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

WILLIAM MAX GREENSTEIN as Personal Representative for the ESTATE OF KAREN LEE GREENSTEIN, Plaintiff,	}	Case No. 15CV14344
	}	PLAINTIFF'S SECOND AMENDED COMPLAINT FOR WRONGFUL DEATH
v.	}	(Not Subject to Mandatory Arbitration - Claim in Excess of \$50,000)
STATE OF OREGON and RICHARD WEBSTER SCOTT, JR., Defendants.	}	(Prayer: \$11,705,720; Filing Fee Pursuant to ORS 21.160(1)(e))
	}	(Jury Trial Requested)

COMES NOW, Plaintiff William Max Greenstein, the Personal Representative for the Estate of Karen Lee Greenstein, and alleges as follows:

General Allegations Applicable to all Claims

1.

William Max Greenstein is the husband of decedent Karen Lee Greenstein and has been duly appointed as the personal representative for the Estate of Karen Lee Greenstein.

2.

The lawsuit is brought for the benefit of the Estate of Karen Lee Greenstein and for the benefit of William Max Greenstein and Amanda Greenstein, the husband and daughter of decedent Karen Lee Greenstein, who are also the surviving heirs of decedent Karen Lee Greenstein.

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3.

Defendant State of Oregon, by and through its agency The Driver and Motor Vehicle Services Division (“DMV”), a branch of The Department of Transportation, is charged with and performs the duties of issuing driver licenses to legally qualified applicants who apply to obtain an Oregon driver license to operate motor vehicles in Oregon.

4.

At all material times involving this lawsuit, pursuant to Oregon Administrative Rule (“OAR”) 735-062-0007, upon receipt of an application for a driver’s license or driver permit, DMV was required to follow certain procedures before considering whether to issue a driver’s license or driver permit to an applicant. OAR 735-062-0007, stated, in part:

(1) Before the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue a driver permit or driver license, the person applying for the driver permit or driver license must:

* * *

(i) Surrender all driver permits and driver licenses in the person’s possession issued outside of Oregon.

* * *

(4) Upon receipt of an application for a driver license or driver permit, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS) or both to determine if the applicant’s driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction. For issuance of a commercial driver license (CDL), DMV will also make an inquiry to CDLIS to determine if the applicant has been issued a CDL in another jurisdiction.

* * *

(6) DMV will not issue driving privileges to a person until his or her driving privilege is reinstated in all jurisdictions, unless

1 **the only remaining reinstatement requirement in the other**
2 **jurisdiction is proof of financial responsibility.** Nothing in this
3 section prohibits DMV from issuing a regular Class C driver
4 license to a person whose CDL driving privileges are not valid as
5 long as the person's regular Class C or equivalent driving
6 privileges are valid. (Emphasis added.)

5.

6 At all material times involving this lawsuit, ORS 801.020 stated, in part:

7 This section contains statements of purpose or intent that are applicable to
8 portions of the vehicle code as described in the following:

9 (1) The provisions of the vehicle code and other statutory
10 provisions described in this subsection are an exercise of the police
11 powers of this state, and the purpose, object and intent of the
12 sections is to provide a comprehensive system for the regulation of
13 all motor and other vehicles in this state. This subsection is
14 applicable to the following:

13 * * *

14 (a) Those provisions of the vehicle code relating to the
15 administration of the Department of Transportation.

16 * * *

17 (3) The provisions described in this subsection shall be applicable
18 and uniform throughout this state and in all political subdivisions
19 and municipalities therein and on the ocean shore which has been
20 or may hereafter be declared a state recreation area. This
21 subsection applies to provisions of the vehicle code relating to
22 abandoned vehicles, vehicle equipment, regulation of vehicle size,
23 weight and load, the manner of operation of vehicles and use of
24 roads by persons, animals and vehicles.

22 * * *

23 (7) The vehicle code shall govern the construction of and
24 punishment for any vehicle code offense committed after June 27,
25 1975, the construction and application of any defense to a
26 prosecution for such an offense and any administrative proceedings

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authorized or affected by the vehicle code.

(8) When all or part of a vehicle code statute is amended or repealed, the statute or part thereof so amended or repealed remains in force for the purpose of authorizing the accusation, prosecution, conviction and punishment of a person who violated the statute or part thereof before the effective date of the amending or repealing Act.

(9) The provisions of the vehicle code described in this subsection relating to the operation of vehicles refer exclusively to operation of vehicles upon highways and the ocean shore which has been or may hereafter be declared to be a state recreation area, except where the vehicle code specifically provides otherwise. This subsection applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

* * *

(11) It is hereby declared to be the policy of this state:

(a) To provide maximum safety for all persons who travel or otherwise use the public highways of this state;

(b) To deny the privilege of operating motor vehicles on the public highways to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws of the state, the orders of its courts and the statutorily required acts of its administrative agencies; and

(c) To discourage repetition of criminal acts by individuals against the peace and dignity of the state and its political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of traffic laws. (Emphasis added.)

6.

At all material times involving this lawsuit, Oregon law set forth certain additional

1 parameters for the issuance of driver licenses to applicants who applied to obtain an Oregon
2 driver license to operate motor vehicles in Oregon. Prior to, and at the time of Karen Lee
3 Greenstein's death, ORS 807.060 stated, in relevant part:

4 The Department of Transportation may not grant driving privileges
5 to a person under a license if the person is not eligible under this
6 section. **The following are not eligible for a license:**

6 * * *

7 **(4) A person that the department determines has a problem**
8 **condition involving alcohol, inhalants or controlled substances**
9 **as described under ORS 813.040. [Standards for determination**
10 **of problem condition involving alcohol, inhalants or controlled**
11 **substances.]**

12 **(5) A person the department reasonably believes has a mental**
13 **or physical condition or impairment that affects the persons**
14 **(sic) ability to safely operate a motor vehicle upon the**
15 **highways.**

16 **(6) A person the department reasonably believes is unable to**
17 **understand highway signs that warn, regulate or direct traffic.**

18 * * *

19 **(8) A person who cannot be issued a license under the Driver**
20 **License Compact under ORS 802.540. (Emphasis added.)**

21 7.

22 At all material times involving this lawsuit, ORS 802.540 stated, in relevant part:

23 The Driver License Compact is enacted into law and entered into
24 on behalf of this state with all other states legally joining therein in
25 a form substantially as follows:

26 * * *

ARTICLE V

APPLICATIONS FOR NEW LICENSES

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Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

* * *

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. **The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.**

* * *

ARTICLE VI

APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state. (Emphasis added.)

8.

At all material times involving this lawsuit, ORS 802.200 stated, in part:

In addition to any other records the Department of Transportation may establish, the department is subject to the following provisions regarding records:

* * *

(9) The Department of Transportation shall maintain a two-part driving record consisting of an employment driving record and a nonemployment driving record for each person as required under this subsection. **All of the following apply to the records required under this subsection:**

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(e) When a person from another jurisdiction applies for a driver license or driver permit issued by this state, the department shall request a copy of the person’s driving record from the other jurisdiction. At the time the person is issued a license in Oregon, the record from the other jurisdiction shall become part of the driver’s record in this state with the same force and effect as though entered on the driver’s record in this state in the original instance. The department by rule may specify methods for converting entries from out-of-state records for use in Oregon. (Emphasis added.)

9.

At all material times involving this lawsuit, Oregon Administrative Rule (OAR) 735-062-0210 stated:

When the driving record from another jurisdiction becomes part of the person’s Oregon driving record under ORS 802.200(9)(e) the following will apply:

(1) Any convictions from the other jurisdiction’s driving record shall be transferred to the person’s Oregon driving record using the AAMV Anet Code Dictionary (ACD).

(2) Each driving record entry transferred shall have the same force and effect as though entered originally on the driver’s record by this state. (Emphasis added.)

10.

At all material times involving this lawsuit, ORS 809.600 stated, in part:

This section establishes the kinds of offenses and the number of convictions necessary to revoke the driving privileges of a person as a habitual offender under ORS 809.640. The kinds of offenses and the number of convictions necessary to revoke driving privileges as a habitual offender are as follows:

(1) A person's driving privileges shall be revoked as a habitual offender if the person, within a five-year period, has been convicted of three or more of any one or more of the following offenses as evidenced by the records maintained by the Department of Transportation or by the records of a similar agency of another state:

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(a) Any degree of murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle.

(b) Driving while under the influence of intoxicants under ORS 813.010.

(c) Criminally driving a motor vehicle while suspended or revoked, under ORS 811.182.

(d) Reckless driving under ORS 811.140.

(e) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

(f) Fleeing or attempting to elude a police officer under ORS 811.540.

(g) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended or revoked under ORS 163.196.

...

(4) The offenses described under this section include any of the following:

(a) Any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation that substantially conforms to offenses described under this section.

(b) Any violation of offenses under any federal law or any law of another state, including subdivisions thereof, that substantially conform to offenses described in this section. (Emphasis added.)

11.

At all material times involving this lawsuit, ORS 809.640 stated:

When the Department of Transportation determines from the driving record of a person as maintained by the department that a person’s driving privileges are required to be revoked as a habitual offender under ORS 809.600, the department shall

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subsection is subject to penalty as provided under ORS 809.500.

(5) To obtain driving privileges after the period of suspension or cancellation under this section, a person must reapply for driving privileges in the manner established by law.

14.

At all material times involving this lawsuit, ORS 807.350 stated:

(1) The Department of Transportation, at any time, may cancel the driving privileges or part of the driving privileges granted any person under any class of license or under any endorsement or any driver permit if the department determines that the person no longer meets the qualifications or requirements for the license, endorsement or permit.

(2)(a) The department may immediately cancel the driving privileges granted any person under any class of license or under any endorsement or any driver permit if the person is unable to reestablish eligibility under ORS 807.340 and the department determines that:

(A) The person is no longer able to safely operate a motor vehicle; and

(B) The person may endanger people or property if the person's driving privileges are not immediately canceled.

(b) A cancellation under this subsection is subject to a post-imposition hearing under ORS 809.440.

(3) Upon cancellation under this section, a person whose driving privileges are canceled shall surrender to the department any license or driver permit issued for the driving privileges. Failure to comply with this subsection is subject to penalty as provided under ORS 809.500.

(4) If the department cancels driving privileges under this section, the department may provide for the issuance of a license, driver permit or license with endorsement or limitations granting driving privileges for which the person does qualify or meet the requirements. The department may provide for the waiver of all or part of the fees relating to the issuance of a license or driver permit

1 when the department issues a driver permit or license under this
2 subsection, as the department determines equitable.

3 (5) A person whose driving privileges are canceled under this
4 section may regain the canceled driving privileges only by
5 reapplying for the privileges and establishing eligibility and
6 qualification for the driving privileges as provided by law.

7 15.

8 At all material times involving this lawsuit, OAR 735-070-0000 stated:

9 **(1) DMV will, under the provisions of ORS 807.350 and**
10 **809.310(1), cancel a person's driving privileges if DMV**
11 **determines the person is not entitled to or no longer qualified**
12 **for a driver permit or driver license.**

13 (2) A person is not entitled to a driver permit or driver license if
14 the person does not meet the eligibility requirements of ORS
15 807.024, 807.040, 807.060, 807.062, 807.065, 807.066 and
16 807.070.

17 (3) A person is not entitled to a driver permit or driver license if
18 the person's driving privileges are suspended or revoked in any
19 jurisdiction. (Emphasis added.)

20 16.

21 At all material times involving this lawsuit, ORS 807.340 stated:

22 (1) The Department of Transportation may require any person to
23 whom a license, driver permit or endorsement is issued to appear
24 before the department and reestablish the person's eligibility by
25 taking either an examination under ORS 807.070 or following the
26 procedures in ORS 807.090, as appropriate. The department may
act under this section if the department has reason to believe that
the person may:

(a) No longer be qualified to hold a license, driver permit or
endorsement; or

(b) No longer be able to safely operate a motor vehicle.

1 (2) If a person does not appear before the department within a
2 reasonable time after receiving notice from the department under
3 this section or is unable to reestablish eligibility to the satisfaction
4 of the department under this section, the department may take
5 action to suspend the person's driving privileges under ORS
6 809.419.

7 (3) A person who is required to take one or more tests described in
8 ORS 807.070 in order to reestablish eligibility under this section is
9 not required to pay the fee established under ORS 807.370 for the
10 test.

11 17.

12 At all material times involving this lawsuit, ORS 809.235 (1)(b) required the lifetime
13 permanent revocation of an individual's driving privileges in Oregon if the individual has been
14 convicted for a third or subsequent time of driving under the influence of intoxicants in Oregon
15 in violation of ORS 813.010 (Driving Under the Influence of Intoxicants) or its statutory
16 counterpart in another jurisdiction.

17 18.

18 Prior to March 27, 2014, the date of Karen Lee Greenstein's death, defendant Richard
19 Webster Scott, Jr. ("Scott") was an applicant who applied to DMV for Oregon driving privileges.

20 19.

21 Prior to March 27, 2014, the date of Karen Lee Greenstein's death, DMV issued an
22 Oregon driver's permit and driver's license to defendant Scott.

23 20.

24 When the Oregon DMV issued an Oregon driver license to defendant Scott in April,
25 2013, almost a year before Karen Lee Greenstein's death, defendant Scott had already been
26 convicted of Driving Under the Influence of Intoxicants five (5) different times in California.

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21.

Prior to improperly issuing the Oregon driver license to defendant Scott in April, 2013, and in violation of ORS 802.200(9)(e) and OAR 735-062-0210, the Oregon DMV never requested or obtained defendant Scott’s driving record from California even though the Oregon DMV knew that defendant Scott had been licensed in California and had at least one Driving Under the Influence of Intoxicants conviction in California based upon his 2011 and 2013 Oregon driver license applications. Additionally, even as late as March 7, 2019, the date of the designated deposition of DMV Administrative Rule Specialist Elizabeth Wood, the Oregon DMV had still never entered defendant’s Scott’s California driving record onto defendant Scott’s Oregon driving record.

22.

At the time that defendant Scott initially applied to the Oregon DMV for an Oregon driver’s license in or about April, 2011, DMV denied a driver’s permit or driver’s license to defendant Scott because his driving privileges were suspended or revoked in California due to various convictions in California, including various (5) convictions for Driving Under the Influence of Intoxicants.

23.

In 2013, defendant Scott applied to the State of California under a California statute to have one of his California suspensions or revocations lifted because he was living in Oregon. On March 5, 2013, the California Department of Motor Vehicles determined that defendant Scott had met the requirements of Section 13353.5 of the California Vehicle Code and one of defendant Scott’s suspensions or revocations which became effective August 11, 2006 pursuant to Section 13352a7 of the California Vehicle Code was terminated effective March 5, 2013. However, in doing so, the “Notice of Action” issued by the California Department of Motor

1 Vehicles stating that this August 11, 2006 suspension or revocation had been terminated stated:

2 You may apply for a driver license in your current state of
3 residence provided you meet the requirement of that state.

4 **If you apply for a California Driver License within three years**
5 **from the termination date noted above, you will be required to**
6 **submit proof of completion of a California licensed driving**
7 **under the influence program. You will also be required to**
8 **submit and maintain a California Insurance Proof Certificate**
9 **(SR-22) for three years from the application date of the**
10 **California driver license. A California driver license will not**
11 **be issued until you qualify for the restoration of your driving**
12 **privilege in this state and no grounds exist that would**
13 **authorize refusal to issue a license.** (Emphasis added.)

14 24.

15 The next month, in April, 2013, almost two years after defendant Scott had originally
16 applied to the Oregon DMV for an Oregon driver license in April, 2011, defendant Scott again
17 applied to the Oregon DMV for an Oregon driver license. When defendant Scott applied for the
18 Oregon driver license, defendant Scott's driving privileges had not been reinstated in California
19 as required by OAR 735-062-0007(6) before the Oregon DMV could legally issue defendant
20 Scott driving privileges in Oregon.

21 25.

22 When the Oregon DMV issued defendant Scott an Oregon driver license in April, 2013,
23 defendant Scott was a habitual offender pursuant to ORS 809.640 because he had been convicted
24 previously of three or more major traffic offenses, i.e., Driving Under the Influence of Intoxicants
25 and Criminal Driving While Suspended or Revoked, within a five year period, including
26 convictions that occurred in 2010 due to another automobile accident caused by defendant Scott
in 2009 while he was Driving Under the Influence of Intoxicants.

27 26.

28 On March 27, 2014, at approximately 3:13 a.m., defendant Scott, who was under the

1 influence of intoxicants, was operating a vehicle northbound in the southbound lanes of Interstate
2 5, a divided public highway, while using the Oregon driver license issued to him by DMV.
3 Defendant Scott had been attempting to drive to California to pick up his mother at her request
4 while using and driving his mother's van.

5 27.

6 At the same time that defendant Scott was driving northbound in the southbound lanes of
7 Interstate 5, decedent Karen Lee Greenstein was operating her vehicle southbound in the
8 southbound lanes of Interstate 5. Tragically, the motor vehicles operated by defendant Scott and
9 decedent Karen Lee Greenstein met in a violent head-on collision south of Medford, Oregon near
10 milepost 23.5 in Jackson County, Oregon. Karen Lee Greenstein was killed in the crash.

11 28.

12 Defendant Scott would not have been allowed to drive, and would not have driven, his
13 mother's van that he was driving at the time of the March 27, 2014 motor vehicle crash that
14 killed Karen Lee Greenstein, if DMV had not issued to defendant Scott, and/or allowed to
15 remain in effect for defendant Scott, an Oregon driver license. Defendant Scott's mother, the
16 registered owner of the van that defendant Scott was operating at the time of the March 27, 2014
17 crash with Karen Lee Greenstein, would not have allowed defendant Scott to operate the van
18 without a valid driver's license.

19 29.

20 Karen Lee Greenstein was born on May 11, 1955. At the time of her death, she was 58
21 years old and had a life expectancy of an additional 26 years.

22 30.

23 This lawsuit is brought pursuant to the wrongful death provisions of ORS 30.020 et seq.
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31.

Pursuant to ORS 30.275, proper and timely written tort claims notice was provided to the State of Oregon through the Office of the Director of the Oregon Department of Administrative Services on March 19, 2015.

32.

As a result of the March 27, 2014 motor vehicle crash that killed Karen Lee Greenstein, defendant Scott was charged with criminal offenses, underwent a criminal jury trial in Medford, Jackson County, Oregon, and on September 21, 2016 was convicted of the felony crimes of Driving Under the Influence of Intoxicants (ORS 813.010(5)) and Manslaughter in the First Degree (ORS 163.118) for causing the death of Karen Lee Greenstein.

First Claim for Relief

(Negligence against the State of Oregon)

33.

Plaintiff William Max Greenstein, the Personal Representative for the Estate of Karen Lee Greenstein, re-alleges paragraphs 1-32 above as though set forth fully herein.

34.

The motor vehicle crash described above, and the resulting death of Karen Lee Greenstein, were caused, or substantially contributed to, by the negligence of defendant State of Oregon in one or more of the following particulars, and such negligence created a foreseeable risk of the type of harm suffered by Karen Lee Greenstein and the resulting damages:

- a. In failing to determine, prior to issuing an Oregon driver license to defendant Richard Webster Scott, Jr., whether defendant Scott’s California driving privileges had been reinstated by the State of California, reinstatement of such privileges being required by OAR 735-062-0007(6) before the Oregon DMV could authorize defendant Scott driving privileges in Oregon;

1 b. In failing to investigate and obtain defendant Richard Webster Scott, Jr.'s driving
2 record, license history, and driving convictions in California before issuing an Oregon driver
3 license to defendant Scott;

4 c. In issuing an Oregon driver license to defendant Richard Webster Scott, Jr. in violation
5 of OAR 735-062-0007(6), ORS 807.060(4), ORS 807.060(5), ORS 807.060(6), ORS 809.600,
6 ORS 809.640 and ORS 809.235(1)(b) when the Oregon DMV was legally prohibited from doing
7 so based upon defendant Scott not being a reinstated driver in California and defendant Scott's
8 California driving history, including, but not limited to, his having three or more convictions and
9 suspensions or revocations for driving under the influence of intoxicants and three or more
10 convictions for driving under the influence of intoxicants during his lifetime;

11 d. In failing to follow the requirements of ORS 802.200(9)(e) and the Oregon DMV's
12 own administrative rule, OAR 735-062-0210, which required the Oregon DMV to request
13 defendant Richard Webster Scott, Jr.'s driving record from the State of California and at the
14 time of issuance of an Oregon driver license to defendant Scott, enter those California driving
15 convictions on defendant Scott's Oregon driving record with the same force and effect as though
16 entered on defendant Scott's driving record in Oregon in the original instance;

17 e. In failing to take action prior to March 27, 2014 to terminate defendant Richard
18 Webster Scott, Jr.'s Oregon driver license and Oregon driving privileges because of defendant
19 Scott's ineligibility for an Oregon driver license.

20 f. In failing to take action prior to March 27, 2014 to terminate defendant Richard
21 Webster Scott, Jr.'s Oregon driving privileges as required by ORS 809.600(1), ORS 809.640, and
22 OAR 735-070-0000.

23 g. In failing to follow its own policies in processing, issuing, and allowing to remain in
24 effect the Oregon driver license it issued to defendant Richard Webster Scott, Jr.

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35.

Decedent Karen Lee Greenstein was within the class of persons intended to be protected by the statutes and administrative rules discussed and referenced in paragraph 34 above, the harm experienced by decedent Karen Lee Greenstein was within the risk intended to be avoided by these Oregon statutes and Oregon Administrative Rules, and the Oregon DMV's failure to follow these Oregon statutes and Oregon Administrative Rules caused, or was a substantial factor in causing, the foreseeable driving of a motor vehicle by defendant Richard Webster Scott, Jr. and the injury or death of others, including the death of Karen Lee Greenstein.

36.

As a direct result of defendant State of Oregon's negligence as discussed above, Karen Lee Greenstein suffered extensive severe personal injuries, including massive traumatic injuries to her head, face, neck, back, chest, arms, legs, and general torso which resulted in her death on March 27, 2014.

37.

As a further direct result of defendant State of Oregon's negligence as discussed above, decedent Karen Lee Greenstein's Estate incurred reasonable and necessary burial and memorial expenses to its economic damage in the sum of \$10,000.

38.

As a further direct result of defendant State of Oregon's negligence as discussed above, decedent Karen Lee Greenstein's Estate has suffered pecuniary loss and has been deprived of the present value of the accumulation that decedent Karen Lee Greenstein would have made to her Estate if she had lived out her life expectancy to its economic damage in the approximate sum of \$945,720.

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39.

As a further direct result of defendant State of Oregon’s negligence as discussed above, decedent Karen Lee Greenstein’s Estate, decedent Karen Lee Greenstein’s husband, William Greenstein, and decedent Karen Lee Greenstein’s daughter, Amanda Greenstein, have been deprived of the society, companionship, and services of decedent Karen Lee Greenstein in the form of non-economic damages in the sum of \$8,750,000.

Second Claim for Relief

(Statutory Tort)

40.

Plaintiff William Max Greenstein, the Personal Representative for the Estate of Karen Lee Greenstein, re-alleges paragraphs 1-39 above as though set forth fully herein.

41.

Defendant State of Oregon is statutorily liable for originally issuing, and for later failing to cancel and revoke defendant Richard Webster Scott, Jr.’s Oregon driver license and Oregon driving privileges before the death of Karen Lee Greenstein.

Third Claim for Relief

(Negligence against Richard Webster Scott, Jr.)

42.

Plaintiff William Max Greenstein, the Personal Representative for the Estate of Karen Lee Greenstein, re-alleges paragraphs 1-32 above as though set forth fully herein.

43.

The accident described above, and the resulting death of Karen Lee Greenstein, were caused, or substantially contributed to, by the negligence of defendant Richard Webster Scott, Jr. in one or more of the following particulars, and such negligence created a foreseeable risk of the

1 type of harm suffered by Karen Lee Greenstein:

2 a. In operating a motor vehicle while he was under the influence of intoxicants in
3 violation of ORS 813.010;

4 b. In failing to operate his vehicle in the northbound lanes (the correct side of the
5 roadway) of Interstate 5, a highway divided into two or more roadways by means of an
6 intervening space at the accident location and so constructed as to impede vehicular traffic, in
7 violation of ORS 811.320;

8 c. In failing to keep a proper lookout for other vehicles on Interstate 5, including the
9 vehicle being operated by decedent Karen Lee Greenstein;

10 d. In failing to keep control of the vehicle he was operating;

11 e. In operating his vehicle at a speed which was unreasonable under the conditions then
12 and there existing;

13 f. In operating his vehicle at more than 65 miles per hour on Interstate 5 in violation of
14 ORS 811.111(1)(a); and

15 g. In recklessly operating his vehicle on a public highway in a manner that endangered
16 the safety of persons or property in violation of ORS 811.140.

17 44.

18 Decedent Karen Lee Greenstein was within the class of persons intended to be protected
19 by ORS 813.010, ORS 811.320, ORS 811.111(1)(a), and ORS 811.140, the harm experienced by
20 decedent Karen Lee Greenstein was within the risk intended to be avoided by these Oregon
21 statutes, and defendant Richard Webster Scott, Jr.'s failure to follow these Oregon statutes
22 caused, or was a substantial factor in causing, the death of Karen Lee Greenstein.

23 45.

24 As a direct result of defendant Richard Webster Scott, Jr.'s negligence as discussed
25

1 above, decedent Karen Lee Greenstein suffered severe extensive personal injuries, including
2 massive traumatic injuries to her head, face, neck, back, chest, arms, legs, and general torso
3 which resulted in her death on March 27, 2014.

4 46.

5 As a further direct result of defendant Richard Webster Scott, Jr.'s negligence as
6 discussed above, decedent Karen Lee Greenstein's Estate incurred reasonable and necessary
7 burial and memorial expenses to its economic damage in the sum of approximately \$10,000.

8 47.

9 As a further direct result of defendant Richard Webster Scott, Jr.'s negligence as
10 discussed above, decedent Karen Lee Greenstein's Estate has suffered pecuniary loss and has
11 been deprived of the present value of the accumulation that the decedent would have made to her
12 Estate if she had lived out her life expectancy to its economic damage in the approximate sum of
13 \$945,720.

14 48.

15 As a further direct result of defendant Richard Webster Scott, Jr.'s negligence as
16 discussed above, decedent Karen Lee Greenstein's Estate, decedent Karen Lee Greenstein's
17 husband, William Greenstein, and decedent Karen Lee Greenstein's daughter, Amanda
18 Greenstein, have been deprived of the society, companionship, and services of decedent Karen
19 Lee Greenstein in the form of non-economic damages in the sum of \$8,750,000.

20 49.

21 Defendant Scott's wrongful acts and omissions, in one or more of the ways alleged above,
22 including driving under the influence of intoxicants at the time of the March 27, 2014 collision,
23 were with malice and showed a reckless indifference to a highly unreasonable risk of harm to
24 others, including Karen Lee Greenstein. In causing the death of Karen Lee Greenstein, defendant
25

1 Scott acted with a conscious indifference to the health, safety and welfare of others, including
2 Karen Lee Greenstein. As a result of such conduct by defendant Scott, punitive damages should
3 be awarded against defendant Scott in the amount of \$1,000,000.

4 WHEREFORE, Plaintiff William Max Greenstein, the Personal Representative for the
5 Estate of Karen Lee Greenstein, prays as follows:

6 a. For economic damages for reasonable and necessary burial and memorial expenses in
7 the sum of approximately \$10,000;

8 b. For economic damages for the pecuniary loss suffered and for the deprivation of the
9 present value of the accumulation that decedent Karen Lee Greenstein would have made to her
10 Estate if she had lived out her life expectancy in the sum of \$945,720;

11 c. For non-economic damages for the deprivation of society, companionship and services
12 of decedent Karen Lee Greenstein in the sum of \$8,750,000;

13 d. For punitive damages against defendant Scott in the sum of \$1,000,000;

14 e. For the plaintiff's costs and disbursements incurred herein; and

15 f. For any further relief that the court may deem just and equitable.

16 DATED this 12th day of June, 2019.

17
18 *s/ Carl R. Amala*

19 _____
20 Carl R. Amala, OSB # 851365
21 James V. Usera OSB # 054012
22 Of Attorneys for Plaintiff
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CERTIFICATE OF SERVICE AND MAILING

I, Carl R. Amala, do hereby state that I am one of the attorneys for the Plaintiff in the above matter and that I have served the foregoing **PLAINTIFF'S SECOND AMENDED COMPLAINT FOR WRONGFUL DEATH** by electronic service via the Court's CM/EFM system and by further mailing certified true copies thereof to the following individuals on this 12th day of June, 2019:

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s/ Carl R. Amala

Carl R. Amala