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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH COUNTY

VAJRA ALAYA-MAITREYA as personal
representative for the ESTATE OF TALIESIN
M. NAMKAI-MECHE deceased,

Plaintiff,

v.

TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF
OREGON, an Oregon public body, and the
PORTLAND POLICE BUREAU, an Oregon
public body,

Defendants.

Case No. _____

COMPLAINT (Wrongful Death,
Negligence, Common Carrier Liability,
Injunction)

Amount in Controversy: \$10,100,000
Filing Fee: \$1,111
ORS 21.160(1)(e)

NOT SUBJECT TO MANDATORY
ARBITRATION

JURY TRIAL DEMANDED

Plaintiff hereby states and alleges as follows:

PARTIES

1.

On or about July 12, 2017, Plaintiff Vajra Alaya-Maitreya was appointed as the personal representative of the estate of her brother, Taliesin M. Namkai-Meche. At the time of his death, Mr. Namkai-Meche was 23 years old, a graduate of Reed College with a degree in economics, and was employed at a local company as an environmental economic analyst. Mr. Namkai-Meche resided in Multnomah Country at the time of his death. He is survived by his parents.

2.

Defendant Tri-County Metropolitan Transportation District of Oregon (“TriMet”) is a public agency that operates mass transit through the Portland Metro area, including the MAX light

1 rail system.

2 3.

3 Defendant Portland Police Bureau (“Portland Police”) is the dedicated government law
4 enforcement entity tasked with overseeing the City of Portland, Oregon. The Portland Police
5 includes the Transit Division, which at all material times is and was under contract with TriMet to
6 perform law enforcement duties for the TriMet system.

7 4

8 Notices required by ORS 30.275(4), (5) and/or (6) were given to Defendants within the
9 time required by law.

10 **GENERAL ALLEGATIONS**

11 5.

12 Plaintiff re-alleges and incorporates all prior paragraphs as if fully set forth herein.

13 6.

14 At approximately 4:20pm on May 26, 2017, Jeremy Joseph Christian (a known white
15 supremacist) boarded Defendant TriMet’s Green Line train at the Rose Quarter transit station. For
16 the next 12 minutes, Mr. Christian terrorized the train’s passengers. He made racist and
17 xenophobic comments about Jews and Muslims. He verbally attacked two teenage girls, one of
18 whom was wearing a hijab, shouting “go home” and “Muslims should die.”

19 7.

20 None of Defendant’s personnel intervened or tried to stop Mr. Christian’s behavior or
21 otherwise to exclude him from the train. Instead, multiple train passengers tried to calm Mr.
22 Christian down and convince him to leave the teenage girls alone, to no avail.

23 8.

24 At approximately 4:32pm, Mr. Christian pulled out a folding knife and stabbed three male
25 passengers within his vicinity. One of those passengers was Mr. Namkai-Meche. Mr. Christian
26 stabbed Mr. Namkai-Meche approximately five times in the neck and head. Mr. Namkai-Meche

1 later died from these wounds.

2 9.

3 At all times relevant, all Defendants had actual and/or constructive knowledge of
4 Mr. Christian and his violent propensities before the events of May 26, 2017 because he had
5 terrorized passengers on its train system on multiple occasions in the past, including two instances
6 on May 25, 2017. For example:

7 a. On May 25, 2017, Mr. Christian boarded a Yellow Line train. He began ranting hate
8 speech about African Americans, Jews, Mexicans, and Japanese. He threatened to kill
9 anyone who got in his way. He then accosted and assaulted an African American
10 woman on the train. The woman tried to alert Defendant TriMet's train operator,
11 pounding on the compartment door three times, but was ignored. Once off the train,
the woman found a Portland Police officer and/or a Transit Police officer and pointed
out Mr. Christian, but the officer(s) failed to detain Mr. Christian, or investigate the
incident further.

12 b. Also on May 25, 2017, Mr. Christian boarded a Blue Line train. He began ranting hate
13 speech about Christians, Muslims, and Jews. He threatened to stab anyone who tried
14 to stop him. Passengers alerted Defendant TriMet's train operator about
15 Mr. Christian's behavior, but the operator took no action. The train made several stops,
but no TriMet Personnel, Portland Police officer or Transit Police officer boarded the
train to deal with or remove Mr. Christian. As a result, Mr. Christian terrorized
Defendant TriMet's passengers for the duration of his ride, which lasted approximately
15 minutes.

16 10.

17 At all times relevant, all Defendants had actual and/or constructive knowledge that violent
18 crime frequently and foreseeably occurs on TriMet's light rail system. All Defendants track crime
19 statistics for the light rail system generally as well as on a stop-by-stop basis. In this way, all
20 Defendants were aware that the stretch of light rail between the Rose Quarter transit center and the
21 Hollywood transit center was one of the most crime-ridden stretches of the light rail system.

22 **FIRST CLAIM FOR RELIEF**

23 **(Wrongful Death, Negligence, Common Carrier Liability – Against TriMet)**

24 11.

25 Plaintiff re-alleges and incorporates paragraphs 1 through 10 as if fully set forth herein.

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12.

At all times relevant, Defendant TriMet is and was a common carrier that owes its passengers the highest degree of care for their safety. As part of that heightened duty of care, TriMet had a duty to take reasonable measures to prevent criminal activity in the confined spaces of its stations, platforms, and trains. This includes preventing assaults on passengers and customers.

13.

At all times relevant, Defendant TriMet is and was responsible for security on the light rail system, which it accomplishes through the enforcement of its rules, ordinances, and regulations; through the diligence of its vehicle operators, inspectors, transit officers, and other security personnel; and through security agreements it has with law enforcement agencies in the area, such as the Portland Police’s Transit Division.

14.

At all times relevant, Defendant TriMet implemented a set of rules, regulations, and policies that prohibited riders from:

- a. Engaging in criminal activity on a light rail train, *see* TriMet Code (“TMC”) § 28.15C;
- b. Carrying weapons, including knives, on a light rail train, *see* TMC § 28.15D(2);
- c. Engaging in harassment or intimidation of passengers on a light rail train through the use of violence, threats, or other disruptive behavior, *see* TMC § 28.15D(6)(a);
- d. Engaging in harassment or intimidation of passengers on a light rail train through the use of hate speech or other behavior or conduct intended and likely to provoke a violent response, *see* TMC § 28.15D(6)(a); and
- e. Continuing to engage in harassment or intimidation after being told to stop such conduct by TriMet personnel, or a law enforcement officer, *see* TMC § 28.15D(6)(b).

15.

At all times relevant, Defendant TriMet designated its vehicle operators, inspectors, transit officers, and other security personnel (including the Portland Police’s Transit Division) as its agents in charge of enforcing its rules, ordinances, and regulations (including those listed above).

1 See TMC § 28.20A.

2 16.

3 At all times relevant, Defendant TriMet promised to enforce its rules, ordinances, and
4 regulations (including those listed above) through the following means: fine, arrest, or permanent
5 exclusion from the transit system. See TMC §§ 28.18 and 28.20.

6 17.

7 At all times relevant, Defendant TriMet's actions and omissions fell below the standard of
8 care applicable to common carriers and otherwise negligently and foreseeably caused Mr. Namkai-
9 Meche's death in one or more of the following ways:

- 10 a. Failing to adequately protect passengers (including Mr. Namkai-Meche) from a known,
11 foreseeable risk of harm existing on its train system on May 26, 2017;
- 12 b. Failing to arrest or exclude Mr. Christian from its train system on or before May 26,
13 2017 despite having actual and/or constructive knowledge of his desire to commit
14 violence thereon;
- 15 c. Failing to adequately respond to Mr. Christian's prior incidents of terror on its light rail
16 system, including without limitation the two incidents occurring on May 25, 2017, in
17 light of the foreseeability that he would attempt further assaults in the future;
- 18 d. Failing to devise and implement minimum secure measures on or before May 26, 2017
19 to effectively and adequately secure its light rail train and protects its passengers;
- 20 e. Failing to adequately monitor the security status on its light rail trains on or before May
21 26, 2017;
- 22 f. Failing to effectively and adequately coordinate between agencies to manage security
23 on its light rail system on or before May 26, 2017;
- 24 g. Failing to enforce its own rules, regulations, and policies prohibiting criminal conduct
25 on its light rail system;
- 26 h. Failing to enforce its own rules, regulations, and policies prohibiting the carrying of
weapons (including knives) on its light rail system;
- i. Failing to enforce its own rules, regulations, and policies prohibiting threatening and
intimidating behavior on its light rail system;
- j. Failing to enforce its own rules, regulations and policies prohibiting the use of hate
speech on its light rail system;

- 1 k. Failing to adequately train its operators, inspectors, transit officers, and other security
2 personnel in the appropriate way to handle, remove, or exclude violent and potentially
3 violent passengers;
- 4 l. Failing to adequately supervise its operators, inspectors, transit officers, and other
5 security personnel to ensure proper enforcement of TriMet's rules, regulations and
6 policies; and
- 7 m. Failing to adequately research, study, and analyze the security issues and status
8 surrounding the security on its light rail system.

9 18.

10 Had Defendant TriMet adhered to the standard of care required by its status as a common
11 carrier, it could have prevented or reduced the harm caused to Mr. Namkai-Meche during the
12 assault, including the prevention of his death.

13 19.

14 As a result of Defendant TriMet's negligence, Mr. Namkai-Meche's estate incurred
15 medical, burial, and related expenses all to its economic damage in an amount to be proven at trial,
16 but no less than \$100,000.

17 20.

18 As a result of Defendant TriMet's negligence, Mr. Namkai-Meche's estate suffered
19 pecuniary loss in an amount to be proven at trial, but no less than \$8,000,000.

20 21.

21 As a result of Defendant TriMet's negligence, Mr. Namkai-Meche suffered pain and
22 suffering prior to his death all to his noneconomic damages in an amount to be proven at trial, but
23 no less than \$1,000,000.

24 22.

25 As a result of Defendant TriMet's negligence, Mr. Namkai-Meche's parents and
26 beneficiaries have suffered pecuniary losses plus the loss of society, companionship, and services
of their son in an amount to be proven at trial, but no less than \$1,000,000.

27 ///

1 **SECOND CLAIM FOR RELIEF**

2 **(Negligence – Against Portland Police)**

3 23.

4 Plaintiff re-alleges and incorporates paragraphs 1 through 10, and 14 as if fully set forth
5 herein.

6 24.

7 At all times relevant, Defendant Portland Police, through its Transit Division and/or its
8 contract with Defendant TriMet, is charged with monitoring and enforcing TriMet’s rules,
9 ordinances, and regulations governing conduct on TriMet’s light rail system, including the
10 regulations listed above in paragraph 14.

11 25.

12 At all times relevant, Defendant Portland Police adopted Policy Directive 670.00 promising
13 to do the following:

- 14 a. Take appropriate action when alerted to criminal or civil situations occurring on public
15 transportation, including the light rail system or adjacent property;
- 16 b. Exclude any person who violates any provision of TMC chapter 28, including without
17 limitations, those provisions listed above in paragraph 14;
- 18 c. Arrest any person who commits the crime of interfering with public transportation, as
19 defined in ORS 166.116;
- 20 d. Arrest any person who commits the crime of disorderly conduct, as defined in ORS
21 166.025; and
- 22 e. Arrest any person who subjects a public transportation passenger to offensive physical
23 contact.

24 26.

25 At all times relevant, the negligence of Defendant Portland Police and/or its Transit
26 Division foreseeably caused Mr. Namkai-Meche’s death in one or more of the following ways:

- a. Failing to adequately protect passengers (including Mr. Namkai-Meche) from a known,
foreseeable risk of harm existing on its train system on or before May 26, 2017;

- 1 b. Failing to arrest or exclude Mr. Christian from the light rail system on or before May
2 26, 2017 despite having actual and/or constructive knowledge of his desire to commit
3 violence thereon;
- 4 c. Failing to adequately arrest or exclude Mr. Christian from the light rail system after
5 being alerted to his conduct on the train the evening of May 25, 2017;
- 6 d. Failing to take other preventive measures to protect light rail passengers from
7 Mr. Christian and the foreseeable risk of harm he posed;
- 8 e. Failing to enforce TriMet's rules, ordinances, and regulations, including without
9 limitation those listed in paragraph 14 above, on or before May 26, 2017;
- 10 f. Failing to follow the requirements of Policy Directive 670.00, including without
11 limitation those listed in paragraph 26 above, on or before May 26, 2017;
- 12 g. Failing to adequately monitor the security status of the light rail system on or before
13 May 26, 2017;
- 14 h. Failing to implement adequate security measures, policies, procedures and regulations
15 for the purpose of protecting light rail passengers from known and foreseeable risks of
16 harm such as the kind that befell Mr. Namkai-Meche on May 26, 2017; and
- 17 i. Failing to follow up and further investigate the incidents on May 25, 2017 to determine
18 what could be or should be done to avoid recurrences or escalations, such as the incident
19 on May 26, 2017.

20 27.

21 As a result of Defendant Portland Police's negligence, Mr. Namkai-Meche's estate
22 incurred medical, burial, and related expenses all to its economic damage in an amount to be
23 proven at trial, but no less than \$100,000.

24 28.

25 As a result of Defendant Portland Police's negligence, Mr. Namkai-Meche's estate suffered
26 pecuniary loss in an amount to be proven at trial, but no less than \$8,000,000.

27 29.

28 As a result of Defendant Portland Police's negligence, Mr. Namkai-Meche suffered pain
29 and suffering prior to his death all to his noneconomic damages in an amount to be proven at trial,
30 but no less than \$1,000,000.

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30.

As a result of Defendant Portland Police’s negligence, Mr. Namkai-Meche’s parents and beneficiaries have suffered pecuniary losses plus the loss of society, companionship, and services of their son in an amount to be proven at trial, but no less than \$1,000,000.

THIRD CLAIM FOR RELIEF
(Injunction – All Defendants)

31.

Plaintiff re-alleges and incorporates all prior paragraphs as if fully set forth herein.

32.

Plaintiff requests the Court grant injunctive relief and declaratory relief directing Defendant TriMet and Defendant Portland Police to conduct the necessary studies to (a) evaluate the status of security on TriMet’s light rail system; (b) implement the resulting findings; (c) bring the status of security on the light rail system up to an acceptable standard for passenger safety; (d) require training of all vehicle operators, inspectors, transit officers, and other security personnel (including the Transit Division) in the areas of response time, diversity training, and the results and methods for dealing with or resolving unruly passengers; (e) implementing restrictions on passenger access to the light rail system when those passengers have violated TriMet’s rules, regulations and policies.

RESERVATION

33.

Plaintiff reserves the right to amend this complaint to add new and additional claims and allegations as discovery and depositions warrant.

WHEREFORE, Plaintiff prays for judgment in its favors as follows:

- a. Against Defendant TriMet, an award of damages in an amount to be proven at trial but no less than \$10,100,000;

- 1 b. Against Defendant Portland Police, an award of damages in an amount to be proven at
2 trial but no less than \$10,100,000;
3 c. For Plaintiff's costs and disbursements incurred herein; and
4 d. Any further relief the Court deems just and proper.

5 DATED: May 23, 2019.

6 DUNN CARNEY LLP

7
8 /s/ Anne D. Foster

9 Anne D. Foster, OSB No. 993152

10 Email: afoster@dunncarney.com

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11 Email: ssmith@dunncarney.com

12 Attorneys for Plaintiff

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