

GIRARDI | KEESE
 DAVID R. LIRA – STATE BAR NO. 134370
 1126 Wilshire Boulevard
 Los Angeles, CA 90017
 PH: (213) 977-0211
 FAX: (213) 481-1554
dlira@girardikeese.com

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF LOS ANGELES

OCT 22 2012

John A. Clarke, Executive Officer/Clerk
 BY *[Signature]* Deputy
 Ishaylia Chambers

Attorneys for PLAINTIFFS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES**

HAIRU CHEN, an individual and husband of) CASE NO. BC469935
 RONG XIANG CHENG; RONG XIANG) [Assigned to Hon. Holly E. Kendig, Dept. 42]
 CHENG, an individual; ZHE XUE HOU, an)
 individual; DONG QIANG HUANG, an)
 individual; YIE DING HUANG, an)
 individual and father of Decedent, KEER) **PLAINTIFFS' SECOND AMENDED**
 HUANG; YUAN HENG HUANG, an) **COMPLAINT FOR DAMAGES:**
 individual and son of Decedent, KEER)
 HUANG; HAI CHA PAN, an individual and) 1. **WRONGFUL DEATH**
 husband of HAN JIE WU; YING YANG) 2. **NEGLIGENCE**
 TAN, an individual GUANG YONG WU, an) 3. **STRICT PRODUCTS LIABILITY**
 individual and husband of XIAN ZHEN XU;) 4. **LOSS OF CONSORTIUM**
 HAN JIE WU, an individual;) 5. **NEGLIGENT INFLICTION OF**
 JIE XIA, an individual and wife of ZE PENG) **EMOTIONAL DISTRESS**
 ZHANG; HONG HUA XIE, an individual)
 and wife of Decedent, KEER HUANG;) [Unlimited Civil Action]
 XIAN ZHEN XU, an individual;)
 JIA WEI YE, an individual and son of) **-AND-**
 Decedent, QIN PENG; SHENG FENG YE,)
 an individual and wife of ZHE XUE HOU;) **DEMAND FOR JURY TRIAL**
 WEN SEN YE, an individual and husband of)
 Decedent, QIN PENG; WAN HUA ZHANG,)
 an individual and mother of Decedent, KEER)
 HUANG; ZE PENG ZHANG, an individual;) Complaint filed September 20, 2011
)
 Plaintiffs,)
)
 vs.)

ORIGINAL

CH-12
RECEIVED
JAN 15 1964
FBI
JAN 15 1964
JAN 15 1964
JAN 15 1964

1)
TBE INTERNATIONAL, INC., a California)
2 business entity of unknown form;)
3 STARCRAFT, a division of FOREST)
RIVER, INC., but otherwise a business entity)
4 of unknown origin and form; FOREST)
5 RIVER, INC., an Indiana Corporation; L.A.)
TRUCK CENTERS, LLC, a California)
6 Limited Liability Company d/b/a)
7 BUSWEST, a California business entity of)
unknown form; ZHI LU, an individual and)
8 resident of California; and DOES 1 through)
125, inclusive.)
9)

10 Defendants.)
11)
12)

13 **C O M E N O W** Plaintiffs HAIRU CHEN, an individual and husband of RONG XIANG
14 CHENG; RONG XIANG CHENG, an individual; ZHE XUE HOU, an individual; DONG QIANG
15 HUANG, an individual; YIE DING HUANG, an individual and father of Decedent, KEER
16 HUANG; YUAN HENG HUANG, an individual and son of Decedent, KEER HUANG; HAI CHA
17 PAN, an individual and husband of HAN JIE WU; YING YANG TAN, an individual GUANG
18 YONG WU, an individual and husband of XIAN ZHEN XU; HAN JIE WU, an individual;
19 JIE XIA, an individual and wife of ZE PENG ZHANG; HONG HUA XIE, an individual and wife
20 of Decedent, KEER HUANG; XIAN ZHEN XU, an individual; JIA WEI YE, an individual and
21 son of Decedent, QIN PENG; SHENG FENG YE, an individual and wife of ZHE XUE HOU;
22 WEN SEN YE, an individual and husband of Decedent, QIN PENG; WAN HUA ZHANG, an
23 individual and mother of Decedent, KEER HUANG; ZE PENG ZHANG, an individual,
24 (hereinafter collectively referred to as "**PLAINTIFFS**") who allege and complain as follows:

25 **INTRODUCTION**

26 1. The PLAINTIFFS and DECEDENTS were passengers on a tour bus owned and
27 operated by Defendant TBE INTERNATIONAL, INC. (hereinafter referred to as "**TBE**") on
28 October 17, 2010. On that date, and at about 8:05 a.m., the 2006 Ford Starcraft sixteen (16)

1 passenger mini-bus bearing VIN 1FDWE35S86HA73291 (hereinafter referred to as "**SUBJECT**
2 **VEHICLE**") was on route to the Grand Canyon. There were eleven (11) Chinese tourists on the
3 **SUBJECT VEHICLE** at the time of the incident. The **SUBJECT VEHICLE** was designed and
4 manufactured by **STARCRAFT** and **FOREST RIVER**, was sold by **L.A. TRUCK CENTERS, LLC**
5 d/b/a **BUSWEST** to **TBE**, and was operated by **TBE's** employee/agent, **ZHI LU**. On that date and
6 time, driver **ZHI LU** was driving the **SUBJECT VEHICLE** northbound on **Pierce Ferry Road** in
7 **Meadview, Arizona**. The **SUBJECT VEHICLE** lost control and overturned. The crash sequence
8 killed two (2) of the passengers and seriously injuring all others.

9 2. The following passengers (hereinafter collectively referred to as "**DECEDENTS**")
10 died from their injuries suffered in the October 17, 2010 tragedy:

11 (a) Decedent **KEER HUANG**; and

12 (b) Decedent **QIN PENG**.

13 3. The following **PLAINTIFFS**, heirs of **DECEDENTS**, pray relief for wrongful death:

14 (a) **WEN SEN YE** (DOB: 11/14/63), Husband of Decedent **QIN PENG**;

15 (b) **JIA WEI YE** (DOB: 4/14/92), Son of Decedent **QIN PENG**;

16 (c) **HONG HUA XIE** (DOB: 9/28/67), Wife of Decedent **KEER HUANG**;

17 (d) **YUAN HENG HUANG**, Son of Decedent **KEER HUANG**;

18 (e) **YIE DING HUANG** (DOB: 5/21/23), Father of Decedent **KERR HUANG**;

19 and

20 (f) **WAN HUA ZUANG** (DOB: 11/27/32), Mother of Decedent **KEER HUANG**.

21 4. The following **PLAINTIFFS** suffered personal injuries during the subject crash:

22 (a) **HAN JIE WU** (11/21/74) (female);

23 (b) **ZE PENG ZHANG** (12/3/74) (male);

24 (c) **DONG QIANG HUANG** (11/16/59) (male);

25 (d) **RONG XIANG CHENG** (8/28/56) (female);

26 (e) **XIAN ZHEN XU** (4/14/61) (female);

27 (f) **YING YANG TAN** (1/13/62) (female); and

28 (g) **ZHE XUE HOU** (8/10/63) (male).

GENERAL ALLEGATIONS AGAINST ALL DEFENDANTS

5. The full extent of the facts linking the fictitiously designated DEFENDANTS with each cause of action alleged herein is unknown to PLAINTIFFS, or the true names or capacities, whether individual, plural, corporate, partnership, associate or otherwise, of Defendants DOES 1 through 125, inclusive, and each of them, are unknown to PLAINTIFFS. PLAINTIFFS therefore sue said Defendants by such fictitious names. PLAINTIFFS are informed and believe and thereon allege that each of the DEFENDANTS designated herein as a DOE is negligently, recklessly, tortuously and unlawfully responsible in some manner for the events and happenings herein referred to and negligently, tortuously, and unlawfully proximately caused the injuries and damages thereby to plaintiffs as herein alleged. PLAINTIFFS will hereinafter seek leave of Court to amend this Complaint to show said DEFENDANTS' true names and capacities after the same have been ascertained. PLAINTIFFS are alleging causes of action against each DOE Defendant under every theory of recovery set forth herein.

6. PLAINTIFFS are informed and believe and thereon allege that at the time and place of the events mentioned herein, the DEFENDANTS, and each of them, were the agents, servants, employees and/or joint venturers of each of the remaining DEFENDANTS, and were at all times herein mentioned, acting within the course, scope and purpose of said agency, employment and/or joint venture.

7. The underlying motor vehicle incident described herein occurred on Pierce Ferry Road, in the City of Meadview, County of Mojave, in the State of Arizona.

8. TBE is, and at all times was, a California business organization, form unknown, with its principal place of business in the City of Industry, Los Angeles County, California. TBE, on information and belief, at all times relevant hereto owned and operated the SUBJECT VEHICLE involved in the incident.

9. Defendant ZHI LU (“LU”) is, and at all times was, a resident of Los Angeles, County, California and an employee and/or agent of TBE. LU was driving the SUBJECT VEHICLE at the time of the incident.

10. STARCRAFT (hereinafter “**STARCRAFT**”) is, and at all relevant times, was an

1 Indiana Corporation. STARCRAFT designed, manufactured, assembled, maintained, modified,
2 serviced, repaired, advertised, promoted, distributed, supplied, sold and installed component parts
3 on and in the SUBJECT VEHICLE. The SUBJECT VEHICLE was defective in its design,
4 manufacture, assembly, failure to warn, and maintenance.

5 11. FOREST RIVER, INC. (hereinafter "**FOREST RIVER**") is, and at all relevant
6 times, was an Indiana Corporation. FOREST RIVER designed, manufactured, assembled,
7 maintained, modified, serviced, repaired, advertised, promoted, distributed, supplied, sold and
8 installed component parts on and in the SUBJECT VEHICLE. The SUBJECT VEHICLE was
9 defective in its design, manufacture, failure to warn, assembly, and maintenance.

10 12. L.A. TRUCK CENTERS, LLC d/b/a BUSWEST (hereinafter "**BUSWEST**") is, and
11 at all relevant times, was a California Corporation with its principal place of business at 21107 S.
12 Chico Street in Carson, California. BUSWEST is engaged in the business of selling and servicing
13 tour buses and, in fact, sold the SUBJECT VEHICLE to TBE, thereby placing the SUBJECT
14 VEHICLE into the stream of commerce.

15 13. BUSWEST is a large and sophisticated buyer and distributor of tour and school
16 buses in California. For several years BUSWEST has bought buses for sale and distribution into
17 California that are not equipped with seat belts. Like the SUBJECT VEHICLE involved in the
18 instant deadly incident, BUSWEST specifically ordered the SUBJECT VEHICLE directly from
19 FOREST RIVER and STARCRAFT.

20 14. As the direct purchaser and distributor of the SUBJECT VEHICLE, in or about
21 December 2005, BUSWEST opted to forego the purchase and installation of seat belts in the
22 SUBJECT VEHICLE even though BUSWEST knew the SUBJECT VEHICLE would be used for
23 highway travel.

24 15. The FOREST RIVER Pricing and Order Form used for the purchase of the
25 SUBJECT VEHICLE by BUSWEST states that the retail cost of seat belts was as low as \$12 per
26 seat. In the SUBJECT VEHICLE, sixteen (16) passenger seats were without seat belts.
27 Consequently, the cost of installing seat belts in the SUBJECT VEHICLE would have cost a total
28 of \$192.00. Despite the low cost of this effective, life-saving device, BUSWEST opted to forego

1 seat belts in order to get a cost-saving advantage over its competitors.

2 16. The United States Federal Government first mandated seat belts in 1967. (32
3 *Federal Register* 2408) Seat belts were first offered as optional equipment by FORD MOTOR
4 COMPANY in 1955. By 1958, SAAB offered seat belts as standard equipment.

5 17. Records from the National Highway Transportation and Safety Administration
6 (“NHTSA”) state that between 2004 and 2008 seat belts saved over 75,000 lives.

7 18. The National transportation and Safety Board (“NTSB”) first urged the Federal
8 Government to require seat belts and improve occupant protection on inner-city buses in 1968.
9 Between 1968 and 1973, the NTSB made eleven similar recommendations citing passenger
10 ejection amongst its major concerns.

11 19. STARCRAFT describes itself in its advertisements as North America’s largest
12 shuttle bus company and America’s fastest growing school bus company. The company began in
13 1903, but it was not until 1998 that STARCRAFT joined the shuttle bus industry. In 2001,
14 STARCRAFT was purchased by FOREST RIVER, INC. After this acquisition, “the company
15 renewed its commitment to build the best bus at the best price in the industry.” Today, there are
16 nearly 25,000 STARCRAFT buses on America’s highways.

17 20. Prior to the SUBJECT INCIDENT, STARCRAFT buses were involved in at least
18 two prior rollover incidents where multiple people were killed due to lack of seat belts.

19 21. In sworn testimony concerning a prior deadly bus collision, Larry Hall, a corporate
20 executive of STARCRAFT and designated corporate representative, stated:

21 “Q . . . *We have a bus with no belts and tempered glazing,*
22 *what retention devices are available to Starcraft bus passengers*
23 *in a rollover incident?*

24 A. *That I . . . other than holding on, I don’t know what*
25 *else there is.”*

26 In that case, seven (7) passengers were killed and nine (9) others were seriously injured in a
27 rollover incident. BUSWEST had ordered and sold that bus without seat belts.

28 22. Donald F. Cox, a managing agent and corporate representative of BUSWEST, has

1 testified that over fifty percent (50%) of its bus sales in California are FOREST RIVER buses. Mr.
2 Cox confirmed that equipping a bus with seat belts would cost in the range of \$12 - \$15 a seat.

3 23. The known dangers and likelihood of deaths/injuries in rollover incidents due to lack
4 of seat belts were well known to the officers, directors, and managing agents of Defendants
5 FOREST RIVER, BUSWEST, and each of them.

6 24. The cost of equipping seat belts at each seating location in the SUBJECT VEHICLE
7 was \$192.00. That cost represents 0.5% of the list sales price of the SUBJECT VEHICLE of
8 \$44,000.00.

9
10 **FIRST CAUSE OF ACTION**

11 **(For Damages for Wrongful Death - As Against All DEFENDANTS)**

12 25. PLAINTIFFS incorporate herein by reference the allegations contained in the
13 preceding paragraphs.

14 26. On October 17, 2010, at about 8:00 a.m., Defendants LU and TBE were operating
15 the SUBJECT VEHICLE, manufactured by STARCRAFT and FOREST RIVER, and sold by
16 BUSWEST, eastbound on Pierce Ferry Road, near Milepost 23.2 in Mojave County, outside
17 Meadview, Arizona. On that date and at about that time, LU lost control of the SUBJECT
18 VEHICLE, which led to a roll-over sequence. The roll-over sequence caused several of the
19 passengers to be thrown about the SUBJECT VEHICLE and outside of the SUBJECT VEHICLE
20 through the large window portals. The roll-and-crash sequence caused the death of two (2)
21 passengers and the serious injuries to all other PLAINTIFFS.

22 27. At said date, time and place, the negligence of LU, TBE, STARCRAFT, FOREST
23 RIVER, BUSWEST, and DOES 1 through 125 were a substantial factor in causing the SUBJECT
24 VEHICLE to overturn and/or roll, thereby proximately causing the death of the DECEDENTS
25 identified in paragraph 2, above.

26 28. At said date, time and place, STARCRAFT and FOREST RIVER's defective design,
27 manufacture, assembly, failure to warn, service and maintenance of the SUBJECT VEHICLE were
28 a substantial factor in causing the SUBJECT VEHICLE to overturn and/or roll, thereby

proximately causing the death of the DECEDENTS identified in paragraph 2 above.

29. By reason of said deaths, the PLAINTIFFS identified in paragraph 3, above, have incurred funeral and burial expenses in memory of and for DECEDENTS in such amounts as will be proven at trial.

30. By reason of the deaths of the DECEDENTS identified in paragraph 2, the DECEDENTS' powers to earn money and to accumulate wealth and property have been destroyed and PLAINTIFFS identified in paragraph 3 have therefore been permanently deprived of this value and the financial contributions and the support of DECEDENTS.

31. By reason of the deaths of the DECEDENTS identified in paragraph 2, the PLAINTIFFS identified in paragraph 3 have been permanently deprived of the care, love, companionship, comfort, services, society, affection, instruction, advice, training, guidance, protection, counsel, support, contributions, inheritance and right of inheritance of decedents, all to said PLAINTIFFS' damages in amounts in excess of the minimum subject matter jurisdiction of this court.

SECOND CAUSE OF ACTION

(For Damages for the Negligence - As Against All DEFENDANTS)

32. PLAINTIFFS incorporate herein by reference the allegations contained in the preceding paragraphs.

33. On October 17, 2010, at about 8:00 a.m., LU was operating the SUBJECT VEHICLE in his capacity as an agent or employee of TBE on eastbound Pierce Ferry Road near Milepost 23.2 in Mojave County outside Meadview, Arizona. On that date and at about that time, the SUBJECT VEHICLE lost control which led to a roll-over sequence. The roll-over sequence caused several of the passengers to be thrown about the SUBJECT VEHICLE and outside of the SUBJECT VEHICLE through the large window portals. The roll and crash sequence caused the death of two (2) passengers and the serious injuries to all other PLAINTIFFS.

34. At said date, time and place, the negligence of LU, TBE, STARCRAFT, FOREST RIVER, and BUSWEST was a substantial factor in causing the SUBJECT VEHICLE to overturn

1 and/or roll, thereby proximately causing the injuries of the PLAINTIFFS identified in paragraph 3
2 above.

3 35. At said date, time and place, STARCRAFT, FOREST RIVER, and BUSWEST's
4 defective design, manufacture, assembly, failure to warn, sale, service and maintenance of the
5 SUBJECT VEHICLE were a substantial factor in causing the SUBJECT VEHICLE to overturn
6 and/or roll, thereby proximately causing the injuries of the PLAINTIFFS identified in paragraph 3
7 above.

8 36. As a direct and proximate result of the conduct of all DEFENDANTS, and each of
9 them, as aforesaid, these PLAINTIFFS suffered severe and permanent injuries.

10 37. As a direct and proximate result of the negligence, carelessness and violations of law
11 by the DEFENDANTS, and each of them, the PLAINTIFFS identified in paragraph 3 above were
12 injured in their health, strength and activity, sustaining injury to their bodies, and shock and injury
13 to their nervous system, all of which have caused and continue to cause said PLAINTIFFS great
14 mental, physical and nervous pain and suffering. These PLAINTIFFS are informed and believe
15 and thereon allege that said injuries have and will result in some permanent disability to said
16 PLAINTIFFS all to their general damage in a sum in excess of the subject matter jurisdiction of
17 this Court.

18 38. As a further direct and proximate result of the negligence, carelessness and violation
19 of law by the DEFENDANTS, and each of them, PLAINTIFFS identified in Paragraph 3 above
20 were compelled to and did employ the services of physicians, surgeons, and other medical
21 personnel, and health care providers, and PLAINTIFFS were compelled to and did incur other
22 incidental expenses related to the care and treatment of said injuries. These PLAINTIFFS are
23 informed and believe and thereon allege that PLAINTIFFS will be compelled to seek further
24 treatment in the future for the care of said injuries and to incur further reasonable expenses for the
25 same. These PLAINTIFFS will give proof of both past and future claimed medical expenses at the
26 time of trial.

27 39. As a further direct and proximate result of the conduct of the DEFENDANTS, and
28 each of them, PLAINTIFFS identified in paragraph 3 above have sustained personal injuries, some

1 of which are permanent in nature. Such injuries have impaired the ability of said PLAINTIFFS to
2 work and have prevented them from attending to their usual occupations. These PLAINTIFFS
3 have suffered a loss of earnings and impaired earning capacity, the exact nature and extent of
4 which is not known at this time.

5
6 **THIRD CAUSE OF ACTION**

7 **(For Damages for Strict Products Liability - As Against STARCRAFT**
8 **and FOREST RIVER)**

9 40. PLAINTIFFS incorporate herein by reference the allegations contained in the
10 preceding paragraphs.

11 41. PLAINTIFFS are informed and believe and thereon allege that STARCRAFT,
12 FOREST RIVER, and BUSWEST, and each of them, so negligently, carelessly and recklessly
13 designed, manufactured, tested, produced, assembled, inspected, maintained, modified, serviced,
14 repaired, advertised, promoted, distributed, supplied, sold, installed, retrofitted, updated, delivered,
15 the SUBJECT VEHICLE. The SUBJECT VEHICLE was defective, among other things in its
16 handling and stability, crashworthiness, large ejection portals and lack of proper safety devices,
17 such as seat belts and air curtains. These DEFENDANTS also failed to warn operators of the
18 SUBJECT VEHICLE regarding the significant dangers of the SUBJECT VEHICLE so as to permit
19 said SUBJECT VEHICLE to exist in a defective and unsafe condition for the foreseeable use and
20 purpose for which it was intended.

21 42. As a direct and proximate result of the conduct of all defendants, and each of them as
22 aforesaid, the PLAINTIFFS identified in paragraph 4, above, suffered severe and permanent
23 injuries when the SUBJECT VEHICLE lost control and overturned on October 17, 2010.

24 43. As a direct and proximate result of the conduct of all DEFENDANTS, and each of
25 them, as aforesaid, the DECEDENTS identified in paragraph 2, above, died from injuries caused
26 by the SUBJECT VEHICLE losing control and overturning on October 17, 2010.

27 44. DEFENDANTS, and each of them, knew the great likelihood of death and/or serious
28 injury in rollover accidents if bus passengers did not have seat belts available to them. Despite

1 this knowledge, DEFENDANTS, and each of them, knowingly failed to equip the SUBJECT
2 VEHICLE with seat belts. The officers, directors and managing agents of BUSWEST, FOREST
3 RIVER and STARCRAFT authorized and ratified the decision to forego these key safety devices
4 in conscious disregard of the safety of others.

5 45. At all times herein mentioned, it was reasonably foreseeable to all DEFENDANTS,
6 and each of them, that their negligent, reckless and unlawful breach of the aforementioned duties
7 and obligations presented an obvious risk to the occupants of vehicles, including PLAINTIFFS and
8 DECEDENTS, which resulted in serious injury or death.

9 46. The DECEDENTS identified in paragraph 2 died as a direct and proximate result of
10 the carelessness, negligence and unlawful conduct of the DEFENDANTS, and each of them.

11 47. By reason of said deaths of DECEDENTS, the PLAINTIFFS identified in paragraph
12 3 have incurred funeral and burial expenses in memory of and for DECEDENTS in such amounts
13 as will be proven at trial.

14 48. By reason of the deaths of the DECEDENTS identified in paragraph 2, the
15 DECEDENTS' powers to earn money and to accumulate wealth and property has been destroyed
16 and PLAINTIFFS identified in paragraph 3 have therefore been permanently deprived of this and
17 of the care, love, companionship, comfort, services, society, affection, instruction, advice, training,
18 guidance, protection, counsel, support, contributions, inheritance and right of inheritance of
19 DECEDENTS, all to said PLAINTIFFS' damages in amounts in excess of the minimum subject
20 matter jurisdiction of this court.

21 49. As a direct and proximate result of the negligence, carelessness and violations of law
22 by the DEFENDANTS, and each of them, the PLAINTIFFS identified in paragraph 4, above, were
23 injured in their health, strength and activity, sustaining injury to their bodies, and shock and injury
24 to their nervous system, all of which have caused and continue to cause said PLAINTIFFS great
25 mental, physical and nervous pain and suffering. These PLAINTIFFS are informed and believe
26 and thereon allege that said injuries have and will result in some permanent disability to said
27 PLAINTIFFS, all to their general damage in a sum in excess of the subject matter jurisdiction of
28 this Court.

1 50. As a further direct and proximate result of the negligence, carelessness and violation
2 of law by the DEFENDANTS, and each of them, the PLAINTIFFS identified in paragraph 4 were
3 compelled to and did employ the services of physicians, surgeons, and other medical personnel,
4 and PLAINTIFFS were compelled to and did incur other incidental expenses related to the care
5 and treatment of said injuries. PLAINTIFFS are informed and believe and thereon allege that they
6 will be compelled to seek further treatment in the future for the care of said injuries and to incur
7 further reasonable expenses for the same. PLAINTIFFS will give proof of both past and future
8 claimed medical expenses at the time of trial.

9 51. As a further direct and proximate result of the conduct of the DEFENDANTS, and
10 each of them, the PLAINTIFFS identified in paragraph 4 have sustained personal injuries, some of
11 which are permanent in nature. Such injuries have impaired the ability of said PLAINTIFFS to
12 work and have prevented them from attending to their usual occupations. These PLAINTIFFS
13 have suffered a loss of earnings and impaired earning capacity, the exact nature and extent of
14 which is not known to PLAINTIFFS at this time.

15 52. STARCRAFT, FOREST RIVER, and BUSWEST demonstrated a wanton and/or
16 reckless disregard of the safety of PLAINTIFFS by intentionally failing to equip the SUBJECT
17 VEHICLE with seat belts. Seat belts are the most potent safety device to vehicle occupants and
18 are both technically and economically feasible. Had these low-cost yet potent devices been
19 installed on the SUBJECT VEHICLE, PLAINTIFFS would have only sustained minor injuries as
20 opposed to catastrophic injuries or death. The decision not to install seat belts in the tour bus was
21 ratified and approved by the officers and managing agents of BUSWEST, FOREST RIVER, and
22 STARCRAFT.

23 53. The wrongful conduct of these DEFENDANTS, and each of them, involved more
24 than just inadvertence, error of judgment, or negligence. Rather, DEFENDANTS' conduct was
25 despicable and was done with a willful and knowing disregard for the safety of others such as
26 PLAINTIFFS and DECEDENTS. Despite prior knowledge of the life-saving benefits of the low-
27 cost seat belts, DEFENDANTS opted to forego seat belts in the SUBJECT VEHICLE.
28 DEFENDANTS' conduct in this regard is vile, base, and contemptible.

54. In doing the acts herein allege, DEFENDANTS acted willfully, wantonly, with oppression, fraud, and/or malice, and with a conscious disregard of the rights and safety of others, such that PLAINTIFFS request that the trier of fact, in the exercise of its sound discretion, award PLAINTIFFS additional damages for the sake of example and sufficient to punish DEFENDANTS for their despicable conduct, in an amount reasonably related to PLAINTIFFS' actual damages, yet sufficiently large enough to be an example to others and to deter DEFENDANTS and others from engaging in similar conduct in the future.

FOURTH CAUSE OF ACTION

(For Damages for Loss of Consortium - As Against All DEFENDANTS)

55. PLAINTIFFS incorporate herein by reference the allegations contained in the preceding paragraphs.

56. On October 17, 2010, and at all times mentioned in this complaint, Plaintiffs HAN JIE WU and HAI CHA PAN were husband and wife. Plaintiff HAI CHA PAN asserts this cause of action for the loss of consortium of his wife, Plaintiff HAN JIE WU.

57. On October 17, 2010, and at all times mentioned in this complaint, Plaintiffs ZE PENG ZHANG and JIE XIA were husband and wife. Plaintiff JIE XIA asserts this cause of action for the loss of consortium of her husband, Plaintiff ZE PENG ZHANG.

58. On October 17, 2010, and at all times mentioned in this complaint, Plaintiffs RONG XIANG CHENG and HAIRU CHEN were husband and wife. Plaintiff HAIRU CHEN asserts this cause of action for the loss of consortium of his wife, Plaintiff RONG XIANG CHENG.

59. On October 17, 2010, and at all times mentioned in this complaint, Plaintiffs XIAN ZHEN XU and GUANG YONG WU were husband and wife. Plaintiff GUANG YONG WU asserts this cause of action for the loss of consortium of his wife, XIAN ZHEN XU.

60. On October 17, 2010, and at all times mentioned in this complaint, Plaintiffs ZHE XUE HOU and SHENG FENG YE were husband and wife. Plaintiff SHENG FENG YE asserts this cause of action for the loss of consortium of her husband, ZHE XUE HOU.

61. As a direct and proximate result of DEFENDANTS' negligent conduct, and each of

1 them, these PLAINTIFFS' (that is, those PLAINTIFFS named in this cause of action as set forth
2 above) spouses suffered significant personal injuries.

3 62. Before suffering these injuries, these PLAINTIFFS' spouses were able to and did
4 perform all the duties of a husband or wife, including assisting in maintaining the home, and
5 providing love, companionship, affection, society, sexual relations, moral support, and solace to
6 these PLAINTIFFS.

7 63. As a direct and proximate result of the injuries, these PLAINTIFFS' spouses has
8 been unable to fully perform the duties of a husband or wife in that he or she can no longer fully
9 assist with housework, participate in family, recreational, or social activities with their respective
10 spouse, or contribute fully to the household. These PLAINTIFFS are therefore deprived and will
11 be permanently deprived of his or her spouses' consortium, all to PLAINTIFFS' damage, in a total
12 amount to be established by proof at trial.

13
14 **FIFTH CAUSE OF ACTION**

15 **(For Damages for Negligent Infliction of Emotional Distress –**

16 **As Against All DEFENDANTS)**

17 64. PLAINTIFFS incorporate paragraphs 1 through 61 as though they were fully set
18 forth herein.

19 65. On October 17, 2010, and at all times mentioned in this complaint, Plaintiff WEN
20 SEN YE was the husband of Decedent QIN PENG.

21 66. On October 17, 2010, and at all times mentioned in this complaint, Plaintiff JIA WEI
22 YE was the son of Decedent QIN PENG.

23 67. On October 17, 2010, and at all times mentioned in this complaint, Plaintiff HONG
24 HUA XIE was the wife of Decedent KEER HUANG.

25 68. On October 17, 2010, and at all times mentioned in this complaint, Plaintiff YUAN
26 HENG HUANG was the son of Decedent KEER HUANG.

27 69. On October 17, 2010, and at all times mentioned in this complaint, Plaintiff YIE
28 DING HUANG was the father of Decedent KEER HUANG.

70. On October 17, 2010, and at all times mentioned in this complaint, Plaintiff WAN HUA ZUANG was the mother of Decedent KEER HUANG.

71. On October 17, 2010, DEFENDANTS' negligently caused injury and/or death to the close family members of the PLAINTIFFS identified above.

72. The PLAINTIFFS identified above suffered serious emotional distress,

73. The DEFENDANTS' conduct was a substantial factor in causing the above-identified PLAINTIFFS' serious emotional distress.

74. Also as a proximate result of witnessing this tragic, terrifying incident, the PLAINTIFFS identified above have lost and will further lose their earnings and earning capacities.

75. Also as a proximate result of witnessing this tragic, terrifying incident the PLAINTIFFS identified above have incurred and will continue to incur various expenses and losses.

PRAYER FOR DAMAGES

WHEREFORE, PLAINTIFFS pray for judgment against DEFENDANTS, and each of them, as follows:

1. For general damages in a sum in excess of the jurisdiction of this court;

2. For wrongful death damages for the deaths of the DECEDENTS identified in paragraph 2, above;

3. For funeral and burial expenses for the DECEDENTS identified in paragraph 2, above;

4. For the pecuniary value of the loss of love, care, companionship, comfort, services, society, and companionship of the DECEDENTS identified in paragraph 2;

5. For damages for personal injury and pain and suffering and emotional distress by all PLAINTIFFS in an amount in excess of the minimum subject matter jurisdiction of this Court;

6. For medical expenses, both past and future, and all other related special damages incurred by and on behalf of PLAINTIFFS;

7. For loss of earnings and earning capacity both past and future, and all other related

1 special damages incurred by and on behalf of PLAINTIFFS;

2 8. For loss of earning, impaired earning capacity and future loss of earnings for
3 PLAINTIFFS;

4 9. For pecuniary value of the loss of consortium, care, comfort, companionship for
5 those PLAINTIFFS so entitled;

6 10. For the emotional distress inflicted upon PLAINTIFFS as a result of their own
7 personal injuries as a direct victim as well as their emotional distress from witnessing injuries to
8 close family members;

9 11. For punitive damages against STARCRAFT, FOREST RIVER and BUSWEST;

10 12. For the loss of the financial support of the DECEDENTS;

11 13. For prejudgment interest to the extent authorized by law;

12 14. For costs of suit incurred herein; and

13 15. For such other and further relief as the Court deems just and proper.
14

15 **JURY DEMAND**

16 PLAINTIFFS demand a trial by jury on all claims so triable.
17
18

19 DATED: October 22, 2012

GIRARDI | KEESE

20
21
22 By: _____



23 DAVID R. LIRA

24 Attorneys for PLAINTIFFS
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1126 Wilshire Boulevard, Los Angeles, California 90017.

On October 22, 2012, I served the foregoing document described as: **PLAINTIFFS' SECOND AMENDED COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL** on the interested parties in this action by placing a true and correct copy thereof, enclosed in a sealed envelope addressed as follows:

Douglas W. Robinson, Esq.
SHOOK HARDY & BACON, LLP
Jamboree Center, 5 Park Plaza, Suite 1600
Irvine, California 92614-2546
Attorneys for L.A. Truck Centers, LLC

RICHARD C. MORENO, ESQ.
STEVEN J. McEVOY, ESQ.
ADRIAN J. BARRIO, ESQ.
MURCHISON & CUMMING, LLP
801 S. Grand Avenue, 9th Floor
Los Angeles, CA 90017
Ph: (213) 623-7400
Fax: (213) 623-6336
Moreno@murchisonlaw.com
Smcevoy@murchisonlaw.com
abarrio@murchisonlaw.com
Attorneys for Defendants FOREST RIVER, INC. and STARCRAFT, a division of FOREST RIVER, INC.

LEON V. VICTOR, ESQ.
LEON A. VICTOR & ASSOCIATES, PC
33 S. Catalina Avenue, Suite 202 (NEW AS OF 2/27/12)
Pasadena CA 91106
Ph: (626) 792-4255
Fax: (626) 792-4266
lvictor@lavapc.com
Attorneys for Defendant TBE INTERNATIONAL, INC.

☒ **BY MAIL:** I am familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

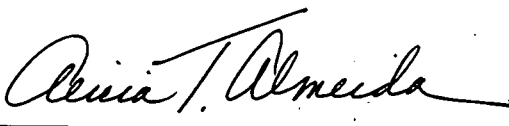
☐ **BY FACSIMILE:** In addition to service by mail as set forth above, a copy of said document(s) was also delivered by facsimile transmission to the addressee(s) pursuant to Code of Civil Procedure §1013(e).

☐ **BY OVERNIGHT MAIL:** I caused said document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.

☐ **BY PERSONAL SERVICE:** By causing personal delivery by PROLEGAL MESSENGER SERVICE of the document(s) listed above to the person(s) at the address(es) set forth on the attached service list.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 22, 2012, at Los Angeles, California.


ALICIA T. ALMEIDA