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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT

CHRISTOPHER NEIBAUER and
HANNAH NEIBAUER, individually and the
marital community comprised thereof, and
ASHLEY WALKER,

Plaintiffs,

v.

PEREGRINE AIR, LLC, a Washington State
Limited Liability Company, KEVIN WARE
and KARI WARE, individually and the
marital community comprised thereof,

Defendants.

No. 20-2-00772 29

**COMPLAINT FOR PERSONAL
INJURIES IN TORT**

COMES NOW the Plaintiffs, Christopher Neibauer, Hannah Neibauer, and
Ashley Walker, by and through Plaintiff's attorney, Jonathan Yousling of GLP
ATTORNEYS, P.S., Inc., and complains and alleges against the above-named
Defendants as follows:

**COMPLAINT FOR PERSONAL
INJURIES IN TORT - 1**



ATTORNEYS

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I. NATURE OF ACTION

1. This is a negligence and personal injury action brought by Plaintiffs Christopher Neibauer, Hannah Neibauer, and Ashley Walker. Chris Neibauer and Ashley Walker were injured on August 20, 2019 as passengers in a helicopter crash. The aircraft was a Robinson R44 Helicopter, Federal Aviation Administration registration number N7186P (hereinafter "subject helicopter"). The helicopter was owned by Peregrine Air, LLC and was operated by the owner of Peregrine Air, LLC, Kevin Ware. The crash occurred off the shore of Cypress Island, Washington.

II. PARTIES

2.1 Plaintiffs Christopher Neibauer and Hannah Neibauer were residents of Arlington, Snohomish County, Washington, and resided in Arlington, Snohomish County, Washington, at all times relevant and material to this Complaint.

2.2 Plaintiff Ashley Walker is a resident of Burlington, Skagit County, Washington, and resided in Burlington, Skagit County, Washington, at all times relevant and material to this Complaint.

2.3 Defendant Peregrine Air, LLC (hereinafter "Peregrine") is a limited liability company organized under the laws of the State of Washington, with a principal place of business in Skagit County, Washington. Defendant's registered agent for service of process is CJ Services Corporation at 1500 Railroad Ave., Bellingham, Washington 98225-4542. Defendant Peregrine Air was the registered owner of the



1 subject helicopter, N7186P, and as such, was primarily responsible for the maintenance
2 of the subject aircraft and its continued airworthy condition.

3 2.4 Defendant Kevin Ware was the pilot in command of the subject helicopter
4 at all times during the flight, which resulted in the crash described herein. Kevin Ware
5 was a resident of Skagit County, Washington. Kevin Ware was acting as an agent,
6 employee, and/or manager of Peregrine. At all times material and relevant, Defendant
7 Kevin Ware was married to Defendant Kari Ware and constituted a marital community
8 under the law of the State of Washington. All actions of Defendant Kevin Ware were
9 performed on behalf of the marital community.
10

11 **III. JURISDICTION AND VENUE**

12 3.1 Plaintiffs Christopher Neibauer and Hannah Neibauer were, at all times
13 relevant and material to this Complaint, residents of Snohomish County, Washington.

14 3.2 Plaintiff Ashley Walker was, at all times relevant and material to this
15 Complaint, a resident of Skagit County, Washington.

16 3.3 Defendants Kevin Ware and Kari Ware are, on information and belief,
17 residents of Skagit County, Washington.

18 3.4 The helicopter crash that is the subject of this litigation occurred in Skagit
19 County, Washington. Venue is proper pursuant to RCW 4.12.020(3).
20

21 **IV. FACTS**

22 4.1 Date: Plaintiffs' injuries arise out of a helicopter crash that occurred on
23 August 20, 2019.
24



1 4.2 Location: The crash occurred off the coast of Cypress Island in Skagit
2 County, Washington.

3 4.3 On or before August 15, 2019, Aspen Power Catamarans, LLC, a boat
4 manufacturer in Skagit County, contacted Defendant Kevin Ware to provide services as a
5 helicopter pilot. Aspen Power Catamarans, LLC (hereinafter "Aspen") thereafter entered
6 into an agreement with Mr. Ware to provide services on August 20, 2019.

7 4.4 On or before August 15, 2019, Aspen contacted Plaintiff Christopher
8 Neibauer to provide services as a photographer. Specifically, Plaintiff Christopher Neibauer
9 was hired to obtain aerial photos of Aspen's catamarans.

10 4.5 The helicopter to be used was a Robinson model R-44, registration number
11 N7186P. The registered owner of this helicopter was Peregrine.

12 4.6 Defendant Kevin Ware is the owner of Peregrine and was the pilot in
13 command of the flight that occurred on August 20, 2019.

14 4.7 On the morning of August 20, 2019, Defendant Kevin Ware and Aspen
15 conducted a meeting to discuss flight details. Defendant Kevin Ware requested that Aspen
16 provide a volunteer to sit in the front passenger seat for better weight distribution on the
17 helicopter.

18 4.8 Plaintiff Ashley Walker, as an employee of Aspen, volunteered and was
19 provided a VHF handheld marine radio to communicate with the boat crews. This radio
20 device was not connected to the helicopter's communication device.



1 4.9 Later in the afternoon on August 20, 2019, a meeting was held prior to the
2 flight and Plaintiff Chris Neibauer, Plaintiff Ashley Walker, and Defendant Kevin Ware
3 attended, along with several other employees of Aspen. The meeting went over the map and
4 drawing of where the boats to be photographed would be. The mission was to take aerial
5 photographs of several of Aspen's catamarans for advertising purposes.
6

7 4.10 Prior to take off, Defendant Kevin Ware had the right door of the helicopter
8 removed to allow Plaintiff Christopher Neibauer better visibility when photographing the
9 catamarans.

10 4.11 Prior to flight, Defendant Kevin Ware discussed with passengers, Plaintiff
11 Ashley Walker and Plaintiff Christopher Neibauer, how to open and close the front door and
12 how to use their seatbelts. Defendant Kevin Ware provided Plaintiffs with SP3F inflatable
13 life vests.

14 4.12 Defendant Kevin Ware provided no instruction on how to coordinate
15 communications between the pilot and passengers during the flight. Defendant Kevin Ware
16 provided no instruction on how to use the model SP3F inflatable life vests in the event of an
17 emergency or ditching.
18

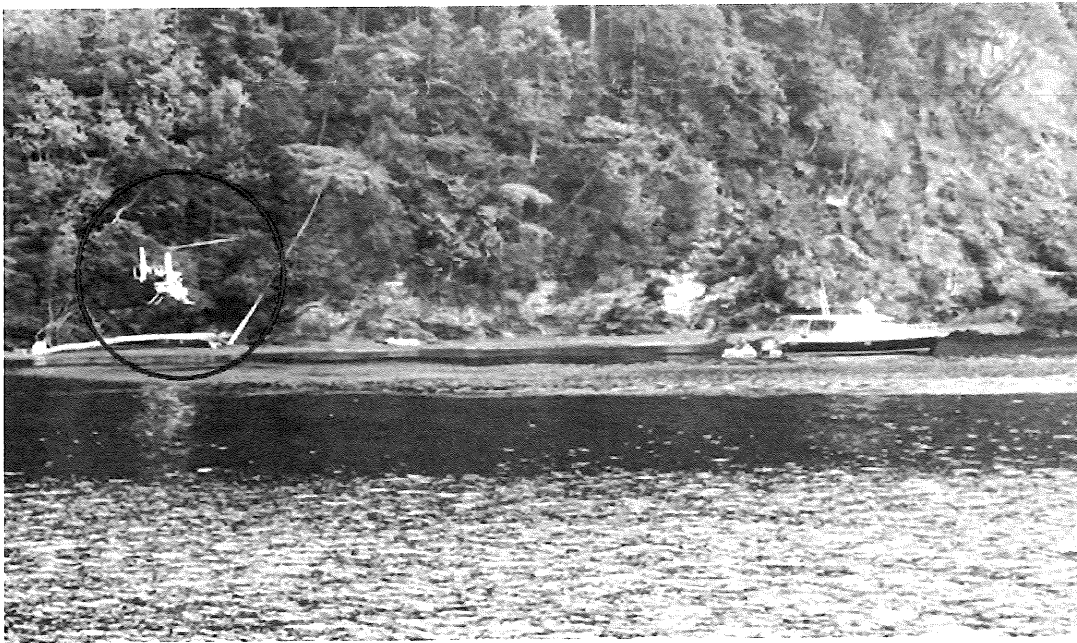
19 4.13 Defendant Kevin Ware, Plaintiff Christopher Neibauer, and Plaintiff Ashley
20 Walker departed from Skagit Regional Airport around 5:45 p.m., with Plaintiff Christopher
21 Neibauer in the back right seat and Plaintiff Ashley Walker in the front left seat.

22 4.14 Throughout the flight, Defendant Kevin Ware was having trouble locating the
23 boats and on several occasions flew in alarming proximity to the catamarans.
24



1 4.15 Toward the end of the mission, in a cove off Cypress Island, Defendant Kevin
2 Ware circled an Aspen catamaran two times. On the third rotation, at approximately 7:36
3 p.m., the rotors of the subject helicopter struck a tree branch off the shore.

4 4.16 As demonstrated in the photographs below, the blades of the subject
5 helicopter struck a tree at approximately 20 to 30 feet above sea level.
6



17 *The helicopter circling the catamaran, moments before striking the tree branch.*
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The day after the accident: the helicopter had washed ashore. The tree branch the helicopter struck is circled in red.

4.17 After the rotor blades hit the tree, the subject helicopter violently shuttered and was thrown to the right and hit the water. Upon impact, Plaintiff Ashley Walker hit her head and her right leg against the interior of the aircraft. The subject helicopter filled quickly with water. Plaintiff Ashley Walker could not see Defendant Kevin Ware or

1 Plaintiff Christopher Neibauer, as the side of the aircraft they were seated on was
2 underwater.

3 4.18 Upon impact, Plaintiff Christopher Neibauer's entire left side collided with
4 either the water or the interior of the subject helicopter, he hit his head, and dislocated and
5 fractured his left arm. For a few moments after impact, Plaintiff Christopher Neibauer was
6 trapped underwater, pinned by his seatbelt. For Plaintiff Christopher Neibauer, everything
7 was black; he was holding his breath and felt as though he would soon pass out.

8
9 4.19 Plaintiff Ashley Walker was the first person to escape the helicopter
10 wreckage. Plaintiff Ashley Walker moved slowly toward the shore then turned back to see
11 where the others were. Plaintiff Ashley Walker then assisted Defendant Kevin Ware out of
12 the wreckage. Defendant Kevin Ware then went to the shore.

13 4.20 After assisting Defendant Kevin Ware escape the wreckage, Plaintiff Ashley
14 Walker turned back to find Plaintiff Christopher Neibauer. When Plaintiff Ashley Walker
15 found Plaintiff Christopher Neibauer, he was turned around facing the rear of the subject
16 helicopter, completely submerged underwater. Plaintiff Ashley Walker righted him to face
17 forward, unbuckled him, and then untangled the headset that was wrapped around him.
18 Plaintiff Ashley Walker then helped pull Plaintiff Christopher Neibauer out of the wreckage
19 and to shore.
20

21 4.21 The following photograph accurately depicts the scene of the wreckage after
22 Plaintiff Christopher Neibauer had been brought to shore.
23
24





The scene immediately following the crash and extrication of passengers from the wreckage.

V. CAUSE OF ACTION NEGLIGENCE

5.1 Plaintiffs hereby allege and incorporate all paragraphs in sections 1 – 4.21, above, by reference herein.

5.2 The crash of N7186P, which resulted in injuries and damages to Plaintiffs, was caused by the direct and proximate result of the negligent acts and omissions of Defendants Kevin Ware and Peregrine in the operation of the subject aircraft and/or the negligent acts and omissions of the Defendants in the maintenance and inspection of the subject helicopter, as well as failures in pre-flight planning.

1 5.3 As a direct and proximate cause of Defendants' above negligence,
2 including Defendants' acts and omissions, N7186P crashed, injuring and causing
3 damages to Plaintiffs as set forth below.

4 **VI. DAMAGES**

5 6.1 Plaintiffs hereby allege and incorporate all paragraphs in Sections 1 - 4.21.

6 6.2 Plaintiff Christopher Neibauer sustained, as a result of the crash, severe and
7 permanent physical and mental injuries, pain and suffering, and mental anguish,
8 including, but not limited to, a head injury, shoulder injury, arm fracture requiring
9 multiple corrective surgeries, lost past wages, loss of future earning capacity, loss
10 economic opportunity and good will, and severe and permanent Post Traumatic Stress
11 Disorder (PTSD).
12

13 6.3 As a direct and proximate result of the negligence alleged herein, Plaintiff
14 Christopher Neibauer has incurred and may continue to incur medical expenses and other
15 out-of-pocket expenses, and Plaintiff is entitled to fair and reasonable compensation.

16 6.4 As a direct and proximate result of the negligence alleged herein, Plaintiff
17 Christopher Neibauer has suffered and may continue to suffer physical pain and
18 suffering, and Plaintiff is entitled to fair and reasonable compensation.

19 6.5 As a direct and proximate result of the negligence alleged herein, Plaintiff
20 Christopher Neibauer has suffered mental and emotional distress, loss of enjoyment of
21 life, past and future disability, permanency of injury, and Plaintiff is entitled to fair and
22 reasonable compensation.
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1 6.6 Plaintiff Hannah Neibauer sustained, as a result of the crash, loss of
2 consortium and support as a result of the injuries suffered by her husband, Plaintiff
3 Christopher Neibauer.

4 6.7 Plaintiff Ashley Walker sustained, as a result of the crash, severe physical
5 injuries and permanent mental injuries, pain and suffering, and mental anguish, including
6 but not limited to, a head injury, post-concussion syndrome, right foot injury, back
7 injury, acute stress disorder, and Post Traumatic Stress Disorder (PTSD).

8 6.8 As a direct and proximate result of the negligence alleged herein, Plaintiff
9 Ashley Walker has incurred and may continue to incur medical expenses and other out-
10 of-pocket expenses, and is entitled to fair and reasonable compensation.

11 6.9 As a direct and proximate result of the negligence alleged herein, Plaintiff
12 Ashley Walker has suffered and may continue to suffer physical pain and suffering, and
13 is entitled to fair and reasonable compensation.

14 6.10 As a direct and proximate result of the negligence alleged herein, Plaintiff
15 Ashley Walker has suffered mental and emotional distress, loss of enjoyment of life, past
16 and future disability, permanency of injury, and is entitled to fair and reasonable
17 compensation.

18 6.11 Plaintiffs are entitled to reasonable attorneys' fees.

19 6.12 Plaintiffs are entitled to prejudgment interest on all medical and other out-
20 of-pocket expenses directly and proximately caused by the negligence alleged in this
21 Complaint.



1 6.13 Plaintiffs are entitled to costs and disbursements herein.

2 **VII. PRAYER FOR RELIEF**

3 Wherefore, Plaintiffs pray for judgment of liability in favor of Plaintiffs and
4 against Defendants, jointly and severally and prays for relief as follows:

5 7.1 Special damages for Plaintiffs in such amounts as are proven at trial.

6 7.2 General damages for Plaintiffs in such amounts as are proven at trial.

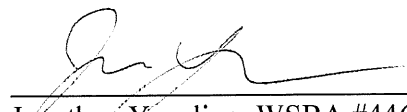
7 7.3 Costs including reasonable attorneys' fees for Plaintiffs as are proven at
8 trial.

9 7.4 Prejudgment interest on all liquidated damages.

10 7.5 For such other and further relief as the court deems just, equitable and
11 proper for Plaintiff at the time of trial.

12 DATED this 20th day of November, 2020.

13 GLP ATTORNEYS, P.S., INC.

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16 _____
17 Jonathan Yousling, WSBA #44638
18 Attorney for Plaintiffs

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25 **COMPLAINT FOR PERSONAL**
26 **INJURIES IN TORT - 12**



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