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Case No. 2024-1210-MTZ

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE THE BOEING CO. DERIVATIVE LITIGATION	))	Consol. C.A. No. 2024-1210-MTZ

PUBLIC VERSION FILED FEBRUARY 11, 2025

VERIFIED STOCKHOLDER DERIVATIVE COMPLAINT

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1. Plaintiffs Ohio Public Employees Retirement System (the "Ohio PERS"), State Teachers Retirement System of Ohio (the "Ohio STRS"), and Oklahoma Firefighters Pension and Retirement System (the "Oklahoma FPRS," and together with the Ohio PERS and the Ohio STRS, "Plaintiffs"), by and through their undersigned counsel, bring the following Verified Stockholder Derivative Complaint (the "Complaint") derivatively on behalf of Nominal Defendant The Boeing Company ("Boeing" or the "Company"), against (i) certain current and former members of Boeing's Board of Directors (the "Board") and (ii) certain current and former Boeing executive officers, for numerous breaches of fiduciary duty they committed during the period from at least 2021 through the present (the "Relevant Period").

2. This Complaint's allegations are based on Plaintiffs' knowledge as to themselves, including personal knowledge concerning their Company stock ownership. As to all other matters, this Complaint's allegations are made on information and belief based on: (i) interviews with current and former Boeing employees; (ii) a review of publicly available information—including the Company's public filings with the United States Securities and Exchange Commission (the "SEC"), transcripts from public hearings, press releases and other publications disseminated by the Company and others, news articles, postings on Boeing's website, and public documents from civil lawsuits based on similar misconduct; and (iii) a review of Company books and records produced in response to Plaintiffs' demands for

inspection pursuant to Section 220 of the Delaware General Corporation Law (the "Section 220 Production"). *See infra* Section XII.[1]

NATURE OF THE ACTION

I. INTRODUCTION

3. Ensuring aircraft safety is mission-critical to Boeing. More than 10,000 Boeing commercial jetliners are currently in service. Each day, hundreds of thousands of travelers rely on the safety of Boeing commercial aircraft for their business, their recreation, and their lives. To ensure the safety of all those passengers, Boeing must take the utmost care in designing, manufacturing, and maintaining its planes. In the words of a now-deceased Boeing whistleblower, "it only takes one defect to . . . bring down a plane."

4. This case arises from a board of directors that simply ignored its fiduciary obligations and acted in bad faith by pursuing profits over safety and failing to address Boeing's serious safety problems. During the Relevant Period, the directors of this heavily-regulated company knew that they were required to act in good faith to fix the safety problems in Boeing's manufacturing processes and to ensure strict compliance with the law. Instead, they did the opposite. The directors drove Boeing to build unsafe airplanes by approving and reapproving an aggressive production schedule that they knew Boeing could not safely or legally meet. And instead of taking good faith action to resolve the known issues in Boeing's broken

[1] For the avoidance of doubt, none of the allegations in this Complaint rely on confidential information produced to Plaintiffs in a related action in the United States District Court for the Eastern District of Virginia styled *Oklahoma Firefighters Pension & Retirement System v. Calhoun*, Case No. 1:24-cv-01200-LMB-LRV (the "Federal Derivative Action").

manufacturing practices, the directors contented themselves with merely attending meetings and receiving management reports. The directors' abdication of their fiduciary duties continued even after management's presentations showed that Boeing's safety and compliance practices were not improving and, indeed, were even getting worse.

5. The consequences of the directors' failure to act were severe. The directors' breaches of fiduciary duty resulted in Boeing manufacturing unsafe airplanes in a manner that violated positive law. A door plug exploding out of a nearly new 737 MAX airplane in mid-flight—threatening the lives of 177 people—exposed the Board's wrongdoing in appalling fashion. This event and its aftermath laid bare Boeing's ongoing profits-over-safety culture and the directors' breaches of duty. These breaches significantly harmed Boeing, which has now pled guilty to a felony and faces numerous fines and penalties, in addition to being subject to production caps, declining revenues, and downgraded credit ratings.

6. From the outset of the Relevant Period, the Board knew that it had a fundamental duty to ensure Boeing delivered only safe aircraft to customers. For example:

a. On January 7, 2021, Boeing entered into a deferred prosecution agreement (the "DPA") with the United States Department of Justice (the "DOJ") in connection with the crashes of two Boeing 737 MAX planes that killed 346 people in 2018 and 2019 (the "MAX Crashes"). Among other things, the DPA specifically

required that the Board oversee the implementation of an effective compliance program at the Company and its primary suppliers. Boeing's Chief Legal Officer "extensively briefed" the Board about the DPA, including its principal terms, and the Board approved it.

b. On February 21, 2021, the Federal Aviation Administration of the United States Department of Transportation (the "FAA") announced that Boeing had failed to comply with a December 2015 settlement that required Boeing to change its internal processes to improve and prioritize regulatory compliance in numerous areas (the "2015 FAA Settlement"). The FAA found that the failures in Boeing's regulatory compliance plan were "numerous" and "varied" and that Company managers did not sufficiently prioritize compliance with FAA regulations. In connection with the compliance failures, the FAA administrator personally told Boeing's leaders that the Company must prioritize safety and regulatory compliance.

c. On May 26, 2021, the FAA entered into a settlement agreement with Boeing related to Boeing's use of parts that the Company or its suppliers had not properly certified (the "2021 FAA Settlement"). Among other things, the settlement required

Boeing to implement "robust process controls" to ensure that it was using only properly-certified parts in aircraft production.

d. On September 7, 2021, this Court denied a motion to dismiss in *In re The Boeing Co. Derivative Litigation* (hereinafter "*Boeing I*"). The accompanying opinion delineated the Board's oversight duties, explained how the Board conceivably failed to meet those duties in connection with the MAX Crashes, and provided a clear roadmap to the Board on how to fulfill its oversight duties. 2021 WL 4059934 (Del. Ch. Sept. 7, 2021).

7. The Board also knew that Boeing—and the flying public—would suffer massive harm if the directors did not fulfill their oversight duties in good faith and allowed management to continue to build unsafe aircraft:

a. The MAX Crashes killed 346 people and caused the FAA to ground the 737 MAX fleet from March 13, 2019 to November 18, 2020, which cost Boeing billions of dollars in lost profits.

b. The January 7, 2021 DPA required Boeing to pay $2.5 billion in fines and restitution.

c. Boeing's breach of the 2015 FAA Settlement resulted in Boeing paying $6.6 million in fines.

d. The 2021 FAA Settlement required Boeing to immediately pay a civil penalty of $17 million, with an additional $10.18 million due if Boeing failed to complete enumerated corrective actions.

e. On March 22, 2022, this Court approved a settlement of *Boeing I* that required Boeing to establish numerous corporate governance measures and required Boeing's insurers to pay $237.5 million.

8. Given the Board's knowledge of their fiduciary duties, the obvious dangers of not fulfilling them, and Boeing's terrible prior track record, the Board was on high alert of its obligation to oversee safety and compliance. But rather than meet its fiduciary obligations, the Board chose to pursue profits over safety and turned a blind eye to the grossly unsafe—and even illegal—practices at Boeing.

9. Despite decades of mounting deficiencies, early in the Relevant Period, Boeing's directors and officers developed, proposed, and implemented a production schedule that they knew Boeing could not meet safely and in compliance with the law. Without regard for the manufacturing deficiencies at Boeing, the schedule called for nearly quadrupling the production rate of the 737 MAX in less than four years—going from *sixteen* planes per month in mid-2021 to nearly *sixty* planes per month in early 2025. This exponential ramp-up was the cornerstone of management's announced goal of $10 billion in free cash flow by 2025 or 2026. *See infra* Section VI.A.

10. As the Board and management knew, Boeing's suppliers were in no position to support this Board-approved production ramp-up. One supplier in particular, Spirit Aerosystems Holdings Inc. ("Spirit"), was notorious for providing defective parts. Nevertheless, setting quality aside, Boeing insisted that Spirit boost its production significantly to support Boeing's master schedule. Even after it became

clear that Spirit's increased speed led to additional product defects, Boeing's CEO boasted on an earnings call that Boeing was "keeping [Spirit] hot according to the master schedule." *See infra* Section VI.B.

11. Moreover, as the Board and management well knew, Boeing's own production teams could not safely support such a significant ramp-up in production. In early 2022, the conditions at Boeing's factories were even worse than before the MAX Crashes. The COVID-19 pandemic had disrupted global supply chains for Boeing. To cut costs during the pandemic, Boeing had offered buyouts to many of its most experienced workers. The Board-approved, highly aggressive production schedule required the Company to hire tens of thousands of new, inexperienced workers. These under-trained employees, and other Boeing employees, engaged in numerous unsafe and illegal practices to try to meet an untenable production schedule approved by the Board. Instead of stopping those practices, management incentivized them. When employees raised safety and regulatory issues that threatened to derail the Board-approved schedule, management retaliated against them. *See infra* Section VI.C.

12. The Board saw a parade of red flags demonstrating that Boeing was on the path to corporate trauma. The red flags showed that, in important respects, Boeing's culture of unsafe and noncompliant practices was not improving, and even getting worse. In response to the red flags summarized below—and many others alleged in this Complaint—the Board acted in bad faith and kept Boeing on an

untenable production schedule in pursuit of short-term profits. The Board thus exposed the Company and flying public to inexcusable risk. For example:

a. The Board knew that fraud at Boeing was *increasing* during the Relevant Period. Throughout the Relevant Period, the entire Board received Audit Committee materials that disclosed by month the number of instances of potential fraud that Boeing reported to the DOJ under the DPA. Those materials showed the Board that the number of reported instances of potential fraud was significantly increasing. For example, the number of reported instances of potential fraud in October 2023 (126) was almost double the number of reported instances in May 2021 (68). The Board took no action in response to these troubling reports of increasing fraud and never even requested any of the underlying fraud reports provided to the DOJ. *See infra* ¶¶ 241–45.

b. Throughout 2022, the entire Board received Audit Committee materials that disclosed an alarming increase in activity in the risk category "Falsification of Records." But management removed the "Falsification of Records" category from these materials in 2023. In other words, after the numbers worsened, management simply stopped reporting them. The Board took no action in response to learning about the increase in falsification

of records or management's decision to stop reporting this metric. *See infra* ¶¶ 236–40.

c. Early in the Relevant Period, the Board knew that the COVID-19 pandemic had disrupted supply chains and that Boeing had a "[n]ew and inexperienced workforce." Instead of insisting on a production schedule commensurate with these limitations, the Board approved a schedule that required nearly quadrupling 737 MAX production in only a few years. The Board kept approving the ramped-up production schedule even after the Board received numerous reports showing that the schedule encouraged—and, indeed, required—numerous unsafe and noncompliant practices, such as traveled work, rework, fraudulent recordkeeping, and reduced inspections. *See infra* Sections VI.A, VI.C.

d. The Board knew retaliation was rampant. In May 2022, Boeing commissioned a survey of Boeing employees who served as deputies of the FAA in performing inspections and providing certifications. The survey results, reported to the full Board, showed a disturbing amount of undue pressure and retaliation by Boeing managers against the FAA deputies. A compliance risk management report for the Audit Committee that went to the entire Board specifically identified scheduling pressure as one

reason for this undue pressure and retaliation. Instead of slowing down production to permit adequate time for compliant work and necessary inspections and certifications, the Board repeatedly approved an unsustainable production schedule. *See infra* ¶¶ 301–06.

13. The Board's aggressive production schedule and bad faith failure to address Boeing's numerous unsafe and noncompliant practices led to the production of unsafe airplanes, which inevitably caused a major safety incident. On January 5, 2024, the left mid-cabin door plug in a nearly new Boeing 737 MAX 9 separated from the fuselage at approximately 16,000 feet (the "Door Plug Blowout"). The Door Plug Blowout occurred because Boeing had removed the safety bolts securing the door before delivering the plane to Alaska Airlines. Immediately after the Door Plug Blowout, Boeing faced a wave of legislative, regulatory, and public scrutiny that further exposed Boeing's ongoing prioritization of profits over safety and compliance with positive law.

14. The specific 737 MAX 9 involved in the Door Plug Blowout epitomized the unsafe and noncompliant practices that the Board's breaches of fiduciary duty enabled. For example:

a. Spirit delivered the plane's fuselage to Boeing with defects that required rework. Boeing identified the defects soon after arrival, but instead of returning the fuselage, or performing the rework

immediately, Boeing delayed addressing the defect and pushed the fuselage into the assembly process. *See infra* ¶¶ 332–33.

b. The unfinished rework traveled with the plane through the assembly process until, nearly three weeks later, a Boeing employee finally opened the door plug to permit Spirit employees working at Boeing's plant to fix the defect. *See infra* ¶ 334.

c. To open the door plug, a Boeing employee (i) removed four safety bolts that held the door plug in place and (ii) failed to reinsert the bolts before closing the door plug. According to Boeing, no documentation existed showing that the bolts had been removed. This failure to create and/or maintain this documentation violated FAA regulations and Boeing's internal policies. (It would have been reported as an instance of "Falsification of Records" if management had not stopped reporting that risk category starting in 2023.) *See infra* ¶¶ 334–35. Boeing employees internally reported problems related to the removal of this door plug in the Company's "Speak Up" reporting system. But those Speak Up reports were never elevated to the Board because, contrary to the teaching of the motion-to-dismiss opinion in *Boeing I*, the Company lacked any mechanism *requiring* reporting to the Board regarding any manufacturing safety issues. *See infra* ¶¶ 276–81, 336.

d. In fact, the Board knew that there were *thousands* of Speak Up reports, most of which addressed product and services safety issues. But the Board never received any open Speak Up reports on safety or compliance issues. And the Board never asked why the few cherry-picked Speak Up reports management presented were all purportedly either "resolved" or "unsubstantiated." *See infra* ¶¶ 276–81. The Board's failure to inquire about Speak Up reports made the Speak Up program impotent. Boeing managers often got rid of troublesome reports by concluding that they were "unsubstantiated." According to Merle Meyers, a prominent Boeing whistleblower, many of his compliance complaints were deemed "unsubstantiated" even though he submitted hard data showing that specific managers were involved in wrongdoing.

15. The Door Plug Blowout and its aftermath revealed the directors' breaches of their duties, which caused at least hundreds of millions—and likely billions—of dollars of damage to Boeing. Boeing paid *almost half a billion dollars* to airlines that had to cancel flights after the FAA grounded their 737 MAX 9 aircraft. The DOJ accused Boeing of violating the DPA and restarted criminal proceedings; Boeing ultimately agreed to plead guilty to a felony and pay more than *half a billion dollars* in fines and remediation. The FAA capped Boeing's production of the 737 MAX at thirty-eight planes per month. The cap ended Boeing's production ramp-up and effectively prevents Boeing from turning a profit for the foreseeable future—a

stark illustration of how Boeing could not, and cannot, build safe aircraft on the aggressive production schedule that the Board approved. And the revelation that Boeing delivered an obviously defective and unsafe aircraft further tarnished Boeing's reputation with regulators, lawmakers, customers, lenders, investors, employees, and the flying public.

16. The Board's failure to exercise their oversight duties in good faith subjects the directors to a substantial likelihood of liability based on the facts alleged in this Complaint. Accordingly, a pre-suit litigation demand on the Board would have been futile and is excused. Demand is excused for the additional reason that a majority of the Board faces a substantial likelihood of liability on related claims that survived a motion to dismiss in the United States District Court for the Eastern District of Virginia (the "EDVA").

II. PARTIES AND NON-PARTIES

A. PLAINTIFFS

17. Plaintiff Ohio Public Employees Retirement System (previously defined as the "Ohio PERS") has been a beneficial owner of Boeing common stock since at least 2010. As of December 31, 2024, the Ohio PERS owned 300,673 Boeing shares with a market value of more than $53.2 million. Since 1935, the Ohio PERS has meant security and peace of mind to millions of Ohio's retired public workers and their families. The Ohio PERS is an instrumentality of the State of Ohio, created under Chapter 145 of the Ohio Revised Code. Under that statute, the Ohio PERS provides retirement, disability, and survivor benefit programs to public employees in Ohio who are not covered by another state or local retirement system. The Ohio

PERS is the largest state pension fund in Ohio and the fourteenth-largest state pension fund in the United States. Together with the Ohio STRS, the Ohio PERS has been successfully representing investor rights through class and derivative litigation for decades—obtaining hundreds of millions of dollars for investors and the companies in which they have invested.

18. Plaintiff State Teachers Retirement System of Ohio (previously defined as the "Ohio STRS") has been a beneficial owner of Boeing common stock since at least 1994. As of December 31, 2024, the Ohio STRS owned 506,149 Boeing shares with a market value of more than $89.5 million. Since 1920, the Ohio STRS has provided Ohio's public educators a foundation for their financial security. The Ohio STRS is an instrumentality of the State of Ohio, created under Chapter 3307 of the Ohio Revised Code. Under that statute, the Ohio STRS provides retirement, disability, and other benefits to more than 500,000 active, inactive, and retired Ohio public educators. The Ohio STRS is one of the largest public pension funds in the United States. Together with the Ohio PERS, the Ohio STRS has been successfully representing investor rights through class and derivative litigation for decades—obtaining hundreds of millions of dollars for investors and the companies in which they have invested.

19. Plaintiff Oklahoma Firefighters Pension and Retirement System (previously defined as the "Oklahoma FPRS") has been a beneficial owner of Boeing common stock since at least 2017. The Oklahoma FPRS is an instrumentality of the State of Oklahoma, created under Title 11, Section 49-100.2 of the Oklahoma

Statutes. Since 1980, the Oklahoma FPRS has been serving Oklahoma's paid and volunteer firefighters with responsibility, professionalism, and respect. The Oklahoma FPRS manages and administers more than $3.5 billion on behalf of more than 26,000 active and retired firefighters.

B. NOMINAL DEFENDANT

20. Nominal Defendant Boeing is a Delaware corporation with its principal executive offices located at 929 Long Bridge Drive, Arlington, Virginia 22202. Through its Boeing Commercial Airplanes segment ("BCA"), Boeing is one of the world's largest manufacturers of commercial aircraft. Through its other business segments, Boeing provides industrywide solutions relating to military aircraft and systems, space technology, and aircraft maintenance or modification. Boeing claims to be the largest exporter in the United States by dollar value.

C. THE DIRECTOR DEFENDANTS

1. The Demand Board Defendants

21. The current Board is the relevant Board for the demand futility analysis for Plaintiffs' derivative claims (the "Demand Board"). *See United Food & Com. Workers Union & Participating Food Indus. Emps. Tri-State Pension Fund v. Zuckerberg*, 262 A.3d 1034, 1047–49 (Del. 2021); *Braddock v. Zimmerman*, 906 A.2d 776, 786 (Del. 2006). The twelve members of the Demand Board are the following individuals.

22. Robert A. Bradway ("Bradway") joined the Board in 2016. From 2016 to 2020, Bradway served on the Audit Committee. In 2024, Bradway joined the Compensation Committee. According to Boeing, Bradway purportedly has "an

extensive understanding of the strategic considerations and challenges associated with meeting the requirements of numerous safety and regulatory compliance regimes around the world." The Boeing Co., Proxy Statement (Sched. DEF14A) at 11 (Mar. 13, 2020).

23. Mortimer J. "Tim" Buckley ("Buckley") joined the Board on January 1, 2025. Although Buckley is a member of the Demand Board, he is not named as a Defendant in this Complaint.

24. Lynne M. Doughtie ("Doughtie") joined the Board on January 15, 2021. Throughout her tenure on the Board, Doughtie has served on the Audit Committee. In 2024, Doughtie became the Chair of the Audit Committee. In 2023, she joined the Compensation Committee. According to Boeing, Doughtie purportedly has "risk management and regulatory skills, and experience driving culture change[.]" The Boeing Co., Proxy Statement (Sched. DEF14A) at 11 (Mar. 5, 2021).

25. David L. Gitlin ("Gitlin") joined the Board on June 21, 2022. Throughout his tenure on the Board, Gitlin has served on the Aerospace Safety Committee. Although not a member of the committee, Gitlin attended certain Audit Committee meetings, including meetings on June 27, 2022, August 29, 2022, October 17, 2022, and December 8, 2022. From 2018 to 2019, Gitlin was the President and COO of Collins Aerospace Systems ("Collins"). From 2015 to 2018, Gitlin was the President of UTC Aerospace Systems, which merged with Rockwell Collins, Inc. to become Collins in 2018. As further described below, *see infra* ¶ 92, Collins played a significant role in the underlying causes of the MAX Crashes, supplying both the components

that created the erroneous data that led to the crashes and the software that caused the crashes based on that data. Collins continues to be a major supplier of airplane components for Boeing, including a supplier of dangerously defective components. *See infra* ¶ 433. According to Boeing, Gitlin purportedly is qualified to bring "unique perspectives on aerospace safety, aerospace supplier management and manufacturing in a highly regulated environment." The Boeing Co., Proxy Statement (Sched. DEF14A) at 9 (Mar. 3, 2023).

26. Lynn J. Good ("Good") joined the Board in 2015. Throughout her tenure on the Board, Good has served on the Audit Committee, serving as Chair in 2019 and 2020. In 2019, Good also served on the Aerospace Safety Committee. Since 2020, Good has served on the Compensation Committee, serving as Chair beginning in 2021. According to Boeing, Good purportedly has "operational expertise in a highly-regulated, capital-intensive industry," and is "a leader in safety and operational performance." The Boeing Co., Proxy Statement (Sched. DEF14A) at 13 (Mar. 13, 2020).

27. General Stayce D. Harris ("Harris") joined the Board on June 30, 2021. Throughout her tenure on the Board, Harris has served on the Aerospace Safety Committee and the Audit Committee. According to Boeing, Harris purportedly has a "deep knowledge of safety protocols and flight procedures" that "adds to the Board's expertise in aviation safety[.]" The Boeing Co., Proxy Statement (Sched. DEF14A) at 12 (Mar. 11, 2022).

28. Akhil Johri ("Johri") joined the Board on April 27, 2020. Throughout his tenure on the Board, Johri has served on the Audit Committee, including as Chair in 2021, 2022, and 2023. According to Boeing, Johri purportedly brings "experience in risk oversight and corporate governance of a large company in a highly regulated industry." The Boeing Co., Proxy Statement (Sched. DEF14A) at 14 (Mar. 13, 2020).

29. David L. Joyce ("Joyce") joined the Board on August 31, 2021. Throughout his tenure on the Board, Joyce has served as Chair of the Aerospace Safety Committee. In 2021, 2022, and 2023, Joyce served on the Compensation Committee. According to Boeing, Joyce purportedly has "vast aerospace, engineering and manufacturing expertise, as well as a demonstrated track record of safety leadership and operational excellence," including experience with "an industry-leading safety management system[.]" The Boeing Co., Proxy Statement (Sched. DEF14A) at 13 (Mar. 11, 2022).

30. Steven M. Mollenkopf ("Mollenkopf") joined the Board on April 27, 2020. On May 17, 2024, Mollenkopf became Board Chair. Throughout his tenure on the Board, Mollenkopf has served on the Compensation Committee. In 2020, Mollenkopf served on the Aerospace Safety Committee. Mollenkopf attended certain Aerospace Safety Committee meetings after leaving the committee, including meetings on April 28, 2022, December 8, 2022, February 15, 2023, August 28, 2023, October 16, 2023, December 12, 2023, January 6, 2024, February 1, 2024, and February 19, 2024. According to Boeing, Mollenkopf purportedly "possesses expertise and direct leadership experience in precision engineering, project management, manufacturing,

quality control, and designing testing regimes for complex systems." The Boeing Co., Proxy Statement (Sched. DEF14A) at 16 (Mar. 13, 2020).

31. Robert "Kelly" Ortberg ("Ortberg") joined the Board on August 8, 2024, the same day he became Boeing's President and CEO. Before joining Boeing, Ortberg worked at Collins for more than three decades. As previously alleged, Collins played a significant role in the underlying causes of the MAX Crashes. Ortberg was Chair of the Rockwell Collins, Inc. Board of Directors from 2015 to 2018, and he was the CEO of Collins from 2018 through February 2020. Although Ortberg is a member of the Demand Board, he is not named as a Defendant in this Complaint.

32. Admiral John M. Richardson ("Richardson") joined the Board on October 25, 2019. Throughout his tenure on the Board, Richardson has served on the Aerospace Safety Committee. According to Boeing, Richardson purportedly has "deep expertise in safety, regulation and oversight of complex, high-risk systems," which caused the Board to appoint him to the Aerospace Safety Committee. The Boeing Co., Proxy Statement (Sched. DEF14A) at 15 (Mar. 5, 2021).

33. Sabrina Soussan ("Soussan") joined the Board on April 18, 2023. Since 2023, Soussan has served on the Audit Committee. According to Boeing, Soussan purportedly has extensive experience in "heavy manufacturing, transportation, . . . and human capital management." The Boeing Co., Proxy Statement (Sched. DEF14A) at 13 (Mar. 3, 2023).

34. This Complaint refers to Bradway, Doughtie, Gitlin, Good, Harris, Johri, Joyce, Mollenkopf, Richardson, and Soussan as the "Demand Defendants."

Buckley and Ortberg are members of the Demand Board, but this Complaint does not name them as Demand Defendants.

2. The Non-Demand Board Defendants

35. David L. Calhoun ("Calhoun") was a member of the Board from 2009 to August 8, 2024. Calhoun was Board Chair from October to December 2019. Calhoun also served as Boeing's President and CEO from January 2020 to August 8, 2024. Calhoun routinely attended Aerospace Safety Committee meetings while serving as CEO.

36. Lawrence W. Kellner ("Kellner") was a member of the Board from 2011 to May 17, 2024. From December 23, 2019 to May 17, 2024, Kellner was Board Chair. Until 2019, Kellner served on the Audit Committee, including as Chair in 2017 and 2018. Kellner routinely attended Audit Committee meetings after he left the committee. Kellner served on the Aerospace Safety Committee from 2019 until he left the Board. According to Boeing, Kellner purportedly has "deep experience in meeting the requirements of numerous safety and regulatory compliance regimes around the world." The Boeing Co., Proxy Statement (Sched. DEF14A) at 15 (Mar. 13, 2020).

37. Ronald A. Williams ("Williams") was a member of the Board from 2010 to May 17, 2024. Williams reportedly left the Board after reaching the Board's mandatory retirement age. From 2017 through 2020, Williams served on the Audit Committee. In 2021 and 2022, Williams served on the Compensation Committee. According to Boeing, Williams purportedly has "expertise in risk management at

large, global companies." The Boeing Co., Proxy Statement (Sched. DEF14A) at 17 (Mar. 13, 2020).

38. This Complaint refers to Calhoun, Kellner, and Williams as the "Former Director Defendants." This Complaint refers to the Demand Defendants and the Former Director Defendants collectively as the "Director Defendants."

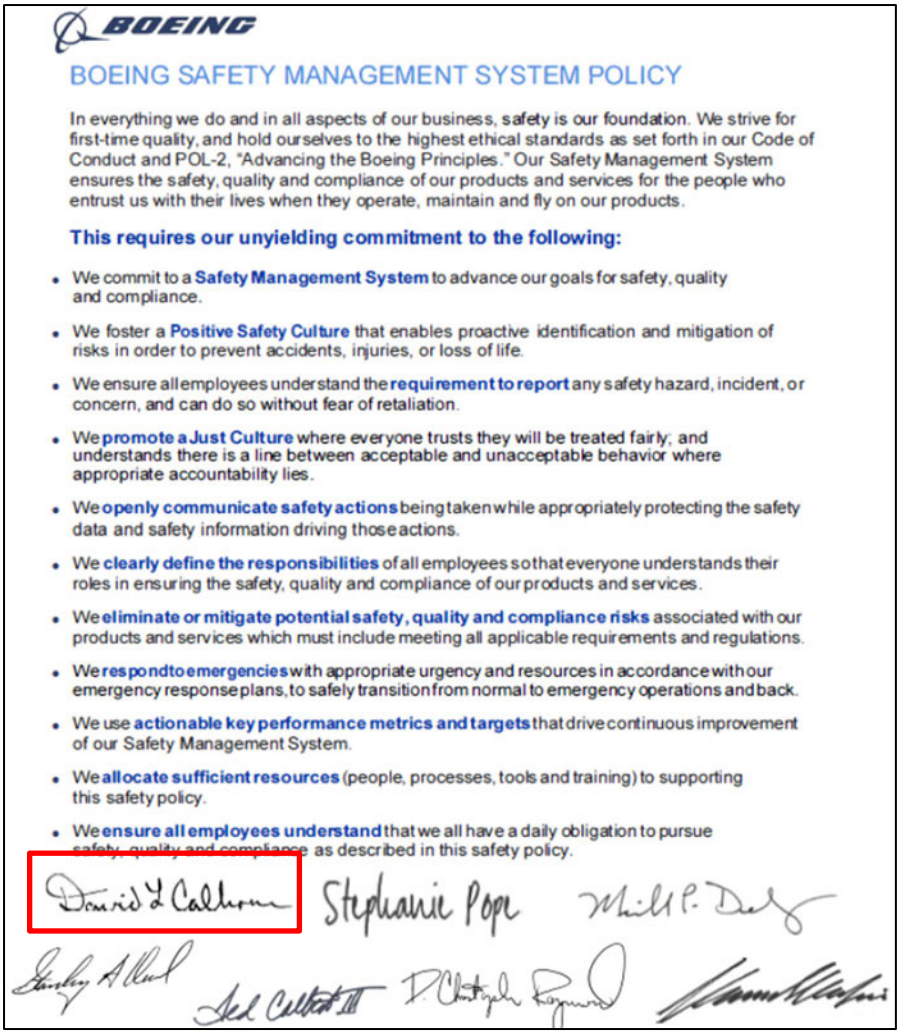
D. THE OFFICER DEFENDANTS

39. Douglas Ackerman ("Ackerman") became Boeing's Vice President of Quality in November 2024. From November 2021 to November 2024, Ackerman was BCA's Vice President of Supplier Quality. In this position, Ackerman was ultimately responsible for the quality, safety, and compliance of the parts Boeing received from its suppliers, including Spirit. During the Relevant Period, Ackerman attended and participated in at least two Aerospace Safety Committee meetings, and he co-authored a presentation for that committee on Boeing's safety management system risk register. Ackerman also testified at an August 6, 2024 investigative hearing of the United States National Transportation Safety Board (the "NTSB") related to the Door Plug Blowout.

40. Uma M. Amuluru ("Amuluru") became a Boeing Executive Vice President and its Chief Human Resources Officer in April 2024. Amuluru is a member of the Company's Executive Council. From May 2020 to April 2023, she was Boeing's Chief Compliance Officer and Vice President of Global Compliance. In these roles, Amuluru was responsible for ensuring compliance and safety within her areas of oversight, including compliance with respect to non-retaliation against

whistleblowers. During the Relevant Period, Amuluru routinely attended and participated in Board and committee meetings, including making presentations about the DPA.

41. Calhoun was Boeing's CEO from January 2020 to August 8, 2024. Given his role, Calhoun was undoubtedly aware of Boeing's toxic culture and the fact that management's programs were not complying with the DPA or bringing Boeing into regulatory compliance. During the Relevant Period, Calhoun routinely attended and participated in Board and committee meetings, including as a presenter. As the Company's CEO, Calhoun was the "Accountable Executive" for the safety management system (the "SMS") at Boeing. Calhoun's signature was the first of the seven signatures on Boeing's Safety Management System Policy during most of the Relevant Period:



BOEING

BOEING SAFETY MANAGEMENT SYSTEM POLICY

In everything we do and in all aspects of our business, safety is our foundation. We strive for first-time quality, and hold ourselves to the highest ethical standards as set forth in our Code of Conduct and POL-2, "Advancing the Boeing Principles." Our Safety Management System ensures the safety, quality and compliance of our products and services for the people who entrust us with their lives when they operate, maintain and fly on our products.

This requires our unyielding commitment to the following:

- We commit to a **Safety Management System** to advance our goals for safety, quality and compliance.
- We foster a **Positive Safety Culture** that enables proactive identification and mitigation of risks in order to prevent accidents, injuries, or loss of life.
- We ensure all employees understand the **requirement to report** any safety hazard, incident, or concern, and can do so without fear of retaliation.
- We **promote a Just Culture** where everyone trusts they will be treated fairly; and understands there is a line between acceptable and unacceptable behavior where appropriate accountability lies.
- We **openly communicate safety actions** being taken while appropriately protecting the safety data and safety information driving those actions.
- We **clearly define the responsibilities** of all employees so that everyone understands their roles in ensuring the safety, quality and compliance of our products and services.
- We **eliminate or mitigate potential safety, quality and compliance risks** associated with our products and services which must include meeting all applicable requirements and regulations.
- We **respond to emergencies** with appropriate urgency and resources in accordance with our emergency response plans, to safely transition from normal to emergency operations and back.
- We use **actionable key performance metrics and targets** that drive continuous improvement of our Safety Management System.
- We **allocate sufficient resources** (people, processes, tools and training) to supporting this safety policy.
- We **ensure all employees understand** that we all have a daily obligation to pursue safety, quality and compliance as described in this safety policy.

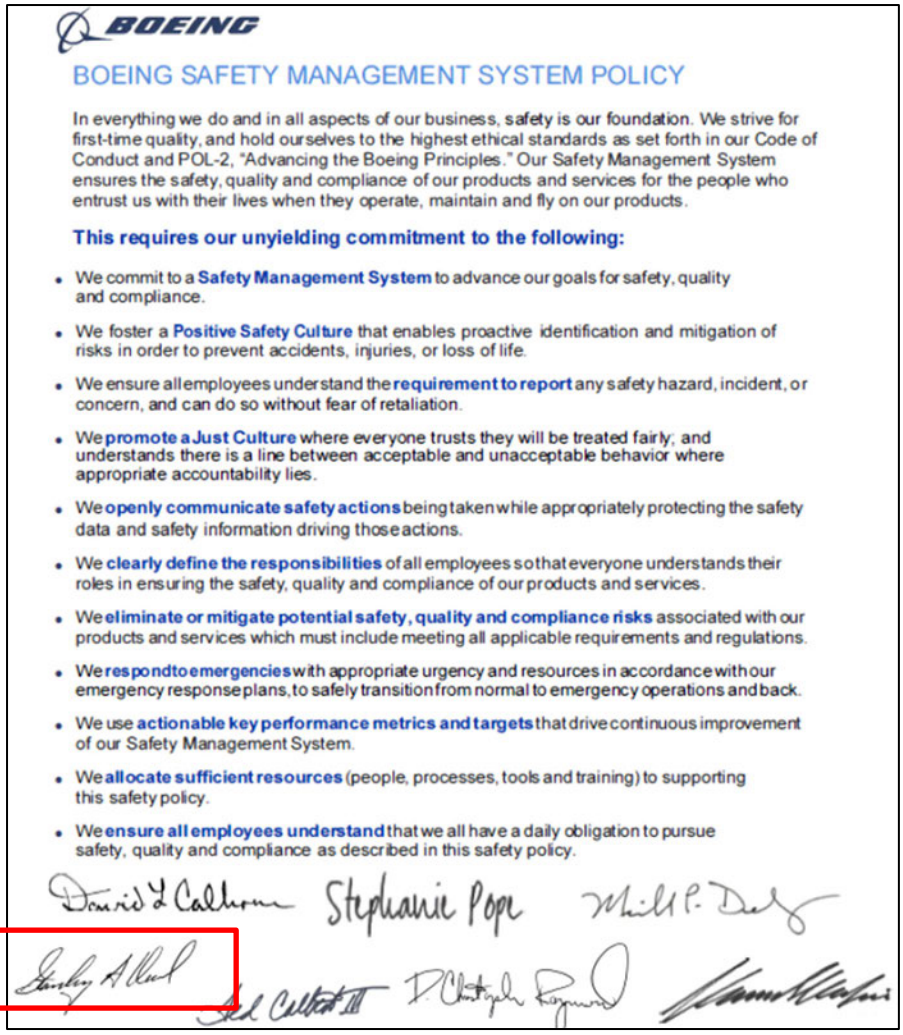
As of August 8, 2024, Calhoun no longer works for Boeing.

42. Edwin J. Clark ("Clark") was the director of Boeing's 737 MAX program from April 2009 until he was pushed out in February 2024. In this role, Clark was responsible for ensuring compliance and safety within his areas of oversight. During the Relevant Period, Clark attended and participated in several Aerospace Safety Committee meetings. As of February 8, 2024, Clark no longer works for Boeing.

43. Michael D'Ambrose ("D'Ambrose") was a Boeing Executive Vice President and its Chief Human Resources Officer from July 2020 until his retirement

on April 1, 2024. In this role, D'Ambrose was responsible for ensuring compliance and safety within his areas of oversight, including compliance with respect to non-retaliation toward whistleblowers. During the Relevant Period, D'Ambrose routinely attended and participated in Board meetings, including making presentations on hiring and employee issues. As of April 1, 2024, D'Ambrose no longer works for Boeing.

44. Stanley Deal ("Deal") served as a Boeing Executive Vice President and BCA's CEO from 2019 until his retirement on March 25, 2024. In this role, Deal was ultimately responsible for all of BCA's operations, including BCA's compliance with all laws and the safety of BCA's commercial aircraft. During the Relevant Period, Deal routinely presented to the Board and its committees concerning BCA's business, including its production goals. Deal was one of seven signatories on Boeing's Safety Management System Policy during most of the Relevant Period.



BOEING

BOEING SAFETY MANAGEMENT SYSTEM POLICY

In everything we do and in all aspects of our business, safety is our foundation. We strive for first-time quality, and hold ourselves to the highest ethical standards as set forth in our Code of Conduct and POL-2, "Advancing the Boeing Principles." Our Safety Management System ensures the safety, quality and compliance of our products and services for the people who entrust us with their lives when they operate, maintain and fly on our products.

This requires our unyielding commitment to the following:

- We commit to a **Safety Management System** to advance our goals for safety, quality and compliance.
- We foster a **Positive Safety Culture** that enables proactive identification and mitigation of risks in order to prevent accidents, injuries, or loss of life.
- We ensure all employees understand the **requirement to report** any safety hazard, incident, or concern, and can do so without fear of retaliation.
- We **promote a Just Culture** where everyone trusts they will be treated fairly; and understands there is a line between acceptable and unacceptable behavior where appropriate accountability lies.
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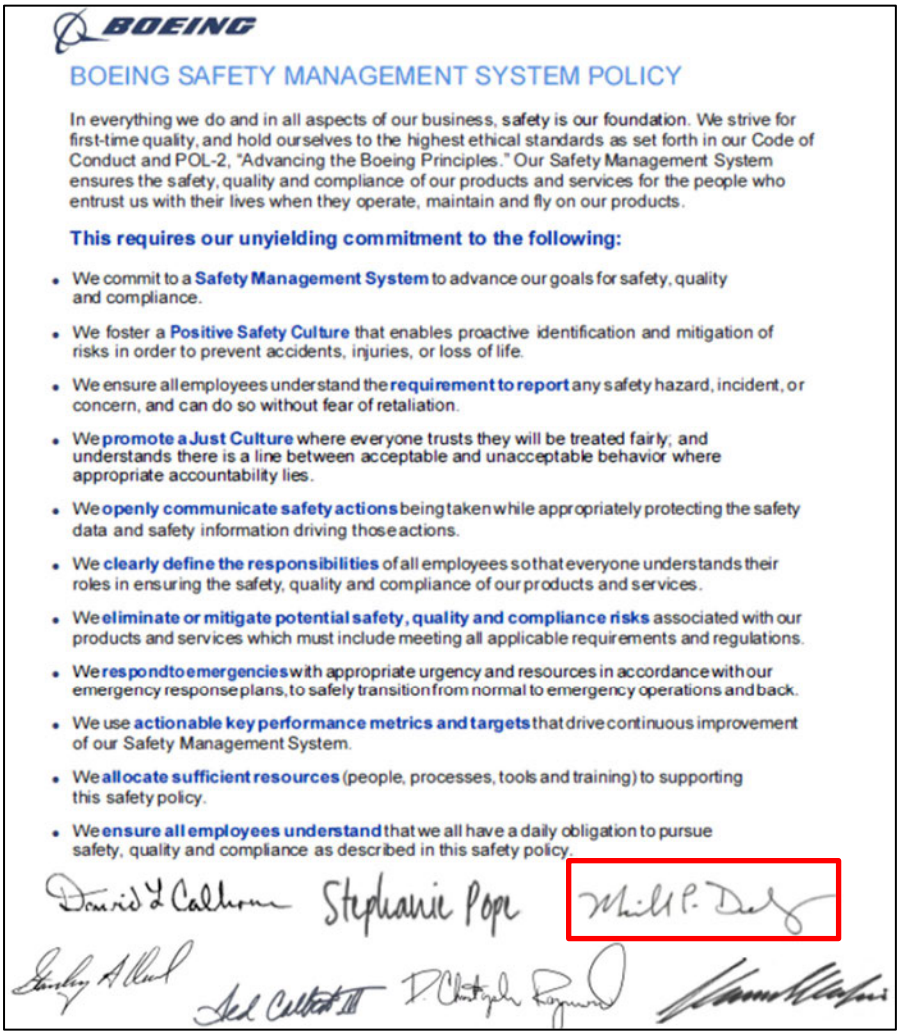
As of March 25, 2024, Deal no longer works for Boeing.

45. Michael Delaney ("Delaney") became Boeing's Chief Aerospace Safety Officer in 2021. Delaney is Boeing's Senior Vice President of Global Aerospace Safety and a member of the Company's Executive Council. In these roles, Delaney was obligated to strengthen Boeing's safety practices and culture and advance its comprehensive Global Aviation Safety strategy, including integrated responsibility for Product & Services Safety, Aerospace Safety Analytics, and Global Aviation Safety System. Earlier in his career, Delaney was Vice President and Chief Product

Engineer for the Boeing 787 program. In these roles, Delaney was responsible for ensuring compliance and safety within his areas of oversight. During the Relevant Period, Delaney routinely attended and participated in Board and committee meetings, including as one of the primary presenters on safety issues. Delaney was one of seven signatories on Boeing's Safety Management System Policy during most of the Relevant Period.



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46. Mark C. Fava ("Fava") is a Boeing Vice President and the Ombudsperson for more than 1,300 Boeing employees who have delegated

responsibilities to act on behalf of the FAA through Boeing's "ODA" program.[2] Fava assumed this role in June 2022. From May 2020 to June 2022, Fava was Chief Counsel of Boeing Engineering, Regulatory & South Carolina Operations. In these roles, Fava was responsible for ensuring compliance and safety within his areas of oversight, including compliance with respect to non-retaliation toward Boeing employees who raised safety issues. During the Relevant Period, Fava routinely attended and participated in Board and Aerospace Safety Committee meetings—often meeting with the directors in executive session.

47. Mike Fleming ("Fleming") is a BCA Senior Vice President and its General Manager of Airplane Programs and Customer Support. Fleming oversees Boeing's 737, 767, 777/777X, and 787 production programs. Fleming is responsible for the production and delivery of all commercial aircraft, including with respect to safety and quality. Fleming also leads the enterprise Program Management Operations Council. Fleming is a member of the Company's Executive Council. Fleming previously led Boeing's Commercial Derivative Programs, where he was responsible for program management for new derivative airplanes from initial offering through certification and entry into service. Between 2008 and 2016, Fleming oversaw the introduction and support of Boeing's 787 in-service fleet. In

[2] "ODA" stands for "Organizational Designation Authorization." In 2003, Congress passed a law instructing the FAA to give certain certification authority to aircraft designers. In response, the FAA created the ODA program to permit certain companies and organizations to provide certain airworthiness designations that the FAA otherwise would provide. In 2005, the FAA granted an ODA to Boeing. By 2018, Boeing was certifying 96% of its own work.

these roles, Fleming was responsible for ensuring compliance and safety within his areas of oversight. During the Relevant Period, Fleming routinely attended and participated in Board and Aerospace Safety Committee meetings, including making presentations on Boeing's safety programs.

48. Thomas Galantowicz ("Galantowicz") became Boeing's Product and Services Safety Executive in May 2021. In this role, Galantowicz was responsible for ensuring compliance and safety within his areas of oversight. During the Relevant Period, Galantowicz routinely attended and participated in Board and Aerospace Safety Committee meetings, including making presentations on compliance and regulatory affairs issues.

49. Darrin Hostetler ("Hostetler") joined Boeing in 2015 and became Boeing's Chief Compliance Officer and Vice President of Global Compliance in April 2023. On Boeing's Executive Council, Hostetler is responsible for proactively addressing legal and compliance obligations and providing company leaders with early visibility of any arising issues. During the Relevant Period, Hostetler routinely attended and participated in Board and committee meetings, including making presentations on compliance issues.

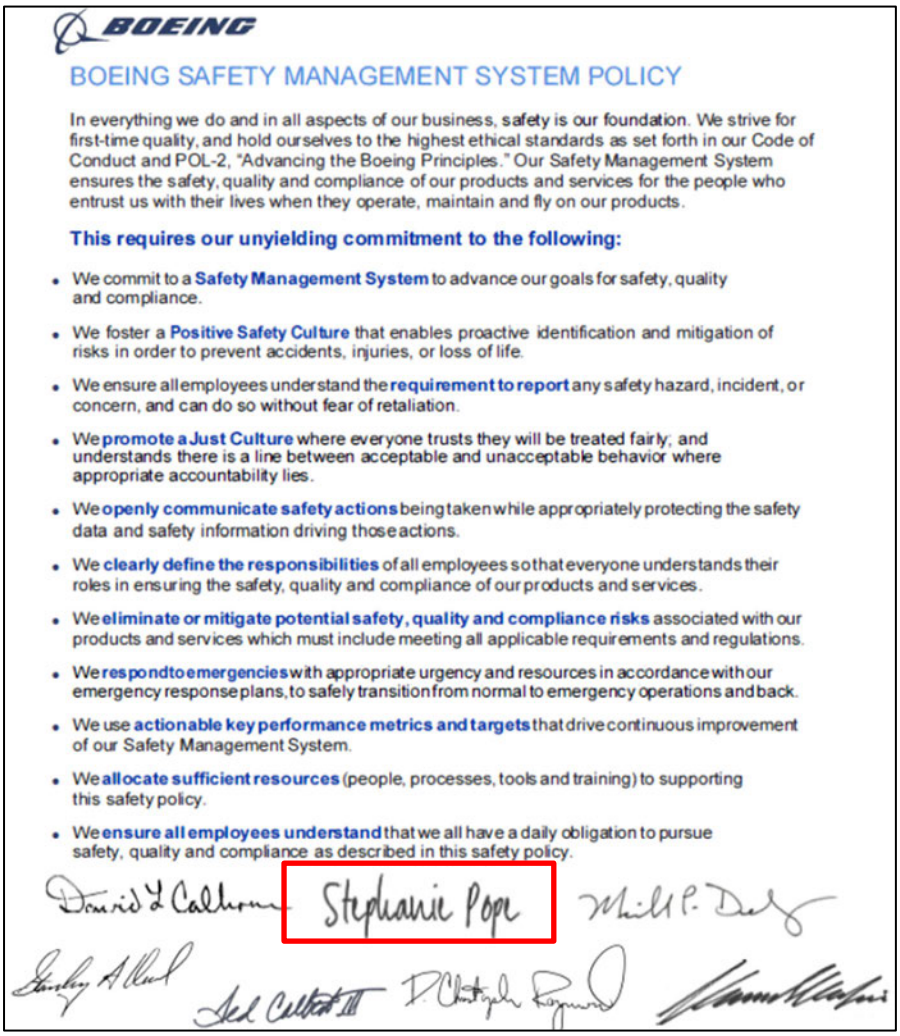
50. Elizabeth Lund ("Lund") became BCA's Senior Vice President of Quality in December 2021. Lund was the Chair of Boeing's Enterprise Quality Operations Council and a member of the Company's Executive Council. From April 2019 to February 2022, Lund was the Vice President and General Manager of Commercial Airplane Supply Chain. From April 2013 to March 2019, Lund was the Senior Vice

President and General Manager of Airplane Programs for Commercial Airplanes, where she oversaw Boeing's 737, 747, 767, 777/777X, and 787 programs. In these roles, Lund was responsible for ensuring compliance and safety within her areas of oversight. During the Relevant Period, Lund routinely attended and participated in Board and committee meetings, including making presentations concerning BCA business. On June 27, 2024, the NTSB informed Boeing that Lund's misconduct during an investigation was the cause of an NTSB sanction. On August 6, 2024, Lund testified to the NTSB that she personally read all Speak Up reports for the safety organization. Lund retired from Boeing in December 2024.

51. Elisabeth C. Martin ("Martin") became Boeing's Vice President of Enterprise Safety & Mission Assurance in February 2020. In this role, Martin was responsible for ensuring compliance and safety within her areas of oversight. During the Relevant Period, Martin routinely attended and participated in Aerospace Safety Committee meetings, including making presentations on regulatory and compliance issues.

52. Stephanie Pope ("Pope") replaced Officer Defendant Deal as BCA's CEO on March 25, 2024. She has been Boeing's Chief Operating Officer since January 2024. From April 2022 to December 2023, Pope was CEO of Boeing Global Services. From December 2020 to March 2022, Pope was a BCA Vice President and its Chief Financial Officer ("CFO"), with responsibility for the financial management and strategic, long-range business planning for the business unit. Before that, Pope was Vice President and CFO of Boeing Global Services, where she oversaw all

financial activities for the business unit. Pope also previously served as Vice President and Controller for Boeing Defense, Space & Security, with responsibility for the regulatory compliance of the business unit as well as ensuring the accuracy, transparency, and timeliness of its financial disclosures. In these roles, Pope was responsible for ensuring compliance and safety within her areas of oversight. During the Relevant Period, Pope routinely attended and participated in Board and committee meetings, including making presentations on BCA business. Pope was one of seven signatories on Boeing's Safety Management System Policy.



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Stephanie Pope

53. Scott A. Stocker ("Stocker") became the General Manager of Boeing's 787 program in December 2023. In this role, Stocker leads the team that designs, builds, and delivers the 787 aircraft. From October 2021 to January 2024, Stocker was BCA's Vice President of Manufacturing and Safety. Before that, Stocker was BCA's Vice President of Operations. In these roles, Stocker was responsible for ensuring compliance and safety within his areas of oversight. During the Relevant Period, Stocker attended several Aerospace Safety Committee meetings.

54. Brian J. West ("West") became a Boeing Executive Vice President and its Chief Financial Officer on August 27, 2021. In this role, West was closely involved in the preparation of Boeing's long-range business plan and made presentations to the Board that addressed the 737 MAX production schedule, including assurances that Boeing would continue to meet that schedule despite known issues about "Staffing," "Quality," "Supply Chain," and "Factory Health." *E.g.*, BOEINGAA220OH_00006888, at -6893. West also made public assurances to market analysts and investors about Boeing's ability to meet its 737 MAX delivery schedule and the Company's plans to "get this place back to normal" following the DPA and the events that led to it. The Boeing Co., Investor Day Transcript, at 11 (Nov. 2, 2022).

55. This Complaint refers to Amuluru, Calhoun (in his capacity as CEO), Clark, D'Ambrose, Deal, Delaney, Fava, Fleming, Galantowicz, Hostetler, Lund, Martin, Pope, Stocker, and West collectively as the "Officer Defendants."

56. This Complaint refers to the Director Defendants and the Officer Defendants collectively as the "Individual Defendants."

57. This Complaint refers to the Individual Defendants and Nominal Defendant Boeing collectively as the "Defendants."

E. THE RELEVANT WHISTLEBLOWERS

58. Boeing has a history of retaliating against whistleblowers. Two Boeing employees died suddenly after blowing the whistle on Boeing's practices, including one who died of suicide between days of testifying at deposition in a lawsuit against Boeing. To this day, many Boeing employees fear that crossing the Company will endanger their physical safety. Notwithstanding Boeing's long-standing culture of retaliation, certain Boeing employees have been willing to take that risk to expose the Company's unsafe practices. Boeing's whistleblowers demonstrated remarkable courage.

59. While some Boeing whistleblowers are anonymous, others have been willing to identify themselves. The positions these whistleblowers held and the long periods in which many of the whistleblowers worked for Boeing are noteworthy.

60. From 2015 to 2017, John Barnett ("Barnett") was a Boeing quality manager responsible for disposing of non-conforming parts at Boeing's 787 factory in South Carolina. When Barnett tried to enforce the FAA's rules concerning the storage and disposal of non-conforming parts, he was repeatedly mocked and threatened. After Barnett was fired, he filed a retaliation suit with the Occupational Safety and Health Administration of the United States Department of Labor

("OSHA") that continued into 2024. Barnett was found dead in his truck the morning of what was supposed to be the third day of his deposition with a note that blamed his death on Boeing's ongoing harassment of him.

61. Richard Cuevas ("Cuevas") performed work for Spirit Aerosystems, Inc., an operating subsidiary of Spirit Aerosystems Holdings, Inc. (previously defined as "Spirit"), a major Boeing supplier. Cuevas worked at Boeing's factory in Everett, Washington, where he assembled Boeing 787 aircraft in 2023 and 2024. Cuevas observed substandard manufacturing and maintenance practices on the 787's forward pressure bulkhead—a dome-shaped piece located in the jet's nose that is critical to maintaining cabin pressure. After Cuevas raised the defects with Spirit and then with Boeing, Spirit fired him.

62. Joshua Dean ("Dean") was a quality inspector at Spirit. He disclosed the pressure Spirit management put on inspectors not to report defects to increase production. In April 2023, Spirit fired Dean in retaliation for flagging improperly drilled holes in the aft pressure bulkhead of Spirit fuselages. Boeing later confirmed his reports. Dean mysteriously died at age 45 in May 2024—supposedly from natural causes.

63. William Hobek ("Hobek") was a quality manager at Boeing's 787 factory in South Carolina. In 2016, he was fired for repeatedly reporting the installation of faulty parts, the disappearance of hundreds of tools, and the collection of debris near critical infrastructure.

64. Roy Irvin ("Irvin") was a quality inspector at Boeing's 787 factory in South Carolina from 2011 to 2017. In 2014, his supervisors reprimanded him for insubordination when he flagged serious quality and safety issues, including issues in planes that had already left the factory and were being prepared for delivery.

65. Merle Meyers ("Meyers") was a Quality Manager at Boeing's factory in Everett, Washington, which assembles Boeing's 747, 767, 777, and 787 aircraft. He estimated that, in the decade before his pressured retirement in March 2023, more than 50,000 parts "escaped" quality control and were used to build airplanes, including numerous parts that quality inspectors had marked as scrap.[3]

66. Sam Mohawk ("Mohawk") is a quality assurance investigator at Boeing's factory in Renton, Washington, which produces Boeing's 737 MAX aircraft. In 2024, Mohawk exposed to a congressional committee that Boeing management ordered him to delete records regarding non-conforming parts and to move non-conforming parts off-site to hide them from the FAA. Mohawk filed a complaint in Boeing's internal Speak Up reporting system, but the complaint went to the managers about whose conduct Mohawk was complaining, who apparently squashed the report. Importantly, Mohawk alleged in a *CBS 60 Minutes* interview that these improper practices continue to the present, and that having non-conforming parts in planes is like playing "Russian roulette" with airplane safety. Sharyn Alfonsi, Aliza Chasan et al., *Boeing failing to keep track of non-conforming parts, whistleblower says: "It's like*

[3] Meyers provided Plaintiffs' counsel with additional information used in this Complaint.

Russian roulette", CBS NEWS (Dec. 11, 2024), https://www.cbsnews.com/news/boeing-whistleblowers-speak-out-60-minutes/.

67. Santiago Paredes ("Paredes") was an inspector at Spirit for twelve years. He was responsible for conducting the final inspections on the fuselage of the 737 MAX. He received the mocking nickname "Showstopper" because his inspections delayed deliveries to Boeing when he uncovered hundreds of defects.

68. Ed Pierson ("Pierson") was a senior manager at Boeing's factory in Renton, Washington, which produces 737 MAX aircraft. He urged Boeing to close the factory due to safety issues before the Max Crashes. Since leaving Boeing, he has dedicated much of his time to monitoring and reporting on Boeing's 737 MAX program. He maintains a website—https://www.edpierson.com/—with news and insights about Boeing and its safety record. Among other things, Pierson tracks incident reports for the 737 MAX. Those reports reveal that 737 MAX planes routinely exhibit serious safety issues immediately after entering service. As of January 2022, there were 2,067 incident reports for Boeing planes with service time of only forty hours or less. Pierson has testified numerous times before congressional committees. In connection with the Door Plug Blowout, many Boeing employees contacted Pierson to share their concerns about Boeing's unsafe and noncompliant practices.

69. Sam Salehpour ("Salehpour") is a quality inspector at Boeing. He has more than forty years of experience in the aerospace industry. He has worked at Boeing for seventeen years in various engineering capacities on the 747, 767, 777,

and 787 programs. In 2024, Salehpour testified to the Senate Permanent Subcommittee on Investigations (the "Senate PSI Committee") regarding the numerous safety and quality issues he observed while working on the 787 program at Boeing's factory in South Carolina. In a *CBS 60 Minutes* interview, Salehpour alleged that these unsafe practices are ongoing.

70. Lance Thompson ("Thompson") was Dean's auditing teammate at Spirit. Thompson confirmed Dean's reports that Spirit management pressured employees not to disclose defects, which led to many inspectors engaging in only cursory inspections.

III. JURISDICTION

71. This Court has subject matter jurisdiction over Plaintiffs' breach of fiduciary duty claims because breach of fiduciary duty is an equitable tort. 10 *Del. C.* § 341.

72. This Court has subject matter jurisdiction over Plaintiffs' unjust enrichment claims because Plaintiffs seek equitable disgorgement of the Individual Defendants' unjustly received benefits. *Id.*

73. This Court has personal jurisdiction over the Director Defendants because they are current or former directors of a Delaware corporation. 10 *Del. C.* § 3114(a).

74. This Court has personal jurisdiction over the Officer Defendants because they are current or former officers of a Delaware corporation. 10 *Del. C.* § 3114(b).

75. This Court has personal jurisdiction over Nominal Defendant Boeing because it is a Delaware corporation. 8 *Del. C.* § 321; 10 *Del. C.* § 3111.

IV. EVENTS PRIOR TO THE RELEVANT PERIOD PUT THE INDIVIDUAL DEFENDANTS ON NOTICE OF THE NEED FOR INCREASED VIGILANCE.

76. Plaintiffs have sued to challenge breaches of fiduciary duty that occurred during the Relevant Period. They are not suing to challenge wrongdoing that occurred before the Relevant Period, nor are they alleging that Boeing breached the *Boeing I* settlement.

77. But the Relevant Period did not begin on a clean slate. Boeing's fiduciaries entered the Relevant Period on notice of the mission-critical nature of safety and regulatory compliance to Boeing's business. They understood that non-compliance threatened the safety of hundreds of thousands of travelers. They also understood that non-compliance risked harsh penalties and a disruption of Boeing's business. An internal compliance risk management report from December 2022 that went to the full Board described the potential consequences for regulatory non-compliance as follows:

> Consequences for noncompliance include safety risk to the flying public, as well as disapproval of airplane designs, formal investigations and civil penalties, reduction in the scope or withdrawal of authority delegated by regulatory agencies, civil litigation, reputational and relationship harm, adverse media attention, and operational impacts including aircraft groundings, delivery stoppages, production delays, and related customer impacts.

BOEINGAA220OH_00002500, at -2534.

78. Boeing's fiduciaries thus entered the Relevant Period (i) fully aware of the need to vigilantly scrutinize the manufacturing process to ensure the safety and airworthiness of Boeing's aircraft and (ii) with a mandate to clean up Boeing's toxic corporate culture. Accordingly, it is important to summarize the events that put Boeing's fiduciaries on notice and gave them that mandate.

A. THE BIRTH OF BOEING'S TOXIC CULTURE: BOEING'S C-SUITE CHANGES FROM ENGINEERS TO FINANCIERS.

79. Boeing was once synonymous with safety and quality. Founded in 1916, Boeing functioned as "an association of engineers" for the first eighty years of its existence. *Boeing I*, 2021 WL 4059934, at *3. Boeing's executives were conversant in engineering requirements, and Boeing's culture emphasized engineering and safety. Boeing's executives would often walk the factory floor in Washington to observe manufacturing and assembly first-hand.

80. In 1997, Boeing acquired McDonnell Douglas Corporation ("McDonnell Douglas"), a company that was known for pushing profits and shirking quality control. After the merger, Boeing installed McDonnell Douglas's CEO, Harry Stonecipher, as CEO of the combined company. Stonecipher intentionally altered the Company's culture. In 2000, Boeing CFO Deborah Hopkins told *Bloomberg* that Boeing should not be "overly focused on the box" in designing and building airplanes. Bloomberg Businessweek, *Former Boeing Engineers Say Relentless Cost-Cutting Sacrificed Safety*, MEDIUM (May 10, 2019), https://medium.com/bloomberg-businessweek/former-boeing-engineers-say-relentless-cost-cutting-sacrificed-safety-9d54a079b9f7. In other words, CFO Hopkins viewed aircraft as a transportation

commodity, not delicate pieces of industrial machinery that merited intense design and engineering focus. In an op-ed published in *The Chicago Tribune* in 2004, Stonecipher confirmed that he purposefully changed Boeing's culture: "When people say I changed the culture of Boeing, *that was the intent*, so *it's run like a business rather than a great engineering firm*. It is a great engineering firm, but *people invest in a company because they want to make money*." Kenneth G. Pringle, *Boeing Spent Decades as an Engineering Marvel. It Has Fallen Hard.*, BARRON'S (Sept. 19, 2024) (emphasis added).

81. Boeing's focus soon shifted from safety-first to profits-first, and that reprioritization infected Boeing's culture from top to bottom. Cost-cutting became a major focus. According to one Boeing physicist: "Wal-Mart perfected its particular version of the cost-cutting business model. Amazon adapted that model to its industry. Boeing has adapted it to high-end manufacturing." Stan Sorscher, *What will it be, Boeing? Great Airplanes that generate cash flow or great cash flow, period?*, THE SEATTLE TIMES (July 5, 2019), https://www.seattletimes.com/opinion/what-will-it-be-boeing-great-airplanes-that-generate-cash-flow-or-great-cash-flow-period/.

B. BOEING'S TOXIC CULTURE SPREADS: BOEING RUSHES TO DEVELOP THE DREAMLINER.

82. Boeing and Airbus SE ("Airbus") are the world's two largest manufacturers of commercial aircraft. Since the late 1990s, Boeing and Airbus have held a "duopoly" and essentially controlled the market for large passenger jets.

83. In January 2003, Boeing began designing the airplane that became known as the 787 Dreamliner. To quickly compete with the rival Airbus A380, Boeing

engaged in unprecedented outsourcing, with 70% of the design, engineering, and manufacturing of entire modules outsourced to more than fifty strategic partners.

84. One of those strategic partners was Spirit. Spirit was originally part of Boeing. It manufactured fuselages for Boeing planes in a factory in Wichita, Kansas. In 2005, as part of Boeing's push to shift costs off its balance sheet and thus juice its revenue and stock price, Boeing spun off the Wichita operation as a standalone company.

85. In July 2007, Boeing rolled out the first "assembled" Dreamliner in a "grand premiere." Unknown to the public, however, the plane was an inoperable hollow shell, and the wing slats were painted wood. Boeing produced the 787 away from Boeing's traditional base in Washington in a new plant in South Carolina.

86. The Dreamliner did not make its first flight until December 2009. It immediately exhibited serious defects. In less than eighteen months, it experienced battery fires, landing gear malfunctions, engine corrosion, electrical failures, fuel line and fuel leak problems, a cracked windscreen, and computer glitches leading to faulty brakes. In 2013, the FAA grounded the entire Dreamliner fleet because of battery fires in several jets.

87. Boeing did not learn its lesson or improve its production standards. In 2014, *Al Jazeera* journalists used a hidden camera to record conversations with Boeing workers, who stated they would never fly on the planes they were manufacturing because of shoddy workmanship. In 2016, a quality manager at Boeing's South Carolina plant, William Hobek (previously defined as "Hobek"), filed

a lawsuit alleging that he was fired for repeatedly reporting defects up the chain of command. Hobek reported a host of major defects, including the installation of faulty parts, the disappearance of hundreds of tools, and the collection of debris near critical infrastructure—including metal shavings that could cut critical wiring. In response to Hobek's concerns, one manager told him, "Bill, you know we can't find all defects." Bloomberg Businessweek, *Former Boeing Engineers Say Relentless Cost-Cutting Sacrificed Safety*, MEDIUM (May 10, 2019), https://medium.com/bloomberg-businessweek/former-boeing-engineers-say-relentless-cost-cutting-sacrificed-safety-9d54a079b9f7.

88. In 2018 and 2019, the FAA investigated and confirmed three safety complaints made by Boeing employees regarding the final stages of production of the 787 Dreamliner. *The Wall Street Journal* described the 787 Program in this way: "Boeing Looked for Flaws in Its Dreamliner and Couldn't Stop Finding Them." Andrew Tangel, *Boeing Looked for Flaws in Its Dreamliner and Couldn't Stop Finding Them*, THE WALL ST. J. (Apr. 27, 2022), https://www.wsj.com/articles/boeing-dreamliner-delays-faa-defects-11651067545.

C. BOEING'S TOXIC CULTURE SPREADS FURTHER: BOEING RUSHES TO DEVELOP THE 737 MAX.

89. Boeing's profits-first culture showed itself again in the development of the next generation of Boeing's 737 aircraft, dubbed the 737 MAX. Like the Dreamliner, Boeing developed the 737 MAX in reaction to a new offering from Airbus.

90. In 2010, Airbus began advertising its A320 NEO, which touted greatly increased fuel efficiency. The A320 NEO ate into the profits of Boeing's 737 Next Generation aircraft (the "737 NG"), which had not been updated since the late 1990s.

91. In response, Boeing considered two options. First, Boeing could develop a brand-new airplane, which would take a decade. Second, Boeing could re-design the 737 NG with larger, more efficient engines, which would require fewer FAA certifications and take only six years. In deciding to take the second option, the Board's primary concern was "how quickly and inexpensively the Company could develop the 737 MAX model to compete with Airbus's A320neo." *Boeing I*, 2021 WL 4059934, at *8 (internal quotation marks and footnote omitted). Boeing moved at a "frenetic" pace to develop the 737 MAX. *Id.*

92. Limited by management's directive to maintain "commonality" between the 737 MAX and the 737 NG, Boeing engineers decided to put larger, more fuel-efficient engines on the existing 737 NG body. *Id.* The larger engines were situated differently on the wings, changing the plane's center of gravity. As a result, the plane tended to "pitch up"—i.e., tilt backward—in flight. *Id.* Boeing responded to this pitch problem with new software developed by Collins[4]—the Maneuvering Characteristics Augmentation System (the "MCAS")—which relied on a single sensor to determine when to activate the horizontal stabilizer on the plane's tail to push the plane's tail up and the nose down.

[4] Ortberg, Boeing's CEO since August 8, 2024, and Gitlin, a member of the Demand Board in this Action, were senior executives at Collins.

93. In asking the FAA to approve the 737 MAX, Boeing misled the FAA about the MCAS's operation and potential dangers. Boeing's Chief Technical Pilot, Mark Forkner, admitted to a colleague: "basically I lied to the regulators (unknowingly)." *Boeing I*, 2021 WL 4059934, at *9 (internal quotation marks and footnote omitted). As part of minimizing the MCAS, Boeing omitted any substantive description of the MCAS from the three instructional documents for pilots flying new models.

94. In May 2017, Boeing began fulfilling orders for the 737 MAX—many of which came from airlines in emerging markets. The 737 MAX became Boeing's fastest-selling plane. In 2018, the 737 MAX accounted for about 60% of Boeing's record $101.1 billion in annual revenue. By the end of 2018, the backlog for the 737 MAX was more than 4,000 airplanes. During this period, Boeing delivered an average of thirty-nine 737 MAX airplanes per month. That was more than one airplane per day. Under this aggressive production schedule, the 737 MAX facility became a "factory in chaos."

95. Notwithstanding the already aggressive production schedule (and attendant risks), the Board promptly *increased* the production and delivery target to *fifty-seven* 737 MAX airplanes a month. That schedule called for manufacturing nearly two planes every single day. Boeing's facilities and workforce could not meet that target.

96. Boeing engineers and other employees tried to sound warning bells. One engineer expressed to his manager that he had "seen larger operations shut down for

far less safety issues . . . in the military and those organizations have national security responsibilities." The manager responded: "The military isn't a profit-making organization." Jon Smart, *Lack of Psychological Safety at Boeing*, IT REVOLUTION (Jan. 28, 2021), https://itrevolution.com/articles/lack-of-psychological-safety-at-boeing/.

97. Some of the employee complaints rose to the level of senior management, but none made it to the Board. The Board was completely unaware of the whistleblower complaints regarding airplane safety, compliance, workforce exhaustion, and production schedule pressure at the 737 MAX facility.

D. BOEING'S TOXIC CULTURE LEADS TO THE 2015 FAA SETTLEMENT.

98. During the development of the 737 MAX, on December 18, 2015, Boeing entered into a settlement agreement to resolve thirteen FAA Enforcement Investigative Reports (previously defined as the "2015 FAA Settlement"). Boeing agreed to pay a $12 million civil fine, with the potential to pay more. The fines levied against Boeing in connection with the 2015 FAA Settlement were the highest the FAA had ever imposed up to that point. The 2015 FAA Settlement also placed non-monetary requirements on Boeing, including requiring the Company to implement an SMS.

99. On December 29, 2020, the FAA informed Boeing that it failed to comply with five sections of the 2015 FAA Settlement: (i) ODA and Internal Auditing System for Regulatory Compliance; (ii) Regulatory Compliance Plan; (iii) Accuracy of Stamping and Other Verifications; (iv) Quality of Submissions; and (v) Timeliness of

Submissions. The FAA assessed a deferred civil penalty of $5.4 million. That penalty was 33% higher than the FAA otherwise would have imposed because it determined "that Boeing's shortfalls in one of these sections, *Regulatory Compliance Plan*, were numerous, varied, and called into question Boeing's performance under several other sections of the [settlement] [a]greement." (Emphasis added.)

E. BOEING'S PRIORITIZATION OF PROFITS OVER SAFETY RESULTS IN THE MAX CRASHES AND A REGULATORY FIRESTORM.

100. Boeing's profits-first, safety-last culture ended in disaster. On October 29, 2018, Lion Air Flight 610 crashed—killing all 189 passengers and crew. Less than six months later, on March 10, 2019, Ethiopian Airlines Flight 302 crashed—killing all 157 passengers and crew. These two crashes of 737 MAX aircraft (previously defined as the "MAX Crashes") killed a total of 346 people. The MCAS caused both MAX Crashes.

101. In January 2019, the DOJ opened an extensive criminal investigation into whether Boeing defrauded the FAA when obtaining certification of the 737 MAX. On March 13, 2019, the FAA grounded the 737 MAX fleet in the United States, which quickly led to the grounding of the 737 MAX fleet worldwide. This grounding remained in effect for twenty months—until November 18, 2020. Boeing resumed delivery of the 737 MAX on December 8, 2020.

102. Even after the MAX Crashes, Boeing refused to take responsibility for its actions. As one commentator described the situation: "Obviously, Boeing has a safety problem. Unfortunately, that doesn't seem to be obvious to Boeing. Instead, the company seems to think it has a communications problem and a public image

problem." Minda Zetlin, *Boeing Replaces CEO Dennis Muilenburg With Board Chairman David Calhoun. But That's Not Enough*, INC. (Dec. 24, 2019), https://www.inc.com/minda-zetlin/boeing-new-ceo-david-calhoun-former-ceo-dennis-muilenburg-is-fired.html.

103. In September 2020, following a thorough, eighteen-month investigation by the House Committee on Transportation and Infrastructure, the committee released a 240-page "final report" (the "House Report") prepared for committee chair Peter A. Defazio of Oregon ("Defazio"), which thoroughly cataloged Congress's key findings with respect to Boeing. *See* House Rep. at 3.

104. The House Report specified "central themes that affected the design, development, and certification of the 737 MAX and FAA's oversight of Boeing." *Id.* at 12. The first theme was "Production Pressures." *Id.* Boeing's desire to compete with Airbus's A320 NEO "resulted in extensive efforts to cut costs, maintain the 737 MAX program schedule, and avoid slowing the 737 MAX production line." *Id.* at 12–13. The committee "identified several instances where the desire to meet these goals and expectations jeopardized the safety of the flying public." *Id.* at 13. Another central theme was Boeing's "Culture of Concealment." *Id.* "In several critical instances, Boeing withheld crucial information from the FAA, its customers, and 737 MAX pilots." *Id.* The House Report repeatedly noted Boeing management's "lack of transparency" to regulators and customers. *Id.* at 6, 24, 32, 99, 125, 131, 192, 209. The report also noted Boeing's "Culture of Omission," which resulted in key

safety information known by multiple Boeing employees at multiple levels failing to go to regulators or customers. *Id.* at 137.

105. The House Report also itemized Boeing's negative response to dissent from or disagreement with management's policies. According to one whistleblower, "the fear of retaliation is high, despite all official assurances that this should not be the case. There is a suppressive cultural attitude towards criticism of corporate policy[.]" *Id.* at 172. The House Report found a culture of retaliation notwithstanding Boeing's initiation of the Speak Up program in 2019, which should have provided Boeing employees with an effective way to report concerns without fear of retaliation.

106. In a section highlighting a litany of governance and compliance changes to come at Boeing, the House Report stated:

> The effectiveness of these organizational and procedural changes that have been recommended following its internal review will be dependent on Boeing's willingness to change. However, Boeing does not appear to have fully accepted the lessons from the MAX accidents or taken responsibility for design errors. Without that recognition it is hard to believe that Boeing will make the changes necessary to improve its safety culture.

Id. at 230.

107. The House Report characterized the extensive and numerous failures related to the certification of the 737 MAX as a serious wakeup call for Boeing. In doing so, the House Report warned: "Unfortunately, serious questions remain as to whether Boeing and the FAA have fully and correctly learned the lessons from the MAX failures." *Id.* at 237. That warning proved prescient.

F. THE BOARD MISSES KEY OPPORTUNITIES TO CHANGE THE TONE AT THE TOP.

108. The MAX Crashes gave the Board an opportunity to change the tone at the top by appointing a new CEO. Boeing's CEO at the time of the MAX Crashes was Dennis Muilenburg ("Muilenburg"). Muilenburg had joined Boeing in 1985. He became CEO in 2015 and continued Boeing's prioritization of profits over safety.

109. Muilenburg badly botched Boeing's response to the 737 MAX Crashes. He became a caricature of Boeing's profits-at-all-costs mentality. When the FAA instructed Boeing to revise its flight manuals for the 737 MAX after the first MAX Crash, Muilenburg emailed another executive, writing: "We need to be careful that the [airplane flight manual] doesn't turn into a compliance item that restricts near-term deliveries." *Boeing I*, 2021 WL 4059934, at *12 (footnote omitted). On October 29, 2019, he told Congress: "We don't 'sell' safety; that's not our business model." Jack Kelly, *When A Company Prioritizes Profit Over People: Boeing CEO Tells Congress That Safety Is 'Not Our Business Model'*, FORBES (Oct. 30, 2019), https://www.forbes.com/sites/jackkelly/2019/10/30/when-companies-prioritize-profitsover-employee-and-consumer-safety-after-fatal-boeing-737-max-crashes-ceo-tellscongress-that-safety-is-not-our-business-model/?sh=2b5f1ed151a5.

110. Even when Muilenberg used terms like "safety" and "quality," his "comments were not geared toward taking action to address and improve the 737 MAX's safety. Nor were they made in response to any Board inquiry as to the airplane's safety. Instead, Muilenburg addressed the Board's objectives for the

737 MAX: 'ongoing production operations,' revenue, and reputational achievement." *Boeing I*, 2021 WL 4059934, at *16 (footnote omitted).

111. Muilenburg had to go. Lawmakers, regulators, the press, and the public would not stand for Muilenburg's in-your-face avarice. Muilenburg's successor had the opportunity to change the tone at the top.

112. Both Muilenburg's successor and the Board had an opportunity to reverse the Company's toxic profits-first culture. Again, however, they squandered this opportunity. Rather than choose an engineer, pilot, or regulatory safety expert to replace Muilenburg, Boeing's directors selected a private equity executive—Officer Defendant Calhoun—to fill the role.[5]

113. Officer Defendant Calhoun's tenure as Boeing's CEO began in January 2020. He came to the job with an already tarnished reputation, caused by the MAX Crashes. While serving as a Boeing director, Calhoun made several false representations to major newspapers concerning the Board's actions in connection with the MAX Crashes. *See Boeing I*, 2021 WL 4059934, at *19. In appointing Calhoun, the Board forwent the opportunity to return Boeing to its engineering and quality roots.[6]

[5] In 2013, Officer Defendant Calhoun left his position as CEO of Nielsen Holdings N.V. to join Blackstone as a Senior Managing Director. Calhoun was working at Blackstone when he became Board Chairman in October 2019.

[6] Boeing also had the opportunity to make changes at the Dreamliner facility. On May 22, 2019, the vice president of 787 Dreamliner operations, who ran the South Carolina factory, announced his departure from the Company. But the new head of the 787 Program kept things business as usual.

114. Far from being the safety-focused CEO that Boeing publicly portrayed, Officer Defendant Calhoun focused on production speed in earnest—with even *less* safety focus than his predecessor, Muilenburg. After Calhoun became CEO, in the middle of the grounding of the entire 737 MAX fleet, Calhoun almost immediately *decreased* safety oversight at the executive level: Calhoun shifted Executive Committee meetings from monthly to quarterly, which decreased senior management's and his ability to detect problems in a timely manner and report them to the Board. Consequently, Boeing's oversight capabilities deteriorated to an even greater extent than before. The Board did not object.

115. In May 2022, Boeing announced that it was moving from Chicago, Illinois to Arlington, Virginia—just outside of Washington, D.C. This move reflected Boeing's attempt to cozy up to its regulators rather than being a sign of real change. Thus, in the face of criticism that Boeing improperly sought to capture regulators, Boeing management doubled down. They moved Boeing's headquarters even closer to its regulators and even farther from its main manufacturing facilities in Washington state.

G. THE COVID-19 PANDEMIC AND ITS AFTERMATH MAKE IT IMPOSSIBLE FOR BOEING TO RAMP UP PRODUCTION SAFELY AND IN COMPLIANCE WITH FAA REGULATIONS.

116. On March 11, 2020, the World Health Organization declared the outbreak of the novel coronavirus, COVID-19, a pandemic, which essentially shut down global air travel and greatly reduced domestic air travel. Airlines no longer needed new planes. As a result, for a time, Boeing was forced to shut down its

U.S. factories. The pandemic also disrupted Boeing's supply chain—resulting in shortages of parts and materials.

117. Boeing significantly increased its debt load during the pandemic. In the first quarter of 2020, Boeing's debt increased from $25.3 billion to $36.9 billion. In the second quarter of 2020, Boeing's debt skyrocketed to $59.9 billion. Boeing's debt load remained heavy throughout the Relevant Period.

118. The slowdown from the COVID-19 pandemic, coupled with the FAA's grounding of the 737 MAX, gave Boeing the perfect opportunity to focus on safety and regulatory compliance. As Officer Defendant Calhoun stated on a July 28, 2021 earnings call concerning Dreamliner production: "Here's the good news. If we ever had a window to get this behind us once and for all, it's now. We're producing at the lowest rate ever. Customers are not knocking down our door to get their airplanes in light of the COVID impact on international traffic." The Boeing Co., Earnings Call Transcript, at 17 (July 28, 2021), https://investors.boeing.com/investors/events-presentations/event-details/2021/Q2-2021-The-Boeing-Company-Earnings-Conference-Call/default.aspx. Once again, the Board squandered the opportunity. Instead of directing all its resources to improving its manufacturing, Boeing shed much of its experienced workforce. To save money in the short-term, Boeing encouraged workers with ten, fifteen, and even twenty or more years of experience to retire.

119. Having shed a significant number of experienced workers at the beginning of the pandemic, Boeing was forced to hire 8,000 new employees in 2020

for "critical skills." The Boeing Co., Annual Report (Form 10-K) at 3 (Feb. 1, 2021). In 2021, Boeing hired 9,800 new employees for "critical skills." The Boeing Co., Annual Report (Form 10-K) at 3 (Jan. 31, 2022).

V. MAJOR EVENTS EARLY IN THE RELEVANT PERIOD PUT THE INDIVIDUAL DEFENDANTS ON NOTICE OF THEIR MANDATE TO ACT IN GOOD FAITH TO ENSURE SAFETY AND REGULATORY COMPLIANCE.

A. THE DPA PUTS THE INDIVIDUAL DEFENDANTS ON NOTICE OF THEIR MANDATE TO ACT IN GOOD FAITH TO ENSURE SAFETY AND REGULATORY COMPLIANCE.

120. On January 7, 2021, the DOJ charged Boeing with one count of conspiracy to defraud the United States by impairing, obstructing, defeating, and interfering with the lawful function of the FAA Aircraft Evaluation Group in connection with its evaluation of the pilot training required for the 737 MAX. The same day, Boeing and the DOJ entered into the DPA. *See United States v. The Boeing Co.*, No. 4:21-cr-00005-O (N.D. Tex. Jan. 7, 2021), ECF No. 4.

121. In connection with the DPA, Boeing admitted that it "did not timely and voluntarily disclose to the Fraud Section the offense conduct described in the Statement of Facts" and that its cooperation "was delayed and only began after the first six months of the Fraud Section's investigation, during which time the Company's response frustrated the Fraud Section's investigation." DPA ¶ 4.b–c.

122. The DPA required Boeing to pay more than $2.5 billion, composed of a $243.6 million criminal monetary penalty, $1.77 billion in compensation payments to Boeing's 737 MAX airline customers, and a $500 million fund to compensate the heirs, relatives, and legal beneficiaries of the 346 individuals who died in the MAX Crashes.

123. The DPA also had non-monetary requirements. The DPA required Boeing to establish and maintain "an effective compliance program that is designed, implemented, and enforced to effectively deter and detect violations of U.S. fraud laws." DPA ¶ 22. Among other things, that program required Boeing to:

a. ensure that its directors and senior management provide strong, explicit, and visible support and commitment to its corporate policy against violations of U.S. fraud laws and the Company's compliance code, and demonstrate rigorous adherence by example;

b. ensure that middle management, in turn, reinforce those standards and encourage employees to abide by them;

c. create and foster a culture of ethics and compliance with the law in its day-to-day operations;

d. develop and promulgate compliance policies and procedures designed to reduce the prospect of violations of U.S. fraud laws and the Company's compliance code;

e. take appropriate measures to encourage and support the observance of ethics and compliance policies and procedures against violation of U.S. fraud laws by personnel at all levels of the Company;

f. notify all employees that compliance with the policies and procedures is the duty of individuals at all levels of the Company; and

g. review its compliance policies and procedures regarding U.S. fraud laws no less than annually and update them as appropriate to ensure their continued effectiveness, taking into account relevant developments in the field and evolving industry standards.

124. The DPA prohibited Boeing from:

a. making any public statement, in litigation or otherwise, contradicting its acceptance of responsibility and admission of the facts set forth in the DPA's Statement of Facts;

b. providing any deliberately false, incomplete, or misleading information in connection with the DPA;

c. failing to fully cooperate as required by the DPA; or

d. failing to implement a compliance program as required by the DPA.

125. In connection with its compliance program, the DPA directed Boeing to "focus[] on the Company's interactions with domestic or foreign government agencies (including the FAA), regulators, and any of its airline customers." DPA ¶ 22.

126. The DPA also expressly required Boeing to extend its compliance program to its "contractors and subcontractors[, such as Spirit,] whose

responsibilities relate to the Company's interactions with any domestic or foreign government agency (including the FAA), regulator, or any of its airline customers." DPA ¶ 21.

127. To monitor the Company's ongoing compliance with the DPA, the DPA imposed certain reporting and meeting requirements between the Company and the DOJ. Specifically, the Company agreed to design a work plan for remediation of its compliance program and report to the DOJ on three separate occasions. The first report was due within sixty days of the DPA, the second report was due no later than one year after the first report was due, and the third report was due no later than thirty days before the end of the term of the DPA. All written work plans were required to identify with reasonable specificity the activities the Company planned to undertake in execution of the enhanced self-reporting obligations. The second and third reports required the Company to incorporate the DOJ's views on the Company's prior reviews and reports, as well as to further monitor and assess whether the Company's compliance program was reasonably designed, implemented, and enforced so that it was effective at deterring and detecting violations of U.S. fraud laws.

128. The Company agreed to meet with the DOJ within thirty days of the delivery of each report, and to meet periodically, but no less than quarterly, with the DOJ to discuss the status of the review and enhanced self-reporting obligations, and any suggestions, comments, or improvements the Company wished to discuss with or propose to the DOJ.

129. The Board had express knowledge of the DPA and its terms. The DPA itself memorialized that the Board had been "extensively briefed on discussions with the Fraud Section [of the DOJ] regarding an agreement to resolve" the criminal investigation, including by being "informed of the principal terms of the [DPA] by the Chief Legal Officer of the Company and agreed that the Company should enter into an agreement on those terms." DPA, Attach. B at B-1. Five of the twelve members of the Demand Board—Bradway, Good, Johri, Mollenkopf, and Richardson—approved the DPA.

130. In the press release announcing the DPA, the DOJ made clear that the Company's toxic corporate culture that prioritized profit over safety and candor had led to the deaths of hundreds of innocent victims.[7] Acting Assistant Attorney General ("AAG") David P. Burns of the DOJ's Criminal Division stated that "[t]he tragic crashes of Lion Air Flight 610 and Ethiopian Airlines Flight 302 exposed fraudulent and deceptive conduct by employees of one of the world's leading commercial airplane manufacturers." AAG Burns continued: "Boeing's employees chose the path of profit over candor by concealing material information from the FAA concerning the operation of its 737 Max airplane and engaging in an effort to cover up their deception." Press Release, *Boeing Charged with 737 Max Fraud Conspiracy and Agrees to Pay over $2.5 Billion*, U.S. DEP'T OF JUST., (Jan. 7, 2021),

[7] The Company's toxic culture was engrained in its corporate DNA—from aircraft production to securities filings. On September 22, 2022, Boeing agreed to pay $200 million to settle SEC allegations that Boeing and Muilenberg misled investors regarding the 737 MAX. Muilenberg personally paid $1 million.

https://www.justice.gov/opa/pr/boeing-charged-737-max-fraud-conspiracy-and-agrees-pay-over-25-billion#:~:text=%E2%80%9CThe%20tragic%20crashes%20of%20Lion,the%20Justice%20Department's%20Criminal%20Division.

131. Legislators reached the same conclusion. During an October 15, 2021 hearing before the House Transportation and Infrastructure Committee, DeFazio explained: "Senior leaders throughout Boeing are responsible for the culture of concealment that ultimately led to the 737 MAX crashes and the death of 346 innocent people[.]" David Shepardson, *U.S. lawmaker blames Boeing leaders for culture that led to crashes*, REUTERS (Oct. 15, 2021), https://www.reuters.com/business/aerospace-defense/us-lawmaker-blames-boeing-leaders-culture-that-led-crashes-2021-10-15/. The same day, an article in *The New York Times* stated: "The very culture at Boeing appears to be broken, with some senior employees having little regard for regulators, customers and even co-workers." David Gelles, *'I Honestly Don't Trust Many People at Boeing': A Broken Culture Exposed*, N.Y. TIMES (Oct. 15, 2021), https://www.nytimes.com/2020/01/10/business/boeing-737-employees-messages.html.

B. THE FAA'S ANNOUNCEMENT THAT BOEING BREACHED THE 2015 FAA SETTLEMENT PUTS THE INDIVIDUAL DEFENDANTS ON NOTICE OF THEIR MANDATE TO ACT IN GOOD FAITH TO ENSURE SAFETY AND REGULATORY COMPLIANCE.

132. On February 21, 2021—approximately six weeks after Boeing entered into the DPA—the FAA issued a press release announcing that Boeing had breached

the 2015 FAA Settlement. In the press release, then-FAA Administrator Steve Dickson explained:

> Boeing failed to meet all of its obligations under the settlement agreement, and the FAA is holding Boeing accountable by imposing additional penalties[.] . . . *I have reiterated to Boeing's leadership time and again that the company must prioritize safety and regulatory compliance*, and that the FAA will always put safety first in all its decisions.

Press Release, *Boeing to Pay $6.6 Million in Penalties to FAA*, U.S. FED. AVIATION ADMIN. (Feb. 25, 2021), https://www.faa.gov/newsroom/boeing-pay-66-million-penalties-faa#:~:text=%E2%80%9CI%20have%20reiterated%20to%20Boeing's,to%20settle%20two%20enforcement%20cases (emphasis added).

C. THE 2021 FAA SETTLEMENT PUTS THE INDIVIDUAL DEFENDANTS ON NOTICE OF THEIR MANDATE TO ACT IN GOOD FAITH TO ENSURE SAFETY AND REGULATORY COMPLIANCE.

133. On May 26, 2021, Boeing and the FAA fully executed another settlement agreement to resolve three open cases that involved supplier oversight problems (previously defined as the "2021 FAA Settlement"). *See* Press Release, *Boeing Settlement Agreement*, U.S. FED. AVIATION ADMIN. (May 26, 2021), https://www.faa.gov/newsroom/boeing-settlement-agreement. As part of the settlement, Boeing agreed to a $27,178,778 civil penalty, which could be reduced to $17,000,000 if Boeing completed certain corrective actions.

134. The corrective actions included enhanced oversight of parts from suppliers "shipped at risk," which meant parts for which required testing was

"incomplete, pending, or failed." The 2021 FAA Settlement required Boeing to put "robust process controls in place" to "ensure that any parts shipped at risk are quarantined, and are not installed on any aircraft, unless and until Boeing determines that those parts conform to their approved design and are in a condition for safe operation."

135. Officer Defendant Fava executed the settlement agreement on Boeing's behalf in his role as Chief Counsel of Boeing Engineering, Regulatory & South Carolina Operations.

D. THE MOTION TO DISMISS OPINION IN *BOEING I* PUTS THE INDIVIDUAL DEFENDANTS ON NOTICE OF THEIR MANDATE TO ACT IN GOOD FAITH TO ENSURE SAFETY AND REGULATORY COMPLIANCE.

136. The MAX Crashes led to stockholder derivative litigation in this Court in the matter styled *In re Boeing Co. Derivative Litigation*, Consol. C.A. No. 2019-0907-MTZ (previously defined as "*Boeing I*"). In *Boeing I*, Company stockholders alleged that the Boeing directors were liable for failing to fulfill their oversight duties under the standards set forth in *In re Caremark International Inc. Derivative Litigation*, 698 A.2d 959 (Del. Ch. 1996), as applied in *Marchand v. Barnhill*, 212 A.3d 805 (Del. 2019).

137. In moving to dismiss *Boeing I*, the defendants argued that a pre-suit litigation demand on the Board would not have been futile because the Board supposedly could have determined in a fair and disinterested manner whether to bring fiduciary litigation related to the MAX Crashes. This Court rejected that argument. In a September 7, 2021 memorandum opinion, this Court held that the

Boeing directors faced a substantial likelihood of liability under *Caremark* for their "complete failure to establish a reporting system for airplane safety, [and for] turning a blind eye to a red flag representing airplane safety problems." *Boeing I*, 2021 WL 4059934, at *1.

138. This Court recognized that, as part of their duty of oversight, the Boeing directors had to "make a good faith effort—i.e., try—to put in place a reasonable board-level system of monitoring and reporting." *Id.* at *25. "This oversight obligation is designed to ensure reasonable reporting and information systems exist that would allow directors to know about and prevent wrongdoing that could cause losses for the Company." *Id.* (internal quotation marks and footnote omitted). The plaintiffs adequately alleged a breach of this "prong one" *Caremark* obligation because:

a. The Board had no committee charged with direct responsibility to monitor airplane safety;

b. The Board did not monitor, discuss, or address airplane safety on a regular basis;

c. The Board had no regular process or protocols requiring management to apprise the Board of airplane safety; instead, the Board only received *ad hoc* management reports that conveyed only favorable or strategic information; and

d. Management saw red, or at least yellow, flags, but that information never reached the Board.

See id. at *26–32.

139. This Court also recognized that, as part of their duty of oversight, the Boeing directors were required to act in good faith to address any corporate misconduct that came to their attention. *Id.* at *33. To state a claim for violation of this "prong two" *Caremark* obligation, "Plaintiff must plead particularized facts that the board knew of evidence of corporate misconduct—the proverbial red flag—yet acted in bad faith by consciously disregarding its duty to address that misconduct. . . . A classic prong two claim acknowledges the board had a reporting system, but alleges that system brought information to the board that the board then ignored." *Id.* (internal quotations marks and footnotes omitted). The plaintiffs adequately alleged a prong two *Caremark* claim based on the Board's failure to adequately address safety issues in the period between the MAX Crashes. *Id.* at *34.

140. Importantly, this Court explained that occasional or *ad hoc* reporting of a mission-critical compliance risk was not sufficient to meet a director's *Caremark* obligations. *Id.* at *27, *30. Likewise, "passive invocations of quality and safety, and use of safety taglines, f[e]ll short of the rigorous oversight [Delaware law] contemplates." *Id.* at *28. Furthermore, discussions about issues that affected safety or legal compliance did not show a good-faith attempt to meet the *Caremark* standards when the discussions focused on how the issue affected profitability. *Id.* at *6, *28.

141. This Court emphasized that Boeing's internal reporting systems left management with discretion about what it reported to the Board. *See id.* at *7, *29.

Management misused that discretion: "Management's *ad hoc* reports were also one-sided at best and false at worst, conveying only favorable and optimistic safety updates and assurances that the quality of Boeing's aircraft would drive production and revenue." *Id.* at *31.

142. This Court found numerous well-pled facts that supported a reasonable inference of scienter. One notable example was "the Board's public crowing about taking specific actions to monitor safety that it did not actually perform." *Id.* at *32.

E. THE DELAWARE SETTLEMENT PUTS THE INDIVIDUAL DEFENDANTS ON NOTICE OF THEIR MANDATE TO ACT IN GOOD FAITH TO ENSURE SAFETY AND REGULATORY COMPLIANCE.

143. After this Court denied the defendants' motion to dismiss, the parties in *Boeing I* engaged in mediation with retired federal Judge Layn R. Phillips.

144. On November 5, 2021, the parties executed a settlement stipulation. On March 22, 2022, this Court entered an order and final judgment approving the settlement of *Boeing I* (the "Delaware Settlement"). The Delaware Settlement included a $237.5 million payment from Boeing's insurers to Boeing on behalf of the defendants. This was one of the largest monetary payments in any settlement of a derivative lawsuit in this Court.

145. The Delaware Settlement also included substantial corporate governance enhancements. Many of these enhancements related to a committee of directors the Board formed on August 26, 2019 (after the MAX Crashes) and named the "Aerospace Safety Committee." Among other things, the Delaware Settlement required Boeing to:

a. appoint a new director with engineering or product safety oversight experience;

b. amend the Company's bylaws to require the Board Chair to be independent;

c. amend Boeing's corporate governance principles concerning director experience considerations, including adding a requirement that at least three directors have relevant aviation, engineering, or product safety oversight experience;

d. require reports to the Board from the Chief Aerospace Safety Officer, the Chief Compliance Officer, and the Chief Engineer to the Aerospace Safety Committee, which would include updates on significant safety events;

e. require an Aerospace Safety Report to the Board at least biannually;

f. require the Aerospace Safety Committee to consist of only independent directors;

g. require the Chief Engineer and the Chief Aerospace Safety Officer to report to the Aerospace Safety Committee at least biannually on aerospace safety performance, including information pertaining to the Company's Speak Up reporting system and significant communications with the FAA (including

communications relating to ODA member interference and transparency);

h. require management to provide original documentation to Aerospace Safety Committee members upon request;[8]

i. make safety a metric that affects executive compensation;

j. make public disclosures confirming that the Board received the required reports;

k. publicly disclose a report addressing Boeing's safety enhancement programs at least annually; and

l. form an Ombudsman Program that reported to the Chief Aerospace Safety Officer, with the right to communicate directly to the Aerospace Safety Committee.

146. Most of the corporate governance reforms in the Delaware Settlement remain in force until November 29, 2025. The reform related to the Ombudsman Program remains in force for an additional year and is set to expire on November 29, 2026.

147. Eight of the twelve members of the Demand Board—Bradway, Doughtie, Good, Harris, Johri, Joyce, Mollenkopf, and Richardson—approved the Delaware Settlement.

[8] Under Delaware law, the directors were already entitled to these documents. The fact that the Delaware Settlement found it necessary to emphasize management's obligation to provide information to directors highlighted the severe dysfunction in Boeing's reporting systems.

148. As if there could have been any doubt, *Boeing I* confirmed that aircraft safety is a mission-critical issue for Boeing that requires regular Board oversight. *Boeing I* also confirmed that reporting on mission-critical issues *cannot* be discretionary—management *must* provide timely and balanced information to enable the Board to evaluate critical safety issues. In addition, *Boeing I* further confirmed that the Board must discuss critical safety issues for the purpose of *ensuring safety*—not simply for the purpose of getting Boeing's airplanes back in the air as soon as possible and boosting profits. Rather than heed these lessons, Boeing's fiduciaries met them with a blind eye and a deaf ear.

149. *Boeing I* and the Delaware Settlement highlighted a culture of hostility toward whistleblowers and others that identified and called out unsafe practices at the Company. After the Delaware Settlement, the Speak Up program and the Ombudsman Program were supposed to ensure that all employees could identify safety issues without a fear of retaliation and in a manner that would allow the Board to identify and address critical safety issues. As explained below, this did not happen.

F. ADDITIONAL SAFETY ISSUES ARISE WITH BOEING AIRCRAFT IN 2020–2022.

150. During the pendency of *Boeing I*, new problems with the 737 MAX and 787 Dreamliner surfaced. Numerous issues with the Dreamliner caused the FAA to halt production on multiple occasions. The Dreamliner issues caused Boeing to rack up more than $6.3 billion in "abnormal costs."

151. In January 2022, former Boeing Senior Manager Ed Pierson (previously defined as "Pierson")[9] publicly raised concerns about 737 MAX production quality, asking: "Warning Bells are Ringing – Is Anyone Paying Attention?" Pierson pointed out that, as of January 2022, there had been at least forty-two reports of equipment malfunctions occurring inflight on 737 MAX planes in the United States. Since only 167 of those planes were in service in the United States as of January 1, 2022, that implied that *one-in-four* 737 MAX airplanes in the United States had already experienced an inflight malfunction within its first year of returning to service. As Pierson put it—"These reports on individual airplanes are laser beams that point directly back to one common characteristic: the 737 Factory and its history of chaotic production operations and undue schedule pressure." Ed Pierson, *Boeing 737 MAX – How Is It Really Going* (Jan. 13, 2022), https://www.edpierson.com/how-is-it-really-going.

152. On June 26, 2022, *The Australian Broadcasting Corporation* (the "*ABC*") reported on more than sixty mid-flight problems reported by pilots in the United States alone in the twelve months after the 737 MAX began flying again. According to the report: "Former employees of both Boeing and the FAA characterized the reports — which included engine shutdowns and pilots losing

[9] Until August 2018, Pierson was a Senior Manager at the 737 MAX production facility in Renton, Washington. Prior to the first 737 MAX crash, Pierson implored the 737 General Manager to shut down the factory due to production problems and airplane safety risks. Pierson was ignored and marginalized, which led to his early retirement. Since his retirement, Pierson has spent significant time monitoring and reporting on the 737 MAX program, including testifying before Congress. Current Boeing employees often reach out to Pierson to express safety concerns when they are marginalized.

partial control of the plane — as serious and with the potential to end in tragedy." Kathryn Diss, Kevin Nguyen & Meghna Bali, *Boeing 737 MAX mid-air emergencies revealed as US agency prepares to probe production issues*, ABC (June 26, 2022), https://www.abc.net.au/news/2022-06-27/boeing-737-max-in-mid-air-emergencies-as-us-set-to-launch-probe/101175214. The report detailed several concerning incidents, including one in December 2021, in which a United Airlines flight declared mayday "after the system controlling the pitch and altitude of the plane started malfunctioning." *Id.* During an April 2021 American Airlines flight, "multiple systems including both autopilot functions stopped working soon after take-off. On landing, the crew found the backup power unit, considered vital for safe flight, had failed and was emitting a strong electrical smell." *Id.* An Alaska Airlines 737 MAX-9 plane was "grounded seven times over five months due to malfunctions with its navigation or communication equipment." *Id.*

153. The *ABC* investigation identified a mechanic who "observed sub-standard manufacturing and testing of the planes, which resulted in wires being left exposed and debris such as rubbish, metal slivers and washers lodging itself [sic] inside various parts of the plane, which could lead to electrical short circuits or fires." *Id.* When asked why this would be the case, an engineer on a test flight team informed the *ABC* that Boeing "did not have enough equipment" for the aircraft it was producing, and "faced schedule pressures to certify the airworthiness of the planes faster." *Id.*

VI. THE BOARD-APPROVED, PROFIT-DRIVEN PRODUCTION SCHEDULE REQUIRES BOEING AND ITS SUBCONTRACTORS TO ENGAGE IN NUMEROUS UNSAFE AND ILLEGAL PRACTICES.

A. THE BOARD APPROVES A MAJOR RAMP-UP IN 737 MAX PRODUCTION.

154. In the first half of 2022, Boeing was still reeling from the effects of the COVID-19 pandemic. Boeing's supply chain was weak. Boeing's workforce was smaller and less experienced than the Company's pre-pandemic workforce. Nevertheless, management proposed a highly aggressive ramp-up in production, especially on the 737 MAX and the 787 Dreamliner production lines. The Board repeatedly approved the ramp-up, notwithstanding numerous red flags showing that Boeing and its suppliers could not meet the production schedule safely and in compliance with positive law.

155. In July 2021, Boeing produced sixteen 737 MAX planes. Management soon proposed a major ramp-up in Boeing's monthly production schedule. The long-range business plan for 2022 that Officer Defendant West presented to the Board [redacted] BOEINGAA220OH_00005989, at -5991.

156. On April 29, 2022, Officer Defendants Deal and Lund presented [redacted] BOEINGAA220OH_00006367, at -6372. The forecast explained that [redacted]

[redacted] *Id.* The Board approved the proposed schedule, and management began implementing it. By July 2022, Boeing had almost doubled its production rate compared to the previous twelve months and was producing thirty-one planes a month.

157. On October 18, 2022, Officer Defendant West presented management's preliminary long-range business plan for 2023 to the Board. The plan called for [redacted] BOEINGAA220OH_00006827, at -6833. The presentation recognized [redacted] *Id.* at BOEINGAA220OH_00006839. As explained below, that meant prioritizing profits and cash flow over safety and regulatory compliance. Officer Defendants Calhoun and Lund both reported supply chain constraints. BOEINGAA220OH_00000099, at -0100–01. But the Board permitted management to move forward with the ramp-up anyway.

158. During Boeing's October 26, 2022 earnings call, an analyst questioned Boeing's focus on free cash flow: "You mentioned on the call that your primary focus metric is going to be free cash flow. *In the past, focusing on free cash flow got the company to where it is today. It didn't end very pretty.* How are you viewing that differently than how it was viewed in the past?" The Boeing Co., Earnings Call Transcript, at 12 (Oct. 26, 2022), https://investors.boeing.com/investors/events-presentations/event-details/2022/Q3-2022-The-Boeing-Company-Earnings-

Conference-Call/default.aspx (emphasis added). Officer Defendant Calhoun responded unapologetically that Boeing would continue to focus on free cash flow: "*I do have confidence that we are doing exactly what we need to be doing*, and the free cash flow metric is a very clear indicator of performance not just in the near term, but also the medium and long term. *So, sorry, but that's the answer*." *Id.* (emphasis added).

159. On November 2, 2022, Officer Defendant West laid out for investors Boeing's plans to "get this place back to normal" and achieve free cash flow of $10 billion by 2025/ or 2026. The Boeing Co., Investor Day Transcript, at 11 (Nov. 2, 2022). West explained that, to do so, Boeing would have to deliver *fifty* 737 MAX aircraft per month. *Id.* By comparison, in July and August 2018, Boeing unsafely delivered an average of *thirty-nine* 737 MAX airplanes per month.

160. Management expected Boeing's 2022 normalized free cash flow to be approximately $3 billion. Accordingly, management's plan contemplated more than tripling Boeing's free cash flow—to $10 billion—within three or four years. In addition to requiring an exponential increase in 737 MAX production, achieving Boeing's $10 billion annual free cash flow target would also require more 787 deliveries.

161. The highly aggressive production schedule required Boeing to quickly hire new workers. In 2022, Boeing hired 23,000 new employees for "critical skills." More than 19,000 of those employees were hired in the first half of 2022, a *400%* increase over 2021. *See* BOEINGAA220OH_00006534, at -6538. A June 22, 2022

report that Boeing's controller presented to the Board called out the "Toughest Recruiting Environment in Decades." *Id.* A December 9, 2022 Compliance and Ethics Update that Officer Defendant Amuluru presented to the Board referenced Boeing's "[n]ew and inexperienced workforce[.]" BOEINGAA220OH_00006938, at -6939.

162. Boeing skimped on training for new employees so they could get to work more quickly. The lack of proper training was particularly acute at the Dreamliner factory in South Carolina. According to reports, a disparity in training resulted in Boeing's South Carolina workforce producing planes at one-fifth to one-third the rate of Boeing's Everett, Washington workforce.

163. On December 9, 2022, Officer Defendants Deal and Lund presented management's finalized long-range business plan for 2023 to the Board. The updated production schedule on which the plan was based contemplated an increase in 737 MAX production to thirty-eight planes per month by mid-2023, forty-two planes per month by the end of 2023, forty-seven planes per month before mid-2024, fifty-two planes per month by the end of 2024, and fifty-seven planes per month by the end of 2025. BOEINGAA220OH_00006888, at -6898. However, management reported that "Staffing" and "Quality" at Boeing's 737 MAX plant were yellow-coded risks for the proposed production increase, and "Supply Chain" and "Factory Health" were red-coded risks. *Id.* at BOEINGAA220OH_00006893. But the Board reapproved the proposed production schedule anyway.

164. At the same Board meeting, Officer Defendant West informed the Board that, notwithstanding Boeing's inability to keep its proposed production schedule since the October 18, 2022 Board meeting, management had made only "[m]inor updates to the 2023 [long-range business plan]" and there was "no impact to [the] guidance shared at [the] investor conference" in November 2022. BOEINGAA220OH_00006918, at -6919.

165. At the February 2023 Cowen Aerospace/Defense & Industrials Conference, an analyst again questioned Boeing's speed: "So your plan is to go from 31 to 38 later this year. Is there an interim step? Because that's a pretty big step-up percentage wise. Usually, I think before you've been going up in increments of something like 5." *The Boeing Company Presents at 44th Annual Aerospace/Defense & Industrials Conference*, BAMSEC (Feb. 15, 2023). Officer Defendant West acknowledged "that the increase is sporty," but he insisted "that's the right number." *Id.*

166. On April 18, 2023, Officer Defendant Deal presented a 737 MAX production schedule to the Board that matched the 2023 long-range business plan. BOEINGAA220OH_00007320, at -7321. Deal's presentation identified "Supplier disruptions," "Delivery performance," and "Rate ramp execution" as yellow-coded risks. *Id.* at BOEINGAA220OH_00007323. But the Board permitted management to continue implementing the proposed production schedule anyway.

167. On August 29, 2023, Officer Defendant Deal again presented on the production schedule. Deal's presentation to the Board identified "737 [notice of

escapement] recovery," "Supply Chain disruption," and "Engineering execution" as yellow-coded risks. BOEINGAA220OH_00007577, at -7580. But the Board permitted management to continue implementing the proposed production schedule anyway.

168. Boeing management reiterated its plan to increase 737 MAX production at the May 2023 Wolfe Global Transportation & Industrials Conference, at the September 2023 Jefferies Industrial Conference, and on Boeing's October 25, 2023 earnings call.

169. On December 8, 2023, Officer Defendant West presented management's 2024 long-range business plan to the Board. The presentation [redacted] BOEINGAA220OH_00007796, at -7804. The plan [redacted] *Id.* at BOEINGAA220OH_00007810. Notwithstanding a presentation from Officer Defendants Deal and Lund on the same day that identified "Supply Chain" as a red-coded risk and "Factory Health" as a yellow-coded risk for both the 737 MAX and the 787 programs, BOEINGAA220OH_00007788, at -7791, the Board approved the proposed production schedule.

170. Boeing's auditor, Deloitte, repeatedly expressed skepticism about Boeing's proposed production numbers. In particular, Deloitte flagged cash flows from 787 aircraft production as an area of significant risk in its audit plans for 2022

and 2023. BOEINGAA220OH_00002028, at -2040; BOEINGAA220OH_00002676, at -2686.

171. The Board's decision to approve and reapprove an unsafe production ramp-up eventually led to disaster.

B. THE BOARD KNOWS THAT SPIRIT CANNOT SAFELY MAINTAIN BOEING'S PRODUCTION SCHEDULE.

172. Boeing relied on broad networks of subcontractors to produce components for its airplanes, including the 737 MAX. Spirit was one of Boeing's most important subcontractors. For the 737 family of airplanes, Spirit was the sole supplier of the entire fuselage, and most of the rest of the airplane. According to Spirit, it produced approximately 70% of the 737 aircraft for Boeing.

173. The Board had a duty to implement, oversee, and maintain a compliance program to ensure proper oversight of Boeing's contractors and subcontractors. Specifically, the DPA's mandate to implement a compliance program extended to Boeing's "contractors and subcontractors whose responsibilities relate to the Company's interactions with any domestic or foreign government agency (including the FAA), regulator, or any of its airline customers." DPA ¶ 21. Despite the DPA's clear requirements, the Board failed to monitor Spirit in good faith from a compliance perspective.

174. The Board knew that quality control was a major issue at Spirit throughout the Relevant Period. As explained below, the materials for Board and committee meetings identified numerous defects in the products that Spirit sent

Boeing. Instead of addressing the root cause of Spirit's problems—its inability to maintain Boeing's demanded production schedule—the Board remained passive.

175. Santiago Paredes (previously defined as "Paredes"), a Spirit employee who conducted final inspections on 737 MAX fuselages before they were shipped to Boeing, told *CBS News* it was "rare" to "not find any defects" and that he would find "hundreds" of defects every day. Kris Van Cleave, Michael Kaplan & Sheena Samu, *Whistleblower speaks out on quality issues at Boeing supplier: "It was just a matter of time before something bad happened"*, CBS NEWS (May 8, 2024), https://www.cbsnews.com/news/boeing-supplier-spirit-aerosystems-whistleblower-speaks-out-quality-issues/ (hereinafter, "Cleave, *CBS* (May 8, 2024)"). But Spirit management pressured Paredes to keep quiet about the numerous defects, even nicknaming him "Showstopper" because his defect reports delayed deliveries.

176. Spirit auditors found numerous serious defects in fuselages slated for delivery, including an alarming amount of foreign object debris ("FOD") in fuselages being shipped to Boeing. One auditor found that a shocking 40% of the fittings attached to the fuselages' vertical tail fins had cracks. Another auditor found torque wrenches in mechanics' toolboxes that were improperly calibrated, which meant that fasteners were not being tightened correctly. Almost 10% of the torque wrenches audited had this problem.

177. These defects had serious safety implications. For example, the failure to properly fasten parts threatened their structural integrity. Paredes offered a dire assessment: "*Everything I was seeing was like a ticking time bomb*." Dana Kennedy,

'Like a ticking bomb': Grim details emerge, *N.Y. Post* (June 6, 2024), https://www.news.com.au/travel/travel-updates/incidents/like-a-ticking-bomb-grim-details-emerge/news-story/5435ba09264753a6f8d08586f6809d22 (emphasis added).

178. Joshua Dean (previously defined as "Dean"), a former quality inspector at Spirit, similarly noted widespread quality control problems at Spirit's plant. He told *National Public Radio*: "We're having a pizza party because we're lowering defects. . . . *But we're not lowering defects. We just ain't reporting them, you know what I mean*?" Joel Rose, *Why problems at a key Boeing supplier may help explain the company's 737 Max 9 mess*, NPR (Feb. 5, 2024), https://www.npr.org/2024/02/05/1228720602/boeing-737-max-spirit-aerosystems-kansas-factory-problems (emphasis added). According to Dean, there was a "culture" of pressuring employees not to report defects so that planes could leave the factory faster, and that, while he wasn't "saying they don't want you to go out there and inspect a job[,]" management also did not want quality inspectors to "make too much trouble[.]" *Id.*

179. Dean was fired in April 2023 in retaliation for flagging improperly drilled holes in the aft pressure bulkhead of fuselages. Though Spirit denied Dean's allegations, Boeing later announced that fifty jets with Spirit fuselages had improperly-drilled holes, the very issue that Dean had flagged. Dean mysteriously died from a sudden illness in May 2024.

180. Dean's account was confirmed by his auditing teammate, Lance Thompson (previously defined as "Thompson"). Thompson disclosed to

The Seattle Times that Spirit management prioritized meeting production deadlines over safety and quality, and that managers wanted fewer defects to be flagged, which led to mechanics not disclosing them. According to Thompson, "[t]he culture is just really sick. . . . I almost quit because I was being asked to rush through the audits so we can stay on schedule . . . I was getting to a point where I was going to have to tell my management – you know, be insubordinate – because I couldn't rush through that fast." Patrick Malone, *With Boeing in hot seat, claims against supplier Spirit AeroSystems take shape*, THE SEATTLE TIMES (Feb. 21, 2024), https://www.seattletimes.com/business/with-boeing-in-hot-seat-claims-against-supplier-spirit-aerosystems-take-shape/.

181. According to Thompson, Spirit's culture discouraged addressing the root cause of manufacturing flaws. Spirit management wanted mechanics to fix individual errors rather than recording them as recurring flaws. Dean took a more hands-on inspection approach that caught specific problems. After Dean was fired, others became even more reluctant to point out manufacturing flaws. As noted in the complaint in another lawsuit involving Spirit,[10] one anonymous Spirit auditor reported observing many inspectors performing only a cursory review of the mechanics' work.

182. Despite Spirit's attempt to discourage reporting, the pervasive defects in Spirit's fuselages made it impossible to hide all the defects from Boeing. For

[10] *See* Complaint, *Li v. Spirit Aerosystems Holdings, Inc.*, No. 1:23-cv-03722-PAE, 2023 WL 9502836 (S.D.N.Y. Dec. 19, 2023).

example, Paredes often found FOD in Spirit's finished fuselages, and Boeing "provid[ed] frequent feedback about the occurrence of FOD in the delivered fuselages."

183. Nevertheless, Boeing's reliance on Spirit to make fuselages and Boeing's unwavering insistence on the unsafe production schedule meant that Boeing did not press Spirit too hard to improve its practices. In many areas, Boeing just let the defects slide. Paredes believed that Boeing's years-long tolerance of Spirit's defective fuselages was "a recipe for disaster" where "it was just a matter of time before something bad happened." Cleave, *CBS* (May 8, 2024).

184. Boeing's directors and officers knew that quality control was a major issue at Spirit:

a. According to the FAA, Spirit warned Boeing in September 2018 about defective slat tracks that guided the movements of the panels that provide additional lift during takeoff and landing.

b. In December 2019, the FAA announced a proposed $3.9 million civil penalty against Boeing for installing non-conforming components supplied by Spirit on approximately 133 planes.

c. In January 2020, the FAA proposed an additional $5.4 million penalty against Boeing for installing non-conforming parts supplied by Spirit on approximately 178 737 MAX planes.

d. In 2021, Boeing had to halt production of the 737 MAX when various quality issues arose during the manufacturing process. Boeing blamed those manufacturing problems on Spirit.

e. In April 2023, Boeing warned the public that production and delivery of a "significant" number of 737 MAX planes could be delayed because of problems with Spirit's production of fuselages. Spirit had found that two of its suppliers for fittings on the vertical stabilizer used non-standard manufacturing processes and, thus, created flawed fittings. Officer Defendant Calhoun mentioned the issue on Boeing's April 26, 2023 earnings call. According to Calhoun, he "happened to take a look at [the defect], . . . along with the rest of [his] board." Nevertheless, Calhoun reported that Boeing was "not changing the supplier master schedule" in response. The Boeing Co., Earnings Call Transcript, at 3 (Apr. 26, 2023), https://investors.boeing.com/investors/events-presentations/event-details/2023/Q1-2023-The-Boeing-Company-Earnings-Conference-Call-/default.aspx. Boeing's Form 10-Q of the same date likewise reported: "We are not changing the supplier master schedule including anticipated production rate increases." The Boeing Co., Quarterly Report (Form 10-Q) at 35 (Apr. 26, 2023).

f. In August 2023, Boeing identified another manufacturing defect—improperly drilled fastener holes in the aft pressure bulkhead of some 737 MAX fuselages from Spirit. Boeing claimed that the manufacturing defect did not affect safety, and that 737 MAX planes already in service could keep flying. But the aft pressure bulkhead is responsible for maintaining pressure when planes are at a cruising altitude and thus is a key component of safe flying. Officer Defendant Calhoun referenced the issue on Boeing's October 25, 2023 earnings call but emphasized that the issue would not change Boeing's production plans. He stated: "We are keeping our suppliers hot according to the master schedule." The Boeing Co., Earnings Call Transcript, at 3 (Oct. 25, 2023), https://investors.boeing.com/investors/events-presentations/event-details/2023/Q3-2023-The-Boeing-Company-Earnings-Conference-Call/default.aspx. On the same earnings call, Officer Defendant West stated that "suppliers are continuing with planned rate increases[.]" *Id.* at 6.

g. At the September 2023 Jefferies Industrial Conference, Officer Defendant West stated that Boeing had "no intention of changing the master schedule. . . . [T]hat master schedule is very important. So we're not changing it." *The Boeing Company*

Presents at Jefferies 2023 Industrials Conference, BAMSEC (Sept. 7, 2023).

185. The Section 220 Production confirms that Boeing's directors knew about the serious manufacturing defects at Spirit. For example, on April 17, 2023, Officer Defendant Calhoun led an executive session of the Board to discuss the flaws in fuselages Boeing received from Spirit. Calhoun explained that Boeing would set up approximately twelve repair stations across Boeing sites to perform rework.[11] Calhoun estimated that the cash impact of these defects would be approximately $1.5 billion in 2023. BOEINGAA220OH_00008189, at -8191.

186. In October 2023, Boeing and Spirit entered into a Memorandum of Agreement that modified several important aspects of Boeing and Spirit's relationship (the "Spirit MOA"). The purpose of the Spirit MOA was to get Spirit producing fuselages faster. Officer Defendant Calhoun explained on the Company's October 25, 2023 earnings call that the Spirit MOA "gives [Spirit] the resources and the breathing room they need *to get ahead of our rate forecast*." The Boeing Co., Earnings Call Transcript, at 9 (Oct. 25, 2023), https://investors.boeing.com/investors/events-presentations/event-details/2023/Q3-2023-The-Boeing-Company-Earnings-Conference-Call/default.aspx (emphasis added). As part of the Spirit MOA, Boeing also granted broad releases to Spirit.

[11] These repair stations would eventually handle other rework and become known as "shadow factories." *See infra* Section VI.C.3.

187. This acceleration marked a key problem. At a time when Boeing and Spirit *should have slowed down* to fix systemic manufacturing and quality issues, Boeing *pushed for everyone to speed up* because Spirit and Boeing depended on increased delivery speeds to stabilize Spirit's shaky financial condition. On the Company's October 25, 2023 earnings call, Officer Defendant Calhoun explained: "As Spirit becomes stable and we get to our [production] rates, rates solve most of the supply chain's problems. We [have] got to get to those rates so that they can make the kind of money that they associate with those rates and we get to where we need." The Boeing Co., Earnings Call Transcript, at 18 (Oct. 25, 2023), https://investors.boeing.com/investors/events-presentations/event-details/2023/Q3-2023-The-Boeing-Company-Earnings-Conference-Call/default.aspx. Given the unsafe production schedule, Boeing and Spirit simply did not tolerate anyone who slowed down production to address safety issues. Boeing and Spirit paid lip-service to safety, but their actions spoke louder than words.

188. The Board's failure to act in good faith to ensure compliance with the DPA and proper oversight of Boeing's subcontractors eventually led to disaster.

C. THE BOARD KNOWS THAT BOEING ENGAGES IN UNSAFE AND NONCOMPLIANT PRACTICES TO TRY TO MEET ITS PRODUCTION SCHEDULE.

189. Boeing's own workforce could not meet its production schedule. Boeing employees resorted to numerous unsafe and illegal practices to speed up production. As explained below, the Board knew that Boeing's production ramp-up made it

impossible to ensure safety and regulatory compliance, but the Board approved and reapproved the schedule anyway.

190. Merle Meyers (previously defined as "Meyers") was a Boeing quality manager who worked at the Company for more than three decades. He explained that, while quality had been a top priority at Boeing in the past: "Now, it's schedule that takes the lead." Niraj Chokshi, *Former Boeing Manager Says Workers Mishandled Parts to Meet Deadlines*, THE N.Y. TIMES (Apr. 24, 2024), https://www.nytimes.com/2024/04/24/business/boeing-airlines-plane-issues.html#:~:text=To%20Mr.,get%20promoted%20by%20hustling%20parts.%E2%80%9D (hereinafter, "Chokshi, *NYT* (Apr. 24, 2024)"). Like many others, Meyers cited Boeing's acquisition of McDonnell Douglas as the turning point when Boeing's engineering-first mentality gave way to a profits-first mentality.

191. Meyers is not a disgruntled employee. Meyers' mother worked at Boeing before him, as did his wife's father and grandfather. According to Meyers, "The Boeing Co. has done everything for me, and I will never be able to do enough for them[.] . . . We love the company fiercely. That's why you fight for it." *Id.*

192. Joe Jacobsen—an engineer, safety expert, and aerospace safety advocate who worked for Boeing from 1984 to 1995 and at the FAA from 1995 to 2021—described the situation at Boeing this way in testimony before Congress: "There's [sic] a lot of areas where things don't seem to be put together right in the first place. . . . The theme is shortcuts everywhere – not doing the job right[.]" Niraj Chokshi, Sydney Ember & Santul Nerkar, *'Shortcuts Everywhere': How Boeing*

Favored Speed Over Quality, N.Y. TIMES (Mar. 28, 2024), https://www.nytimes.com/2024/03/28/business/boeing-quality-problems-speed.html#:~:text=%E2%80%9CThere's%20a%20lot%20of%20areas,job%20right%2C%E2%80%9D%20he%20added. Another whistleblower summarized management's approach this way: "We don't have time to follow processes; we're building airplanes." *Id.*

193. The Individual Defendants stuck to the production schedule even when identified defects required major rework. For example, in April 2023, Spirit warned Boeing of defects that would require rework on hundreds of planes. But on Boeing's April 26, 2023 earnings call, Officer Defendant West boasted that "we have not changed the master schedule, and that's a big deal." The Boeing Co., Earnings Call Transcript, at 11 (Apr. 26, 2023), https://investors.boeing.com/investors/events-presentations/event-details/2023/Q1-2023-The-Boeing-Company-Earnings-Conference-Call-/default.aspx.

194. Boeing whistleblowers detailed numerous ways in which Boeing employees resorted to unsafe and/or illegal practices to meet the production schedule. Boeing employees who engaged in these unsafe and/or illegal practices were rewarded because they moved planes through the production process faster. Customers paid Boeing as planes reached assembly milestones. In turn, Boeing incentivized line managers and workers to meet the production schedule through promotions and financial compensation. Getting behind schedule resulted in reduced chances for promotions and lower compensation, regardless of whether the delay was necessary

for safety reasons. These incentives rewarded cutting corners. And as Meyers explained: "What gets rewarded gets repeated." Chokshi, *NYT* (Apr. 24, 2024).

195. Senior management at Boeing's factories received progress reports twice a day, allowing them to track the progress of specific planes and teams. This close scheduling oversight—and the serious price for falling behind schedule—pushed first and second line managers and their teams not to stop aircraft inside the factory, and thus halt operations on the line.

196. According to Meyers, Boeing's vice presidents in the areas of production, quality, and materials all looked the other way and permitted unsafe and illegal practices because they sped up production. Meyers specifically questioned the competency and honesty of Officer Defendant Lund, who was a big proponent of Boeing's schedule-driven culture.

1. Boeing Permits "Out-of-Sequence" or "Traveled" Work.

197. Many major safety and compliance problems at Boeing during the Relevant Period were due to management's practice of permitting work on planes to occur "out-of-sequence" from the regular manufacturing process. Boeing's manufacturing instructions required aircraft assembly to occur in a particular sequence. When a sequenced step could not be performed, Boeing management chose to keep the planes moving down the assembly line on schedule—leaving the unfinished work to be performed later in the manufacturing process.

198. Out-of-sequence work during the Relevant Period occurred for several reasons. Parts might be unavailable due to Boeing's production schedule being too

aggressive for constrained supply chains. Alternatively, Boeing might accept an unfinished part from a subcontractor, which meant work "traveled" from the subcontractor to Boeing.[12] Boeing might accept a defective part from a subcontractor—such as the defect-plagued Spirit—which meant Boeing had to "rework" the part to fix flaws. If Boeing did not identify the defects until late in the assembly process, rework would require other parts to be removed—to open space for the rework—and then reinstalled. In many instances, it took Boeing more time to fix shoddy work from Spirit or other subcontractors than it took to assemble a new plane.

199. Boeing management was incentivized to allow out-of-sequence work. Customers paid Boeing when planes reached various points in the assembly line, and management received increased incentive compensation when the planes met these milestones. Compounding this problem, Boeing's executives were unwilling to change the master production schedule, which was necessary to maintain the Board-approved budgets.

200. Out-of-sequence work greatly increased the chance of work being missed or performed incorrectly. Each station on Boeing's assembly line had employees with different tools, training, and experience. Crews further down the assembly line sometimes lacked the tools or experience to perform the traveled work. Assembling the planes out-of-sequence often required workers to remove and reinstall other parts, including parts that the employees might not typically handle. Furthermore,

[12] At Boeing, "out-of-sequence work" and "traveled work" eventually became interchangeable terms.

as explained below, Boeing engaged in numerous noncompliant recordkeeping practices that could make it difficult or impossible to track all the work that still needed to be done. *See infra* Section VI.C.5.[13]

201. The Board knew that Boeing's practice of out-of-sequence work created unreasonable safety and regulatory risks. Yet the Board repeatedly ignored red flags leading up to the Door Plug Blowout in January 2024 and the Plea Agreement (defined below) in July 2024.

202. On February 19, 2019, Pierson notified the Board of serious compliance issues at the Company's Renton manufacturing plant, including out-of-sequence work. In an *NBC News* article, dated December 9, 2019, Pierson noted that "some of the steps" at the Renton plant were being performed at places and times different from the initial plans, and he grew concerned that a corner may be cut, or a crucial step overlooked. According to Pierson, "[f]or the airplane, you want to build it a certain way. . . . I don't know of any work that's more detailed." Cynthia McFadden, Anna Schecter et al., *Former Boeing manager says he warned company of problems prior to 737 crashes*, NBC NEWS (Dec. 9, 2019), https://www.nbcnews.com/news/us-news/former-boeing-manager-says-he-warned-company-problems-prior-737-n1098536. As detailed in the *NBC News* article, Pierson "likened out-of-sequence work to building a house and deciding after the floors were put down to rip them up

[13] By the same token, out-of-sequence work itself increased the chances of recordkeeping fraud and regulatory noncompliance. Because out-of-sequence work occurred outside Boeing's normal assembly process, it increased the chances of Boeing employees failing to complete required paperwork or including false information on paperwork.

to finish electrical and plumbing work." *Id.* Despite clear indications as of 2019 that out-of-sequence work posed serious compliance issues, the Board permitted management to continue it.

203. During Boeing's July 28, 2021 earnings call, Officer Defendant Calhoun referenced Boeing's efforts to "strengthen first-time quality, *eliminate traveled work*, and drive stability and predictability." The Boeing Co., Earnings Call Transcript, at 5 (July 28, 2021) (emphasis added).

204. Numerous Board presentations identified eliminating traveled work as one of Boeing's "Values":

a. On February 15, 2022, Officer Defendant Calhoun reported to the Board on his "2021 CEO Priorities." Calhoun's "Year-End Review" listed "Eliminate traveled work" as one of Boeing's "Values." BOEINGAA220OH_00008074, at -8081.

b. On August 30, 2022, Officer Defendant Calhoun reported to the Board on his "2022 CEO Priorities." Calhoun's "Midyear Review" again listed "Eliminate traveled work" as one of Boeing's "Values." BOEINGAA220OH_00008132, at -8137.

c. On December 8, 2022, Officer Defendant Calhoun reported to the Board in executive session. His presentation again listed "Eliminate traveled work" as one of Boeing's "Values." BOEINGAA220OH_00008159, at -8168.

d. On June 26, 2023, Officer Defendant Calhoun reported to the Board in executive session. His presentation identified "Apply Lean principles – eliminate traveled work" as one of Boeing's "Values." BOEINGAA220OH_00008200, at -8206.

e. On August 28, 2023, Officer Defendant Calhoun reported to the Board in executive session. His presentation again listed "Eliminate traveled work" as one of Boeing's "Values." BOEINGAA220OH_00008213, at -8223.

f. On December 7, 2023, Officer Defendant Calhoun reported to the Board on his "2023 CEO Priorities." Calhoun's "Year-End Review" listed "Apply Lean principles – eliminate traveled work" as one of Boeing's "Values." BOEINGAA220OH_00008233, at -8241.

The Section 220 Production does not identify any management plans, programs, or initiatives to eliminate traveled work that Calhoun presented to the Board during his presentations.[14]

205. Accordingly, throughout the Relevant Period, the Board knew that traveled work was (i) a major problem and (ii) continuing. Moreover, the Board and its committees received other red flags showing that problematic traveled work was continuing:

[14] *See supra* ¶ 204 n.15.

a. The draft Form 10-K for the year ended December 31, 2021, which the Board reviewed, flagged that "delays or defects in supplier components, failure to meet internal performance plans, or delays or failures to achieve required regulatory approval, could result in significant out-of-sequence work[.]" BOEINGAA220OH_00003686, at -3699.

b. On December 8, 2022, the Aerospace Safety Committee received a presentation showing twelve Speak Up reports concerning traveled work in that year. BOEINGAA220OH_00001293, at -1300.

c. The draft Form 10-K for the year ended December 31, 2022, which the Board reviewed, flagged that "delays or defects in supplier components, failure to meet internal performance plans, or delays or failures to achieve required regulatory approval, could result in significant out-of-sequence work[.]" BOEINGAA220OH_00004837, at -4846.

d. On June 27, 2023, the Board received a BCA Update from Officer Defendants Deal and Lund explaining that the "[s]upply chain [was] driving traveled work" for the 787 program. BOEINGAA220OH_00007437, at -7446.

e. On December 7, 2023, the Aerospace Safety Committee received a presentation referencing some Speak Up reports concerning out-of-sequence work. BOEINGAA220OH_00001821, at -1829.

206. Beyond creating unacceptable safety and compliance risks, Boeing's approach to out-of-sequence work violated the DPA. According to a July 2024 plea agreement between Boeing and the DOJ, *see infra* Section IX.A, "[b]etween 2021 and 2023, Boeing conducted several Safety Risk Management assessments that identified out-of-sequence work as a risk factor that could cause the delivery of an 'unairworthy' or non-conforming aircraft to Boeing's customers." Plea Agreement, Attachment A-1 (Factual Basis for Breach) ¶ 9. Despite this identified risk, the Safety Risk Management assessments did not even consider measures to reduce out-of-sequence work.[15] That was because management sought to prioritize speed and profit over compliance. According to the Plea Agreement (defined below), "Boeing senior executives prioritized the movement of aircraft through Boeing's factories over reducing out-of-sequence work to ensure production quality." *Id.*

207. Despite the Board's knowledge of the importance of eliminating traveled work, the Section 220 Production identifies no comprehensive management plans, programs, or initiatives to eliminate traveled work prior to the Door Plug Blowout in January 2024. No Board or committee minutes in the Section 220 Production even reference any discussion of traveled work until after the Door Plug Blowout.

[15] Worse yet, Boeing's Global Compliance function was not even involved in the Safety Risk Assessments.

Likewise, no Board or committee materials identify any management plans, programs, or initiatives to eliminate traveled work prior to the Door Plug Blowout.[16]

2. Boeing's Acceptance of Defective Parts from Suppliers Leads to Extensive Rework.

208. Another way Boeing employees cut corners to meet the production schedule was by accepting defective parts from suppliers, including Spirit. Instead of refusing to accept defective parts from suppliers in the first place or demanding that suppliers correct their mistakes, Boeing attempted to correct the mistakes itself as the planes went through assembly. Sometimes, it simply ignored defects. Boeing's policies nominally required Boeing to vet suppliers and verify their work. Officer Defendant Ackerman was directly responsible for ensuring that Boeing's suppliers provided conforming parts. However, certain managers pushed quality inspectors to simply ensure that the suppliers stamped paperwork correctly, without the inspectors even looking at the suppliers' work.

209. Boeing's acceptance of defective parts from suppliers led to substantial rework during the production process. The Director Defendants knew about the substantial rework. For example, the Board and its committees received numerous red flags concerning the extensive rework Boeing personnel regularly performed on 787 aircraft:

a. The draft Form 10-K for the year ended December 31, 2021, which the Board reviewed, flagged that Boeing "continue[d] to conduct

[16] After the Door Plug Blowout, the Board and committee minutes and materials reference discussions and plans related to ending traveled work. *See infra* Section VIII.I.1.

inspections and rework on undelivered 787 aircraft and engage in detailed discussions with the FAA regarding required actions for resuming delivery." BOEINGAA220OH_00003686, at -3698.

b. A January 28, 2022 presentation from Boeing's Controller to the Audit Committee flagged as one of the "Significant Disclosures for Fourth Quarter 2021 787 Program" that Boeing "continue[d] to conduct inspections and rework on undelivered aircraft[.]" BOEINGAA220OH_00003675, at -3682.

c. A January 28, 2022 draft letter from Deloitte to the Audit Committee flagged that, "primarily due to low production rates and excessive rework certain costs related to 787 continue to be classified as 'abnormal' and were expensed in the period rather than added to the EAC for the Program." BOEINGAA220OH_00003604, at -3610.

d. A January 31, 2022 final letter from Deloitte to the Audit Committee again flagged that, "primarily due to low production rates and excessive rework, certain costs related to 787 continue to be classified as 'abnormal' and were expensed in the period rather than added to the EAC for the Program." BOEINGAA220OH_00004010, at -4017. The letter also referenced "additional gap analysis and rework required for

various additional components of the aircraft[.]" *Id.* at BOEINGAA220OH_00004019.

e. Deloitte's audit plan, dated February 9, 2022, flagged for the Audit Committee that "quality issues" in the 787 production are "prolonging the rework activity which continues to delay delivery resumption." BOEINGAA220OH_00002028, at -2040.

f. A February 15, 2022 "Watch Items" list for the Audit Committee regarding the 787 program flagged that Boeing "continue[d] to conduct inspections and rework on undelivered aircraft and engage in discussions with the FAA regarding required actions for resuming delivery." BOEINGAA220OH_00002027.

g. A draft Form 10-Q for the quarter ended March 31, 2022, which the Audit Committee reviewed, flagged the "rework" associated with the 787 program, including that "[d]eliveries remain paused due to production quality issues. We continue to conduct inspections and rework on undelivered aircraft and engage in detailed discussions with the FAA regarding required actions for resuming delivery of the 787." BOEINGAA220OH_00004110, at -4153.

h. An April 27, 2022 letter from Deloitte to the Audit Committee flagged: "Due to required rework on certain joined sections of the 787 aircraft, the Program has continued to suspend deliveries to

customers through the first quarter of 2022." BOEINGAA220OH_00004170, at -4178.

i. A July 27, 2022 letter from Deloitte to the Audit Committee flagged: "Due to required rework on certain joined sections of the 787 aircraft, the Program has continued to suspend deliveries to customers through the second quarter of 2022." BOEINGAA220OH_00004313, at -4323.

j. A draft Form 10-Q for the quarter ended June 30, 2022, which the Audit Committee reviewed, flagged the "rework" associated with the 787 program, including that "[d]eliveries remain paused due to production quality issues. We continue to conduct inspections and rework on undelivered aircraft and engage in detailed discussions with the FAA regarding required actions for resuming delivery of the 787." BOEINGAA220OH_00004245, at -4291.

k. An October 26, 2022 letter from Deloitte to the Audit Committee flagged: "Due to required rework on certain joined sections of the 787 aircraft, the Program had suspended deliveries to customers until August of 2022." BOEINGAA220OH_00004459, at -4469.

l. A draft Form 10-Q for the quarter ended September 30, 2022, which the Audit Committee reviewed, flagged that, with respect to 787 aircraft, Boeing "continue[d] to conduct inspections and

rework on undelivered aircraft." BOEINGAA220OH_00004392, at -4437.

m. A draft Form 10-K for the year ended December 31, 2022, which the Audit Committee reviewed, flagged that, with respect to 787 aircraft, Boeing "continue[d] to conduct inspections and rework on undelivered aircraft." BOEINGAA220OH_00004632, at -4666.

n. The draft Form 10-K for the year ended December 31, 2022, which the Board reviewed, flagged that "delays or defects in supplier components, failure to meet internal performance plans, or delays or failures to achieve required regulatory approval, could result in significant out-of-sequence work[.]" BOEINGAA220OH_00004837, at -4846. The document also flagged that Boeing "continue[d] to conduct inspections and rework on undelivered aircraft." *Id* at BOEINGAA220OH_00004871.

o. A draft Form 10-Q for the quarter ended March 31, 2023, which the Audit Committee reviewed, flagged that, with respect to 787 aircraft, Boeing "continue[d] to conduct inspections and rework on undelivered aircraft due to production quality issues, including our supply chain." BOEINGAA220OH_00005053, at -5090.

p. A June 27, 2023 BCA Update by Officer Defendants Deal and Lund to the Board flagged a problem with "[e]xcessive fit up force

and non-calibrated inspection tools used causing non-conforming gaps" in the 787 fuselage, with a goal to have "Rework complete [at] Everett [in] August [and] Charleston [in] October[.]" BOEINGAA220OH_00007437, at -7439.

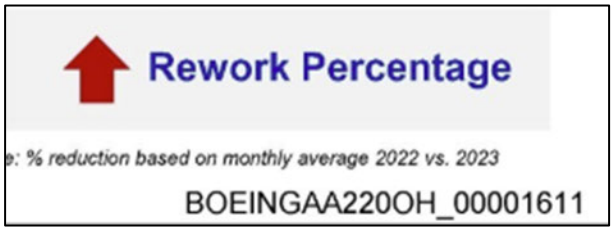
q. A draft Form 10-Q for the quarter ended June 30, 2023, which the Audit Committee reviewed, flagged that, with respect to 787 aircraft, Boeing "continue[d] to conduct inspections and rework on undelivered aircraft due to production quality issues, including our supply chain." BOEINGAA220OH_00005177, at -5219.

210. The need for rework went beyond Boeing's 787 program.

a. A February 10, 2022 presentation from, among others, Officer Defendants Clark and Stocker, to the Aerospace Safety Committee regarding the SMS Risk Register disclosed that the presence of FOD would require "[l]ate stage rework and change dropping post induction inspection, re-sequencing later in flow[.]" BOEINGAA220OH_00000753, at -0762.

b. A June 26, 2023 SMS Implementation presentation to the Aerospace Safety Committee referenced a Speak Up report "regarding possible incorrect fastener installation on 777-9 wing" that could require "inspection of all 17 airplanes where intercostal rework occurred, and correction if required." BOEINGAA220OH_00001535, at -1547.

c. A June 26, 2023 "Special Attention" presentation to the Aerospace Safety Committee from, among others, Officer Defendants Delaney, Fleming, and Galantowicz, disclosed that BCA experienced a "2.4% Increase in Rework % since 2022[.]" BOEINGAA220OH_00001581, at -1612. Another slide noted that the "Rework Percentage" increased from 11.6% in 2022 to 12.2% in 2023. *Id.* at BOEINGAA220OH_00001619. This presentation flagged the increase in Rework Percentage with a red up arrow, making the problem clear to anyone reviewing the report.



d. An October 17, 2023 Financial Update by Officer Defendant West to the Board identified "[f]actory rework and supply chain disruption" in the section on "Key Opportunities & Risks[.]" BOEINGAA220OH_00007712, at -7715.

e. A draft Form 10-Q for the quarter ended September 30, 2023, which the Audit Committee reviewed, flagged costs relating to "rework" for the 737 program in addition to the 787 program. *E.g.*, BOEINGAA220OH_00005313, at -5325.

211. The Director Defendants also knew that defective products from Spirit caused much of the rework Boeing performed. The Board and its committees received

numerous presentations, which specifically discussed how Spirit's defects regularly resulted in extensive rework:

a. Between August 2022 and August 2023, the Aerospace Safety Committee received several In-Service Safety Reports that discussed a flaw in the altimeter installed in 787 aircraft, which Boeing traced in part to Spirit. *See, e.g.*, BOEINGAA220OH_00001068 (Aug. 29, 2022); BOEINGAA220OH_00001185 (Oct. 17, 2022); BOEINGAA220OH_00001278 (Dec. 8, 2022); BOEINGAA220OH_00001367 (Feb. 15, 2023); BOEINGAA220OH_00001448 (Apr. 17, 2023); BOEINGAA220OH_00001522 (June 26, 2023); BOEINGAA220OH_00001641 (Aug. 28, 2023). Officer Defendant Galantowicz was one of the presenters for each of these reports.

b. An April 18, 2023 BCA Update to the Board by Officer Defendant Deal disclosed management's initial assessment of a Spirit escape involving a 737 MAX, noting that "[m]onthly rework max throughput at ~12 aircraft per month." BOEINGAA220OH_00007320, at -7321. Regarding 787 production, the update further disclosed that "Spirit rework [was] driving additional 12 day pause[.]"

Id. at BOEINGAA220OH_00007326. The update further explained that 737 MAX "[f]low increase [was] driven by nacelle rework impacts[.]" *Id.* at BOEINGAA220OH_00007327.

c. Officer Defendant Calhoun's presentation for the Board's executive session at the same meeting referenced the "737 Spirit Notice of Escapement (NoE) Initial Assessment" and disclosed management's assumption for a "[m]onthly rework max throughput at ~12 aircraft per month." BOEINGAA220OH_00008189, at -8191.

d. An April 24, 2023 Audit Committee Review Significant Disclosures 1Q 2023 presentation by Boeing's Controller disclosed Boeing's need to "perform rework" on 737 MAX fuselages after the "fuselage supplier [(i.e., Spirit)] notified us that a non-standard manufacturing process was used on two fittings in the aft fuselage section[.]" BOEINGAA220OH_00005049, at -5050. Two days later, a draft news release sent to the Audit Committee addressed the same issue. BOEINGAA220OH_00005029, at -5031.

e. An April 26, 2023 letter from Deloitte to the Audit Committee disclosed that, "in April 2023, Spirit notified the Company of a quality issue on certain parts they had supplied to the 737 program" and briefly discussed the costs of rework. BOEINGAA220OH_00005109, at -5116. The letter also disclosed

more rework on the 787 program due to a defective fuselage part made by Spirit. *Id.* at BOEINGAA220OH_00005117.

f. A June 27, 2023 BCA Update by Officer Defendants Deal and Lund to the Board disclosed various Spirit rework issues. *E.g.*, BOEINGAA220OH_00007437, at -7445.

g. A Watch Items list sent to the Audit Committee for its August 28, 2023 meeting disclosed a 737 MAX production issue caused by Spirit "involving fastener holes on the aft pressure bulkhead on certain models of the 737 fuselage" that required an assessment of "production and delivery impacts as well as inspection/rework requirements." BOEINGAA220OH_00002961.

h. A Watch Items list sent to the Audit Committee for its October 16, 2023 meeting disclosed that the Company was "performing rework on impacted aircraft and expect[ed] to deliver the first reworked aircraft in late October" concerning the aft pressure dome and fastener hole problem identified by Spirit. BOEINGAA220OH_00003024.

i. An October 17, 2023 BCA Update by Officer Defendants Deal and Lund updated the Board on the 737 "Aft Pressure Dome Non-Conformance" where "Re-work requires removal / replacement of rivet with conforming hole[.]" BOEINGAA220OH_00007680,

at -7681. Management disclosed that it had "[e]stablished 16 rework lines to complete fuselage and airplane rework[.]" *Id.*

j. An October 23, 2023 "Significant Disclosures 3Q 2023" presentation by Boeing's Controller to the Audit Committee disclosed, regarding the aft pressure dome problem: "We are working with our fuselage supplier to rework non-conforming fuselages and ensure newly built aircraft meet our specifications. . . . The recent non-conformance has also disrupted and slowed the production of newly built aircraft[.]" BOEINGAA220OH_00005306, at -5308.

k. An October 25, 2023 draft press release reviewed by the Audit Committee disclosed: "On the 737 program, during the quarter a supplier non-conformance was identified on the aft pressure bulkhead section of certain 737 airplanes. . . . Near-term deliveries and production will be impacted as the program performs necessary inspections and rework[.]" BOEINGAA220OH_00005286, at -5288.

212. Another way the Boeing directors were on notice of abnormally high rework was through numerous reports about "abnormal costs." According to Boeing's auditor, "Under US GAAP, circumstances may arise under which certain costs are determined to be 'so abnormal as to require treatment as current period charges.'" BOEINGAA220OH_00004010, at -4020. One type of abnormal cost was "excessive

rework costs [that were] so abnormal as to require treatment as current period charges." *Id.* All directors received Audit Committee materials. The Boeing directors received reports about abnormal costs in the materials for the following meetings:

a. February 15, 2022 Audit Committee meeting, BOEINGAA220OH_00002027;

b. January 24, 2022 Audit Committee meeting; BOEINGAA220OH_00003577, at -3580; BOEINGAA220OH_00003592, at -3593;

c. April 25, 2022 Audit Committee meeting, BOEINGAA220OH_00004081, at -4083; BOEINGAA220OH_00004094, at -4096;

d. June 27, 2022 Audit Committee meeting, BOEINGAA220OH_00002254;

e. July 25, 2022 Audit Committee meeting, BOEINGAA220OH_00004217, at -4217; BOEINGAA220OH_00004219, at -4221; BOEINGAA220OH_00004233, at -4235;

f. October 24, 2022 Audit Committee meeting, BOEINGAA220OH_00004362, at -4362; BOEINGAA220OH_00004364, at -4365; BOEINGAA220OH_00004377, at -4379;

g. January 23, 2023 Audit Committee meeting, BOEINGAA220OH_00004527, at -4527; BOEINGAA220OH_00004529, at -4531; BOEINGAA220OH_00004543, at -4545;

h. January 27, 2023 Audit Committee meeting, BOEINGAA220OH_00004624, at -4627;

i. April 24, 2023 Audit Committee meeting, BOEINGAA220OH_00002790; BOEINGAA220OH_00005027, at -5027; BOEINGAA220OH_00005029, at -5031; BOEINGAA220OH_00005043, at -5045

j. July 24, 2023 Audit Committee meeting, BOEINGAA220OH_00005151, at -5151; BOEINGAA220OH_00005153, at -5155; BOEINGAA220OH_00005167, at -5169; and

k. October 23, 2023 Audit Committee meeting, BOEINGAA220OH_00003024; BOEINGAA220OH_00005286, at -5288; BOEINGAA220OH_00005300, at -5302.

213. The Audit Committee received verbal reports about abnormal costs at Audit Committee meetings on:

a. December 9, 2021, BOEINGAA220OH_00002017, at -2018;

b. April 25, 2022, BOEINGAA220OH_00002248, at -2249;

c. July 25, 2022, BOEINGAA220OH_00002310, at -2314;

d. October 24, 2022, BOEINGAA220OH_00002469, at -2473;

e. January 23, 2023, BOEINGAA220OH_00002665, at -2670;

f. April 24, 2023, BOEINGAA220OH_00002880, at -2885;

g. October 23, 2023, BOEINGAA220OH_00003099, at -3103; and

h. July 24, 2023, BOEINGAA220OH_00002954, at -2959.

214. Despite the steady drumbeat of Spirit defects, Boeing continued to focus on aircraft production rates—at the expense of aircraft safety or Company compliance. On June 1, 2023, in response to a question at a Company event about Spirit, Officer Defendant Calhoun stated: "We are disappointed with every next issue that occurs that limits our rates and slows us down." Valerie Insinna, *Boeing CEO 'not overly anxious' about Chinese narrowbody jet*, REUTERS (June 1, 2023), https://www.reuters.com/business/aerospace-defense/boeing-ceo-not-overly-anxious-about-chinese-narrowbody-jet-2023-06-01/#:~:text=%E2%80%9CWe%20are%20disappointed%20with%20every,a%20company%20to%20solve%20it.%E2%80%9D. However, Calhoun rejected the idea that Boeing should reacquire Spirit to address the defects. Calhoun explained: "I don't think you acquire a company to solve [its issues]." *Id.*

215. From June 22, 2023 to July 5, 2023, a strike of the International Association of Machinists and Aerospace Workers at Spirit's Wichita, Kansas plant caused further disruption at Spirit.

216. Instead of holding Spirit accountable for its constant manufacturing defects, Boeing executed a broad release of Boeing claims against Spirit as part of the Spirit MOA.

217. The Section 220 Production shows that the Director Defendants knew throughout the Relevant Period that rework was (i) a major problem, (ii) a continuing problem, and (iii) often the result of Spirit defects. Despite this knowledge, the Section 220 Production identifies no management plans, programs, or initiatives to stop the root causes of rework prior to the Door Plug Blowout in January 2024.[17]

218. The Section 220 Production contained only one set of Board or committee minutes that mentioned "rework" prior to the Door Plug Blowout in January 2024. Those minutes came from the Board's February 16, 2022 meeting, at which Boeing's then-Chief Engineer merely "provided an overview of factory support collaboration cells ('FSCC') to reduce rework and then reported on FSCC accomplishments, including rework hours eliminated, defects eliminated, and annual cost savings." The next reference to "rework" in Board or committee minutes did not occur until April 30, 2024—over two years later, and after the Door Plug Blowout—when Officer Defendant Pope reviewed for the Board the quality action plan that Boeing had developed *at the FAA's insistence*. BOEINGAA220OH_00008857, at -8858. In other words, for over two years, no Board or committee minutes memorialize any Board discussion on "rework"—notwithstanding numerous management reports referencing pervasive rework. The Section 220 Production contains no evidence that

[17] *See supra* ¶ 204 n.15.

the Director Defendants followed up with management about reducing rework or ever asked why major rework problems were continuing[18] during the Relevant Period.[19] Instead, the Board passively accepted management's reports on Boeing's widespread rework problems.

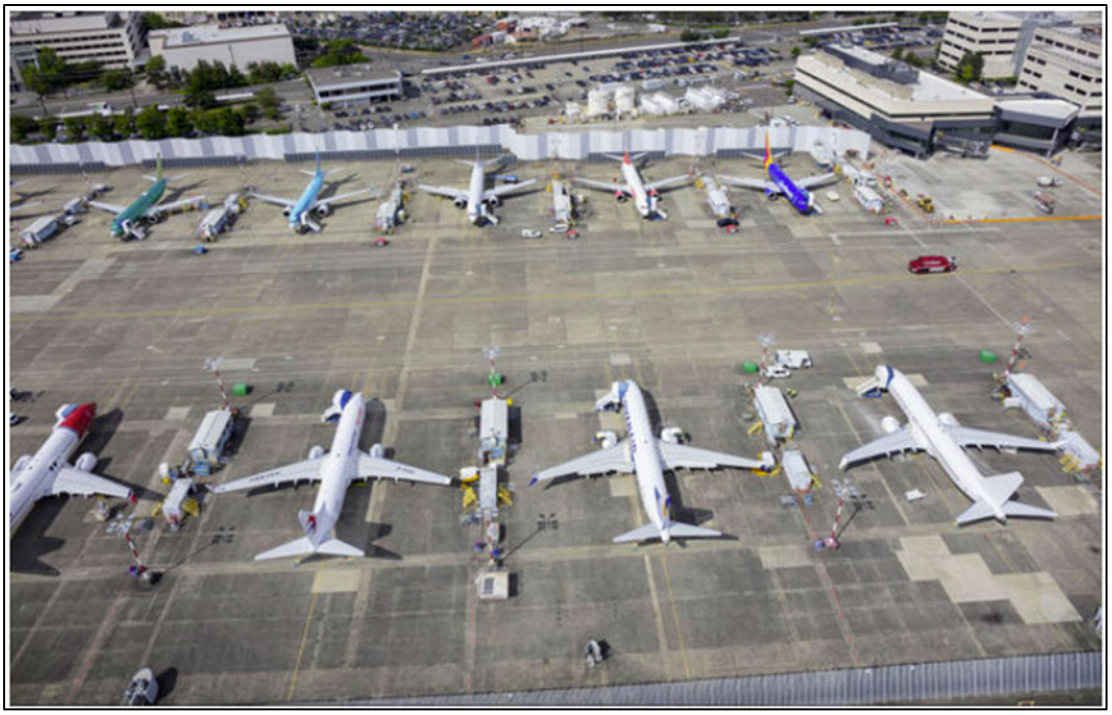
3. Rampant Out-of-Sequence Work and Rework Lead to the Creation of "Shadow Factories."

219. The pervasiveness of out-of-sequence work at Boeing meant make-up work might not be completed until the "flight line," when the plane had left the factory and was parked and awaiting delivery. Moreover, the late discovery of defects in supplier products (especially Spirit's products) required repairs on already-assembled and even in-service planes.[20] These circumstances led to a significant number of planes requiring make-up work out-of-doors at any given time. This led to the rise of "shadow factories"—large outdoor manufacturing areas outside the Company's Washington plants—as evidenced in the below photograph.

[18] Thus, Plaintiffs are entitled to a pleading-stage inference that the Board made no such efforts to follow up and that the Board did not discuss these issues at any meeting between March 2022 and April 30, 2024. *See supra* ¶ 204 n.15.

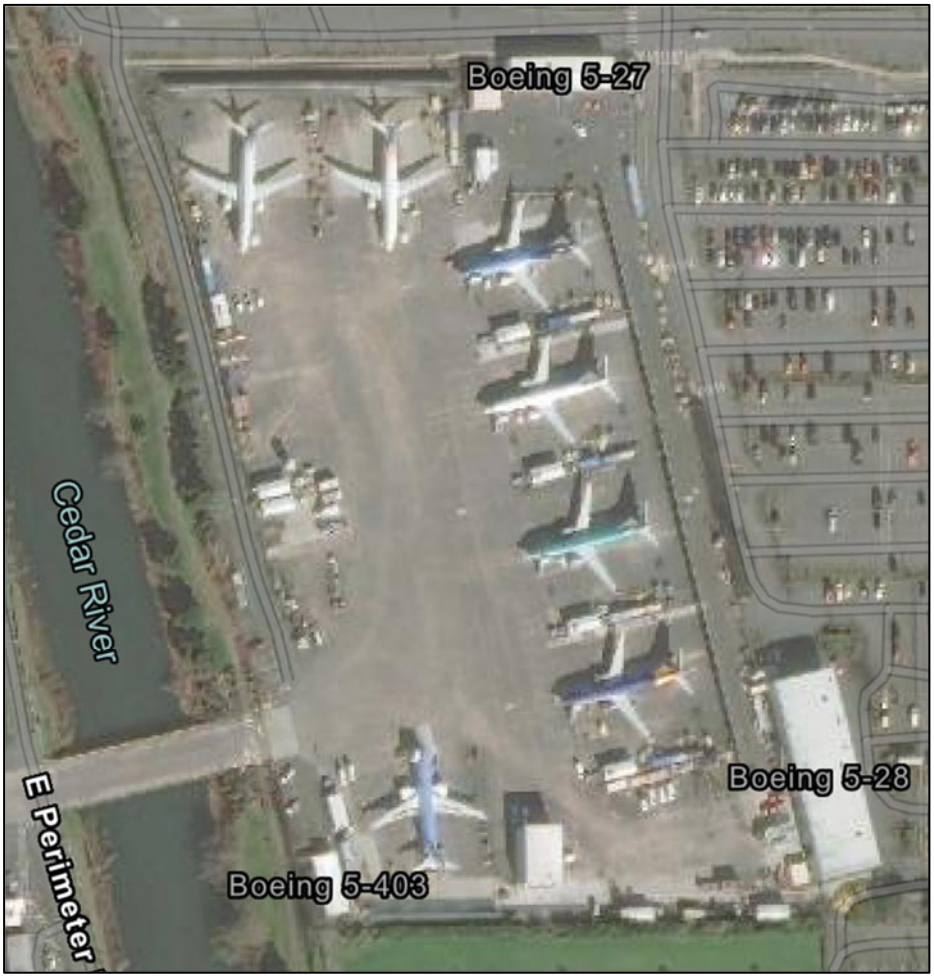
[19] After the Door Plug Blowout, Boeing made major changes in its oversight of Spirit, including ultimately agreeing to acquire Spirit. *See infra* Section VIII.I.2.

[20] In the first quarter of 2023, Boeing set aside roughly 75% of its 225 planes in inventory to rework fuselage and other issues caused by Spirit.



220. Outdoor work subjected planes and equipment to the elements, as seen in the following photograph.

221. The June 28, 2022 Board meeting was held at Boeing's 737 MAX production facility in Renton, Washington. BOEINGAA220OH_00006486. As the following images of the Renton factory from June 8, 2022 demonstrate, Boeing's outdoor work on planes would have been obvious to anyone on site.

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222. As explained in prior sections, the Board and its committees passively accepted management's reports on out-of-sequence work, *supra* Section VI.C.1, and rework, *supra* Section VI.C.2, with no discussion of the issues.

223. The Section 220 Production identifies no management plans, programs, or initiatives to close the shadow factories prior to the Door Plug Blowout in January 2024. Prior to the Door Plug Blowout, Board and committee materials reference

"shadow factories" only once[21]: On December 8, 2023—less than a month before the Door Plug Blowout—Officer Defendants Deal and Lund presented the "BCA Full Year 2024 Financial Summary," which reported that a "Key Plan Enabler[]" was to "[e]liminate shadow factories[.]" BOEINGAA220OH_00007788, at -7793. But neither the presentation nor the meeting minutes indicate that management provided any explanation to the Board on how management would purportedly do so.[22]

224. The Board's passivity led to the continuation of these problematic shadow factories—even as Officer Defendants Calhoun and West routinely referenced the need to shut them down during Boeing's earnings calls, including during calls on April 26, 2023, July 26, 2023, and October 25, 2023. The continued existence of shadow factories contributed to a crisis in tool management, *see infra* Section VI.C.4, and non-compliant record-keeping, *infra* Section VI.C.5.

4. Boeing's Unsafe Practices Lead to a Crisis in Tool Management.

225. The rush to finish planes created additional problems with tool management. Specific tools, including measuring, inspection, and test equipment, were needed at specific places on the assembly line. Effective tool management was necessary to ensure that tools were in good working order, available at the required

[21] This is also true of the singular term "shadow factory."

[22] On the same day, the "Financial Update & 2024 LRBP" presentation by Officer Defendant West to the Board gave estimated Company headcount numbers that reflected "shadow factory shut-downs." BOEINGAA220OH_00007796, at -7799. This presentation also provided no explanation how management would purportedly accomplish this goal.

places on the assembly line, and removed before the plane moved to the next station.[23] Nevertheless, Boeing's workforce and tool storage system, CribMaster, could not keep up with the frenetic production schedule in the factory.

226. The shadow factories were a major contributor to the tool management problem. They required Boeing employees to take tools, equipment, and parts outside the factories, including items that could not weather the elements. Indeed, it was common for tools, equipment, and parts to get damaged after being out in the weather. Rusting was a persistent problem with metal parts kept outside in the rainy Washington weather.

227. The Director Defendants knew that tool management was a chronic, significant issue:

a. The December 2022 Compliance Risk Management Annual Report to the Audit Committee from Officer Defendant Amuluru (the "2022 CRM Report") reported that "Boeing self-assessment and audit findings indicate a lack of effective process controls related to tool inventory control and expired calibrated tools." BOEINGAA220OH_00002500, at -2546. The same document warned that "[i]neffective tool inventory control can result in products delivered with FOD." *Id.*

b. On April 17, 2023, the Aerospace Safety Committee received an In-Service Safety Report from Officer Defendant Galantowicz

[23] Misplaced tools were a common category of FOD.

that referenced a potential loose part because of the use of an improper tool. BOEINGAA220OH_00001448, at -1449; BOEINGAA220OH_00001522, at -1523.

c. On June 26, 2023, the Aerospace Safety Committee received another In-Service Safety Report from Officer Defendant Galantowicz that referenced a potential loose part because of the use of an improper tool. BOEINGAA220OH_00001522, at -1523.

d. The November 2023 Compliance Risk Management Annual Report to the Audit Committee of the Board of Directors from Chief Compliance Officer Defendant Hostetler (the "2023 CRM Report") reported that "[r]ecent self-assessment and quality assurance audit findings have identified a lack of effective tool control processes." BOEINGAA220OH_00003132, at -3170.

228. Despite the Director Defendants' knowledge of the tool management problem, the Section 220 Production identifies no actions the Board took in response to this problem prior to the Door Plug Blowout.[24] The Board apparently did nothing but passively receive materials referencing the problem without ensuring that management was fixing it.

229. Notably, the 2023 CRM Report's disclosure regarding the high risk posed by Boeing's tool management problem was almost identical to the 2022 CRM

[24] Thus, Plaintiffs are entitled to a pleading-stage inference that the Board took no such actions. *See supra* ¶ 204 n.15.

Report's disclosure. The reports confirm that any actions management was purportedly taking between the reports were not making a meaningful difference. This negative inertia was unsurprising. Boeing's production schedule was the real culprit for tool management noncompliance; neither the Board nor management was willing to adjust it.

5. Boeing Violates Federally-Mandated Recordkeeping Requirements and Even Falsifies Required Records.

230. Boeing engaged in widespread violations of federally-mandated recordkeeping requirements in furtherance of its goal of meeting the Board-approved production schedule. By keeping incomplete records, informal records, or no records at all, employees could work more quickly. The 2023 CRM Report from Officer Defendant Hostetler identified "haste in supporting production demands" as a common reason for recordkeeping noncompliance. BOEINGAA220OH_00003132, at -3149. Even more troubling, many Boeing employees outright falsified federally-mandated records. According to one whistleblower, the widespread falsification of records occurred because "manufacturing was so pressured to get their bean count." Shawn Tully, *Exclusive: The Boeing whistleblower testified for 12 hours before his suicide. Here's what he saw at the planemaker that alarmed him*, FORTUNE (Apr. 24, 2024), https://fortune.com/2024/04/24/exclusive-the-boeing-whistleblower-testified-for-12-hours-before-his-suicide-heres-what-he-saw-at-the-planemaker-that-alarmed-him/.

231. Missing, incomplete, and falsified records were major issues because they made it impossible for Boeing or FAA inspectors to perform adequate safety

checks. The FAA considered noncompliance with recordkeeping requirements to be fraud that was subject to harsh penalties.

232. "Stamping" was an important recordkeeping practice. Throughout the build process, Boeing mechanics and inspectors were required to affirm (or "stamp") that they completed work in conformance with requirements. Complete and accurate stamping of manufacturing and quality records was crucial for Boeing's certification to the FAA that an aircraft was airworthy. Among other things, false statements in Boeing's build records undermined the completeness, accuracy, and truthfulness of Boeing's representations and certifications to the FAA regarding its aircraft.

233. During the Relevant Period, Boeing received hundreds of reports of stamping noncompliance through its internal reporting channels. The Director Defendants knew that incorrect and/or fraudulent stamping was a major and chronic area of noncompliance. For example:

a. On February 10, 2022, the Aerospace Safety Committee met and received a Boeing Commercial Aircraft Quality Management System Process presentation from management, including Officer Defendants Clark and Stocker. The presentation reported that process noncompliance included "Stamping allegations," which, among other things, represented a "High" risk level to the Company. BOEINGAA220OH_00000753, at -0766. The presentation also reported that, in the nine months from January 2021 to September 2021, the Company received 579

alleged cases of "Unacceptable Acceptance/Approval of Work and Defective work, product, service or output." *Id.* Of the 579 alleged cases, the Company substantiated 313 cases within its Airplane Programs, Total Quality, and BCA Supply Chain. *Id.* To address compliance gaps, management informed the Aerospace Safety Committee that management had an open corrective action plan entitled "Process Noncompliance and Stamping Project Plan," with an estimated completion deadline of the first quarter of 2022. *See id.*

b. On April 28, 2022, the Aerospace Safety Committee met and received a Boeing Commercial Aircraft Quality Management System Process presentation from management. The presentation reported again that process noncompliance included "Stamping allegations," which, among other things, represented a "Moderate" risk level to the Company. BOEINGAA220OH_00000873, at -0884. The presentation also reported that, from March 2021 to March 2022, the Company received 513 alleged cases of "Unacceptable Acceptance/Approval of Work and Defective work, product, service or output." *Id.* Of the 513 alleged cases, the Company substantiated 278 cases within its Airplane Programs, Total Quality, and BCA Supply Chain. *Id.* Despite the prior open corrective action plan entitled

"Process Noncompliance and Stamping Project Plan," with an estimated completion deadline of the first quarter of 2022, the Aerospace Safety Committee did not receive any confirmation that the plan had been completed. *See id.* Rather, management informed the Aerospace Safety Committee of a new corrective action plan entitled "Mfg. Discipline: Certifications & Stamping Project," with an estimated completion date of the second quarter of 2022. *See id.*

c. On June 27, 2022, the Aerospace Safety Committee met and received a Boeing Commercial Aircraft Quality Management System Process presentation from management. The presentation again reported that process noncompliance included "Stamping allegations," which, among other things, represented a "Moderate" risk level to the Company. BOEINGAA220OH_00000998, at -1005. The presentation now *removed all references* to the alleged versus substantiated cases of "Unacceptable Acceptance/Approval of Work and Defective work, product, service or output." *See id.* Management also informed the Aerospace Safety Committee that the estimated completion date for the corrective action plan entitled "Mfg. Discipline: Certifications & Stamping Project," had been pushed back from the second quarter of 2022 to the third quarter of 2022.

Id. Once again, the Aerospace Safety Committee never received confirmation that management had completed the prior corrective action plan entitled "Process Noncompliance and Stamping Project Plan." *See id.*

d. On August 29, 2022, the Aerospace Safety Committee met and received an update on the Boeing Commercial Aircraft Quality Management System Process from management. The presentation again reported that process noncompliance included "Stamping allegations," which, among other things, represented a "Moderate" risk level to the Company. BOEINGAA220OH_00001094, at -1116. The presentation once again removed all references to the alleged versus substantiated cases of "Unacceptable Acceptance/Approval of Work and Defective work, product, service, or output." *See id.* Management then informed the Aerospace Safety Committee the corrective action plan entitled "Mfg. Discipline: Certifications & Stamping Project," estimated for the third quarter of 2022 was still not completed. *Id.* Once again, the Aerospace Safety Committee never received confirmation that management had completed the prior corrective action plan entitled "Process Noncompliance and Stamping Project Plan." *See id.*

e. On December 8, 2022, the Aerospace Safety Committee met and received an update on the Speak Up program that identified at least thirty-five reports related to "Stamping & Certs." *See* BOEINGAA220OH_00001293, at -1300. Unlike prior presentations, the Aerospace Safety Committee no longer received any updates on the prior process noncompliance items that included "Stamping allegations," which, among other things, represented a "Moderate" risk level to the Company. The Aerospace Safety Committee never received any confirmation that management had completed the corrective action plans entitled "Process Noncompliance and Stamping Project Plan" and "Mfg. Discipline: Certifications & Stamping Project," despite the passage of the estimated completion dates of the first quarter of 2022 and the third quarter of 2022.

f. Also on December 8, 2022, the Audit Committee received an update from Officer Defendant Amuluru on the Company's "Compliance Risk Management" review that identified certain "high-priority risks" to the Company. BOEINGAA220OH_00002500. In the accompanying 2022 CRM Report, Amuluru informed the Audit Committee that "Product & Quality" presented a high-priority risk (3 out of 4) with a high likelihood of occurring (3 out of 4), with "Manufacturing

Certification and Stamping" being a sub-risk identified within that category. *Id.* at BOEINGAA220OH_00002503, BOEINGAA220OH_00002506. The 2022 CRM Report stated: "While data suggests positive trends in certain areas, progress has been slow in other areas (such as stamping compliance and corrective action effectiveness), and room for improvement still remains." *Id.* at BOEINGAA220OH_00002520. Specifically, with respect to certification and stamping, management told the Audit Committee:

> Investigations data on matters involving stamping noncompliance provides a general sense on how compliance in this area has been trending. The data suggests that, despite pockets of improvement (mainly in BGS), *substantiated investigations involving mis-stamping are relatively flat across the enterprise, while ticking higher in several key BCA sites*, relative to 2021. By contrast, overall cases involving production and quality matters have significantly and steadily decreased in 2022. Accordingly, while the Company's efforts to address stamping noncompliance may have stabilized issues, *available data does not show significant improvement*. As the Company implements corrective action improvements for Q4 2022 and Q1 2023, data will be used to validate the effectiveness of those efforts.

BOEINGAA220OH_00002500, at -2544–45 (emphasis added). Put another way, the 2022 CRM Report told the Audit Committee that management made *no progress* in 2022 in decreasing stamping noncompliance.

g. From December 2022 to November 2023, the Aerospace Safety Committee and the Audit Committee did not receive one update on stamping issues or efforts to improve compliance in this area, despite the serious problems identified during prior updates. After nearly a year of silence, on December 7, 2023, the Audit Committee received the only management update (from Defendant Hostetler) for 2023 concerning stamping during the Company's "Compliance Risk Management" review that identified certain "high-priority risks" to the Company. In the accompanying 2023 CRM Report, management informed the Audit Committee that "Production & Quality" once again presented a high-priority risk (3 out of 4) with a high likelihood of occurring (3 out of 4), with "Manufacturing Certification and Stamping" being a sub-risk identified within that category. BOEINGAA220OH_00003132, at -3143, -3146. The 2023 CRM Report stated:

> In recent years, Boeing has identified a noncompliance trend across its business units associated with employees performing work either without proper certification or by applying stamping authority in violation of process (e.g., stamping an operation the employee did not perform). Using the best available data–which relies on the results of investigations after the fact—*Boeing has identified a steady rate of stamping noncompliances between 2021 (when the trend was detected) and 2023*. Data from 2023 shows that the Company's efforts to address these issues may have helped stabilize the issue, but *does not show meaningful improvement*. Occurrences have been ticking slightly higher at certain BCA sites (e.g., Charleston) in 2023, most likely due to the significant focus put on the issue by Quality and Manufacturing organizations.

See BOEINGAA220OH_00003132, at -3168 (emphasis added). Put another way, the 2023 CRM Report again told the Audit Committee that management made no progress in decreasing stamping noncompliance. In fact, known incidents of stamping noncompliance *increased* at certain sites in 2023, including at the 787 factory.

234. Compliant recordkeeping for "removals," i.e., instances where Boeing employees removed an already-installed part to add or perform rework on another part, was particularly important. Boeing policy required employees to document all removals in certain records. Creating a removal record initiated a process to ensure proper reinstallation of the part and record the individuals involved in removal, reinstallation, and reinspection. If a removal record was not completely resolved in

Boeing's computer systems, including reinstallation and reinspection, Boeing employees could not truthfully certify an aircraft as airworthy to the FAA.

235. The Company received numerous red flags regarding the ineffectiveness of its policies governing removals during the term of the DPA. At least as early as 2019, the FAA began issuing numerous formal or informal actions to Boeing related to Boeing's policy governing removals. The 2022 CRM Report informed the Director Defendants that Boeing had received FAA "Letters of Investigation and Formal Compliance Actions[.]" BOEINGAA220OH_00002500, at -2536.[25] Likewise, the 2023 CRM report informed the Director Defendants that, "[i]n 2023, Boeing received several Letters of Investigation and notices of Formal Corrective Action from the FAA[.]" BOEINGAA220OH_00003132, at -3155. Accordingly, the Director Defendants had notice of the need for careful recordkeeping and policies regarding removals.

236. During 2022, the Audit Committee—and the other directors who attended Audit Committee meetings—received repeated red flags of an exponential increase in the number of substantiated cases for "Falsification of Records" at Boeing. On April 28, 2022, June 27, 2022, August 29, 2022, October 17, 2022, and December 8, 2022, the Audit Committee met and received updates on Sarbanes-Oxley-related cases submitted to the Audit Committee portal. The written materials for those

[25] According to an interview on Pierson's podcast, in response to a hotline report made by a Boeing whistleblower, the FAA determined in April 2022 that Boeing's business process instructions were inadequate and manufacturing personnel had not received the training, skill, education, or experience necessary to perform their daily tasks.

updates, which were prepared by Defendant Amuluru, included "Falsification of Records" as a reported category on the "Substantiated Case Trends" page. BOEINGAA220OH_00002191, at -2196; BOEINGAA220OH_00002256, at -2261; BOEINGAA220OH_00002322, at -2327; BOEINGAA220OH_00002429, at -2434; BOEINGAA220OH_00002481, at -2486.

237. The data reaffirmed an increase in the reported instances of falsification of records. In 2020 and 2021, Boeing reported twenty-two and twenty-one substantiated cases, respectively, of falsification of records. BOEINGAA220OH_00002481, at -2486. In 2022, Boeing reported 128 substantiated cases of falsification of records—a *700% increase*. *Id.* "Falsification of Records" was the *only* substantiated case trend highlighted in the 2022 presentations as reflecting a 20% or greater increase compared to the prior year—a glaring red flag.

238. The presentations to the Audit Committee that reported on the "substantiated case trends" provided no indication that the Audit Committee followed up with management to ensure noncompliance issues were being resolved.[26] Instead, management *dropped* "Falsification of Records" as a category in the "Substantiated Case Trends" reports in 2023 and 2024. BOEINGAA220OH_00002747, at -2752; BOEINGAA220OH_00002822, at -2827; BOEINGAA220OH_00002910, at -2915; BOEINGAA220OH_00002974, at -2979; BOEINGAA220OH_00003064, at -3069; BOEINGAA220OH_00003236, at -3241; BOEINGAA220OH_00003388, at -3393;

[26] Thus, Plaintiffs are entitled to a pleading-stage inference that the Audit Committee took no such actions. *See supra* ¶ 204 n.15.

BOEINGAA220OH_00008928, at -8933; BOEINGAA220OH_00009094, at -9099. In other words, management did not like what the numbers showed. Rather than solving the problem, the Audit Committee ignored the numbers until management stopped reporting on the issue.

239. The problem never went away. Whistleblowers and the DOJ would later confirm that falsification of records remained a major problem at Boeing. Instead of dealing with the problem, the Audit Committee members buried their heads in the sand and ignored it.

240. The directors' approach to the widespread falsification of records at Boeing reflected the same unacceptably passive approach this Court observed in *Boeing I*. The directors gave management full discretion over what management reported, and the directors passively accepted it.

241. In addition to their passivity in connection with the Substantiated Case Trends reports, the Audit Committee members took a passive approach to the reports they received concerning the DPA. In meeting after meeting, the Audit Committee received a truncated, three- or four-page Deferred Prosecution Update presentation from management, during which the Audit Committee was informed of a startling—and increasing—number of potential instances of fraud occurring at the Company over the term of the DPA.

242. As reported in a presentation prepared by Defendant Hostetler, as of November 27, 2023, the Company had reported *2,374* instances of potential fraud to the DOJ under the DPA. BOEINGAA220OH_00003273, at -3275. That equated to

more than two instances of fraud per day for more than two straight years. The Audit Committee reports showed a substantial number of reports each month, with the number of reports increasing over the term of the DPA.

Date	Reported Instances of Fraud
May 2021	68
June 2021	89
July 2021	61
August 2021	71
September 2021	55
October 2021	57
November 2021	66
December 2021	56
January 2022	45
February 2022	73
March 2022	75
April 2022	68
May 2022	66
June 2022	79
July 2022	59
August 2022	75
September 2022	80
October 2022	69
November 2022	73
December 2022	57
January 2023	59
February 2023	61
March 2023	92
April 2023	78
May 2023	80
June 2023	98
July 2023	71
August 2023	111
September 2023	110
October 2023	126

See, e.g., BOEINGAA220OH_00003273, at -3275.

243. These presentation materials were prepared in connection with the Audit Committee's December 7, 2023 meeting. *See* BOEINGAA220OH_00009315. In addition to the five Audit Committee members—Doughtie, Good, Harris, Johri, and Soussan—Defendants Calhoun, Hostetler, Kellner, and Richardson also attended the meeting. *See id.* at BOEINGAA220OH_00009315–16. Officer Defendant Hostetler told the attendees "that the included materials on compliance would be discussed with the full Board." *Id.* at BOEINGAA220OH_00009317.

244. Many of the alleged incidents of fraud were substantiated. The 2022 CRM Report disclosed that 40% of the instances of alleged fraud to date were substantiated, including twenty-four instances of falsification of records, concealing defective work, and inaccurate or improper reporting of work. BOEINGAA220OH_00002500, at -2521.

245. Management did not give the Audit Committee the underlying fraud reports it provided to the DOJ. Instead, management simply asserted in the DPA update presentations that there were "[n]o substantiated instances of significant fraud related to disclosed matters[.]" Those presentations left the determination of what was "significant" completely within management's discretion. The Section 220 Production contains no evidence that management ever provided the Audit Committee with the fraud reports Boeing provided to the DOJ. Likewise, the Section 220 Production contains no evidence that the Audit Committee members even asked for the fraud reports, much less pressed management for more details concerning the content of the DOJ disclosures or what management viewed as

"significant." That passive approach remained even after the reports showed *thousands* of fraud matters reported to the DOJ and a significant uptick in the number of monthly fraud reports.

246. The Audit Committee, along with the Board, knew that Boeing's recordkeeping practices required strict compliance with FAA regulations and the DPA. Any recordkeeping error that broke a strict chain of custody for all build and manufacturing records could result in a finding of fraud, even though the recordkeeping error was not deemed "significant" by management.

247. Despite the Director Defendants' knowledge of stamping and other recordkeeping noncompliance—including outright falsification of records—the Section 220 Production identifies no actions the Board took in response to these problems prior to the Door Plug Blowout. The Board apparently did nothing but receive materials referencing the problems without ensuring that management was fixing them. The Section 220 Production identifies no Board follow-up with management to ensure noncompliance issues were being resolved, and, as a result, the Board allowed the issues to continue unabated.

248. The reports the Director Defendants received confirmed that any actions management purportedly was taking did not make a meaningful difference. Indeed, problems got worse in numerous key areas.

249. Neither the Board nor management sought to voluntarily adjust Boeing's production schedule—the real culprit for Boeing's recordkeeping noncompliance.

250. Worse, the DOJ did not receive reports related to Boeing's noncompliant recordkeeping in a timely manner. At least as early as November 2023, the Audit Committee learned about widespread false stamping at the Boeing 787 manufacturing facility in Charleston, South Carolina. The false stamps caused Boeing's quality management systems to show that all required steps were complete when they were not. Boeing did not disclose those stamping issues to the DOJ until April 2024—three months *after* the Door Plug Blowout.

251. As explained below, Boeing's recordkeeping noncompliance was a key issue that led the DOJ to conclude that Boeing breached the DPA. *See infra* ¶¶ 478 (completeness of records noncompliance), 479 (stamping noncompliance).

6. Boeing Eliminates Inspector Positions and Permits Manufacturing Employees To Inspect Their Own or Their Colleagues' Work.

252. The FAA required Boeing to maintain a quality management system "that ensures that each product and article conforms to its approved design and is in a condition for safe operation." 14 C.F.R. § 21.137. Quality inspections and tests were required to be handled by trained quality inspectors, who served as a second set of eyes on work before the plane moved down the assembly line. But Boeing sacrificed quality for speed. Beginning in 2015, Boeing increasingly shifted inspection duties to the very mechanics who did the assembly work. Self-verification decreased the number of trained quality inspectors needed, increased speed, and decreased cost. With self-verification, "wait time [was] eliminated." However, self-verification also eliminated a key part of the inspection process.

253. In 2016, the FAA sent Boeing a formal compliance action request following an FAA audit that alleged that a Boeing policy adopted in 2015 "creat[ed] a process that bypasse[d] the Quality organization and allow[ed] . . . Manufacturing Technician[s] to accept" certain tests of airplanes' functionality without holding the requisite authority to do so. Boeing promised to correct the problem and blamed it on "unclear" language in its policy documents.

254. A November 17, 2016 FAA letter explicitly rebuked Boeing's practice of using non-FAA approved practices to contravene the policies the FAA did approve. The FAA noted that, in 2015, Boeing promised to take corrective actions in response to a 2015 FAA audit of the Everett factory that identified documents that appeared to circumvent approved policies. But just five months after the FAA accepted Boeing's corrective actions, in a subsequent 2017 audit, "the FAA again discovered important safety documents that Boeing had not cleared with the agency, and thus the FAA informed Boeing of its '*failure to implement' and [its] 'unsatisfactory implement[ation]' of its promised actions*."

255. In November 2017, the FAA again sent multiple letters to Boeing raising similar concerns about quality inspections. A November 8, 2017 letter observed that two new Boeing policies seemed to "modify and/or *circumvent*" the requirement that planes be properly inspected and tested in part by replacing quality inspections—which involved direct, physical examinations of planes—with "verifications" that involved "[i]ndirectly demonstrating" compliance "by the use of data and analytical tools." The November 8 letter also raised concerns about allowing employees without

the required training (and thus without the appropriate authority) to perform product acceptance. The FAA stated: "Grant[ing] acceptance responsibility without appropriate training is unacceptable to the Quality requirements. . . . [R]emoving inspections and replacing them with verifications . . . is not acceptable and does not meet the minimum requirements of [FAA regulations]." The FAA "identified similar problems" in a subsequent November 20, 2017 letter.

256. Boeing also reduced inspector positions and the total number of inspections to meet the production schedule. In January 2019, *The Seattle Times* reported that Boeing aimed to eliminate a total of 900 inspector positions across their Washington state factories in 2019 and 2020—a nearly one-third reduction in inspector headcount. Dominic Gates, *Boeing overhauls quality controls: more high-tech tracking but fewer inspectors,* THE SEATTLE TIMES (Jan. 20, 2019), https://www.seattletimes.com/business/boeing-aerospace/boeing-overhauls-its-quality-controls-more-high-tech-tracking-but-fewer-inspectors/. At the time, Boeing claimed that new, automated tools were so accurate that they made quality inspections unnecessary. Boeing's manufacturing union, District 751 of the International Association of Machinists and Aerospace Workers, disagreed, arguing that Boeing had artificially depressed the number of recorded defects by pressuring inspectors to approach mechanics informally to repair defects rather than formally document them, "essentially masking defects." By 2019, the FAA had substantiated several instances of Boeing failing to document defects.

257. Boeing's Vice President of Quality, Ernesto Gonzales-Beltran, spearheaded Boeing's inspection removal effort, which aimed to shift from having inspectors "check every airplane" to only "check once every 100 parts or every 1,000 parts." These efforts eliminated approximately 3,200 inspections from the 737 MAX line.

258. The reduction in inspectors and inspector positions was particularly pronounced at Boeing's South Carolina plant. Whistleblower Barnett explained that, while a quality inspector in a Washington factory would cover 9 mechanics, a quality inspector in the South Carolina plant might cover 50–100 mechanics on two airplanes. At one point, Barnett's supervisor told him the quality inspection team would only "inspect the parts that engineering called out" even though the quality management system "has hundreds of different inspection requirements that are required, that the FAA's approved," and that "[Boeing] can't just eliminate[.]"

259. In 2021, the FAA sent a letter stressing several problems with Boeing's systemic push to reduce quality inspections, which Boeing called "Verification Optimization." The problems the FAA pointed out included that:

a. "Boeing procedures [were] not adequate for determining the required inspections and tests used to ensure the product conforms to its approved design."

b. A program that removed inspections by quality inspectors and instead had manufacturing employees perform inspections did

"not meet Boeing quality system requirements or FAA regulatory requirements."

c. "The FAA found no process that describe[d] how Boeing determine[d] appropriate business decisions to justify the removal of mandatory Quality inspections."

d. When certain procedures allowed in-person quality inspection to be removed, "[t]he FAA determined Quality [could not] accept a completed function test[] by relying on document review alone. If the Quality organization [did] not witness the functional test, then it could not verify the accuracy of the information collected."

e. "The FAA found evidence that Boeing inappropriately delegated inspection authority to Manufacturing personnel who did not have the appropriate training or certification, inappropriately delegated Quality inspections associated with certain engineering requirements to Manufacturing personnel, and allowed the indication of production verification and acceptance with a Manufacturing stamp, in violation of the Boeing quality system requirements."

260. Over time, Boeing employees modified their self-inspection practice slightly. According to an anonymous whistleblower in the South Carolina factory, since late 2022, Boeing managers have permitted mechanics to inspect each other's

work rather than inspecting their own work. Of course, any inspection performed by a peer who lacked the proper qualifications and training was extremely suspect.

261. Boeing's self-inspection practice extended beyond Boeing's internal inspections. Through Boeing's ODA program, certain Boeing employees could be deputized to provide certifications that only the FAA normally would provide. Most of Boeing's ODA representatives performed ODA work only part time. The rest of the time, they worked as normal Boeing employees. This created a conflict of interest because Boeing management conducted the performance reviews for, and set most of the compensation of, the employees who were supposed to be acting independently as representatives of the FAA.

262. Boeing's ODA program had to be effective for the FAA's oversight to be effective. Commentators have noted that the FAA often lacked the resources necessary to understand and regulate new technology. If the ODA program had functioned correctly, it could have provided necessary and effective oversight in new areas. But if the ODA representatives were captured or cowed by non-ODA management, the process would fail. At Boeing, the ODA program failed. *See infra* ¶¶ 300–06.

263. Boeing employees also resorted to "inspector shopping"—either by asking only lax inspectors to review work or by seeking out multiple opinions from different inspectors until workers received the certification they wanted—to meet Boeing's production schedule. This practice further compromised safety.

7. Boeing Uses Non-Conforming or Scrapped Parts.

264. Boeing also made unauthorized use of non-conforming or scrapped parts to meet the production schedule. Scrapped parts include substandard or defective aircraft components, such as those tainted by, among other things, rust. Scrapped parts are supposed to be identified, quarantined, and ultimately, disposed of. Scrapped parts are *not* supposed to be installed in aircraft. Nevertheless, Meyers confirmed that Boeing employees routinely used a "bootleg form" to recover scrapped parts from the "reclamation area" and install them on new planes. Using the proper parts would have been more expensive or taken more time. As a pretext, the unauthorized form would often state that the parts had been sent to reclamation "in error." According to Meyers, this "bootleg" process circumvented a "robust, documented process . . . for removing scrapped parts from reclamation." Chokshi, *NYT* (Apr. 24, 2024).

265. Meyers estimated that, in the ten years before he was effectively discharged from Boeing on March 22, 2023, more than 50,000 parts that "escaped" quality control were used to build planes. Management incentivized this behavior. Meyers explained that "[p]eople get promoted by hustling parts." *Id.*

266. Other Boeing whistleblowers reported similar dynamics. According to Sam Mohawk (previously defined as "Mohawk"), a Boeing quality assurance investigator at the Material Review Segregation Area (the "MRSA") in Renton, Washington, handling non-conforming parts became more complex and demanding after the FAA recertified the 737 MAX. Mohawk claimed that the MRSA experienced

a 300% increase in records of non-conforming parts ("NCRs") and approximately 300-400 non-conforming 737 MAX parts were lost. Mohawk feared that the disappearance and apparent use of non-conforming parts would lead to a "catastrophic event." Sharyn Alfonsi, Aliza Chasan et al., *Boeing failing to keep track of non-conforming parts, whistleblower says: "It's like Russian roulette"*, CBS NEWS (Dec. 11, 2024), https://www.cbsnews.com/news/boeing-whistleblowers-speak-out-60-minutes/.

267. In early spring, 2023, Mohawk raised his concerns with his managers. Instead of fixing the problem, factory management "ordered the majority of the parts that were being stored outside to be moved to another location to intentionally hide improperly stored parts from the FAA." Furthermore, instead of attempting to reduce the number of non-conforming parts, Boeing management ordered Mohawk and others to eliminate or "cancel" the NCRs.[27] This was not just an order from factory management. According to Mohawk, during an August 2023 meeting, the *head of Boeing's Material Review Board for the 737 MAX program* "reiterated his order for everyone to cancel and delete NCRs, and not to keep a written record of non-conforming parts." This instruction violated Boeing's policies and federal regulations. Predictably, management refused to document a formal process for cancelling NCRs within the Boeing Process Instructions (the "BPI"). The FAA had to

[27] The internal aircraft build record system at the Renton, Washington factory was known as CMES. According to Mohawk, there is a backup system known as DCAC where deleted records can sometimes be retrieved.

authorize any changes to the BPI, and the whole purpose of cancelling the NCRs was to hide problems from the FAA.

268. In October 2023, Mohawk filed a Speak Up report about these problems. He never received a direct response. Instead, management proposed "material return to stores (MRS) procedures" that were "never intended to control non-conforming [parts]." Mohawk's Speak Up report was never presented to the Board. This is not surprising, as Mohawk's report was received by the same group of managers about which his report complained. Even after the Senior Manager that was originally responsible for Mohawk's Speak Up report left the Company, the new Senior Manager brushed aside Mohawk's concerns. In fact, the new Senior Manager made clear that Boeing employees "were to move the parts regardless of compliance." Mohawk asked human resources to move his Speak Up report to another management group that lacked a conflict of interest, but it was apparently never moved.

269. Treatment of non-conforming parts was a long-standing issue. John Barnett (previously defined as "Barnett") was a Boeing quality manager responsible for disposing of non-conforming parts placed in the MRSA in the South Carolina plant between 2015 to 2017. According to Barnett, Boeing's overriding priority was to push production quickly. Plant workers felt pressure to use non-conforming parts even though they violated FAA regulations and Boeing's own policies. The quarantine area for scrapped parts became a "parts store." Manufacturing employees obtained and copied keys to the MRSA—enabling them to

remove parts without the approval of MRSA staff. According to Barnett, unauthorized removal of scrap parts was widespread and "just totally out of control."

270. Barnett knew that scrap parts were being used because they were tagged or painted red, and he saw red-painted or tagged parts in the production line. Management told Barnett not to report these issues to the FAA.

271. The FAA substantiated some of Barnett's allegations in 2017. According to the FAA's report, a review of only 20.3% of the relevant non-conforming part records (45 out of 221 total) led the FAA to conclude that Boeing "personnel did not follow approved quality system processes to track and disposition non-conforming parts. As a result, 53 non-conforming parts are known to have been lost."[28]

272. The Aerospace Safety Committee and management knew that the use of unauthorized parts was a problem at Boeing. For example, on August 28, 2023, the Aerospace Safety Committee heard about "compliance risk related to unapproved parts installation escapes." BOEINGAA220OH_00000163, at -0165. But neither the committee nor management reported the issue to the full Board or took action to end the practice.

8. Boeing Uses Parts Assigned to Other Planes.

273. Boeing employees took parts assigned to other planes to meet the Board-approved production schedule. If a part had not yet been delivered that was necessary for a certain test, Boeing employees would sometimes take the same type

[28] This FAA report was quoted in the "PSI Memorandum," which is discussed below. *See infra* ¶ 425 *et seq*. This Complaint removes the bolding and italics that the PSI Memorandum added to the FAA report.

of part from another plane, perform the test, and then return the part to its assigned plane. As a result, planes underwent testing using different parts than the ones with which the plane was ultimately delivered. According to Meyers, Boeing management up to at least the level of Senior Vice President was aware of this practice.

9. Boeing Uses Parts Before They Are Inspected or Logged.

274. Another way Boeing employees cut corners to meet the Board-approved production schedule was by sending newly delivered parts straight from the receiving area to the assembly line before inspectors could inspect or log the components. This practice prevented inspectors from ensuring that parts met quality standards before they were used.

275. This practice continued even after the Door Plug Blowout. In July 2024, Meyers told *CNN* that, based on conversations with current employees after he left the Company, unapproved parts are still being used in manufacturing: "Now they're back to taking parts of body sections – everything – right when it arrives at the Everett site, bypassing quality, going right to the airplane[.]" Gregory Wallace, *Former Boeing inspector alleges 'scrap' parts ended up on assembly lines,* CNN (July 3, 2024), https://www.cnn.com/2024/07/03/business/former-boeing-inspector-scrap-parts-assembly-lines/index.html.

10. Boeing Fails To Implement a System for Mandatory Reporting to the Board.

276. The MAX Crashes and *Boeing I* starkly exposed the Board's need to change from reactive to proactive. The *Boeing I* motion to dismiss opinion specifically criticized the Boeing directors for being passive recipients of discretionary

management updates on safety issues. *Boeing I*, 2021 WL 4059934, at *29–30. Despite the clear instructions in *Boeing I*, during the Relevant Period, the Board failed to implement a mandatory reporting system regarding manufacturing issues that created material safety risks.

277. The Speak Up process had no mandatory procedure for raising safety concerns to the Board level.[29] Management retained complete discretion in elevating Speak Up reports to the Board. This explains why—despite employees submitting approximately 2,000 Speak Up reports during the Relevant Period—management never provided the Board or its committees any open Speak Up reports on safety or compliance issues. The relatively few and cherry-picked Speak Up reports that management presented to the Aerospace Safety Committee on a discretionary basis were all either purportedly resolved or unsubstantiated.

278. No other policy or system at Boeing provided for mandatory reporting to the Board of manufacturing safety issues at Boeing's factories. The only procedure for mandatory reporting was limited to events that occurred *after Boeing planes were in the air*. Management (via Officer Defendant Galantowicz) provided the Aerospace Safety Committee with "*In-Service* Safety Reports," *e.g.*, BOEINGAA220OH_00001068, BOEINGAA220OH_00001367 (emphasis added), but did not provide the Board, the Aerospace Safety Committee, or any other committee

[29] To make matters worse, Boeing's business partners, suppliers, vendors, and contractors—including Spirit—cannot submit Speak Up reports.

with *manufacturing* safety reports—a glaring omission given the numerous unsafe (and even illegal) manufacturing practices about which the Board knew.[30]

279. On May 10, 2023, Boeing memorialized its mandatory reporting policy in a "Business Process Guide," DMS Document Number 298-23-07855 (the "BPG"). BOEINGAA220OH_00000708.[31] Officer Defendant Martin approved the BPG in her role as Boeing's Vice President of Enterprise Safety & Mission Assurance. The BPG addressed the mandatory reporting of "Events," all of which related to planes *currently in service* with third parties. As explained in the BPG, the objective of its procedures was to ensure the Board or the Aerospace Safety Committee learned of a qualifying event "within 24 hours or as soon as reasonably practicable after Boeing *is notified or made aware* of an event," (i.e., once a third party notified Boeing of an in-service issue). *Id.* at BOEINGAA220OH_00000711 (emphasis added). The criteria for reporting an event confirmed that the BPG's mandatory reporting focused on in-service events:

[30] Even for the in-service events that the BPG covered (as opposed to manufacturing events, which the BPG did not cover), reporting was not mandatory. The BPG provided for reporting only if a Boeing executive determined that it met the "criteria *and intent*" for mandatory reporting. BOEINGAA220OH_00000708, at -0714–15 (emphasis added). This allowed management to conceal in-service safety issues that met the "criteria," but purportedly did not meet the "intent," for mandatory reporting.

[31] Officer Defendant Martin approved the BPG as Enterprise Safety & Mission Assurance Vice President. BOEINGAA220OH_00000708, at -0709.

Does the Event Fall Within the Notification Criteria? Use the following criteria:

- Accident, Incident, or Mishap resulting in hull loss, fatality or hospitalization
- Regulator or customer safety actions that require an urgent response or immediate action regarding the safety of the aircraft or fleet
- Event is indicative of a potentially significant safety issue such as:
  - Parts Departing Aircraft (PDA) / Things Falling Off Aircraft (TFOA) / Dropped Object Prevention Program (DOPP)
  - Depressurization or Smoke/Fire
  - Runway Excursion (off pavement during takeoff or landing)

Id. at BOEINGAA220OH_00000712.

280. The lack of a mandatory reporting process for manufacturing safety issues was consistent with the Board's aggressive production schedule and prioritization of profits over safety and quality. Rather than taking the necessary steps to ensure that its planes were safe when they left the factory, the Board turned a blind eye and preferred that Boeing rush to get the planes out, then hoped that nothing bad would happen once they were in service.

281. The Board's lack of a mandatory reporting process for manufacturing safety issues was a failure of oversight. An illustration using the facts of *Marchand v. Barnhill*, 212 A.3d 805 (Del. 2019)—the authority on which the motion-to-dismiss opinion in *Boeing I* primarily relied—reiterates the point. A good-faith oversight system must be directed at detecting listeria in the ice cream factory when the ice cream is produced; it cannot be limited to informing the board more quickly about deaths that occurred after tainted ice cream left the factory.

11. Boeing Directors and Executives Participate in Boeing's Culture of Cutting Corners.

282. Boeing's culture of cutting corners started at the top. The Board-approved production schedule management set left workers with no choice but to cut corners if the schedule was to be maintained. Rather than change the schedule, Boeing executives rewarded employees who maintained the schedule through unsafe practices.

283. Boeing executives personally cut corners in their work. Officer Defendant Calhoun rarely appeared at Boeing's headquarters or its manufacturing facilities. Despite Boeing encouraging employees to work on-site, Calhoun spent most of his time at his homes in South Carolina and New Hampshire. He also reduced the frequency of Executive Committee meetings, thus reducing managerial oversight. Officer Defendant West, meanwhile, rarely appeared at headquarters, but worked from an office the Company built for his use near his home in Connecticut.

284. The Director Defendants received presentations without seeking any practical change—even when the presentations demonstrated that management's purported plans continued to ineffectively address existing issues or that problems in key areas had stayed the same or worsened.[32]

[32] In addition to the examples above, on December 8, 2023, BCA management made a presentation to the Board that identified "Emergent 737-8/-9 fleet issues (potentially safety items, non-compliances)" as a "Key Risk[.]" BOEINGAA220OH_00007788, at -7792. The presentation did not identify what the potential safety items and non-compliances were, and the Section 220 Production does not contain evidence that the Board inquired what the problems were or pushed management to address them.

12. Boeing Retaliates Against Those Who Hold Up the Production Schedule.

285. Because the Board-approved "schedule t[ook] the lead" at Boeing, employees who tried to hold up production to ensure that safety and compliance issues were addressed were ignored, marginalized, and even threatened. Retaliation against employees who flagged safety issues was a long-standing problem at Boeing.

286. In June 2014, a quality inspector at the Dreamliner factory—Roy Irvin (previously defined as "Irvin")—told news media that his supervisors reprimanded him for being "insubordinate" when he flagged safety and quality issues on the 787 Dreamliners he inspected. The quality issues Irvin flagged involved both missing parts and improperly installed parts. Almost every day, Irvin had to push back on serious safety and quality issues he found in planes on the "flight line"—i.e., planes that already left the factory floor and should have been thoroughly checked.

287. As mentioned above, in 2016, Hobek was fired for repeatedly reporting manufacturing defects in Boeing 787 aircraft. *See supra* ¶¶ 63, 87.

288. In 2017, Boeing quality inspector Barnett left Boeing after he was retaliated against at Boeing's South Carolina plant. According to Barnett, while Boeing nominally encouraged employees to "speak up . . . when you actually do it is when you start getting actions that, you know, you're a troublemaker or you're . . . just trying to hold up production." When Barnett pushed for adequate time to perform inspections, management "chew[ed] [him] out about stopping production" and management "put [him] in the corner. . . . And there's about five of them standing over [him] with their arms crossed. Where does it say we can't do this?"

Barnett faced hostile retaliatory actions, meetings, or speeches nearly every week. His supervisor told him he would "push [him] until [he] broke." In one instance, management gave Barnett two days to complete an investigation of 400 non-conforming parts that required weeks to perform correctly. In other instances, they gave him a large volume of work that would require a team to complete and then pulled members off Barnett's team to work on other matters.

289. Barnett knew of one employee who opposed management's self-inspection proposal, was put on a performance improvement plan, and survived without being terminated only when he "took a downgrade back to Washington to get out of Charleston."[33]

290. Barnett knew of another female employee who was physically assaulted for raising safety concerns. Barnett explained that a male colleague "actually put his arm against her and pushed her against the wall and was pointing in her face and telling her to get on board and this was a good ol' boys' program, or something like that."

291. Barnett's supervisor told him in an email to "learn the ar[t] of working in the gray areas and help find a way, while maintaining compliance or the intent of the procedure." He also instructed Barnett "not to document defects, not to put quality concerns in writing." Barnett was also told in writing, "we need to be flexible to do what is necessary, regardless of the swim lane." Once, he received a

[33] Notwithstanding the fact that Boeing employees could be charged with a felony for violating the FAA's documentation rules, management told employees to transfer parts from one production line to another, without completing the required documentation.

performance review stating that "leadership would give hugs and high fives [upon] his departure[.]"

292. Barnett filed an OSHA complaint against Boeing for retaliation and a safety complaint with the FAA. Barnett's retaliation lawsuit continued into 2024. On March 7 and 8, 2024, Barnett was deposed. The next morning, before what was supposed to be Barnett's third day of deposition, Barnett was found dead in his truck in the parking lot outside his hotel. Barnett's death was purportedly a suicide. Investigators found notes in Barnett's notebook attributing his death to the stress from his efforts to hold Boeing accountable. He wrote: "I CAN'T DO THIS ANY LONGER!!! ENOUGH!!! F[**]K BOEING!!! WHISTLEBLOWERS [sic] PROTECTION IS F[***]KED UP TOO!! FAMILY [AND] FRIENDS I LOVE YOU ALL."

293. Another Boeing whistleblower who was in litigation against the Company, Dean, died suddenly in May 2024. Only 45 years old, he was diagnosed with an MRSA bacterial infection. His death shocked his family because Dean was known for being extremely healthy. According to Dean's mother:

> The doctor said he'd never seen anything like it before in his life. His lungs were just totally . . . gummed up, and like a mesh over them. . . . We're not sure what he died of. . . . We know that he had a bunch of viruses. But you know, we don't know if somebody did something to him, or did he just get real sick[?]

294. Salehpour has been a Boeing engineer for more than four decades. Since 2007, he has worked for Boeing in various engineering capacities for the Boeing 747, 767, 777, and 787 programs. Most recently, he was a Quality Engineer responsible

for monitoring production activities for defects and developing processes and corrective actions to ensure defects were addressed and prevented.

295. When Salehpour pressed Boeing officials to hear and respond to safety issues he observed and raised over the course of years, he was met with "increasingly hostile" responses from his supervisor and other managers. Salehpour explained, "the more I pushed for answers, the greater the retaliation would be." He was "ignored," "told not to create delays," "told, frankly, to shut up," physically threatened, and subsequently reassigned in retaliation for raising serious safety issues. According to Salehpour, the attitude at Boeing "from the highest level is just push the defective parts regardless of what it is," creating a culture where employees are quite reluctant to come forward. Salehpour communicated his concerns to Mark Stockton, the senior director for 787 engineering, and Lisa Fahl, a BCA Vice President of Engineering, to no avail.

296. Salehpour recounted one incident where his supervisor took him aside to reprimand him after he raised safety concerns at a meeting. The supervisor said, "I would have killed anyone who said what you said[;] if it was from some other group, I would tear them apart." In another incident, someone purposefully punctured the tire on Salehpour's car with a large nail.

297. Salehpour concluded that, when a Boeing employee expressed safety concerns, Boeing's response was to "threaten you, sideline you, transfer you" and to "retaliate to make your life miserable[.]" Salehpour suffered nightmares of getting

stabbed and sought psychological help as a result of the constant retaliation and physical threats he faced.

298. Meyers was relatively "lucky" in the retaliation he faced for trying to stop the unauthorized use of non-conforming parts. *See supra* ¶¶ 65, 264–65, 273, 275. Meyers "merely" received a written reprimand for his purportedly "defective work product, service or output[.]" Notably, the written reprimand provided no details about what this three-decade Boeing employee had allegedly done wrong. Meyers felt that his quality concerns were not being taken seriously and that, if he stayed at Boeing, he would eventually be pushed out. When Boeing offered him a buyout to quit, he took it.

299. Boeing's culture of retaliation extended to Boeing's suppliers, including Spirit. Cuevas, who worked for a Spirit subcontractor in Boeing's Everett, Washington facility, observed "critical drilling and sealant issues" on 787 Dreamliners, where fastener holes located in the plane's forward pressure bulkhead were drilled to be slightly larger than they were supposed to be. Those improper fasteners could have "devastating consequences" because they could "compromise power and air pressure on the planes." After Cuevas complained to Spirit, and then to Boeing, Spirit fired him in 2024.

300. Retaliation at Boeing was particularly dangerous with respect to the Boeing employees who participated in the ODA program and acted as FAA deputies in providing certain regulatory certifications ("ODA Unit members"). Federal regulations expressly prohibit interference with ODA Unit members.

See CFR § 183.57(C) (requiring ODA holders to "[e]nsure that no conflicting non-ODA Unit duties or other interference affects the performance of authorized functions by ODA Unit members").

301. In 2016 and 2019, Boeing conducted an internally-developed survey of ODA Unit members. In May 2022, Boeing commissioned Eugene F. Soltes, a Harvard professor, to conduct another survey of the ODA Unit members. Only 71% of the ODA Unit members—1,016 respondents total—responded to the survey. The survey showed that 13.9% of the responding ODA Unit members perceived interference by Boeing management with their work on behalf of the FAA. Another 24.1% of the responding ODA Unit members were concerned about retaliation if they reported concerns. News reports from around the time of the survey disclosed that 5.6% of the responding ODA Unit members saw the retaliation situation at Boeing getting *worse*. *See* BOEINGAA220OH_00001119, at -1144.

302. This survey was important. Of the 71% of the ODA representatives who even felt comfortable responding to the survey, 43.6% perceived actual retaliation, were concerned about retaliation, or thought retaliation at Boeing was getting worse. Only 41% of the ODA Unit members reported their concerns about retaliation.

303. Instead of taking these unacceptable statistics as a wakeup call, Boeing management touted the survey as a success. Notwithstanding the fact that management informed the Aerospace Safety Committee that the 2022 survey was "not directly comparable" to the 2016 and 2019 surveys, BOEINGAA220OH_00001119, at -1144, management cited results from the prior

surveys and spun the 2022 survey results as evidence of improvement. The Aerospace Safety Committee passively accepted management's report and even adopted management's rosy spin on the ODA survey. According to the minutes for the August 30, 2022 Board meeting, the Aerospace Safety Committee Chair "noted the improvement in survey results" when he reported to the Board about the survey. BOEINGAA220OH_00000093, at -0096.

304. In the 2023 Chief Aerospace Safety Officer Report, Boeing paraded the fact that 49.4% of the survey respondents reported "[s]eeing improvement" in the culture around interference and integrity. Notably, the report did not disclose how much improvement the ODA Unit members purportedly saw, raising the inference that any claimed "improvement" was immaterial. The report also did not disclose whether the 49.4% of respondents "seeing improvement" believed Boeing's current culture created an acceptable environment for their ODA work. The report did not even explain why it disclosed the survey results for only 87.4% of the respondents (i.e., 49.4% for those seeing improvement, 24.1% for those feeling concerned about retaliation, and 13.9% for those perceiving interference, totals only 87.4% and leaves 12.6% unaccounted for). Management omitted the statistic that 5.6% of the survey respondents saw the retaliation situation getting worse from the Chief Aerospace Safety Officer Report and the presentation to the Aerospace Safety Committee that summarized the survey. *See* BOEINGAA220OH_00009346, at -9350; BOEINGAA220OH_00001119, at -1144. Boeing did not commission another ODA survey until after the Door Plug Blowout.

305. The 2023 CRM Report identified interference with ODA Unit members as a major risk. According to the report:

> The 2023 risk rating is a Likelihood of 3 and a Consequence of 3. The rating remains unchanged [from the 2022 CRM Report] and is the result of continued intense scrutiny of Boeing by the FAA and other global civil aviation regulators, with particular focus on the 737 MAX and 787 programs. The rating also reflects ongoing regulatory developments that impose new or modified compliance burdens on Boeing, *as well as a sustained level of compliance escapes, including allegations of interference against ODA unit members*.

BOEINGAA220OH_00003132, at -3154 (emphasis added).

306. The 2023 CRM Report identified "schedule pressure" as a potential factor "contribut[ing] to [ODA] interference risk." *Id.* at BOEINGAA220OH_00003156. Instead of slowing down production to give adequate time for inspections, management turned to "better integrating scheduling and planning processes to reduce schedule pressures[.]" *Id.* In other words, management pretended that it could squeeze blood from a stone and engineer more than 24 hours in a day through better coordination. The fact that scheduling pressure was affecting ODA Unit member retaliation in late 2022—when Boeing was producing approximately twenty-five 737 MAX airplanes a month, *see* BOEINGAA220OH_00007020, at -7024—was a red flag showing that the Board-approved, rapidly ramping production schedule could not be met in compliance with FAA regulations.

307. Management retaliation was a major reason why the Speak Up program was ineffective. Boeing did not permit employees to submit Speak Up reports outside

of the Company's firewall. Accordingly, employees had to swipe their ID badges at a Boeing computer terminal to submit a Speak Up report. This practice, coupled with the negative treatment employees received after filing reports,[34] contributed to the perception that Speak Up reports were not anonymous.

308. Boeing documents confirmed the lack of anonymity. BPI-6772 was the Boeing Business Process Instruction addressing the Speak Up program. Although the BPI described Speak Up as "a process for confidential and anonymous reporting," the BPI also disclosed that confidentiality "cannot be guaranteed." BOEINGAA220OH_00009396 (Apr. 27, 2022 version), at -9398; BOEINGAA220OH_00009410 (Jan. 30, 2023 version), at -9412; BOEINGAA220OH_00000681 (July 7, 2023 version), at -0683.

309. The confirmation that Speak Up reports might not be anonymous seriously undercut the program. On December 7, 2023, the Aerospace Safety Committee received a report indicating that the volume of Speak Up reports in 2023 was expected to be less than 2022. BOEINGAA220OH_00001821, at -1823, -1826. This anticipated decrease was a clear indication that Speak Up was ineffective in encouraging more reporting.[35]

310. The Speak Up program led to even more retaliation against Boeing employees who reported problems. Before the Speak Up program, Meyers routinely

[34] According to a Boeing employee that the NTSB interviewed, "we've got a lot of people that won't, that are not going to speak up, because when they do, they've been burned by a manager, they've been moved, you know, relocated, pushed out."

[35] In contrast, after regulatory, congressional, and public pressure lowered the risk of speaking out, employee Speak Up reports in 2024 were up 500% over 2023. *See infra* ¶ 403.

submitted complaints that went to Boeing's investigations department. Boeing's practices did not change in response to those complaints, but at least Boeing managers left him alone. After Meyers began submitting reports through the Speak Up program, senior management fixed negative attention on him as someone who was routinely submitting reports about problems. Boeing management in Chicago assigned Meyers an "advisor" to oversee his reporting. Meyers was not aware of anyone else previously receiving that type of advisor. Boeing eventually forced Meyers out.

311. As late as June 2024, management was reporting to the Audit Committee that retaliation was a "[t]op [r]eported [a]llegation[]" at Boeing. BOEINGAA220OH_00009094, at -9100. As late as July 2024, the DOJ was insisting that Boeing "commit[] to following applicable anti-retaliation and whistleblower protection laws, and to appropriately train[] employees on such laws" appurtenant to the Company's commitment to maintain an "effective system for internal and, where possible, confidential reporting[.]" BOEINGAA220OH_00008728, at -8789. The DOJ's insistence on this point indicated that the Board still had not addressed Boeing's culture of retaliation.

* * *

312. The Board-approved production schedule was the real culprit for the numerous unsafe and illegal practices in which Boeing and Spirit employees engaged. The Board's unwillingness to require a change in the schedule led to numerous safety incidents in 2023 and 2024.

VII. BOEING'S UNSAFE PRODUCTION SCHEDULE RESULTS IN NUMEROUS SAFETY INCIDENTS IN 2023.

313. Boeing's unsafe production schedule led to numerous safety incidents. In January 2023, the FAA forced Boeing to halt deliveries of the 787 Dreamliner due to concerns that Boeing had not properly documented structural issues. Boeing stated: "In reviewing certification records, Boeing discovered an analysis error by our supplier related to the 787 forward pressure bulkhead[.]" The FAA emphasized: "Deliveries will not resume until the FAA is satisfied that the issue has been addressed. . . . The FAA is working with Boeing to determine any actions that might be required for recently delivered airplanes." Chris Isidore, *Boeing forced to halt 787 Dreamliner deliveries once again*, CNN (Feb. 24, 2023), https://www.cnn.com/2023/02/24/business/boeing-787-dreamliner-halt/index.html#:~:text=%E2%80%9CDeliveries%20will%20not%20resume%20until,required%20for%20recently%20delivered%20airplanes.%E2%80%9D. This delivery halt lasted until March 2023.

314. In February 2023, a new Southwest Airlines Boeing 737 MAX plane, on one of its first commercial flights, experienced an automatic stabilizing system malfunction. The pilots were forced to make an emergency landing shortly after takeoff.

315. In April 2023, an Alaska Airlines 737 MAX plane, with eight hours of total flight time, was grounded due to a problem with a fire detection system.

316. In June 2023, Boeing announced another FAA-mandated Dreamliner delivery delay (this time lasting approximately one month) due to a "nonconforming

condition related to a fitting on the horizontal stabilizer." Dominic Gates, *Boeing finds another quality problem on 787, delaying deliveries again*, The Seattle Times (June 6, 2023), https://www.seattletimes.com/business/boeing-aerospace/boeing-discovers-another-quality-flaw-on-787-delaying-deliveries-again/.

317. On August 7, 2023, the FAA issued an airworthiness directive for the 737 MAX due to "inadequate electrical bonding and grounding which can lead to unreliable operation of aircraft systems *and potential loss of the aircraft*." Foundation for Aviation Safety, Boeing 737 MAX Airplanes Found to Have Significant Electrical Problem That Could Result in Loss of Safe Flight, EIN PRESSWIRE (Aug. 9, 2023), https://www.kget.com/business/press-releases/ein-presswire/648700770/boeing-737-max-airplanes-found-to-have-significant-electrical-problem-that-could-result-in-loss-of-safe-flight/ (emphasis added). As referenced above, later in August 2023, Boeing identified hundreds of misaligned and duplicated holes in Spirit fuselages. *See supra* ¶ 184.f.

318. In November 2023, an engine on a just-delivered United Airlines 737 MAX plane failed at 37,000 feet.

319. In December 2023, Boeing issued a Multi-Operator Message ("MOM") urging operators of 737 MAX planes to inspect the tie rods that control rudder movement for possible loose hardware. Boeing issued the directive after learning that an operator had discovered a bolt with a missing nut during maintenance on the aircraft. Boeing subsequently discovered an additional undelivered aircraft with a nut that was not properly tightened.

320. Of all the safety incidents in 2023, the most troubling incident related to the anti-icing system on the 737 MAX. Instead of fixing the problem, Boeing rushed to get its planes back in the air.

321. In June 2023, the FAA received evidence that the anti-icing system on 737 MAX planes could overheat. According to the FAA's airworthiness directive, this condition could lead to forced off-airport landing and injury to passengers.

322. Instead of fixing the issue (which affected planes currently in operation) or grounding any 737 MAX planes, Boeing asked pilots to limit the use of the anti-icing system in certain conditions to avoid damage that could result in loss of control of the airplane. Boeing's response led some pilots to use sticky notes to remind them of the anti-icing system issue and cell phones as timers to tell them when to turn the anti-icing system off. Below is a picture of such a sticky note used by one pilot.

323. Boeing also sought a safety exemption from the FAA for the anti-icing problem. As part of the public comment process on that exemption, the Foundation

for Aviation Safety (which is affiliated with Pierson's prior work) raised serious concerns about Boeing's safety exemption request. As the Foundation explained:

> The engine inlets are constructed of composite material that could be overheated within 5 minutes by the engine inlet anti-ice system, resulting in loss of structural integrity during normal operating conditions within the flight envelop of the airplane. If the composite material is damaged, the engine inlet can depart the airplane and cause catastrophic damage to the airplane, or cause excessive drag that could result in an off field landing, possibly in the ocean on an extended range flight. The FAA has previously determined this failure condition is "Catastrophic" as shown in an Immediately Adopted Airworthiness Directive1 (AD) published in August of 2023, intended to address the same design flaw that is the subject of the exemption request. **The unsafe condition is present in over 1,300 MAX airplanes currently in service.**

324. Richard Conover, a former U.S. Navy pilot, concluded that Boeing's proposed recommendation of turning the anti-icing system off rather than fixing the issue was "flippant" and "another catastrophe waiting to happen."

325. The Board knew about the problems with the 737 MAX's anti-icing system. On December 8, 2023, BCA management gave the Board a presentation that identified the "[e]ngine anti-ice time-limited exemption as a [k]ey [r]isk[.]" BOEINGAAOH_00007788, at -7792.

326. Boeing ultimately caved to intense public scrutiny and agreed to withdraw the exemption request. But the Company did not ground any planes with the defectively-designed anti-icing system, highlighting the Board's commitment to profits over safety.

VIII. IN 2024, THE DOOR PLUG BLOWOUT AND ITS AFTERMATH EXPOSE THE INDIVIDUAL DEFENDANTS' BREACHES OF FIDUCIARY DUTY.

A. THE DOOR PLUG BLOWOUT BRINGS BOEING'S ONGOING AND EXTENSIVE SAFETY AND COMPLIANCE ISSUES TO THE FORE.

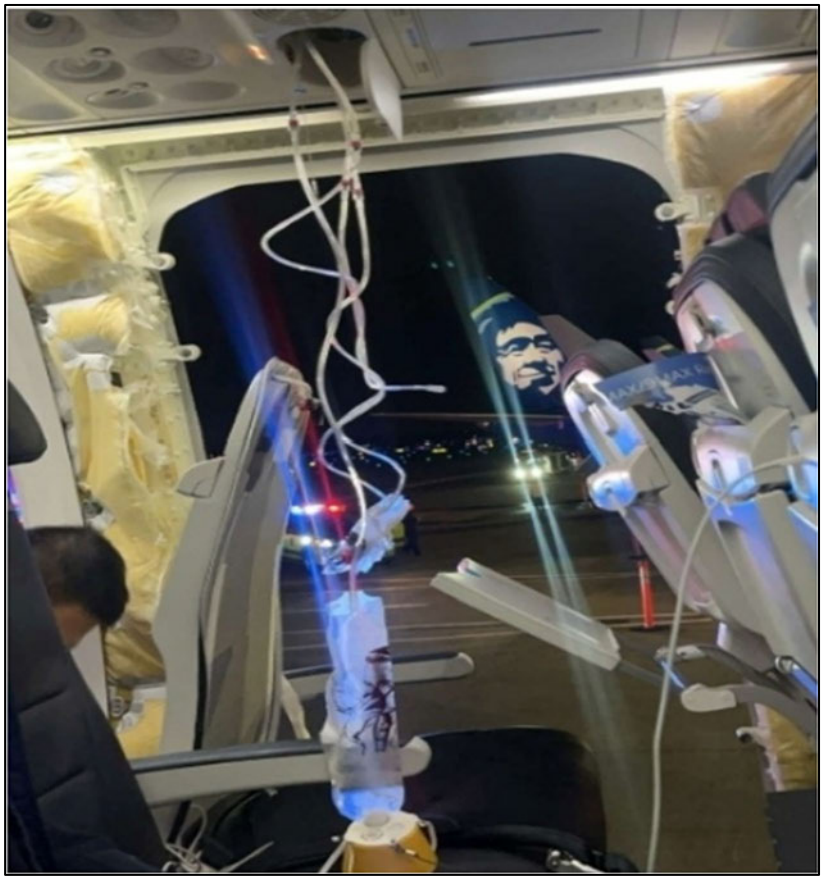
327. On January 5, 2024, Boeing's culture of non-compliance and unsafe manufacturing exploded back into the headlines. At 5:07 p.m. PST (1:07 a.m. UTC on January 6, 2024), Alaska Airlines Flight 1282 left Portland International Airport, bound for Ontario, California.[36] The plane for the flight was a Boeing 737 MAX 9, registered as "N704AL." The flight had 171 passengers and 6 crew members.

328. Shortly after takeoff, while the plane was at approximately 16,000 feet, there was a loud bang. A gaping hole opened in the cabin when the left mid-cabin door plug blew out (previously defined as the "Door Plug Blowout").[37] As the door plug blew out of the plane, the passenger cabin suffered a rapid decompression, which was so strong that it caused the cockpit door to blow off its mountings as well. The rapid outflow of air from the flight deck pushed the captain's head into the heads-up display. His headset pushed up, nearly falling off his head. The first officer's headset came off completely. Seven passengers and one flight attendant were injured. Thankfully, no one was sitting in the row where the door plug blew out. The pressure tore off pieces of seats in the rows immediately next to the missing door plug. All passengers and crew survived the incident. Boeing's reputation was not so fortunate.

[36] To more clearly show the time between events, this Complaint uses UTC for certain events.

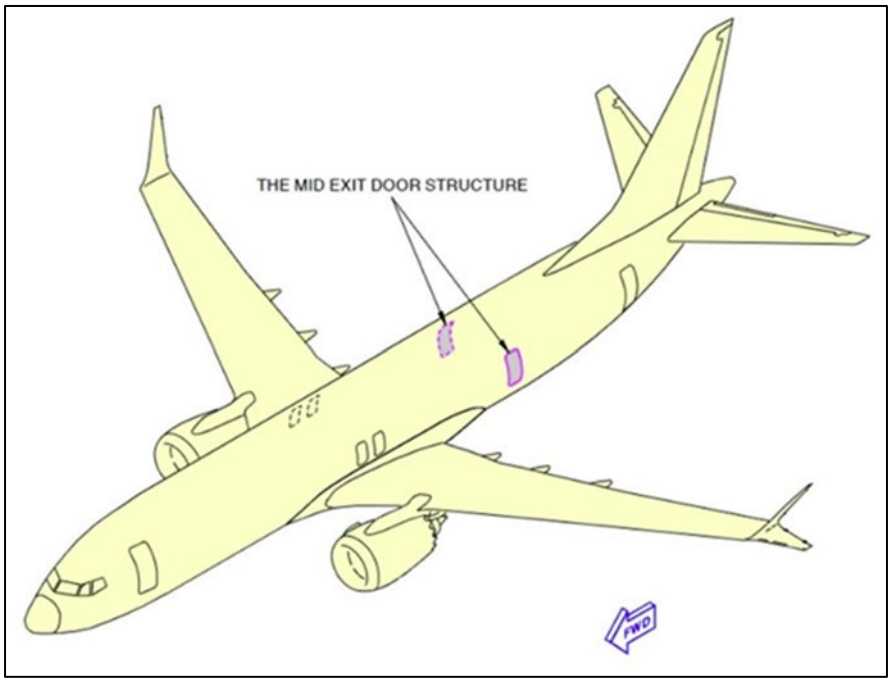
[37] A door plug is not a small bolt or rubber plug. It is as large as a full-sized exit door. Certain airline customers have an operating door in this opening. Other airline customers elect to close the opening with a plug that does not operate in the ordinary course.

329. The plane made an emergency landing back in Portland, where a passenger took the following picture of the missing door plug.



330. The following photo shows the size of the hole that resulted when the door plug flew out the side of the plane.

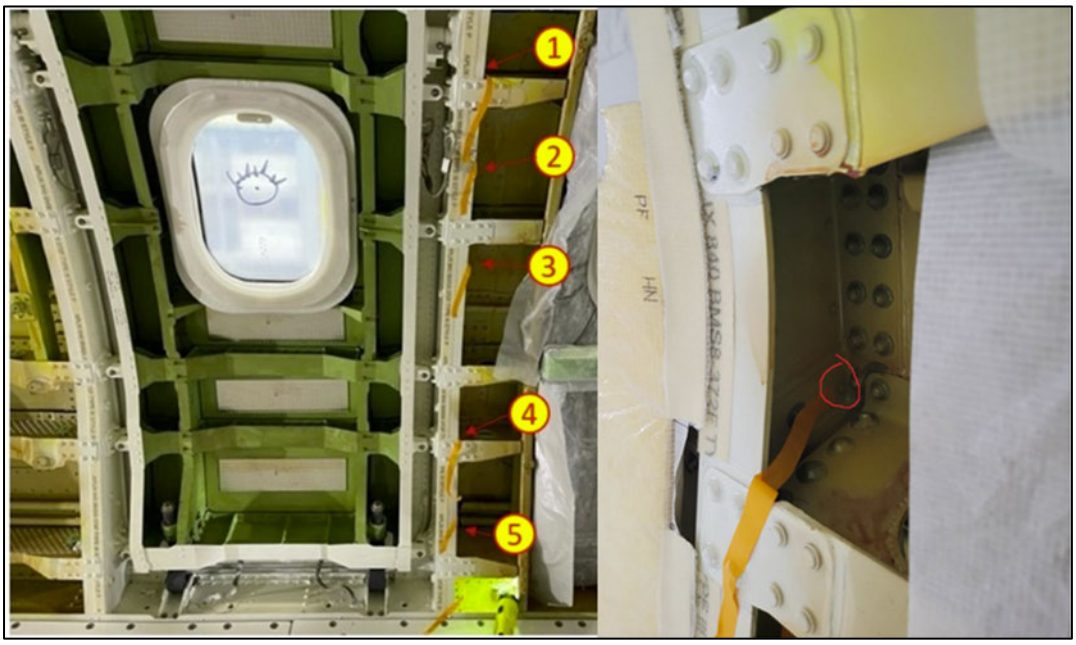
331. The following diagram shows the location of mid-cabin door plugs on planes like the one involved in the incident.



332. The Door Plug Blowout was the direct result of Defendants' breaches of duty, aggressive production schedule, and pushing production over safety.

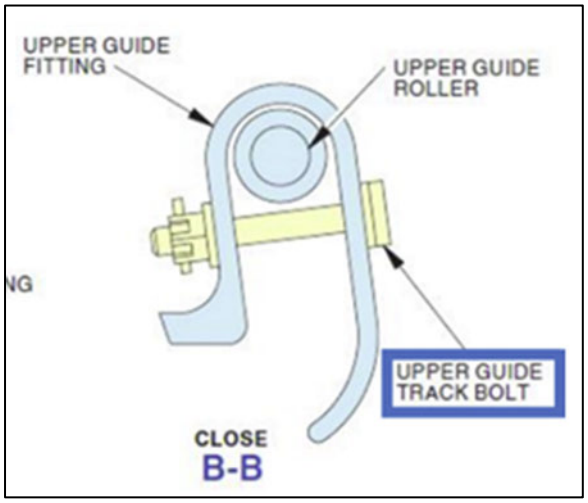
Specifically, Spirit's ever-present quality issues and Boeing's dangerous and noncompliant practices regarding traveled work, rework, and recordkeeping (including recordkeeping regarding removals) were major contributors to the Door Plug Blowout. The Board knew about these unsafe and illegal practices but did nothing.

333. Spirit made the defective fuselage for N704AL. Spirit shipped the fuselage to Boeing on August 20, 2023. Boeing workers spotted damaged rivets in five locations soon after the fuselage entered Boeing's plant. On September 1, 2023, Boeing employees filed a report about the damaged rivets and even photographed them.



334. Because of the highly managed timing sequence of the aircraft assembly process, and high pressure to meet the Board-approved production schedule, there was neither adequate time nor resources to perform an immediate fix because the

fuselage was destined for its initial assembly sequence. On September 6, 2023, Spirit employees performed rework on the damaged rivets and stamped the work as complete. A Boeing inspector found the work unacceptable and removed the stamp. Spirit disputed that the work was unacceptable, and the dispute continued for approximately a week. Eventually, on September 19, 2023, Boeing employees opened the door plug and Spirit personnel repaired the rivets. Boeing employees then closed the door plug, but they did not replace the bolts that secured it. The yellow object in the following illustration shows the type of upper bolts that were not replaced in two locations in the door plug assembly:



335. According to Boeing, the employees who performed the rework and failed to replace the bolts did not create records in connection with their actions. Nonetheless, a photo taken by a Boeing employee at the time shows the absence of retaining bolts after the door plug was reinstalled.

336. Prior to the blowout, Boeing had received several Speak Up reports identifying problems with Boeing's part removal process. In fact, a Boeing employee submitted a Speak Up report about the very same aircraft involved in the Door Plug Blowout months before it occurred. None of these reports went to the Board, and Boeing implemented no changes to the removal process prior to the Door Plug Blowout.

337. After the door plug blew out, it fell 16,000 feet into an Oregon backyard. Investigators recovered the door plug.[38]

They did not find any bolts—because the bolts were not on the plane when it took off.

338. Boeing employees who worked at the 737 MAX factory around the time of the Door Plug Blowout revealed the state of dysfunction that led to the Door Plug Blowout. According to safety advocate Pierson, "people that we talk to are telling us that unfortunately the factory is in . . . worse shape than it was[,] you know[,] before the planes were built that crashed [i.e., the planes involved in the MAX Crashes]." Another anonymous whistleblower stated that the 737 MAX production system was a "rambling, shambling, disaster waiting to happen." Similarly, a retired Boeing employee who worked with the 737 MAX and was on the factory floor stated that

[38] Investigators found that the door plug was lubricated with petroleum jelly, instead of an approved lubricant. When the NTSB visited Spirit's factory on January 17, 2024, regulators learned that Spirit employees regularly used petroleum jelly and dish soap to lubricate parts—neither of which were FAA approved.

employees were under "immense pressure which affected staff morale and work quality."

B. THE FAA HALTS BOEING'S PLANS TO RUSH ITS PLANES BACK INTO SERVICE.

339. Approximately four hours after the Door Plug Blowout, at 5:10 UTC on January 6, 2024, the FAA announced that the NTSB would investigate the Door Plug Blowout. Less than three hours later, at 7:55 UTC, Alaska Airlines (not Boeing) announced that it would temporarily ground its fleet of sixty-five Boeing 737 MAX 9 aircraft for inspections. At 17:54 UTC, the FAA (again, not Boeing) ordered the grounding of 171 Boeing 737 MAX 9 aircraft operated by U.S. airlines or in U.S. territory. The FAA also issued an Emergency Airworthiness Directive requiring operators to inspect aircraft before further flight. Also on January 6, 2024, United Airlines suspended service of all its 737 MAX 9 aircraft.

340. Consistent with its approach to the MAX Crashes and the June 2023 engine anti-icing system issue on the 737 MAX, Boeing worked frantically to get, and keep, its planes in the air. Boeing did not recommend that operators ground any planes beyond those the FAA or the operators themselves had grounded. On January 8, at *2:12 a.m.* local time, Boeing issued an MOM with instructions for inspecting the 737 MAX 9 fleet before returning the planes to service. BOEINGAA220OH_00003414. Boeing initially thought the Door Plug Blowout might have been caused by loose bolts—presumably because Boeing had discovered a loose bolt issue the month before.

341. The FAA swiftly put the brakes on Boeing's plans to rush the 737 MAX 9 back into service. On January 9, 2024, the FAA announced:

> Every Boeing 737-9 MAX with a plug door will remain grounded until the FAA finds each can safely return to operation. To begin this process, Boeing must provide instructions to operators for inspections and maintenance. Boeing offered an initial version of instructions yesterday which they are now revising because of feedback received in response. Upon receiving the revised version of instructions from Boeing the FAA will conduct a thorough review.

342. On January 10, 2024, Boeing's CEO admitted that Boeing had made a "mistake" that led to the Door Plug Blowout. Officer Defendant Calhoun later described the Door Plug Blowout as a "quality escape," as if this major safety failure were a small and routine problem.

343. The same day, the FAA informed Boeing that it had launched a formal investigation (the "FAA Special Audit") into Boeing's quality control practices due to the Door Plug Blowout and "additional discrepancies." According to the FAA, those problems indicated "that Boeing may have failed to ensure its completed products conformed to its approved design and were in a condition for safe operation in accordance with quality system inspection and test procedures."

344. On January 11, the FAA publicly announced the FAA Special Audit. In response, Boeing announced that it would cooperate with the FAA and NTSB investigations, but it did not identify any additional steps the Company planned to take to address the issue. The FAA Special Audit ultimately took six weeks.

345. On January 12, the FAA announced "new and significant actions to immediately increase its oversight of Boeing production and manufacturing" due to its concerns Boeing lacked sufficient quality oversight. These potential actions included the potential revocation of Boeing's ODA and the appointment of an independent third-party monitor. The FAA explained:

> It is time to re-examine the delegation of authority and assess any associated safety risks. . . . The grounding of the 737-9 and the multiple production-related issues identified in recent years require us to look at every option to reduce risk. The FAA is exploring the use of an independent third party to oversee Boeing's inspections and its quality system.

346. On January 13, Alaska Airlines announced that it had "engaged in a candid conversation with Boeing's CEO and leadership team to discuss their quality improvement plans to ensure the delivery of the highest quality aircraft off the production line for Alaska." Alaska Airlines further announced it would "initiate and enhance [its] own layers of quality control to the production of [its] airplanes." Alaska Airlines CEO Ben Minicucci told the press: "We're sending our audit people to audit their quality control systems and processes to make sure that every aircraft that comes off that production line, that comes to Alaska has the highest levels of excellence and quality."

347. On January 15, Boeing admitted that the Door Plug Blowout and "recent customer findings make clear that we are not where we need to be" with respect to quality control. Boeing then disclosed some limited steps it planned to take to address

the Company's quality control systems. Notably, Boeing did not identify any plans to slow 737 MAX production.

348. On January 16, Boeing appointed Admiral Kirkland H. Donald, USN (Ret.), as a "special advisor to Boeing President and CEO Dave Calhoun" to review Boeing's quality control systems.

C. ADDITIONAL WHISTLEBLOWERS COME FORWARD.

349. The regulatory, media, and public scrutiny following the Door Plug Blowout emboldened certain current and former Boeing employees to expose their experiences with Boeing's toxic culture. On January 15, 2024, an anonymous Boeing employee identified the likely true reason for the issue: as the NTSB suspected, the Door Plug Blowout occurred because Boeing failed to install bolts on the door plug. The whistleblower's anonymous comment on a *Leeham News and Analysis* article described how Boeing's decision to repeatedly put speed over safety led to the Door Plug Blowout. *"Unplanned" removal, installation inspection procedure at Boeing,* LEEHAM NEWS AND ANALYSIS (Jan. 15, 2024), https://leehamnews.com/2024/01/15/unplanned-removal-installation-inspection-procedure-at-boeing/. The post stated in part:

> Current Boeing employee here—I will save you waiting two years for the NTSB report to come out and give it to you for free: the reason the door blew off is stated in black and white in Boeings own records. It is also very, very stupid and speaks volumes about the quality culture at certain portions of the business.

> [W]hy did the left hand (LH) mid-exit door plug blow off of the 737-9 registered as N704AL? Simple—as has been covered in a number of articles and videos across aviation channels, there are 4 bolts that prevent the mid-exit door plug from sliding up off of the door stop fittings that take the actual pressurization loads in flight, and these 4 bolts were not installed when Boeing delivered the airplane, our own records reflect this.

350. On January 19, a lawyer representing an undisclosed Boeing quality engineer wrote a letter to FAA Administrator Mike Whitaker ("Whitaker"). The letter detailed the shortcuts Boeing took to increase production rates of the Dreamliner and 777 airplanes. Those shortcuts created "serious safety issues" that allowed for potentially "catastrophic" structural flaws on almost 1,000 Dreamliners and 400 777s currently flying. The quality engineer "repeatedly reported" to Boeing management "serious concerns" about Boeing's current production and quality control processes, but Boeing "dismissed and ignored" his safety complaints. The letter further stated that Boeing's response, or lack thereof, to the quality engineer's grave safety concerns were "reflective of a company-wide pattern of prioritizing speed of production and delivery over the investigation and remediation of significant safety risks and of discouraging employees from raising safety concerns." The Boeing whistleblower wished to remain anonymous in addressing his allegations to the FAA until protections were in place, as he had already faced harassment and retaliation from Boeing officials in response to raising safety concerns.

D. THE FAA IMPOSES THE SEVERE PENALTY OF CAPPING 737 MAX PRODUCTION.

351. On January 21, 2024, the FAA announced that several airlines—but not Boeing—had identified additional issues with Boeing aircraft. The FAA announced: "some operators have conducted additional inspections on the 737-900ER mid-exit door plugs and have noted findings with bolts during the maintenance inspections." As a result, the FAA recommended that operators inspect the fuselage plug assembly in Boeing 737-900ER aircraft. On January 24, the FAA announced its final 737 MAX 9 door plug inspection criteria and increased oversight measures related to Boeing's quality control.

352. Also on January 24, the FAA imposed a severe penalty. It rejected Boeing's plans to increase 737 MAX production. FAA Administrator Whitaker stated:

> However, let me be clear: This won't be back to business as usual for Boeing. We will not agree to any request from Boeing for an expansion in production or approve additional production lines for the 737 MAX until we are satisfied that the quality control issues uncovered during this process are resolved.

By refusing to authorize an expansion in Boeing's 737 MAX production, the FAA effectively capped Boeing's 737 MAX production at thirty-eight planes a month (the "FAA Production Cap").

353. Notwithstanding the seriousness of the Door Plug Blowout and the FAA Production Cap, Boeing management and the Board went right back to its production-first playbook. Management told the Board to assume only a three-month delay in increasing production numbers. BOEINGAA220OH_00007934, at -7935.

Management also predicted the production of sixty-three 737 MAXs per month by the fourth quarter of 2026. *Id.* at BOEINGAA220OH_00007943.

E. THE NTSB ISSUES A PRELIMINARY REPORT.

354. On February 6, 2024, the NTSB issued an Aviation Investigation Preliminary Report for accident number DCA24MA063 (i.e., the Door Plug Blowout). The preliminary report provided the timeline of the accident and the history of the door plug involved in the incident. The preliminary report found evidence, including photos from September 2023, that the four retaining bolts were missing when Boeing employees closed the door plug on September 19, 2023.[39]

F. BOEING FACES DÉJÀ VU ON SAFETY PROBLEMS.

355. The Door Plug Blowout turned the public's eyes back to a toxic culture that remained unchanged after the MAX Crashes. A heading in a January 30, 2024 *Vox* article stated: "Boeing's biggest defect? Its corporate culture." Whizy Kim, *How Boeing put profits over planes*, VOX (Jan. 31, 2024) (heading formatting removed.) Sadly, that heading was as apt in 2024 as it was in 2018 and 2019.

356. In the aftermath of the Door Plug Blowout, numerous additional problems with Boeing planes soon came to light. On February 4, 2024, Boeing disclosed manufacturing flaws in rivet holes in approximately fifty undelivered 737 MAX planes. Boeing blamed Spirit, but the disclosure showed Boeing's failure to oversee Spirit and ensure quality. On February 6, pilots reported stuck rudder pedals

[39] Several of the photos in this Complaint first appeared in the NTSB preliminary report.

on a 737 MAX 8 when they attempted to land—leading to an NTSB investigation of the 737 MAX 8.

357. On February 19, 2024, the Audit Committee met. Agenda Item 6 for the meeting was the 2024 Audit Plan. The presentation for that agenda item explained: "We have identified a significant risk and fraud risk related to the 737 program that we expect will evolve during 2024 as new facts and circumstances become available related to the FAA's quality control system investigation and Boeing's engineering solution for the anti-ice system." BOEINGAA220OH_00003314, at -3328.

358. On February 20, 2024, the Board met to review a "Financial Update" presentation. The presentation flagged potential delays in Boeing's production rate increase as the biggest risk for the Company, not quality or safety issues. BOEINGAA220OH_00007934, at -7938. That profits-over-safety perspective was unchanged from the Board's perspective in 2018 and 2019.

359. On March 7 and 8, 2024, Barnett was deposed in connection with his retaliation lawsuit. Barnett testified that the Door Plug Blowout vindicated his attempts to push for safety because the Door Plug Blowout related to safety issues that he addressed while at Boeing—before the MAX Crashes. Barnett was found dead on March 9, 2024.

360. On March 11, 2024, Officer Defendant Calhoun addressed Boeing employees. In his address, Calhoun recognized Boeing's routine use of traveled work. Calhoun admitted: "It's uncomfortable. It creates opportunities for failure."

361. The same day, a Boeing 787 was involved in another major incident. LATAM Airlines Flight 800 was traveling from Sydney, Australia, to Santiago, Chile, with a stop in Auckland, New Zealand, when it suddenly went into a midair nosedive. The dive threw passengers around the cabin. Some hit the ceiling, breaking overhead panels. Some flew back four or five rows. Upon landing, dozens of passengers were rushed to the hospital. One was in serious condition. Approximately fifty passengers were injured.

362. Regulators preliminarily concluded that the dive on Flight 800 was caused by a flight attendant hitting an exposed switch while serving a meal to the pilot. The switch activated a motorized feature to push the pilot's seat closer to the controls. The switch was supposed to be covered and was not supposed to be used when the pilot was sitting. This appeared to be yet another quality issue because the switch was likely left uncovered during manufacturing. Reminiscent of the information deficit that occurred with the MCAS, Boeing had not informed airlines or pilots of this potential problem before the incident. According to commentators, this incident "came at a horrible time for a company grappling with some severe damage to its already-battered reputation."

G. THE FAA EXPERT PANEL RELEASES ITS REPORT.

363. In the aftermath of the MAX Crashes, Congress passed the 2020 Aircraft Certification, Safety, and Accountability Act. Section 103 of the Act provided for the creation of expert panels to review the safety management processes and their effectiveness for each holder of an ODA for the design and production of transport

airplanes (like Boeing). From March 2023 through February 2024, one such expert panel evaluated Boeing's processes (the "FAA Expert Panel"). The FAA Expert Panel reviewed Boeing documents, visited Boeing facilities, and interviewed Boeing employees. On February 26, 2024, the panel issued its report (the "FAA Expert Report").

364. The FAA Expert Report identified twenty-seven areas in which Boeing had notable safety issues, including: (i) the fact that managers who determined employees' compensation also oversaw their safety concerns; (ii) at every level, Company employees were ignorant of the Company's safety practices and procedures, did not understand their roles in ensuring safety, and were skeptical that Boeing's safety programs would last; (iii) the absence of a consistent and clear process for employees to report safety concerns; (iv) SMS documentation that was complex and constantly changing; and (v) turnover of key staff who were responsible to oversee Boeing's certification processes.

365. The FAA Expert Panel found that, despite senior management paying lip service to safety, Boeing employees (including ODA representatives) "questioned whether Boeing's safety reporting systems would function in a way that ensures open communication and non-retaliation":

> The Expert Panel learned managers that are authorized to oversee employee performance evaluations, salary decisions, promotions, and disciplinary actions might also be tasked with investigative duties in the SMS framework. This arrangement could lead to a manager investigating a report within their own reporting chain, potentially compromising Boeing's commitment to a non-retaliatory and impartial environment. This dual responsibility and authority create, among some employees, hesitation in reporting safety concerns for fear of retaliation.

Importantly, the FAA Expert Panel found that Boeing's ODA program created "opportunities for retaliation to occur, particularly with regards to salary and furlough ranking." "Some [ODA representatives] reported changes in behavior from their leadership and unrequested changes in assignments" when they raised safety concerns that resulted in unfavorable decisions for the Company. "Some interviewees indicated discussions between [ODA representatives] and the applicant were perceived as interference when the conversation around the showing of compliance became contentious."

366. The FAA Expert Panel also found that "Boeing SMS procedures are not structured in a way that ensures all employees understand their role in the company's SMS. The procedures and training are complex and in a constant state of change, creating employee confusion especially among different work sites and employee groups." Given the complexity of Boeing's reporting systems and employee distrust in the anonymity of the Speak Up program, Boeing employees typically defaulted to reporting safety issues to their managers. However, "[w]hen employees report through the management chain, the reports are not consistently submitted into Boeing's SMS." The complexity of Boeing's SMS program also led FAA employees

and managers to express concerns to the FAA Expert Panel "about the sustainability of Boeing's SMS."

367. The FAA Expert Panel criticized Boeing for "a lack of awareness of safety-related metrics at all levels of the organization, and significant skepticism expressed by Boeing employees regarding the lasting power of the SMS implementation." According to the panel, an effective SMS required, at a minimum, employee awareness of their role in the SMS and "a proficiency adequate to perform their SMS-related roles and responsibilities, even if their daily activity doesn't use SMS or safety culture terminology." However, "Boeing's SMS documents [did] not effectively result in [an] understanding by the average employee of their role in Boeing's SMS." The FAA Expert Panel "*could not identify a consistent and clear safety reporting channel or process* within the business unit, nor a successful process in which the employee is informed of the outcome of the report." (Emphasis added.) The lack of awareness of safety-related metrics was present *at all levels of the organization*. In other words, the Individual Defendants failed to implement the *foundational component* of a SMS—ensuring that Boeing's employees had a baseline understanding of their SMS responsibilities.

368. Although the FAA Expert Panel was tasked with investigating Boeing's culture rather than specific safety incidents, "serious quality issues with Boeing products became public" during the panel's investigation. "These quality issues amplified the Expert Panel's concerns that the safety-related messages or behaviors are not being implemented across the entire Boeing population."

369. The FAA Expert Panel found that Boeing leadership focused its cultural efforts on "Speak, with little or no attention given to Seek or Listen." The panel was available to make specific recommendations on Boeing's safety culture, SMS, and ODA program; Boeing declined. This decision showed that Boeing was willing to promote safety only if it did not interfere with Boeing's existing systems. The panel explained: "During interviews, Boeing employees highlighted that SMS implementation was not to disrupt existing safety program or systems."

370. Boeing also focused on counting the number of employees who received SMS training rather than whether the employees were learning: "No measures of competency were included in the training measures." The Company's proxy statement for the annual meeting of stockholders exemplified this finding. The first "safety-related goal" listed for each of Boeing's business segment leaders in that document was the percentage of employees in that person's business segment who "completed Safety Management System training[.]" *See* The Boeing Co., Proxy Statement (Sched. DEF14A) at 64–65 (Apr. 5, 2024).

371. The FAA Expert Report commented on the negative effects of the employee turnover Boeing promoted to save money during the COVID-19 pandemic: "Similarly, sufficient, relevant, and/or current experience in the manufacturing and engineering arenas decreased as the more seasoned staff left or took retirement during the pandemic."

372. The FAA Expert Report also commented on Boeing policies that created a disconnect between Boeing's products and those who would use them:

> [In BCA's earlier planes,] BCA's human factors in flight deck design and operations were the gold standard with pilots, engineers, product support, and human factors specialists. These human factors specialists worked closely and collectively in the Seattle area. Since then, the role of human factors and its influence eroded due to a series of administrative decisions at Boeing, which includes reorganization, decentralization, downsizing, and relocating the company's headquarters.

"Concerns were expressed during interviews that the chief pilot position does not reside within the organizational structure affording it the authority and responsibilities commensurate with the position equivalent to the chief engineer."

373. The FAA Expert Panel raised concerns that certain purported safety measures existed only on paper with no attempts at actual implementation and/or with no evaluation to determine whether the measures were succeeding. According to the report:

> Boeing undertook many measures to ensure the capability of its ODA unit to make reasonable and appropriate decisions regarding its delegated functions. However, Boeing did not provide the Expert Panel with metrics or KPIs relative to those initiatives when asked for such data. Boeing did not produce quantifiable measures which led Expert Panel members to conclude Boeing is not actively monitoring the efficacy of these initiatives. Consequently, the Expert Panel cannot ascertain the tangible impact of Boeing's measures or to what degree Boeing instilled a commitment to safety above all other priorities among its employees supporting ODA functions.

374. The FAA Expert Report expressed concern that, while Boeing made certain reporting structure changes on paper in a purported attempt to insulate ODA representatives from operational manager interference, in practice, the ODA representatives continued to report to the same operational managers.

375. The FAA Expert Panel also raised concerns that Boeing was striking agreements with FAA personnel to overrule negative determinations by ODA representatives without the representatives' knowledge. According to the report, "instances were described where Boeing, as the applicant, had agreements with FAA management personnel that overruled the OMT and UM decision without their consultation."

376. The FAA Expert Report was simply another chronicle of the unsafe and illegal practices that resulted from the Board's prioritization of the production schedule above all else.

H. BOEING FACES FURTHER HEIGHTENED SCRUTINY FROM LAWMAKERS AND REGULATORS.

377. On March 4, 2024, the FAA publicly announced that it had completed the FAA Special Audit. The FAA provided a summary of its extensive findings, but it declined to disclose all of its findings due to the ongoing investigation concerning the Door Plug Blowout.

378. Among its findings, the FAA outlined that it "found multiple instances where [Boeing and Spirit] allegedly failed to comply with manufacturing quality control requirements." Specifically, "[t]he FAA identified non-compliance issues in Boeing's manufacturing process control, parts handling and storage, and product control." The FAA gave Boeing ninety days from March 1 to submit a corrective action plan.

379. At a news conference, FAA Administrator Whitaker described the FAA Special Audit's findings as follows:

> It wasn't just paperwork issues, and sometimes it's the order that work is done. . . . Sometimes it's tool management—it sounds kind of pedestrian, but it's really important in a factory that you have a way of tracking tools effectively so that you have the right tool and you know you didn't leave it behind. So it's really plant floor hygiene, if you will, and a variety of issues of that nature.

380. On March 11, 2024, *The New York Times* published an article about the FAA Special Audit. Mark Walker, *F.A.A. Audit of Boeing's 737 Max Production Found Dozens of Issues*, THE N.Y. TIMES (Mar. 11, 2024), https://www.nytimes.com/2024/03/11/us/politics/faa-audit-boeing-737-max.html (hereinafter, "Walker, *NYT* (Mar. 11, 2024)"). According to a presentation *The New York Times* reviewed, the FAA had deployed twenty auditors at Boeing's Renton, Washington facility and roughly half a dozen at Spirit's Wichita, Kansas facility. For the portion of the audit focused on Boeing, the FAA had conducted 89 product audits reviewing aspects of the production process. Boeing failed 33 out of the 89 audits—more than one third—with a total of 97 alleged instances of noncompliance. The FAA Special Audit found many instances where Boeing had failed to follow "an approved manufacturing process, procedure or instruction," while other failures dealt with quality-control documentation.

381. Part of the audit dealt with the door plug involved in the Door Plug Blowout. According to the presentation *The New York Times* reviewed, Boeing had failed that audit due to a lack of inspection and quality-control documentation. But the exact findings of that audit were not detailed in the FAA presentation. *The New York Times* further reported that the failure to replace bolts that caused the Door

Plug Blowout may have been part of a systemic problem. Walker, *NYT* (Mar. 11, 2024).

382. The FAA Special Audit also investigated whether Boeing's employees understood the Company's quality-control processes. According to *The New York Times*, the average understanding score of six engineers who the FAA interviewed was only 58%. *Id.*

383. In addition, the FAA conducted thirteen product audits for Spirit. Spirit failed seven of them—more than half. While at Spirit's factory, the FAA observed blatant non-conformities. For instance, Spirit mechanics applied liquid Dawn soap to a door seal "as lubricant in the fit-up process" and mechanics subsequently used a "wet cheesecloth" to clean the door seal. In another instances, the FAA witnessed Spirit mechanics using "a hotel card key to check a door seal." Those practices were not supported by any production order on file, yet Boeing apparently approved of them. The FAA Special Audit concluded that manufacturing instructions were "vague and unclear on what specifications/actions are to be followed or recorded by the mechanic." *Id.*

384. The Board, Audit Committee, and Aerospace Safety Committee did not meet to discuss the FAA Special Audit until April 2024. *See infra* ¶¶ 396–99.

385. On March 6, 2024, U.S. Senator Maria Cantwell of Washington ("Senator Cantwell"), the Chair of the Senate Committee on Commerce, Science and Transportation, convened a full committee hearing to receive testimony from NTSB Chair Jennifer Homendy ("Homendy"). At the hearing, Homendy expressed

frustration with Boeing's lack of cooperation with the NTSB's investigation. She noted that, while the work relating to door plugs was performed by a team of twenty-five people and a manager at Boeing's Renton, Washington facility, Boeing had not given the NTSB the names of these personnel, despite repeated requests. Moreover, despite repeated requests, Boeing had not provided the documentation showing how the door plug was installed or how the work was carried out. Homendy also stated that the NTSB had been unable to interview the team's manager, who was allegedly out on medical leave. Homendy testified, "We don't have the records. . . . We don't have the names of the 25 people in charge of doing that work in that facility. It is absurd that two months later, we don't have that."

386. Senator Cantwell noted that Boeing's lack of cooperation was inconsistent with Officer Defendant Calhoun's pledge to her to "work transparently with" regulators. U.S. Senator Ted Cruz of Texas demanded that Boeing provide the names of the relevant team members within a week. After the hearing, Boeing stated that, "in response to a *recent* request," it "provided the full list of individuals on the 737 door team." (Emphasis added.) Boeing claimed that the NTSB first requested the names on March 2. Even if that were true—and the NTSB stated that it requested the information two months earlier—there was no reason Boeing could not have provided the requested names during the four days between the request and the hearing. Although Boeing eventually gave the names of all twenty-five workers on the Door Plug Team, Boeing did not identify the specific employees who worked on N704AL.

387. Boeing did not provide regulators with video or documents concerning the work Boeing performed on N704AL. Boeing claimed the video footage was overwritten as part of a standard practice to maintain video recordings on a rolling thirty-day basis. Boeing did not explain why it failed to provide the footage before it was overwritten, given that the NTSB requested it on January 9—just four days after the Door Plug Blowout. Boeing also claimed there were no written records related to the work performed on N704AL, even though FAA regulations and Boeing's own processes required such documentation.[40]

388. On March 12, 2024, the DOJ opened an investigation into the Door Plug Blowout.

389. On April 9, 2024, Salehpour disclosed publicly that he was the Boeing whistleblower behind the January 19 letter to the FAA. At a press conference, Salehpour described flaws in the Dreamliner program dating back to 2020 and continuing thereafter. According to Salehpour, Boeing's answer to excessive gaps between sections of the Dreamliner fuselage was to "make it appear like the gaps didn't exist"—in other words, to "hid[e] rather than fix[] the problem."

390. On April 10, 2024, the *Washington Examiner* published an article about Boeing's "culture of secrecy." Jeremiah Poff, *Boeing's culture of secrecy forces another whistleblower forward*, WASHINGTON EXAMINER (Apr. 10, 2024), https://www.washingtonexaminer.com/opinion/2961811/boeings-culture-of-secrecy-

[40] Contrary to Boeing's assertions, Boeing whistleblowers stated that written records related to this work existed.

forces-another-whistleblower-forward/. But while Boeing kept many secrets from regulators and customers, Boeing's broken culture was no secret. According to the article, "[t]he rotten culture of Boeing has been known for sometime [sic]." *Id.*

391. On April 17, 2024, U.S. Senator Richard Blumenthal of Connecticut ("Senator Blumenthal"), the Chair of the Senate PSI Committee, convened a hearing to "examine Boeing's broken safety culture, focusing on firsthand accounts[.]" Salehpour testified at the hearing. He explained: "the safety problems I have observed at Boeing, if not addressed, could result in a catastrophic failure of a commercial airplane that would lead to the loss of hundreds of lives."

392. Based on what Salehpour personally observed while working on 787 and 777 airplanes, he testified that there was a "broad[] pattern of Boeing ignoring and suppressing safety and quality issues." Salehpour observed "Boeing workers using improper and untested methods to align parts in the 777, such as using cranes and inappropriate heavy equipment, and in one instance *even jumping on pieces of the airplane to get them to align*." (Emphasis added.) While industry engineering standards required Boeing to shim gaps using minimal force to avoid causing deformities, Salehpour stated Boeing disregarded these requirements, increasing the force used to "*approximately 165 times the recommended level*." (Emphasis added.) Ignoring the industry-accepted shimming standards expedited the assembly process and significantly reduced costs. But it disregarded the reality that excessive force creates excessive wear and causes premature failure of the structure that "could result in a catastrophic failure."

393. U.S. Senator Roger Marshall of Kansas asked Salehpour if he believed there was a culture of retaliation at Boeing. Salehpour responded: "Absolutely."

394. The Senate PSI Committee hearing on April 17, 2024 also included testimony from the FAA Expert Panel. In written testimony, panel member Javier de Luis ("de Luis") wrote that he found it "distressing" that Boeing's leadership had not "gotten it" that safety should be a priority over production speed after the MAX Crashes, but rather, after the Door Plug Blowout, Boeing's CFO admitted that speed was a priority "over getting it done right."

395. de Luis stressed the "disconnect" between management's verbal commitment to safety and the lived experience of Boeing's workforce that was "present at almost all levels and almost all worksites." He explained that Boeing workers:

> [H]ear "safety is our number one priority," but they see that that is only true as long as you meet your production milestones. They hear "speak up if you see anything unsafe", but they see that when they do, there's little feedback, and if they insist, they may find themselves on the short end of the stick next time raises are distributed, or worse.

In his oral testimony, de Luis added that, among Boeing workers who raised safety concerns, "there was a very real fear of payback and retribution if you held your ground."

396. On April 29, 2024, the Aerospace Safety Committee met and received a presentation from Officer Defendant Pope. The materials for Pope's presentation admitted that the "Root Cause" of the problems identified in the FAA Special Audit

was a "Lack of Production System Compliance[.]" BOEINGAA220OH_00009019, at -9029.

397. On April 30, 2024, the Board met to discuss a BCA Update given by Pope entitled "FAA Quality Action Plan." BOEINGAA220OH_00008313. Pope told the Board that management's action plan was informed by "FAA audits and requirements," including "97 FAA Boeing audit findings" and "21 FAA Spirit audit findings." *Id.* at BOEINGAA220OH_00008315–16. Importantly, the presentation highlighted "7 systemic issues," including "[r]ecurring audit findings." *Id.* at BOEINGAA220OH_00008317.

398. Officer Defendant Pope's presentation referred to "recurring audit findings" because the FAA Special Audit identified numerous instances of noncompliance in areas the Board had received notice of during past meetings. Specifically, the Board was told about the FAA's identification of ninety-seven instances of noncompliance, including those related to Tool Control (twenty instances), Documentation / Command Media (fifteen instances), Parts and Material Control (fifteen instances), Work Instructions Not Followed (ten instances), Engineering (eleven instances), Foreign Object Debris (FOD) (nine instances), Quality Escapes (eight instances), Stamping (five instances), and Training (four instances). *Id.* at BOEINGAA220OH_00008318.

399. Officer Defendant Pope's presentation to the Board exposed troubling trends. Employee complaints and reports for the first quarter had significantly increased year-over-year. The directors learned that employee safety reports had

increased from 44,000 to 50,000, ethics reports had increased from 1,200 to 1,700, and product safety and quality related ethics reports had increased from 120 to 247. *Id.* at BOEINGAA220OH_00008319. This presentation confirmed that, despite the DPA's requirements, the number of alleged instances of noncompliance had been significantly increasing.

400. On May 6, 2024, the FAA announced that it was investigating whether Boeing failed to complete required inspections on its 787 aircraft. According to the FAA, Boeing "voluntarily informed us in April" that it may not have completed required inspections to confirm that there was adequate bonding and grounding where the wings join the carbon fiber fuselage on certain 787 jets. The FAA announced that it was "investigating whether Boeing completed the inspections and whether company employees may have falsified aircraft records[.]" The FAA ultimately required Boeing to reinspect all 787 Dreamliner planes still in its production system and to create a plan to address the fleet that was already in service. Notably, Boeing's "voluntary" disclosure, and the April 29, 2024 internal memorandum that led to it, came less than two weeks after Salehpour's explosive testimony to the Senate PSI Committee concerning the problems with Boeing's 787 program.

401. On May 9, 2024, the SEC opened an inquiry into whether Boeing executives made misstatements regarding the Company's safety practices, both before and after the Door Plug Blowout.

402. On May 18, 2024, the FAA sent a letter to Boeing disclosing the FAA's preliminary audit findings concerning Boeing's Verification Optimization, Process Surveillance, Manufacturing Assurance and Process Surveillance, and Functional Test Surveillance programs. The FAA found numerous areas in which Boeing was violating FAA regulations and the Company's own policies. For example, the letter explained that:

a. With respect to the Dreamliner, Boeing improperly replaced in-process quality inspections with a different process that was authorized only for auditing and not for product verification and acceptance to ensure conformance to FAA-approved design data. Boeing's actions violated FAA regulations and "circumvent[ed]" Boeing's own policies "by enabling the removal of in-process and end-item inspections performed by Quality Inspectors and assign[ing] in-process inspections to manufacturing personnel for acceptance."

b. With respect to several programs, Boeing improperly assigned conformance decisions, product inspection, and acceptance to manufacturing personnel who lacked the authorization, qualification, and training to perform those tasks. Boeing's actions violated FAA regulations and Boeing policies.

c. Boeing's policies permitted the replacement of inspections without a defined process for determining when doing so was acceptable.

d. Certain Boeing policies and procedures were inconsistent with or contradicted each other, resulting in one policy "circumvent[ing]" another procedure and other policies creating ambiguity.

e. Boeing quality personnel signed off on tests that they did not witness based solely on a review of documents prepared by workers that purportedly conducted the tests.

403. On May 24, 2024, Boeing released its third Chief Aerospace Safety Officer Report. The report showed a 500% increase in 2024 Speak Up submissions after the Door Plug Blowout as compared to the same period in 2023.

404. Meanwhile, Boeing planes continued to experience major safety incidents. On May 25, 2024, a Southwest Airlines Boeing 737 MAX plane dropped at a rate of more than 4,000 feet per minute and came within 400 feet of slamming into the ocean off the coast of Hawaii, before pilots pulled the plane back up safely. This incident was not widely reported until June 2024, when news reports stated that the FAA was investigating the incident to determine its cause, which included rocking movements that damaged the plane, called a "Dutch roll." The incident was the result of a pilot attempting to land during inclement weather, when he accidentally pushed forward the control column. Normally, a plane's yaw dampener would correct the rocking movement that leads to the "Dutch roll," but this plane's dampener

apparently did not do so. The FAA and NTSB began investigating the issue, presumably to determine if a manufacturing flaw contributed to this incident.

405. On May 23, 2024, Officer Defendant West disclosed that the Company expected to burn through $4 billion in cash in the fourth quarter of 2024.

406. On May 30, 2024, Boeing submitted a proposed safety plan to the FAA but offered scant details to the public. At a press conference announcing receipt of the safety plan, FAA Administrator Whitaker emphasized: "The 90-day plan . . . is not a finish line. . . . We will not approve production increases beyond the current cap until we're satisfied," which he estimated would take at least a few months.

407. Whitaker also emphasized how the FAA would continue to provide enhanced oversight, including meeting with Boeing every week "to review their performance metrics, progress and any challenges they're facing in implementing the changes." Whitaker further emphasized: "We need to see a strong and unwavering commitment to safety and quality that endures over time. This is about systemic change, and there's a lot of work to be done."

408. The FAA's enhanced oversight, however, maintained a feature that caused previous problems—Boeing, not the FAA, would set the targets by which Boeing would be measured. Whitaker confirmed at the press conference that Boeing set six key performance indicators (the "KPIs") by which the FAA would measure

improvements. When asked about details, Whitaker demurred and stated it would be up to Boeing.[41]

409. In describing the safety plan, Officer Defendant Pope stated that it "includes major investments to expand and enhance workforce training, simplify manufacturing plans and processes, eliminate defects at the source, and elevate our safety and quality culture, along with specific measures to monitor and manage the health of our production system." Pope's email to employees, also published by Boeing, included some details, such as that Boeing added 300 hours of training material and deployed trainers and coaches to the production lines; cleared more time for managers to be on the factory floor by reducing their meetings and tasks, as well as "simplifying 400 quality-related command media[,]" "[i]mplement[ing] quality inspection and approval of 737 fuselages before shipment from supplier," "[r]e-establish[ing] daily compliance sweeps[,]"instituting a "[p]ilot program to make sure airplanes are 'move ready' as way to manage traveled work," and "[r]e-launch[ing] Employee Involvement Teams."

410. The specific steps Boeing detailed raised more questions, such as why Boeing had eliminated "daily compliance sweeps" or "Employee Involvement Teams" in the first place. Similarly, even though the quality issues with Spirit were known for years, Boeing's decision to wait until 2024 (and after the Door Plug Blowout) to

[41] The KPIs are: (i) employee proficiency; (ii) notice of escapes; (iii) supplier shortages; (iv) rework hours; (v) travelers at factory rollout; and (vi) ticketing performance.

implement inspection and approval of 737 fuselages before shipment from the supplier is troubling.

411. The FAA's press release regarding the steps it required Boeing to perform also raised further questions, because it indicated that many basic safety measures at Boeing had not been implemented before. For example, the FAA stated, "Boeing is now required to have a mandatory Safety Management System, which will ensure a structured, repeatable, systematic approach to identifying hazards and managing risks." But this begged the question why an SMS was apparently considered optional before. Furthermore, the "actions" Boeing was required to take should have been taken beforehand, because they include such elementary items as:

a. "Strengthening its Safety Management System, including employee safety reporting";

b. "Simplifying processes and procedures and clarifying work instructions";

c. "Enhanc[ing] supplier oversight";

d. "Enhanc[ing] employee training and communication"; and

e. "Increas[ing] internal audits of production system[.]"

412. On June 1, 2024, the *Guardian* reported on the significant safety issues affecting the 787 aircraft that were flown from South Carolina, where they are built, to the Everett facility, where they are fixed. One mechanic told the *Guardian*: "There is no way in God's green earth I would want to be a pilot in South Carolina flying those from South Carolina to here. . . . Because when they get in here, we're stripping

them apart." Michael Sainato, *Boeing's largest plant in 'panic mode' amid safety crisis, say workers and union officials*, THE GUARDIAN (June 1, 2024), https://www.theguardian.com/business/article/2024/jun/01/boeing-safety-crisis-response-union-busting (hereinafter, "Sainato, *Guardian* (June 1, 2024)").

413. In early June 2024, Boeing disclosed that it would conduct additional inspections of certain undelivered Dreamliners because fasteners on their fuselages may have been incorrectly installed.

414. On June 13, 2024, *The Seattle Times* published an article titled "The Rot at the Heart of Boeing." Debra Katz, *The rot at the heart of Boeing,* THE SEATTLE TIMES (June 13, 2024), https://www.seattletimes.com/opinion/the-rot-at-the-heart-of-boeing/. According to the article:

> Boeing is a great American company, but it is rotting. The rot comes directly from its leadership, leadership that got rich *not* because they are committed to building great airplanes, but by cutting costs and pushing out the skilled engineers who are the lifeblood of the company. Boeing claims to be turning a corner, but its actions betray any real commitment to safety.

415. On June 14, 2024, the FAA announced that it had received 126 whistleblower tips to date in 2024—more than 11 times the number of tips the agency received during the same period in 2023 (11).

416. The same day, it was revealed that falsely-certified titanium entered the fuselage manufacturing process at Spirit and was used in Boeing planes. Spirit and the FAA were both investigating this problem, which arose when one of Spirit's suppliers found small holes in the material from corrosion. Substandard titanium,

which could affect the structural integrity of aircraft, could be in planes that were built between 2019 to 2023, including Boeing 737 MAX and 787 Dreamliner planes. The falsely-certified titanium was used in 787 Dreamliner passenger entry doors, cargo doors, and a component that connects the engine to the plane's frame. For the 737 MAX, affected parts include a heat shield that protects a component connecting a jet's engine to a frame. Troublingly, Boeing never detected this issue. The first time the Board received a presentation on the issue was a presentation from Officer Defendant Pope on June 25, 2024. BOEINGAA220OH_00008443, at -8450.

417. On June 18, 2024, Officer Defendant Calhoun testified before the Senate PSI Committee. Family members of the victims who died in the MAX Crashes were sitting behind Calhoun in the gallery. While Calhoun acknowledged that the MCAS was an "engineering" mistake and that the Door Plug Blowout was a "manufacturing" mistake, he steadfastly maintained that Boeing had done its utmost to improve safety since the MAX Crashes. Calhoun insisted that Boeing listened to complaints and did not retaliate against whistleblowers—notwithstanding the numerous whistleblowers that have stated the exact opposite. Calhoun admitted that Boeing did not adequately cooperate with the congressional investigation. When Senator Blumenthal characterized Boeing's production to Congress as "gobbledygook," Calhoun agreed with the characterization and admitted that he "can't justify it."

418. Incredibly, Officer Defendant Calhoun testified he was "proud of our safety record" and "proud of every action we've taken." Ignoring the stark evidence to the contrary, Calhoun baldly proclaimed, "I don't think we could have taken any

more dramatic steps than we've taken." That statement was knowingly false. Shortly before his testimony, at the end of May, Boeing had presented a safety plan to the FAA identifying far more "dramatic" steps Boeing needed to take.

419. During the hearing, Senator Blumenthal showed a poster comparing proposed actions in Boeing's new safety plan to the proposed actions in the plan Boeing submitted as part of the 2015 FAA Settlement. Senator Blumenthal excoriated Boeing for doing "virtually nothing" except for "recycling old ideas." Despite the hundreds of lives lost in the MAX Crashes, Boeing had just been churning water for almost a decade.

420. Senator Blumenthal described Boeing's culture as:

> A culture that continues to prioritize profits, push limits, and disregard its workers. A culture where those who speak up are silenced and sidelined while blame is pushed down to the factory floor[.] . . . A culture that enables retaliation against those who do not submit to the bottom line. A culture that desperately needs to be repaired.

421. According to Senator Blumenthal, the Door Plug Blowout was when "the façade quite literally blew off the hollow shell that had been Boeing's promises to the world[.]"

422. Senator Blumenthal told *CNN* that two dozen Boeing whistleblowers had contacted the Senate PSI Committee, including Mohawk. Senator Blumenthal described Mohawk's "allegations a[s] extraordinarily serious. . . . They have a program called Speak up[,] well, he was told to shut up."

423. As if to punctuate the jarring disconnect between Officer Defendant Calhoun's testimony to the Senate PSI Committee and Boeing's actual safety record, Boeing planes quickly experienced two more major safety incidents:

a. On June 19, 2024, a Southwest Airlines Boeing 737-800 came within 525 feet of crashing into an Oklahoma town before regaining altitude, an incident that the FAA is currently investigating.

b. On June 23, 2024, a Korean Air 737 MAX (series 8) dropped 25,000 feet in five minutes, approximately half-an-hour after takeoff, when it experienced a problem with its pressurization system. Though the plane returned safely, thirteen passengers were hospitalized for injuries.

424. Despite the attention the Senate PSI Committee hearing garnered, the managing partner for AeroDynamic Consultancy—Richard Aboulafia—did not believe the hearing would produce significant change at the Company. According to a *CNN* article: "'Nothing has produced change (at Boeing) except frustration from a bunch of airline customers,' said Aboulafia. 'I'm not sure what will change as a consequence of this. He (Calhoun) needs to go. He has shown a strong desire to double down on what's bad.'" Chris Isidore, et al, *'I know it happens': Boeing chief admits the company has retaliated against whistleblowers*, CNN (June 18, 2024), https://www.cnn.com/business/live-news/boeing-ceo-testify-senate/index.html.

425. On June 18, 2024, the same day as the hearing, the Senate PSI Committee publicly released a memorandum prepared by its staff (the "PSI Memorandum") that described troubling systemic problems at Boeing. Among other things, the PSI Memorandum detailed evidence of Boeing: (i) "improperly documenting, tracking, and storing parts that are damaged or otherwise out of specification, and that those parts are likely being installed on airplanes"; (ii) "conceal[ing] evidence from the FAA"; (iii) using a "bootleg form" to track "nonconforming" parts taken from a reclamation area; and (iv) eliminating quality inspections and instead relying on workers building the planes to check their own work.

426. The PSI Memorandum explained:

> Documents and accounts provided by whistleblowers familiar with Boeing's production at facilities in Washington state and Charleston, South Carolina, paint a troubling picture of a company that prioritizes speed of manufacturing and cutting costs over ensuring the quality and safety of aircraft. These misplaced priorities appear to contribute to a safety culture that insufficiently values and addresses the root causes of employee concerns and insufficiently deters retaliation against employees that speak up.

427. The first major area the PSI Memorandum highlighted was Boeing's "alarming mismanagement of nonconforming parts." The PSI Memorandum explained:

> Whistleblower reports spanning more than a decade raise questions about Boeing's ability to timely source and track aircraft parts and ensure that damaged or inadequate parts ("nonconforming parts") are not used in aircraft production.

. . . .

> The tracking and disposition of aircraft parts that do not conform to their quality or design specifications is heavily regulated, and criminal penalties apply to knowing or intentional falsification, concealment, or materially fraudulent misrepresentation in connection with records documenting the disposition of aircraft parts. Aircraft manufacturers are required to maintain a written quality system that includes "[p]rocedures to ensure that only products or articles that conform to their approved design are installed on a type-certificated product. These procedures must provide for the identification, documentation, evaluation, segregation, and disposition of nonconforming products and articles. Only authorized individuals may make disposition determinations." Aircraft manufacturer quality systems must also prescribe "[p]rocedures to ensure that discarded articles are rendered unusable." At Boeing, when parts are deemed "nonconforming," they are marked with a red tag or red paint and stored in a secure area of the factory called the Material Review Segregation Area ("MRSA").

428. In support of these findings, the PSI Memorandum cited evidence provided by Boeing whistleblower Mohawk. *See supra* ¶¶ 66, 266–68.

429. On June 27, 2024, the NTSB sanctioned Boeing after Officer Defendant Lund disclosed investigative information concerning the Door Plug Blowout in violation of Boeing's written agreement with the NTSB. According to Lund, the Door Plug Blowout resulted from Boeing's failure to create required paperwork. When the last crew closed the door plug, they did not know the retaining pins had not been installed because there was no paperwork indicating they should insert the pins. As a sanction, the NTSB barred Boeing from having further access to the agency's investigative information and prohibited Boeing from asking questions at the NTSB hearing that was scheduled for August.

430. Officer Defendant Lund's unauthorized statements to the press contained a startling admission. Lund claimed that the MAX Crashes led Boeing to reform its engineering practices, and the Door Plug Blowout spurred improvements in the Company's production process. According to Lund: "When this accident came along, *it gave us a chance to look at a different area*[.]" Of course, nothing prevented management or the Board from "looking at" this area on their own. Lund's statement revealed the harsh reality that Boeing was unwilling to make changes to its processes absent a safety incident that threatened 177 lives and garnered major regulatory and press attention.

431. On July 8, 2024, the FAA issued an airworthiness directive requiring the inspection of 2,600 Boeing 737-NG and MAX planes for an issue relating to passenger oxygen masks. The FAA received multiple reports that these units were shifting out of position, which could keep the units from providing oxygen to passengers in the event of a cabin depressurization.

432. On August 6 and 7, 2024, the NTSB held investigative hearings concerning the Door Plug Blowout. Highlights from the hearing included the disclosures that:

a. In evaluating proposed increases in production rates, Boeing tolerated a "Moderate" risk of regulatory action.

b. Out-of-sequence work was so common at Boeing that it had its own Business Process Instruction, or BPI.

c. Boeing never produced thirty-eight 737 MAX aircraft per month, despite public disclosures to the contrary.

d. Boeing did not formally track its employees' training before the Door Plug Blowout.

e. Boeing did not require specific training before its employees could remove airplane parts.

f. Notwithstanding at least four FAA communications rejecting the practice, Boeing continued to assign quality inspections to manufacturing personnel.

g. Alaska Airlines and the pilots of Flight 1282 did not know the cockpit door would blow off its hinges in the event of a cabin depressurization.

433. On September 26, 2024, the NTSB issued an urgent safety recommendation to Boeing and the FAA concerning defective rudder control components that Collins had delivered to Boeing. Since 2017, Collins had delivered 323 actuators that were assembled in less-than-dry environments. In the freezing conditions of flight, water in the actuators could freeze—locking the rudders in place. This phenomenon caused the February 6, 2024 incident where the rudder pedals on a United Airlines 737 MAX 8 stuck during landing.

I. FACED WITH CRUSHING REGULATORY AND PUBLIC SCRUTINY, BOEING FINALLY MAKES SOME LONG-OVERDUE CHANGES.

434. With lawmakers, regulators, airlines, the public, and even Boeing's largest union (the International Association of Machinists District 751)[42] scrutinizing the Board's and management's every move, Boeing finally started to make some long overdue changes.

1. Boeing Finally Slows Down Production.

435. The most important change Boeing made after the Door Plug Blowout was slowing down production to address known safety and compliance issues. On January 25, 2024—four days after the announcement of the FAA Production Cap—Boeing's 737 MAX factory teams in Renton, Washington held a "Quality Stand Down." As Officer Defendant Calhoun described it on the Company's January 31, 2024 earnings call, "more than 10,000 teammates across Renton, Seattle and Moses Lake stopped to focus on safety and quality, and only, safety and quality. This was a quality stand down at a scale we have never done before[.]" The Boeing Co., Earnings Call Transcript, at 3 (Jan. 31, 2024), https://investors.boeing.com/investors/events-presentations/event-details/2024/Q4-2023-The-Boeing-Company-Earnings-Conference-Call/default.aspx.

436. On the same earnings call, Officer Defendant Calhoun stated: "We will go slow to go fast and we will encourage and reward employees for speaking up to slow things down if that's what's needed." *Id.* at 4. Officer Defendant West further

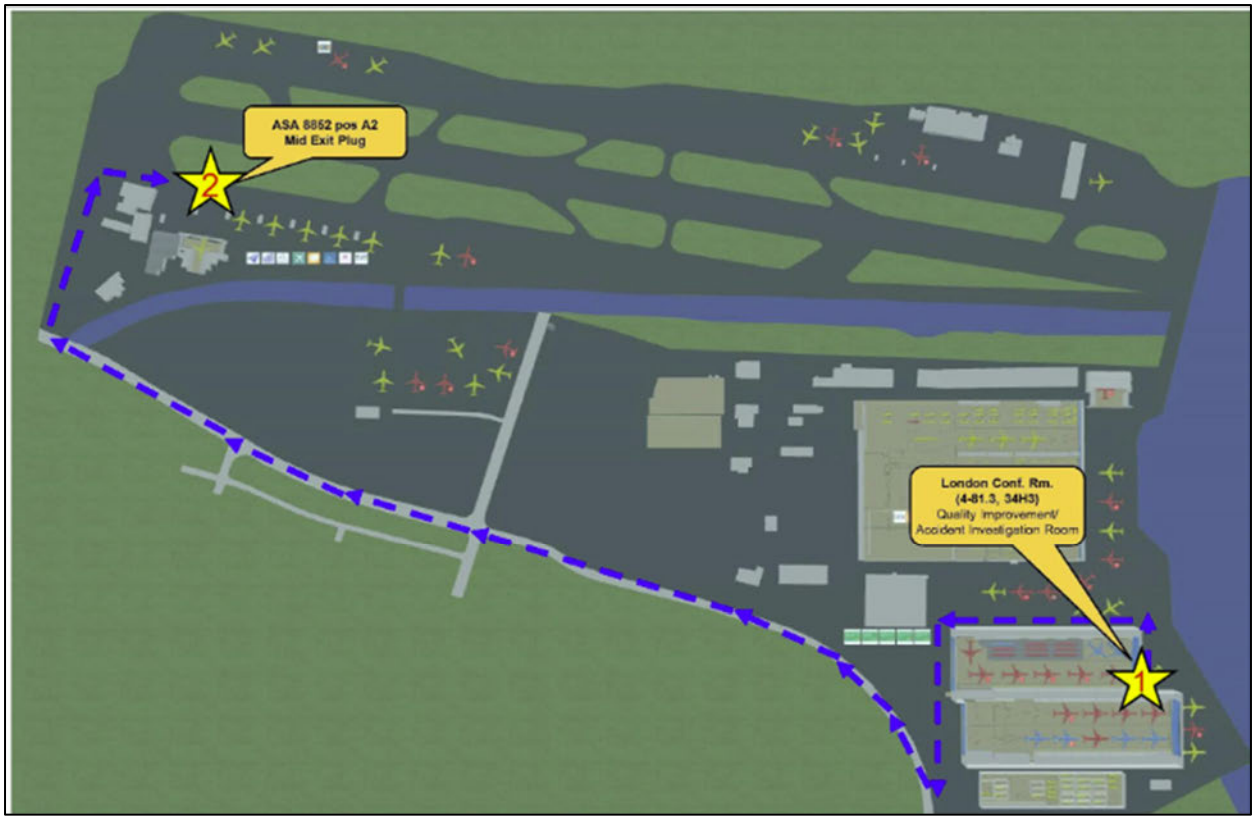
[42] On March 25, 2024, the International Association of Machinists District 751, which represents 32,000 workers at Boeing's factories in Washington, announced it would be seeking a seat on the Board.

stated that the FAA Production Cap would "allow us to have any of our suppliers that might have been at the line, may have been short of the line, they get a chance to catch up." *Id.* at 10.

437. A February 20, 2024 BCA Update to the Board by Officer Defendant Deal included as one of the "Results Required to Reduce Risk and Stabilize Factory" the implementation of "executed pause days to put traveled work within readiness corridor[.]" BOEINGAA220OH_00007906, at -7909. Another February 20 presentation to the Board referenced the need for an "[i]ntense focus on safety and quality…go slow to go fast[.]" BOEINGAA220OH_00007934, at -7937.

438. The same day, the Board and the Executive Committee members visited the Renton, Washington factory that produced the 737 MAX. According to the Section 220 Production, the full Board had visited the Boeing Renton site only once before during the Relevant Period—in June 2022. Unlike the June 2022 Board materials, the February 2024 Board materials show that the Board traveled the full length of the Boeing Renton site, with two separate stops.

439. The itinerary for the February 2024 site visit indicates that the Board and Executive Committee members went right past the outdoor shadow factories. *See* BOEINGAA220OH_00008293, at -8296.



It was not until after this site visit that Boeing started to get serious about eliminating out-of-sequence work. This should have occurred much earlier.

440. On March 25, 2024, Officer Defendant Calhoun told *CNBC* in an interview that Boeing needed to "slow things down." Calhoun admitted that Boeing had a "bad habit" of being too focused on moving planes through the assembly line, which signaled to employees that "the movement of the airplane is more important than the first-time quality of the product." "We have got to get that in way more balance, without a doubt," he added. According to Calhoun, the "premise for going forward" was that "everybody has to be able and capable of raising their hand and stopping a line if they—if they have to." Also in March 2024, Officer Defendant West, explained: "For years, we prioritized the movement of the airplane through the

factory over getting it done right, and that's got to change[.]" Calhoun's and West's statements were admissions of the obvious—between the Delaware Settlement and the Door Plug Blowout, Boeing's management and Board had continued to prioritize an overloaded production schedule and their promise of increased profits over safety and compliance with the law.

441. On the Company's April 24, 2024 earnings call, Officer Defendant Calhoun stated:

> We held Quality Stand Downs across all of our production lines in BCA, and sought the advice and counsel of more than 70,000 employees to improve our factory disciplines and adherence to our quality standards. All in all, we collected over 30,000 ideas and the list continues to grow.
>
> We have categorized and prioritized all. Employee engagement has been energizing for all. Actions are being taken across all of our factories and areas of focus include: Training, particularly on the job, taking advantage of our slowdown and adding hundreds of hours of training for each of our manufacturing employees. Tooling, more of it, and improved maintenance. Work instructions, simply, simplify, simplify. Compliance checks. Discipline. Traveled work controls, don't travel work. Incentive structures. Employee listening and maybe above all, culture improvement.
>
> . . .
>
> We've extended our commitment to reduce traveled work across all of our assembly lines and deep into our supply chain. While near-term delivery shortfalls hurt, and will affect our performance during our first half of the year, the long-term benefits from a synchronized supply chain will be substantial.

The Boeing Co., Earnings Call Transcript, at 3–4 (Apr. 24, 2024), https://investors.boeing.com/investors/events-presentations/event-details/2024/Q1-

2024-The-Boeing-Company-Earnings-Conference-Call/default.aspx. On the same earnings call, Officer Defendant West announced that Boeing had "adjusted the master schedule at a supplier-by-supplier basis." *Id.* at 15. That was a significant change from 2023, when Officer Defendants Calhoun and West repeatedly emphasized that Boeing was sticking to the master schedule notwithstanding supplier problems.

442. A Watch Items list presented to the Audit Committee for its April 29, 2024 meeting disclosed with respect to the 737 MAX that, "[d]uring 1Q24, we slowed production rates below [the FAA Production Cap of] 38 per month to reduce traveled work." BOEINGAA220OH_00008880. The same Watch Items list disclosed with respect to the 787 that, "[w]e are slowing near-term production below 5 per month and delaying rate increases by six months due to supply chain constraints."

443. On April 30, 2024, Officer Defendant Pope made a presentation to the Board that reported on a slowdown in production "to reduce traveled work and enable supply chain stability[.]" BOEINGAA220OH_00008313, at -8327–28.

444. On the Company's July 31, 2024 earnings call, Officer Defendant Calhoun explained that Boeing's first action to improve safety and quality "was to slow things down and control travel[ed] work, allowing our supply chain to catch up and provide the buffer we need to improve quality and stabilize deliveries going forward." Calhoun further explained that Boeing's production slowdown was reaping quality and safety benefits.

> Every metric gets better when you slow things down. So, yeah, I don't want to kid anybody. The step we took to slow things down, it was very deliberate, very straightforward, and every metric benefits from that moment. So, we've had a step change improvement, traveled work, of course, being the big one.[43]

The Boeing Co., Earnings Call Transcript, at 11 (July 31, 2024), https://investors.boeing.com/investors/events-presentations/event-details/2024/Q2-2024-The-Boeing-Company-Earnings-Conference-Call/default.aspx. On the same earnings call, Officer Defendant West stated: "We're taking the time now to ensure that our BCA factories are positioned to ramp production in a stable fashion for years to come." *Id.* at 8.

445. Prior to the Door Plug Blowout, Boeing slowed production only if it was forced to (e.g., due to an FAA-mandated halt in production). Boeing's post-blowout decision to keep production below the FAA Production Cap was voluntary—at least according to the characterization of the decision in certain internal Boeing documents.

2. Boeing Rachets Up Oversight of Its Suppliers and Agrees To Acquire Spirit.

446. Boeing also ratcheted up pressure on Spirit to produce non-defective fuselages. In March 2024, Boeing moved an inspection and rework team to Spirit's

[43] On the same earnings call, Officer Defendant Calhoun stated: "You'll know when we get out of kilt on any one of those metrics. . . . Probably the one we'll all just keep our eye on is the traveled work scenario. We cannot allow ourselves to get back into a scenario where we're traveling things too far down the line, and we've got a lot of controls in place, so that won't happen." The Boeing Co., Earnings Call Transcript, at 11 (July 31, 2024), https://investors.boeing.com/investors/events-presentations/event-details/2024/Q2-2024-The-Boeing-Company-Earnings-Conference-Call/default.aspx.

factory, which reduced the number of non-conformities in Spirit's work product by about 80%. In April, management estimated for the Board that Spirit's "[h]istory of disruption and quality deficiencies" had reduced Boeing's cash flow by approximately $10 billion. *See* BOEINGAA220OH_00008430, at -8435. On April 29, Officer Defendants Pope and Galantowicz explained to the Aerospace Safety Committee that Boeing's increased oversight of Spirit and other suppliers would help reduce "[t]raveled work into the system[.]" BOEINGAA220OH_00009019, at -9025. On the Company's July 31, 2024 earnings call, Calhoun reported that "[o]n-site Boeing inspectors at Spirit increased by almost 3 times the number that we had before January, and defects we initially caught and reworked in Renton are now caught and reworked in Wichita." The Boeing Co., Earnings Call Transcript, at 4 (July 31, 2024), https://investors.boeing.com/investors/events-presentations/event-details/2024/Q2-2024-The-Boeing-Company-Earnings-Conference-Call/default.aspx.

447. Boeing went further and decided to acquire Spirit. The Door Plug Blowout was a major driver of Boeing's acquisition interest. When quality issues at Spirit were widely reported in April and August 2023, Officer Defendant Calhoun stated: "I don't think you acquire a company to solve it[.]" *See supra* ¶ 214. The safety and compliance crisis that the Door Plug Blowout exposed changed Boeing's view and drove senior management, "[i]n early 2024, . . . [to] discuss[] a potential reintegration of Spirit. Boeing's senior management believed a potential reintegration would improve the safety and quality of Boeing airplanes by integrating Boeing's and Spirit's engineering, manufacturing and quality and safety programs

and teams[.]" The Boeing Co., Registration Statement (Amendment No. 1 to Form S-4) at 54 (Nov. 27, 2024).

448. Other statements in connection with Boeing's acquisition of Spirit cited the safety and quality rationales for the merger. In his June 2024 Senate testimony, Officer Defendant Calhoun touted how Boeing would better supervise Spirit by acquiring it. On the Company's July 31, 2024 earnings call, Calhoun asserted that the acquisition of Spirit "would course-correct the decision made decades ago. . . . By bringing in critical manufacturing work back within our four walls, we can unify our safety and quality management systems, and ensure our engineers and mechanics are working together as one team day in and day out." The Boeing Co., Earnings Call Transcript, at 5 (July 31, 2024), https://investors.boeing.com/investors/events-presentations/event-details/2024/Q2-2024-The-Boeing-Company-Earnings-Conference-Call/default.aspx. In the announcement of the proposed merger, Calhoun explained:

> We believe this deal is in the best interest of the flying public, our airline customers, the employees of Spirit and Boeing, our shareholders and the country more broadly[.] . . . By reintegrating Spirit, we can fully align our commercial production systems, including our Safety and Quality Management Systems, and our workforce to the same priorities, incentives and outcomes – centered on safety and quality.

See also The Boeing Co., Registration Statement (Amendment No. 1 to Form S-4) at 78 (Nov. 27, 2024) (providing as a reason the Board approved the merger: "the ability to enhance Boeing's control and oversight over its commercial production systems in order to promote safety and quality and ensure operational stability in

Boeing's commercial programs, including by aligning Boeing and Spirit quality and safety systems and workforce incentives to emphasize safety and quality metrics").

449. Of course, ramping up production to boost profits is also a motivation that is never far from the top of Boeing's thinking. A June 30, 2024 financial advisor presentation described the Spirit acquisition as [redacted] BOEINGAA220OH_00008563, at -8585; *see also* The Boeing Co., Registration Statement (Amendment No. 1 to Form S-4) at 54 (Nov. 27, 2024) (disclosing Boeing management's interest in "promot[ing] supply chain stability and the ability to facilitate production rate increases"); *id.* at 79 (providing as a reason the Board approved the merger: "the ability to improve supply chain stability, increase production rates and enhance quality control processes through direct investment in Spirit's operations").[44]

450. On June 30, 2024, Boeing and Spirit signed a merger agreement that provided for Boeing to acquire Spirit for approximately $4.7 billion in Boeing stock, as well as assumption of Spirit's debt (for a total deal value of approximately

[44] Increased production goals were the primary driver of the Spirit MOA in October 2023. In connection with that agreement, Boeing agreed to provide Spirit with $100 million in "funding for tooling and capital" that could support increased production numbers. On Boeing's October 25, 2024 earnings call, Officer Defendant Calhoun explained that Spirit's stability plans were dependent on increased production rates and accompanying increased profits. Calhoun stated: "As Spirit becomes stable and we get to our [production] rates, rates solve most of the supply chain's problems. We got to get to those rates so that they can make the kind of money that they associate with those rates and we get to where we need." The Boeing Co., Earnings Call Transcript, at 18 (Oct. 25, 2023), https://investors.boeing.com/investors/events-presentations/event-details/2023/Q3-2023-The-Boeing-Company-Earnings-Conference-Call/default.aspx.

$8.3 billion). The value of the merger consideration can change based on the value of Boeing common stock, but in most scenarios the value of the merger consideration is reflects $37.25 per Spirit share.

451. Boeing's acquisition of Spirit is a necessary step in undoing the ill-conceived outsourcing bonanza that started with the Dreamliner. But it should have occurred much earlier. Boeing harmed itself in many ways by waiting until a time of crisis to reacquire Spirit. For example:

a. Boeing's weak balance sheet prevented Boeing from paying cash for Spirit. The resulting stock-for-stock deal dilutes Boeing's existing stockholders.

b. The damage the Door Plug Blowout and its aftermath wreaked on Boeing's stock price massively lowered the value of Boeing stock as merger consideration.

c. The crisis nature of the acquisition resulted in Boeing overpaying for Spirit.

d. Spirit is hemorrhaging cash and required Boeing to advance at least $815 million to Spirit in 2024.[45]

e. The Spirit business that Boeing is acquiring will no longer generate revenues from sales to Airbus—revenues that represented 19% of Spirit's revenues before the merger.

[45] This is on top of the $555 million Boeing paid to Spirit in October 2023 as part of the Spirit MOA.

f. The financial analyses that Spirit's financial advisor prepared for Spirit in connection with the proposed merger indicate that Spirit is worth far less than Boeing is paying. Certain analyses even indicate that Spirit's common stock has no value.[46]

g. The crisis nature of the acquisition resulted in Spirit (and ultimately Boeing) overpaying Airbus (ultimately agreeing to pay $559 million) in connection with the work Spirit would no longer perform for Airbus. Airbus will also acquire certain Spirit facilities for only $1.00.

Notably, the merger does not require approval by Boeing's stockholders, and the Board apparently received no fairness opinion in connection with approving the merger.

3. Boeing Announces Management Changes.

452. On February 21, 2024, Boeing fired Officer Defendant Clark, an eighteen-year Company veteran who led the 737 MAX program. The same day, Boeing appointed Officer Defendant Lund to serve in the newly created position of "Senior Vice President Overseeing Quality Control and Quality Assurance Efforts." Lund's complicity in the previous problems with the 737 MAX and the Dreamliner raises questions about her selection to fill this role. But the role itself was long overdue.

[46] On November 5, 2024, Spirit filed a Form 10-Q with a going-concern warning.

453. On March 25, 2024, Boeing announced that Officer Defendant Calhoun would be stepping down as Company CEO by the end of the year. Boeing also announced that Officer Defendant Pope had replaced Officer Defendant Deal as BCA's CEO.

454. On August 8, 2024, Ortberg replaced Officer Defendant Calhoun as Boeing's CEO and joined the Board. Ortberg announced that he would base his office in Washington state. That announcement led to speculation that Boeing might return its headquarters to Washington state—a move that could be seen as figuratively (and literally) returning the Company to its engineering roots.

4. Management Starts Disclosing Important Details to the Board.

455. The Door Plug Blowout caused a notable change in Boeing Board and committee minutes. The pre-blowout minutes were often formulaic and vague. For example, the minutes often asserted that management "responded to questions from the Committee" or "responded to questions from the Board" without identifying the subject matter of the questions or management's responses.[47] Likewise, the pre-blowout minutes often disclosed that management gave a presentation on a general topic without providing meaningful detail about the topics covered. This approach was particularly pronounced in the sections of the Audit Committee

[47] *See, e.g.*, BOEINGAA220OH_00000001; BOEINGAA220OH_00000005; BOEINGAA220OH_00000007; BOEINGAA220OH_00000011; BOEINGAA220OH_00009319; BOEINGAA220OH_00009329.

minutes regarding the DPA.[48] The pre-blowout minutes also reflected a total lack of discussion on critical topics. For example, the pre-blowout minutes contained no references to "traveled work," and they contained only one reference each to "rework" or "shadow factories." *See supra* ¶¶ 207, 218, 223. The pre-blowout minutes were consistent with a board going through the motions.

456. The post-blowout minutes are more detailed and memorialize discussions about these important topics. *See* BOEINGAA220OH_00008857 (Apr. 30, 2024 Board Meeting Minutes), at -8858–59 ("Ms. Pope next reviewed 737 inventory and from-storage performance and 787 join verification performance *rework* and from-storage performance, and noted plans to shut down *shadow factories* by year end." (emphasis added)); *id.* at BOEINGAA220OH_00008859 ("Ms. Pope next reported on the global supply chain instability, key part shortages, notices of escapements, and *traveled work*." (emphasis added)).

457. The Door Plug Blowout also caused a notable change in other Boeing Board and committee materials. The materials before the Door Plug Blowout often made vague assertions about management's attention to serious problems with no detail on how management planned to fix those problems and with no metrics

[48] *See, e.g.*, BOEINGAA220OH_00000089, at -0091 ("The Committee then met in executive session with Ms. Amuluru and Mr. Gerry for any update on compliance with the Deferred Prosecution Agreement."); BOEINGAA220OH_00000178, at -0181 ("The Committee then met in executive session with Messrs. Gerry and Hostetler for an update on compliance with the Deferred Prosecution Agreement."); BOEINGAA220OH_00000185, at -0188 (same); BOEINGAA220OH_00000643, at -0645 (same); BOEINGAA220OH_00000643, at -0645 (same); BOEINGAA220OH_00000646, at -0648 (same); BOEINGAA220OH_00000652, at -0655 (same).

showing the directors management's progress toward in implementing its purported plans. Traveled work is a good example. As explained above, only one set of Board or Committee materials before the Door Plug Blowout referenced any type of plan to reduce or eliminate traveled work. *See supra* ¶ 207. By contrast, the post-blowout materials identified specific ways in which Boeing would try to eliminate traveled work. *See* BOEINGAA220OH_00000638 (Feb. 1, 2024 Aerospace Safety Committee Presentation), at -0639 (explaining that Boeing was going to minimize traveled work by "prohibiting traveled work from Spirit to pass beyond factory day 3"); BOEINGAA220OH_00007901 (Feb. 10, 2024 Board Presentation), at -7903 (stating that a "Priority Item in Work" was "Restricting traveled work").

458. Rework is another good example. Prior to the Door Plug Blowout, Boeing management reported the six KPIs—(i) employee proficiency; (ii) notice of escapes; (iii) supplier shortages; (iv) rework hours; (v) travelers at factory rollout; and (vi) ticketing performance—to Officer Defendant Calhoun but not to the directors. After the Door Plug Blowout, management began reporting the KPIs to the Aerospace Safety Committee.[49]

459. The statistics regarding rework were not good. The reports to the Aerospace Safety Committee on April 30 and June 24, 2024 both reflect rework hours that were well above management's "Red Control Limit." BOEINGAA220OH_00008313, at -8320. This rework metric was not reported to the

[49] Management also started reporting the KPIs to the FAA.

Board before the Door Plug Blowout. Nor did the pre-blowout reports use the concept of a "Red Control Limit."

5. The Compensation Committee Belatedly Adjusts Incentive Compensation Metrics.

460. The Compensation Committee belatedly adjusted executive compensation metrics somewhat to incentivize quality. After the change, operational performance (which included safety and quality metrics) made up 60% of the score to determine annual bonuses at BCA. Prior to the Door Plug Blowout, operational performance made up only 25% of the score, with 75% of incentive compensation tied to financial performance.

461. The compensation metrics for 2024 included rewards for shutting down the shadow factories and reducing traveled work. BOEINGAA220OH_00008313, at -8323. These metrics revealed the directors' and officers' belated recognition that those practices were contributing to quality and safety issues.

462. The Compensation Committee expressly recognized the relationship between the revelation of Boeing's broken safety culture and the drops in the Company's stock price. The proxy statement for the 2024 annual meeting of stockholders disclosed that the Compensation Committee chose to reduce each Boeing "executive's long-term incentive award by the percentage decline in the Company's stock price between January 5, 2024 (the day of the Alaska Airlines Flight 1282 accident) and the grant date." The Boeing Co., Proxy Statement (Sched. DEF14A) at 67 (Apr. 5, 2024). The proxy statement further explained: "This decision was implemented to hold our leadership team accountable for the decline in our stock

price following the accident, and resulted in an approximately 22% reduction in long-term incentive grant values as compared to target values for our senior leadership team." *Id.* This reduction applied only to Boeing's named executive officers, which included Officer Defendants Calhoun, Deal, and Pope. *See id.* at 62–66.

6. Boeing Starts Tracking Employee Training and Requires Specific Training on Removals.

463. Prior to the Door Plug Blowout, Boeing employees were not required to receive training on removing and replacing parts before they were authorized to do so. In fact, Boeing did not formally track the training each of its employees had received before the incident. After the Door Plug Blowout, Boeing instituted formal training tracking. The Company also started requiring training before employees were authorized to perform and document removals.

7. Much More Is Necessary To Fix Boeing's Broken Culture.

464. Boeing should have made the changes above much earlier. Fiduciaries acting in good faith rather than chasing profits through illegal means would have done so.

465. The changes above are baby steps. They may or may not make a significant difference in changing Boeing's broken culture.

466. Boeing's supply chains remain unstable and ill-equipped to support Boeing's desired production increases. An April 30, 2024 BCA Update from Officer Defendant Pope to the Board reported that "Continued Supply Chain Instability . . . significantly impacted deliveries and rate readiness." BOEINGAA220OH_00008313, at -8324.

467. Many Boeing employees remain afraid to rock the boat for fear of being retaliated against. Even after the Door Plug Blowout, Boeing managers at the South Carolina factory continued to retaliate against whistleblower Mohawk. Management made Mohawk the focus of what was "not working" in his department and took actions that were apparently intended to lead to his resignation or firing. Among other things, management demanded that Mohawk investigate his own allegations of wrongdoing within two days—while he was expected to meet his normal job responsibilities. Mohawk completed the investigation over the following weekend. On Monday, the Senior Manager called Mohawk in with a union steward and accused him of "insubordination" for not completing the investigation by the previous Friday. "Insubordination" was grounds for termination. However, the Senior Manager was forced to drop his accusations. These events occurred in April 2024, well after the Door Plug Blowout.

468. On May 17, 2024, management issued Mohawk a disciplinary Corrective Action Memo, or "CAM." Based on Mohawk's warnings that his group's non-compliance could lead to an FAA audit and possible penalties, management accused Mohawk of an "Unacceptable/Disruptive Behavior or Communication" and stated that he failed to treat others "with respect, dignity and trust[.]" Shockingly, management characterized Mohawks exhortations for regulatory compliance as behavior that caused people to be afraid and feel threatened. As of June 11, 2024, the South Carolina factory remained noncompliant with respect to the loss of non-conforming parts.

469. On June 1, 2024, the *Guardian* reported that management at Boeing's Everett, Washington, plant was in a "panic" and pressuring employees to keep quiet about quality concerns. Sainato, *Guardian* (June 1, 2024).

470. At the NTSB hearings in August 2024, witnesses testified that the Boeing employees who performed the removal that led to the Door Plug Blowout were transferred to Building 421, a separate, smaller building where they were separated from their main teams with no computer access and no ability to continue their normal work. The hearing attendees regarded this transfer to "Boeing Jail" as retaliatory.

471. Traveled work also remains a problem at Boeing. In a June 24, 2024 presentation to the Audit Committee, Hostetler, the Chief Compliance Officer, noted that the 737 Manufacturing team experiences "[t]raveled work [is] a common theme (either generated by suppliers or by themselves) which appears to add to the perception of business pressure[.]" BOEINGAA220OH_00009094, at -9100. A June 25, 2024 "BCA Update" presentation to the Board from Officer Defendant Pope disclosed that reported instances of traveled work in 2024 was up compared to 2023 and 2022. To date, there were 232 reported instances of traveled work in 2024, as opposed to 156 in 2023 and 172 in 2022. BOEINGAA220OH_00008443, at -8457.

472. The use of scrapped and non-conforming parts at Boeing is another continuing problem. According to Meyers, at least as late as *November 2024*, Boeing employees were still bypassing Boeing's component quality system to meet the production schedule. Specifically, employees were still taking parts directly from

suppliers before inspectors could inspect the parts to ensure conformance. The illegally-used parts included forward fuselage bulkheads from Spirit with improperly-drilled holes.

IX. BOEING AGREES TO PLEAD GUILTY TO A FELONY.

A. BOEING AGREES TO PLEAD GUILTY TO A FELONY FOR FAILING TO COMPLY WITH THE DPA.

473. The DPA was set to expire on January 7, 2024. The Door Plug Blowout made blindingly clear that Boeing had not complied with it.

474. On May 14, 2024, the DOJ informed the presiding judge in the DOJ's criminal lawsuit against Boeing in the U.S. District Court for the Northern District of Texas (the "Federal Criminal Court") that the DOJ "has determined that Boeing breached its obligations under [the] DPA . . . by failing to design, implement, and enforce a compliance and ethics program to prevent and detect violations of US fraud laws throughout its operations." On July 7, the DOJ informed the Federal Criminal Court that the DOJ and Boeing had reached a plea agreement under which Boeing would plead guilty to a felony charge.

475. On July 24, the parties filed their proposed plea agreement (the "Plea Agreement"). According to the "Factual Basis for Breach" attachment to the Plea Agreement, Boeing failed to satisfy the DPA requirement to:

a. "'create and foster a culture of ethics and compliance with the law in its day-to-day operations,' by failing to mitigate *known* manufacturing and quality risks";

b. "implement 'compliance policies and procedures designed to reduce the prospect of violations of U.S. fraud laws and the Company's compliance code,' by failing to design a compliance and ethics program that included sufficient anti-fraud oversight of Boeing's quality and safety processes";

c. "implement 'compliance policies and procedures designed to reduce the prospect of violations of U.S. fraud laws and the Company's compliance code,' by failing to implement sufficient controls concerning the risk that Boeing's airworthiness certifications to the FAA could be incomplete, inaccurate, false and/or fraudulent";

d. "implement 'compliance policies and procedures designed to reduce the prospect of violations of U.S. fraud laws and the Company's compliance code,' by failing to implement sufficient controls concerning the risk of incomplete, inaccurate, false and/or fraudulent statements in Boeing's manufacturing records"; and

e. "appropriately develop and adjust 'compliance policies and procedures on the basis of a periodic risk assessment addressing the individual circumstances of the Company,' and to review and update such policies 'as appropriate to ensure their continued effectiveness,' in light of *known* manufacturing and quality risks,

and the attendant risks of incomplete, inaccurate, false, and/or fraudulent statements to the FAA."

Plea Agreement, Attachment A (Factual Basis for Breach) ¶ 6 (emphasis added) (internal citations omitted).

476. The "Factual Basis for Breach" attachment also outlined three areas in which Boeing failed to extend anti-fraud oversight to quality and safety processes: (i) out-of-sequence work; (ii) completeness of records; and (iii) stamping issues in build records.

477. In addressing Boeing's traveled work, the Plea Agreement explained: "Boeing senior executives prioritized the movement of aircraft through Boeing's factories over reducing out-of-sequence work to ensure production quality." Plea Agreement, Attachment A-1 (Factual Basis for Breach) ¶ 9. The Plea Agreement further explained that "Boeing did not implement sufficient policies or procedures to mitigate the risk posed by out-of-sequence work." *Id.* The Plea Agreement confirmed that Boeing management continued to prioritize profits over safety and compliance, a cultural issue that the Board had known about—yet failed to address—since the Company entered into the DPA in 2021. The DOJ determined that Boeing's utter failure to identify and adjust its compliance program to address the anti-fraud risks associated with out-of-sequence work violated the DPA.

478. In addressing Boeing's incomplete records, the Plea Agreement explained that "Boeing received numerous reports of incidents of non-compliance with its policy governing removals [of installed parts] throughout the DPA term."

Plea Agreement, Attachment A-1 (Factual Basis for Breach) ¶ 14. "In addition, since 2019, the FAA has issued numerous formal or informal actions to Boeing related to Boeing's policy governing removals." *Id.* Notwithstanding the importance of this issue and the deficiencies, Boeing did not involve its Compliance department sufficiently "in root cause analysis, remediation, or risk mitigation[.]"

479. In addressing Boeing's stamping issues, the Plea Agreement explained that Boeing:

a. "failed to measure employee understanding of" its stamping policy;

b. "did not effectively ensure compliance with its stamping policy"; and

c. "did not implement enhanced or remedial controls to prevent or detect stamping policy violations."

Plea Agreement, Attachment A-1 (Factual Basis for Breach) ¶ 17.

480. In the Plea Agreement, Boeing agreed to plead guilty to one count of "conspiracy to defraud the United States, specifically, the lawful function of the Federal Aviation Administration Aircraft Evaluation Group, in violation of Title 18, United States Code, Section 371." If ultimately approved, the Plea Agreement would require Boeing to, among other things:

a. pay an additional criminal fine of $243.6 million;

b. be subject to a government-approved Independent Compliance Monitor for three years; and

c. invest at least $455 million in its compliance, quality, and safety programs within three years, which represents an annual increase of 75% over the Company's previously-planned expenditures in this area.

By pleading guilty to a felony, Boeing runs the risk of being barred from federal contracts, which comprise approximately one-third to two-fifths of its total business.

B. THE FEDERAL CRIMINAL COURT REJECTS THE PLEA AGREEMENT BASED ON SPECIFIC PROVISIONS CONCERNING THE SELECTION AND OVERSIGHT OF THE INDEPENDENT MONITOR.

481. On October 11, 2024, the Federal Criminal Court held a hearing on the Plea Agreement. Many of the families of the MAX Crashes' victims opposed approval of the Plea Agreement.[50]

482. On December 5, 2024, the Federal Criminal Court rejected the Plea Agreement in the form submitted in July 2024. Noting that many of the crash victims' families opposed the Plea Agreement, the court also found that "the agreement marginalizes the Court in the selection and monitoring of the independent monitor" responsible to ensure that Boeing implements a program to detect violations of U.S. fraud laws. The court further determined that the Plea Agreement's compliance-monitor provisions were against the public interest, in part because they

[50] Families of the MAX Crashes' victims have repeatedly called on the DOJ to bring charges against Boeing and its executives, viewing the DPA and the Plea Agreement as a slap on the wrist. The families have asked the DOJ to seek or impose the maximum fine of almost $25 billion against Boeing, and waive a portion of the fine only if Boeing agrees to improvements in its safety program.

left selection and oversight of the anti-fraud monitor to the U.S. Government, whose "attempt to ensure compliance [with the DPA] has failed."

483. The court ordered Boeing and the DOJ to meet and confer and provide an update to the court on how they intend to proceed. On January 3, 2025, Boeing and the DOJ informed the Federal Criminal Court that they were revising the Plea Agreement to address the reasons the court rejected it. As of the date of this Complaint, Boeing and the DOJ have not submitted a revised plea deal and have until February 16, 2025 to provide the Federal Criminal Court with an update.

X. BOEING AND ITS FIDUCIARIES FACE A NEW WAVE OF STOCKHOLDER LAWSUITS.

A. BOEING STOCKHOLDERS FILE RELATED ACTIONS IN THE EDVA.

484. On May 22, 2024, the State of Rhode Island Office of the General Treasurer on behalf of the Employees' Retirement System of Rhode Island and Local #817 IBT Pension Fund (together, the "Federal Securities Action Plaintiffs") filed a class action complaint alleging claims against Boeing, Officer Defendants Calhoun and West, and former Boeing officers Muilenberg and Gregory D. Smith (the "Federal Securities Action Defendants") pursuant to Sections 10(b) and 20(a) of the Exchange Act in the matter styled *In re The Boeing Company Securities Litigation*, Case No. 1:24-cv-151-LMB-LRV (the "Federal Securities Action"). The Federal Securities Action centered around Boeing's false and misleading statements to its investors about its manufacturing processes and the safety of its aircraft. On June 21, 2024, the Federal Securities Action Defendants moved to dismiss the Federal Securities Action for failure to state a claim.

485. On July 9, 2024, Plaintiff the Oklahoma FPRS filed a verified stockholder derivative complaint in the EDVA in the matter styled *Oklahoma Firefighters Pension & Retirement System v. Calhoun,* Case No. 1:24-cv-01200-LMB-LRV (previously defined as the "Federal Derivative Action"). On October 21, 2024, Plaintiffs filed a joint amended verified stockholder derivative complaint (as corrected on October 28, 2024, the "Federal Derivative Action Complaint") against certain current and former Boeing directors and officers (the "Federal Derivative Action Defendants"). The Federal Derivative Action Complaint asserted four counts: (i) Counts I and II asserted *Caremark* claims against current and former Boeing directors and officers arising from their failure to oversee and respond in good faith to red flags regarding mission-critical airplane safety, quality control, and Boeing's legal obligations with respect thereto; and (ii) Counts III and IV asserted derivative claims against certain Boeing directors and officers for their roles in causing the Company to violate Sections 14(a) and 10(b) of the Exchange Act by disseminating materially false and/or misleading statements regarding Boeing's airplane safety record, quality control, legal compliance, and the oversight associated with those categories. The claims brought under Section 10(b) of the Exchange Act also alleged that those Boeing directors and officers knew or were severely reckless in not knowing that each alleged misrepresentation and omission was false and misleading and caused Boeing to repurchase its stock at artificially inflated prices.

486. All four counts in the Federal Derivative Action Complaint are based on a common nucleus of operative facts. The *Caremark* claims focused on the failure of

Boeing's directors and officers to oversee the Company in good faith, which led to unsafe and noncompliant practices, which led to corporate trauma. The derivative Exchange Act claims focused on the falsity of the public statements about the same topics. Indeed, one reason the public statements are false is because Boeing engaged in unsafe and noncompliant practices facilitated by the bad faith conduct of Boeing's directors and officers.

487. Both the Federal Securities Action and the Federal Derivative Action were assigned to Judge Leonie Brinkema.

B. THE DIRECT AND DERIVATIVE EXCHANGE ACT CLAIMS SURVIVE MOTIONS TO DISMISS.

488. On September 6, 2024, Judge Brinkema entered an order denying the motion to dismiss the Federal Securities Action for the reasons stated at the hearing held the same day.

489. On November 21, 2024, the Federal Derivative Action Defendants filed their motion to dismiss the Federal Derivative Action (the "Federal Derivative Action MTD"), asserting, among other things, that the *Caremark* claims in Counts I and II belonged in the Delaware Court of Chancery and that Plaintiffs had failed to plead demand futility with respect to all Counts.

490. On December 19, 2024, Judge Brinkema held a hearing to consider the Federal Derivative Action MTD. The next day, Judge Brinkema entered an order (i) denying the Federal Derivative Action MTD with respect to derivative Counts III and IV brought under the Exchange Act, and (ii) dismissing the *Caremark* claims in

Counts I and II because "the Delaware Chancery Court is a more appropriate venue to resolve plaintiffs' Caremark claims."[51]

491. On February 3, 2025, Judge Brinkema entered an order requiring "counsel in [the Federal Derivative Action] and in the related [Federal Securities Action to] coordinate all discovery to the maximum extent possible to avoid overlap and duplication."

XI. THE INDIVIDUAL DEFENDANTS ENRICH THEMSELVES BUT CAUSE MASSIVE HARM TO BOEING.

A. THE INDIVIDUAL DEFENDANTS ARE UNJUSTLY ENRICHED.

492. The Individual Defendants' strategy of rushing production to increase profits was ostensibly intended to help the Company. In reality, rushing helped only the Company executives and managers who received incentive compensation based on speed. The Company, in contrast, has decreased in value significantly, as reflected

[51] Judge Brinkema's December 20, 2024 Order provided:

> Before the Court is Defendants' Motion to Dismiss ("Motion"). Because there is another pending derivative action in Delaware Chancery Court against the same defendants regarding similar allegations and, for the reasons stated in open court on December 19, 2024, the Delaware Chancery Court is a more appropriate venue to resolve plaintiffs' Caremark claims. Nevertheless, the Court finds that plaintiffs have pled with particularity violations of Section 10(b) and 14(a) of the Securities and Exchange Act, and these claims are properly before this Court. Accordingly, the Motion [Dkt. No. 115] is **GRANTED IN PART** and **DENIED IN PART**; and it is hereby
>
> **ORDERED** that Counts I and II be and are **DISMISSED WITHOUT PREJUDICE**; and it is further
>
> **ORDERED** that plaintiffs must show cause within fourteen (14) days of this Order as to why Counts III and IV should not be consolidated with In re The Boeing Company Securities Litigation, Case No. l:24-cv-151.

in its stock price. On January 5, 2024, immediately before the Door Plug Blowout, Boeing's common stock closed at $249.00. Following a series of negative public disclosures, Boeing's stock price closed at $176.99 per share on May 15, 2024, the day news outlets reported that the DOJ had determined that Boeing had breached the DPA. This reflects an almost 29% decline in Boeing's stock price.

493. At the June 18, 2024 Senate PSI Committee hearing, Officer Defendant Calhoun acknowledged that Boeing had produced no profits since he became CEO. In response to a question, he could not explain why he deserved a $33 million compensation package in 2023—a 45% increase over 2022.

494. The other Individual Defendants—especially the other Officer Defendants—also received unjustified compensation by sacrificing safety and compliance in the pursuit of profits. As referenced above, the Compensation Committee reduced the 2024 long-term incentive targets for Boeing's named executive officers by 22% to reflect the drop in Boeing's stock price from the Door Plug Blowout to the grant date. *See supra* ¶ 462. That reduction was too little, too late for the following reasons:

a. The Door Plug Blowout and its aftermath caused Boeing's stock price to drop more than 22%. *Cf. supra* ¶ 492 (noting 29% stock drop during only a portion of the relevant period).

b. The 22% reduction was limited to too few individuals. Each of the Individual Defendants, including the directors, contributed to

Boeing's corporate trauma, not just the three named executive officers.

c. The 22% reduction was limited to 2024 long-term incentive compensation. But the wrongdoing that led to the Door Plug Blowout occurred throughout the Relevant Period. Accordingly, the Individual Defendants received incentive compensation before 2024 to which they were not entitled. Officer Defendants Calhoun and Deal left Boeing in 2024, so the 22% reduction in 2024 incentive compensation did not affect them fully.

495. During the Relevant Period, the metrics for determining the compensation of Boeing's named executive officers included metrics for quality and safety. The names and weightings of these metrics changed somewhat from year to year. For example, the "Product Safety" metric referenced in the 2023 proxy statement was renamed "Stability" in the 2024 proxy statement. The concept was the same. Discovery (and likely expert analysis) will be needed to determine specific amounts, but it is certain that Boeing's named executive officers received unjustifiably high safety and quality scores during the Relevant Period given their bad faith oversight failures. The Individual Defendants who were named executive officers must disgorge the portion of their compensation to which they were not entitled. By the same token, the other Individual Defendants must also disgorge a portion of their compensation commensurate to their contributions to Boeing's unsafe

and illegal conduct. The compensation the Individual Defendants received from Boeing was substantial.[52]

Defendant	2020 Comp.	2021 Comp.	2022 Comp.	2023 Comp.
Bradway	$366,000	$379,901	$386,000	$386,089
Calhoun	$21,074,052	$21,167,410	$22,597,178	$32,770,519
Deal	$5,521,526	$7,340,966	$8,755,704	$12,538,976
Doughtie	—	$354,834	$366,000	$366,089
Gitlin	—	—	$207,204	$366,089
Good	$387,525	$379,901	$386,000	$386,089
Harris	—	$379,901	$366,000	$366,089
Johri	$240,321	$369,876	$390,000	$390,089
Joyce	—	$142,970	$416,000	$416,089
Kellner	$31,000	$622,099	$616,000	$616,089
Mollenkopf	$258,321	$366,000	$352,500	$362,589
Pope	—	—	—	$9,656,223
Richardson	$387,494	$364,120	$367,708	$360,089
Soussan	—	—	—	$235,604
West	—	$7,696,177	$8,799,857	$11,910,638
Williams	$386,000	$386,000	$386,000	$386,089
Total (2020-2023):				**$184,507,984**

B. THE INDIVIDUAL DEFENDANTS' BREACHES OF FIDUCIARY DUTY LEAD DIRECTLY TO THE LATEST BOEING CORPORATE TRAUMA.

496. The Individual Defendants' bad-faith failure to change Boeing's toxic culture led to corporate trauma. The Door Plug Blowout was a direct result of Boeing's unsafe and noncompliant manufacturing practices, including traveled work, extensive rework due to Spirit defects, and noncompliant recordkeeping. The Individual Defendants' bad-faith failure of oversight caused at least hundreds of millions of dollars—and likely billions of dollars—of harm to Boeing.

[52] The chart shows the compensation for the Individual Defendants for whom Boeing publicly reported compensation figures. Boeing did not publicly report compensation figures for each Individual Defendant.

497. Commentators laid the blame for Boeing's recidivist behavior directly on the Board. As described by Nell Minow ("Minow"), vice chair of ValueEdge Advisors and noted authority on corporate governance, Boeing is a "serial offender" that "doesn't learn from past mistakes." Minow further explained, "[i]t's a bad board, and it has been a bad board for a long time."[53]

498. The Door Plug Blowout—and the broken culture that led to it—damaged Boeing's all-important relationship with its regulators. In June 2024, FAA Administrator Whitaker admitted to Congress that, previously, "the FAA's approach was too hands-off, too focused on paperwork audits and not focused enough on inspections. . . . We have changed that approach over the last several months, and those changes are permanent." The FAA has increased the number of personnel performing in-person inspections at Boeing and Spirit factories. The sorry state of compliance at Boeing, coupled with the FAA's tightened scrutiny, has kept Boeing's production well below the FAA Production Cap. In July 2024, Boeing produced only twenty-five 737 MAX planes.[54] The FAA has made clear that Boeing's quality control monitors "need to be in the green" before the FAA will permit increased production. It is unclear when Boeing will be ready to consistently produce the thirty-eight plans

[53] Glass Lewis advised against electing Defendant Kellner to the Board in 2021 and 2022, given his role as Audit Committee Chair during the MAX Crashes. However, Kellner remained the Board Chair through the Door Plug Blowout.

[54] A February 20, 2024 management presentation estimated a "737 regulatory environment cash risk of ($0.5B)[.]" BOEINGAA220_00007934, at -7936. That estimate was about a month-and-a-half after the Door Plug Blowout and preceded many of the FAA's most serious statements about Boeing.

permitted by the FAA Production Cap—let alone to increase production to the numbers necessary to return to profitability.

499. Boeing should have been deliberate after the MAX Crashes—slowing down its production to address its manifest and serious manufacturing issues. That approach would have allowed Boeing to safely ramp up its 737 MAX production, and Boeing likely would be at higher production levels today. While Boeing does not publicly disclose the per-plane profitability of the 737 MAX, in 2019, Moody's estimated that Boeing makes as much as $15 million per plane delivered. Thus, for every ten fewer 737 MAX planes Boeing delivers, Boeing likely loses out on more than $150 million in profits.

500. The Door Plug Blowout—and the broken culture that led to it—damaged Boeing's relationships with its customers. Orders for the 737 MAX plummeted after the Door Plug Blowout. In January 2024, Boeing had zero net orders for 737 MAX planes. This had not occurred since January 2021, during the COVID-19 pandemic. In contrast, in the prior month (December 2023), Boeing booked 301 sales of 737 MAX planes. Lurching from crisis to crisis caused Boeing to lose ground to Airbus. According to United Airline's CEO, "I think the MAX 9 grounding is probably the straw that broke the camel's back for us. . . . We're going to build a plan that doesn't have the MAX 10[.]" Chris Isidore, *'The straw that broke the camel's back': United CEO's frustration with Boeing problems*, CNN (Jan. 23, 2024), https://www.cnn.com/2024/01/23/business/united-boeing-max-9-grounding/index.html.

501. The Door Plug Blowout—and the broken culture that led to it—caused, and will cause, Boeing to burn significant cash:

a. Boeing paid Alaska Airlines more than $150 million for the temporary grounding of its planes after the Door Plug Blowout. As of April 2024, Boeing had "recorded an earnings charge of $443M for 737-9 grounding customer compensation. BOEINGAA220OH_00008880.

b. As of March 31, 2024, Boeing had reserved $425 million for a Dreamliner design defect that led to paint peeling off the wings.

c. If ultimately approved in substantially its current form minus the offending independent monitor provisions—which seems likely—the Plea Agreement will require Boeing to pay a $243.6 million fine and spend at least $455 million on its compliance program over three years.

502. The Door Plug Blowout—and the broken culture that led to it—damaged Boeing's relationship with its lenders. The fallout from the Door Plug Blowout came at a time when Boeing was carrying a heavy $60 billion debt load. After the Company announced its 2024 first-quarter results, Moody's downgraded its debt to its lowest investment-grade rating, Baa3. In fact, all three of the major credit rating agencies—S&P Global Ratings, Moody's, and Fitch Group—have reduced Boeing's credit rating to Baa3 or BBB-minus since April 2024. And all three have lowered their outlooks for Boeing to "negative." In May 2024, Boeing issued $10 billion in new debt. On

October 1, 2024, *Bloomberg* reported that Boeing was considering raising at least $10 billion by selling new stock. David Carnevali, Julie Johnson, Bailey Lipschultz, and Dinesh Nair, *Boeing weighs raising at least $10 billion selling stock*, BLOOMBERG (Oct. 1, 2024), https://www.bloomberg.com/news/articles/2024-10-01/boeing-said-to-weigh-raising-at-least-10-billion-selling-stock. This report followed statements from Boeing's CFO on the Company's last earnings call that Boeing wanted "to prioritize the investment grade credit rating." The Boeing Co., Earnings Call Transcript, at 8 (July 31, 2024), https://investors.boeing.com/investors/events-presentations/event-details/2024/Q2-2024-The-Boeing-Company-Earnings-Conference-Call/default.aspx. On October 23, Boeing reported a $6.1 billion loss in the third quarter of 2024. Soon afterward, Boeing announced that it would raise up to $25 billion through offerings of various types of debt and equity. The terms of these capital raises were much less favorable to Boeing than they would have been if the Individual Defendants had overseen Boeing in good faith. Given Spirit's $3.6 billion of debt, Boeing's acquisition of Spirit will further increase Boeing's debt load.

503. The Door Plug Blowout—and the broken culture that led to it—damaged Boeing's effectiveness at attracting top talent. On March 25, 2024, Boeing announced that Officer Defendant Calhoun would step down as CEO. Boeing approached various candidates, including General Electric CEO Larry Culp and current Board member David Gitlin, but they declined to take over as the Company's CEO. It is reasonable to infer that the toxicity of Boeing's brand caused these candidates to pass. The candidate that finally accepted the job—Ortberg—came from the company that:

(i) developed the MCAS that caused the MAX Crashes; (ii) designed and built the angle of attack sensor that caused the MCAS to malfunction; and (iii) manufactured faulty rudder components for Boeing. According to Meyers, Collins has a reputation for prioritizing profits over quality, which raises questions about whether Ortberg is really a change for the Company.

504. The Door Plug Blowout—and the broken culture that led to it—damaged Boeing's image with the flying public. Certain travelers have lost so much faith in Boeing that they arrange their schedules to avoid flying on Boeing planes. The *Washington Post* even posted an article with "tips" for travelers to avoid booking flights on Boeing aircraft. Chris Dong, *You can filter Boeing out of your flight search*, WASHINGTON POST (Mar. 18, 2024), https://www.washingtonpost.com/travel/tips/boeing-737-max-9-booking-tools/.

505. The public's concern about Boeing's safety record made every negative event involving a Boeing plane a newsworthy event. Before the Door Plug Blowout, some of the very serious incidents with Boeing planes—like the March 11, 2024 Dreamliner nosedive that threw passengers into the ceiling, the May 25, 2024 dive that almost smashed a 737 MAX into the ocean off the coast of Hawaii, the June 19, 2024 incident that almost smashed a 737 MAX into an Oklahoma town, and the June 23, 2024 incident that hospitalized thirteen people, *see supra* ¶¶ 361, 404, 423—might have made national headlines. But after the Door Plug Blowout, almost any incident involving a Boeing plane made national headlines. This included incidents

involving older models of Boeing planes that had been in service for decades. These incidents included:

a. On January 14, 2024, an ANA Boeing 737 plane had to turn around and land in Japan after a crack was found on the cockpit window midair.

b. On February 6, 2024, after landing at Newark Liberty International Airport, United Airlines Boeing 737 MAX pilots experienced failure of rudder controls, and pedals on the plane were stuck as they tried to keep the plane in the center of the runway during landing.

c. On February 21, 2024, a United Airlines Boeing 757 had to land in Denver due to wing damage. Boeing officials said the plane landed to "address an issue with the slat" on one of its wings.

d. On March 7, 2024, a United Airlines Boeing 777 plane lost a tire after takeoff that same day, forcing the pilot to make an abrupt landing at Los Angeles International Airport.

e. On March 15, 2024, a United Airlines Boeing 737 plane landed in Medford, Oregon, where it was discovered that a panel from the plane was missing. The panel is believed to have fallen off the plane mid-flight.

f. On March 18, 2024, an Alaska Airlines Boeing 737 plane landed and cracked its windshield in Portland, Oregon.

g. On April 7, 2024, a Southwest Airlines Boeing 737 MAX plane experienced an engine cover fly off and strike a wing flap during takeoff. The plane was forced to immediately return to Denver International airport and was placed out of service for maintenance review.

h. On May 22, 2024, a United Airlines Boeing 737 MAX plane made an emergency landing at Denver International Airport due to a potential mechanical problem.

i. On May 27, 2024, a Virgin Atlantic Boeing 787-9 was forced to turn back mid-flight after its windscreen cracked at 40,000 feet. At that altitude, the plane could not have been hit by a bird; instead, this appears to be a manufacturing or design defect where the glass could not withstand the cold temperature at that altitude.

j. On June 14, 2024, a Sun Country Airlines Boeing 737's engine shut down on a flight from Seattle to Minneapolis St. Paul. The shutdown forced the aircraft to divert to Spokane for an emergency landing.

k. On June 23, 2024, a KLM Boeing 777 returned to Amsterdam after taking off because of unspecified technical problems.

l. On January 27, 2025, a Boeing 787 traveling from Lagos, Nigeria to Washington, DC suddenly lost altitude. The abrupt descent

> sent food and other items flying about the cabin, forcing an emergency landing. Of the 245 passengers and 11 crew members, 6 people were hospitalized with serious injuries and 32 people reported minor injuries.

The widespread reporting of those incidents showed the public's grave concerns about the safety of Boeing's planes.

506. In addition to the regulatory, settlement, borrowing, reputational, and other costs mentioned above, Boeing incurred significant costs for maintaining and reworking its defective planes. According to *Fortune*, Boeing still has 200 737 MAX aircraft and 50 Dreamliners in inventory. According to Calhoun, those planes take more time to maintain than to manufacture. This large inventory is in large part due to Boeing constantly having to pause production and delivery to fix repeated quality issues.

507. In the first quarter of 2024, Boeing reported a loss of $355 million, due in part to spending $4 billion in cash. A large portion of those expenses resulted from the Door Plug Blowout and its related fallout. Boeing's BCA division, which manufactures the 737 MAX and the 787 (among other planes), reported an operating loss of $1.1 billion. In the second quarter of 2024, Boeing reported a loss of $1.439 billion, including a BCA loss of $715 million.

508. On September 13, members of the International Association of Machinists and Aerospace Workers union who worked at Boeing's Renton and Everett, Washington plants went on strike. The 33,000 striking machinists were

responsible for assembling Boeing's 737 MAX and 777 models. The strike lasted more than seven weeks and completely shut down production of the 737 MAX. According to Gautam Mukunda of the Yale School of Management, Boeing had been "squeezing every stakeholder, squeezing every employee, every supplier to the point of failure in order in order to maximize their short-term financial performance[.] . . . That is bad enough if you run a clothing company. It is unacceptable when you are building the most complex mass-produced machines human beings have ever built." Given Boeing's weak position, the union was able to negotiate significant improvements in its collective bargaining agreement, which Boeing reported was "adversely impacting our financial position, results of operations and cash flows." The Boeing Co., Registration Statement (Amendment No. 1 to Form S-4) at 41 (Nov. 27, 2024).

509. Damages to the Company could total several billion by the time this latest scandal runs its course. In April 2024, management estimated that Spirit's quality issues had cost Boeing $10 billion over the prior ten years. BOEINGAA220OH_00008430, at -8435. Management later increased its estimate to almost $11 billion. BOEINGAA220OH_00008530, at -8531. In August 2024, management explained to the Board that Boeing's full year cash flow forecast for 2024 had been revised from $5 billion to $4 billion, "driven by latest 737 non-conformance[.]" BOEINGAA220OH_00007591, at -7595. One financial stress test presented to the Board assumed "2024–2026 lower by $5.5B solely due to the 737-9 door plug incident[.]" BOEINGAA220OH_00007934, at -7943.

XII. DERIVATIVE ALLEGATIONS

510. Plaintiffs bring this action derivatively in the right, and for the benefit, of Boeing to redress the breaches of fiduciary duty and other violations of law committed by the Individual Defendants, as alleged herein.

511. Plaintiffs have named Boeing solely as a nominal party in this action. This is not a collusive action to confer jurisdiction on this Court that it would not otherwise have.

512. Plaintiffs will adequately and fairly represent the interests of Boeing and its stockholders in enforcing and prosecuting the Company's rights, and Plaintiffs have retained counsel experienced in prosecuting this type of derivative action. Plaintiffs have continuously held Boeing stock throughout the Relevant Period and will continue to hold Boeing stock through the resolution of this Action.

513. Prior to filing this Action, Plaintiffs received and analyzed 1,070 Boeing books and records. Plaintiff the Oklahoma FPRS served a books and records demand on January 26, 2024. Plaintiffs the Ohio PERS and the Ohio STRS served a books and records demand on February 28, 2024.

514. On April 17, 2024, Boeing began producing books and records to Plaintiffs.[55] On May 8, 2024, the Ohio PERS and the Ohio STRS served a supplemental books and records demand. On July 25, 2024, the Ohio PERS and the

[55] Boeing apparently produced books and records to different demanding stockholders at different times. Other Boeing stockholders who filed a complaint in this Court have indicated that they had received no books and records by July 9, 2024. Compl. ¶ 18, *Constr. & Gen. Bldg. Labs.' Local Union No. 79 Gen. Fund v. Amuluru*, C.A. No. 2024-1210-MTZ (Del. Ch.), D.I. 1.

Ohio STRS filed a lawsuit in this Court to enforce their books and records demand. *Ohio Pub. Emps. Ret. Sys. v. The Boeing Co.*, C.A. No. 2024-0795-SEM (Del. Ch.) (the "Books and Records Action"). On August 8, 2024, this Court entered a stipulated scheduling order in the Books and Records Action that set October 4, 2024 as the deadline for Boeing to substantially complete production of all books and records it had agreed to produce prior to July 25, 2024.[56]

515. Boeing produced additional books and records at various times throughout 2024 and into 2025, even after the Oklahoma FPRS initiated the Federal Derivative Action. When Plaintiffs filed the Federal Derivative Action Complaint, they had received 1,036 Boeing books and records. Boeing produced nineteen additional books and records in late November 2024 and fifteen additional documents in January 2025.

XIII. DEMAND FUTILITY ALLEGATIONS

516. Plaintiffs did not make a pre-suit litigation demand on the Board asserting the claims alleged herein because such a demand would have been futile and, therefore, is excused as a matter of law.

517. By failing to take good faith actions in response to clear red flags, Boeing's directors and officers breached their fiduciary duties under *Caremark*'s second prong. Boeing's fiduciaries also breached their prong two *Caremark* duties by knowingly creating, approving, and/or implementing a production schedule that

[56] This deadline was an important factor in Judge Brinkema's decision to stay the Federal Derivative Action for thirty days to permit the Ohio PERS and the Ohio STRS to continue their inspection.

Boeing could not meet safely and in compliance with the law. A plethora of particularized facts—based on more than 1,000 internal Boeing books and records—demonstrate that each Demand Defendant faces a substantial likelihood of liability for his or her bad-faith failure of oversight. The Demand Defendants are ten of the twelve members of the Demand Board, so a majority of the Demand Board faces a substantial likelihood of liability for demand futility purposes.

518. In addition to facing a substantial likelihood of liability for Plaintiffs' *Caremark* claims, a majority of the directors on the Demand Board face a substantial likelihood of liability for claims asserted in the Federal Derivative Action, including for violations of Sections 14(a) and 10(b) of the Exchange Act:

a. Ten of the twelve members of the Demand Board—Bradway, Doughtie, Gitlin, Good, Harris, Johri, Joyce, Mollenkopf, Richardson, and Soussan—are "Proxy Defendants" for purposes of the Section 14(a) claim in the Federal Derivative Action.

b. The same ten members of the Demand Board—Bradway, Doughtie, Gitlin, Good, Harris, Johri, Joyce, Mollenkopf, Richardson, and Soussan—are "10(b) Defendants" for purposes of the Section 10(b) claim in the Federal Derivative Action.

519. Plaintiffs' Section 14(a) and Section 10(b) claims survived motion to dismiss challenges by the defendants in the Federal Derivative Action—which includes ten of the members of the Demand Board named directly above—under Federal Rules of Civil Procedure 12(b)(6) and 23.1. As a result, a majority of the

members of the Demand Board continue to face a substantial likelihood of liability on Plaintiffs' Exchange Act claims in the Federal Derivative Action.

520. In sustaining Plaintiffs' Exchange Act claims in the Federal Derivative Action, Judge Brinkema held that Plaintiffs pleaded violations "with particularity" under a heightened pleading standard that requires Plaintiffs' factual allegations to be "plausible on [their] face" and create a "reasonable inference that the defendant is liable for the misconduct alleged." *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "Chancery Rules 23.1 and 12(b)(6) are predicated on the Federal Rules of Civil Procedure." *Brehm v. Eisner*, 746 A.2d 244, 267 (Del. 2000).[57]

521. The Federal Derivative Action and the derivative *Caremark* claims asserted by this Complaint share the same common nucleus of operative facts. As a result, in addition to facing a substantial likelihood of liability on Plaintiffs' Exchange Act claims in the Federal Derivative Action, a majority of the members of the Demand Board possess a substantial likelihood of liability on the *Caremark* claims Plaintiffs assert here.[58]

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[57] *See In re CBS Corp. S'holder Class Action & Deriv. Litig.*, 2021 WL 268779, at *31 (Del. Ch. Jan. 27, 2021, revised Feb. 4, 2021) (Delaware plaintiffs must "make a threshold showing, through the allegation of particularized facts, that [plaintiffs'] claims have some merit.").

[58] *See CBS*, 2021 WL 268779, at *47 (if "factual allegations underlying [different Counts] are congruous, demand is excused as to all of those counts under [the] substantial likelihood of liability prong.").

A. THE DEMAND BOARD CANNOT IMPARTIALLY EVALUATE COUNT I, WHICH ALLEGES BREACHES OF FIDUCIARY DUTY BY THE DIRECTOR DEFENDANTS.

1. The Demand Defendants Face a Substantial Likelihood of Liability on Plaintiffs' *Caremark* Claims Here.

522. During the Relevant Period, the Director Defendants breached their prong two *Caremark* duties in two ways. First, they failed to respond in good faith to red flags of impending corporate trauma due to the Company's unsafe and illegal production practices. Second, they acted in bad faith by repeatedly approving a production schedule that they knew could not be met safely and in compliance with the law. In so doing, they knowingly placed profits above the mission-critical issues of safety and regulatory compliance. *See, e.g.*, *supra* Sections VI.A, VI.C.

523. During the Relevant Period, no Director Defendant could plead ignorance of his or her responsibility to ensure that Boeing operated safely and legally. Five members of the Demand Board—Bradway, Good, Johri, Mollenkopf, and Richardson—approved the DPA and were on the Board when the FAA sanctioned Boeing for violating the 2015 FAA Settlement. *See supra* ¶ 129. Eight members of the Demand Board—Bradway, Doughtie, Good, Harris, Johri, Joyce, Mollenkopf, and Richardson—approved the Delaware Settlement and its corporate governance changes. *See supra* ¶ 147. A ninth member of the Demand Board—Gitlin—was appointed to the Board to fulfill a requirement of the Delaware Settlement. *Cf. supra* ¶ 145.

524. In addition to the DPA, the February 2021 sanctions for Boeing's breach of the 2015 Settlement, and *Boeing I* (including the Delaware Settlement), Company policies and guidelines informed the Demand Defendants of their duties.

525. The Boeing Code of Conduct (the "Code of Conduct") states in relevant part:

> At The Boeing Company, our first commitment is to the people and customers who rely on our products and services to protect, connect, and explore our world and beyond. We are each personally responsible for honoring that commitment and for serving as stewards of our company's legacy of aerospace excellence and innovation. We do that by committing to our values, and by holding ourselves to the highest standards of conduct in how we do our work, and how we treat one another. We understand that observing the highest ethical business standards is not only the right thing to do, but is critical to our long-term success as a company.
>
> I commit that:
>
> a. *I will comply with all applicable laws, rules, and regulations*. If I do not understand them, I will seek guidance.
>
> b. *I will prioritize safety, quality, and integrity above profit, schedule, or competitive edge.* If I see something that raises a safety concern, I will speak up immediately.
>
> c. I will engage all regulators—including employees who act under delegated authority—and customers with candor, transparency, and respect at all times.
>
> ***
>
> d. *I will promptly report any illegal, improper, or unethical conduct* to my management or through other appropriate channels.

(Emphasis added.)

526. The Boeing Company Code of Ethical Business Conduct for Members of the Board of Directors states in relevant part:

> This Code is intended to focus the Board and each Director on areas of ethical risk, provide guidance to help them continue to effectively recognize and deal with ethical issues, enhance existing mechanisms to continue the reporting of unethical conduct, and help to continue to foster and sustain a culture of honesty and accountability. *Each Director must comply with the letter and spirit of this Code.*
>
> ***
>
> Compliance with Laws, Rules and Regulations; Fair Dealing
>
> *Directors shall comply with all applicable laws, rules and regulations*, including insider-trading laws. Transactions in Company securities are governed by the Company's Insider Trading Procedure (Procedure 12). Directors shall deal fairly with the Company's employees, customers, suppliers, regulators and competitors. Directors shall not take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair-dealing practice.
>
> Encouraging the Reporting of any Illegal or Unethical Behavior
>
> *Directors shall continue to promote ethical behavior and take steps to ensure that the Company continues to (1) encourage employees to talk to supervisors, managers and other appropriate personnel when in doubt about the best course of action in a particular situation; (2) encourage employees to report actual or suspected violations of laws, rules, regulations or the Company's Code of Conduct and improper or unethical behavior to appropriate personnel or through other appropriate channels; and (3) inform employees that retaliation of any kind against anyone who speaks up to report a concern will not be tolerated.*
>
> Compliance Procedures

> Any suspected violations of this Code should be communicated promptly to the Chair of the Board or the Chair of the Governance & Public Policy Committee.

(Emphasis added.)

527. The Board's Corporate Governance Principles state in relevant part:

> The Board of Directors (the "Board") of The Boeing Company ("Boeing" or the "Company") has adopted the following corporate governance principles (the "Principles") to assist the Board in the exercise of its responsibilities and, along with Boeing's Certificate of Incorporation and By-Laws and charters of the committees of the Board, provide an effective framework for Boeing's governance.
>
> ***
>
> Boeing's business is conducted by its employees, managers and officers, led by the Chief Executive Officer ("CEO"), *subject to the oversight of the Board*. Directors' basic responsibility is to exercise their business judgment to act in what they reasonably believe to be the best interests of the Company and its shareholders. The Board selects the CEO and works with the CEO to both elect/appoint other officers and ensure that the long-term interests of the Company and its shareholders are being served. The Board and the officers recognize that the long-term interests of the Company and its shareholders are advanced when they take into account the concerns of employees, customers, suppliers and communities.

(Emphasis added.)

528. During the Relevant Period, Demand Defendants Gitlin, Harris, Joyce, and Richardson served on the Aerospace Safety Committee. Joyce served as committee Chair during the Relevant Period. The Aerospace Safety Committee Charter provides that the Aerospace Safety Committee is responsible to "assist[] the Board in the oversight of the safe design, development, certification, production, maintenance, and operations, of the aerospace products and services of the

Company." Among other things, the committee is responsible to review and make recommendations to the Board concerning Boeing's:

a. Safety Management System;

b. Quality Management System;

c. Policies and processes for engaging with the FAA and other regulators;

d. Engineering organization and processes;

e. Product development programs as they relate to technical, compliance, or product safety considerations;

f. Participation in regulatory investigations;

g. ODA program, including the selection and removal of Boeing's ODA Ombudsperson;

h. Speak Up program; and

i. Instructions from, and communications with, the FAA.

529. The Aerospace Safety Committee serves as a forum for directors to communicate directly with Boeing senior management. It also consults with, and provides input to, the Compensation Committee on the annual performance evaluation of the CEO and other executive officers. It also assesses the adequacy of, and need for, additional continuing director education programs relevant to the committee's responsibilities.

530. During the Relevant Period, Demand Defendants Doughtie, Good, Harris, Johri, and Soussan served on the Audit Committee. Johri served as Chair in 2021, 2022, and 2023. Doughtie became Chair in 2024. The Company's Audit

Committee Charter provides that the Audit Committee is responsible to assist the Board in the oversight of, among other things:

a. Boeing's internal control environment and compliance with legal and regulatory requirements; and

b. Boeing's processes for assessing key strategic, operational, and compliance risks.

531. Among other things, the Audit Committee is to:

a. "Review the effect of regulatory and accounting initiatives, as well as off-balance-sheet structures, on the financial statements of the Company";

b. "Discuss with management the Company's policies, practices and guidelines with respect to risk assessment and risk management, including assessing key strategic, operational and compliance risks";

c. "Meet with the [Chief Compliance Officer] to review the Company's ethics and business conduct programs and the Company's compliance with related laws and regulations"; and

d. "Review significant pending and threatened litigation."

532. The Audit Committee is also to report to the Board on:

a. Boeing's compliance with legal or regulatory requirements; and

b. The implementation and effectiveness of the Company's ethics and compliance programs to support the Board's oversight responsibility.

533. Here, management prepared written materials for the Audit Committee regarding the DPA. The Audit Committee also received annual written reports from Boeing's auditors. The committee reviewed and discussed with management and the

independent auditors the Company's Form 10-K and Form 10-Q filings with the SEC. All directors were invited to Audit Committee meetings and received materials for the meetings. The minutes show that directors who were not committee members frequently attended Audit Committee meetings. As alleged above, the materials for the Audit Committee meetings showed the Director Defendants that Boeing's illegal conduct was not improving and, in important respects, was getting worse. *See, e.g.*, *supra* ¶¶ 233, 236–37, 242, 301.

534. During the Relevant Period, Demand Board members Doughtie, Good, Joyce, and Mollenkopf served on the Compensation Committee. The Compensation Committee Charter provides that the Compensation Committee is responsible to:

a. "[A]nnually review and approve, either as a Committee or together with the other independent directors as directed by the Board, the individual elements of total compensation for the Chief Executive Officer ('CEO') and other executive officers including base salary, incentive awards, equity-based awards, and any other long-term incentive awards";

b. "Review and approve corporate goals and objectives relevant to CEO compensation and evaluate the CEO's performance in light of those goals and objectives (in each case, together with the Governance & Public Policy Committee), and after consultation with the Aerospace Safety Committee and together with the other independent directors, determine and approve the CEO's compensation based on this evaluation"; and

c. "Review and, after consultation with the Aerospace Safety Committee in connection with the safety review portion of performance evaluations, approve individual performance scores for executive officers other than the CEO."

Given the requirement that the Compensation Committee approve safety performance scores for Boeing executive officers, the Compensation Committee members undoubtedly knew the sorry state of Boeing's culture regarding safety. *See supra* ¶ 145.i. The members also knew that Boeing was not properly incentivizing senior executives to prioritize safety. The Compensation Committee's 2024 decision to change the incentive compensation metrics to be more heavily weighted toward safety factors after the Door Plug Blowout confirms that, through most of the Relevant Period, Boeing incentivized profits over safety and compliance.

535. The following chart identifies the Demand Board members who served on the Board when: (i) the DPA went into effect; (ii) the FAA sanctioned Boeing in February 2021 for violating the 2015 Settlement; (iii) Boeing and the FAA entered into the 2021 FAA Settlement; (iv) this Court issued the motion-to-dismiss opinion in *Boeing I*; and (v) and this Court approved the Delaware Settlement. The chart also identifies the Demand Board members' service on the Audit, Compensation, and Aerospace Safety Committees during the Relevant Period. As alleged above, numerous presentations at Board and committee meetings showed that safety and compliance issues at Boeing and Spirit were getting worse in key areas. *See, e.g., supra* ¶¶ 233, 236–37, 242, 301.

Demand Board Member	**2021**	**2022**	**2023**	**2024**
Bradway	DPA; 2021 Breach Finding; 2021 FAA Settlement *Boeing I* MTD	Delaware Settlement		
Buckley				
Doughtie	2021 Breach Finding; 2021 FAA Settlement; *Boeing I* MTD; Audit	Delaware Settlement; Audit	Audit; Compensation	Audit; Compensation
Gitlin		Aerospace Safety	Aerospace Safety	Aerospace Safety
Good	DPA; 2021 Breach Finding; 2021 FAA Settlement; *Boeing I* MTD; Audit; Compensation	Delaware Settlement; Audit; Compensation	Audit; Compensation	Audit; Compensation
Harris	*Boeing I* MTD; Aerospace Safety; Audit	Delaware Settlement; Aerospace Safety; Audit	Aerospace Safety; Audit	Aerospace Safety; Audit
Johri	DPA; 2021 Breach Finding; 2021 FAA Settlement; *Boeing I* MTD; Audit	Delaware Settlement; Audit	Audit	Audit

Demand Board Member	**2021**	**2022**	**2023**	**2024**
Joyce	*Boeing I* MTD; Aerospace Safety; Compensation	Delaware Settlement; Aerospace Safety; Compensation	Aerospace Safety; Compensation	Aerospace Safety
Mollenkopf	DPA; 2021 Breach Finding; 2021 FAA Settlement; *Boeing I* MTD; Compensation	Delaware Settlement; Compensation	Compensation	Compensation
Ortberg				
Richardson	DPA; 2021 Breach Finding; 2021 FAA Settlement; *Boeing I* MTD; Aerospace Safety	Delaware Settlement; Aerospace Safety	Aerospace Safety	Aerospace Safety
Soussan			Audit	Audit

536. In motion-to-dismiss briefing in the Federal Derivative Action, the defendants conceded that the Boeing directors knew about many of the problems that led to Boeing's corporate trauma. However, the defendants argued that the directors acted in good faith by accepting management's assurances that management was working on some of the issues. There are many problems with that argument. For one thing, management reported on problems in certain areas without proposing any plans to address them. For another thing, management's "plans" were often general assurances that lacked a disclosure of any specific strategies. Most importantly,

management's reports showed that illegal conduct was staying the same, or even getting worse, notwithstanding purported plans to address the issues. *See, e.g.*, *supra* ¶¶ 233.f–g, 236–37, 242, 301. On these facts, the Director Defendants' decision to passively receive reports constitutes bad faith. The Demand Defendants' most egregious oversight failures were (i) repeatedly approving a production schedule that they *knew* Boeing could not meet safely and legally; and (ii) failing to take good faith efforts to stop illegal conduct once it *became clear* that important problems were *staying the same or getting worse*—notwithstanding management's purported efforts.

537. Delaware does not charter lawbreakers. The DGCL limits a Delaware corporation to pursuing only "lawful business" through "lawful acts." *See* 8 *Del. C.* §§ 101(b), 102(a)(3). Accordingly, a Delaware corporation may not operate a business plan that shirks regulatory compliance in favor of higher profits. As a recent Chief Justice of the Delaware Supreme Court put it while serving as a Vice Chancellor on this Court, "a fiduciary of a Delaware corporation cannot be loyal to a Delaware corporation by knowingly causing it to seek profit by violating the law." *In re Massey Energy Co.*, 2011 WL 2176479, at *20 (Del. Ch. May 31, 2011) (Strine, V.C.). Corporate officers who pursue such a business plan intentionally or in a grossly negligent manner breach their fiduciary duties and are liable to the corporation and its stockholders for any resulting corporate trauma. Likewise, corporate directors who in bad faith authorize or allow management to pursue such a business plan are liable to the corporation and its stockholders for any resulting corporate trauma. When directors are on notice that management cannot pursue its

business plan and still comply with the law, they must require management to change its business plan and bring the corporation back into compliance.

538. Management's paper programs did not work because the tone at the top never changed. Based on the Board-approved production schedule, senior management never stopped pushing Boeing's employees to produce more and more planes. When significant safety and compliance issues arose, the Individual Defendants were never willing to let workers slow down long enough to fix them. Instead, Boeing rewarded workers who kept the production schedule by any means necessary, while retaliating against workers who tried to slow the process down to fix safety and compliance issues. Boeing kept the crazy cycle going by routinely cutting corners and violating the law.

539. The Demand Defendants' bad faith, and the substantial likelihood of liability they face as a result, make them incapable of impartially considering a pre-suit litigation demand concerning claims against the Director Defendants. Thus, demand is excused as futile regarding Count I.

2. The Demand Defendants Face a Substantial Likelihood of Liability on Plaintiffs' Derivative Exchange Act Claims in the Federal Derivative Action.

540. Ten of the twelve members of the Demand Board—Bradway, Doughtie, Gitlin, Good, Harris, Johri, Joyce, Mollenkopf, Richardson, and Soussan—are defendants on Plaintiffs' derivative Exchange Act claims in the Federal Derivative Action. Those derivative Exchange Act claims against the ten Demand Defendants already survived a motion to dismiss under Rules 12(b)(6) and 23.1. Therefore, by

definition, the Demand Defendants face a substantial likelihood of liability on those claims.

541. Plaintiffs' derivative Exchange Act claims in the Federal Derivative Action are based on the same nucleus of operative facts as Plaintiffs' *Caremark* claims here. The derivative Exchange Act claims challenge the Demand Defendants' false statements concerning safety and compliance at the Company. One reason those statements were false is *because* the Demand Defendants were breaching their *Caremark* duties. The Demand Defendants knew those statements were false because they knew about their own breaches and the breaches of the other Individual Defendants, but they made the false statements anyway. In so doing, they acted in bad faith.

B. THE DEMAND BOARD CANNOT IMPARTIALLY EVALUATE COUNT II, WHICH ALLEGES BREACHES OF FIDUCIARY DUTY BY THE OFFICER DEFENDANTS.

542. Count II of this Complaint asserts claims against the Officer Defendants for breaching their oversight duties and for developing and implementing production a production schedule that they knew Boeing could not implement safely and legally.

543. The Demand Board could not impartially consider a litigation demand against the Officer Defendants. The Board was ultimately responsible for overseeing the Company's mission-critical safety, quality, and compliance practices, including with respect to the DPA. One piece of evidence that the Board failed to meet its oversight obligations in good faith was the directors' failure to ensure that the Officer Defendants were faithfully and competently fulfilling their respective duties. Among

other things, the Board permitted management to pursue a business plan that pursued profits by violating the law. The Officer Defendants' liability and the Director Defendants' liability implicate and are intertwined with the same oversight failures. The Demand Defendants could not impartially evaluate a pre-suit litigation demand to bring claims against the Officer Defendants because bringing those claims would materially increase the Demand Defendants' own risk of liability.

544. Plaintiffs' derivative Exchange Act claims in the Federal Derivative Action are an independent reason why demand is excused as futile regarding Count II. Plaintiffs' derivative Exchange Act claims are based on the same nucleus of operative facts as Plaintiffs' breach of fiduciary duty claims against the Officer Defendants. One of the reasons the Demand Defendants' public statements were false was because the Officer Defendants were breaching their fiduciary duties. The Demand Defendants could not impartially decide whether to cause the Company to bring claims against the Officer Defendants because bringing the claims would undercut the Demand Defendants' defense in the Federal Derivative Action.

COUNT I

Breach of Fiduciary Duty
(Against the Director Defendants in Their Capacities as Directors)

545. Plaintiffs incorporate by reference and reallege each and every allegation set forth above as if fully set forth herein.

546. By virtue of their positions as Boeing directors, the Director Defendants owed fiduciary duties of care and loyalty to Boeing and its stockholders.

547. The Director Defendants breached their fiduciary duties when they (i) failed to respond in good faith to red flags showing potential deficiencies in the mission-critical areas of airplane safety and regulatory compliance and (ii) approved a production schedule that they knew could not be met safely and in compliance with the law.

548. As a result of the Director Defendants' actions and/or inactions, Boeing has suffered damages, pecuniary and otherwise, in an amount and nature to be proven at trial. Those damages, including substantial losses to Boeing, were caused by the Director Defendants' breaches of their fiduciary duties.

549. As a result of the nature of those breaches of fiduciary duty, the Director Defendants are liable to the Company for the damages thereby caused.

COUNT II

Breach of Fiduciary Duty
(Against the Officer Defendants in Their Capacities as Officers)

550. Plaintiffs incorporate by reference and reallege each and every allegation set forth above as if fully set forth herein.

551. By virtue of their positions as Boeing officers, the Officer Defendants owed fiduciary duties of care and loyalty to Boeing and its stockholders.

552. The Officer Defendants breached their fiduciary duties when they (i) failed to respond in good faith to red flags showing potential deficiencies in the mission-critical areas of airplane safety and regulatory compliance and (ii) developed,

proposed, and implemented a production schedule that they knew could not be met safely and in compliance with the law.[59]

553. As a result of the Officer Defendants' actions and/or inactions, Boeing has suffered damages, pecuniary and otherwise, in an amount and nature to be proven at trial. Those damages, including substantial losses to Boeing, were caused by the Officer Defendants' breaches of their fiduciary duties.

554. As a result of the nature of those breaches of fiduciary duty, the Officer Defendants are liable to the Company for the damages thereby caused.

COUNT III

Unjust Enrichment
(Against the Individual Defendants)

555. Plaintiffs incorporate by reference and reallege each and every allegation set forth above as if fully set forth herein.

556. By their self-interested and wrongful acts, the Individual Defendants unjustly enriched themselves at Boeing's expense. Among other things, the Individual Defendants received incentive compensation based on (i) production and financial targets that were achieved through illegal and unsafe practices, and (ii) a purported commitment to safe practices they did not hold.

557. In 2024, the Compensation Committee reduced senior executive incentive compensation by approximately 22% based on the harm Boeing's unsafe

[59] Even if the Officer Defendants acted with only gross negligence in developing, proposing, and implementing the production schedule, such actions represent unexculpated breaches of the duty of care.

practices had the Company's stock price. *See supra* ¶ 462. This reduction understated the harm these unsafe practices inflicted on Boeing, failed to address the benefits senior executives unjustly received prior to 2024, and failed to address the benefits the other Individual Defendants received throughout the Relevant Period.

558. This Court should order the Individual Defendants to disgorge to the Company all amounts they wrongfully received.

559. Plaintiffs and the Class have no adequate remedy at law.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request judgment in the form of an order or orders:

A. Declaring that Plaintiffs are entitled to prosecute the derivative claims in this Action on the Company's behalf;

B. Declaring that Plaintiffs and Plaintiffs' counsel fairly and adequately represented the Company's interests in litigating the derivative claims in this action;

C. Declaring that the Individual Defendants breached their fiduciary duties to the Company;

D. Awarding the Company damages in an amount to be determined at trial;

E. Awarding the Company restitution from Defendants and requiring Defendants to disgorge all profits, compensation, and other benefits they unjustly received, including all wrongfully received incentive

compensation (whether in the form of cash bonuses, stock awards, stock option grants, or otherwise) and stock sale proceeds;

F. Awarding Plaintiffs their reasonable fees and expenses in this Action, and pre- and post-judgment interest on all out-of-pocket fees and expenses;

G. Awarding pre- and post-judgment interest on all damages awards;

H. Declaring that each Defendant is jointly and severally liable for all damages, fees, expenses, and interest;

I. Granting such equitable relief to remediate the Company's flawed governance as this Court deems just and proper; and

J. Granting such other and further relief as this Court deems just and proper.

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