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

MYHANH BEST, as Personal
Representative for the ESTATE OF
RICKY JOHN BEST,

Plaintiff,

vs.

TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF
OREGON dba TRIMET; TRANSIT
POLICE DIVISION; CITY OF PORTLAND;
AND PORTLAND POLICE BUREAU, a
Division of the City of Portland.

Defendants.

Case No.:

**COMPLAINT
(Wrongful Death; Common Carrier
Liability; Negligence; Injunctive Relief)**

**NOT SUBJECT TO MANDATORY
ARBITRATION**

JURY TRIAL REQUESTED

**Prayer Amount: \$10,000,000
Fee Pursuant to ORS 21.160)(1)(e)**

Plaintiff alleges as follows:

GENERAL ALLEGATIONS

PARTIES

1.

Decedent Ricky John Best ("Ricky Best") was a resident of the State of Oregon, a decorated military veteran and the husband of Myhanh Best and the father of four children: Erik Best, Isaac Best, David Best and Tramanh Best.

2.

Plaintiff and widow, Myhanh Best, is the duly appointed and acting Personal Representative of the Estate of Ricky Best.

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3.

Defendant Tri-County Metropolitan Transportation District of Oregon (“TriMet”) is a government entity that provides bus, light rail, and commuter rail services in Multnomah, Clackamas and Washington Counties.

4.

Defendant TriMet is a common carrier that owes its passengers the highest degree of care for their safety.

5.

Defendant Transit Police Division (“Transit Police”) is a division within the Portland Police Bureau and under contract with TriMet to perform law enforcement duties for the TriMet system.

6.

Defendant City of Portland is a municipal corporation organized and operating under the laws of the State of Oregon. Defendant Portland Police Bureau is a law enforcement agency of Defendant City of Portland. Defendant Portland Bureau of Police is the dedicated government law enforcement entity tasked with overseeing the City of Portland, Oregon.

FACTUAL HISTORY

7.

On May 26, 2017, Ricky Best was murdered on the TriMet MAX Line train as he was defending and protecting passengers on the TriMet MAX Line from Jeremy Christian (“Christian”), a well known self-proclaimed Neo-Nazi white supremacist.

8.

On the evening of May 25, 2017, the day before the murder of Ricky Best, Demetria Hester (“Hester”), an African-American woman, boarded the TriMet MAX Line train at the North Denver Avenue Transit Station and took a seat near the conductor

1 because of the known dangers of riding the MAX line, especially in that location of
2 Portland.

3 **9.**

4 Shortly after Hester boarded the MAX train, Christian boarded the same car while
5 yelling a racist, hate-filled rant and made threats of physical violence and death against
6 African-Americans, Jews, Mexicans, Japanese and Muslim people.

7 **10.**

8 After Hester asked Christian to lower his voice, Christian began shouting at and
9 accosting Hester. Hester knocked on the operator's door in order to alert him to the
10 dangerous situation three times at each of the next three stops, however the operator
11 did not respond to Hester. Apparently, the operator reported the disruption and
12 requested a supervisor.

13 **11.**

14 Hester got off the train at the Rose Quarter Transit Station to transfer to another
15 line. Christian followed Hester off the train, lunged at her and struck her in the eye with
16 a bottle, causing her eye to bleed. Hester then sprayed Christian in the face with mace
17 in self-defense. Two TriMet supervisors were on the platform at the Rose Quarter
18 Station and observed some, if not all, of the attack but took no action to assist Hester or
19 restrain Christian.

20 **12.**

21 Approximately twenty minutes after this attack, a Portland Police officer arrived at
22 the Rose Quarter Transit Station while both Hester and Christian were still at the
23 station.

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13.

The Portland Police had a long history with and multiple encounters with Christian prior to May 25, 2017, including the following:

- In November 2002, Christian pled guilty to first-degree robbery with a firearm and second-degree kidnapping and was sentenced to 90 months in prison
- In October 2013, a federal judge sent Christian back to prison for nine months after he bullied and intimidated a halfway house worker
- In 2015, Christian was banned from the TriMet system for a month due to repeated fare evasion
- In January 2017, Christian was the “main suspect” in a early morning stabbing that occurred in downtown Portland
- On or about April 29, 2017 to early May 2017, Christian had an altercation with Patrick Stupfel after Stupfel recognized Christian from a previous Patriot Prayer demonstration. Christian tried to “bond with Stupfel over their appreciation for free speech,” but Stupfel disagreed with and disavowed Christian’s racism. Stupfel later called the police to report the exchange and subsequent threats, but the police did not write a report
- On May 20, 2017, Christian was reported to have been ranting and swearing for over an hour at the Portland Saturday Market, where he frequently visited to sell comic books
- Christian had been stopped at least eight times by TriMet enforcement for fare evasion and accumulated “hundred of dollars” in fare evasion fines
- Christian had at least five probation violations, one of which was for possession of a firearm in 2011

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14.

Although the Portland Police officer was informed by the TriMet supervisor and Hester of the incident and talked to both Hester and Christian, and even though Christian was identified as the attacker, no action was taken to arrest, deter, prevent, sanction, or otherwise address Christian’s offensive behavior or criminal conduct. Although Portland Police had full knowledge of Christian’s history and violent criminal record, he was not detained and was allowed to leave the scene while the Portland Police continued to question Hester about her identity. Hester told the officer that they should “catch him (Christian) because he is going to harm or kill someone”.

15.

Christian then boarded the train at Lloyd Center and rode to the Gateway District continuing his disruptive behavior, including using profanities, racial slurs and threats to stab the operator and passengers.

16.

The next day, on the evening of May 26, 2017, Christian boarded a TriMet MAX train at the Lloyd Center Transit Station in Portland, Oregon. Christian was carrying a bladder style container of wine that he drank from while aboard the train.

17.

Immediately after boarding the TriMet MAX train, Christian once again began shouting derogatory and threatening statements and targeted two adolescent girls, one who was African-American and one who was Muslim wearing a hijab at the time.

18.

No action was taken by Defendants in response to Christian’s racist, aggressive and threatening behavior. In an attempt to deescalate the situation, a passenger attempted to verbally calm Christian down. However, the passenger’s attempts were

1 unsuccessful and Christian then made a quick and sudden movement towards Taliesin
2 Namkai-Meche ("Namkai-Meche"), who stood up in response.

3 **19.**

4 Christian then shouted in Namkai-Meche's face, which prompted another
5 passenger, Micah Fletcher ("Fletcher"), to stand up alongside Namkai-Meche. Ricky
6 Best intervened to help calm the situation that was escalating rapidly. Christian then
7 shoved Fletcher and subsequently pulled a knife with a blade longer than 3.5 inches out
8 of his pocket stabbing and wounding Micah Fletcher and then stabbing and killing Ricky
9 Best and Namkai-Meche.

10 **20.**

11 Notices of Plaintiff's claims alleged herein and required by Oregon Revised
12 Statutes were given to the Defendants within the time required.

13 **FIRST CLAIM FOR RELIEF**

14 **(Common Carrier Liability Against TriMet and Transit Police)**

15 **21.**

16 Plaintiff realleges and incorporates paragraphs 1 through 20 above.

17 **22.**

18 At all times material, Defendants TriMet and Transit Police (also referred to as
19 "Defendants" in this first Claim) had a heightened duty of care and a duty to take
20 reasonable measures to prevent disruptive behavior and criminal activity in the confined
21 spaces of its stations, platforms, and trains. This includes preventing assaults on
22 passengers.

23 **23.**

24 Defendants lacked adequate security personnel and security measures to ensure
25 the safety of passengers on trains and the safety of passengers at transit centers and
26 stations. Defendants also failed to enforce existing regulations governing conduct on its

1 property, including the regulations governing food and beverages, excessive noise,
2 disruptive conduct, fare evasion, weapons, harassment and intimidation.

3 **24.**

4 Defendants breached this duty by failing to staff an adequate number of security
5 officers, Transit Police, and/or Portland Police and failing to enforce implemented
6 regulations to prevent foreseeable harm to passengers. It is well known in the industry
7 that non-enforcement of fare evaders increases the risk of criminal activity on the trains
8 and adds to the risks of harm to passengers.

9 **25.**

10 Defendants knew and were aware of the security failures in the system and its
11 lack of precautionary measures. Defendants fell below the standard of care required of
12 a common carrier in one or more of the following ways:

- 13 a. Defendants have failed to adequately research, study and analyze the
14 security issues and status surrounding the security on the MAX trains;
- 15 b. Defendants failed to implement minimum security, devises, policies and
16 personnel to adequately secure the MAX train and passenger ridership;
- 17 c. Defendants failed to adequately monitor security status on the MAX train;
- 18 d. Defendants failed to follow the regulations, policies and procedures that
19 were in effect;
- 20 e. Defendants failed to adequately coordinate between the agencies to
21 effectively manage security on the MAX trains; and
- 22 f. Defendants failed to intervene in the altercation that took place between
23 Hester and Christian on May 25, 2017.

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1 **26.**

2 Defendants knew or should have known that Christian posed a danger to the
3 safety and wellbeing of other passengers based on Christian's past history with
4 Defendants. It was foreseeable that Defendants' failure to prevent or take measures to
5 prevent Christian from entering or using TriMet stations, platforms and trains would lead
6 to further assaults after the events of May 25, 2017.

7 **27.**

8 As a direct and proximate result of Defendants' negligence, Ricky Best was
9 assaulted and killed.

10 **28.**

11 Had Defendants adhered to the standard of care required by its status as a
12 common carrier, it would have likely prevented the death of Ricky Best.

13 **29.**

14 As a direct and proximate result of Defendants' breach, the beneficiaries of the
15 estate – including Myhanh Best, Erik Best, Isaac Best, David Best, and Tramanh Best –
16 suffered pecuniary loss to decedent's estate, economic and noneconomic damages,
17 including decedent's pain and suffering, funeral expenses, the loss of financial support,
18 benefits, love, companionship, comfort, care, assistance, society, guidance, and moral
19 support on an amount according to proof thereof not to exceed \$10,000,000 (Ten Million
20 Dollars).

21 *In the alternative*, as to the Transit Police, if they are not considered a "common
22 carrier" when establishing the standard of care referred to in the First Claim.

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1 **SECOND CLAIM FOR RELIEF**

2 **(Against Defendants Transit Police and Portland Police)**

3 **(Negligence)**

4 **30.**

5 Plaintiff realleges and incorporates paragraphs 1 through 20 herein.

6 **31.**

7 The negligence of Defendants, Transit Police and Portland Police (referred to as
8 "Defendants"), and each of them, in one or more of the following particulars, was the
9 direct and proximate cause of the death of Ricky Best:

10 a. In failing to implement adequate security regulations, policies, and
11 procedures;

12 b. In failing to follow implemented security regulations, policies, and
13 procedures;

14 c. In failing to monitor the security status on the train while it was in operation
15 in such a way as to protect passengers;

16 d. In failing to prevent or take measures to prevent Christian from re-
17 boarding and continuing to use the train;

18 e. In failing to prevent or remove Christian, who was impaired by alcohol
19 from entering and continuing to use the train;

20 f. In failing to take preventative measures to protect passengers from
21 Christian when Christian made specific threats to kill passengers;

22 g. In failing to follow up and further investigate the May 25, 2017 incident to
23 determine what should be done to avoid future disruption or assaults from Christian;

24 and
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1 h. In failing to have adequate diversity training to identify and deal with racist
2 conflicts and to properly investigate altercations between people of different races
3 without giving preference to one race over the other.

4 **32.**

5 As a direct and proximate result of Defendants' negligence, the beneficiaries of
6 the estate – including Myhanh Best, Erik Best, Isaac Best, David Best, and Tramanh
7 Best – suffered pecuniary loss to decedent's estate, economic and noneconomic
8 damages, including decedent's pain and suffering, funeral expenses, the loss of
9 financial support, benefits, love, companionship, comfort, care, assistance, society,
10 guidance, and moral support on an amount according to proof thereof not to exceed
11 \$10,000,000 (Ten Million Dollars).

12 **THIRD CLAIM FOR RELIEF**

13 **(Against All Defendants)**

14 **(Injunctive Relief)**

15 **33.**

16 Plaintiff realleges and incorporates paragraphs 1 through 32 herein.

17 **34.**

18 Plaintiff requests the Court grant injunctive relief and a declaratory judgment
19 directing that Defendant TriMet conduct the necessary studies to evaluate the status of
20 the security on the MAX train, implement the results and findings and to bring the
21 security on the MAX train up to an acceptable standard for its passengers, to require all
22 Defendants to implement the training of all personnel, including training for: adequate
23 response times, appropriate response procedures, diversity training, procedures for
24 multi-race encounters, dealing with unruly passengers and implementing restrictions on
25 passengers access to the MAX train when those passengers have violated policies or
26 rules of the MAX train.

1 WHEREFORE, Plaintiff prays for a judgment against Defendants in the amount
2 according to proof thereof to be determined by the jury but not to exceed \$10,000,000
3 (Ten Million Dollars), injunctive relief and a declaratory judgment against Defendants, as
4 well as costs and disbursements incurred herein and other such relief that is just and
5 proper.

6 DATED this 24th day of May, 2019.

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/s/ Robert J. Miller, Sr.
Robert J. Miller, Sr. (OSB #732067)
Attorney for Plaintiff

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