

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SATIJO, as personal representative of the  
estate of ENDANG SRI BAGUS NITA,  
deceased,

Plaintiff,

v.

THE BOEING COMPANY, a corporation,

Defendant.

No. 1:18-cv-08006

**DEFENDANT THE BOEING COMPANY'S ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT**

Defendant The Boeing Company ("Boeing"), by and through its attorneys of record, Perkins Coie LLP, hereby answers the Complaint at Law ("Complaint") of Plaintiff Satijo, as Personal Representative of the Estate of Endang Sri Bagus Nita, deceased (collectively, "Plaintiff"), as follows, in paragraphs numbered to correspond to the paragraph numbers in said Complaint. All facts not specifically admitted are denied.

Boeing also states that the Complaint pertains to an accident on October 29, 2018, that currently is the subject of an ongoing investigation by the Indonesia National Transportation Safety Committee ("NTSC-KNKT"), which has not yet been completed. The United States National Transportation Safety Board ("NTSB") is a party to the NTSC-KNKT investigation, and Boeing is providing technical assistance.

Under international law (Section 5.26 of Annex 13 to the Convention on International Civil Aviation) and federal law (49 C.F.R. § 831.13 and 49 § U.S.C. 1114(f)), Boeing is prohibited at this time from releasing information concerning the accident to any person not a party to the investigation without prior consultation and approval of the NTSB. Accordingly, in responding to this Complaint, Boeing has not relied upon information made known to certain Boeing personnel by the NTSB related to the ongoing investigation of the accident.

ANSWER TO COMPLAINT

### **Jurisdiction and Venue**

1. This civil action seeks recovery of compensatory damages arising out of a commercial airline crash on October 29, 2018 involving a Boeing Model 737-8 airplane operated as Lion Air Flight JT 610 that crashed into the waters of the Java Sea off the coast of the Republic of Indonesia killing all one hundred eighty-nine (189) persons on board.

#### **ANSWER:**

Boeing admits that on October 29, 2018, a Boeing 737-8 aircraft, operated by Lion Air as Lion Air Flight JT 610 (the “Subject Aircraft”), crashed into the Java Sea off of the coast of Indonesia, and that the crash resulted in the deaths of all 189 occupants aboard the Subject Aircraft. Boeing denies the remaining allegations contained in Paragraph 1.

2. Original jurisdiction exists in the District Courts of the United States pursuant to 28 U.S.C. § 1369, commonly known as the Multiparty, Multiforum Jurisdiction Act.

#### **ANSWER:**

The allegations contained in Paragraph 2 consist of legal conclusions to which no response from Boeing is required; to the extent a response is required, Boeing admits that this Court has original jurisdiction over this matter pursuant to the Multiparty, Multiforum Jurisdiction Act, 28 U.S.C. § 1369.

3. Venue exists in this District pursuant to 28 U.S.C. § 1391(b) as Defendant, The Boeing Company, resides in this district. Further, a substantial part of the events or omissions giving rise to the claims occurred in this district.

#### **ANSWER:**

The allegations contained in Paragraph 3 consist of legal conclusions to which no response from Boeing is required. To the extent a response is required, Boeing admits that venue exists in this District but denies the remaining allegations contained in Paragraph 3.

### **Parties**

4. Plaintiff’s decedent, Endang Sri Bagus Nita, was born on May 29, 1998 in the Republic of Indonesia, the daughter of Plaintiff, Satijo, and his wife, Yulianti.

#### **ANSWER:**

Boeing lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 and therefore denies them.

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5. On October 29, 2018, Plaintiff's decedent, Endang Sri Bagus Nita, was working as a flight attendant in training aboard the airplane operated as Lion Air Flight JT 610, when the airplane crashed into the waters of the Java Sea near the coast of the Republic of Indonesia, causing her death.

**ANSWER:**

Boeing lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 and therefore denies them.

6. On October 29, 2018, and at the time of her death, Plaintiff's decedent, Endang Sri Bagus Nita, left surviving her father, Satijo; her mother, Yulianti; and her three siblings, A.J.A.G., a minor, J.C.P., a minor, and D.J.A., a minor.

**ANSWER:**

Boeing lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 and therefore denies them.

7. On October 29, 2018, and at all times herein relevant, the parents and minor siblings of Plaintiff's decedent, Endang Sri Bagus Nita, and each of them were and continue to be citizens and residents of the Republic of Indonesia.

**ANSWER:**

Upon information and belief, Plaintiff was and continues to be a citizen and resident of Indonesia, and the Decedent was also a citizen and resident of Indonesia. Boeing lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 7 and therefore denies them.

8. Plaintiff, Satijo, is the duly appointed personal representative of the estate of Endang Sri Bagus Nita, deceased.

**ANSWER:**

Boeing lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 and therefore denies them.

9. On October 29, 2018 and at all times herein relevant, Defendant, The Boeing Company, was and continues to be a for-profit corporation organized and existing under the laws of the State of Delaware with its principal place of business in Chicago, Illinois.

**ANSWER:**

Boeing admits the allegations contained in Paragraph 9.

**Cause of Action – Wrongful Death**

10. On or about June 30, 2012, the defendant, The Boeing Company, applied to the United States Federal Aviation Administration (“FAA”) for an amendment to the existing FAA Type Certificate No. A16WE to add type certification of the design of a transport category aircraft designated as a Model 737-8 airplane.

**ANSWER:**

Boeing admits the allegations contained in Paragraph 10.

11. That in applying for the aforesaid amendment to FAA Type Certificate No. A16WE, the defendant, The Boeing Company, represented to the FAA that the design changes in the Model 737-8 airplane from previous Model 737 series airplanes was not so extensive to require it to apply for a new type certificate as referred to in 14 C.F.R. § 21.19.

**ANSWER:**

Boeing admits that it applied for an amendment to Type Certificate A16WE for the 737-8 and that the Federal Aviation Administration agreed that the 737-8 was appropriately certified through an amendment to Type Certificate A16WE rather than a new type certificate. Boeing denies the remaining allegations contained in Paragraph 11.

12. That part of the design changes in the Model 737-8 airplane from previous Model 737 series airplanes included a change to larger, heavier engines, to wit: Two CFM International S.A CFM LEAP-1B Series Turbofan Engines, which were cantilevered further forward on the wing.

**ANSWER:**

Boeing admits that the 737-8 aircraft uses CFM LEAP-1B engines, which have larger nacelles than the engines used on prior models of 737 aircraft. Boeing denies the remaining allegations contained in Paragraph 12 as written.

13. That the design changes in the Model 737-8 airplane affected the center of gravity and aerodynamic center of the airplane, and consequently the longitudinal stability characteristics of the airplane which led defendant, the Boeing Company, in whole or in part, to incorporate a Maneuvering Characteristics Augmentation System (“MCAS”) into the design of the Model 737-8 airplane.

**ANSWER:**

Boeing admits that the larger nacelles on the 737-8’s LEAP-1B engines on the 737-8 affect aerodynamic pitch characteristics and the Maneuvering Characteristics Augmentation

System (“MCAS”) control law was added to the 737-8 to address these aerodynamic effects.

Boeing denies the remaining the allegations contained in Paragraph 13 as written.

14. As part of the FAA design approval process, the defendant, The Boeing Company, was required to obtain equivalent level of safety (“ELOS”) findings from the FAA with regard to certain airworthiness requirements contained in 14 C.F.R. Chapter I, Subchapter C which the Model 737-8 design did not meet, including ELOS findings related to the airworthiness requirements for its longitudinal trim system under 14 C.F.R. §§ 25.161(a), 25.161(c)(3), 25.1301(a), and 25.1309(a).

**ANSWER:**

Boeing admits that the FAA approved the Type Design of the 737-8 aircraft as conforming to all the airworthiness requirements that the FAA deemed applicable and issued an amended type certificate confirming this approval. Boeing denies the allegations contained in Paragraph 14 as written.

15. On or about March 8, 2017, the FAA approved the type design for the Boeing Model 737-8 airplane and it was added to FAA Type Certificate No. A16WE.

**ANSWER:**

Boeing admits the allegations contained in Paragraph 15.

16. In or about July 2018, and pursuant to its design, the defendant, The Boeing Company, manufactured and assembled a certain aircraft, to wit: Model 737-8 model airplane, identified with airframe serial number 43000 (hereinafter “subject aircraft”), which it thereafter delivered to its original customer on or about August 13, 2018.

**ANSWER:**

Boeing admits that it designed, manufactured, and assembled the Model 737-8 aircraft with Serial No. 43000 (the “Subject Aircraft”), except for those components, parts, and systems of the Subject Aircraft that were designed, manufactured, or assembled by others, and the components, parts, and systems that were subsequently removed, installed, exchanged, altered, modified, retrofitted, overhauled, or manufactured by others. Boeing also admits that it delivered the aircraft to its customer on August 13, 2018. Boeing denies the remaining allegations contained in Paragraph 16.

17. On and prior to October 29, 2018, Defendant, The Boeing Company, provided customer support to the owners and/or operators as it related to the subject aircraft and other Model 737-8 aircraft in their possession, including Alert Service Bulletins, Service Bulletins,

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Service Letters, technical advisories, aircraft parts, engineering and training personnel, and other like customer support services.

**ANSWER:**

Boeing admits that it provides certain customer support to some owners and/or operators of 737-8 aircraft but denies the remaining allegations contained in Paragraph 17 as written.

18. On October 29, 2018 and at all times herein relevant, there was in full force and effect a Bilateral Airworthiness Agreement between the United States of America and the Republic of Indonesia which provided in part:

If the airworthiness authority of exporting state certifies to the airworthiness authority of the importing state that a product, for which a type design approval has been issued or is in the process of being issued by the airworthiness authority of the importing state, or by the airworthiness authority of another state with which the importing state has a reciprocal airworthiness agreement and in which the exporting manufacturer has a licensing agreement with the type design approval holder, conforms in construction to a type design description notified by the airworthiness authority of the importing state and is in a condition for safe operation, the importing state shall give the same validity to the technical evaluations, tests, and inspections made by the airworthiness authority of the exporting state as if it had made them itself on the date of the certification by the airworthiness authority of the exporting state.

**ANSWER:**

The allegations contained in Paragraph 18 consist of legal conclusions to which no response from Boeing is required; to the extent a response is required, Boeing admits these allegations.

19. On October 29, 2018, the subject aircraft was being operated as Lion Air Flight JT 610 on a flight from Jakarta, Indonesia with an intended destination of Pangkal Pinang, Indonesia.

**ANSWER:**

Boeing admits the allegations contained in Paragraph 19.

20. On October 29, 2018, plaintiff's decedent, Endang Sri Bagus Nita, was a flight attendant in training aboard the subject aircraft being operated as Lion Air Flight JT 610.

**ANSWER:**

Boeing lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 and therefore denies them.

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21. That on October 29, 2018 and at all times herein relevant, it was the duty of the defendant, The Boeing Company, to exercise a reasonable degree of care in its conduct, including but not limited to: (a) its conduct relating to the design of the subject aircraft, its manufacture, and assembly; (b) the contents of manuals pertaining to the operation, maintenance, and control of the aircraft, including instructions in its use and warnings in the operation and maintenance of the subject aircraft; and (c) its provision of customer support services, all so as not to cause injury to the person of the plaintiff's decedent, Endang Sri Bagus Nita.

**ANSWER:**

The allegations contained in Paragraph 21 consist of legal conclusions to which no response from Boeing is required; to the extent a response is required, Boeing denies them as written.

22. Notwithstanding, the defendant, the Boeing Company, breached its duty of care to plaintiff's decedent, Endang Sri Bagus Nita, in one or more of the following particulars:

- a) Negligently and carelessly manufactured, assembled, and placed the subject airplane into the stream of commerce with a defective and unreasonably dangerous angle of attack sensor;
- b) Negligently and carelessly manufactured, assembled, and placed the subject airplane into the stream of commerce with a defective and unreasonably dangerous angle of attack sensing system that failed to detect and isolate erroneous AOA sensor data;
- c) Negligently and carelessly failed to properly inspect and test the angle of attack sensors and sensing system on the subject aircraft prior to placing it into the stream of commerce;
- d) Negligently and carelessly placed the subject airplane into the stream of commerce when the design of the subject aircraft was defective in that the control system of the aircraft was not shown by analysis, tests, or both that it was capable of continued safe flight following a single point failure of the control system from an erroneous, high angle of attack sensor input, contrary to and in violation of 14 C.F.R. § 25.671(c)(1)
- e) Negligently and carelessly placed the subject airplane into the stream of commerce when the design of the subject aircraft was defective in that the control system of the aircraft was not shown by analysis, tests, or both that it was capable of continued safe flight following any combination of failures not shown to be extremely improbable, including a failure of the angle of attack sensor and failure to activate breakout switches to stop resulting uncommanded automatic tail movement, contrary to and in violation of 14 C.F.R. § 25.671(c)(2);
- f) Negligently and carelessly placed the subject airplane into the stream of commerce when the design of the subject aircraft was defective in that it contained a stability augmentation system that failed to comply with 14 C.F.R. § 25.671 and failed to provide a required warning which is clearly distinguishable to the pilot under expected flight conditions without requiring his attention for any failure in the stability augmentation system which could result in an unsafe

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condition if the pilot were not aware of the failure, contrary to and in violation of 14 C.F.R. § 25.672(a);

- g) Negligently and carelessly misrepresented the design capabilities and limitations of the Model 737-8 aircraft to the FAA during its type certification process;
- h) Negligently and carelessly placed the subject airplane into the stream of commerce to be operated for transport of passengers without providing proper and adequate instructions in its operation to pilot trainers and pilots, including improper and inadequate instructions in the Runaway Stabilizer Non-Normal Checklist regarding the deactivation of the airplane's stabilizer trim system;
- i) Negligently and carelessly provided inadequate technical data and training regarding the MCAS to pilots transitioning to the Model 737-8 airplane, including that in prior 737 model airplanes, when an airplane experienced an uncommanded nose down movement of the stabilizer trim, a pilot could pull back on the yoke and raise the nose which, in normal flight mode, would activate breakout switches that stop any automatic tail movement, however in the Model 737-8 airplane with the MCAS activated, the breakout switches do not activate.
- j) Negligently and carelessly gave improper and inadequate technical information and advice from its personnel in the United States of America to the operator of the subject aircraft in the Republic of Indonesia regarding the repair and maintenance of the angle of attack sensors, angle of attack sensing system, and MCAS;
- k) Otherwise negligently and carelessly designed, manufactured, and assembled the subject aircraft; provided improper and inadequate instructions and warnings pertaining to the operation, repair, maintenance, and control of the aircraft; and provided improper and inadequate support and technical services to the operator of the subject aircraft in particulars to be determined by discovery herein.

**ANSWER:**

Boeing denies the allegations contained in Paragraph 22, including all sub-parts of Paragraph 22.

23. On October 29, 2018 and as a direct and proximate result of the breach of duty by the defendant, The Boeing Company, the accident aircraft was caused to and did deviate from controlled flight and crashed into the waters of the Java Sea, further causing Plaintiff's decedent, Endang Sri Bagus Nita, to suffer bodily injuries resulting in her death.

**ANSWER:**

Boeing denies the allegations contained in Paragraph 23.

24. Plaintiff's decedent, Endang Sri Bagus Nita, left surviving her parents and minor siblings for whose exclusive benefit this action is brought.

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**ANSWER:**

Boeing lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 and therefore denies them.

25. That as a result of the wrongful death of Plaintiff's decedent, Endang Sri Bagus Nita, the parents and minor siblings of Plaintiff's decedent, and each of them, have suffered pecuniary and non-pecuniary damages including but not limited to loss of financial support and contributions, loss of inheritance, loss of household services, loss of her nurture, instruction, guidance and physical, intellectual and moral training, and loss of her care, comforting and companionship.

**ANSWER:**

Boeing denies that any action or inaction of Boeing resulted in the death of Plaintiff's decedent. Boeing also denies that Plaintiff is entitled to any relief from Boeing. Boeing lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 25 and therefore denies them.

26. This action is brought pursuant to 46 U.S.C. § 30301, et seq., commonly known as the "Death on the High Seas Act" and/or other applicable law.

**ANSWER:**

The allegations contained in Paragraph 26 consist of legal conclusions to which no response from Boeing is required; to the extent a response is required, Boeing lacks knowledge or information sufficient to form a belief as to these allegations as written.

WHEREFORE Plaintiff, Satijo, as personal representative of the Estate of Endang Sri Bagus Nita, deceased, prays that judgment be entered in his favor and against Defendant, The Boeing Company, for compensatory damages in the amount of ten million dollars (\$10,000,000.00) exclusive of attorney fees and the costs of this action.

**ANSWER:**

Boeing denies that Plaintiff is entitled to any relief from Boeing.

**AFFIRMATIVE AND ADDITIONAL DEFENSES**

**FIRST DEFENSE**

1. The Complaint and all claims for relief therein should be dismissed on the ground of *forum non conveniens*.

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**SECOND DEFENSE**

2. Plaintiff's damages, if any, were proximately caused by the acts or omissions of others over whom Boeing had no control or right of control, and/or said acts or omissions were a superseding and sole, direct, and proximate cause of Plaintiff's damages, if any.

**THIRD DEFENSE**

3. If Plaintiff was damaged by products originally designed, manufactured, assembled, inspected, tested, or sold by Boeing, those products were subsequently installed, removed, exchanged, altered, modified, retrofitted, repaired, overhauled, remanufactured, improperly maintained, or misused by persons and/or entities other than Boeing, and over whom Boeing had no control or right of control, and such installation, removal, change, alteration, repair, modification, retrofitting, overhauling, remanufacturing, improper maintenance, or misuse proximately caused or contributed to the events alleged in the Complaint and the resulting damages complained of, if any.

**FOURTH DEFENSE**

4. Third parties over whom Boeing had no control altered and/or misused the Subject Aircraft, which was the sole, direct, and proximate cause of the damages, if any, of Plaintiff.

**FIFTH DEFENSE**

5. Boeing places in issue the negligence, fault, and responsibility of all persons and entities that have contributed in any degree to the injuries and damages alleged to have been sustained by Plaintiff. Judgment against Boeing, if any, should be diminished to an amount that represents Boeing's degree of negligence, fault, or responsibility, if any.

**SIXTH DEFENSE**

6. Plaintiff's claims may be barred by virtue of failing to properly identify the plaintiff personal representatives.

**SEVENTH DEFENSE**

7. The Subject Aircraft was intended for and sold to a knowledgeable and sophisticated user over whom Boeing had no control.

**EIGHTH DEFENSE**

8. The Subject Aircraft was certified as airworthy by the Federal Aviation Administration and complied with all applicable codes, standards, and regulations of the United States and agencies thereof at the time it was delivered by Boeing.

**NINTH DEFENSE**

9. Boeing complied with all applicable federal, state, and foreign statutes, codes, and administrative regulations existing at the time the Subject Aircraft was manufactured and all applicable standards for design, inspection, testing, warning and manufacture.

**TENTH DEFENSE**

10. The design of the Subject Aircraft and each component thereof that was installed at the time of delivery by Boeing was consistent with or exceeded the “state of the art” at the time of its design and manufacture. No technology was reasonably available or known to Boeing or anyone else in the industry to improve the safety of the Subject Aircraft or its parts.

**ELEVENTH DEFENSE**

11. The benefits of the design of the Subject Aircraft and each component thereof outweigh the risks associated therewith, if any.

**TWELFTH DEFENSE**

12. The Complaint and all claims for relief therein should be dismissed on the ground that Plaintiff has failed to join necessary and indispensable parties.

**THIRTEENTH DEFENSE**

13. Plaintiff may lack standing to bring this action.

**FOURTEENTH DEFENSE**

14. An award or judgment rendered in favor of Plaintiff must be reduced by the amount of benefits Plaintiff received, or is entitled to receive, from any source as a result of this accident.

**FIFTEENTH DEFENSE**

15. Some or all of Plaintiff's claims and available damages may be barred by virtue of prior settlements.

**SIXTEENTH DEFENSE**

16. Plaintiff's claims may be barred in whole or in part and/or preempted by federal law.

**SEVENTEENTH DEFENSE**

17. Evidence of subsequent remedial measures is not admissible to prove liability. *See* Federal Rule of Evidence 407.

**EIGHTEENTH DEFENSE**

18. Plaintiff's Complaint is premature in that it was filed and served before the completion of the investigations arising from the October 29, 2018 accident at issue, including the ongoing investigation of the Indonesia National Transportation Safety Committee. Boeing reserves the right to add those affirmative defenses that it deems necessary to its defense during or upon the conclusion of investigation and discovery. Boeing further reserves the right to assert any additional affirmative defenses asserted by another defendant and/or allowed by the law of the jurisdiction found to apply in this case.

**NOTICE OF THE APPLICABILITY OF THE LAW OF ANOTHER JURISDICTION**

Pursuant to Federal Rule of Civil Procedure 44.1, Boeing gives notice that it may raise issues concerning the applicability of the law of another jurisdiction, including but not limited to the laws of other states and/or a foreign country or countries, and reserves the right to assert and

plead such other claims and defenses available to it arising out of the application of the substantive laws of another jurisdiction.

**PRAYER FOR RELIEF & DEMAND FOR JUDGMENT**

WHEREFORE, Defendant The Boeing Company prays as follows:

That Plaintiff takes nothing by the Complaint, that the Complaint be dismissed, and that judgment on the Complaint be entered for Boeing;

That Boeing be awarded its costs of suit and attorneys' fees;

That the Court grant such further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Defendant The Boeing Company hereby demands trial by jury on all claims and defenses before the Court in this litigation.

DATED: December 31, 2018

**THE BOEING COMPANY**

By: /s/ Gretchen M. Paine  
*One of its Attorneys*

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ANSWER TO COMPLAINT

**CERTIFICATE OF SERVICE**

I, Gretchen M. Paine, certify that on December 31, 2018, I electronically filed the foregoing ***DEFENDANT THE BOEING COMPANY'S ANSWER TO PLAINTIFF'S COMPLAINT*** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to attorneys of record, and by email.

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Counsel for Plaintiff in  
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I certify under penalty of perjury that the foregoing is true and correct.

DATED this 31st day of December, 2018.

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