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UNTIED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: AIR CRASH AT SAN FRANCISCO, CALIFORNIA ON JULY 6, 2013	**MDL No. 2497** **MASTER CONSOLIDATED COMPLAINT FOR:** **1. PASSENGER LIABILITY (ASIANA AIRLINES)** **2. NEGLIGENCE (ASIANA AIRLINES)** **3. NEGLIGENCE (THE BOEING COMPANY)** **4. BREACH OF WARRANTY (THE BOEING COMPANY)** **5. STRICT LIABILITY (THE BOEING COMPANY)** **6. NEGLIGENCE (AIR CRUISERS/ZODIAC AEROSPACE)** **7. BREACH OF WARRANTY (AIR CRUISERS/ZODIAC AEROSPACE)** **8. STRICT LIABILITY (AIR CRUISERS/ZODIAC AEROSPACE)** **9. LOSS OF CONSORTIUM** **JURY TRIAL DEMANDED**

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Plaintiff brings this action for damages and complains of the Defendant ASIANA AIRLINES, INC. ("ASIANA"), Defendant THE BOEING COMPANY ("BOEING"), and Defendant AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACTUATION SYSTEMS, a subsidiary of ZODIAC AEROSPACE, S.A. as follows:

I. INTRODUCTION

1. On July 6, 2013 at approximately 11:27 a.m. PDT, the main landing gear and fuselage of a Boeing 777-200ER, registration HL7742 ("subject aircraft") operating as ASIANA Flight 214 ("subject flight") impacted the airport perimeter sea wall just short of runway 28L at SFO while attempting to land following a perilously low altitude flight-path, low air-speed approach. This landing accident and impact violently slammed, jerked, tossed, and bounced the passengers, ejecting some passengers and flight attendants through the gaping cavity created by the separation of the aircraft's empennage from the fuselage. Once the aircraft came to a standstill, passengers had to jump from the plane and hobble from the twisted wreckage. Emergency responders rushed to extricate the remaining injured and trapped passengers before smoke and/or flames engulfed the plane and fatally injured the passengers. This horrific, unforgettable nightmare resulted in the death of three teenage passengers and injuries to 288 passengers and 16 crew onboard the aircraft.

2. In a matter of seconds, what should have been a routine landing turned into a chamber of horrors for the unsuspecting passengers. This landing was the result of a combination of factors caused by the negligence and failures of the named defendants. First, BOEING inadequately designed, manufactured, distributed and/or sold the aircraft that crashed on July 6, 2013 with a number of defects, including a faulty auto-throttle control system, inadequate auto-throttle warnings, ineffective low-speed warnings, and/or lap-only seat belts in sections of its aircraft. Second, BOEING failed to adequately train, notify, monitor, supervise and/or update pilots to fly the BOEING 777-200ER; and/or warn ASIANA of concerns BOEING knew or should have known about the unfitness of ASIANA pilots to fly the BOEING aircraft. Third, ASIANA negligently operated, maintained, controlled, equipped, and/or piloted the fateful aircraft, including failing to provide passengers in Economy Class with the same robust

seat restraint systems as those in Business Class. Fourth, ASIANA failed to properly hire, train, and/or monitor its pilots to assure they had the required skill and experience to safely land their aircraft at all airports in which ASIANA did business. Fifth, AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACTUATION SYSTEMS, a subsidiary of ZODIAC AEROSPACE, S.A. caused further injuries to the passengers by providing emergency evacuation slides which opened in the cabin injuring passengers and crew or failed to operate or open forcing many passengers and others to jump and fall into wreckage and onto the tarmac. This crash and its aftermath should never have occurred. It was a by-product of reckless inattention and errors by the inadequately trained ASIANA flight crew in combination with dangerous design defects and shortcomings with auto flight modes and low airspeed warning systems incorporated into the BOEING aircraft.

II. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction of this case pursuant to 28 U.S.C. § 1331(a) in that this matter arises under the laws and treaties ratified by the United States, including but not limited to the Convention for the Unification of Certain Rules for International Carriage by Air ("Montreal Convention"). Defendant ASIANA is a signatory to the Montreal Convention via the International Air Carrier Transportation Association ("IATA") Intercarrier Agreement on Passenger Liability which specifically removes limitations on damages.

4. The Court also has subject matter jurisdiction of this dispute pursuant to 28 U.S.C. § 1332, as this case involves a dispute between Plaintiff, a United States citizen, a California resident, a passenger with a destination of California, and/or a passenger who entered into the contract of carriage in the United States, and Defendants, corporations based in South Korea, France, the State of Illinois, and the State of New Jersey and the amount in controversy exceeds the jurisdictional minimum of this Court.

5. Venue is also proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in the Northern District of California and because Defendants are subject to personal jurisdiction in the Northern

District of California and because Defendants have sufficient contacts because they do business and/or commerce in California.

III. PARTIES

A. Plaintiff

6. Plaintiff has suffered physical, emotional, and/or economic injuries as a result of the ASIANA Flight 214 crash at SFO on July 6, 2013.

B. Defendants

7. Defendant **THE BOEING COMPANY** is a Delaware corporation with its principal place of business in the State of Illinois. Boeing is, and at all relevant times was, registered with the California Secretary of State as doing business in California, and it does business in California and in this Judicial District.

8. Defendant **ASIANA AIRLINES, INC.** is a foreign corporation domiciled in and existing under the laws of South Korea. Defendant ASIANA AIRLINES is, and at all relevant times was, registered with the California Secretary of State as doing business in California, and it does business in California and in this Judicial District.

9. Defendant **ASIANA AIRLINES, INC.** is, and at all times relevant was, a common carrier for hire in the business of soliciting and/or transporting passengers for regularly scheduled flights in and out of San Francisco International Airport to destinations in South Korea and throughout the world.

10. Defendant **ASIANA AIRLINES, INC.** is, and at all times relevant was, a carrier within the meaning of the Montreal Convention, operating round-trip flights between San Francisco, California, to Seoul, South Korea and throughout the world.

11. Defendant **AIR CRUISERS COMPANY, LLC** is a Delaware limited liability company with its principal place of business in Wall Township in the State of New Jersey. AIR CRUISERS COMPANY, LLC has been a subsidiary of ZODIAC AEROSPACE, S.A. since 1987, and in 2013, AIR CRUISERS COMPANY, LLC began doing business as ZODIAC AERO EVACUATION SYSTEMS to establish its presence as a member of the ZODIAC AEROSPACE, S.A. group. Defendant ZODIAC AEROSPACE, S.A., is a French societé

anonyme with a Management Board and Supervisory Board with its principal place of business in Plaisir, France.

12. Defendant **ZODIAC AEROSPACE**, through its subsidiary AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACUATION SYSTEMS, routinely engages in continuous and systematic business in this District. The evacuation slides/rafts on ASIANA Flight 214 were manufactured by AIR CRUISERS COMPANY, LLC. According to the 2012-13 Annual Report of ZODIAC AEROSPACE, 55% of commercial aircraft including the subject aircraft are equipped with "Zodiac Aerosafety evacuation slides," and AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACUATION SYSTEMS, is the sole producer of such items for ZODIAC AEROSPACE.

C. Agency and Concert of Action

13. At all times herein mentioned, Defendants, and each of them, were the agents, servants, alter egos, employees, partners, aiders and abettors, co-conspirators and/or joint venturers of each of the remaining Defendants named herein and were at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, enterprise conspiracy, alter ego and/or joint venture, and each Defendant has ratified and approved the acts of each of the remaining Defendants. Each Defendant aided and abetted, encouraged, and rendered substantial assistance to the other Defendants in breaching their obligations to Plaintiff, as alleged herein. In taking action to aid and abet and substantially assist the commission of these wrongful acts and other wrongdoings complained of herein, each of the Defendants acted with an awareness of his/her/its primary wrongdoing and realized that his/her/its conduct would substantially assist the accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

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IV. FACTUAL BACKGROUND FOR THE CLAIMS ASSERTED

A. History of the Aircraft that Crashed

1. Boeing Designed, Manufactured, Promoted and Sold the Boeing 777As Safe For Air Travel

14. Defendant THE BOEING COMPANY ("BOEING") designs, manufactures, inspects, assembles, markets and sells large commercial jet aircraft, including the BOEING 777, and provides product-related instructions, manuals, maintenance and training to airline customers worldwide. BOEING's main commercial products are the 737, 747, 757, 767, 777, and 787 families of airplanes and the BOEING Business Jet.

15. The BOEING 777 is a long-range wide-body twin-engine jet airliner designed, manufactured, marketed, and sold by BOEING. BOEING claims to offer a family of "technologically advanced" airplanes and services. BOEING touts that "ensuring safe travels for all passengers and crew" is its primary focus. According to BOEING, the BOEING 777 was the first entirely new airplane manufactured by BOEING in more than a decade and was the first jetliner to be 100 percent digitally designed using three-dimensional computer graphics. Throughout the design process, the airplane was "preassembled" on the computer, eliminating the need for a full-scale mock-up.

16. **BOEING designed, manufactured, assembled, tested, serviced, and/or sold the BOEING 777-200ER aircraft that crashed on July 6, 2013, incorporating various components of the subject aircraft including, but not limited to, the auto-throttle, autopilot, flight control computers, warning systems, primary flights displays, overhead compartments, evacuation slides/rafts, seats, and/or seatbelts.**

17. In addition, BOEING wrote and/or approved instructions and warnings for the subject aircraft, including training manuals, flight manuals, operation manuals, maintenance manuals, maintenance instructions, inspection schedules, and service life schedules to be followed by owners and operators, including ASIANA, for the continued airworthiness and safe flight of the BOEING 777-200ER aircraft, including the subject aircraft.

18. BOEING also provided customer support and post-sale services to ASIANA, as it related to the subject aircraft and other 777-200ER aircraft in its possession, including Alert Service Bulletins, Service Bulletins, Service Letters, Technical Advisors, aircraft parts, engineering and training personnel, and other similar customer support services.

19. BOEING offers airlines, including Asiana, "a complete training solution for operators of BOEING airplanes." BOEING's North America flight training facility in Miami, Florida is one of the largest in the world and offers training on the BOEING's 737, 757, 767, and 777 aircrafts, as well as the Airbus 320 ("A320"). BOEING also maintains, operates, runs, supports, advertises, and/or promotes twenty training campuses with more than 80 full-flight simulators around the world. At these facilities, BOEING provides training instructors and training products (e.g., training courses and manuals) and services (e.g., simulator training courses and web managed courses) to train and qualify pilots and flight crew to safely fly BOEING aircraft.

20. **In 2002, BOEING entered into contract with ASIANA to train all of ASIANA's pilots. In addition, BOEING operates a training campus for ASIANA near the Gimpo International Airport in South Korea. The Gimpo facility, which opened in 2006, specializes in flight training for the 777.**

21. The flight crew (Flying Pilot, Supervising Pilot, First Officer) were trained by BOEING to fly the BOEING 777.

2. Asiana Purchased the Ill-Fated Aircraft in 2006

22. Defendant ASIANA currently maintains and operates a fleet of seventy-nine aircraft, including twelve BOEING 777-200ERs. The subject aircraft was a BOEING 777-200ER built by BOEING and delivered to ASIANA in March 2006.

B. Both Asiana Airlines and Boeing 777 Aircraft Have Been Involved in a Number of Prior Incidents Which Raised Safety Concerns

23. Since the BOEING 777 was first delivered, BOEING aircraft have been involved in numerous incidents and several crashes.

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1. Boeing 777 Incidents and Crashes Prior to July 6, 2013

24. On **September 5, 2001**, a British Airways BOEING 777 suffered fire damage to the lower wing panels and engine housing compartment during a refueling fire at Denver International Airport, causing fatal burns to one person.

25. On **January 17, 2008**, British Airways Flight 38, a BOEING 777-200ER (the same model of aircraft involved in the ASIANA July 6, 2013 incident) with Rolls-Royce Trent 895 engines flying from Beijing to London, crash-landed approximately 1,000 feet short of London Heathrow Airport's runway 27L. The aircraft slid onto the runway's threshold, injuring forty-seven people and damaging the aircraft's landing gear, wing roots, and engines. Upon investigation, it was determined that the accident was caused by ice crystals from the fuel system clogging the fuel-oil heat exchanger. In 2009, in response to the 2008 incident, air accident investigators called for a redesign of this fuel-oil heat exchanger on the Trent 800 series engine. Redesigned fuel oil heat exchangers were installed on British Airways' BOEING 777s by October 2009.

26. In **February and November 2008**, two other Trent 895 engines on BOEING 777 aircraft suffered loss of thrust. The National Transportation Safety Board ("NTSB") investigators concluded that, just as on January 17, 2008, the loss of power was caused by ice in the fuel system, clogging the fuel-oil heat exchanger.

27. On **July 29, 2011**, an Egypt Air BOEING 777-200ER suffered a cockpit fire while parked at a gate at Cairo International Airport, causing structural, heat, and smoke damage to the aircraft. The plane was successfully evacuated with no injuries to personnel, and airport fire teams extinguished the fire. Investigators focused on a possible electrical fault with a supply hose in the cockpit crew oxygen system.

2. In 2009 A Turkish Airlines Boeing 737 Crashed Under Very Similar Circumstances as Flight 214 Placing Boeing on Notice of Design Defects in the Low Speed Warning System on Its Aircraft

28. On February 25, 2009, a Turkish Airlines owned and operated a BOEING 737-800 crashed during landing at Amsterdam Schiphol Airport, Netherlands. The tragedy resulted

in the deaths of nine passengers and crew including all three pilots, and scores of injured passengers.

29. An investigation by the Dutch Safety Board revealed that the left radio altimeter had malfunctioned, causing the auto-throttle to disregard the pilots' selected speed setting, whereby reducing the throttle level position to flight-idle and allowing the airspeed of the BOEING 737 to decrease 40 knots below the selected airspeed. This flight condition went unnoticed by the pilots, who were relying on the auto-throttle to maintain the approach speed, until it was too late. The pilots did not recognize the reduction in speed and excessively high pitch attitude of the aircraft until the stall warning went off at an altitude of 460 feet. As a result of the perilous loss of airspeed and the delayed warning, the BOEING 737 lost control and crashed before reaching the runway. Because the aircraft's nose was pitched up, the tail struck the ground first before the rest of the aircraft slammed down on the tarmac. The impact separated the horizontal stabilizer, both main landing gear legs, and the left and right engines from the aircraft.

30. **The Dutch Safety Board considered the dangers of inadequate low speed warning to the flight crew and recommended to BOEING that it evaluate the benefits of installing an aural command low-speed warning in the aircraft. Since then, BOEING has retrofitted 400 of the world's 3,900 BOEING 737 models with an aural command warning of "LOW AIRSPEED, LOW AIRSPEED." However, the vast majority of BOEING 737 aircrafts – let alone its other models – was not updated with this aural command warning and instead, incorporates an aural tone warning.**

3. Asiana Incidents and Crashes Prior to July 6, 2013

31. On **July 26, 1993**, a BOEING 737-500 passenger aircraft owned, operated, maintained, and flown by ASIANA crashed during landing. On the pilot's third attempt to land at South Korea's Mokpo Airport in poor weather, the aircraft collided into Mount Ungeo, eight hundred feet above ground. Of the 116 occupants, sixty-six passengers and two crew members, including the pilot, died.

32. On **November 30, 1998**, an ASIANA BOEING 747 struck a crane next to the taxiway at JFK International Airport, injuring at one person. Despite the close proximity between the airplane and the crane, the crew continued taxiing the airplane, failed to communicate, and misjudged the clearance between the right wing and the crane.

33. On **November 11, 2000**, an ASIANA BOEING 747 taxiing at Ted Stevens Anchorage International Airport in Anchorage, Alaska, collided with a parked Aeroflot Ilyushin Il-62 and injuring several personnel on board the ASIANA aircraft. According to NTSB reports, excessive taxi speed and inadequate maneuvering by the flight crew caused the collision.

34. On **October 28, 2009**, the tail of an ASIANA Airbus A321-200 carrying 147 occupants struck the runway on landing at Kansai International Airport in Japan. According to a Japan Transport Safety Board report, the first officer misjudged and miscalculated the landing profile by allowing the aircraft pitch angle to become excessively high during the landing, resulting in a tail strike and causing damage to the aircraft.

35. On July 28, 2011, an ASIANA BOEING 747 cargo plane crashed into the East China Sea, killing the only two crew on board. The crash occurred after the crew reported a fire in the cargo compartment and attempted to divert to Jeju International Airport.

36. Accidents and incidents involving ASIANA-owned BOEING airplanes put BOEING on notice of ASIANA flight crew deficiencies and other ASIANA deficiencies that threatened passenger safety.

C. The Horrific and Fatal July 6, 2013 Crash

37. On July 6, 2013, Boeing 777-200ER Registration HL 7742 owned, operated, and flown by ASIANA and designated as Flight 214 departed from Seoul, South Korea for the regularly scheduled passenger flight to SFO, operating under the provisions of 14 Code of Federal Regulations Part 129. On that day, Flight 214 carried 291 passengers and sixteen crew members. Three captains and a first officer were among the crew members.

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38. Although the "flying pilot" ("FP")[1] had flown into SFO twenty-nine (29) times as a first officer on a BOEING 747, including handling four landings, this was the "flying pilot's" first time landing a BOEING 777 at SFO. From 2005 to 2013, the "flying pilot" was a captain on the Airbus A320 and was also a ground school instructor and flight simulator instructor for A320 and A321 aircraft. On July 6, 2013, the "flying pilot" was in the process of completing his Initial Operating Experience ("IOE"), required to certify and/or qualify him to fly the BOEING 777 as pilot in command. ASIANA requires that pilots complete twenty flights and sixty hours of flight time during the IOE for an aircraft. As of July 6, 2013, the "flying pilot" was about half way through his required IOE BOEING 777 training, having completed ten legs and about thirty-five hours of flight time.

39. The supervising captain, sitting in the right seat of the cockpit next to the "flying pilot," was on his first flight as a BOEING instructor in which his role was to supervise or instruct another pilot. Flight 214 was the first time he had flown with the "flying pilot."

40. During landing, the relief first officer was sitting in the observer's seat in the cockpit while the relief captain was sitting in the cabin, outside the cockpit. These relief pilots had flown the plane for a five hour period.

41. During the flight, the relief captain programed the plane's flight management computer ("FMC") with the Golden Gate 6 arrival and the localizer 28 approach into SFO. Prior to the approach at SFO, the "flying pilot" obtained the appropriate terminal information and stated that he conducted a thorough approach briefing.

42. Flight 214 approached SFO on Saturday, July 6, 2013 at approximately 11 a.m. on a seventeen-mile straight-in visual approach, heading to San Francisco. Inside the airplane, passengers had placed their seat backs in the upright position, locked their tray tables in place, and stowed away their electronics and carry-on luggage in preparation for landing, as instructed. None of 291 passengers had any knowledge or reason to intuit that the landing would turn into a violent, unforgettable catastrophe.

[1] "Flying pilot" in the context of this complaint refers to the pilot who was sitting in the left seat of the Boeing 777-200ER and was in training to become a Captain of the Boeing 777-200 aircraft.

43. At 11:19 a.m., approximately ten minutes before the crash, at an altitude of 9,000 feet, Northern California ("NorCal") Terminal Radar Approach Control ("TRACON"), an air traffic control facility that provides safety alerts, separation, and sequencing of air traffic arriving, departing, and transiting, instructed the Flight 214 pilots to turn left to a heading of 100 degrees and to descend to 6,000 feet. The "flying pilot" used the flight level change speed ("FLCH SPD") mode of the autopilot flight director system ("AFDS") and the speed break to descend to the instructed altitude.

44. At 11:21 a.m. and at 5,800 feet, the pilots were instructed to turn left to 310 degrees. TRACON also cleared Flight 214 for a visual approach on runway 28L. The glide slope transmitter for the ILS approach on runway 28L at SFO had been out of service since June 1, 2013, so the crew could not attempt an ILS approach.

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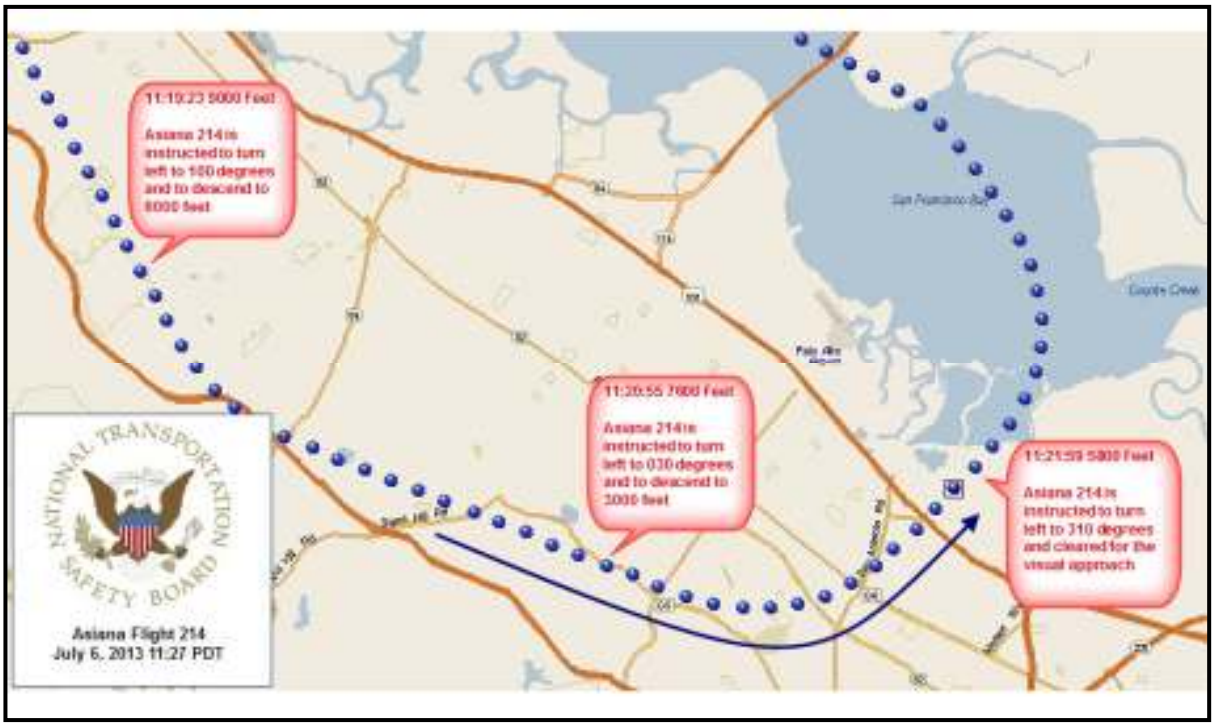

45. When the plane was approximately 17 miles from SFO, the pilots informed TRACON that they saw the airfield.

46. At 11:23 a.m. and 4,500 feet, TRACON instructed the pilots to fly 180 knots until 5 miles from SFO

47. The "flying pilot" intercepted the 28L localizer, set the last approach fix crossing altitude at 1,800 feet in the mode control panel ("MCP") altitude window, and began using the AFDS vertical speed ("VS") mode to descend the subject aircraft. The "flying pilot" also adjusted the airspeed hold setting to 172 knots and acknowledged when the relief first officer comments that this speed was below the 180 knots that TRACON instructed the crew to maintain.

48. At 11:25 a.m. and at 2,400 feet, TRACON instructed the pilots to contact SFO control tower and shortly thereafter the pilots first attempted to contact the control tower.

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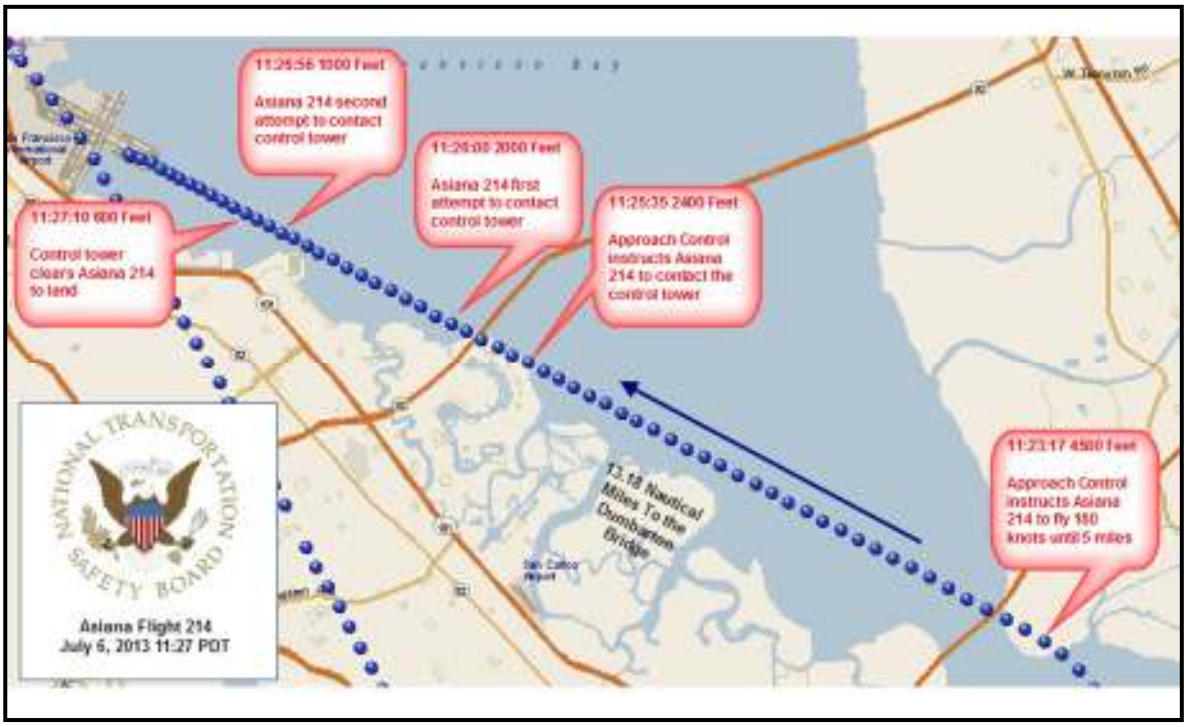


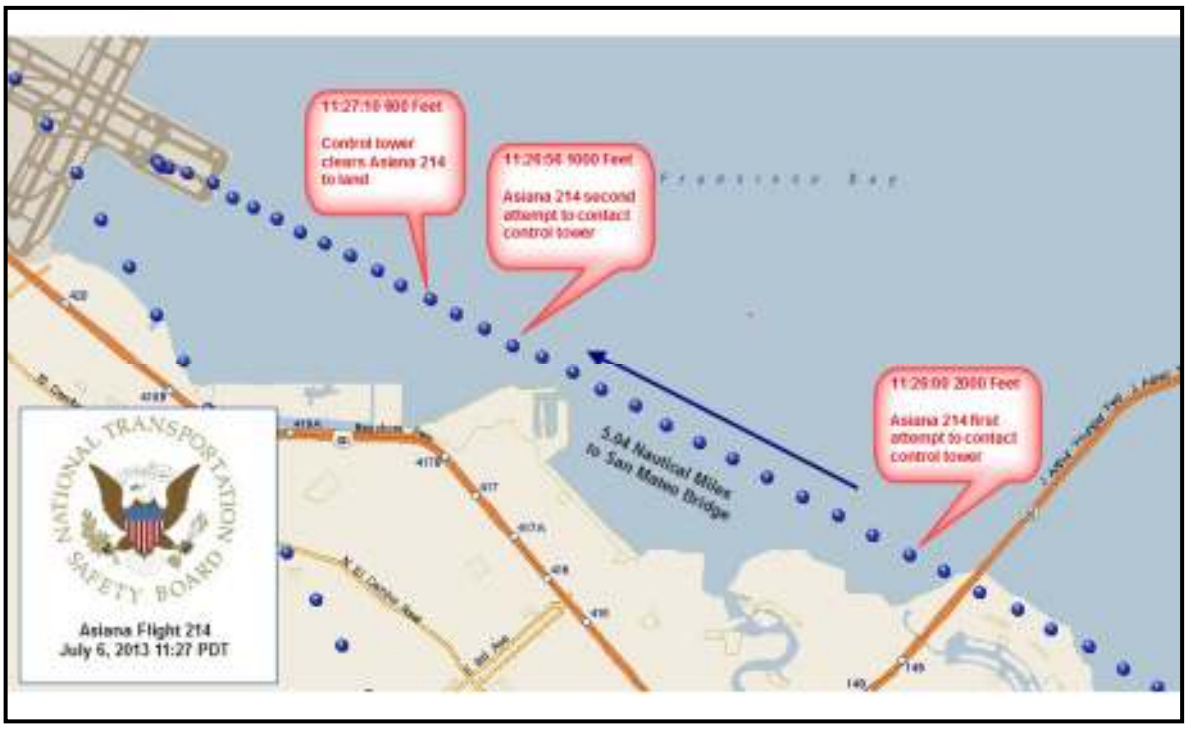
49. During the approach, the "flying pilot" ordered that the plane's flaps be extended and requested the supervising pilot reset the mode control panel altitude from 1,800 feet to 3,000 feet, which was the missed approach altitude.

50. At an altitude of 1,600 feet, the aircraft's Digital Flight Data Recorder ("DFDR") shows that the autopilot flight director system ("AFDS") pitch mode changed to flight level change ("FLCH") mode. This change commanded the autopilot to climb to the missed approach altitude of 3,000 feet which had been set per standard operating procedures in the mode control panel. To cancel this unexpected climb the flying pilot disconnected the autopilot, called out manual flight and, because the speed and altitude were higher than desired, reduced the throttle levers to the idle position.

51. Shortly thereafter the "flying pilot" requested that the supervising pilot set the command airspeed to 137 knots, the target speed for the approach. Unbeknownst to the flight crew, the movement of the throttle levers to the idle position while in FLCH mode resulted in an automatic (un-commanded) change of the autothrottle mode from THRUST to HOLD, thereby turning off airspeed protection and disabling the autothrottle wake up function (when in HOLD

mode the authothrottle will not engage or add thrust to support stall protection even if there are large deviations in airspeed).

52. At 11:26 a.m. and at an altitude of 1,000 feet, the pilots made their second attempt to contact the control tower.



53. At 11:27 a.m. and at 600 feet, the control tower cleared Flight 214 for landing.

54. At approximately 500 feet, the flight crew was attempting to maneuver the aircraft so it was properly aligned with the runway to achieve a safe landing and were unaware that the plane had slowed below the target airspeed of 137 knots they had selected for the approach airspeed.

55. At approximately 200 feet, the aircraft's airspeed had dropped to 118 knots. At that time, the supervising pilot noticed that all four Precision Approach Path Indicators ("PAPI")[2] lights were red and that the auto-throttle control system was not maintaining speed. In

[2] PAPI is a light array system consisting of four light units located near the runway and visible from up to five miles away. PAPI provides a visual descent path to the runway touchdown zone. When the four light units are white, the plane's flight path is too high and, if maintained, will cause the aircraft to land beyond the touchdown zone. When the four light units are red, the plane is too low and, if maintained, will cause the aircraft to land below touchdown zone. When the array displays two red and two white light units, the plane is at the proper three degree angle descent path.

an interview with the NTSB, the "flying pilot" stated that he believed that the auto-throttle system would prevent the aircraft from going below the minimum speed by bringing the aircraft's throttles out of the idle position.

56. Seconds before impact, the supervising pilot pushed the throttles forward and called out "go around." The "flying pilot" pitched the aircraft's nose up more than ten degrees and moments later the pilots received a stall warning consisting of an aural warning tone, accompanied by a tactile vibration warning on the throttle (also known as "stick shaker").[3] A few seconds later, the subject aircraft struck the airport seawall.

57. At no time prior to impact with the seawall in this landing accident did the crew warn or notify the passengers of the impending disaster. The impact of the wheels with the rock seawall immediately before SFO's Runway 28L when the plane was moving at a speed of over 120 miles per hour was the passengers first awareness of the harm that would come to them moments later. The subject aircraft suffered separation of the empennage[4] and landing gear from the fuselage, leaving a gaping cavity in the rear portion of the aircraft. Flung about in their seats and against the seatbelts and aircraft interior,, passengers heard the searing scrape of metal against stone and asphalt as the aircraft struck the sea wall and slid across the tarmac before spinning counterclockwise and resting on its belly, creating a path of debris and ejecting some aircraft occupants onto the runway from the gaping hole where the empennage was once attached.

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[3] A low-speed aerodynamic stall occurs when the airspeed slows, altering the angle-of-attack of the aircraft's wing relative to airflow under and over the wing. This disrupts the airflow to the point that the wing can no longer generate the lift required to fly safely.

[4] The empennage is the aircraft's tail assembly and includes the vertical fin and horizontal stabilizers.


Boeing 777 crash at San Francisco International
Engine
Landing gear
Tailplane
Sea wall
Getty Images

58. The powerful impact with the seawall and runway caused the passengers to be violently thrown against their seatbelts and about the cabin and sustain numerous injuries. Passengers in Flight 214's economy class were thrown over their lap-only seat belts, causing some passengers to hit their heads on the cabin walls, armrests and/or on the seatbacks in front of them, some of which collapsed due to the impact. The aircraft's cabin interior suffered heavy damage with overhead compartments opening from the multiple aircraft impacts, tossing luggage and debris onto the passengers and blocking aisles. The crash uprooted, dislodged, or collapsed seats, causing further injuries to passengers and blocking routes of egress.

59. The subject aircraft lost its tail section, including its vertical and horizontal stabilizers, leaving a ragged hole and flinging occupants out of the aircraft onto the runway. The subject aircraft's right engine detached from the wing and lodged against the right side of the fuselage. The left engine detached and landed to the right of runway 28L. Oil spewed from the aircraft, providing a dangerous source for ignition.

60. Despite the policy that planes must be manufactured for all passengers to be evacuated within ninety seconds[5], the subject aircraft was not evacuated within ninety seconds. **The emergency doors and chutes were not opened until approximately ninety seconds after the plane came to a full stop** on the side of the runway. After the crash, a flight attendant asked the pilots in the cockpit whether or not to evacuate the passengers and was told not to evacuate the plane while the pilots talked to the SFO tower. Another flight attendant made an announcement over the aircraft's PA system instructing passengers to stay in their seats and not to evacuate. However, a flight attendant seated just forward of the wing saw fire and smoke outside the window and notified the pilots. Only then did the pilots order evacuation**.**

61. The emergency evacuation process was hindered by the malfunction of the evacuation slides manufactured by AIR CRUISERS COMPANY, LLC, d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of ZODIAC AEROSPACE, S.A.

62. Two of the evacuation slides, 1R and 2R, deployed inside the cabin pinning two flight attendants in their jump seats and blocking those exits for passengers seeking to evacuate from the plane.

63. The release mechanism on some of the slides suffered catastrophic failure and was overwhelmed by the forces experienced during the accident, which failure caused the slide to release inboard and then inflate.

[5] The Federal Aviation Administration ("FAA") is focused on increasing the probability of occupant survival and decreasing the probability of death or injury in an aircraft accident. Research conducted by FAA on commercial aircraft exposed to an external fuel fire illustrated that the time available for passenger evacuation before flash over occurred in the cabin was approximately ninety seconds. In response, the FAA established a regulation that commercial aircraft must be able to demonstrate that a full load of passengers can be evacuated within ninety seconds to prevent death or injury from flash over.

64. The evacuation slides were not properly tested for circumstances of a crash such as that of Flight 214 thus resulting in a failure to properly operate. The slide defects caused the evacuation to be delayed as those evacuating the plane were required to find alternate means of exiting the plane if doors 1R and 2R were their closest emergency exits.

65. In addition to the two slides that deployed inside the cabin, multiple additional evacuation slides either failed to deploy at all or did not deploy fully. These included Doors 3L (did not deploy), 3R (partially deployed), and Door 4L (did not deploy). Passengers who had to use these emergency exits with malfunctioning slides had to jump from the aircraft and into wreckage and fall to the ground.

66. On September 30, 2010, AIR CRUISERS issued a Service Bulletin (No. 107-25-30) to replace the housing assemblies for evacuations slides/rafts manufactured by AIR CRUISERS because "[h]ousing assemblies supplied with 'unsealed' anodize may exhibit excessive levels of corrosion, which can affect release assembly functionality." This Service Bulletin was revised twice prior to the crash of Flight 214 – first on November 11, 2011 and then on July 27, 2012. The FAA issued Airworthiness Directive 2013-05-010 on March 29, 2013 related to this issue and required an inspection and corrective action be performed within 42 months.

67. In its teardown inspections the various evacuation slides/rafts from Flight 214, 1R, 2R, 3L, 3R, and 4L all had blue housing indicating that they had been changed pursuant to the directive, but six of the eight slides still malfunctioned.

68. Only two of the eight slides on board Flight 214 deployed correctly requiring that the nearly 300 passengers on board the aircraft had to evacuate the aircraft either via those two deployed slides, out the rear of the plane where the tail end was missing, or jumping from one of the other doors where the slides did not deploy, causing further injury to Plaintiffs and others in the evacuation,

69. By manufacturing the evacuation slides in such a defective manner that the majority of them either malfunctioned or did not deploy at all, AIR CRUISERS COMPANY, LLC, d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of ZODIAC

AEROSPACE, S.A., created an unnecessarily dangerous situation which imperiled the lives of those passengers seeking to evacuate Flight 214 after its crash on July 6, 2013.

70. Once evacuation began, dazed and panicked passengers scrambled to leave the aircraft before it erupted in flames. However, injuries, uprooted seats, scattered luggage, seat-belts and faulty evacuation slides complicated the evacuation process. Emergency responders ran up one of the aircraft's inflated escape chutes to get to those trapped inside, clearing a passage by tossing out luggage and wrecked overhead bins that were blocking the escape route and/or pinning passengers as the flames spread. A black plume of smoke rose into the sky as flames engulfed the aircraft and burned away the top of the fuselage. Passengers, trapped by uprooted seats, luggage, escape slides, and/or seatbelts, were surrounded by thick, black smoke as rescuers lifted them to safety.

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ASIANA AIRLINES

71. What should have been a safe and smooth landing, turned into a chaotic disaster, resulting in the death of three teenage girls and various injuries to the other passengers and crew. Emergency responders at the scene triaged the aircraft's occupants. The injured passengers and flight attendants were transferred to eleven different Bay Area hospitals. As hospitals fought to save lives and provide emergency care to these poor passengers, the NTSB initiated an investigation into the causes of this fateful crash.

D. Boeing Installed a Faulty and/or Defective Auto-Throttle Control System with Latent Dangerous Shortcomings

72. The crash of Flight 214 occurred after the aircraft's speed dropped below the minimum speed needed to safely approach the runway, and land the aircraft. During the landing process, the ASIANA Flight 214 "flying pilot" set the airspeed for 137 knots and assumed that the auto-throttle control system was maintaining the aircraft's airspeed. However, due to BOEING's design, manufacture and/or installation of inadequate and/or defective auto-throttle control systems, autopilot control systems, and/or low airspeed warning systems in the aircraft, the pilots were not timely and adequately warned of the disengaged auto-throttle and/or fatefully low airspeed.

73. The automatic flight control system in the B777 consists of an automatic flight director system ("AFSD") and an auto-throttle control system. Each of these systems is controlled by and/or through the mode control panel ("MCP") in the cockpit and the flight management computers. Through these systems, pilots can use various levels of automation to assist them in all phases of flight and many combinations of automation, each with different characteristics and considerations.

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74. The auto-throttle control system can regulate engine power in all flight profiles including take-off, climb, cruise, descent, approach, landing, and go-around. A pilot can program the appropriate landing requirements into the aircraft's autopilot and/or auto-throttle control system; thereby automating the process to properly maintain airspeed and glide path. While the autopilot automates pitch and roll, the auto-throttle automates the engine power requirements to maintain aircraft airspeed or vertical speed.

75. In order for the automatic throttle control system to be operating and maintaining a desired airspeed, it first must be armed and then engaged. To arm the auto-throttle control on a B777-200ER, the pilots actuate two switches, one for the left and one for the right engine. Once armed, the pilot can then engage the automatic throttle control by pressing another switch – which then turns green.

76. In most modes, the auto-throttle control system helps pilots prevent their airspeeds from becoming too slow by sensing the slow speed and automatically adding power to correct the situation. However, when the autopilot pitch mode is set to FLCH SPD and the engines are set at or near idle, the auto-throttle control system often moves automatically into HOLD mode. When the autopilot is in FLCH SPD and autothrottle is in HOLD mode, no speed

protection is provided. In other words, the auto-throttle control system will not automatically reactivate or "wake up" to prevent an aircraft from slowing down towards a stall.

77. The Boeing 777 Operator's manual does not adequately, clearly, and concisely warn or instruct pilots about this dangerous condition and how to avoid, mitigate, and/or respond to it. BOEING has stated that the mode change from engaged to HOLD is displayed on the Flight Mode Annunciator ("FMA") and highlighted for 10 seconds with a green box.

78. As a result of the lack of warning, instructions, and training on these systems, the pilots did not realize that the autopilot and/or auto-throttle control system was not maintaining the aircraft's airspeed during the approach.

79. BOEING failed to design, manufacture and/or install an effective warning system to notify pilots whether or not the auto-throttle control system is armed and/or engaged, and/or the consequent danger of disengagement known in some circles as the "Flight Level Change Trap". BOEING also failed to warn, train and/or notify pilots to recognize auto-throttle control system warnings and/or to constantly monitor airspeed when the auto-throttle control system is armed and/or engaged, especially during landing.

E. Boeing Failed to Install an Adequate Low Airspeed Warning System

80. BOEING installed an ineffective and inadequate low airspeed warning system in its 777 models. The BOEING 777 has a low airspeed warning system which detects low airspeed and alerts the crew with a standard warning tone followed by a text message on a display screen, "AIRSPEED LOW." The standard warning tone requires the crew divert attention to the display screen to determine the cause of the alert. The screen also contains other alerts, such as "OIL PRESSURE LOW," "FUEL PRESSURE LOW," and other system status indicators. The inadequate tonal warning poses the greatest danger during approach and landing conditions when low airspeed situations are more likely to occur in addition to a number of different situations requiring the pilots' attention.

81. Because the ASIANA pilots' primary attention was on aligning the aircraft's course to center on Runway 28L, the pilots did not realize that the auto-throttle control system was not maintaining the aircraft's airspeed during the approach and that the aircraft had slowed

to a dangerously low airspeed. Had an aural command warning of "AIRSPEED LOW" been installed in the aircraft, as it is in the BOEING 737s and all Airbus models, the pilots would have realized that the aircraft was at a dangerously low airspeed and could have taken immediate action to rectify the problem by increasing airspeed and/or initiate a go around.

82. BOEING knew or should have known that its standard warning tone was inadequate and/or ineffective and should have updated its aircraft.

83. In response to the February 25, 2009 Turkish Airlines Flight 1951 crash, where the pilots flying a BOEING 737 were unaware that the auto-throttle was not maintaining airspeed, the Dutch Safety Board recommended that BOEING evaluate the benefits of installing an aural low-airspeed warning system in the aircraft. BOEING responded by retrofitting 400 of the world's 3,900 BOEING 737 models with an aural command warning of 'LOW AIRSPEED, LOW AIRSPEED."

84. Airbus SAS, the other leading manufacturer of commercial aircraft, has installed an aural command warning of "SPEED-SPEED-SPEED" every five seconds between 2,000 and 100 feet when aircraft airspeed drops to an unsafe level. The aural command warning has been installed on the A320 family of aircraft since 1995 and on all A330, 340, 350 and 380 aircraft.

85. Despite being fully aware of the NTSB recommendations, the Dutch Safety Board's recommendations, and Airbus' practice of implementing the systems, BOEING failed to retrofit or reprogram its BOEING 777 with a continuous and/or aural command warning that is the most effective method to alert the pilots to the critical and imminent danger of low airspeed.

F. Boeing and Asiana Failed to Properly Train Its Pilots

86. Despite ASIANA's reported practice of "put[ting] safety first," ASIANA failed to properly train and supervise its pilots to ensure the safety of its passengers. ASIANA pilots are required to complete classroom and flight simulator training. ASIANA trains its pilots at BOEING's training facilities. In 2002, BOEING entered into contract with ASIANA to train all of ASIANA's pilots. In 2006, when ASIANA received the subject aircraft, BOEING opened a BOEING 777 training facility near the Gimpo International Airport in South Korea.

87. BOEING's training programs promise to help airlines "meet increasing demands for qualified pilots by producing flight-ready officers quickly and efficiently." BOEING's full-flight simulator training for its pilots is intended to allow ASIANA to economically enhance its quality flight training services and gain efficiencies in pilot training for ASIANA's fleet of BOEING 737-400/-500s, 747-400s, 767-300s, 777-200s and Airbus 321s.

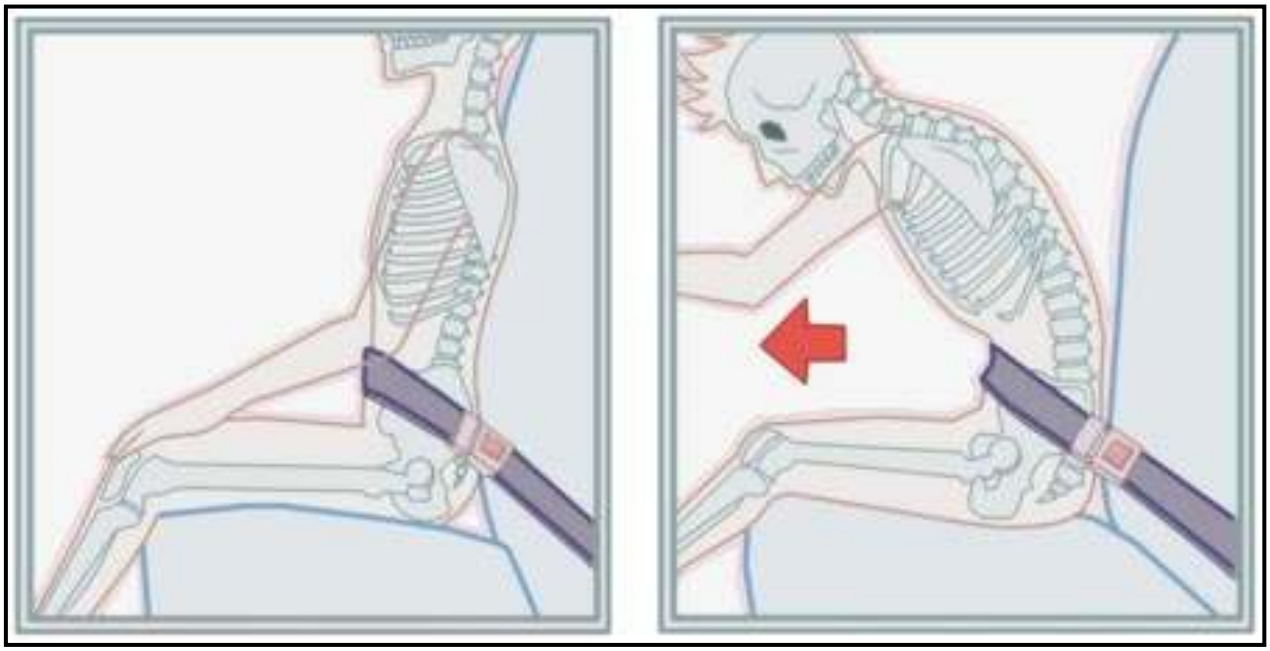
88. ASIANA also requires its pilots to complete an Initial Operating Experience ("IOE"), which pairs pilots who are new to an aircraft model with more experienced supervising or training pilots. The IOE requires twenty familiarization flights with sixty hours of flight time under the supervision of pilots who are experienced with the particular aircraft model. ASIANA's IOE, along with ASIANA's initial pilot training, calls for significantly less flying hours than what international standards require in order to be considered qualified. BOEING, as the pilot training provider for ASIANA, knew or should have known that ASIANA pilots proficiency for safely piloting its aircraft were significantly below international standards.

G. Boeing and/or Asiana Designed and Installed Lap Only Seat Belts In Sections Of The Boeing 777 That Crashed

89. The Asiana Flight 214 BOEING 777-200 had multiple types of seat belt systems. In Economy Class, passengers were provided with lap-only seat belts. Business class passengers, flight attendants, and pilots were provided with multipoint harnesses, restraining those occupants by lap and shoulder straps.

90. Generally, airplane seatbelts must be designed so that a person making proper use of the equipment will not suffer serious injury as a result of inertia forces during an emergency landing or in flight turbulence.

91. Although lap-only safety belts are standard in many commercial airliners, studies have consistently found significant benefits, in terms of injury reduction, through shoulder harness use. A 1985 NTSB study found that shoulder harness were the most effective method of reducing fatal and serious injuries in general aviation airplane accidents. According to the NTSB, shoulder harness use could have prevented 75% of the fatalities and 79% of the serious injuries considered in its study. In a 2011 analysis of over 37,000 general aviation accidents, the NTSB found that the risk of fatal or serious injury with a lap-only safety belt was nearly 50% higher than the lap and shoulder harness combination. The benefits rendered by the lap/shoulder harness combination were even greater in accidents that occurred during take-off and landing.



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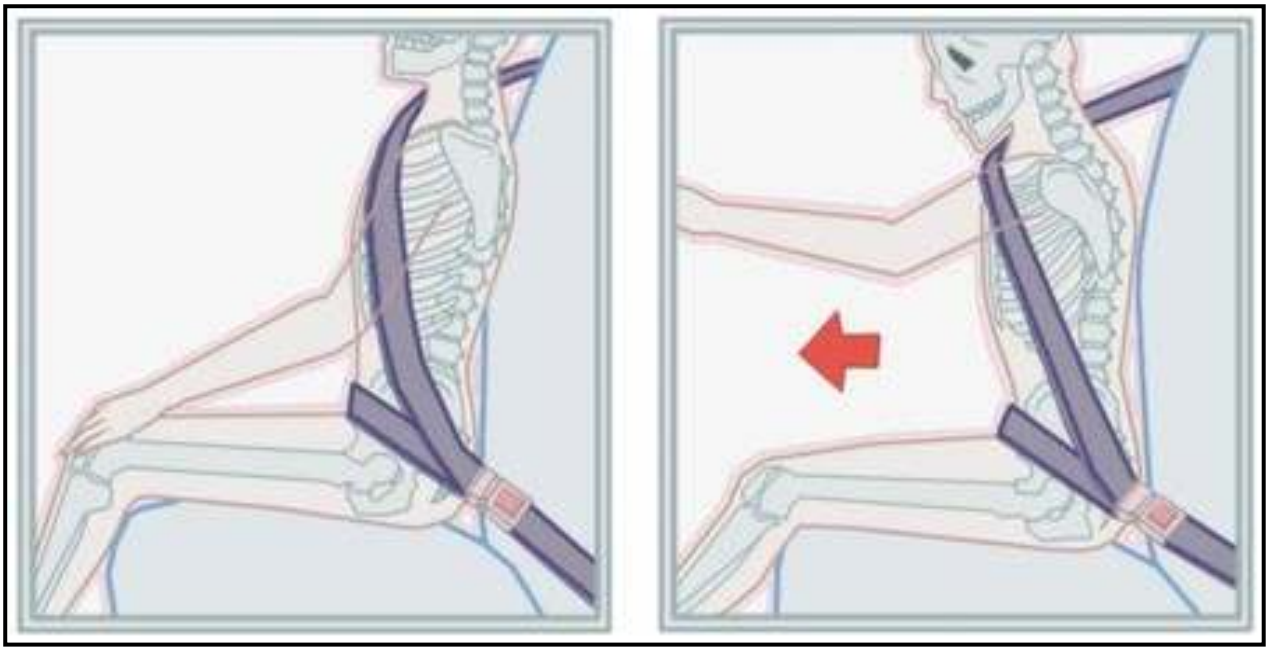

92. Shoulder harnesses are common throughout the aviation industry. Shoulder harnesses are required for all seats in general aviation aircraft. Under 14 C.F.R. § 91.521, all flight crew stations (e.g. pilots and flight attendants) must have a restraint system consisting of a combined safety belt and shoulder harness. Pilots usually have a five-point seat restraint system while flight attendants are provided four-point seat belts. Additionally, many private jets and first class cabins have lap and shoulder harness seat belt systems.

93. Unlike passengers in ASIANA Flight 214's Economy Class, passengers sitting in Business Class were more safely and robustly secured to their seats using lap and shoulder harnesses, protecting those particular passengers from jerking in their seats and striking their head and body against the aircraft. Eugene Rah, a passenger sitting in business class of Flight 214, stated. "Luckily the seat I was sitting, it has [sic] one more strap coming across my chest here [indicating] in addition to the one that goes around the waist cause it was a sleeper seat. If I did not have that, I'd have hit the ceiling. That's how hard the impact was." See July 7, 2013 interview of Eugene Rah, located at http://www.cnn.com/video/data/2.0/video/us/2013/07/07/nr-sf-plane-crash-survivor-eugene- rah.cnn.html.

94. Passengers not equipped with multipoint harnesses suffered injuries, including but not limited to abdominal, spinal, and head injuries, when they were violently jerked in their seats

from the impact. In describing the role of lap-only seat belts in causing a Flight 214 passenger's unstable fracture of his cervical spine, St. Mary's Medical Center surgeon Dimitriy Kondashov stated, "Because there was no shoulder component to his seat belt, that allowed [the passenger] to violently slam [his] forehead into the seat in front of him, and then this resulted in some head trauma." See William Harless, "Seat-Belt Design Played Role in Asiana Crash Injuries" Wall Street Journal, July 10, 2013. Had passengers in Economy Class safely been restrained by lap and shoulder harnesses, many injuries would have been prevented and/or mitigated.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION
PASSENGER LIABILITY / STRICT LIABILITY
(Against Defendant Asiana Airlines Inc.)

95. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

96. At all relevant times, ASIANA was a common carrier engaged in the business of providing air transporting fare-paying passengers on international flights to the United States.

97. Under Articles 17 and 21(a) of the Montreal Convention, Defendant ASIANA is strictly liable to Plaintiff for provable damages of up to 113,100 SDRs (which equates to approximately U.S. Dollar $170,000).

98. In addition, under Article 21(2) of the Montreal Convention, due to the negligence, carelessness, gross negligence, and/or recklessness hereinabove set forth and the injuries and damages attendant thereto Plaintiff seeks damages in excess of 113,100 SDRs, according to proof at the time of trial.

99. As a direct and legal result of the negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful acts and/or omissions hereinabove set forth, Plaintiff has suffered the injuries and damages hereafter set forth.

100. As a legal result of the wrongful conduct of ASIANA set forth above, Plaintiff was injured in Plaintiff's health, strength, and activity, and has sustained injuries to Plaintiff's body and/or mind, all of which have caused Plaintiff great physical, mental, emotional, and nervous pain and suffering.

101. By reason of the wrongful conduct of ASIANA set forth above, Plaintiff was required to and continues to employ physicians and other health care providers to examine, treat, and care for Plaintiff's injuries, and has incurred, and will continue to incur, medical and incidental expenses for such examination, treatment, rehabilitation, and care in an amount according to proof.

102. By reason of the incident, Plaintiff has suffered a loss of income, and/or a loss of earning capacity, in an amount according to proof.

103. By further reason of the premises, Plaintiff suffered the loss of Plaintiff's personal property, including but not limited to personal effects and items in checked in luggage and carry-on items, in an amount according to proof at trial.

WHEREFORE, Plaintiff prays for relief as set forth below.

SECOND CAUSE OF ACTION
NEGLIGENCE
(Against Defendant Asiana Airlines Inc.)

104. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

105. At all relevant times, ASIANA was a common carrier engaged in the business of providing air transportation for fare-paying passengers on international flights to the United States. As a common carrier, ASIANA owed Plaintiff as passengers of Flight 214 a duty of utmost care and the vigilance for the safe transport of passengers. As the holder of an Air Carrier Operating Certificate authorized to serve as a common carrier in air transportation in the United States pursuant to the provisions of Part 121 of the Federal Aviation Regulations [14 C.F.R. 121.1 et seq.], ASIANA owed a duty of care to Plaintiff consistent with the requirement that it operate and maintain its aircraft in the safest manner. ASIANA also had a common law duty to operate and maintain ASIANA Flight 214 to a standard equal to the highest possible degree of safety.

106. At all times hereinabove set forth, ASIANA breached its duty of care to Plaintiff as passengers aboard ASIANA Flight 214 with respect to its failure to safely operate, maintain,

manage, control, equip, handle, and/or pilot Flight 214 and/or adequately and appropriately train its pilots and crew to operate a passenger aircraft, including but not limited to the following:

- failure to train its pilots and flight crew to constantly monitor aircraft airspeed;
- failure to train its pilots to safely operate the auto-throttle control system aboard the aircraft;
- failure to train its pilots to safely operate the autopilot system aboard the aircraft;
- failure to train its pilots to safely operate the flight director aboard the aircraft;
- failure to train its pilots to communicate with one another in order to safely operate and monitor flight systems aboard the aircraft;
- failure to train its pilots to prevent their aircraft from entering into unsafe airspeeds given the flight condition/s;
- failure to train its pilots to timely recognize and safely respond to low airspeeds given the flight condition/s;
- failure to train its pilots to timely and safely evacuate the aircraft.

107. As a direct and legal result of the negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful acts and/or omissions hereinabove set forth, Plaintiff has suffered the injuries and damages hereafter set forth.

108. As a legal result of the wrongful conduct of ASIANA set forth above, Plaintiff was injured in Plaintiff's health, strength, and activity, and has sustained injuries to Plaintiff's body and/or mind, all of which have caused Plaintiff great physical, mental, emotional, and nervous pain and suffering.

109. By reason of the wrongful conduct of ASIANA set forth above, Plaintiff was required to and continues to employ physicians and other health care providers to examine, treat, and care for Plaintiff's injuries, and has incurred, and will continue to incur, medical and

incidental expenses for such examination, treatment, rehabilitation, and care in an amount according to proof.

110. By reason of the incident, Plaintiff has suffered a loss of income, and/or a loss of earning capacity, in an amount according to proof.

111. By further reason of the premises, Plaintiff suffered the loss of Plaintiff's personal property, including but not limited to personal effects and items in checked in luggage and carry-on items, in an amount according to proof at trial.

112. The Montreal Convention, formally entitled the Convention for the Unification of Certain Rules for International Carriage by Air, sets forth the liability and compensation owed by airlines for the injury and death of a passenger. Under Article 21(2), Plaintiff is entitled to provable damages in excess of 113,100 Special Drawing Rights ("SDR") due to the negligence, carelessness, gross negligence and/or recklessness of Defendant ASIANA, its agents and/or its servants, as hereinabove set forth.

WHEREFORE, Plaintiff prays for relief as set forth below.

THIRD CAUSE OF ACTION
NEGLIGENCE
(Against Defendant The Boeing Company)

113. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

114. At all relevant times hereinabove set forth, Defendant BOEING was the designer, manufacturer, distributor and/or seller of the BOEING 777 aircraft and its subsequent variants, including the subject BOEING 777-200ER. Defendant BOEING was, at all times relevant, in the business of designing, testing, manufacturing, selling, assembling, building, distributing, marketing, and/or inspecting aircraft as suitable and safe for passenger air transportation, including the subject BOEING 777-200ER that crashed at SFO on July 6, 2013.

115. At all relevant times hereinabove set forth, Defendant BOEING operated, supervised, managed and/or oversaw the training facility that trained ASIANA's pilots to fly the BOEING 777, and knew or should have known of the unfitness of ASIANA pilots to safely operate the BOEING 777-200ER for passenger air travel.

116. At all times hereinabove set forth, BOEING breached its duty of care to Plaintiff as passenger aboard ASIANA flight 214 with respect to the design, manufacture, inspection, testing, assembly, distribution, and/or sale of a safe, airworthy aircraft; including the failure to train, instruct, and/or issue advisory warnings necessary to assure the safe operation, control, management and/or maintenance of the aircraft. BOEING acts and/or omissions include, but are not limited to the following:

- failure to manufacture and provide a safe and effective auto-throttle control system on their aircraft, including the subject aircraft;
- failure to provide adequate warnings with regard to the use of the auto throttle control system on their aircraft including the subject aircraft;
- failure to manufacture and provide a safe and adequate low airspeed warning device on their aircraft, including the subject aircraft;
- failure to provide adequate warnings with regard to the use of the flight control systems on their aircraft including the subject aircraft;
- failure to manufacture and provide safe and effective flight director systems, EICAS, flight control computers and/or primary flight displays on their aircraft, including the subject aircraft.
- failure to manufacture and provide safe and effective evacuation slides/rafts for its passengers.
- failure to manufacture and provide safe and effective seating for its passengers, which included improper seatbelts, particularly for Plaintiff and those passengers of ASIANA Flight 214 who were seated in economy class who had lap-only seatbelts.
- failure to properly train pilots to constantly monitor aircraft airspeed;
- failure to properly train pilots to safely operate the auto-throttle control system aboard their aircraft;
- failure to properly train pilots to safely operate the autopilot system aboard their aircraft;

- failure to properly train pilots to safely operate and safely respond to the flight director aboard their aircraft;
- failure to properly train pilots to safely operate, monitor and respond to the flight systems aboard their aircraft;
- failure to properly train pilots to prevent their aircraft from entering into unsafe airspeeds given the flight condition/s;
- failure to properly train pilots to timely recognize and safely respond to low airspeeds given the flight condition/s.
- failure to properly train pilots to safely operate their aircraft in both Visual Meteorological Conditions ("VMC") and Instrument Meteorological Conditions ("IMC") conditions.

117. As a direct and legal result of Defendant BOEING's negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful acts and/or omissions hereinabove set forth, Plaintiff has suffered the injuries and damages hereafter set forth.

118. As a legal result of the wrongful conduct of BOEING set forth above, Plaintiff was injured in Plaintiff's health, strength, and activity, and has sustained injuries to Plaintiff's body and/or mind, all of which has caused Plaintiff great physical, mental, emotional, and nervous pain and suffering.

119. By reason of the wrongful conduct of BOEING set forth above, Plaintiff was required to and continues to employ physicians and other health care providers to examine, treat, and care for Plaintiff's injuries, and has incurred, and will continue to incur, medical and incidental expenses for such examination, treatment, rehabilitation, and care in an amount according to proof.

120. By reason of the incident, Plaintiff has suffered a loss of income and/or a loss of earning capacity, in an amount according to proof.

121. By further reason of the premises, Plaintiff suffered the loss of Plaintiff's personal property, including but not limited to personal effects and items in checked in luggage and carry-on items, in an amount according to proof at trial.

WHEREFORE, Plaintiff prays for relief as set forth below.

FOURTH CAUSE OF ACTION
BREACH OF WARRANTY
(Against Defendant The Boeing Company)

122. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

123. Defendant BOEING was the designer, manufacturer, distributor and/or seller of the Boeing 777 and its subsequent variants, including the BOEING 777-200ER.

124. Prior to the crash of ASIANA Flight 214, Defendant BOEING expressly and/or impliedly warranted and represented that the subject aircraft (the BOEING 777-200ER), including its component parts and instruments, and in conjunction with the instructions and warnings given by BOEING, was airworthy, of merchantable quality, both fit and safe for the purpose of commercial air travel for which it was designed, intended and used. Additionally, Defendant BOEING further warranted that the subject aircraft and/or its component parts were free from all defects.

125. Defendant BOEING breached said warranties in that the subject aircraft was not airworthy, of merchantable quality, or fit and safe for the purposes for which it was designed, intended and used, and free from all defects as set forth above.

126. Plaintiff, as passenger of ASIANA Flight 214, was intended third-party beneficiary of Defendant BOEING's warranties that ASIANA Flight 214 (the BOEING 777-200ER) was airworthy, of merchantable quality, both fit and safe for the purposes for which it was designed, intended and used, and free from all defects.

127. As a direct and legal result of Defendant BOEING's negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful acts and/or omissions hereinabove set forth, Plaintiff has suffered the injuries and damages hereafter set forth.

128. As a legal result of the wrongful conduct of BOEING set forth above, Plaintiff was injured in Plaintiff's health, strength, and activity, and has sustained injuries to Plaintiff's body and/or mind, all of which has caused Plaintiff great physical, mental, emotional, and nervous pain and suffering.

129. By reason of the wrongful conduct of BOEING set forth above, Plaintiff was required to and continues to employ physicians and other health care providers to examine, treat, and care for Plaintiff's injuries, and has incurred, and will continue to incur, medical and incidental expenses for such examination, treatment, rehabilitation, and care in an amount according to proof.

130. By reason of the incident, Plaintiff has suffered a loss of income and/or a loss of earning capacity, in an amount according to proof.

131. By further reason of the premises, Plaintiff suffered the loss of Plaintiff's personal property, including but not limited to personal effects and items in checked in luggage and carry-on items, in an amount according to proof at trial.

WHEREFORE, Plaintiff prays for relief as set forth below.

FIFTH CAUSE OF ACTION
STRICT LIABILITY
(Against Defendant The Boeing Company)

132. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

133. Defendant BOEING designed, manufactured, distributed and/or sold BOEING 777 and its subsequent variants, including the BOEING 777-200ER involved in the incident. Defendant BOEING was in the business of designing, testing, manufacturing, selling, assembling, building, distributing, marketing and/or inspecting aircraft as suitable for passenger air transportation, including the subject BOEING 777-200ER that crashed at SFO on July 6, 2013.

134. At all times relevant hereinabove set forth, the subject BOEING 777-200ER aircraft was being operated by ASIANA and used for the purposes of which it was manufactured, designed, inspected, sold and intended to be used, in a manner reasonably foreseeable to Defendant BOEING.

135. At all times relevant hereinabove set forth, the subject BOEING 777-200ER was defective, dangerous, unsafe, and not airworthy by reason of Defendant BOEING's defective

manufacture, design, warning systems, inspections, testing, service, and/or maintenance of the subject aircraft as set forth above.

136. As a direct and legal result of Defendant BOEING's negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful acts and/or omissions hereinabove set forth, Plaintiff has suffered the injuries and damages hereafter set forth.

137. As a legal result of the wrongful conduct of BOEING set forth above, Plaintiff was injured in Plaintiff's health, strength, and activity, and has sustained injuries to Plaintiff's body and/or mind, all of which has caused Plaintiff great physical, mental, emotional, and nervous pain and suffering.

138. By reason of the wrongful conduct of BOEING set forth above, Plaintiff was required to and continues to employ physicians and other health care providers to examine, treat, and care for Plaintiff's injuries, and has incurred, and will continue to incur, medical and incidental expenses for such examination, treatment, rehabilitation, and care in an amount according to proof.

139. By reason of the incident, Plaintiff has suffered a loss of income and/or a loss of earning capacity, in an amount according to proof.

140. By further reason of the premises, Plaintiff suffered the loss of Plaintiff's personal property, including but not limited to personal effects and items in checked in luggage and carry-on items, in an amount according to proof at trial.

WHEREFORE, Plaintiff prays for relief as set forth below.

SIXTH CAUSE OF ACTION
NEGLIGENCE
(Against Defendant Air Cruisers Company, LLC d/b/a Zodiac Aero Evacuation Systems, a subsidiary of Defendant Zodiac Aerospace, S.A.)

141. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

142. Defendant AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of Defendant ZODIAC AEROSPACE, S.A., was the

designer, manufacturer, and/or seller of the evacuation slide/raft assemblies that were installed on the Subject Aircraft.

143. Defendant AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of Defendant ZODIAC AEROSPACE, S.A., knew or should have known that the evacuation slide/raft assemblies would be susceptible to corrosion and/or would not be able to withstand a crash such as the one that occurred on July 6, 2013 aboard the Subject Aircraft. Five of the eight evacuation slides/rafts that were available to be used for disembarkation aboard the Subject Aircraft following the crash either failed to deploy at all or deployed inside the cabin of the Subject Aircraft creating additional risks of delay and injury in Plaintiff's disembarkation from the Subject Aircraft.

144. Defendant AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of Defendant ZODIAC AEROSPACE, S.A., owed a duty to the passengers of ASIANA Flight 214 to provide a safe means of disembarkation from the Subject Aircraft in the event of a crash.

145. As a direct and legal result of Defendant AIR CRUISERS COMPANY, LLC's d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of Defendant ZODIAC AEROSPACE, S.A., negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful act and/or omissions, Plaintiff was forced to jump from the Subject Aircraft without the benefit of an evacuating slide thus creating significantly dangerous situation and risking further injury to Plaintiff.

WHEREFORE, Plaintiff prays for relief as set forth herein.

SEVENTH CAUSE OF ACTION
BREACH OF WARRANTY
(Against Defendant Air Cruisers Company, LLC d/b/a Zodiac Aero Evacuation Systems, a subsidiary of Defendant Zodiac Aerospace, S.A.)

146. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

147. Defendant AIR CRUISERS/ZODIAC AEROSPACE was the designer, manufacturer, supplier evacuation slides/raft assemblies that were installed on the subject aircraft

148. Prior to the crash of ASIANA Flight 214, Defendant AIR CRUISERS/ZODIAC AEROSPACE expressly and/or impliedly warranted and represented that the evacuation slides/raft assemblies, including their component parts and instruments, and in conjunction with the instructions and warnings given by AIR CRUISERS/ZODIAC AEROSPACE, were airworthy, of merchantable quality, both fit and safe for the purpose of commercial air travel for which they were designed, intended and used. Additionally, Defendant AIR CRUISERS/ZODIAC AEROSPACE further warranted that the evacuation slides/rafts assemblies and/or their component parts were free from all defects.

149. Defendant AIR CRUISERS/ZODIAC AEROSPACE breached said warranties in that the evacuation slides/rafts assemblies were not airworthy, of merchantable quality, or fit and safe for the purposes for which they were designed, intended and used, and free from all defects as set forth above.

150. Plaintiff, as passenger of ASIANA Flight 214, was an intended third-party beneficiary of Defendant AIR CRUISERS/ZODIAC AEROSPACE 's warranties that the evacuation slides/raft assemblies on ASIANA Flight 214 were airworthy, of merchantable quality, both fit and safe for the purposes for which they were designed, intended and used, and free from all defects.

151. As a direct and legal result of Defendant AIR CRUISERS/ZODIAC AEROSPACE's negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful acts and/or omissions hereinabove set forth, Plaintiff has suffered the injuries and damages hereafter set forth.

152. As a legal result of the wrongful conduct of AIR CRUISERS/ZODIAC AEROSPACE set forth above, Plaintiff was injured in Plaintiff's health, strength, and activity, and has sustained injuries to Plaintiff's body and/or mind, all of which has caused Plaintiff great physical, mental, emotional, and nervous pain and suffering.

153. By reason of the wrongful conduct of AIR CRUISERS/ZODIAC AEROSPACE set forth above, Plaintiff was required to and continues to employ physicians and other health care providers to examine, treat, and care for Plaintiff's injuries, and has incurred, and will

continue to incur, medical and incidental expenses for such examination, treatment, rehabilitation, and care in an amount according to proof.

154. By reason of the incident, Plaintiff has suffered a loss of income and/or a loss of earning capacity, in an amount according to proof.

155. By further reason of the premises, Plaintiff suffered the loss of Plaintiff's personal property, including but not limited to personal effects and items in checked in luggage and carry-on items, in an amount according to proof at trial.

WHEREFORE, Plaintiff prays for relief as set forth below.

EIGHTH CAUSE OF ACTION
STRICT LIABILITY
(Against Defendant Air Cruisers Company, LLC d/b/a Zodiac Aero Evacuation Systems, a subsidiary of Defendant Zodiac Aerospace, S.A.)

156. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

157. Defendant AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of Defendant ZODIAC AEROSPACE, S.A., designed, manufactured, inspected and/or sold the evacuation slide/raft assemblies that were installed on the Subject Aircraft.

158. At all relevant times, ASIANA used the evacuation slide/raft assemblies for the purposes for which they were manufactured, designed, inspected, sold, and intended to be used, in a manner reasonably foreseeable to Defendant AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of Defendant ZODIAC AEROSPACE, S.A..

159. The evacuation slide/raft assemblies were defective, dangerous, unsafe and/or not airworthy or crashworthy as a result of Defendant AIR CRUISERS COMPANY, LLC's d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of Defendant ZODIAC AEROSPACE, S.A., defective design, manufacture, testing, maintenance, service, warnings, directives and/or inspection of evacuation slide/raft assemblies on the Subject Aircraft.

160. By manufacturing the evacuation slides/rafts in such a defective manner that the majority of them either malfunctioned or did not deploy at all, AIR CRUISERS COMPANY, LLC d/b/a ZODIAC AERO EVACUATION SYSTEMS, a subsidiary of ZODIAC AEROSPACE, S.A., created an unnecessarily dangerous situation which imperiled the lives of those passengers seeking to evacuate Flight 214 after its crash on July 6, 2013.

161. As a direct and legal result of Defendant AIR CRUISERS/ZODIAC AEROSPACE negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful acts and/or omissions hereinabove set forth, Plaintiff has suffered the injuries and damages hereafter set forth.

162. As a legal result of the wrongful conduct of AIR CRUISERS/ZODIAC AEROSPACE set forth above, Plaintiff was injured in Plaintiff's health, strength, and activity, and has sustained injuries to Plaintiff's body and/or mind, all of which has caused Plaintiff great physical, mental, emotional, and nervous pain and suffering.

163. By reason of the wrongful conduct of AIR CRUISERS/ZODIAC AEROSPACE set forth above, Plaintiff was required to and continues to employ physicians and other health care providers to examine, treat, and care for Plaintiff's injuries, and has incurred, and will continue to incur, medical and incidental expenses for such examination, treatment, rehabilitation, and care in an amount according to proof.

164. By reason of the air crash, Plaintiff has suffered a loss of income and/or a loss of earning capacity, in an amount according to proof.

165. By further reason of the premises, Plaintiff suffered the loss of Plaintiff's personal property, including but not limited to personal effects and items in checked in luggage and carry-on items, in an amount according to proof at trial.

WHEREFORE, Plaintiff prays for relief as set forth below.

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NINTH CAUSE OF ACTION
LOSS OF CONSORTIUM
(Against All Defendants)

166. Plaintiff incorporates and re-alleges each of the allegations set forth above as though fully set forth herein.

167. Plaintiff is, and at all times herein mentioned was, spouse to a passenger on Flight 214 on July 6, 2013.

168. Plaintiff has been harmed by the acts and/or omissions of Defendants that have resulted in the injuries suffered by Plaintiff's spouse, described herein above.

169. Prior to Defendants' negligence, carelessness, gross negligence, recklessness and/or otherwise wrongful acts and/or omissions hereinabove set forth, Plaintiff's spouse was able to and did perform all the duties of a spouse, including assisting in maintaining the home, caring for the child, working to help support the family, and providing the support and comfort to the spouse.

170. As a direct and legal result of the wrongful conduct of Defendants hereinabove set forth, Plaintiff has been deprived and will be deprived of the consortium of Plaintiff's spouse, including the loss of the enjoyment of sexual relations and/or the loss of love, companionship, comfort, care, assistance, protection, affection, society, sexual relations, and/or moral support, all to the detriment of Plaintiff's marriage.

WHEREFORE, Plaintiff prays for relief as set forth below.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as hereinafter set forth below.

1. For compensatory and general damages according to proof;
2. For past and future medical expenses and incidental expenses according to proof;
3. For past and future loss of earnings and earning capacity according to proof;
4. For loss of personal property and personal effects according to proof;
5. For loss of consortium according to proof;
6. For pre- and post-judgment interest on all damages as allowed by the law;

7. For attorneys and expert/consultant fees under existing law;

8. For injunctive relief mandating that all Asiana pilots receive comprehensive training and demonstrate minimum proficiency in landing procedures and basic safety protocols.

9. For costs of suit incurred herein; and

10. For such other and further relief as the Court may deem just and proper.

Dated: May 12, 2014 **COTCHETT PITRE & McCARTHY, LLP**

By: */s/ Frank M. Pitre*
FRANK M. PITRE
Liaison Counsel for Plaintiffs

VII. JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Dated: May 12, 2014 **COTCHETT PITRE & McCARTHY, LLP**

By: */s/ Frank M. Pitre*
FRANK M. PITRE
Liaison Counsel for Plaintiffs