prior to take-off of the helicopter; and
- d. Defendant failed to properly and adequately warn operators and pilots of the potentially fatal differences that exist for the pre-flight run-up hydraulic checks as between the dual and single hydraulic systems.

162. Defendant failed to use ordinary care to adequately warn foreseeable users of the risk of harm from the defective design of the fuel tank configuration in that said system was uncrashworthy allowing the helicopter to explode and/or burn upon any impact.

163. The helicopter was used in a manner reasonably anticipated.

164. Plaintiff was injured as a direct result of the sale, use, operation, and service of the defendant's helicopter without an adequate warning or direction as to its monitoring, repair, replacement, servicing, hazards, and conditions.

165. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

166. As a direct and proximate result of the aforesaid defective conditions and the failure to warn thereof, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Airbus Helicopters, Inc., for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;

- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT XII

(NEGLIGENCE - - FAILURE OF DEFENDANT AIRBUS HELICOPTERS, INC. TO USE ORDINARY CARE TO DESIGN AND MANUFACTURE HELICOPTER)

COME NOW Plaintiffs, as heretofore set out, and for Count XII of their cause of action against Defendant Airbus Helicopters, Inc., allege and state as follows:

167. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 166 inclusive of this Second Amended Complaint.

168. Defendant Airbus Helicopters, Inc., designed, manufactured, assembled, supplied, distributed, or sold the aforementioned helicopter and/or related component parts used therein in the coursed of its business.

169. Defendant Airbus Helicopters, Inc., held itself out as an entity that could carefully and competently design, manufacture, select materials for, design maintenance programs for, inspect, supply, distribute and sell helicopters.

170. Defendant Airbus Helicopters, Inc., had a duty to use that degree of care that an ordinarily careful and prudent designer, manufacturer, importer, distributor, and seller of helicopters and component parts would use under the same or similar circumstances.

171. Defendant Airbus Helicopters, Inc., was negligent by failing to exercise reasonable care to prevent the helicopter from creating an unreasonable risk of harm to the person of one who might reasonably be expected to use or be affected by the helicopter while it was being used in the manner the defendant might have reasonably expected.

172. Plaintiff David Repsher was one of those persons the defendant should reasonably have expected to use or be affected by this helicopter.

173. The helicopter and related component parts designed, manufactured, and sold by Defendant Airbus Helicopters, Inc., were defective and otherwise flawed, which had the effect of creating a catastrophic failure during flight.

174. The aforesaid helicopter and/or component parts used therein relating to the design of the tail rotor system designed, manufactured, and sold by Defendant Airbus Helicopters, Inc., were defective and otherwise flawed, which had the effect of allowing the helicopter to crash after a loss of tail rotor effectiveness.

175. The aforesaid helicopter and/or component parts used therein relating to the design of the fuel tank configuration designed, manufactured, and sold by Defendant Airbus Helicopters, Inc., were defective and otherwise flawed, which had the effect of allowing the helicopter to explode and/or burn upon impact.

176. Defendant Airbus Helicopters, Inc., knew or by using ordinary care should have known of the foreseeable risk of harm caused by such flawed and dangerous condition as was created by its failure to properly design, test, manufacture, sell, monitor, field performance, accumulate field data, recall and distribute safe helicopters.

177. Defendant Airbus Helicopters, Inc., was further negligent for reasons including, but not limited to, the following:

- a. Defendant selected and supplied an unsafe and unreasonably dangerous tail rotor system that is unreasonably dangerous and uncontrollable in the event of a failure, especially at low speeds, hover and/or liftoff;
- b. Defendant knew that the failure of the tail rotor system renders the helicopter unsafe and uncontrollable yet permitted and instructed pilots to operate the aircraft in that manner;

- c. Defendant supplied a pilot operating handbook or flight manual that did not safely and properly address failure of the tail rotor system or proper and safe emergency maneuvers;
- d. Defendant failed to provide the pilot of the subject helicopter with proper in-flight warning that the tail rotor system was failing;
- e. Defendant supplied the subject helicopter without a proper warning system to advise the pilot of an in-flight tail rotor system failure;
- f. Defendant selected and supplied an unsafe and unreasonably dangerous fuel tank configuration that allowed the helicopter to explode and/or burn upon impact; and
- g. Defendant knew that the fuel tank configuration rendered the helicopter unsafe yet permitted pilots to operate the aircraft in that manner.

178. As a direct and proximate result of the aforesaid negligence and carelessness on the part of said Defendant, the subject helicopter crashed and burned at the aforesaid location, thereby causing the injuries and damages to Plaintiff David Repsher complained of herein.

179. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

180. As a direct and proximate result of the aforesaid negligence and carelessness on the part of said Defendant, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Airbus Helicopters, Inc. for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;

- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT XIII

(NEGLIGENCE - - FAILURE OF DEFENDANT AIRBUS HELICOPTERS, INC. TO WARN OF KNOWN HAZARD)

COME NOW Plaintiffs, as heretofore set out, and for Count XIII of their cause of action against Defendant Airbus Helicopters, Inc., allege and state as follows:

181. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 180 inclusive of this Second Amended Complaint.

182. The helicopter and component parts, manufactured and sold by Defendant Airbus Helicopters, Inc., were in a defective condition and unreasonably dangerous.

183. Defendant Airbus Helicopters, Inc., failed to use ordinary care to adequately warn foreseeable users of the risk of harm from use of the subject helicopter and component parts, including the tail rotor system and fuel tank, in that said systems contained hazards of such magnitude so as to create massive and instantaneous in-flight failure.

184. Defendant had both an original and continuing duty to monitor the airworthiness of its helicopter used in the course of its business and to make such repair and maintenance modifications and recommendations and warnings as necessary to assure the reasonable safety of persons using said helicopter.

185. Defendant failed to properly and timely report known and suspected defects, malfunctions, and failures including the precise nature and mechanism of the defect, malfunction and failure in the aircraft which is the subject of this lawsuit and thereby breached its duty to repair, replace, recall, inform and warn operators, users, passengers and others of the known and anticipated malfunctions, problems, safety hazards and defects associated with the use and continued use of the helicopter and component parts.

186. Defendant failed to report, warn, instruct, recall, replace, repair, inspect, test, investigate and monitor the safety and related hazards of the subject helicopter and component parts, including the tail rotor system and fuel tank wherein it had an initial and continuing duty and obligation to do so.

187. Defendant failed to issue or issued improper and tardy service bulletins in regard to the helicopter.

188. Defendant Airbus Helicopters, Inc., should have issued or requested issuance of proper Airworthiness Directives.

189. As a direct result of the failure of the defendant to adequately warn of the risk of harm from the heretofore enumerated defects or hazards, Plaintiff was injured.

190. Plaintiffs, as heretofore set forth, suffered damages as a direct and proximate result of said negligence resulting in the injuries and damages to David and Amanda Repsher.

191. As a direct and proximate result of the aforesaid negligence and failure to warn on the part of said defendant, Plaintiff David Repsher has incurred and continues to incur damages, including but not limited to past and future medical expenses, past and future lost wages, past and future loss of enjoyment of life, and past and future permanent impairment and disfigurement.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendant Airbus Helicopters, Inc., for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;
- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;

- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

COUNT XIV

(LOSS OF CONSORTIUM - ALL DEFENDANTS)

COME NOW Plaintiffs, as heretofore set out, and for Count XIV of their cause of action against all Defendants allege and state as follows:

192. Plaintiffs hereby incorporate by reference, as though fully set out herein, paragraphs 1 through 191 inclusive of this Second Amended Complaint.

193. At all times relevant herein, Plaintiffs were husband and wife.

194. As a direct and proximate result of the acts and omissions of Defendants as stated herein, Plaintiff Amanda Repsher suffered a loss of consortium to be further proven at trial, which includes, but is not limited to, the loss of affection, society, companionship, household services, and the aid and comfort of her spouse.

195. The loss of consortium suffered by Plaintiff Amanda Repsher is permanent in nature.

WHEREFORE, Plaintiffs David and Amanda Repsher pray judgment against Defendants for damages as follows:

- (A) Past and future medical, surgical and rehabilitation costs and related expenses;
- (B) Past and future permanent physical impairment and disfigurement in an amount to be determined by the jury;
- (C) Past and future permanent pain, suffering, emotional distress and loss of enjoyment of life in an amount to be determined by the jury;
- (D) Past and permanent future loss of income and related benefits, disability, and earning capacity in an amount to be determined by the jury;

- (E) Plaintiff Amanda Repsher's loss of consortium in an amount to be determined by the jury;
- (F) Past and future value of home services provided by David Repsher in an amount to be determined by the jury;
- (G) Interest as permitted by law from the date of occurrence to date of judgment, as well as post judgment interest until paid;
- (H) Plaintiffs' actual damages, cost of suit, fees of experts, and attorneys' fees as allow by contract or statute; and
- (I) For such other and further relief as this Court deems just and proper.

PLAINTIFFS REQUEST A TRIAL BY JURY.

Dated: June 22, 2017

Respectfully submitted,

ROBB & ROBB LLC

/s Gary C. Robb

(original signature on file)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **SECOND AMENDED COMPLAINT WITH JURY DEMAND** was filed and served via manner indicated below this 22nd day of June, 2017 to the following:

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