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7 **HERRMANN LAW GROUP**

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12 Attorneys for Plaintiffs

13 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
14 **IN AND FOR THE COUNTY OF KING**

15 **AGNES TJANDRA**, individually, as
16 Guardian of her minor daughter
17 **VICTORIA KIMBERLY**, and as
18 Personal Representative of the
19 Estate of **DARYANTO TJHANG**.

20 **DJAP FATIMAH**, individually, and as
21 Personal Representative of the
22 Estates of **ADONIA MAGDIEL**
23 **BONGFAL & MATTHEW DARRYL**
24 **BONGFAL** decedents.

25 **FRISCILLA HARLIAN TONI**,
26 individually, as Guardian of her
27 minor son **WILLFRED ALRY UTAMA**,
28 and as Personal Representative of
the Estate of **VERIAN UTAMA**; and
BAVO UTAMA and **DJOENG OI KHIM**,
each individually.

NERULITA SARI, individually, as
Guardian of her minor children
KEISYA DELITA ARAFAH AND
KIANDRA RAMADHAN ALKAUSAR,
and as Personal Representative of
the Estate of **TESA KAUSAR**; and
USTIANI individually.

No.

COMPLAINT
Wrongful Death &
Personal Injuries

1 **MUTOHAROH**, individually, as
2 Guardian of her minor children
3 **NAJWA KHAERANI**, **HAFIDZA**
4 **KHAIRANI**, and **TSURAYA KHAIRANI**,
and as Personal Representative of
the Estate of **ABDUL KHAER**.

5 **ENI SITI NURAENI**, individually, and
6 as Personal Representative of the
Estate of **AKHMAD ENDANG**
7 **ROKHMANA**; and **VITA TYANA**
8 **VIRISTA** and **MUHAMAD RIZKI**
FAUZY, each individually.

9 **TURHINDAYANI**, individually, as
10 Guardian of her minor children
11 **RAHMA ARRAISA ALKAYYIRA**
12 **MUGHNI**, **ATTAYA ROSILIKHA ZAHRA**
13 **MUGHNI**, and **AHMAD RAJEHAN**
14 **MUGHNI**, and as Personal
Representative of the Estate of
AMMAD MUGHNI; and **SUSNAWATI**,
individually.

15 **SARIYOSO**, individually, and as
16 Personal Representative of the
Estate of **ARIF YUSTIAN**; and **YENTI**
17 **SULASTRI**, individually.

18 **IMAS HENIYATI**, individually, as
19 Guardian of her minor daughter
20 **SALMA RAHMATULLAILI**, and as
Personal Representative of the
Estate of **BAMBANG ROZALI USMAN**;
21 and **MAULANA USMAN** and **FARAH**
22 **FATIMAH**, each individually.

23 **NOVIA**, individually, as Guardian of
her minor children, **SILVIA**
24 **LARASATI**, **SYAHPUTRA RAHMAN**
25 **AKBAR**, **MUTIARA DONAVA**, **PARUIZ**
26 **IGI BADRIQA**, and **EURO RAISYA**,
and as Personal Representative of
the Estate of **DOLAR**.

1 **HJ SUMIATI**, individually, as
Guardian of her minor son
2 **MUHAMMAD FITRA ABURAHMAN**, and
3 as Personal Representative of the
Estate of **MOHAMAD FADILLA**; and
4 **MUHAMMAD FAHMI ABDUL AZIZ**, and
5 **ROENAH**, each individually.

6 **IFRAN SUNARDI K**, individually, as
Guardian of her minor children
7 **VIELLERY SHANNEN KUSNADI**, and
8 **VARRENT LIONEL KUSNADI**, and as
Personal Representative of the
9 Estate of **MONNI**; and **VINCENT**
LIONEL individually.

10 **KARLINA SETIAPUTRI**, individually,
11 as Guardian of her minor son
12 **MUHAMMAD KAFFI NURRAMDHAM**,
and as Personal Representative of
13 the Estate of **MUHAMMAD LUTHFI**
NURRAMDHANI; and **DR. LATIEF**
14 **NURBANA** and **YETI EKA SUMIATI**,
15 each individually.

16 **IDEZ PUTRI VON ENDE**, individually,
and as Personal Representative of
17 the Estate of **TRIANINGSIH PUTRI**
VAN ENDE; and **DIWI SARI**,
18 individually.

19 **ILONA**, individually, as Custodial
20 Guardian and the natural mother of
her minor children **DEVI RIONA**,
21 **ANDRI ANANDA**, **ADIBAH AFIFAH**
RIONA, **RADITYA BARRAQ RIONA**,
22 and as Personal Representative of
23 the Estate of **REO YUMITRO**; and
24 **ROSLINAR** and **YUSMITRA**, each
individually.

25 **LINDAWATI**, as Personal
26 Representative of the Estate of
YUNITA; and **TJU LIAN SIN** and
27 **TJHIN AI NIT**, each individually.
28

1 Come now plaintiffs, through their lawyers at **HERRMANN LAW GROUP**, to
2 allege the following complaint against defendant *The Boeing Company* (Boeing).

3 I. NATURE OF ACTION

4 1.1. The causes of action herein seek to recover damages caused by
5 personal injuries and the wrongful death of plaintiffs' decedents while
6 passengers onboard Lion Air flight JT 610 that crashed in the Java Sea, near
7 Karawang, West Java, Indonesia on October 29, 2018.

8 II. SYNOPSIS

9 2.1 The flight control system on the new subject Boeing 737-8 MAX
10 failed, forcing the plane to crash into the sea, killing everyone onboard.

11 2.2 Driven by market competition, defendant Boeing designed and
12 developed this new and more efficient 737-8 MAX. Boeing managed to secure
13 Federal Aviation Administration (FAA) approval of a relatively inexpensive,
14 minimal pilot training program required to fly this new version of its most
15 popular model. Boeing even bragged on its website that airlines purchasing
16 a fleet of these planes would save "millions of dollars ... because of the
17 commonality with the Next-Generation 737."

18 2.3 To minimize cost of training, Boeing intentionally omitted any
19 reference whatsoever in its Aircraft Flight Manual (AFM) concerning its new
20 Maneuvering Characteristics Augmentation System (MCAS). This entirely new
21 program was designed to automatically compensate for the destabilizing,
22 pitching effect the forward placement of larger engines had on this newest
23 edition of the 737. MCAS automatically forces the nose of the plane downward
24 whenever it senses the plane's angle of attack (AoA) was nearing risk of a
25 stall. No redundant or fail-safe features were built into the MCAS program.

26 2.4 Accordingly, the pilots were not given any instruction or warning on
27 how to respond to such an emergency. They were not even aware of the
28

1 MCAS' existence. Why the FAA approved flight manuals containing these
2 omissions is baffling.

3 2.5 When the AoA sensor failed, it transmitted erroneous information to
4 the MCAS, which automatically activated the MCAS, forcing the plane to dive
5 downward towards the sea below. Tragically, the pilots were unprepared to
6 respond. Desperate efforts proved futile. This crash was the result.

7 **III. PARTIES**

8 3.1 Plaintiff Agnes Tjandra is the widow of Decedent Daryanto Tjhang,
9 natural mother and custodial guardian of their minor daughter Victoria
10 Kimberly, and Personal Representative of her Decedent's Estate.

11 3.2 Plaintiff Djab Fatimah is the widow of Decedent Adonia Magdiel
12 Bongfal, natural mother of Decedent Matthew Darryl Bongfal, and Personal
13 Representative of both her Decedents' Estates.

14 3.3 Plaintiff Friscilla Harlian Toni is the widow of Decedent Verian Utama,
15 natural mother and custodial guardian of their minor son Willfred Alfry Utama,
16 and the Personal Representative of her Decedent's Estate.

17 3.4 Plaintiff Narulita Sari is the widow of Decedent Tesa Kausar, natural
18 mother and custodial guardian of their minor daughter Keisya Delita Arafah and
19 minor son Kiandra Ramadhan Alkausar, and Personal Representative of her
20 Decedent's Estate. Ustiani Tesa Kausar is Decedent's natural mother.

21 3.5 Plaintiff Mutoharoh is the widow of Decedent Abdul Khaer, natural
22 mother and custodial guardian of their minor daughters, Najwa Khairani,
23 Hafidza Khairani, and Tsuraya Khairani, and Personal Representative of her
24 Decedent's Estate.

25 3.6 Plaintiff Eni Siti Nuraeni is the widow of Decedent Akhmad Endang
26 Rokhmana and Personal Representative of her Decedent's Estate. Vita Tyana
27 Virista and Muhamad Rizki Fauzy are adult children of Decedent.

1 3.7 Plaintiff Turhindayani is the widow of Decedent Ammad Mughni, and
2 the natural mother of their daughters Rahma Arraisa Alkayyira Mughni, Attaya
3 Rosilikha Zahra Mughni, and son Ahmad Rajehan Mughni, and Personal
4 Representative of her Decedent's estate. Plaintiff Susnawati is Decedent's
5 natural mother.

6 3.8 Plaintiff Sariyoso is father of Decedent Arif Yustian, and the Personal
7 Representative of his Decedent's Estate. Yenti Sulastri is Decedent's natural
8 mother.

9 3.9 Plaintiff Imas Heniyati is the widow of Decedent Bambang Rozali
10 Usman, natural mother and custodial guardian of their daughter Salma
11 Rahmatullaili, and the Personal Representative of her Decedent's Estate.
12 Maulana Usman and Farah Fatimah are adult children of Decedent.

13 3.10 Plaintiff Novia is the widow of Dolar, natural mother and custodial
14 guardian of their five minor children, Silvia Larasati, Syahputra Rahman Akbar,
15 Mutiara Donava, Paruiz Igi Badriqa, and Euro Raisya, and the Personal
16 Representative of her Decedent's Estate.

17 3.11 Plaintiff HJ Sumiati is the widow of Decedent Mohamad Fadilla, natural
18 mother and custodial guardian of their son Muhammad Fitra Aburahman, and
19 Personal Representative of her Decedent's Estate. Muhammad Fahmi Abdul Aziz
20 is Decedent's adult son. Roenah is Decedent's natural mother.

21 3.12 Plaintiff Irfan Sunardi K is the widow of Decedent Monni, natural
22 mother and custodial guardian of their minor children, Viellery Shannen
23 Kusnadi, Varrennt Lionel Kusnadi, and Personal Representative of her
24 Decedent's Estate. Plaintiff Vincent Lionel is Decedent's adult son.

25 3.13 Plaintiff Karlina Setiaputri is the widow of Decedent Muhammad Luthfi
26 Nurramdhani, natural mother and custodial guardian of their son Muhammad
27 Kaffi Nurramdham, and Personal Represented of the Estate of Muhammad
28

1 Luthfi Nurramdhani. Dr. Latief Nurbana and Yeti Eka Sumiati are Decedent's
2 natural father and mother.

3 3.14 Plaintiff Idez Putri Von Ende is an adult sister of Decedent Trianingsih
4 Putri Van Ende and Personal Representative of Decedent's Estate. Dwi Sari is
5 another adult sister of Decedent. Their parents are deceased.

6 3.15 Plaintiff Ilona is the widow of Decedent Reo Yumitro, natural mother
7 and custodial guardian of their four minor children, Devi Riona, Andri Ananda,
8 Adibah Afifah Riona, and Raditya Barraq Riona, and Personal Representative of
9 Decedent's Estate. Roslinar and Yusmitra are Decedent's natural father and
10 mother.

11 3.16 Lindawati is the sister of Decedent Yunita and the Personal
12 Representative of Decedent's. Tju Lian Sin and Tjhin Ai Nit are the natural father
13 and mother of Decedent.

14 3.17 Defendant *The Boeing Company* (Boeing) is a corporation organized
15 under the laws of the State of Delaware and present and doing business within
16 the State of Washington.

17 **IV. JURISDICTION & VENUE**

18 4.1 This is an action for damages arising out of wrongful deaths occurring
19 in an air crash into the Java Sea, near Karawang, West Java, Indonesia on
20 October 29, 2018.

21 4.2 Plaintiffs are all citizens and residents of Indonesia.

22 4.3 Defendant Boeing is present and doing substantial business within the
23 State of Washington, specifically including King County.

24 4.4 The aircraft—a Boeing 737-8 MAX registered PK-LQP—involved in the
25 subject accident was manufactured/assembled and delivered in the State of
26 Washington on or about August 15, 2018, a mere 2½ months before this
27 accident.

1 4.5 Accordingly, this Court has jurisdiction over the subject matter and
2 the parties in this action. Venue is proper in King County.

3 **V. FACTS**

4 5.1 On or about August 15, 2018, Boeing delivered to PT Lion Mentari
5 Airlines (Lion Air) a brand-new airliner model 737-8 MAX registered PK-LQP.

6 5.2 By way of background, in June of 2012, Boeing applied to the FAA to
7 amend its 737 certificate to include a new model 737-8 MAX. Boeing
8 represented that no modifications from previous 737 models required a new
9 certificate.

10 5.3 One significant modification was the inclusion of more powerful
11 engines with larger turbofans that required the engines to be moved further
12 forward with a longer nose gear strut to accommodate these bigger engines.
13 This alteration of the plane's center of gravity had a longitudinal destabilizing
14 effect on the aircraft.

15 5.4 To compensate for this increase in instability, Boeing designed an
16 entirely new program termed Maneuvering Characteristics Augmentation
17 System (MCAS). This program was fed information from (AoA) sensors. When
18 the angle reads too high, risking a stall, the MCAS—uncommanded—
19 automatically kicks in, utilizing the stabilizers to force the nose of the plane
20 downward.

21 5.5 Facing stiff market competition, Boeing strove to minimize the need
22 for expensive additional training. Boeing advertises on its website: *"Because of*
23 *the 737's popularity with airlines everywhere around the world, integrating the*
24 *new 737 MAX is an easy proposition. As you build your 737 MAX fleet, millions*
25 *of dollars will be saved because of its commonality with the Next-Generation*
26 *737 ..."*

27 5.6 Boeing went so far as to conceal from pilots even the existence of the
28 MCAS, excluding any mention of the MCAS. No warnings or instructions were

1 included in the AFM Boeing issued with this 737-8 MAX. Worse, when the MCAS
2 kicks in, there is no notification to pilots. Thus, when the MCAS automatically
3 activated, pilots were left to guess as to what was happening to the plane's
4 flight control system. Adding to the pilot's misery was the fact that in older 737
5 models, the only automatic pitch trim system—the entirely different Speed Trim
6 System (STS) would shut off when the pilots pulled back on the yoke, returning
7 manual control of the aircraft to the pilots. Not so under the new MCAS, it would
8 ignore the pilot's attempts to reclaim manual control of the aircraft, but the
9 flight manual contained nary a word of warning or instructions for the pilots.

10 5.7 Nonetheless, on October 29, 2018 the subject aircraft registered PK-
11 LQP departed Jakarta on Lion Air scheduled domestic flight JT 610 for
12 Pangkal, Pinang, Indonesia at 23:20 UTC with 8 crew and 181 passengers
13 onboard.

14 5.8 The Digital Flight Data Recorder (DFDR) revealed that
15 instrumentation on the aircraft malfunctioned virtually immediately. There
16 was a difference between the left and right (AoA) sensors of about 20° and
17 the stick shaker was activated. Less than 2 minutes into the flight, the
18 pilots informed the ground control that they were dealing with a “flight
19 control” problem. At 23:22:05, when the flaps were retracted automatic nose
20 down trim became active for 10 seconds followed by crew commanded
21 aircraft nose up trim. The pilots' struggle with the unknown MCAS began.

22 5.9 Thereafter the pilots maintained rough control of the plane's pitch
23 when the flaps extended back to position 5 and the auto nose down ceased.
24 However, at 23:25:18 the flaps retracted to position 0 and again the MCAS
25 activated nose down force that was countermanded by the flight crew
26 manually, which continued for the next approximately 6½ minutes until the
27 catastrophic end of flight. During this period, the pilots were able to maintain
28 a roughly level altitude.

1 5.10 However, following the pilot's last radio communication at 23:31:09,
2 the pilots lost the struggle against the arcane MCAS. A scant 45 seconds later
3 the plane impacted with the sea below at something like 500 mph, killing all
4 onboard.

5 5.11 All plaintiffs' Decedents were among the victims killed in this
6 accident.

7 5.12 Ten days post-accident, the FAA finally fulfilled its duty issuing an
8 Emergency Airworthiness Directive (AD) ordering Boeing to correct its
9 omissions:

10 This **emergency** AD was prompted by analysis performed by the
11 manufacturer showing that if an erroneously high angle of attack (AOA)
12 sensor input is received by the flight control system, there is a
13 potential for repeated nose-down trim commands of the horizontal
14 stabilizer. This condition, **if not addressed**, could cause the flight
15 crew to have difficulty controlling the airplane, and lead to
16 excessive nose-down attitude, significant altitude loss, and
17 **possible impact with terrain.**" [Emphasis added]

18 The AD went on to order Boeing to modify its manual on the 737-8 MAX to
19 include the specific warnings and instructions on procedures to respond to an
20 erroneously triggered MCAS. Tragically, the FAA action came all too late for
21 the 189 victims killed in this accident.

22 5.13 The FAA Airworthiness Directive (AD) is attached as Exhibit 1.

23 **VI. FIRST CAUSE OF ACTION**

24 **Strict Product Liability**

25 6.1 All paragraphs above are incorporated herein by reference.

26 6.2 At the time Boeing delivered the subject airplane to Lion Air at its
27 Seattle Delivery Center on or about August 15, 2018, Boeing knew that Lion
28 Air was relying on Boeing's skill and/or judgment to furnish a plane that was fit

1 for its intended purpose, that it was reasonably safe, without dangerous
2 defects, and that adequate warnings and instructions were being provided.

3 6.3 However, the plane was not reasonably safe in construction, nor did it
4 conform to Boeing's express warranties or the implied warranties as mandated
5 by RCW 62A et seq and RCW 7.72 et seq. Boeing's multiple failures to comply
6 with these requirements were a proximate cause of wrongful deaths of all
7 plaintiffs' decedents.

8 6.4 Therefore, Boeing is strictly liable to plaintiffs for all damages
9 allowable under RCW 4.20 et seq and such other laws as may be applicable.

10 **VII. SECOND CAUSE OF ACTION**

11 **Negligent Product Liability**

12 7.1 All paragraphs above are incorporated herein by reference.

13 7.2 The subject aircraft was not reasonably safe as designed. At the time
14 of manufacture, Boeing could have designed and manufactured additional
15 redundant and fail-safe systems that were practical and feasible at a cost that
16 was clearly outweighed by the deadly serious risk of harm.

17 7.3 The subject aircraft was likewise rendered not reasonably safe
18 because Boeing did not provide adequate warnings and instructions about how
19 to respond to a failure in the flight control system such as occurred in this
20 accident.

21 7.4 Boeing was negligent in that it failed to act in the manner of a
22 reasonably prudent aircraft manufacturer, to appreciate the dangers, correct
23 design flaws, install non-defective equipment, to issue adequate warnings and
24 instructions. Such negligence was a violation of RCW 7.72 et seq and a
25 proximate cause of wrongful deaths of all plaintiffs' Decedents.

26 7.5 Therefore, Boeing's negligence renders it liable for all damages
27 allowable under RCW 4.20 et seq and such other laws as may be applicable.

1 **VIII. THIRD CAUSE OF ACTION**

2 **Pre-Death Fright & Terror**

3 8.1 All paragraphs above are incorporated herein by reference.

4 8.2 The strict liability and negligence alleged in the previous causes of
5 action were additionally proximate causes of personal injuries to all
6 Decedents in the form of horrific Pre-Death Fright & Terror they experienced
7 prior to impact with the sea.

8 8.3 Boeing is liable for said Pre-Death Fright & Terror each Decedent
9 suffered because of the defendants' wrongful conduct.

10 **IX. FOURTH CAUSE OF ACTION**

11 **Loss of Consortium**

12 9.1 All paragraphs above are incorporated herein by reference.

13 9.2 The strict liability and negligence alleged in the previous causes of
14 action were additionally proximate causes of Loss of Consortium experienced
15 by all spouses of their respective Decedents.

16 9.3 Boeing is liable for said Loss of Consortium each of these plaintiff
17 spouses have suffered as the result of the defendants' wrongful conduct.

18 **X. RESERVATION**

19 10.1 Plaintiffs believe that the United States Federal Aviation Administration
20 bears a share of the culpability for this accident by negligently certifying
21 Boeing's AFM on this 737-8 MAX without requiring adequate instruction on the
22 newly created MCAS. It approved this obviously inadequate manual even after
23 having been expressly alerted to the dangers by their equivalent
24 governmental authorities in Canada, the European Union, and Brazil.

25 10.2 It was only after this tragic accident that the FAA ordered Boeing to
26 correct the deficiencies in the warnings and instructions contained in Boeing's
27 manual.

28

1 10.3 However, plaintiffs' investigation is ongoing. Discovery has yet to
2 commence. No claim has been made as required by the Federal Tort Claims Act
3 28 U.S.C. § 1346 (FTCA).

4 10.4 Accordingly, plaintiffs reserve the right to amend this Complaint to
5 include the FAA as a defendant should they later deem it appropriate.

6 **XI. DAMAGES**

7 11.1 As a proximate result of defendant Boeing's wrongful conduct,
8 Plaintiffs have suffered all manner of both general and special damages.

9 11.2 Plaintiffs have suffered loss of love, comfort, care, companionship,
10 guidance, society and all other forms of consortium. They have experienced
11 grief, sorrow, and mental anguish to the extreme.

12 11.3 Just prior to their deaths Decedents experienced horrific fright and
13 terror as the plane rocketed down to impact with the sea.

14 11.4 Plaintiffs have suffered loss of net accumulations in Decedent's
15 estate, loss of support, and loss of services.

16 11.5 Said damages have been sustained in the past and will continue in
17 the future.

18 **XII. PRAYER FOR RELIEF**

19 12.1 **WHEREFORE**, plaintiffs pray for judgment against the defendants
20 awarding plaintiffs the following:

- 21 • Non-economic damages;
- 22 • Economic damages;
- 23 • Exemplary damages;
- 24 • Pre-judgment and post-judgment interest;
- 25 • Actual attorneys' fees and costs incurred herein; and,
- 26 • Such other relief as the Court deems just and equitable.

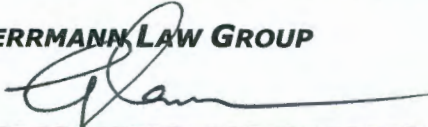
27 The exact nature and the full extent of Plaintiffs' damages will be proven
28 at trial.

XIII. DEMAND FOR JURY TRIAL

13.1 Plaintiffs demand trial by jury on all issues.

Dated this 6th day of March, 2019.

HERRMANN LAW GROUP



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