12-Person Jury

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION

PILOT X, individually and on behalf of all those similarly situated,

Plaintiff,

v.

THE BOEING COMPANY, a Delaware corporation,

Defendant.

Case No:

CLASS ACTION COMPLAINT
JURY TRIAL DEMANDED

CONTENTS

Plaintiff Pilot X (the "Plaintiff"), individually and on behalf of all those similarly situated, by and through the undersigned counsel, brings this action for relief against The Boeing Company ("BOEING"), and in support thereof states as follows:

INTRODUCTION

This Complaint seeks compensation on behalf of the Plaintiff and more than four hundred pilots (the "Class") qualified to fly the Boeing 737 MAX series of aircraft (the "MAX") as employees of an international airline ("Airline X"), whose professional and personal lives were harmfully impacted when BOEING and the Federal Aviation Administration (the "FAA") engaged in an unprecedented cover-up of the known design flaws of the MAX, which predictably resulted in the crashes of two MAX aircraft and subsequent grounding of all MAX aircraft worldwide. The Plaintiff relied on BOEING's representations that the MAX was safe when qualifying to fly the MAX, and thus suffered – and continues to suffer – significant lost wages, among other economic and non-economic damages, since the MAX was grounded. Additionally, the Plaintiff suffered severe emotional and mental stress when they were effectively forced to fly the MAX – and required to place their own life and the lives of their crew and passengers in danger – despite the growing awareness of the dangerous nature of the previously concealed software (the Maneuvering Characteristics Augmentation System "MCAS") on board the MAX and other problems. For the reasons set forth herein, the Plaintiff, on their own behalf and on behalf of all those similarly situated, requests entry of a judgment against BOEING in an amount that will make the Plaintiff whole and deter BOEING and other airplane manufacturers from placing corporate profits ahead of the lives of the pilots, crews, and general public they service.

JURISDICTION AND VENUE

1. This Court has jurisdiction over BOEING under 735 ILCS 5/2-209(a)(1), (a)(2) and (b)(4) because BOEING's principal place of business is located in Cook County, Illinois, and BOEING does business in the State of Illinois by promoting, marketing, and selling airplanes to citizens of the State of Illinois.

2. Venue is proper in this jurisdiction pursuant to 735 ILCS 5/2-101, because one or more of the subject transactions that gave rise to this action took place in Cook County.

PARTIES

3. At all relevant times, Plaintiff[1] was a citizen of Canada, and a licensed pilot employed by an international airline that employs hundreds of pilots who are qualified to operate the MAX, and who are citizens of many different nations, including the United States.

4. At all relevant times, BOEING was, and remains, a Delaware corporation registered with the Illinois Secretary of State as doing business in Illinois, with its corporate headquarters and principal place of business located in Chicago, Illinois.

5. At all relevant times, BOEING made critical representations and fateful decisions regarding the design, manufacture and marketing of the MAX airplane at its corporate headquarters in Chicago, Illinois.

[1] Due to BOEING's substantial influence in the commercial aviation industry, the Plaintiff is in fear of reprisal from BOEING and discrimination from BOEING customers, including Airline X at BOEING's behest and has, therefore, chosen to file this Complaint using a pseudonym. The identity of Pilot X and Airline X will be made available to Defendant and this Court on a confidential basis. Protecting the Plaintiff's identity will not prejudice the Defendant or the Court in the administration of this case.

CLASS ALLEGATIONS

6. Plaintiff brings this action on their own behalf and on behalf of the following persons similarly situated, pursuant to 735 ILCS 5/2-801, which includes all individuals qualified to fly and who did fly the MAX on behalf of Airline X (the "Class").

7. The following people are excluded from the Class: (1) any Judge or Magistrate presiding over this action and the members of their family; (2) Defendant, Defendant's subsidiaries, parents, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former employees, officers and directors; (3) persons who properly execute and file a timely request for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and Defendant's counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

8. **Numerosity**: The exact number of members of the Class is unknown, but individual joinder in this case is impracticable. The Class likely consists of over four hundred individuals. Members of the Class can be easily identified through Airline X's and/or BOEING's records.

9. **Commonality and Predominance**: There are many questions of law and fact common to the claims of Plaintiff and the other members of the Class, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include but are not limited to the following:

a. Whether Defendant's conduct constitutes product liability under Illinois law;

b. Whether Defendant's conduct constitutes negligence under Illinois law;

c. Whether Defendant's conduct constitutes breach of warranty under Illinois law; and

d. Whether the Defendant's conduct constitutes fraudulent misrepresentation under Illinois law; and

e. Whether the Defendant's conduct constitutes the intentional and/or negligent infliction of emotional distress.

10. **Typicality**: Plaintiff's claims are typical of the claims of the other members of the Class in that Plaintiff and the members of the Class sustained damages arising out of Defendant's uniform wrongful conduct.

11. **Adequate Representation**: Plaintiff will fairly and adequately represent and protect the interests of the Class, and Plaintiff has retained counsel competent and experienced in complex litigation and class actions. Plaintiff has no interests antagonistic to those of the Class, and Defendant has no defenses unique to Plaintiff. Plaintiff is committed to vigorously prosecuting this action on behalf of the members of the Class, and Plaintiff has the resources to do so. Neither Plaintiff nor proposed counsel have any interest adverse to those of the other members of the Class.

12. **Superiority**: This class action is also appropriate for certification because class proceedings are superior to all other available methods for the fair and efficient adjudication of this controversy and joinder of all members of the Class is impracticable. The damages suffered by the individual members of the Class will likely be small relative to the burden and expense of individual prosecution of the complex litigation necessitated by Defendant's wrongful conduct. Thus, it would be virtually impossible for the individual members of the Class to obtain effective relief from Defendant's misconduct. Even if members of the Class could sustain such individual litigation, it would not be preferable to a class action because individual litigation would increase the delay and expense to all parties due to the complex legal and factual controversies presented in this Complaint. By contrast, a class action presents far fewer management difficulties and provides the benefits of

single adjudication, economy of scale, and comprehensive supervision by a single court. Economies of time, effort, and expense will be fostered and uniformity of decisions will be ensured.

GENERAL ALLEGATIONS

13. BOEING and Airbus SE ("Airbus") maintain a global duopoly of the commercial aircraft manufacturing industry with the two companies making up 99% of commercial jet orders worldwide.

14. In 2011, BOEING learned that some of its most important customers were planning to place orders for the Airbus A320neo, a new airplane model that Airbus advertised as the world's most advanced and fuel-efficient single-aisle aircraft.

15. If it could not compete with the A320neo, BOEING stood to lose a tremendous amount of money and market share.

16. BOEING decided that it would take too long to design and manufacture a new airplane to compete with the Airbus A320neo, and instead made the fateful decision to modify an existing 737 model, the 737NG, to what would become the MAX.

17. In August 2011, BOEING's Board of Directors approved the launch of the MAX program.

18. BOEING's decision to approve the MAX program was made in Chicago, Illinois, at the highest levels of the company.

19. The program included basing a product that could compete with the Airbus A320neo and would be based on the design of the Boeing 737NG, rather than designing a new airplane. This decision was made by BOEING to increase BOEING's profit, because:

20. Using the existing design saved BOEING significant design and development costs;

21. Using the existing design permitted BOEING to rush the design and manufacture of the MAX and get it to market quickly so that BOEING would not lose business or market share to Airbus;

22. Using the existing design permitted BOEING to offer the MAX to its customers with a selling point that pilots already qualified to fly the Boeing 737NG could qualify to fly the MAX without undergoing any costly or significant training, and without needing to be trained and tested in flight simulators and/or in the airplane before flying revenue-generating flights; and

23. Using the existing 737NG framework permitted BOEING to take advantage of its Organization Designation Authorization (the "ODA"), granted to it by the FAA, to streamline and speed the certification of the MAX as an amendment to the Boeing 737 type certificate.

BOEING KNEW THAT THE AIRPLANE HAD INHERENTLY DANGEROUS AERODYNAMIC HANDLING DEFECTS AND SOFTWARE ERRORS THAT COMPROMISED ITS SAFE OPERATION

24. In designing the MAX, BOEING made multiple modifications and updates to the structure and flight control systems of the 737NG.

25. BOEING replaced the CFM56-7 engines used on the Boeing 737NG with larger, more fuel-efficient CFM LEAP-1B engines.

26. Because the CFM LEAP-1B engines were substantially larger than the CFM56-7 engines, BOEING had to mount the engines higher and farther forward on the 737-8 MAX's wings and modify the airplane's nose gear to provide ground clearance for the new, bigger engines.

27. The more powerful engines and their new location gave the MAX a propensity to abnormally pitch up under certain flight conditions, creating a risk that the airplane would suffer an aerodynamic stall and crash.

28. BOEING knew that the design of the MAX was in contravention of FAA regulatory standards, including but not limited to the FAA's Airworthiness Standards for Commercial Aircraft[2]:

> No abnormal nose-up pitching may occur…. In addition, it must be possible to promptly prevent stalling and to recover from a stall by normal use of the controls.

29. Nonetheless, BOEING pressed on with the development of the airplane and created the MCAS to mitigate the risk of a potential stall and to force the MAX to "feel" more like the Boeing 737NG.

30. The MCAS failed to mitigate such a risk and, at least as early as mid-2018, BOEING knew and/or should have known of that failure but did not take action thereby creating the likelihood that the MAX would crash and inevitably lead to the grounding of the MAX.

31. BOEING decided not to provide MAX pilots, including Plaintiff, with information or knowledge that the MCAS was incorporated into the airplane.

32. BOEING decided not to provide MAX pilots, including Plaintiff, with the ability to disengage a malfunctioning MCAS without losing their ability to control pitch with the airplane's electric pitch trim.

33. BOEING decided not to inform MAX pilots, including Plaintiff, that the MCAS would automatically force the airplane's nose toward the ground if an angle of attack ("AOA") sensor "told" the system that the nose of the airplane was angled too high.

34. BOEING decided not to tell MAX pilots about the MCAS or to require MAX pilots to undergo any MCAS training, because BOEING wanted to be able to tell its customers that MAX

[2] 14 CFR Sec. 25.203(a) – Stall Characteristics.

pilots could fly revenue-generating routes as quickly as possible so that they would purchase more MAX planes.

35. As a result of BOEING's decisions, Plaintiff did not receive any simulator training or testing on how to handle emergencies caused by or exacerbated by the MCAS or its malfunctioning.

36. BOEING knowingly failed to conduct a proper failure modes and effects analysis during development of the MAX to ensure that the airplane's MCAS was safe.

37. In particular, BOEING failed to properly consider the likelihood that AOA sensors may fail and mistakenly trigger the MCAS to push MAX airplanes into a dive toward the ground.

38. BOEING did not sufficiently test the MCAS during development to ensure that the automated system would not create a safety of flight problem if it were to receive erroneous data from one of the airplane's AOA sensors.

39. The MCAS was essential to BOEING's business purpose of quickly manufacturing and selling the MAX, because the airplane could not otherwise appear certifiable to the FAA without it.

BOEING DELAYED A FIX OF KNOWN DEFECTIVE 737 MAX COCKPIT DISPLAY SYSTEM SOFTWARE WHICH COMPROMISED ITS SAFE OPERATION

40. In marketing the MAX airplane to potential owners and operators, BOEING offered a number of optional for-purchase safety upgrades, putting once more its business interests ahead of safety.

41. Those upgrades included the AOA Indicator which was found by BOEING in 2017 to be erroneously linked by display system software to the AOA Disagree alert, which meant that the AOA Disagree alert did not meet relevant requirements. In particular, only if the AOA Indicator was purchased and installed would the AOA Disagree aert function to provide valuable safety information to pilots and assist them in the diagnosis of a safety issue.

42. BOEING did not offer the AOA Indicator as standard in the MAX because it wanted to be able to offer the base airplane at a low price point in order to make it more competitive, while at the same time profiting on the sale of the optional safety feature to the airlines that ordered it.

43. BOEING and the FAA permitted the MAX to be certified and sold without AOA Indicator and Disagree alert, thus depriving flight crews of critical information and in doing so, contributing directly to the crashes of Lion Air flight JT610 and Ethiopian Airlines flight ET302 and the grounding of the MAX fleets.

44. Even aircraft equipped with the AOA Indicator and Disagree alert were unreasonably dangerous, as BOEING failed to disclose the existence of the MCAS to the airlines and pilots, and failed to provide adequate training.

45. The AOA Indicator and Disagree alert alone are insufficient for pilots to diagnose pitch control issues such as why the nose of the aircraft continues to pitch down, and thus is not enough to prevent an accident.

46. BOEING's disclosure of the existence of the MCAS was essential for pilots to understand why the nose of the airacraft might repeatedly pitch down. Such understanding of the system allows pilots to take proper action quickly, thus increasing survivability in emergency situations. Conversely, BOEING's failure to disclose the existence of the MCAS increased the risk of accidents.

47. Furthermore, BOEING's failure to develop training on how to recover from an MCAS-created nose down situation, including manual trim training when in a severe out of trim situation, increased the risk of accidents.

48. Thus, by not disclosing the existence of the MCAS and by not developing adequate training or at the very least indicating to airlines and pilots that specific traning might be required for MCAS-induced and MCAS-error situations, BOEING knowingly compromised the safety of the Plaintiff and others similarly situated.

49. After the crashes of JT610 and ET302, the MAX was grounded by authorities and airlines worldwide, including Airline X.

50. Since the grounding of the MAX, the Plaintiff has been unable to fly and the Plaintiff's income has been significantly decreased.

51. BOEING also drove its employees to unsafe work production levels and ignored complaints that its production schedule was unsafe in the production of the MAX.

52. BOEING was fairly warned that issues in design and production that faced the MAX were perceptible to its workers because it ignored its employees' complaints that its work production expectations and production schedule were causing manufacturing mistakes, including dangerous mistakes concerning the airplane's wiring. Indeed employees reported that BOEING's manufacturing process had caused foreign object debris (FOD) to be left in MAX airplanes which could pose dangers to the airplane's wiring, including wiring associated with the airplane's AOA sensors and Flight Control Computer (FCC).

THE CRASHES OF JT610 AND ET302 PROVIDED TRAGIC PROOF THAT THE MAX WAS UNSAFE AND HAD TO BE GROUNDED

53. On October 28, 2018, JT610, a MAX, crashed into the Java Sea about 11 minutes after takeoff from Jakarta, Indonesia.

54. Less than five months later on March 10, 2019, ET302, a second MAX, crashed about 6 minutes after takeoff from Addis Ababa, Ethiopia.

55. The crashes demonstrated what BOEING already knew: the MAX violated the FAA's Airworthiness Standards for Commercial Aircraft, was unsafe, and had to either be grounded until the design flaws could be fixed, or the airplane design significantly revisited.

56. Most airlines, including Airline X, voluntarily grounded their MAX planes after the second crash.

57. Many national aviation safety regulators grounded MAX planes or restricted them from entering their national airspace within a matter of days after the ET302 crash.

58. The FAA was not the first regulator to ground the MAX even though it should have been if it was properly advised by BOEING.

59. Prior to March 10, 2019, BOEING knew and accepted that the MCAS was defective and was working on a software fix to address its defects, while at the same time misrepresenting to the public, including the Plaintiff, that the MAX was safe to fly. Such knowledge and inaction demonstrated reckless indifference and conscious disregard for the flying public, including the Plaintiff.

60. Prior to March 10, 2019, BOEING knew and accepted that the AOA Indicator and Disagree alert software link on the MAX display system software was defective and started working on a software fix to address its defects that it did not intend to release until 2020, while at the same time misrepresenting to the public, including the Plaintiff, that the MAX was safe to fly. Such

knowledge and inaction demonstrated reckless indifference and conscious disregard for the flying public, including the Plaintiff.

61. After the crash of JT610, BOEING began to make design changes to the MAX's automated flight control system, which it planned to implement by way of an MCAS "software update."

62. Following the crash of ET302, BOEING disclosed that it had been developing a flight control software enhancement for the 737 MAX for several months, supposedly to make an already safe aircraft even safer.

63. BOEING continued to represent that the MAX was a "safe aircraft" despite the fact that two MAX airplanes had crashed in the prior five months and despite its awareness of the design flaws that caused the crashes and that it was working to fix.

64. In addition to the MCAS software update, after the crashes BOEING decided that pilots already type-rated to fly the Boeing 737, including the Plaintiff, should be required to undergo additional computer-based training and manual review before being allowed to fly the MAX.

65. The additional requirements allegedly were designed to provide pilots with an "enhanced" understanding of the MAX Speed Trim System, including the MCAS function, associated existing crew procedures, and related software changes.

66. BOEING describes the new training and review program as "enhanced," but fails to acknowledge that its previous training (including the self-guided computer training program given to 737 pilots converting to MAX) did not include any information about the existence of the MCAS, or AOA Indicator and Disagree alert issues, nor thereby provide any training on them or their error states.

67. Safety should never be an option in the design, manufacture and sale of a commercial airplane. BOEING maintains that: "[s]afety is the primary consideration when Boeing engineers design an airplane. In addition to meeting regulatory requirements before certification, each airplane model must meet Boeing's time-proven design standards. Often these standards are more stringent than regulatory requirements."

68. BOEING's acts and omissions detailed throughout this Complaint demonstrate that safety and the lives of pilots and the general public was not BOEING's primary consideration but, rather, corporate profits.

COUNT 1 – STRICT PRODUCTS LIABILITY

69. Plaintiff hereby incorporates and realleges each of the preceding paragraphs as though fully set forth herein.

70. First, at the time when BOEING sold the MAX, the design of the airplane was defective and unreasonably dangerous in at least one or more of the following respects:

a. The engine placement on the MAX negatively disrupted the airplane's longitudinal stability, causing a propensity for dangerous nose-up pitching during critical phases of flight;

b. The MAX was equipped with defective AOA sensors that were prone to failure;

c. The MAX AOA sensors transmitted inaccurate, invalid and/or implausible data that could trigger the airplane's stall warning system which in turn activated the airplane's MCAS, causing the airplane to experience uncommanded pitches down toward the ground;

d. BOEING's defective design causes the MCAS to activate based on the single input of a failed AOA sensor without cross-checking its data with another properly functioning AOA sensor;

e. BOEING's defective design causes the MCAS to accept erroneous and even implausible data or information inputs as valid;

f. BOEING's defective design causes the MCAS to repeatedly activate based on inaccurate and implausible data supplied by a malfunctioning AOA sensor; even as pilots might desperately fight to pull the airplane out of a dive commanded by the MCAS;

g. BOEING failed to design the MAX with the capability to provide the Plaintiff and the members of the Class with sufficient and timely warning that the airplane's MCAS system has been activated.

h. The MAX's design was defective, in part, because it was not as standard equipped with the AOA Indicator; and

i. The MAX's design was defective, in part, because it was not as standard equipped with the AOA Disagree alert.

j. The MAX's design was defective because its manual pitch trim wheel is too difficult for the average pilot to control with authority in an emergency situation.

71. By reason of BOEING's design choices, the MAX was vulnerable to a single point of failure.

72. BOEING knew the MAX could fail to perform as safely as airlines and pilots would expect.

73. BOEING failed to come up with a safer design even though the technology available to them enabled them to design a safer product.

74. Second, at the time when BOEING sold the MAX, there was a manufacturing defect and the aircraft was unreasonably dangerous in at least one or more of the following respects:

a. BOEING equipped the MAX with defective AOA sensors that were prone to failure; and

b. The MAX AOA sensors at times transmitted inaccurate, invalid and/or implausible data that could trigger the airplane's stall warning system, which in turn would cause the airplane to experience uncommanded pitches down toward the ground.

75. Finally, at the time when the MAX was sold, BOEING failed to give adequate warning to airlines and pilots:

a. BOEING failed to properly and effectively warn the airlines and pilots of the existence of the MCAS when they knew such system involved risks;

b. BOEING failed to properly and effectively warn pilots that the MCAS was capable of causing the MAX's horizontal stabilizer to repeatedly pitch the airplane's nose down;

c. BOEING failed to properly and effectively warn airlines and pilots that inaccurate data inputs supplied by the MAX's AOA sensors could cause the MCAS to initiate repeated uncommanded nose-down conditions;

d. BOEING failed to properly and effectively warn MAX pilots that the MCAS would reset itself each time pilots pulled the nose of the airplane up after the MCAS caused the airplane to dive as a result of erroneous and implausible data from a malfunctioning AOA sensor;

e. BOEING failed to properly and effectively warn MAX pilots after the crash of JT610 that the MAX was defective and that BOEING was developing a software fix to cure the defect that contributed to the JT610 crash;

f. BOEING failed to properly and effectively instruct MAX pilots how to recognize runaway stabilizer trim caused by the improper activation of the MCAS; and

g. BOEING failed to properly and effectively instruct MAX pilots how to recover from a severe out of trim situation manually.

76. As a direct and proximate cause of one or more of the aforesaid defective and unreasonably dangerous conditions in the MAX airplane, the crashes of JT610 and ET302 occurred, and thereafter the predictable and foreseeable grounding of the MAX ensued.

77. By reason of the foregoing, the MAX was an unreasonably dangerous and defective airplane and BOEING should be held strictly liable for the damages sustained by the Plaintiff and the Class.

78. As a direct and legal result of foregoing, the Plaintiff and the members of the Class have suffered, and will continue to suffer, pecuniary damages, including loss of wages and flight time, medical expenses, and severe emotional and mental suffering.

COUNT 2 – NEGLIGENCE AND WILLFUL AND WANTON CONDUCT

79. Plaintiff hereby incorporates and realleges each of the preceding paragraphs as though fully set forth herein.

80. At all relevant times, BOEING owed a duty to the pilots, including Plaintiff, and flight crews flying the MAX to use reasonable care in designing, manufacturing, assembling, testing,

maintaining, servicing and selling its commercial aircraft so as to not cause the plane to be unsafe and not operational.

81. BOEING negligently, with conscious disregard and reckless indifference, breached its duty of care owed to the pilots and crew flying the MAX through one or more of the following acts and omissions:

82. Upon information and belief, the System Safety Analysis (SSA) of the MCAS performed by BOEING, which was utilized by the FAA in its certification of the flight control system on the MAX, contained multiple understatements and omissions related to the system's automated capabilities:

a. the SSA significantly understated the MCAS's authority to command the number and length of trim movements affecting the horizontal stabilizer;

b. the MAX was capable of moving the airplane's horizontal stabilizer more than four times farther than originally indicated in the SSA, causing flight conditions that would be nearly impossible for pilots to manually fight against due to aerodynamic forces on the horizontal stabilizer; and

c. the SSA failed to account for the fact that the MCAS was designed so that it would reset itself after the pilot countermanded the MCAS automatic nose down trim, thereby ignoring the real and not far-fetched possibility that the plane's nose would be pushed down repeatedly based on the erroneous data supplied by a single failed AOA sensor;

d. a fundamental rule in airplane design is that a single point of failure should not cause an aviation disaster;

e. airplanes must be designed with redundant systems, so that the failure of one system cannot cause an aviation disaster; and

f. the SSA assessed potential MCAS failure as "hazardous," a classification that should have precluded certification for a design which allowed the MCAS to activate based on input from a single sensor, without cross-checking the data against the data supplied by another AOA sensor or otherwise verifying potentially erroneous data.

83. BOEING negligently failed to provide airlines and pilots, including Plaintiff, operating the MAX with sufficient guidance and instructions to regain control of an airplane endangered by the airplane's defects.

84. BOEING's conduct amounted to gross negligence and demonstrated a wanton disregard for the safety of the pilots and crew and all passengers it exposed to the defects of the MAX.

85. Strong public policy supports the imposition of punitive damages against BOEING because:

a. BOEING intentionally, recklessly and negligently designed and added an unsafe feature to the MAX because adding that feature was a cheap, easy way to mask the airplane's inherent aerodynamic problem;

b. BOEING's intentional, reckless and negligent actions throughout the design, manufacture and certification process of the MAX demonstrated time and time again that Boeing knowingly put its financial interests ahead of aviation safety;

c. The JT610 and then ET302 disasters were not enough to move BOEING to admit that the MAX was unsafe and recommend that its customers and aviation regulators worldwide ground their MAX airplanes as a matter of urgency;

d. Even after ET302, BOEING continued to fight against grounding the MAX, causing airlines to put their passengers and flight crews at risk for several days until the weight of enormous international public pressure forced the FAA to ground the airplane;

e. BOEING continues to deny that it made mistakes in its design and manufacture of the MAX and refuses to admit that the MAX is defective, even as it works to fix the design defects proven to have caused two aviation disasters with attendant loss of life, and the grounding of the MAX worldwide;

f. BOEING CEO Dennis Muilenburg has publicly admitted that Boeing "owns" the responsibility to correct the MCAS software, and knows how to do it, yet refuses to admit that the MCAS software was unsafe;

g. BOEING has announced that it will seek to remove pending cases filed by the families of the victims of JT610 and ET302 in Chicago, Illinois to Indonesia and Ethiopia, respectively, in a shameless, disrespectful, and insulting effort to minimize compensation to the families of those who have been killed by their negligent design and inaction resulting in JT610 and ET302; and

h. BOEING continues to be led by the same officials who approved the MAX project, who rushed the design and manufacture of the airplane and who continue to deny the existence of problems with the MAX or properly respond to the tragic events which revealed that the airplane's MCAS was a deadly defect.

86. By reason of the foregoing, the MAX was an unreasonably dangerous and defective airplane that inevitably had to be taken out of operation, and BOEING should be held liable for the damages sustained by the Plaintiff and the Class.

87. As a direct and legal result of foregoing, the Plaintiff and the members of the Class have suffered, and will continue to suffer, pecuniary damages, including loss of wages and flight time, medical expenses, relocation expenses, and severe emotional and mental suffering.

COUNT 3 – BREACH OF WARRANTY

88. Plaintiff incorporates and realleges each of the paragraph set forth above as though fully set forth herein.

89. BOEING expressly and/or impliedly warranted and represented that its MAX airplanes, all component parts, and all instructions and warnings regarding the use of its MAX airplanes, were airworthy, of merchantable quality and safe for the purpose of commercial air transport for which BOEING designed, manufactured, sold and intended the airplane to be used.

90. BOEING breached its express and/or implied warranties in that the MAX was not airworthy, was not of merchantable quality and was not safe to be used for commercial air transport. To the contrary, the MAX was not airworthy and was unsafe.

91. The Plaintiff was an intended third-party beneficiary of BOEING's warranties.

92. The Plaintiff reasonably relied on BOEING's warranties to their detriment.

93. As a direct and legal result of BOEING's breach of its warranties, the Plaintiff and the members of the Class have suffered, and will continue to suffer, pecuniary damages, including loss of wages and flight time, medical expenses, relocation expenses, and severe emotional and mental suffering.

COUNT 4 – FRAUDULENT MISREPRESENTATION

94. Plaintiff hereby incorporates and realleges each of the preceding paragraphs as though fully set forth herein.

95. BOEING represented to Plaintiff that the MAX was a safe aircraft.

96. BOEING failed to disclose to Plaintiff that the MCAS was incorporated on the MAX and could under certain conditions cause the plane to crash.

97. BOEING represented to Plaintiff that MAX pilots did not need additional substantive training or testing to fly revenue-generating flights.

98. BOEING's representations and omissions were false and misleading.

99. Plaintiff relied on BOEING's material representations and omissions by qualifying to operate and operating the MAX.

100. BOEING knew that Plaintiff would rely on its representations and omissions.

101. BOEING made the representation and omissions with malice and with knowledge that the statement was false or with a reckless disregard as to the veracity of the statement or omission.

102. BOEING made the misrepresentations and omissions with the intention of inducing the Plaintiff to act.

103. BOEING misrepresentations and omissions were a proximate cause for the damages suffered by the Plaintiff.

104. As a result of BOEING's representations and omissions Plaintiff is left to wonder what else BOEING has failed to disclose and Plaintiff's confidence in operating BOEING aircraft, a very necessary function of the piloting professional role, has forever irrevocably been diminished in circumstances where BOEING is one of only two major civil airline manufacturers supplying airliners of the kind operated by Airline X for which Plaintiff works, and will work in future.

105. As a direct and legal result of BOEING's misrepresentations and omissions, the Plaintiff and the members of the Class have suffered, and will continue to suffer, pecuniary damages, including loss of wages and flight time, medical expenses, relocation expenses, and severe emotional and mental suffering.

COUNT 5 – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

124. Plaintiff hereby incorporates and realleges each of the preceding paragraphs as though fully set forth herein.

125. At all times relevant to this Complaint, BOEING knew or should have known that the MAX was defective and unreasonably dangerous in one or more of the following respects:

a. The engine placement disrupted the airplane's longitudinal stability, causing a propensity for dangerous nose-up pitching;

b. The flawed aerodynamic characteristics increased the risk of aerodynamic stall during flight;

c. The AOA sensors were prone to failure;

d. The MCAS design was defective;

e. The defective design could cause and eventually did cause the MCAS to repeatedly activate based on the inaccurate and implausible data supplied by a single AOA sensor;

and

f. The recommended emergency procedures provided by BOEING and approved by the FAA were inadequate.

126. BOEING knew or should have known that the design choices made by BOEING allowed for inaccurate, invalid and/or implausible AOA data to cause the MCAS to unsafely push the plane's nose down at low altitude and propel it into terrain.

127. Nonetheless, BOEING repeatedly represented to its customers, including Airline X, and the Plaintiff that the MAX was safe.

128. The FAA knew or should have been made aware by BOEING that, following the crash of JT610, the Plaintiff would have been put in a position where the MAX was known to be dangerous and that flying it imperilled their lives and those of the thousands of passengers on their flights.

129. BOEING knew or should have known that its representations would cause airlines, including Airline X, to continue to fly the MAX airplanes and would require their pilots to continue to operate the aircraft resulting in severe emotional distress which caused them to have concern at the prospect of, or changing careers from, that of pilot, losing valuable flight hours, disrupting their professional and personal lives and causing them to suffer, actual damages, including lost wages, risk of termination by the airline, and lost flight time.

130. At all relevant times, BOEING owed a duty to the Plaintiff to design aircraft, including the MAX, so that aircraft that are likely to cause injury and death are not sold to its customers.

131. BOEING intentionally, and/or negligently, with conscious disregard and reckless indifference to the safety of the Plaintiff, breached its duty of care owed to the Plaintiff, through one or more of the following acts and omissions:

a. Inadequately performing the System Safety Analysis ("SSA") of the

MCAS;

b. Designing an aircraft that provided that a single point of failure could cause an aviation disaster;

c. Misclassifying the BOEING SSA that assessed potential MCAS failure; and

d. Failing to provide the AOA Indicator and Disagree alert as standard features of the MAX; and

e. Failing to provide guidance as to how to recover from an MCAS-induced situation.

132. As a direct and legal result of BOEING's acts and omissions, the Plaintiff suffered extreme fear, pain and suffering in their professional and private lives, which was foreseeable to BOEING.

106. As a direct and legal result of one or more of BOEING's acts and omissions, the Plaintiff has suffered, and will continue to suffer actual damages in an amount to be determined at trial and pecuniary damages, including but not limited to loss of employment, missed flight pay, and medical and related past and future expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

a. that the Court determine that this action may be maintained as a class action under 735 ILCS 5/2-801;

b. that the Plaintiff is a proper class representative;

c. that the best practicable notice of this action be given to members of the Class represented by the Plaintiff;

d. that judgment against the Defendant be entered in an amount to be determined at trial for compensatory damages alleged, plus in an amount to be determined at trial for punitive damages;

e. interest, litigation costs, and attorneys' fees; and

f. that the Court grant such other and further relief as is just.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: June 21, 2019
Chicago, Illinois

Respectfully submitted by:

Patrick M. Jones, One of the
Attorneys for Plaintiff and proposed Class

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