

COURT FILE NUMBER                    2003 14122

COURT                                    COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE                    EDMONTON

PLAINTIFF                            SURAJKUMAR PATEL & SWETA PATEL &  
RAHULKUMAR PATEL & HEMALI PATEL &  
AARYA PATEL a minor by her litigation  
representative RAHULKUMAR PATEL &  
KIRANBEN PATEL & THE ESTATE OF  
KAMLESHBHAI PATEL by its litigation  
representative RAHULKUMAR PATEL

DEFENDANT(S)                    BREWSTER TRAVEL CANADA INC. & VIAD  
CORP & GLACIER PARK INC. & BREWSTER  
INC. & BREWSTER TOURS INC. & BANFF-  
JASPER COLLECTION HOLDING CORP. &  
JANE DOE & JOHN DOE I & ABC  
CORPORATION & XYZ CORPORATION

DOCUMENT                            **STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT                    DIAMOND & DIAMOND LAWYERS LLP  
GREYSTONE BUSINESS PARK  
UNIT 100, 4246 97 STREET NW  
EDMONTON, AB T6E 5Z9  
PH: 780-665-1616  
FAX: 780-665-1625  
ATTN: BASIL BANSAL

Plaintiffs File numbers: PASU920.BB, PASW920.BB, PARA920.BB, PAHE920.BB, PAAA920.BB, PAKI920.BB, PAKA920.BB

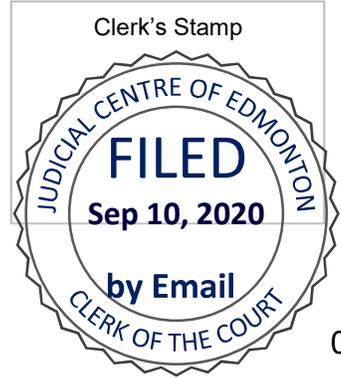
**NOTICE TO DEFENDANT(S)**

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

**Statement of facts relied on:**

1. This is a claim for damages arising from the injuries the Plaintiffs sustained in a motor vehicle accident and from the death of one Plaintiff, Mr. Kamleshbhai Patel, who died as a result of the injuries he sustained in a motor vehicle accident.
2. The Plaintiff, Surajkumar Patel ("Plaintiff 1"), was at all material times a resident of the Town of High Prairie, in the Province of Alberta, and was a passenger seated in the last row, left aisle seat on the Foremost Terra Bus (the "Tour Bus").
3. The Plaintiff, Sweta Patel ("Plaintiff 2"), was at all material times a resident of the Town of High Prairie, in the Province of Alberta, and was a passenger seated in the last row, left window seat on the Tour Bus.



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4. The Plaintiff, Rahul Kumar Patel ("Plaintiff 3"), was at all material times a resident of the Town of Whitecourt, in the Province of Alberta, and was a passenger seated in the last row, right aisle seat on the Tour Bus.
5. The Plaintiff, Hemali Patel ("Plaintiff 4"), was at all material times a resident of the Town of Whitecourt, in the Province of Alberta, and was a passenger seated in the last row, right window seat on the Tour Bus.
6. The Plaintiff, Aarya Patel ("Plaintiff 5"), was at all material times a resident of the Town of Whitecourt, in the Province of Alberta, and was a passenger being carried by her mother Hemali Patel, in a front carry strap. The Plaintiff, Aarya Patel, is a minor and sues by her father and litigation representative Rahul Kumar Patel.
7. The Plaintiff, Kiranben Patel ("Plaintiff 6"), was at all material times a resident of India, and was a passenger seated in the second last row, right window seat on the Tour Bus.
8. The Estate of Kamleshbhai Patel ("Plaintiff 7"), is being represented by its litigation representative Rahul Kumar Patel. Mr. Kamleshbhai Patel was at all material times a resident of India, and was a passenger seated in the second last row, right aisle seat on the Tour Bus. Mr. Kamleshbhai Patel passed away on the Tour Bus and therefore his estate is making a claim for damages. Mr. Rahul Kumar Patel is the son of the late Mr. Kamleshbhai Patel, and Ms. Kiranben Patel is the wife of the late Mr. Kamleshbhai Patel and are therefore beneficiaries of the Estate of Kamleshbhai Patel.
9. The Defendant, Brewster Travel Canada Inc. (the "Defendant Brewster Travel"), is a body corporate, incorporated pursuant to the laws of the Province of Alberta, and at all material times was actively carrying on business within the Province of Alberta.
10. The Defendant, Viad Corp. (the "Defendant Viad Corp"), is a body corporate, incorporated pursuant to the laws of the State of Minnesota, in the United States of America ("USA"), and at all material times was actively carrying on business within the Province of Alberta, and was the owner and operator of the Tour Bus.
11. The Defendant, Glacier Park Inc. (the "Defendant Glacier Park"), is a body corporate, incorporated pursuant to the laws of the State of Arizona, USA, and at all material times was actively carrying on business within the Province of Alberta.
12. The Defendant, Brewster Inc. (the "Defendant Brewster Inc."), is a body corporate, incorporated pursuant to the laws of the Province of Alberta, and at all material times was actively carrying on business within the Province of Alberta.
13. The Defendant, Brewster Tours Inc. (the "Defendant Brewster Tours"), is a body corporate, incorporated pursuant to the laws of the Province of Alberta, and at all material times was actively carrying on business within in the Province of Alberta.
14. The Defendant, Banff-Jasper Collection Holding Corp. (the "Defendant Banff-Jasper Collection"), is a body corporate, incorporated pursuant to the laws of the Province of Alberta, and at all material times was actively carrying on business within the Province of Alberta.
15. The Defendants, Brewster Travel Canada Inc., Viad Corp., Glacier Park Inc., Brewster Inc., Brewster Tours Inc., and Banff-Jasper Collection Holding Corp. are affiliated corporate entities working together in the operations, sales, maintenance, and promotions of tours conducted on

the Tour Bus. These Defendants shall hereinafter be collectively known as the Corporate Defendants.

16. The Defendant Jane Doe, whose identity is not known by the Plaintiffs, was at all material times the operator of the aforementioned Tour Bus with the express or implied consent of the Defendant Viad Corp. The Defendant Jane Doe was either an employee or contractor hired by the Defendant Viad Corp. or one of the other aforementioned Corporate Defendants. The Corporate Defendants are, individually or collectively, vicariously liable for the Defendant Jane Doe.
17. In the alternative, John Doe I was at all material times operating the Tour Bus with the express or implied consent of the Defendant, ABC Corporation, who was at all material times the operator or registered owner of the Tour Bus.
18. The Defendant, XYZ Corporation, is a body corporate, incorporated pursuant to the laws of the province of Alberta, and at all material times was actively carrying on business within the Province of Alberta. XYZ Corporation was the maintenance company that was hired and/or contracted to maintain the roads, or such other responsibilities that may later be proven. The Defendants, Brewster Travel Canada Inc., Viad Corp., Glacier Park Inc., Brewster Inc., Brewster Tours Inc., Banff-Jasper Collection Holding Corp., Jane Doe, John Doe I, ABC Corporation and XYZ Corporation are hereinafter collectively referred to as "the Defendants".
19. On or about the 18<sup>th</sup> day of July 2020, the Plaintiffs boarded the Tour Bus to tour and explore the Athabasca Glacier and Columbia Icefields. The Tour Bus was traveling on the road to the Athabasca Glacier when it lost control and rolled about 50 metres down a moraine embankment before coming to a rest on its roof, causing the Plaintiffs to sustain serious, grievous, permanent and catastrophic personal injuries ("the Collision").
20. The Collision and the resulting injuries were a tort committed within the Province of Alberta and thus a real and substantial connection exists between Alberta and the facts on which the Plaintiffs claim is based and was caused by the negligence of the Defendants, its servants, agents or employees, particulars of which include but are not limited to:
  - a) Failing to enact protective measures to prevent the Collision;
  - b) Acting recklessly and unreasonably in failing to take reasonable steps to ensure that the tour bus and road were properly maintained, the operator of the Tour Bus was qualified and taking proper precaution and due care when operating the Tour Bus, and that the Tour Bus itself was properly maintained and in suitable mechanical condition;
  - c) Failing to take any reasonable care to ensure the Tour Bus was reasonably safe for the use of persons;
  - d) Failing to make proper or any inspection of the Tour Bus;
  - e) Failing to repair and maintain the Tour Bus when they knew or ought to have known that failure to do so would present a danger or risk of injury to the Plaintiffs and to the public in general;
  - f) Failing to take any precautions at all or any reasonable precautions in maintaining a safe vehicle;

- g) Failing to employ reasonably competent servants, agents or employees to inspect and provide maintenance to the Tour Bus;
- h) Failing to properly instruct and supervise, or at all, its servants, agents, or employees in proper procedures to be used to repair and/or maintain the Tour Bus;
- i) Permitting the Tour Bus to be operated by an incompetent driver;
- j) Failing to employ reasonable and competent individuals to safely operate its vehicles and carry out their duties;
- k) Failing to properly instruct and/or train and/or supervise their drivers, agents, servants, or employees;
- l) Failing to implement a system or procedure of supervision, instruction or training of their servants, agents, or employees, with respect to safely operating its vehicles;
- m) Permitting the Tour Bus to be operated when it was known or ought to have been known it was in a defective mechanical condition.
- n) Creating policies, guidelines, and directives that resulted in unreasonable, unsafe, and, or in the alternative, inappropriate operation of its vehicles.
- o) Failing to ensure that there were proper policies for the effective, reasonable, and safe operation of its vehicles;
- p) Creating a situation of danger that they knew or ought to have known would precipitate the type of injury sustained by the Plaintiffs;
- q) Failing to have safety restraints on the seats for the safety of the Plaintiffs;
- r) Travelling at an unsafe rate of speed given the circumstances;
- s) Failing to keep the Tour Bus under any or any proper control;
- t) Failing to take any or any proper evasive action when she knew or ought to have known that a collision was imminent;
- u) Failing to apply the brakes properly or at all, or in the alternative, operating the Tour Bus when she knew or ought to have known it was in a defective operating condition;
- v) Operating the Tour Bus without due care and attention or without reasonable consideration for other users of the highway;
- w) Operating the Tour Bus when her ability to do so was impaired by alcohol, drugs, fatigue, lack of sleep, or some other reason;
- x) Being an incompetent driver lacking in reasonable skill and self-command who ought not to have attempted to operate a motor vehicle on the occasion in question;
- y) Failing to have the Tour Bus properly equipped with proper brakes, headlights, windshield wipers, tires, warning devices, and other equipment necessary for the safe and proper operation of the Tour Bus in the circumstances; and

- z) Such further and other particulars of negligence that will be made known to the Defendants and proven at the trial of this action.
21. As a result of the Collision and resulting death of Kamleshbhai Patel, Deceased, the Plaintiff Kiranben Patel has been deprived of the support, love, care, and affection of her husband and the Plaintiff Rahulkumar Patel has been deprived of the support, love, care, and affection of his father, and claim damages for bereavement, loss of future financial support, loss of voluntary services, grief counselling, and funeral expenses, pursuant to the *Fatal Accidents Act*, R.S.A. 2000, C, F-8, as amended.
22. As a result of this Collision, Plaintiff 1 suffered personal injuries and other loss and damages, particulars of which include but are not limited to:
- a) Head injuries requiring stitches;
  - b) Concussion and memory loss;
  - c) Temporomandibular joint dysfunction (TMJ);
  - d) Vision problems;
  - e) Headaches;
  - f) Injuries to his cervical spine, including neck and shoulders;
  - g) Injuries throughout his thoracic and lumbar spine;
  - h) Injuries to his chest, including a fracture;
  - i) Injuries to his arms;
  - j) Injuries to his wrists;
  - k) Injuries to his hips;
  - l) Injuries to his knees;
  - m) Chronic pain;
  - n) Anxiety, nightmares, and difficulties sleeping;
  - o) Post-traumatic stress disorder;
  - p) Depression;
  - q) Reduced memory capacity; and
  - r) Such further and other injuries as will be proven at the trial of this matter.
23. As a result of this Collision, Plaintiff 2 suffered personal injuries and other loss and damages, particulars of which include but are not limited to:
- a) Head injuries requiring staples;
  - b) Concussion and memory loss;

- c) Temporomandibular joint dysfunction (TMJ);
  - d) Vision problems, including a bone fracture near her eye;
  - e) Hearing problems;
  - f) Headaches;
  - g) Injuries to her cervical spine, including neck and shoulders;
  - h) Injuries throughout her thoracic and lumbar spine;
  - i) Injuries to her chest;
  - j) Injuries to her arms;
  - k) Injuries to her wrists;
  - l) Injuries to her hands;
  - m) Injuries to her knees;
  - n) Chronic pain;
  - o) Anxiety, nightmares, and difficulties sleeping;
  - p) Post-traumatic stress disorder;
  - q) Depression;
  - r) Reduced memory capacity; and
  - s) Such further and other injuries as will be proven at the trial of this matter.
24. As a result of this Collision, Plaintiff 3 suffered personal injuries and other loss and damages, particulars of which include but are not limited to:
- a) Head injuries;
  - b) Concussion and memory loss;
  - c) Broken nose;
  - d) Temporomandibular joint dysfunction (TMJ);
  - e) Headaches;
  - f) Injuries to his cervical spine, including neck and shoulders;
  - g) Injuries throughout his thoracic and lumbar spine;
  - h) Injuries to his chest, including fractured ribs and a punctured lung;
  - i) Injuries to his arms;
  - j) Injuries to his hands;

- k) Injuries to his knees;
  - l) Chronic pain;
  - m) Anxiety, nightmares, and difficulties sleeping;
  - n) Post-traumatic stress disorder;
  - o) Depression;
  - p) Reduced memory capacity; and
  - q) Such further and other injuries as will be proven at the trial of this matter.
25. As a result of this Collision, Plaintiff 4 suffered personal injuries and other loss and damages, particulars of which include but are not limited to:
- a) Head injuries including a severe wound;
  - b) Concussion and memory loss;
  - c) Broken nose.
  - d) Temporomandibular joint dysfunction (TMJ);
  - e) Hearing problems;
  - f) Headaches;
  - g) Injuries to her cervical spine, including neck and shoulders;
  - h) Injuries throughout her thoracic and lumbar spine;
  - i) Injuries to her hands;
  - j) Injuries to her legs;
  - k) Injuries to her knees;
  - l) Chronic pain;
  - m) Anxiety, nightmares, and difficulties sleeping;
  - n) Post-traumatic stress disorder;
  - o) Reduced memory capacity; and
  - p) Such further and other injuries as will be proven at the trial of this matter.
26. As a result of this Collision, Plaintiff 5 suffered personal injuries and other loss and damages, particulars of which include but are not limited to:
- a) Head injuries;
  - b) Internal bleeding;

- c) Left hip fracture;
  - d) Irregular growth, behaviour, and development;
  - e) Chronic pain; and
  - f) Such further and other injuries as will be proven at the trial of this matter.
27. As a result of this Collision, Plaintiff 6 suffered personal injuries and other loss and damages, particulars of which include but are not limited to:
- a) Head injuries;
  - b) Concussion and memory loss;
  - c) Temporomandibular joint dysfunction (TMJ);
  - d) Vision problems;
  - e) Headaches;
  - f) Injuries to her cervical spine, including neck and shoulders and a fractured clavicle;
  - g) Injuries throughout her thoracic and lumbar spine;
  - h) Injuries to her chest;
  - i) Injuries to her arms;
  - j) Injuries to her wrists;
  - k) Injuries to her hands;
  - l) Injuries to her knees;
  - m) Injuries to her legs;
  - n) Chronic pain;
  - o) Anxiety, nightmares, and difficulties sleeping;
  - p) Post-traumatic stress disorder;
  - q) Reduced memory capacity; and
  - r) Such further and other injuries as will be proven at the trial of this matter.
28. As a result of this Collision, Plaintiff 7 lost his life and was pronounced dead at the scene where the Collision took place and the Tour Bus was found. The beneficiaries of the estate have suffered a loss of life and support as a spouse, child, or grandchild.
29. As a result of the injuries sustained, the Plaintiffs have suffered the following damages:
- a) Pain and suffering and loss of enjoyment of life;
  - b) Past and future loss of income, earning capacity, and competitive advantage;

- c) Past and future costs of care;
  - d) Past and future loss of housekeeping capacity;
  - e) Out of pocket expenses;
  - f) Property damage; and
  - g) Such further and other damages as may be proven at the trial of this action.
30. The Plaintiffs plead the provisions of the *Traffic Safety Act*, RSA 2000, c T-6, as amended, the *Fatal Accidents Act*, R.S.A. 2000, c F-8, as amended, the *Survival of Actions Act*, R.S.A. 2000, S-27, as amended, and the *Judgment Interest Act*, RSA 2000, c J-1, as amended.
31. None of the Plaintiffs' injuries are "minor injuries" as defined in section 597 of the *Insurance Act*, RSA 2000, c 1-3; and the Regulations passed thereunder, being the *Automobile Accident Insurance Benefits Regulation*, Alta Reg 352/1972, the *Diagnostic and Treatment Protocols Regulation*, Alta Reg 116/2014, and the *Minor Injury Regulation*, Alta Reg 123/2004; and as a result, limitations on benefits, diagnosis, and treatment, and the cap on non-pecuniary damages are inapplicable.
32. In the alternative, if some of the Plaintiffs injuries are governed by section 597 of the *Insurance Act* and the Regulations thereunder, then the injuries have resulted in a "serious impairment" as defined in section 1(j) of the *Minor Injury Regulation*.
33. The Plaintiffs propose that the trial of this matter be held at the Court House in the City of Edmonton, in the Province of Alberta.
34. The trial of this action will not be less than 25 days.

**Remedy sought:**

35. Plaintiff 1 claims against the Defendants as follows:
- a) General damages in the amount of \$750,000.00;
  - b) Special damages including loss of income, loss of housekeeping capacity, out of pocket expenses, property damage, and costs of care in the amount of \$500,000.00;
  - c) Pecuniary damages for the cost of future care, future loss of housekeeping capacity, future loss of income, and future loss of earning capacity in the amount of \$750,000.00;
  - d) A declaration that none of the Plaintiff's injuries are "minor injuries" as defined in paragraph 31 above;
  - e) Costs on a Solicitor and his own client basis; and
  - f) Such further and other relief as this Honourable Court may deem just in the circumstances.
36. Plaintiff 2 claims against the Defendants as follows:
- a) General damages in the amount of \$750,000.00;

- b) Special damages including loss of income, loss of housekeeping capacity, out of pocket expenses, property damage, and costs of care in the amount of \$500,000.00;
- c) Pecuniary damages for the cost of future care, future loss of housekeeping capacity, future loss of income, and future loss of earning capacity in the amount of \$750,000.00;
- d) A declaration that none of the Plaintiff's injuries are "minor injuries" as defined in paragraph 31 above;
- e) Costs on a Solicitor and his own client basis; and
- f) Such further and other relief as this Honourable Court may deem just in the circumstances.

37. Plaintiff 3 claims against the Defendants as follows:

- a) General damages in the amount of \$750,000.00;
- b) Special damages including loss of income, loss of housekeeping capacity, out of pocket expenses, property damage, and costs of care in the amount of \$500,000.00;
- c) Pecuniary damages for the cost of future care, future loss of housekeeping capacity, future loss of income, and future loss of earning capacity in the amount of \$750,000.00;
- d) A declaration that none of the Plaintiff's injuries are "minor injuries" as defined in paragraph 31 above;
- e) Costs on a Solicitor and his own client basis; and
- f) Such further and other relief as this Honourable Court may deem just in the circumstances.

38. Plaintiff 4 claims against the Defendants as follows:

- a) General damages in the amount of \$750,000.00;
- b) Special damages including loss of income, loss of housekeeping capacity, out of pocket expenses, property damage, and costs of care in the amount of \$500,000.00;
- c) Pecuniary damages for the cost of future care, future loss of housekeeping capacity, future loss of income, and future loss of earning capacity in the amount of \$750,000.00;
- d) A declaration that none of the Plaintiff's injuries are "minor injuries" as defined in paragraph 31 above;
- e) Costs on a Solicitor and his own client basis; and
- f) Such further and other relief as this Honourable Court may deem just in the circumstances.

39. Plaintiff 5 claims against the Defendants as follows:

- a) General damages in the amount of \$750,000.00;
- b) Special damages in the amount of \$500,000.00;
- c) Pecuniary damages for the cost of future care, future loss of housekeeping capacity, future loss of income, and future loss of earning capacity in the amount of \$1,000,000.00;

- d) A declaration that none of the Plaintiff's injuries are "minor injuries" as defined in paragraph 31 above;
- e) Costs on a Solicitor and his own client basis; and
- f) Such further and other relief as this Honourable Court may deem just in the circumstances.

40. Plaintiff 6 claims against the Defendants as follows:

- a) General damages in the amount of \$750,000.00;
- b) Special damages including loss of income, loss of housekeeping capacity, out of pocket expenses, property damage, and costs of care in the amount of \$500,000.00;
- c) Pecuniary damages for the cost of future care, future loss of housekeeping capacity, future loss of income, and future loss of earning capacity in the amount of 750,000.00;
- d) A declaration that none of the Plaintiff's injuries are "minor injuries" as defined in paragraph 31 above;
- e) Costs on a Solicitor and his own client basis; and
- f) Such further and other relief as this Honourable Court may deem just in the circumstances.

41. Plaintiff 7 and the beneficiaries of the estate claim against the Defendants as follows:

- a) Damages for bereavement in the amount of \$180,000.00, pursuant to the *Fatal Accidents Act*, R.S.A. 2000, c, F-8;
- b) Damages for loss of present and future earnings of the deceased, Kamleshbhai Patel, in the sum off \$1,200,000.00;
- c) Loss of voluntary services in the sum of \$150,000.00;
- d) Special damages for funeral, burial, and Estate administration in the sum of \$20,000;
- e) Special damages for bereavement counselling in the sum of \$60,000;
- f) Costs on a Solicitor and his own client basis; and
- g) Such further and other relief as this Honourable Court may deem just in the circumstances.

42. The Plaintiffs collectively claim against the Defendants as follows:

- a) Punitive and exemplary damages in the amount of \$3,500,000.00.

**NOTICE TO THE DEFENDANT(S)**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at EDMONTON, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the lawsuit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.