

November 30, 2004

My name is Loan-Anh Tran Kao, and I am asking for your help. By signing this petition, you will be joining me in sending a clear message to the Houston Metropolitan Transit Authority (“Metro”) that **the public will not protect Metro when it fails to put safety first**. Currently, Metro’s liability in connection with any accident, whether resulting in injury or death, is limited to \$100,000 per victim. I feel strongly that Metro should not be protected by this \$100,000 liability cap when it fails to put safety first.

I am a mother of three young children. Justin is 5  $\frac{3}{4}$  years old, Sara is 3  $\frac{1}{2}$  years old and Ryan is 11 months old. A year ago, on November 5, 2003, my children and I lost my husband, Jeff, in a **tragic but preventable** accident. Jeff was only 31 years old at the time of his death and we were expecting our third child Ryan on Christmas Eve. Ryan was born on December 18, 2003, one day before what would have been Jeff’s 32<sup>nd</sup> birthday.

Around 6:15 p.m. on November 3, 2003, while turning left, a Metro bus hit and fatally injured Jeff as he was crossing Walker St. in downtown Houston on his way to his car after work. Jeff’s pedestrian light was green, and he had the right of way. On October 29, 2004, a jury found the driver of that Metro bus guilty of a felony. Specifically, the driver was convicted of committing **criminal negligence homicide with a deadly weapon**. The driver was sentenced to 2 years of probation. While the driver has been forced to accept responsibility for his actions, Metro has not.

Since Jeff’s death, Metro representatives have called me several times to tell me that Metro would like to close its file on Jeff’s accident and that, under the law, Metro’s total liability in connection with Jeff’s death is limited to \$100,000. The telephone calls did not stop even after I informed the representatives that I (a) was extremely busy with taking care of my children and other family matters, (b) did not have an attorney and (c) would contact Metro when I was ready to discuss the matter. The last Metro representative to call me was an attorney with Metro. She had called on a Sunday afternoon to tell me that if I was not going to voluntarily settle, **Metro would take me to court**.

Why am I asking for your help? I need your help to make sure that (i) the pain that my children and I suffered, continue to suffer and will forever suffer as a result of Metro’s negligence, to the extent humanly possible, will not be inflicted on anyone else, (ii) Metro is not able to continue to use a law intended to protect taxpayers to threaten victims, and (iii) Metro strives to be as safe as possible regardless of whether or not any accidents have been caused because of Metro’s unsafe practices. **To achieve these goals, I must be able to hold Metro accountable for more than \$100,000 for its negligence in causing Jeff’s death.**

Since Jeff’s death, I have discovered that **Metro’s actual practices are not the same as its written policies and that as a result its operations is not safe**. Since Jeff’s death, Metro has spent \$600,000 of taxpayers’ money advertising that “your safety is our No. 1 priority.” Unfortunately, Metro does not appear to have done anything internally to determine whether its existing operations actually put public safety first. Here are some examples:

- While Metro’s policy states that “all operators [drivers] are given annual reviews each year”, a high number of Metro drivers have not received annual reviews. At one of Metro’s six facilities, the superintendent had not given any of its drivers an annual review for years. The number of drivers associated with that facility is 438, which is almost 1/3 of all of Metro’s drivers. At the other five facilities, only some drivers were given annual reviews. In the case of the driver of the bus involved in Jeff’s accident, there appears to be no record of any annual reviews in his

employee file even though he had been employed by Metro for almost 20 years (since December 1983) at the time of the accident.

- While Metro's internet website states that "Every bus and MetroLift van receives a daily pre-trip inspection prior to leaving the garage", an investigation conducted by Channel 13 Undercover revealed that a number of Metro's drivers do not conduct such pre-trip inspections.
- While Metro advertises "Safety First", Metro appears only to be concerned about numbers and statistics and not about whether it is actually putting safety first. In response to recent video clips and evidence of actual bad driving by drivers of Metro buses (i.e., running red lights and making fast turns), David Wolff, Chairman of the Board of Directors of Metro, stated "If we [Metro] had a lot of people running red lights or driving unsafely, you would find more accidents . . . ." Furthermore, after being asked if he thought most people ran red lights, Mr. Wolff stated, "Don't you? Don't you see it? This is cowboy driving."

If you would like more evidence of how Metro's operations do not put your safety first, please go to [www.abc13.com](http://www.abc13.com) and click on 13 Undercover.

My decision to begin this petition was not reached easily. Since Jeff's death, my focus has been on my children. They have been and continue to be my number 1 priority. It would be easier for me to accept a check for \$100,000 from Metro and learn to live with the pain that I have in my heart from missing Jeff. No amount of money will give me my husband back. No amount of money will give my children their father back. Death is a finality. I cannot undo the damage that has been inflicted upon my family. **I can, however, with your help, make sure that, to the extent humanly possible, no one else will have to lose a love one.** Metro must be held accountable for not putting safety first. Metro should not be protected by a \$100,000 liability cap when it does not put safety first.

Please join me in sending Metro the message that the public will not protect it when it does not put safety first. Thank you for your time.

Each of the undersign below supports Loan-Anh Tran Kao and her family in their request for an exemption from the limits set forth in the Texas Tort Claims Act:

	<b>Name and Address</b> (Please place a check after your name if you are a patron of Metro services)	<b>Signature</b>	<b>Date</b>
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