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Attorneys for Plaintiff  
ROBERTA KINOSHITA, Personal Representative of the  
Estate of FRED SEIKO KANESHIRO,  
also known as SEIKO KANESHIRO

**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT**  
**STATE OF HAWAI'I**

ROBERTA KINOSHITA, Personal  
Representative of the Estate of FRED SEIKO  
KANESHIRO, also known as SEIKO  
KANESHIRO,

Plaintiff,

v.

CITY AND COUNTY OF HONOLULU;  
HONOLULU EMERGENCY SERVICES  
DEPARTMENT; HONOLULU EMERGENCY  
MEDICAL SERVICES DIVISION; PETER  
MATSUURA; JEFFREY WILKINSON;  
CRAMER-DECKER INDUSTRIES, INC. dba  
PRORACK GAS CONTROL PRODUCTS;  
CRAMER-DECKER MEDICAL, INC.;  
AIRGAS GASPRO, INC.; AIRGAS USA, LLC;  
AIR LIQUIDE HEALTHCARE AMERICA  
CORPORATION; BOUND TREE MEDICAL,  
LLC; MERET USA, LLC; RESCUE SAFETY  
PACIFIC, INC.; JOHN DOES 1-10; JANE  
DOES 1-10; DOE CORPORATIONS 1-10;  
DOE PARTNERSHIPS 1-10; DOE LIMITED  
LIABILITY COMPANIES 1-10; DOE

CIVIL NO. \_\_\_\_\_  
(Other Non-Vehicle Tort)  
(Vehicle Tort)

**COMPLAINT; DEMAND FOR  
JURY TRIAL; SUMMONS**

BUSINESS ENTITIES 1-10; DOE  
GOVERNMENTAL ENTITIES 1-10; and DOE  
UNINCORPORATED ASSOCIATIONS 1-10,

Defendants.

## **COMPLAINT**

COMES NOW Plaintiff ROBERTA KINOSHITA, Personal Representative of the Estate of FRED SEIKO KANESHIRO, also known as SEIKO KANESHIRO, by and through her attorneys, MIYASHITA & O’STEEN, LLLC, for causes of action against Defendants CITY AND COUNTY OF HONOLULU; HONOLULU EMERGENCY SERVICES DEPARTMENT; HONOLULU EMERGENCY MEDICAL SERVICES DIVISION; PETER MATSUURA; JEFFREY WILKINSON; CRAMER-DECKER INDUSTRIES, INC. dba PRORACK GAS CONTROL PRODUCTS; CRAMER-DECKER MEDICAL, INC.; AIRGAS GASPRO, INC.; AIRGAS USA, LLC; AIR LIQUIDE HEALTHCARE AMERICA CORPORATION; BOUND TREE MEDICAL, LLC; MERET USA, LLC; RESCUE SAFETY PACIFIC, INC.; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE LIMITED LIABILITY COMPANIES 1-10; DOE BUSINESS ENTITIES 1-10; DOE GOVERNMENTAL ENTITIES 1-10; and DOE UNINCORPORATED ASSOCIATIONS 1-10, above-named, and hereby alleges and avers as follows:

### **PARTIES TO THE CAUSE OF ACTION**

1. Plaintiff ROBERTA KINOSHITA (hereinafter, “Ms. Kinoshita” or “Plaintiff”), at all times relevant hereto, is and was a resident of the City and County of Honolulu, State of Hawai‘i.

2. At all times material to the Complaint, FRED SEIKO KANESHIRO, also known as SEIKO KANESHIRO (hereinafter, “Mr. Kaneshiro”), deceased, was a resident of the City and County of Honolulu, State of Hawai‘i.

3. Defendant CITY AND COUNTY OF HONOLULU (hereinafter, “C&C”), at all times relevant hereto, is and continues to be a duly organized municipal corporation under the laws of the State of Hawai‘i.

4. Upon information and belief, the Hawai‘i State Legislature established a state-wide Emergency Medical Services system pursuant to Part XVIII of Chapter 321 of the Hawai‘i Revised Statutes, and a County Emergency Medical Services system for each County was established pursuant to Part XI of Chapter 46 of the Hawai‘i Revised Statutes.

5. Defendant HONOLULU EMERGENCY SERVICES DEPARTMENT (hereinafter, “HESD”) is and continues to be a department and agency of Defendant City & County, at all relevant times.

6. Defendant HONOLULU EMERGENCY MEDICAL SERVICES DIVISION (hereinafter, “EMS”) is and continues to be a division within Defendant HESD, at all relevant times.

7. At all times material to this Complaint, Defendant PETER MATSUURA (hereinafter “EMT MATSUURA”) was and is a resident of the County of Honolulu, State of Hawai‘i.

8. Defendant EMT MATSUURA was/is an Emergency Medical Technician (“EMT”) with the job classification or rank of EMTII who provided and/or participated in the preparation leading up to the care, treatment and/or emergency transport of Mr. Kaneshiro and the actual care, treatment and/or emergency transport of Mr. Kaneshiro.

9. Defendant EMT MATSUURA was/is an employee acting within the course and scope of such employment and/or agent and/or apparent agent and/or ostensible agent and/or agent by estoppel of Defendants C&C, HESD, and/or EMS.

10. At all times material to this Complaint, Defendant JEFFREY WILKINSON (hereinafter “MICT WILKINSON”) is and was a resident of the County of Honolulu, State of Hawai‘i.

11. Defendant MICT WILKINSON was/is a Mobile Intensive Care Technician (“MICT”) certified by the board as an EMT-Paramedic who provided and/or participated in the preparation leading up to the care, treatment and/or emergency transport of Mr. Kaneshiro and the actual care, treatment and/or emergency transport of Mr. Kaneshiro.

12. Defendant MICT WILKINSON was/is an employee acting within the course and scope of such employment and/or agent and/or apparent agent and/or ostensible agent and/or agent by estoppel of Defendants C&C, HESD, and/or EMS.

13. Defendants C&C, HESD, EMS, EMT MATSUURA, and MICT WILKINSON are hereinafter collectively referred to as “EMS Defendants.”

14. Upon information and belief, the mission statement of the EMS Defendants is to: (1) provide quality pre-hospital emergency medical care and services to residents and visitors of Oahu, 24 hours a day, 7 days a week, (2) prevent injuries and promote safer, healthier lifestyles, and (3) educate the public about Emergency Medical Services.

15. Upon information and belief, the EMS Defendants’ philosophy is “O Ka Mea Ma‘i Ka Mua” (“The person sick is first”).

16. Upon information and belief, and at all times material to this Complaint, Defendant CRAMER-DECKER INDUSTRIES, INC. dba PRORACK GAS CONTROL PRODUCTS

(hereinafter, “Defendant CDI”) was and/or is a legal entity, partnership, limited partnership, corporation, professional corporation, professional association, proprietorship, and/or other similar entity, organized and doing business under the laws of the State of California, with a principal place of business at 1300 E. Wakeham Ave., Suite A, Santa Ana, CA 92705-4145, as well as doing business in the City and County of Honolulu, State of Hawai‘i by selling medical specialty products including but not limited to medical oxygen equipment and supplies.

17. Upon information and belief, and at all times material to this Complaint, Defendant CRAMER-DECKER MEDICAL, INC. (hereinafter, “Defendant CDM”) was and/or is a legal entity, partnership, limited partnership, corporation, professional corporation, professional association, proprietorship, and/or other similar entity, organized and doing business under the laws of the State of California, with a principal place of business 1641 E St Andrew Pl, Santa Ana, CA 92705, as well as doing business in the City and County of Honolulu, State of Hawai‘i by selling medical specialty products including but not limited to medical oxygen equipment and supplies. On or about July 4, 2010, Defendant CDM merged into CDI.

18. Upon information and belief, and at all times material to this Complaint, Defendant BOUND TREE MEDICAL, LLC (hereinafter, “Defendant BTM”) is a foreign limited liability company organized and formed in the State of California with its principal place of business at 5000 Tuttle Crossing Blvd., Dublin, Ohio 43016-1534, and also registered in the State of Hawai‘i as a foreign limited liability company with a mailing address of 5000 Tuttle Crossing Blvd., Dublin, Ohio 43016.

19. At all times material to this Complaint, Defendant BTM regularly conducts business and is engaged in the business of wholesale and/or retail distribution of prehospital emergency medical supplies, equipment, and pharmaceuticals for EMS care providers which

includes but is not limited to Ohmeda type “quick-connect” connectors, non-rebreather masks and hoses, CPAP masks and hoses, and oxygen cylinder/tank “gaskets” (called “O-ring washer” in the ECRI and HFD investigative reports) for use with the oxygen cylinder/tank regulator assembly. In addition, it provides services to support its customers with equipment servicing, reimbursements, and training.

20. At all times material to this Complaint, Defendant AIRGAS GASPRO, INC. (hereinafter, “Defendant GASPRO”) was registered in the State of Hawai‘i on June 4, 2004, as a foreign corporation regularly conducting business in the City and County of Honolulu, State of Hawai‘i, selling, servicing, supplying, processing, maintaining, and/or distributing industrial, medical and specialty gases, and related equipment, tools, and supplies; and Defendant GASPRO being organized and formed in the State of Delaware. On or about July 20, 2007, Defendant GASPRO merged with AIRGAS WEST, INC. On or about March 27, 2012, there was a merger/consolidation between AIRGAS WEST, INC. and AIRGAS USA, LLC.

21. At all times material to this Complaint, Defendant AIRGAS USA, LLC (hereinafter, “Defendant AIRGAS”) is a limited liability company organized and formed in the State of Virginia with its headquarters and principal business address at 259 North Radnor-Chester Road, Suite 100, Wayne, Pennsylvania 19087-5256, and registered in the State of Hawai‘i as a foreign limited liability company and also conducts business within the State of Hawai‘i at 2305 Kamehameha Highway, Honolulu, Hawai‘i 96819.

22. Upon information and belief, at all times relevant Defendant AIRGAS regularly conducts business in the City and County of Honolulu, State of Hawai‘i, and is engaged in the business of gases (industrial, medical-grade and specialty), medical gas regulators and related gas equipment, and welding & safety products, and sells, services, supplies, processes, maintains,

and/or distributes industrial, medical and specialty gases, and related equipment, tools, and supplies.

23. At all times material to this Complaint, Defendant AIR LIQUIDE HEALTHCARE AMERICA CORPORATION (hereinafter, “Defendant ALHAC”) is a corporation organized and formed in the State of Florida with its headquarters and principal business address at 9811 Katy Fwy., Suite 100, Houston, TX 77024-1201, registered in the State of Hawai‘i as a foreign corporation, and at on or about December 22, 2016, merged with Defendant AIRGAS.

24. Upon information and belief, at all times relevant Defendant ALHAC regularly conducts business in the City and County of Honolulu, State of Hawai‘i and is engaged in selling emergency medical equipment, medical gases and associated services, medical gas-related products, and/or supplies.

25. At all times material to this Complaint, Defendant MERET USA, LLC (hereinafter, “Defendant MERET”) is a limited liability company organized and formed in the State of Delaware with its principal place of business at 1209 N. Orange Street, Wilmington, Delaware 19801-1120.

26. Upon information and belief, at all times relevant Defendant MERET regularly conducts business within the State of Hawai‘i and sells emergency response products.

27. At all times material to this Complaint, Defendant RESCUE SAFETY PACIFIC, INC. (hereinafter, “Defendant RSPI”) is a domestic corporation organized and formed in the State of Hawai‘i with its principal place of business at 96-1197 Waihona Street, Unit E1, Pearl City, Hawai‘i 96782-1978.

28. Upon information and belief, at all times relevant Defendant RSPI regularly conducts business within the State of Hawai‘i and sells emergency medical equipment, safety products, and supplies.

29. Defendants CDI, CDM, BTM, GASPRO, AIRGAS, ALHAC, MERET, and RSPI, are collectively referred to as “Products Defendants.”

30. JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE LIMITED LIABILITY COMPANIES 1-10; DOE BUSINESS ENTITIES 1-10; DOE GOVERNMENTAL ENTITIES 1-10; and DOE UNINCORPORATED ASSOCIATIONS 1-10, including but not limited to any and all agents, servants, employees, employers, staff, representatives, co-venturers, associates, vendors, suppliers, manufacturers, distributors, dealers, designers, engineers, subcontractors, independent contractors, owners, shareholders, directors, officers, subsidiaries, affiliates, parent companies, alter egos, members, managers, lessors, lessees, sublessors, sublessees, assignees, licensees, and/or designees of the named EMS Defendants and Products Defendants, and any and all sellers, providers, vendors, suppliers, servicers, manufacturers, distributors, maintainers, and/or dealers of the products involved in the explosion at issue in this case (hereinafter collectively referred to as “Doe Defendants”), are sued herein under fictitious names for the reason that their true names and identities are presently unknown to Plaintiff except that they were in some manner presently unknown to Plaintiff engaged in the activities alleged herein and/or are in some manner legally responsible for the damages and/or injuries to Plaintiff and Plaintiff prays for leave to certify their true names, identities, capacities, activities and/or responsibilities when the same are ascertained. Plaintiff has been unable to identify said Doe Defendants despite due diligence which included



client interviews, reviewing investigative and incident records/reports, and reviewing internet records.

31. The defendants identified in paragraphs 3 – 30 above, are hereinafter collectively referred to as “Defendants.”

32. Plaintiff is informed and believes and, on that basis, alleges that, at all times herein mentioned, each of the Defendants, except as otherwise alleged, was the agent, servant, employee and/or joint venture of the other Defendants, and each of them, and at all said times, each Defendant was acting in the full course and scope of said agency, service, employment and/or joint venture. Certain Defendants agreed and conspired among themselves, and with certain other individuals and/or entities, to act, or not to act, in such a manner that resulted in the injury to Mr. Kaneshiro, deceased; and such Defendants, as co-conspirators, are liable for the acts, or failures to acts, of other Defendants.

33. In addition, Plaintiff is informed and believes and on that basis alleges that, at all times herein mentioned, each of the Products Defendants was the successor, successor in business, successor in product line or a portion thereof, alter-ego, parent, subsidiary, wholly or partially owned by, or the whole or partial owner of or member in an entity designing, manufacturing, assembling, inspecting, packaging, modifying, selling, supplying, distributing, marketing, advertising and/or warranting the products involved in the explosion at issue in this case (hereinafter the “Subject Medical Equipment”), which includes but is not limited to the portable oxygen cylinder/tank (size jumbo-D) (hereinafter the “Subject portable oxygen cylinder/tank”), the oxygen cylinder/tank regulator assembly (hereinafter the “Subject oxygen cylinder/tank regulator assembly”), and the oxygen cylinder/tank regulator “gasket” or “O-ring washer”

(hereinafter the “Subject oxygen cylinder/tank regulator ‘gasket’ or ‘O-ring washer’”), and any respective components or supplies related to the Subject Medical Equipment.

34. The Products Defendants submitted to the jurisdiction of this Court by doing personally or through their agents the following acts:

- a. Committing a tortious act within the State of Hawai‘i by manufacturing, distributing, selling and/or delivering defective or dangerous products to persons, firms, or corporations in this State via its distributors, dealers, wholesalers, and brokers. These defective or dangerous products were used by consumers in Hawai‘i in the ordinary course of commerce and trade;
- b. Conducting and engaging in substantial business and other activities in Hawai‘i by manufacturing, distributing, selling and/or delivering defective or dangerous products to persons, firms, or corporations in this State via its distributors, wholesalers, dealers, and brokers. Such products were used by consumers in Hawai‘i in the ordinary course of commerce and trade;
- c. The acts and omissions of the Products Defendants caused injury to Mr. Kaneshiro, deceased, while in Hawai‘i. Mr. Kaneshiro, deceased, used the defective or dangerous product, specifically Subject Medical Equipment while in Hawai‘i. At or about the time Mr. Kaneshiro, deceased, was injured, Product Defendants engaged in solicitation activities in Hawai‘i to promote the sale, use, maintenance, inspection, and/or repair of their products;
- d. At all pertinent times, Product Defendants derived substantial revenue from the sale and use of their products in the State of Hawai‘i; and,
- e. Selling and offering products with knowledge or reason to foresee that these products would be shipped in interstate commerce and would reach the market of Hawai‘i users or consumers.

#### **STATEMENT OF JURISDICTION AND VENUE**

35. This Court has subject matter jurisdiction over the claims set forth in this Complaint pursuant to HRS § 603-21.5, and has personal jurisdiction over Defendants pursuant to HRS § 634-35. Venue is appropriate in the First Circuit Court of the State of Hawai‘i pursuant to HRS § 603-36. Moreover, one or more of the Defendants is a resident or municipal corporation in the

State of Hawai‘i, the Defendants are joint tortfeasors, and the Incident occurred in the First Circuit Court of the State of Hawai‘i.

36. All conditions precedent to the maintenance of this action have been satisfied, waived, or occurred.

### **STATEMENT OF MATERIAL FACTS**

37. On August 24, 2022, Defendants EMT MATSUURA and MICT WILKINSON were assigned to work the 1200 to 2400 shift at the Kaneohe Ambulance station of the Honolulu Emergency Medical Services Division, and both Defendants EMT MATSUURA and MICT WILKINSON started their regular work-shift on this day.

38. On August 24, 2022, EMS dispatched Defendants EMT MATSUURA and MICT WILKINSON to the Windward City Shopping Center (“Windward Mall”) to provide help and/or medical assistance for a 91-year-old male.

39. Defendants EMT MATSUURA and MICT WILKINSON responded and arrived at the Windward Mall via an EMS ambulance and located Mr. Kaneshiro. They performed an assessment and provided Mr. Kaneshiro with supplemental oxygen via a non-rebreather mask that was connected to the Subject portable oxygen cylinder/tank (size jumbo-D).

40. Defendants EMT MATSUURA and MICT WILKINSON strapped Mr. Kaneshiro onto a gurney, transported Mr. Kaneshiro to the EMS ambulance, and then transferred Mr. him into the EMS ambulance in the patient compartment. Mr. Kaneshiro was sitting up and conscious as he was loaded into the EMS ambulance.

41. After Mr. Kaneshiro was loaded and secured into the patient compartment of the EMS ambulance, Defendants EMT MATSUURA and MICT WILKINSON began their transport of Mr. Kaneshiro from Windward Mall to Castle Medical Center’s emergency room.

42. The EMS ambulance was driven and operated by Defendant EMT MATSUURA while Defendant MICT WILKINSON attended to Mr. Kaneshiro in the patient compartment of the Subject EMS ambulance.

43. At some point while enroute to Castle Medical Center's emergency room, Defendant MICT WILKINSON decided to change oxygen administration to Mr. Kaneshiro from the non-rebreather mask that was connected to the Subject portable oxygen cylinder/tank to a CPAP (continuous positive airway pressure) mask that received oxygen from the main oxygen system of the EMS ambulance via a wall outlet or port. The wall outlet or port for oxygen is connected to a main Y size oxygen cylinder/tank. About the same time the CPAP mask was affixed to Mr. Kaneshiro's nose and mouth, an IV line was also established for him. Mr. Kaneshiro at this time was alert and oriented.

44. As the EMS ambulance carrying Mr. Kaneshiro approached or was entering Castle Medical Center's parking lot to the emergency room facility Defendant MICT WILKINSON commenced switching Mr. Kaneshiro from the non-rebreather mask (connected by a hose to the Subject oxygen cylinder/tank regulator assembly attached to the Subject portable oxygen cylinder/tank) to a CPAP mask which drew its oxygen supply from the wall outlet of the EMS ambulance.

45. Defendant MICT WILKINSON disconnected or detached the CPAP mask hose's male connector from the Ohmeda quick-connect wall outlet located in the ambulance wall - the main Y size oxygen cylinder/tank supplying oxygen to the EMS ambulance's wall outlet - and then to Mr. Kaneshiro's CPAP mask. Defendant MICT WILKINSON did not turn off the oxygen regulator assembly.

46. While Defendant MICT WILKINSON attempted to or was in the process of connecting, attaching, and/or coupling the CPAP mask hose's male connector to the female connector of the hose attached to the Subject portable oxygen cylinder/tank, a loud explosion occurred, which was immediately followed by a bright flash and a violent fire erupting around Defendant MICT WILKINSON in the EMS ambulance patient compartment ("Subject Fire" or "Fire").

47. At or around this time, the Subject portable oxygen cylinder/tank's valve was open, and the gas regulator was pressurized.

48. Defendant MICT WILKINSON did not turn off the oxygen flow from the main Y size oxygen cylinder/tank before or after disconnecting or detaching Mr. Kaneshiro's CPAP mask hose's male connector from the Ohmeda quick-connect wall outlet.

49. A loud hissing noise described as a propane blow torch was also heard from the direction of the Subject portable oxygen cylinder/tank regulator mounted on or attached to the Subject portable oxygen cylinder/tank.

50. When the loud explosion occurred, the plexiglass panel separating the driver's compartment from the EMS ambulance patient compartment was forcefully blown into the driver's compartment, and the driver's compartment immediately filled up with black smoke and intense heat.

51. The EMS ambulance Fire was amplified by 100% O<sub>2</sub> under high pressure acting as an oxidizer, and the O<sub>2</sub> cylinder, which is a component of the Subject portable oxygen cylinder/tank and regulator assembly, acted like a large flamethrower igniting surrounding materials easily and quickly, and the continuous flow of O<sub>2</sub> out of the regulator most likely created the loud hissing.

52. Defendant EMT MATSUURA stopped the EMS Ambulance in the parking lot of the Castle Medical Center, opened his driver's door, and exited the EMS Ambulance. He immediately ran to the back of the ambulance and pulled open the rear door. A black plume of smoke poured out from inside the rear of the EMS ambulance.

53. Defendant MICT WILKINSON then jumped out of the back of the EMS ambulance. Once outside, Defendant MICT WILKINSON quickly made his way up towards the emergency room for treatment.

54. Mr. Kaneshiro remained helpless and trapped in the EMS ambulance's compartment still strapped to the gurney. The Fire, which was described as a fireball coming out of the rear door of the EMS ambulance, completely engulfed Mr. Kaneshiro and the entire patient compartment.

55. After Honolulu Fire Department ("HFD") arrived, HFD initiated a Fire Attack through the open rear door of the ambulance. It took firefighters nearly 10 minutes to extinguish the Fire because it continued to reignite.

56. After the Fire was finally extinguished, a search in the patient compartment of the EMS ambulance was conducted and it was confirmed there was one victim, Mr. Kaneshiro, who was located on the gurney. Mr. Kaneshiro, who was strapped down onto a gurney, did not make it out and burned to death from the fire.

57. Fred Seiko Kaneshiro, also known as Seiko Kaneshiro: (1) was pronounced dead on August 24, 2022, at approximately 2013 hours by Dr. Yoshiyuki Kikuchi, and (2) was pronounced dead on August 24, 2022, at approximately 2051 hours by Dr. Michael Dung.

**COUNT I – NEGLIGENCE/GROSS NEGLIGENCE - SURVIVAL**  
**(EMS Defendants)**

58. The allegations made in the foregoing paragraphs are hereby incorporated by reference as though fully set forth herein.

59. Plaintiff Roberta Kinoshita, as Personal Representative of the Estate of Mr. Kaneshiro, brings this action on behalf of the Estate of Fred Seiko Kaneshiro, by virtue of the Hawai‘i Revised Statutes (“HRS”) §§ 560:3-703(c) and 663-7.

60. At all times relevant herein, Mr. Kaneshiro exercised all appropriate due care and in no way contributed to the occurrence of the Subject Fire and/or his injuries, death, and damages.

61. At all times relevant herein, Mr. Kaneshiro was an occupant, passenger, and patient in the EMS Defendants’ ambulance receiving emergency medical care and/or services as a prehospital patient of the EMS Defendants.

62. Mr. Kaneshiro, deceased, expired while being transported and in the custody of the EMS Defendants as an occupant, passenger, and patient inside of the EMS ambulance. The EMS ambulance, in which Mr. Kaneshiro, deceased, was an occupant, passenger, and patient therein, was a 2016 Ford, Model: F350 XLT, VIN: 1FDRF3GT0GEA23746 with License Plate No. C&C 8785, and the Registered Owner was and is City and County of Honolulu, Emergency Medical Services.

63. At all times relevant herein, EMS Defendants owed Mr. Kaneshiro the following duties:

- (a) Duty to exercise reasonable care;
- (b) Duty to maintain a clean and safe passenger compartment within the Subject EMS ambulance free of contaminants, unreasonable harm, and/or dangers;
- (c) Duty to supervise, monitor, and enforce the implementation and adherence to maintaining a clean and safe passenger compartment within the Subject EMS ambulance free of unreasonable harm and dangers;

- (d) Duty to avoid contamination to oxygen equipment and components thereto;
- (e) Duty to supervise, monitor, and enforce the implementation and adherence to avoidance of contamination to oxygen equipment and components thereto;
- (f) Duty to inspect, maintain, repair, and/or replace its equipment and medical equipment;
- (g) Duty to supervise, monitor, and enforce the implementation and adherence to the inspection, maintenance, repair, and/or replacement of its equipment and medical equipment;
- (h) Duty to inspect, repair, service and/or replace old, worn, outdated, damaged, defective, aged, and/or improperly working equipment and medical equipment;
- (i) Duty to follow all written policies, procedures, and guidelines;
- (j) Duty to supervise, monitor, and enforce the implementation and adherence to all written policies, procedures, and guidelines;
- (k) Duty to follow safety policies, procedures, and guidelines;
- (l) Duty to supervise, monitor, and enforce the implementation and adherence to all safety policies, procedures, and guidelines;
- (m) Duty to follow equipment and medical equipment operational, use, and maintenance policies, procedures, and guidelines;
- (n) Duty to supervise, monitor, and enforce the implementation and adherence to all equipment and medical equipment operational, use, and maintenance policies, procedures, and guidelines;
- (o) Duty to follow equipment and medical equipment safety policies, procedures, and guidelines;
- (p) Duty to supervise, monitor, and enforce the implementation and adherence to all equipment and medical equipment safety policies, procedures, and guidelines;
- (q) Duty to follow all training policies, procedures, and guidelines in regards to the prehospital care of patients, including Mr. Kaneshiro, and/or,
- (r) Duty to supervise, monitor, and enforce the implementation and adherence to all training policies, procedures, and guidelines in regards to the prehospital care of patients, including Mr. Kaneshiro.

64. At all times relevant herein, EMS Defendants breached their duties and were negligent, grossly negligent, reckless, and/or careless, in one or more of the following particulars:

- (a) Failing to provide a safe environment for patients;
- (b) Failing to exercise due and reasonable care under the circumstances;
- (c) Failing to properly install the Subject Medical Equipment;
- (d) Failing to properly operate/use the Subject Medical Equipment;
- (e) Failing to properly monitor and control the Subject Medical Equipment;



- (f) Failing to properly inspect the Subject Medical Equipment;
- (g) Failing to properly select and/or purchase equipment that are reasonable safe for use on or by patients;
- (h) Failing to provide appropriate and/or sufficient safety devices;
- (i) Creating an unreasonably dangerous and hazardous condition in the Subject EMS ambulance;
- (j) Failing to provide sufficient warning as to the unreasonably dangerous and hazardous condition in the patient compartment of the Subject EMS ambulance;
- (k) Failing to take reasonable steps to prevent, discover, eliminate, and/or safeguard against the unreasonably dangerous and hazardous condition in the patient compartment of the Subject EMS ambulance;
- (l) Failing to adequately educate, train, supervise, monitor, and/or discipline its employees including but not limited to paramedics, EMTs, and/or MICTs, on the safe and proper maintenance, operation, and/or use of its portable oxygen cylinders/tanks (including the valve mechanism in the cylinder/tank stem), portable oxygen cylinder/tank regulator assemblies, and portable oxygen cylinder/tank gaskets, including the Subject Medical Equipment involved in this Subject Fire;
- (m) Failing to adequately inspect, maintain, repair, and/or replace its aged, worn, outdated, overused, damaged, defective, faulty, poor working condition, malfunctioning, and/or contaminated equipment, components, tools, supplies, and oxygen cylinders/tanks; and/or,
- (n) Failing to adopt, enact, employ and enforce proper and adequate safety programs, training, precautions, procedures, measures and plans.

65. EMS Defendants knew and/or reasonably should have known that their conduct placed Mr. Kaneshiro in risk of serious bodily injury and/or death.

66. The aforesaid negligence and/or gross negligence of EMS Defendants increased the risk of harm and death to Mr. Kaneshiro and was a direct and proximate cause of his injuries, death, and damages.

67. The aforesaid negligence and/or gross negligence of EMS Defendants and/or its employees, representatives, and/or agents occurred within the scope of their employment and/or in their capacity as agents of said EMS Defendants.

68. EMS Defendants are also vicariously liable for the aforesaid negligence and/or gross negligence of their employees, representatives, and/or agents, including but not limited to,

their apparent agents and/or ostensible agents and/or agents by estoppel and/or persons who acted with their apparent authority, under the doctrine of *respondeat superior* and/or principles of agency.

69. EMS Defendants' negligence and/or gross negligence was a substantial factor and legal cause of the injuries, death, and damages sustained by Mr. Kaneshiro as herein alleged and EMS Defendants are liable for the injuries, death, and damages legally caused by their conduct alleged herein in an amount to be proven at trial.

70. Because EMS Defendants' conduct was such an extreme departure from ordinary standards of care, it rose to the level of gross negligence, recklessness, and/or willful and wanton misconduct.

71. The conduct of EMS Defendants as described herein was grossly negligent, reckless and/or willful and wanton, and further, demonstrated a conscious disregard for Mr. Kaneshiro's safety, wellbeing, and life. Plaintiff is therefore entitled to an award of punitive damages in an amount to be proved at trial that is sufficient to adequately punish said EMS Defendants given their financial condition and to deter them from such conduct in the future.

**COUNT II – NEGLIGENCE/GROSS NEGLIGENCE (COMMON CARRIER) -  
SURVIVAL**  
**(EMS Defendants)**

72. The allegations made in the foregoing paragraphs are hereby incorporated by reference as though fully set forth herein.

73. Upon information and belief, and at all times relevant herein, Mr. Kaneshiro exercised all appropriate due care and in no way contributed to the occurrence of the Subject Fire and/or his injuries, death, and damages.

74. At all times relevant herein, Mr. Kaneshiro was an occupant, passenger, and patient in EMS Defendants' ambulance operated by EMT Peter Matsuura, with MICT Jeffrey Wilkinson manning the patient compartment of the EMS ambulance.

75. EMS Defendants used and operated the Subject EMS ambulance to pick up and transport Mr. Kaneshiro on and through certain public roads and/or streets in the City and County of Honolulu, State of Hawai'i.

76. At all times relevant, EMS Defendants and/or their employees, agents, and contractors were on duty and acting within the course and scope of their employment when they initially responded to and obeyed their EMS dispatch orders, directives, and/or instructions as to Mr. Kaneshiro's need for help, assistance, and/or transport.

77. At all times relevant herein, (1) EMS ambulance and motor vehicle was owned, operated, and used on the public streets and/or public highways in the City and County of Honolulu, State of Hawai'i, by EMS Defendants and its staff, and (2) the Registered Owner of the EMS ambulance and motor vehicle, was and is: City and County of Honolulu, Emergency Medical Services, and said ambulance had Hawai'i License Plate No. C&C 8785.

78. At all times relevant herein, EMS Defendants is a "motor carrier" as defined by Hawai'i Revised Statutes §286-201.

79. At all times relevant herein, the EMS ambulance is a "motor carrier vehicle" as defined by Hawai'i Revised Statutes §286-201.

80. At all times relevant herein, EMS Defendants is a "motor vehicle common carrier of passengers" as defined by Hawai'i Revised Statutes §288-2.

81. The EMS Defendants are common carriers having exclusive custody of persons with their property, who are helpless to protect themselves, and owed the highest degree of care in preventing injury to their passengers, including Mr. Kaneshiro.

82. EMS Defendants (1) established a special relationship with its patients, including Mr. Kaneshiro, (2) engaged in the business of transport, (3) the business of EMS Defendants were to transport persons, including Mr. Kaneshiro (4) EMS Defendants did not have fixed routes, (5) EMS Defendants had a published fee schedule for emergency medical services and transport it provided to the general public, including Mr. Kaneshiro, and (6) EMS Defendants were required to serve the emergency health needs of the people in the City and County of Honolulu, including Mr. Kaneshiro, pursuant to Hawaii Revised Statutes, Section 46-192.

83. At all times relevant herein, EMS Defendants as owners and/or operators of its EMS ambulance: (1) owed a duty to protect Mr. Kaneshiro, as a passenger from injury, harm, and/or death, (2) owed a duty to aid Mr. Kaneshiro, as a passenger from injury, harm, and/or death, and/or (3) owed a duty to rescue Mr. Kaneshiro from injury, harm, and/or death.

84. At all times relevant herein, by virtue of Mr. Kaneshiro being an occupant and/or passenger in the Subject EMS ambulance owned and operated by EMS Defendants, and by virtue of its special relationship to Mr. Kaneshiro, EMS Defendants owed Mr. Kaneshiro:

- (a) A duty of care, competence, and vigilance to ensure the health, safety, and/or well-being of its occupants or passengers, including Mr. Kaneshiro, in its operation, passenger transport, and/or use of the Subject EMS ambulance;
- (b) A Duty to safely transport Mr. Kaneshiro to a medical facility for emergency care or a hospital;
- (c) A duty of protection & safeguarding to ensure the health, safety, and/or well-being of its occupants or passengers, including Mr. Kaneshiro from danger, hazard, and/or dangerous and hazardous conditions;
- (d) A duty to aid to ensure the health, safety, and/or well-being of its occupants or passengers, including Mr. Kaneshiro from danger, hazard, and/or dangerous and hazardous conditions; and/or,

- (e) A duty to rescue to ensure the health, safety, and/or well-being of its occupants or passengers, including Mr. Kaneshiro from danger, hazard, and/or dangerous and hazardous conditions.

85. EMS Defendants negligently and/or grossly negligently failed and breached its duty to protect, aid, and/or rescue Mr. Kaneshiro from injury, harm, and/or the death of Mr. Kaneshiro while EMS Defendants transported him in the Subject EMS ambulance. Mr. Kaneshiro was abandoned still strapped to the gurney inside the EMS ambulance left to burn alive in the inferno.

86. EMS Defendants knew and/or reasonably should have known that their conduct placed Mr. Kaneshiro in risk of serious bodily injury and/or death.

87. The aforesaid negligence and/or gross negligence of EMS Defendants increased the risk of harm and death to Mr. Kaneshiro and was a direct and proximate cause of his injuries, death, and damages.

88. The aforesaid negligence and/or gross negligence of EMS Defendants and/or its employees, representatives, and/or agents occurred within the scope of their employment and/or in their capacity as agents of said EMS Defendants.

89. EMS Defendants are also vicariously liable for the aforesaid negligence and/or gross negligence of their employees, representatives, and/or agents, including but not limited to, their apparent agents and/or ostensible agents and/or agents by estoppel and/or persons who acted with their apparent authority, under the doctrine of *respondeat superior* and/or principles of agency.

90. EMS Defendants' negligence and/or gross negligence was a substantial factor and legal cause of the injuries, death, and damages sustained by Mr. Kaneshiro as herein alleged and EMS Defendants are liable for the injuries, death, and damages legally caused by their conduct alleged herein in an amount to be proven at trial.

91. Because EMS Defendants' conduct was such an extreme departure from ordinary standards of care, it rose to the level of gross negligence, recklessness, and/or willful and wanton misconduct.

92. The conduct of EMS Defendants as described herein was grossly negligent, reckless and/or willful and wanton, and further, demonstrated a conscious disregard for Mr. Kaneshiro's safety, wellbeing, and life. Plaintiff is therefore entitled to an award of punitive damages in an amount to be proved at trial that is sufficient to adequately punish said EMS Defendants given their financial condition and to deter them from such conduct in the future.

**COUNT III – NEGLIGENCE/GROSS NEGLIGENCE - SURVIVAL**  
**(Products Defendants)**

93. The allegations made in the foregoing paragraphs are hereby incorporated by reference as though fully set forth herein.

94. Plaintiff Roberta Kinoshita, as Personal Representative of the Estate of Mr. Kaneshiro, brings this action on behalf of the Estate of Fred Seiko Kaneshiro, by virtue of the Hawai'i Revised Statutes ("HRS") §§ 560:3-703(c) and 663-7.

95. At all times relevant herein, Mr. Kaneshiro exercised all appropriate due care and in no way contributed to the occurrence of the Subject Fire and/or his injuries, death, and damages.

96. At all times relevant herein, Mr. Kaneshiro was an occupant, passenger, and patient in the EMS Defendants' ambulance receiving emergency medical care and/or services as a prehospital patient of the EMS Defendants.

97. At all times relevant herein, the Subject Medical Equipment, including but not limited to the Subject oxygen cylinder/tank regulator assembly (Cramer Decker Medical (Part No. AREG8725-B2D)), the Subject portable oxygen cylinder/tank, and/or the Subject oxygen cylinder/tank regulator gasket or O-ring washer, and any respective components or supplies related

to the Subject Medical Equipment, was being used on Mr. Kaneshiro in a reasonably foreseeable manner.

98. At all times relevant herein, the Subject Medical Equipment was unreasonably dangerous to foreseeable users, including Mr. Kaneshiro, within the State of Hawai'i.

99. An ordinary patient, such as Mr. Kaneshiro, would not have recognized the potential risks and dangers of the Subject Medical Equipment.

100. Upon information and belief, and at all times herein mentioned, Products Defendants were negligent, grossly negligent, reckless, and/or careless in manufacturing, fabricating, designing, developing, testing, assembling, distributing, selling, purchasing, maintaining, inspecting, warranting, labeling, providing adequate warnings/instructions, promoting, marketing and/or advertising the Subject Medical Equipment, such that they were dangerous and unsafe for their intended and/or reasonably foreseeable use.

101. Products Defendants owed a duty to Mr. Kaneshiro to exercise reasonable care in manufacturing, fabricating, designing, developing, testing, assembling, distributing, selling, purchasing, maintaining, inspecting, warranting, labeling, providing adequate warnings/instructions, promoting, marketing and/or advertising the Subject Medical Equipment, to ensure that the Subject Medical Equipment was safe for the intended and/or reasonably foreseeable use, as not to present a danger to members of the general public who reasonably and expectedly, under ordinary circumstances, would come into contact with it, including Mr. Kaneshiro.

102. Products Defendants owed a duty to properly and adequately instruct and warn about the dangerous condition of the Subject Medical Equipment prior to the Subject Fire.

103. Products Defendants owed a duty to safeguard against and not create this dangerous condition and unreasonable risk of harm.

104. At all times relevant herein, Products Defendants breached their duties and were negligent, grossly negligent, reckless, and/or careless, in one or more of the following particulars:

- (a) Failing to design, engineer, manufacture, assemble, test, label, package, market, distribute, sell, and introduce into the stream of commerce the Subject Medical Equipment in a manner so as to render the product(s) safe for the intended purpose by providing a safe and adequate design;
- (b) Designing, engineering, manufacturing, assembling, testing, labeling, packaging, marketing, distributing, selling, and introducing into the stream of commerce the Subject Medical Equipment, which when used was more dangerous than the hazards commonly associated with use of said product(s);
- (c) Designing engineering, manufacturing, assembling, testing, labeling, packaging, marketing, distributing, selling, and introducing into the stream of commerce the Subject Medical Equipment in a manner that increases the risk of harm to purchasers, first responders, patients, and/or end users, including Mr. Kaneshiro;
- (d) Designing, engineering, manufacturing, assembling, testing, labeling, packaging, marketing, distributing, selling, and introducing into the stream of commerce the Subject Medical Equipment in a manner that enabled purchasers, first responders, patients, and/or end users, including Mr. Kaneshiro, to experience explosion and fire events while using said product(s) as intended;
- (e) Designing, engineering, manufacturing, assembling, testing, labeling, packaging, marketing, distributing, selling, and introducing into the stream of commerce the Subject Medical Equipment in a defective condition that was unreasonably dangerous and/or unfit for emergency medical services and/or prehospital care use;
- (f) Failing to design, engineer, manufacture, assemble, test, label, package, market, distribute, sell, and introduce into the stream of commerce the Subject Medical Equipment in a such a manner that the product(s) would not be subject to dangerous or catastrophic adiabatic compression (colloquially known as a gas hammer effect) and/or dangerous or catastrophic particle impact;
- (g) Failing to design, engineer, manufacture, assemble, test, label, package, market, distribute, sell, and introduce into the stream of commerce the Subject Medical Equipment in a condition that would allow the product(s) to operate as safely as a reasonable purchaser, first responder, patient, and/or end user would expect;
- (h) Failing to adequately test the Subject Medical Equipment to determine whether the product(s) provided a reasonably adequate design for the intended use;
- (i) Failing to properly and adequately inspect and/or test the Subject Medical Equipment;
- (j) Failing to provide sufficient warnings as to the reasonably foreseeable dangers (such as, but not limited to, dangerous or catastrophic adiabatic compression (colloquially



- known as a gas hammer effect) and/or dangerous or catastrophic particle impact) in the intended use of the Subject Medical Equipment;
- (k) Failing to adequately warn of the possibility of explosion and fire events in the intended use of the Subject Medical Equipment;
  - (l) Failing to provide necessary and adequate safety and instructional materials and warnings of the risks and means available to reduce and/or minimize the risk of explosion and fire events (such as, but not limited to, dangerous or catastrophic adiabatic compression (colloquially known as a gas hammer effect) and/or dangerous or catastrophic particle impact) while using the Subject Medical Equipment;
  - (m) Failing to adopt and/or implement proper quality control procedures;
  - (n) Failing to supervise and monitor proper quality control procedures;
  - (o) Failing to perform a design failure mode effects and analysis on the Subject Medical Equipment;
  - (p) Failing to perform finite element analysis based on projected use and service schedule of the Subject Medical Equipment;
  - (q) Utilizing substandard materials and production methods in manufacturing the Subject Medical Equipment;
  - (r) Failing to recall the Subject Medical Equipment from the purchaser and/or ultimate users;
  - (s) Failing to remove the Subject Medical Equipment from the marketplace; and,
  - (t) Failing to provide training and instruction to those who Defendants knew, or in the exercise of reasonable care should have known, would be operating facilities equipped with the Subject Medical Equipment.

105. Products Defendants knew and/or reasonably should have known that their conduct placed Mr. Kaneshiro in risk of serious bodily injury and/or death.

106. The aforesaid negligence and/or gross negligence of Products Defendants increased the risk of harm and death to Mr. Kaneshiro and was a direct and proximate cause of his injuries, death, and damages.

107. The aforesaid negligence and/or gross negligence of Products Defendants and/or its employees, representatives, and/or agents occurred within the scope of their employment and/or in their capacity as agents of said Products Defendants.

108. Products Defendants are also vicariously liable for the aforesaid negligence and/or gross negligence of their employees, representatives, and/or agents, including but not limited to, their apparent agents and/or ostensible agents and/or agents by estoppel and/or persons who acted with their apparent authority, under the doctrine of *respondeat superior* and/or principles of agency.

109. Products Defendants' negligence and/or gross negligence was a substantial factor and legal cause of the injuries, death, and damages sustained by Mr. Kaneshiro as herein alleged and Products Defendants are liable for the injuries, death, and damages legally caused by their conduct alleged herein in an amount to be proven at trial.

110. Because Products Defendants' conduct was such an extreme departure from ordinary standards of care, it rose to the level of gross negligence, recklessness, and/or willful and wanton misconduct.

111. The conduct of Products Defendants as described herein was grossly negligent, reckless and/or willful and wanton, and further, demonstrated a conscious disregard for Mr. Kaneshiro's safety, wellbeing, and life. Plaintiff is therefore entitled to an award of punitive damages in an amount to be proved at trial that is sufficient to adequately punish said Products Defendants given their financial condition and to deter them from such conduct in the future.

**COUNT IV - STRICT LIABILITY**  
**(Products Defendants)**

112. The allegations made in the foregoing paragraphs are hereby incorporated by reference as though fully set forth herein.

113. Upon information and belief, and at all times relevant herein, Mr. Kaneshiro exercised all appropriate due care and in no way contributed to the occurrence of the Subject Fire and/or his injuries, death, and damages.

114. At the time of the Subject Fire, Mr. Kaneshiro was not aware that the Subject Medical Equipment, which includes but is not limited to the Subject portable oxygen cylinder/tank (size jumbo-D), the Subject oxygen cylinder/tank regulator assembly, and the Subject oxygen cylinder/tank regulator gasket or O-ring washer, and any respective components or supplies related to the Subject Medical Equipment, presented any risk of injury to him and had not been advised or informed by anyone that the Subject Medical Equipment could pose a risk of harm to his health and safety.

115. An ordinary consumer/user, such as Mr. Kaneshiro, would not have recognized the potential risks and dangers inherent in the Subject Medical Equipment.

116. The Subject Medical Equipment was unreasonably dangerous to foreseeable users, including Mr. Kaneshiro.

117. Products Defendants knew that consumers would use the Subject Medical Equipment in the manner used by Mr. Kaneshiro.

118. At the time of the Subject Fire, the Subject Medical Equipment was in substantially the same condition as when introduced into the stream of commerce by one or more of the Products Defendants and was being used by Mr. Kaneshiro in a reasonably foreseeable manner.

119. The Subject Medical Equipment was in a defective and dangerous condition at the time when the product(s) left the possession and control of Products Defendants and was not substantially changed prior to the time of use by Mr. Kaneshiro.

120. At all times relevant herein, Products Defendants were and are engaged in the business of designing, engineering, manufacturing, assembling, testing, labeling, packaging, marketing, fabricating, distributing, selling, inspecting, warranting, wholesaling, supplying, and introducing into the stream of commerce the Subject Medical Equipment.

121. Products Defendants designed, engineered, manufactured, assembled, tested, labeled, packaged, marketed, fabricated, distributed, sold, inspected, warranted, wholesaled, supplied, and introducing into the stream of commerce the Subject Medical Equipment with defects in both design and manufacturing which made it dangerous, hazardous and unsafe for its intended use.

122. The risk of danger in the design of the Subject Medical Equipment outweighed any benefits of the design, and safer alternative designs were available at the time of manufacturer and supply. Therefore, the Subject Medical Equipment presented a substantial and unreasonable risk of serious injuries or death to users and purchasers of said products, including Mr. Kaneshiro.

123. In researching, testing, designing, manufacturing, labeling, selling, distributing, advertising, promoting, marketing, and/or servicing, Products Defendants did so in conscious disregard for the safety of the users and consumers, such as Mr. Kaneshiro, who would foreseeably come into contact with the Subject Medical Equipment. Upon information and belief, Products Defendants had specific prior knowledge that there was a high risk of injury or death resulting from the use of said products.

124. Upon information and belief, with said knowledge, Products Defendants opted to design, engineer, manufacture, assemble, label, package, market, fabricate, distribute, sell, warrant, wholesale, supply, and introduce into the stream of commerce the Subject Medical Equipment without attempting to protect users and consumers of the high risk of injury or death resulting from the use of said products. Rather than attempting to warn and/or protect users and consumers from said hazards, Products Defendants failed to reveal their knowledge of said risks from users, consumers, and other members of the general public, including Mr. Kaneshiro.

125. Upon information and belief, the aforementioned conducts of Products Defendants were motivated by the financial interests of Defendants in the continuing, uninterrupted manufacture, distribution, supply and/or sale of said products. In pursuance of said financial motivation, Products Defendants consciously disregarded the safety of users and consumers of said products.

126. Products Defendants placed the Subject Medical Equipment and other related parts for sale with the knowledge that it would be used without inspecting for dangers or defects. Products Defendants knew or should have known that the ultimate users or consumers would not or could not inspect these products for dangerous conditions and that the detection of such defects and dangers would be beyond the capabilities of such persons.

127. Upon information and belief, Products Defendants were aware that users of the Subject Medical Equipment, especially Mr. Kaneshiro, had no knowledge or information indicating that the Subject Medical Equipment could cause serious and life-threatening injury, and Products Defendants knew that the users of the Subject Medical Equipment, such as Mr. Kaneshiro, would assume, and in fact did assume, that the Subject Medical Equipment was safe, when in fact said products posed an unreasonable hazard to human life and safety.

128. Products Defendants had a duty to design, engineer, manufacture, assemble, test, label, package, market, distribute, sell, and introduce into the stream of commerce the Subject Medical Equipment in a responsible and safe way so as not to cause injury or death to Mr. Kaneshiro or members of the general public.

129. Products Defendants are strictly liable in the following regards:

- (a) Failing to design, engineer, manufacture, assemble, test, label, package, market, distribute, sell, and introduce into the stream of commerce the Subject Medical Equipment in a manner so as to render the product(s) safe for the intended purpose by providing a safe and adequate design;

- (b) Designing, engineering, manufacturing, assembling, testing, labeling, packaging, marketing, distributing, selling, and introducing into the stream of commerce the Subject Medical Equipment, which when used was more dangerous than the hazards commonly associated with use of said product(s);
- (c) Designing engineering, manufacturing, assembling, testing, labeling, packaging, marketing, distributing, selling, and introducing into the stream of commerce the Subject Medical Equipment in a manner that increases the risk of harm to purchasers, first responders, patients, and/or end users, including Mr. Kaneshiro;
- (d) Designing, engineering, manufacturing, assembling, testing, labeling, packaging, marketing, distributing, selling, and introducing into the stream of commerce the Subject Medical Equipment in a manner that enabled purchasers, first responders, patients, and/or end users, including Mr. Kaneshiro to experience explosion and fire events while using said product(s) as intended;
- (e) Designing, engineering, manufacturing, assembling, testing, labeling, packaging, marketing, distributing, selling, and introducing into the stream of commerce the Subject Medical Equipment in a defective condition that was unreasonably dangerous and/or unfit for emergency medical services and/or prehospital care use;
- (f) Failing to design, engineer, manufacture, assemble, test, label, package, market, distribute, sell, and introduce into the stream of commerce the Subject Medical Equipment in a such a manner that the product(s) would not be subject to dangerous or catastrophic adiabatic compression (colloquially known as a gas hammer effect) and/or dangerous or catastrophic particle impact.
- (g) Failing to design, engineer, manufacture, assemble, test, label, package, market, distribute, sell, and introduce into the stream of commerce the Subject Medical Equipment in a condition that would allow the product(s) to operate as safely as a reasonable purchaser, first responder, patient, and/or end user would expect;
- (h) Failing to adequately test the Subject Medical Equipment to determine whether the product(s) provided a reasonably adequate design for the intended use;
- (i) Failing to properly and adequately inspect and/or test the Subject Medical Equipment;
- (j) Failing to provide sufficient warnings as to the reasonably foreseeable dangers (such as, but not limited to, dangerous or catastrophic adiabatic compression (colloquially known as a gas hammer effect) and/or dangerous or catastrophic particle impact) in the intended use of the Subject Medical Equipment;
- (k) Failing to adequately warn of the possibility of explosion and fire events in the intended use of the Subject Medical Equipment;
- (l) Failing to provide necessary and adequate safety and instructional materials and warnings of the risks and means available to reduce and/or minimize the risk of explosion and fire events (such as, but not limited to, dangerous or catastrophic adiabatic compression (colloquially known as a gas hammer effect) and/or dangerous or catastrophic particle impact) while using the Subject Medical Equipment;

- (m) Failing to adopt and/or implement proper quality control procedures;
- (n) Failing to adequately supervise and monitor proper quality control procedures;
- (o) Failing to perform a design failure mode effects and analysis on Subject Medical Equipment; and/or,
- (p) Failing to perform finite element analysis based on projected use and service schedule of the Subject Medical Equipment.

130. As a direct and legal result of the foregoing actions or inactions of, and as a result of the defective condition of the Subject Medical Equipment, Products Defendants were a substantial factor in causing Mr. Kaneshiro's injuries, death, and damages sustained by Mr. Kaneshiro as herein alleged, and Products Defendants are strictly liable for the injuries, death, and damages in an amount to be proven at trial.

**COUNT V – BREACH OF IMPLIED WARRANTY**  
**(Products Defendants)**

131. The allegations made in the foregoing paragraphs are hereby incorporated by reference as though fully set forth herein.

132. Products Defendants designed, manufactured, branded, packaged, serviced, supplied, maintained, tested, inspected, labeled, marketed, leased, sold and distributed the Subject Medical Equipment.

133. The Subject Medical Equipment necessarily included an implied warranty that it was fit for its intended and ordinary use.

134. Consumers and end-users such Mr. Kaneshiro reasonably expected to use and be affected by the Subject Medical Equipment.

135. Products Defendants breached this implied warranty because the Subject Medical Equipment was defective and unfit for the intended and ordinary purpose for which it is regularly used.

136. Mr. Kaneshiro was an intended and expected third-party beneficiary of this implied warranty.

137. As a direct and legal result of the foregoing actions or inactions of, and as a result of the defective condition of the Subject Medical Equipment, Products Defendants were a substantial factor in causing Mr. Kaneshiro's injuries, death, and damages sustained by Mr. Kaneshiro as herein alleged, and Products Defendants are strictly liable for the injuries, death, and damages in an amount to be proven at trial.

**COUNT VI – BREACH OF IMPLIED WARRANTY OF FITNESS**  
**(Products Defendants)**

138. The allegations made in the foregoing paragraphs are hereby incorporated by reference as though fully set forth herein.

139. Products Defendants designed, manufactured, branded, packaged, serviced, supplied, maintained, tested, inspected, labeled, marketed, leased, sold, and distributed the Subject Medical Equipment.

140. Products Defendants knew or had reason to know that consumers and end-user such Mr. Kaneshiro would use the oxygen equipment during the transport of patients to a medical facility.

141. Consumers and end-users such as Mr. Kaneshiro relied on Products Defendants' skill, expertise, and judgment to provide the medical equipment that would be fit for this intended purpose and use.

142. The Subject Medical Equipment, however, was not fit for this intended purpose and use.

143. Mr. Kaneshiro was an intended and expected third-party beneficiary of the warranties owed by Products Defendants.



144. As a direct and legal result of the foregoing actions or inactions of, and as a result of the defective condition of the Subject Medical Equipment, Products Defendants were a substantial factor in causing Mr. Kaneshiro's injuries, death, and damages sustained by Mr. Kaneshiro as herein alleged, and Products Defendants are strictly liable for the injuries, death, and damages in an amount to be proven at trial.

**COUNT VII – BREACH OF EXPRESS WARRANTY**  
**(Products Defendants)**

145. The allegations made in the foregoing paragraphs are hereby incorporated by reference as though fully set forth herein.

146. Products Defendants designed, manufactured, branded, packaged, serviced, supplied, maintained, tested, inspected, labeled, marketed, leased, sold and distributed the Subject Medical Equipment.

147. Products Defendants warranted by affirmation of fact, promise, description, sample, and/or model that the Subject Medical Equipment was fit, appropriate, and safe for use.

148. Those warranties became part of the basis of the bargain for the Subject Medical Equipment.

149. Contrary to the warranties, the Subject Medical Equipment was unfit, inappropriate, and unsafe for use.

150. The Subject Medical Equipment failed to conform to the above-referenced warranties.

151. Mr. Kaneshiro was an intended and expected third-party beneficiary of the above-referenced warranties.

152. As a direct and legal result of the foregoing actions or inactions of, and as a result of the defective condition of the Subject Medical Equipment, Products Defendants were a

substantial factor in causing Mr. Kaneshiro's injuries, death, and damages sustained by Mr. Kaneshiro as herein alleged, and Products Defendants are strictly liable for the injuries, death, and damages in an amount to be proven at trial.

**COUNT VIII – WRONGFUL DEATH**  
**(All Defendants)**

153. The allegations made in the foregoing paragraphs are hereby incorporated by reference as though fully set forth herein.

154. Plaintiff Roberta Kinoshita, as the Personal Representative of the Estate of Fred Seiko Kaneshiro, brings this action for the wrongful death of Mr. Kaneshiro, by virtue of HRS § 633-3.

155. Mr. Kaneshiro tragically and untimely died on August 24, 2022, and no action for his injuries was concluded during his lifetime.

156. As a direct and proximate result of the wrongful acts of Defendants, specifically with regards to the above-described negligent and/or grossly negligent conduct, Plaintiff Roberta Kaneshiro, as Personal Representative of the Estate of Fred Seiko Kaneshiro, has suffered pecuniary loss and expenses, including hospital, funeral, and burial expenses.

WHEREFORE, Plaintiff prays that this Court enter a judgment against all Defendants, jointly and severally if and where appropriate, as follows:

1. An award of general damages in an amount to be determined at trial;
2. An award of special damages in an amount to be determined at trial;
3. An award of punitive damages in an amount to be determined at trial;
4. Reasonable attorney's fees as may be appropriate;

5. Prejudgment interest and allowable costs of the action, and;
6. For such other and further relief as this Court deems just and proper.

DATED: Honolulu, Hawai'i, August 23, 2024.

*/s/ Robert S. Miyashita*

ROBERT S. MIYASHITA

JEREMY K. O'STEEN

Attorneys for Plaintiff

ROBERTA KINOSHITA, Personal

Representative of the Estate of FRED

SEIKO KANESHIRO, also known as

SEIKO KANESHIRO

**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT**

**STATE OF HAWAI‘I**

ROBERTA KINOSHITA, Personal  
Representative of the Estate of FRED SEIKO  
KANESHIRO, also known as SEIKO  
KANESHIRO,

Plaintiff,

v.

CITY AND COUNTY OF HONOLULU;  
HONOLULU EMERGENCY SERVICES  
DEPARTMENT; HONOLULU  
EMERGENCY MEDICAL SERVICES  
DIVISION; PETER MATSUURA; JEFFREY  
WILKINSON; CRAMER-DECKER  
INDUSTRIES, INC. dba PRORACK GAS  
CONTROL PRODUCTS; CRAMER-  
DECKER MEDICAL, INC.; AIRGAS  
GASPRO, INC.; AIRGAS USA, LLC; AIR  
LIQUIDE HEALTHCARE AMERICA  
CORPORATION; BOUND TREE  
MEDICAL, LLC; MERET USA, LLC;  
RESCUE SAFETY PACIFIC, INC.; JOHN  
DOES 1-10; JANE DOES 1-10; DOE  
CORPORATIONS 1-10; DOE  
PARTNERSHIPS 1-10; DOE LIMITED  
LIABILITY COMPANIES 1-10; DOE  
BUSINESS ENTITIES 1-10; DOE  
GOVERNMENTAL ENTITIES 1-10; and  
DOE UNINCORPORATED  
ASSOCIATIONS 1-10,

Defendants.

CIVIL NO. \_\_\_\_\_  
(Other Non-Vehicle Tort)  
(Motor Vehicle Tort)

**DEMAND FOR JURY TRIAL**


**DEMAND FOR JURY TRIAL**

Plaintiff ROBERTA KINOSHITA, Personal Representative of the Estate of FRED SEIKO KANESHIRO, also known as SEIKO KANESHIRO by and through her attorneys, MIYASHITA & O'STEEN, LLC, hereby demands trial by jury on all issues triable herein.

DATED: Honolulu, Hawai'i, August 23, 2024.

*/s/ Robert S. Miyashita* \_\_\_\_\_  
ROBERT S. MIYASHITA  
JEREMY K. O'STEEN

Attorneys for Plaintiff  
ROBERTA KINOSHITA, Personal Representative  
of the Estate of FRED SEIKO KANESHIRO, also  
known as SEIKO KANESHIRO

<b>STATE OF HAWAII</b> <b>CIRCUIT COURT OF THE</b> <b>FIRST CIRCUIT</b>		<b>SUMMONS</b> <b>TO ANSWER CIVIL COMPLAINT</b>	
CASE NUMBER			
PLAINTIFF'S NAME & ADDRESS, TEL. NO. ROBERTA KINOSHITA, Personal Representative of the Estate of FRED SEIKO KANESHIRO, also known as SEIKO KANESHIRO c/o Miyashita & O'Steen, LLLC 735 Bishop Street, Suite 411 Honolulu, Hawaii 96813   Telephone: (808) 909-8770			
PLAINTIFF ROBERTA KINOSHITA, Personal Representative of the Estate of FRED SEIKO KANESHIRO, also known as SEIKO KANESHIRO,		VS.	DEFENDANT(S) CITY AND COUNTY OF HONOLULU; HONOLULU EMERGENCY SERVICES DEPARTMENT; HONOLULU EMERGENCY MEDICAL SERVICES DIVISION; PETER MATSUURA; JEFFREY WILKINSON; CRAMER-DECKER INDUSTRIES, INC. dba PRORACK GAS CONTROL PRODUCTS; CRAMER-DECKER MEDICAL, INC.; AIRGAS GASPRO, INC.; AIRGAS USA, LLC; et al.
<b>TO THE ABOVE-NAMED DEFENDANT(S)</b> You are hereby summoned and required to file with the court and serve upon Robert S. Miyashita, Esq. and Jeremy K. O'Steen, Esq. Miyashita & O'Steen, LLLC <u>735 Bishop Street, Suite 411, Honolulu, Hawaii 96813</u> , plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. <b>THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.</b> <b>A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.</b>			
DATE ISSUED	CLERK	CIRCUIT COURT CLERK	
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 In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office on OAHU- Phone No. 808-539-4400, TTY 808-539-4853, FAX 539-4402; MAUI- Phone No. 808-244-2929, FAX 808-244-2777; HAWAII- Phone No. 808-961-7424, TTY 808-961-7422, FAX 808-961-7411; KAUAI- Phone No. 808-482-2365, TTY 808-482-2533, FAX 808-482-2509, at least ten (10) working days prior to your hearing or appointment date.			