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THE HONORABLE TIMOTHY A. BRADSHAW

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

TERRY WILLIAMS and GARY  
WILLIAMS, husband and wife, and the  
marital community composed thereof,

Plaintiffs,

v.

MCDONNELL DOUGLAS  
CORPORATION, a Maryland Corporation,  
and THE BOEING COMPANY, a  
Delaware Corporation,

Defendants.

No. 09-2-15315-9

**MCDONNELL DOUGLAS  
CORPORATION'S AND THE BOEING  
COMPANY'S ANSWER TO PLAINTIFFS'  
FIRST AMENDED COMPLAINT FOR  
DAMAGES**

McDonnell Douglas Corporation ("McDonnell Douglas") and The Boeing Company ("Boeing") (collectively "Defendants") hereby answer Plaintiffs' First Amended Complaint for Damages ("Complaint"). Defendants' answers are set forth in paragraphs numbered to correspond to the paragraphs in Plaintiffs' Complaint. Except as expressly admitted, Defendants deny each and every material allegation directed against them.

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**I. PARTIES**

1.1 Answering the allegations of paragraph 1.1 of the Complaint, Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 1.1 and therefore deny them.

1.2 Answering the allegations of paragraph 1.2 of the Complaint, McDonnell Douglas admits that it is a Maryland corporation that engages in business in the State of Missouri and is presently a wholly-owned subsidiary of Boeing. The location of McDonnell Douglas's "principal place of business" is a legal conclusion to which no response is required. Except as expressly admitted, Defendants deny the allegations in paragraph 1.2.

1.3 Answering the allegations of paragraph 1.3 of the Complaint, Boeing admits that it is a Delaware corporation, with facilities and employees located in the State of Washington and in King County, and its World Headquarters located in the State of Illinois. Boeing further admits that McDonnell Douglas is presently a wholly-owned subsidiary of Boeing. The location of Boeing's "principal place of business" is a legal conclusion to which no response is required. Except as expressly admitted, Defendants deny the allegations in paragraph 1.3.

1.4 Answering the allegations of paragraph 1.4 of the Complaint, Defendants admit that McDonnell Douglas manufactured a MD-82 aircraft with Manufacturer's Serial Number 53088 and FAA Registration number N558AA, excluding component parts thereof that were manufactured by others.

1.5 Answering the allegations of paragraph 1.5 of the Complaint, Defendants assert that paragraph 1.5 states a legal conclusion to which no response is required. To the extent a response is deemed required, Defendants deny the allegations in paragraph 1.5.

1           1.6     Answering the allegations of paragraph 1.6 of the Complaint, Defendants  
2 admit that, in accordance with the design specifications of the Federal Aviation  
3 Administration Type Certificate and Airworthiness Certificate, McDonnell Douglas  
4 designed, assembled, manufactured, inspected, tested, marketed, and distributed a MD-82  
5 aircraft with serial number 53088, except for components, parts or modifications designed,  
6 manufactured, assembled or sold by others, and except for components, parts or  
7 modifications that were, subsequent to McDonnell Douglas's sale of the aircraft, removed,  
8 installed, exchanged, altered, modified, retrofitted, overhauled, remanufactured or approved  
9 by others. Answering the remaining allegations of paragraph 1.6 of the Complaint,  
10 Defendants assert that McDonnell Douglas is no longer engaged in manufacturing activities.  
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20           1.7     Answering the allegations of paragraph 1.7 of the Complaint, Defendants  
21 admit only that Boeing acquired McDonnell Douglas on August 1, 1997 through a merger  
22 with a wholly-owned subsidiary of Boeing.  
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26           1.8     Answering the allegations of paragraph 1.8 of the Complaint, Defendants  
27 admit that Boeing acquired ownership of the Type Certificate for MD-82 aircraft in 1998.  
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30           1.9     Defendants deny the allegations of paragraph 1.9 of the Complaint.  
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32           1.10    Defendants deny the allegations of paragraph 1.10 of the Complaint.  
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34           1.11    Defendants deny the allegations of paragraph 1.11 of the Complaint.  
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36           1.12    Defendants deny the allegations of paragraph 1.12 of the Complaint.  
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38           1.13    Defendants admit the allegations in paragraph 1.13 of the Complaint.  
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40           1.14    Defendants admit the allegations in paragraph 1.14 of the Complaint.  
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42           1.15    Answering the allegations of paragraph 1.15 of the Complaint, Defendants  
43 assert that paragraph 1.15 states a legal conclusion to which no response is required. To the  
44 extent a response is deemed required, Defendants are without knowledge or information  
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1 sufficient to form a belief about the truth of the allegations in paragraph 1.15 and therefore  
2 deny them.  
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5 1.16 Answering the allegations of paragraph 1.16 of the Complaint, Defendants  
6 expressly deny that they ever extended any express or implied warranty to the Plaintiffs.  
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11 **II. JURISDICTION AND VENUE**  
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13 2.1 Answering the allegations of paragraph 2.1 of the Complaint, Defendants  
14 assert that paragraph 2.1 states legal conclusions to which no answer is required. To the  
15 extent an answer may be required, Defendants do not dispute this Court's jurisdiction over  
16 Plaintiffs' claims pursuant to RCW 4.12.025(1).  
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19  
20 2.2 Answering the allegations of paragraph 2.2 of the Complaint, Defendants  
21 admit that Boeing maintains facilities and employees in King County. Except as expressly  
22 admitted, Defendants deny the allegations in paragraph 2.2.  
23  
24

25 2.3 Defendants deny the allegations in paragraph 2.3 of the Complaint.  
26  
27

28 2.4 Answering the allegations of paragraph 2.4 of the Complaint, Defendants  
29 admit that Boeing maintains facilities and employees in the State of Washington. Except as  
30 expressly admitted, Defendants deny the allegations in paragraph 2.4.  
31  
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33 2.5 The allegations of paragraph 2.5 of the Complaint are admitted.  
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36 2.6 Answering the allegations of paragraph 2.6 of the Complaint, Defendants  
37 assert that paragraph 2.6 contains legal conclusions to which no response is required. To the  
38 extent a response is deemed required, Defendants do not dispute this Court's jurisdiction  
39 over Plaintiffs' claims.  
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### III. FACTS

3.1 Answering the allegations of paragraph 3.1 of the Complaint, Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 3.1 and therefore deny them.

3.2-3.11 Defendants deny the allegations in paragraphs 3.2 through 3.11 of the Complaint.

3.12 Answering the allegations of paragraph 3.12 of the Complaint, Defendants cannot admit or deny the allegations in paragraph 3.12 of the Complaint on the grounds that they are too vague and indefinite to permit a definite response.

3.13 Answering the allegations of paragraph 3.13 of the Complaint, Defendants admit on information and belief that tricresyl phosphate ("TCP") is an anti-wearing agent that manufacturers of jet engine oil typically include in their turbine engine oils, but it is not typically used in aircraft hydraulic fluid.

3.14 Answering the allegations of paragraph 3.14 of the Complaint, Defendants admit on information and belief that TCP has neurotoxic properties above a certain dose level and that the term "neurotoxin," as generally used, refers to a toxin that acts specifically on nerve cells of the central and peripheral nervous system.

3.15 Answering the allegations of paragraph 3.15 of the Complaint, Defendants admit on information and belief that TCP is one of a very large number of chemicals that are referred to as "organophosphates" because they are composed of various numbers and arrangements of carbon atoms attached to phosphate groups.

3.16 Answering the allegations of paragraph 3.16 of the Complaint, Defendants admit, on information and belief, that some chemical compounds found in insecticides,

1 herbicides and pesticides fall within the broad category of chemicals referred to as  
2  
3 “organophosphates.”

4  
5 3.17 Defendants are without knowledge or information sufficient to form a belief  
6  
7 about the truth of the allegations in paragraph 3.17 and therefore deny them.

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9 3.18 Answering the allegations of paragraph 3.18 of the Complaint, Defendants  
10  
11 admit, on information and belief, that typical consumers expect aircraft to be manufactured,  
12  
13 operated, and maintained in accordance with applicable federal aviation regulations and  
14  
15 FAA-approved manuals and instructions. Except as so expressly admitted, the allegations of  
16  
17 paragraph 3.18 are denied.

18  
19 3.19 Answering the allegations of paragraph 3.19 of the Complaint, Defendants  
20  
21 admit that the potential for bleed air contamination has been known throughout the aviation  
22  
23 industry for many years. Except as so expressly admitted, the allegations of paragraph 3.19  
24  
25 are denied.

26  
27 3.20 Answering the allegations of paragraph 3.20 of the Complaint, Defendants  
28  
29 are not aware of any feasible or reliable “sensors” or “filtration systems” designed for the  
30  
31 purposes described in these allegations and assert that the design of the cabin air supply  
32  
33 systems incorporated in their aircraft meet or exceed all applicable federal aviation  
34  
35 regulations.

#### 36 37 **IV. DUTIES**

38  
39 4.1 Answering the allegations of paragraph 4.1 of the Complaint, Defendants  
40  
41 incorporate and restate their answers to paragraphs 1.1-3.20 as though fully set forth herein.

42  
43 4.2 Answering the allegations of paragraph 4.2 of the Complaint, Defendants  
44  
45 admit that, in accordance with the design specifications of the Federal Aviation  
46  
47 Administration Type Certificate and Airworthiness Certificate, McDonnell Douglas

1 designed, assembled, manufactured, inspected, tested, marketed, and distributed a MD-82  
2 aircraft with serial number 53088, except for components, parts or modifications designed,  
3 manufactured, assembled or sold by others, and except for components, parts or  
4 modifications that were, subsequent to McDonnell Douglas's sale of the aircraft, removed,  
5 installed, exchanged, altered, modified, retrofitted, overhauled, remanufactured or approved  
6 by others.  
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12           4.3     Answering the allegations of paragraph 4.3 of the Complaint, Defendants  
13 assert that paragraph 4.3 states legal conclusions to which no response is required. To the  
14 extent a response is deemed required, Defendants admit that they have a duty to comply  
15 with applicable Federal Aviation Regulations governing the design and manufacture of  
16 commercial aircraft and the provision of suitable manuals and procedures for the operation  
17 and maintenance of the aircraft they design and manufacture. Except as expressly admitted,  
18 the allegations in paragraph 4.3 are denied.  
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26           4.4     Answering the allegations of paragraph 4.4 of the Complaint, Defendants  
27 assert that paragraph 4.4 states legal conclusions to which no response is required. To the  
28 extent a response is deemed required, Defendants admit that they have a duty to comply  
29 with applicable Federal Aviation Regulations governing the design and manufacture of  
30 commercial aircraft and the provision of suitable manuals and procedures for the operation  
31 and maintenance of the aircraft they design and manufacture. Except as expressly admitted,  
32 the allegations in paragraph 4.4 are denied.  
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40           4.5     Answering the allegations of paragraph 4.5 of the Complaint, Defendants  
41 admit that, in accordance with the design specifications of the Federal Aviation  
42 Administration Type Certificate and Airworthiness Certificate, McDonnell Douglas  
43 designed, assembled, manufactured, inspected, tested, marketed, and distributed a MD-82  
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1 aircraft with serial number 53088, except for components, parts or modifications designed,  
2 manufactured, assembled or sold by others, and except for components, parts or  
3 modifications that were, subsequent to McDonnell Douglas's sale of the aircraft, removed,  
4 installed, exchanged, altered, modified, retrofitted, overhauled, remanufactured or approved  
5 by others. Except as so expressly admitted, the allegations of paragraph 4.5 are denied.  
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11 4.6 Answering the allegations of paragraph 4.6 of the Complaint, Defendants  
12 assert that paragraph 4.6 states legal conclusions to which no response is required. To the  
13 extent a response is deemed required, Defendants admit that they have a duty to comply  
14 with applicable Federal Aviation Regulations governing the design and manufacture of  
15 commercial aircraft and the provision of suitable manuals and procedures for the operation  
16 and maintenance of the aircraft they design and manufacture. Except as expressly admitted,  
17 the allegations in paragraph 4.6 are denied.  
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25 4.7 Answering the allegations of paragraph 4.7 of the Complaint, Defendants  
26 assert that paragraph 4.7 states legal conclusions to which no response is required. To the  
27 extent a response is deemed required, Defendants admit that they have a duty to comply  
28 with applicable Federal Aviation Regulations governing the design and manufacture of  
29 commercial aircraft and the provision of suitable manuals and procedures for the operation  
30 and maintenance of the aircraft they design and manufacture. Except as expressly admitted,  
31 the allegations in paragraph 4.7 are denied.  
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39 4.8 Answering the allegations of paragraph 4.8 of the Complaint, Defendants  
40 assert that paragraph 4.8 states legal conclusions to which no response is required. To the  
41 extent a response is deemed required, Defendants admit that they have a duty to comply  
42 with applicable Federal Aviation Regulations governing the design and manufacture of  
43 commercial aircraft and the provision of suitable manuals and procedures for the operation  
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1 and maintenance of the aircraft they design and manufacture. Except as expressly admitted,  
2  
3 the allegations in paragraph 4.8 are denied.

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5 **V. LIABILITY OF MCDONNELL DOUGLAS**

6  
7 5.1 Defendants incorporate and restate their answers to paragraphs 1.1-4.8 as  
8  
9 though fully set forth herein. Defendants deny the allegations contained in paragraph 5.1 of  
10  
11 the Complaint.

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13 5.2-5.15 Defendants deny the allegations contained in paragraph 5.2 through  
14  
15 5.15 of the Complaint.

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17 5.16 Answering the allegations of paragraph 5.16 of the Complaint, Defendants  
18  
19 admit only that Plaintiffs purport to bring this action under Washington's Product Liability  
20  
21 Act but deny that they have a basis for doing so. Defendants deny the remaining allegations  
22  
23 contained in paragraph 5.16 of the Complaint.

24  
25 **VI. LIABILITY OF BOEING**

26  
27 6.1 Answering the allegations of paragraph 6.1 of the Complaint, Defendants  
28  
29 incorporate and restate their answers to paragraphs 1.1-5.16 as though fully set forth herein.  
30  
31 Defendants deny the remaining allegations contained in paragraph 6.1 of the Complaint.

32  
33 6.2-6.16 Defendants deny the allegations contained in paragraph 6.2 through  
34  
35 6.16 of the Complaint.

36  
37 6.17 Answering the allegations of paragraph 6.17 of the Complaint, Defendants  
38  
39 admit only that Plaintiffs purport to bring this action under Washington's Product Liability  
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41 Act but deny that they have a basis for doing so. Defendants deny the remaining allegations  
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43 contained in paragraph 6.17 of the Complaint.

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**VII. PROXIMATE CAUSE**

7.1 Answering the allegations of paragraph 7.1 of the Complaint, Defendants deny the allegations in paragraph 7.1.

7.2 Answering the allegations of paragraph 7.2 of the Complaint, Defendants deny the allegations in paragraph 7.2.

**VIII. DAMAGES**

8.1 Answering the allegations of paragraph 8.1 of the Complaint, Defendants deny the allegations in paragraph 8.1.

8.2 Answering the allegations of paragraph 8.2 of the Complaint, Defendants deny the allegations in paragraph 8.2.

8.3 Answering the allegations of paragraph 8.3 of the Complaint, Defendants deny the allegations in paragraph 8.3.

**IX. PRAYER FOR RELIEF**

The remainder of the Complaint consists of plaintiffs' prayer for relief to which no answer is required. Insofar as an answer may be deemed required, Defendants deny that Plaintiffs are entitled to the relief sought.

**X. ADDITIONAL DEFENSES**

10.1 The Complaint fails, in whole or in part, to state a claim against Defendants upon which relief can be granted.

10.2 Plaintiffs' claims may be barred by the applicable statute of limitation or statute of repose.

10.3 Plaintiffs' claims may be barred by the doctrines of laches, waiver, and/or estoppel.

1           10.4   Plaintiffs may lack standing to assert some or all of the claims asserted in the  
2  
3   Complaint.

4           10.5   Plaintiffs' injuries and damages, if any, were caused or contributed to by  
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6   Plaintiffs' own negligence or fault or the negligence or other fault of persons or entities in  
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8   privity with the Plaintiff. Recovery against Defendants, if any, is therefore barred or  
9  
10   diminished under applicable law.

11           10.6   Plaintiffs' claims are barred or preempted, in whole or in part, by federal law,  
12  
13   statutes, and regulations.

14           10.7   Pursuant to RCW 4.22.070 and CR 12(i), Defendants hereby place at issue  
15  
16   the negligence, fault and responsibility of all persons and entities who contributed in any  
17  
18   degree to the injuries, damages and/or losses alleged to have been sustained by Plaintiffs, in  
19  
20   proportion to each such person's or entity's degree of negligence, fault or responsibility.  
21  
22   Judgment against Defendants, if any, should be reduced to an amount that represents  
23  
24   Defendants' proportionate share of Plaintiff's total damages, if any such damages exist. The  
25  
26   identity of nonparties at fault is unknown to Defendants at this time and Defendants reserve  
27  
28   the right to identify them after they become known.

29           10.8   No act or omission of Defendants was the proximate cause of the harm of  
30  
31   which Plaintiffs complain.

32           10.9   If Plaintiffs sustained any injury or damage as alleged in Plaintiffs'  
33  
34   Complaint, such injury or damage was solely, directly, and proximately caused by  
35  
36   conditions, circumstances, and/or conduct of others, beyond the control of Defendants.

37           10.10   Plaintiffs' claims are barred by the doctrine of assumption of the risk.  
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1           10.11 Plaintiffs' claims against Defendants may be barred because Plaintiffs'  
2 alleged damages were proximately caused by intervening or superseding events attributable  
3 to other persons, entities, or corporations rather than to Defendants.  
4

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6           10.12 If Plaintiffs suffered damage by a product originally manufactured by  
7 Defendants, that product was substantially altered, improperly maintained, or misused by  
8 persons and/or entities other than Defendants, over whom Defendants have no control or  
9 right of control, without Defendants' knowledge, consent or advice, following the date of  
10 initial manufacture and sale of such product, and such alteration, improper maintenance, or  
11 misuse proximately caused or contributed to the events alleged in the Complaint and the  
12 resulting alleged damages.  
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15           10.13 The plans or designs, method or technique of manufacturing, assembling,  
16 testing, labeling and sale of any product alleged to have caused all or part of Plaintiffs'  
17 alleged damages conformed with the state of the art at the time any such product was  
18 designed, manufactured, assembled, tested, labeled and/or sold by Defendants, pursuant to  
19 generally recognized and prevailing standards and in conformance with the statutes,  
20 regulations, and requirements that governed the product or products at the time of design,  
21 manufacture, assembly, testing, labeling, and sale.  
22  
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24           10.14 The actions of Defendants were in conformity with the state of the medical,  
25 industrial, and scientific arts, so there was no duty to warn Plaintiffs under the circumstances  
26 or to the extent such a duty arose, Defendants provided adequate warnings, labels, and/or  
27 instructions concerning any product in question. If those warnings, labels, and/or  
28 instructions were not made available or heeded, it is the fault of others and not Defendants.  
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1           10.15 Plaintiffs' claims may be barred, in whole or in part, because Defendants'  
2 products, if any, that are alleged to have injured Plaintiffs were manufactured in compliance  
3 with and supplied pursuant to mandatory government orders and specifications.  
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6           10.16 The benefit of the design Defendants' products and each component thereof  
7 outweigh the inherent risks, if any.  
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10           10.17 Plaintiffs may have failed to mitigate their damages, if any, and may have  
11 failed to protect themselves from avoidable consequences.  
12  
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14           10.18 Some or all of the damages claimed by Plaintiffs are not recoverable under  
15 applicable law.  
16  
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18           10.19 In the event that there is a finding of damages for Plaintiffs, any award or  
19 judgment entered in favor of Plaintiffs must be reduced or offset by the amount of any  
20 benefits, settlements and/or payments Plaintiffs have received, or are entitled to receive,  
21 from any source.  
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25           10.20 Plaintiffs' claim may be barred by the learned intermediary and/or  
26 sophisticated purchaser doctrines.  
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30           10.21 Defendants neither owed nor breached any duties to the plaintiffs.  
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32           10.22 At all relevant times hereto, the knowledge of other persons and business  
33 entities, and the ability of such persons and business entities to take actions to prevent the  
34 injuries complained of was superior to that of Defendants and, therefore, if there was a duty  
35 to protect Plaintiffs or decedent from allegedly foreseeable dangers associated with asbestos,  
36 the duty was on those other persons and business entities and not on Defendants.  
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42           10.23 Defendants reserve the right to add those affirmative defenses which it deems  
43 necessary to its defense during or upon the conclusion of investigation or discovery.  
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1 WHEREFORE, having fully answered the allegations contained in Plaintiffs'  
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3 Complaint, Defendants McDonnell Douglas Corporation and The Boeing Company request  
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5 requests that the Plaintiffs' Complaint be dismissed with prejudice as against Defendants,  
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7 that Defendants' costs in defending Plaintiffs' claims, including attorneys' fees, be taxed  
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9 against Plaintiffs, and that Defendants have such other relief as the Court may deem just and  
10  
11 proper.  
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19 DATED: August 11, 2009

s/ V. L. Woolston, WSBA No. 9453

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