

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ELENA BERRY, BART BERRY, GWINT L. FISHER, RENÉE FISHER, IRIS RUIZ, GARET CUNNINGHAM, and ROSALBA RUIZ, individually and on behalf of all others similarly situated, and DOES 1-327;

Plaintiffs,

v.

THE BOEING COMPANY, a Delaware profit corporation;

Defendant.

NO. 24-2-00824-1 KNT

**COMPLAINT FOR DAMAGES
AND CLASS RELIEF**

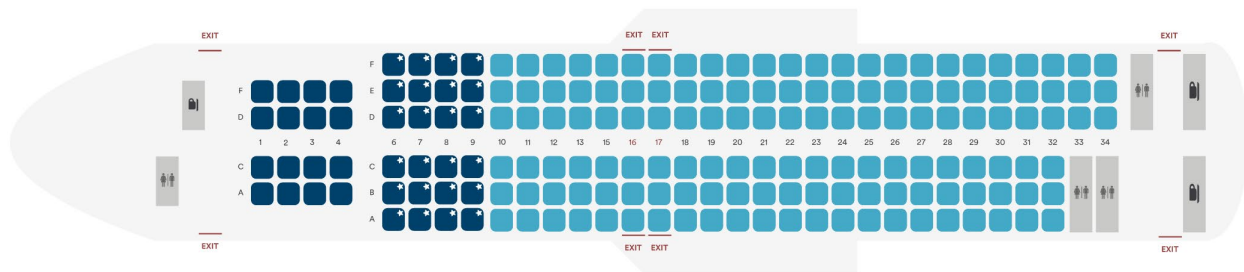
Plaintiffs allege:

I. THE INCIDENT

1.1 Alaska Airlines Flight 1282. On, January 5, 2024, Alaska Airlines Flight 1282, operating a Boeing 737-MAX 9 / B39M aircraft, serial number 67501, registration N704AL (“Subject Aircraft”) departed on a regularly scheduled domestic flight from Portland, Oregon, bound for Ontario, California. As that aircraft was climbing, it lost its left-side door “plug” in flight. The aircraft depressurized, which terrified its passengers, and was forced to return to Portland International Airport to make an emergency landing. The Boeing Company’s CEO Dave

Calhoun calls the defect that led to this lived nightmare “our mistake”¹ and publicly admitted, by his implication, that the plug was not properly secured to the fuselage either during manufacture or otherwise while the aircraft was being built by Boeing, and/or its subcontractor, Spirit AeroSystems².

1.2 Seat layout. The interior seating layout of the Alaska Airlines Boeing 737-9 MAX aircraft is represented below. The left plug is located at row 26.

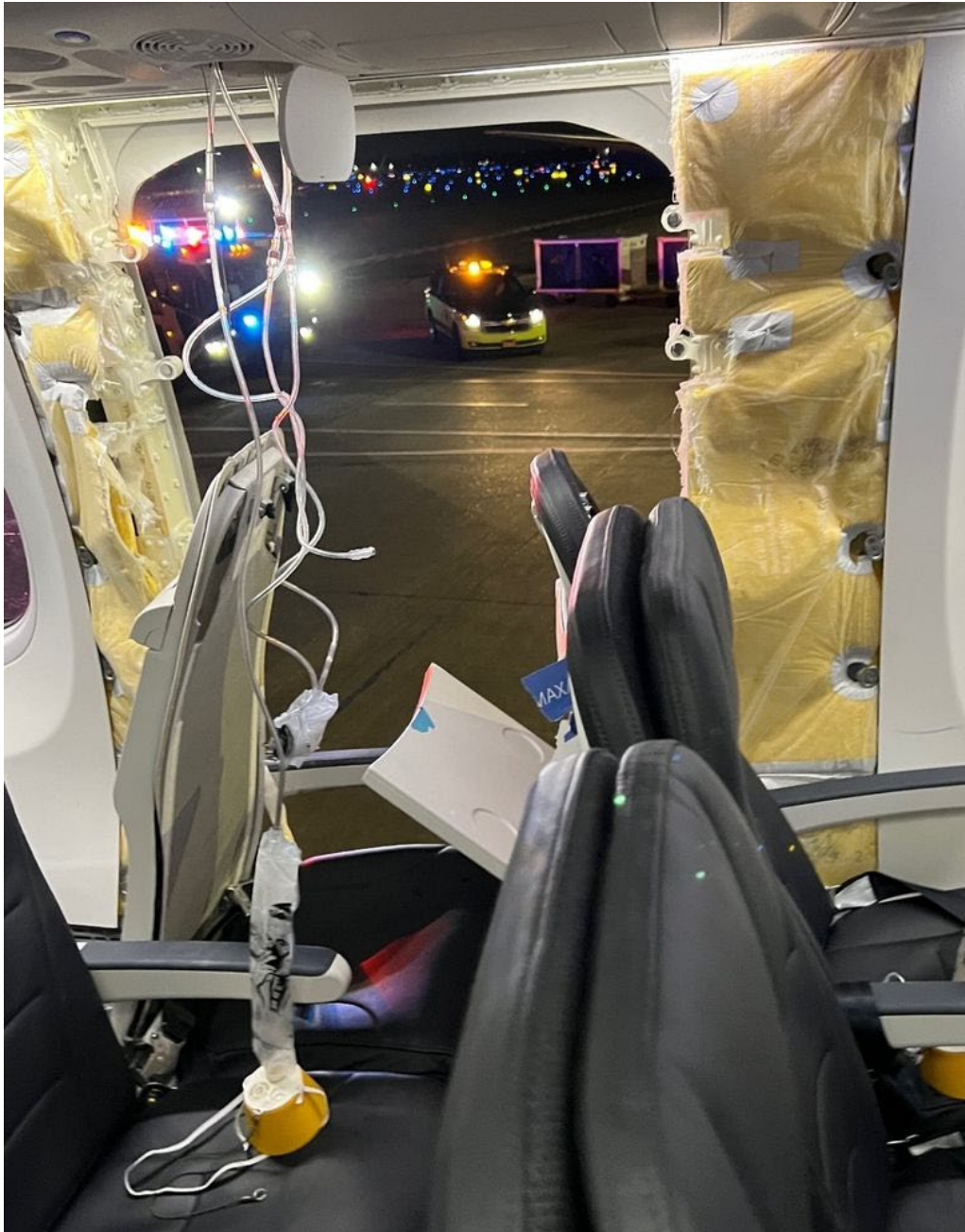


1.3 Souls aboard. On January 5, 2024, the reported 171 passengers and six crew aboard Alaska Airlines Flight 1282 had been experiencing a normal flight. About ten minutes after takeoff, with a sudden loud explosive noise, the left door plug detached and shot off of the Subject Aircraft, which suddenly and violently depressurized.

1.4 Immediate effects. The force of the depressurization ripped the shirt off a boy, and sucked cell phones, other debris, and much of the oxygen out of the aircraft. The entire seatback of 26A as well as the headrests in seats 26A and 26B, next to the blown-out hole in the fuselage, were torn off and expelled into the night. Paneling and window trim in several rows extending from the point of failure was damaged. The shirtless boy leapt over the woman next to him, and escaped toward the front of the plane. At least two others seated near the hole followed and found new seats closer to the front.

¹See, e.g., <https://www.cbsnews.com/news/boeing-ceo-acknowledging-our-mistake-alaska-airlines-door-plug-blowout-dave-calhoun/>.

²See, e.g., <https://www.youtube.com/watch?v=7PngZBdCwJU>.



1.5 Injuries. The event physically injured some passengers and emotionally traumatized most if not all aboard. The violence of the event bruised the bodies of some. The cockpit door blew open and a flight attendant rushed to try to close it. The pressure change made ears bleed and combined with low oxygen, loud wind noise and traumatic stress made heads ache

1 severely. Passengers were shocked, terrorized and confused, thrust into a waking nightmare,
2 hoping they would live long enough to walk the earth again.

3 1.6 Oxygen masks. As depicted in the photo below³, the oxygen masks dropped from
4 the ceiling,



18 But many of the oxygen masks did not seem to work: For at least some passengers, despite tugging
19 on the tubes, no oxygen flowed. Flight attendants sought to attend to children, questions and
20 concerns, and carried oxygen bottles to some, but did not or could not help all those whose oxygen
21 masks seemed not to be functioning.

23 ³ Photo copied from The Washington Post, attributed to Flight 1282 passenger Nicholas Hoch, available at
24 <https://www.washingtonpost.com/travel/2024/01/10/alaska-airlines-boeing-max-9-passenger-compensation/>

1 1.7 Chaos and panic. According to the NTSB, the wind noise caused by the gaping
2 hole in the fuselage and the ensuing chaos seriously impaired flight crew communications among
3 themselves and with Air Traffic Control. A man stood and reportedly shouted, “*There’s a fuckin’*
4 *hole inside the plane! What the fuck is that?!*”⁴ A woman reportedly shouted, “*Oh my God!*
5 *Someone’s shirt was sucked out of the plane! There’s a hole in the plane!*”⁵

6 1.8 Diversion. The pilots declared an emergency and diverted. They descended under
7 10,000 feet MSL, and turned the airliner back toward Portland.

8 1.9 Terror aloft. As the airliner flew on, passengers feared they would not survive the
9 flight. Thoughts of a complete plane malfunction and possible destruction naturally entered their
10 minds. Some prayed. Some texted family to express their trepidation. Some gripped and clung to
11 one another. Some adult passengers were crying. Most were easily subdued in their collective
12 helpless state, muted with masks on.

13 1.10 Landing. Fortunately, the flight crew was able to land the aircraft safely.

14 1.11 On the ground. After the plane taxied to a gate, emergency responders boarded and
15 asked whether anyone was injured. The passengers who had been nearest the door plug hole
16 deplaned first, followed by the rest.

23 ⁴ <https://www.cnn.com/2024/01/06/us/passengers-alaska-airlines/index.html>

24 ⁵ <https://www.oregonlive.com/portland/2024/01/are-we-going-down-passengers-on-alaska-airlines-flight-1282-describe-fear-confusion.html>



1.12 Exchanges of information. Inside the airport terminal building, passengers talked to one another; sharing questions, concerns, observations, feelings and speculation. Some shared photos and/or video and audio they had taken while aloft of passengers, of where the hole where the Subject Aircraft's left plug had been and of related damage and debris.

1.13 Where to now? Some passengers were rebooked on a new flight aboard a substitute Alaska Airlines 737-MAX 9 and continued to Ontario, California. Many understandably had no interest in reboarding an aircraft and instead took ground transportation to their homes in the area or found other accommodation.

1.14 Terror on the ground. The information passengers obtained upon landing, such as seeing the gaping hole and damage to the aircraft, and communications from airline employees, other passengers, and news reports, led many to suffer further injurious impacts of their in-flight experience on their psychological states.

II. THE AIRCRAFT

2.1 Manufacturer. Defendant The Boeing Company is the manufacturer of the Subject Aircraft within the meaning of the Washington Product Liability Act, Chapter 7.72 RCW because Boeing designed, made, fabricated, constructed, and/or remanufactured, and/or had the contractual and/or designated responsibility to design, make, fabricate, construct and/or remanufacture, and/or marketed or branded under its name, some or all of the Subject Aircraft, including but not limited to its left plug door assembly. Boeing conducted final assembly and inspection of the Subject Aircraft, in Renton, Washington. The Boeing Company is the type certificate holder for the aircraft. As such, under Washington law and under the Federal Aviation Regulations, Boeing is responsible for the safety of design and maintenance instructions as well as continuing airworthiness of the aircraft.

2.2 Certifications. The Subject Aircraft received its airworthiness certificate on October 25, 2023, entered service with Alaska Airlines in the state of Washington on October 31, 2023, and received its FAA registration certificate on November 2, 2023.

2.3 Registered Owner. On information and belief formed after reasonable inquiry and subject to further investigation and discovery, Alaska Airlines, Inc. upon its purchase of the Subject Aircraft and all times thereafter relevant to this action, was the registered owner of the Subject Aircraft.

2.4 Delivery. On information and belief formed after reasonable inquiry and subject to further investigation and discovery, Alaska Airlines, Inc. took delivery from The Boeing Company of the Subject Aircraft on or about November 11, 2023 in the state of Washington.

2.5 Plug. The door plug on the left side of the Subject Aircraft relies on four bolts to ensure a proper seal between the door edges and the fuselage is maintained in flight, and to prevent

vertical translation of the door in flight. This is achieved through bolts attached through upper guide fittings and lower hinge pins, as illustrated below⁶:

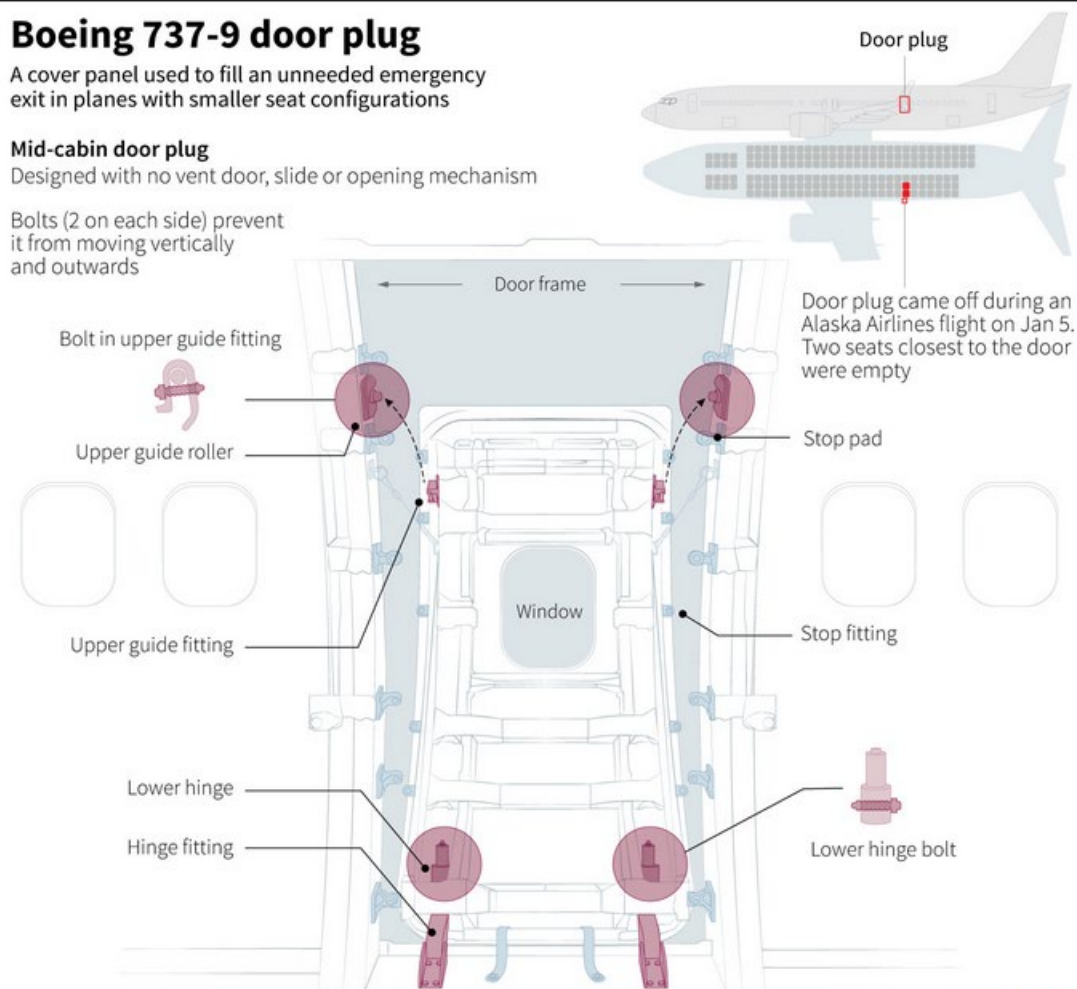
Boeing 737-9 door plug

A cover panel used to fill an unneeded emergency exit in planes with smaller seat configurations

Mid-cabin door plug

Designed with no vent door, slide or opening mechanism

Bolts (2 on each side) prevent it from moving vertically and outwards



Sources: Boeing, NTSB, Chris Brady (www.b737.org.uk)



2.6 Missing and/or defective bolts. On information and belief formed after reasonable inquiry, and subject to further investigation and discovery, The Boeing Company delivered the subject 737-MAX 9 to Alaska Airlines, Inc. without properly securing the plug to the airframe, and/or one or more of the bolts and/or seals required by design to secure the door was or were

⁶ Illustration published in Barron's (1/11/2024), available at <https://www.barrons.com/news/boeing-737-9-door-plug-218747a7>.

1 defective in their material and/or form at the time the aircraft was manufactured and delivered to
2 the purchaser.

3 2.7 More loose bolts. Federally mandated inspections after January 5, 2024 of Boeing
4 737-MAX 9 aircraft owned and operated by Alaska Airlines and United Airlines, in response to
5 the incident that gives rise to this Complaint, have found numerous loose bolts, which suggest that
6 The Boeing Company has failed to design and/or construct those aircraft safely.

7 2.8 Pressure System Alarms. The Subject Aircraft had three in-flight pressure system
8 alarms before January 5, 2024, which resulted in Alaska Airlines withdrawing the aircraft from
9 long-range service over water, so that if a pressurization problem were to occur, the aircraft could
10 rapidly return to an airport.

11 **III. THE PARTIES**

12 3.1 Plaintiff Iris Ruiz. Plaintiff Iris Ruiz was a passenger on the January 5, 2024 Alaska
13 Airlines Flight 1282, departing Portland, Oregon to Ontario, California. At that time and at the
14 commencement of this action, she was a resident of Vancouver, Washington.

15 3.2 Plaintiff Gareth Cunningham. Plaintiff Gareth Cunningham was a passenger on
16 January 5, 2024, Alaska Airlines Flight 1282, departing Portland, Oregon to Ontario, California.
17 He was in seat 28D. At that time and at the commencement of this action, he was a resident of
18 Corona, California.

19 3.3 Plaintiff Rosalba Ruiz. Plaintiff Rosalba Ruiz was a passenger on January 5, 2024,
20 Alaska Airlines Flight 1282, departing Portland, Oregon to Ontario, California. She was in seat
21 28E. At that time and at the commencement of this action, she was a resident of Corona,
22 California.

1 3.4 Plaintiff Bart Berry. Plaintiff Bart Berry was a passenger on January 5,
2 2024, Alaska Airlines Flight 1282, departing Portland, Oregon to Ontario, California. He
3 is married to Plaintiff Elena Marie Berry, and was not a passenger on the aircraft. At that
4 time and at the commencement of this action, he was a resident of Venice, Florida.

5 3.5 Plaintiff Elena Marie Berry. Plaintiff Elena Marie Berry was a passenger
6 on January 5, 2024, Alaska Airlines Flight 1282, departing Portland, Oregon to Ontario,
7 California. She was in seat 18C. At that time and at the commencement of this action, she
8 was a resident of Venice, Florida.

9 3.6 Plaintiff Gwint L. Fisher. Plaintiff Gwint L. Fisher was a passenger on
10 January 5, 2024, Alaska Airlines Flight 1282, departing Portland, Oregon to Ontario,
11 California. He was in seat 16C. At that time and at the commencement of this action, he
12 was a resident of Long Beach, Washington.

13 3.7 Plaintiff Renée Fisher. Plaintiff Renée Fisher was a passenger on January 5,
14 2024, Alaska Airlines Flight 1282, departing Portland, Oregon to Ontario, California. She
15 was in seat 16B. At that time and at the commencement of this action, she was a resident
16 of Long Beach, Washington.

17 3.8 Defendant Boeing. Defendant The Boeing Company (“Boeing”) is a
18 Delaware corporation with its corporate headquarters in Arlington, Virginia. Its
19 Commercial Airplanes Division is headquartered in Renton, Washington. One of its
20 principal manufacturing facilities is located in Renton, Washington. Boeing’s principal
21 place of business is in Seattle, WA 98108, where it owns, operates manages and controls
22 one of the largest aircraft manufacturing facilities in the world, located in Everett,
23 Washington, as well as a major manufacturing plant in Renton, Washington, and other
24

1 facilities in Washington. The registered agent for Boeing is Corporation Service Company, 300
2 Deschutes Way SW, Suite 304, Tumwater, WA 98501.

3 **IV. JURISDICTION & VENUE**

4 4.1 Subject matter jurisdiction. The Superior Court of the State of Washington has
5 jurisdiction over the subject matter and persons in this action because the incident complained of
6 arose from Defendant The Boeing Company's and/or its agents' commission of one or more
7 tortious acts within Washington, and/or ownership, use and/or possession of property within
8 Washington, and the damages suffered by each Plaintiff exceeds three hundred dollars.

9 4.2 Personal jurisdiction. Defendant is subject to personal jurisdiction in Washington
10 for reasons pleaded in this complaint. Defendant was properly served with process in this action,
11 in accordance with Washington law.

12 4.3 Venue. Proper venue of this matter exists in the Superior Court of the State of
13 Washington in and for King County because this cause of action or some part thereof arose in King
14 County, Washington.

15 **V. AGENCY**

16 5.1 Agency. At all times and for all purposes material to this action, an entity doing
17 business as Spirit AeroSystems was an agent of The Boeing Company, acting within the course
18 and scope of Spirit AeroSystems' duties as such in constructing the fuselage for the Subject
19 Aircraft, including but not limited to construction and/or installation of the plug door and its
20 mounting system at issue and its installation in the fuselage.

21 **VI. INJURIES & DAMAGES**

22 6.1 Physical injury. Some passengers experienced physical injuries as a result of their
23 experience on the Subject Aircraft on January 5, 2024. For example:
24

1 6.1.1 Iris Ruiz. The plug door blow-out jolted Iris Ruiz's head back and forth
2 causing a concussion and soft tissue injuries to her neck and back. Her ears experienced so much
3 pressure she thought her head would explode. She lost hearing and her left ear bled internally. She
4 could not breathe properly as her oxygen mask did not seem to be working. These injuries led her
5 into a state of confusion, as she could not perceive well what was happening. She has cried over
6 worrying that if she were to die, her adolescent daughter would have nobody to care for her.

7 6.1.2 Renée Fisher. Plaintiff Renée Fisher had difficulty breathing and started
8 passing out aboard the Subject Aircraft.

9 6.1.3 Gwint Fisher. Plaintiff Gwint Fisher had difficulty breathing aboard the
10 Subject Aircraft. He suffers from a seizure disorder, generally triggered by stressful situations.
11 While had had that condition before January 5, 2024, the trauma of his experience on Flight 1282
12 resulted in a seizure after he disembarked.

13 6.1.4 Rosalba Ruiz. Plaintiff Rosalba Ruiz had had difficulty breathing.

14 6.1.5 Unknown passenger. An unknown male passenger was observed to have a
15 leg or foot injury.

16 6.2 Emotional distress. The in-flight incident aboard the Subject Aircraft on January
17 5, 2024 caused Plaintiffs, and on information and belief subject to further investigation and
18 discovery, other passengers, to suffer emotional distress, including but not limited to some or all
19 of the following: terror, fear of death or serious injury, worry, anxiety, reaction to sudden noises,
20 flashbacks of the incident and reluctance to fly both before and after the incident aboard Flight
21 1282.

22 6.3 Physical manifestations. The in-flight incident aboard the Subject Aircraft on
23 January 5, 2024 caused Plaintiffs, and on information and belief subject to further investigation
24

1 and discovery, other passengers, to suffer physical manifestations borne from the emotional
2 distress that occurred including but not limited to some or all of the following: crying, impaired
3 and/or abnormal breathing, seizure, and insomnia. The impacts on their willingness to fly at all
4 and future flight experiences remain to be revealed.

5 6.4 Other injuries and damages. The in-flight incident aboard the Subject Aircraft on
6 January 5, 2024 caused Plaintiffs, and on information and belief subject to further investigation and
7 discovery, other passengers and their spouses and/or registered domestic partners, to suffer other
8 special and general damages in amounts to be proved at trial, including but not limited to charges
9 for evaluation and/or treatment of health conditions and associated travel expenses, ticket fees,
10 costs associated with cancelation of travel plans, the value of lost personal items, lost wages and
11 other economic opportunities damages, psychological injury, lost enjoyment of life, lost travel and
12 economic opportunities, inconvenience, lost personal experiences, and loss of consortium.

13 **VII. CAUSES OF ACTION**

14 For causes of action based upon the foregoing allegations, Plaintiffs allege:

15 **A. PRODUCT LIABILITY: CONSTRUCTION DEFECT**

16 7.1 Product. The Subject Aircraft and its left plug door assembly are each a “product”
17 and a “relevant product” within the meaning of the Washington Product Liability Act, Chapter
18 7.72 of the Revised Code of Washington.

19 7.2 Deviation. On information and belief, subject to further investigation and
20 discovery, the Subject Aircraft and its left plug door assembly were each defective in their
21 construction within the meaning of RCW 7.72.030(2)(a), because when the product left the control
22 of the manufacturer, the product deviated in some material way from the design specifications or
23
24

1 performance standards of the manufacturer, or deviated in some material way from otherwise
2 identical units of the same product line, in the manners described above.

3 7.3 Consumer expectation. On information and belief, subject to further investigation
4 and discovery, the Subject Aircraft and its left plug door assembly were each defective in their
5 construction within the meaning of RCW 772.030(2)(a), because they were unsafe to an extent
6 beyond that which would be contemplated by the ordinary consumer, in the manners described
7 above.

8 **B. CLASS RELIEF**

9 7.4 Breach and causation. The actions and omissions of Defendant The Boeing
10 Company and its agents as described above breached their duties as described above to the
11 passengers aboard Alaska Airlines Flight 1282 on January 5, 2024, as well as to their spouses and
12 registered domestic partners, and were a proximate cause of their injuries.

13 7.5 The Class. Plaintiffs bring this class action pursuant to CR 23(b)(1)-(3) on behalf
14 of the Class defined as follows: All passengers aboard Alaska Airlines Flight 1282 on January 5,
15 2024 who were not at that time on-duty employees of the Defendant, and their spouses and
16 registered domestic partners.

17 7.6 Class relief. Pursuant to CR 23(c)(4)(A), Plaintiffs bring claims on behalf of
18 themselves and the Class to adjudicate the Defendant The Boeing Company's liabilities. The
19 extent of each individual class member's injuries and damages may be determined and resolved
20 otherwise.

21 7.7 Class notice. Plaintiffs request a Class Notice advising the Class Members the
22 Class may be entitled to injunctive relief, a monetary award for their special and general damages,
23 and any other applicable relief the Court sees fit and just to award.

1 7.8 Numerosity. The Class is believed to include approximately 171 individual
2 passengers and their spouses and registered domestic partners, at least some of whom reside in
3 Washington State, but some of whom do not. The Class is so numerous that joinder of all members
4 is impracticable. The disposition of the liability claims of the Class in a single action will provide
5 substantial benefits to all parties and the Court.

6 7.9 Commonality. The Class members have questions of law and fact in common,
7 including but not limited to:

8 7.9.1 The facts, federal and state law pertaining to the cause(s) and nature of the
9 incident aboard Flight 1282 on January 5, 2024 that is the subject of this complaint; and

10 7.9.2 Whether Defendant The Boeing Company and its agents breached their
11 legal duties to the Class members as described above, and whether any or all of those breaches
12 was a proximate cause of the depressurization event described above.

13 7.10 Typicality. Plaintiffs' liability claims and claims for injunctive relief are typical
14 of the claims available to the other members of the Class and are not subject to any atypical claims
15 or defenses. The Class liability issues are identical to the entire Class.

16 7.11 Adequacy. Plaintiffs will fairly and adequately represent the Class, and are
17 committed to prosecuting this action, have no conflicts of interests, and have retained competent
18 counsel who are experienced civil trial lawyers with recent significant experience in complex and
19 class action litigation and trial, including but not limited to matters involving aviation. Plaintiffs
20 and their counsel are committed to prosecuting this action vigorously on behalf of the Class and
21 have the financial resources to do so. Neither Plaintiffs nor their counsel have interests that are
22 contrary to or that conflict with those of the proposed Class.

7.12 Predominance. The common issues identified above predominate over any individualized issues. Adjudication of these common issues in a single action has important and desirable advantages of judicial economy.

7.13 Superiority. Plaintiffs, Class members, and other travelers on Boeing 737-MAX 9 model aircraft have suffered and may continue to suffer harm and damages as a result of Defendant The Boeing Company and its agents' misconduct. Absent a Class action, most Class members would likely find litigation of their claims cost-prohibitive.

7.13.1 Class treatment is superior to multiple individual suits or piecemeal litigation because it conserves judicial resources, promotes consistency and efficiency of adjudication, and provides a single forum for all claims, which forum is where the defendants are at home. On information and belief, no member of the class has commenced any litigation concerning the controversy that is the subject of this action. If any members of the class are interested in individually controlling the prosecution of separate actions, they may opt out of the class. Whether such class members exist is presently unknown to Plaintiffs.

7.13.2 Class members can be identified by Defendants electronic search of Alaska Airlines' Flight 1832's passenger manifest.

7.13.3 There will be no significant difficulty in the management of this case as a Class action. Once relief is granted on Class issues, the Class will be notified of the opportunity to come forward and assert individual claims for relief. Those claims can be grouped or sorted into subclasses as needed if they do not resolve.

VIII. PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request this Court grant them the following relief against Defendant The Boeing Company:

- A.** Special and general damages in amounts to be proved at trial, for the personal and economic harms identified above.
- B.** If a Defendant brings any frivolous or unfounded defenses, for attorneys' fees and costs pursuant to RCW 4.84.185 and/or Rule 11 of the Superior Court Civil Rules;
- C.** Reasonable attorneys' fees and costs to the extent allowed by law;
- D.** Pre- and post-judgment interest on any judgment awarded to Plaintiffs to the maximum extent allowed by law;
- E.** Class certification;
- F.** Class Notice of Class Member rights, to be provided to Class Members at Defendant's expense;
- G.** Such other and further relief as this Court seems fit and just to award.

STRITMATTER KESSLER KOEHLER MOORE

By: Daniel R. Laurence, WSBA#19697
Furhad Sultani, WSBA#58778