

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

STEPHEN STILWELL

Plaintiff,

v.

THE BOEING COMPANY, INC.,

Serve at:  
CSC - Lawyers Incorporating  
Service Company  
221 Bolivar Street  
Jefferson City, MO 65101

Defendant.

Case No.

JURY TRIAL DEMANDED  
MO E.D. LOCAL RULE 2.04

**COMPLAINT**

COMES NOW Plaintiff, Stephen Stilwell, (“Stilwell”), by counsel Morry S. Cole of Gray, Ritter and Graham, P.C., St. Louis, Missouri and for his cause of action against Defendant The Boeing Company, Inc. (“Boeing”) states to the Court as follows:

**PARTIES**

1. Stilwell is a citizen and resident of Missouri.
2. Boeing is a Delaware Corporation in good standing and is a major aerospace and defense corporation. Boeing is the surviving corporation following the August 1, 1997 merger between McDonnell Douglas Corporation – another major aerospace and defense corporation – and Boeing.

### **VENUE AND JURISDICTION**

3. Boeing manufactures various aerospace and defense products and product components, and offers its products for sale, use and distribution in the State of Missouri and derives substantial benefits from doing business in Missouri.

4. Boeing maintains a substantial corporate presence within the State of Missouri and is otherwise present in this state so that this Court may exercise jurisdiction over it.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 (a) in that the catastrophic structural failure and in-flight break-up of an F-15C Eagle aircraft that is the subject of this suit occurred in this judicial district.

6. Stilwell's claim for damages against Boeing exceeds Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and thus this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) and there is complete diversity of citizenship of the parties.

### **JURY DEMAND**

7. Plaintiff demands trial by jury pursuant to Rule 38 F.R.C.P., U.S. Const. Am. 7, and Mo. E.D. Local Rule 2.04.

### **GENERAL ALLEGATIONS**

8. Boeing, at all times relevant herein acted by and through itself or its predecessors and has assumed – through merger or otherwise – the liabilities of its predecessors.

9. The F-15C Eagle is an air superiority all-weather tactical military fighter aircraft originally designed, manufactured, and distributed by The Boeing Company's predecessor McDonnell Douglas Corporation.

10. Through merger, Boeing has assumed the liabilities of its predecessor McDonnell Douglas Corporation.

11. The F-15 was designed to be built to very precise specifications.

12. In particular, main cockpit structural supports – known as longerons– were to be manufactured to precise dimensions and to a precise surface finish to ensure necessary strength, longevity and resistance to metal fatigue.

13. Despite precise specifications as set forth on blue prints and other design documents a number of F-15C Eagle aircraft failed to conform to those specifications.

14. The United States Air Force purchased a F-15C Eagle aircraft, T/N 80-0034 ("F-15") from McDonnell Douglas Corporation.

15. The F-15 was defective and unreasonably dangerous when put to its reasonably anticipated use because of manufacturing and/or other defects.

16. In particular, the F-15's longerons did not meet design and blueprint specifications for dimensions and for surface finish.

17. On November 2, 2007, Stilwell piloted the F-15 on routine training maneuvers for the Missouri Air National Guard in restricted Military Operations Area airspace over south central Missouri.

18. As Stilwell executed a routine maneuver called a break turn, at approximately 18,000 feet above sea level and while traveling approximately 450 knots, the F-15 began shaking violently side to side.

19. Shortly after shaking violently side to side, the F-15 structurally failed and broke apart just behind the cockpit.

20. Stilwell ejected.

21. During the break-up, ejection and/or freefall portions of the failing aircraft impacted Stilwell.

22. During the ejection and post-ejection freefall Stilwell was thrown about violently in the air.

23. As a direct and proximate result of the above-described impact and violent movements Stilwell suffered serious injuries including debilitating injuries to his shoulder and arm.

24. As a direct and proximate result of his serious injuries Stilwell suffered significant pain and discomfort, has been required to receive extensive medical and surgical care and treatment, and continues to receive care and treatment and to incur damage and expense.

25. The exact amount of past and future expenses for medical and surgical care, treatment and rehabilitation has yet to be fully and finally calculated.

26. As a direct and proximate result of the injuries sustained and medical treatment, Stilwell has suffered disfigurement and an inability to work and perform useful and productive work activities including service as a military and civilian aircraft pilot.

27. As a direct and proximate result of the injuries sustained and medical treatment, Stilwell has suffered an inability to perform, activities of daily living and his ability to enjoy his ordinary pursuits has been greatly diminished.

28. The cause of the structural failure of the F-15 was a component — a longeron — that did not meet design and blue print specifications for strength, dimensions and surface finish.

29. The substandard dimensions and surface finish of the component led to stress concentrations, which led to fatigue cracking, structural failure and aircraft breakup.

30. The manufacturer, and subsequent surviving merged corporations, failed to notify the United States of America, The United States Air Force, The Air National Guard, The Missouri Air National Guard, military pilots, and particularly Stilwell of the structural deficiencies of the aircraft.

31. The manufacturer, and subsequent surviving merged corporations failed to notify the United States of America, The United States Air Force, The Air national Guard, The Missouri Air National Guard, military pilots, and particularly Stilwell of the likelihood of excess stress concentrations, fatigue cracking, structural failure, and in-flight aircraft break up as a result of the structural deficiencies of the aircraft.

## **COUNT I**

### **NEGLIGENCE**

32. Stilwell reallages and incorporates herein by reference paragraphs 1 through 31 above as paragraph 32 of Count I as if more fully set out herein.

33. Boeing was negligent by failing to use ordinary care in manufacturing, selling and distributing the F-15 when it knew or should have known that it was defective and unreasonably dangerous when put to its intended use in that the F-15 as manufactured allowed for catastrophic in-flight break-up.

34. Boeing's negligence in manufacturing, selling, and distributing the F-15 included at least the following:

- a. Boeing knew or should have known that the F-15 as manufactured allowed and permitted for catastrophic in-flight break-up.
- b. Boeing knew or should have known that the F-15 was not manufactured to required precise specifications.
- c. Boeing failed to employ appropriate quality control measures to detect and correct manufacturing defects and/or errors.
- d. Boeing failed to warn The United States of America, The United States Air Force, The Air National Guard, The Missouri Air National Guard, military pilots, and particularly Stilwell, of the dangers of catastrophic in-flight breakup due to longeron failure in the F-15 when it was piloted in a foreseeable manner.
- e. Boeing failed to ground, recall, and/or retrofit the F-15.

WHEREFORE, on Count I, Stilwell prays judgment against Boeing for such damages as are fair and reasonable, prejudgment interest, and for his costs herein expended.

## **COUNT II**

### **STRICT LIABILITY/PRODUCT DEFECT**

35. Stilwell reallages and incorporates herein by reference paragraphs 1 through 34 above as paragraph 35 of Count II as if more fully set out herein.

36. At the time that the F-15 structurally failed, causing serious and permanent injuries to Stilwell, the aircraft was in substantially the same condition as when manufactured and distributed and was being used in the manner intended and reasonably anticipated when it was manufactured and distributed.

37. At the time of the manufacture, distribution and sale of the F-15, it was defective and unreasonably dangerous in at least the following respects:

- a. Boeing knew or should have known that the F-15 as manufactured allowed and permitted catastrophic structural failure when used under normal and foreseeable circumstances;
- b. Boeing knew or should have known that it improperly manufactured the F-15, and particularly its longerons were not manufactured to proper dimensions and surface finish;

WHEREFORE, on Count II, Stilwell prays judgment against Boeing for such damages as are fair and reasonable, prejudgment interest, and for his costs herein expended.

## **COUNT III**

### **STRICT LIABILITY/FAILURE TO WARN**

38. Stilwell reallages and incorporates herein by reference paragraphs 1 through 37 above as paragraph 38 of Count III as if more fully set out herein.

39. The F-15 was defective and unreasonably dangerous when put to its reasonably anticipated use without knowledge of The United States of America, The United States Air Force, The Air National Guard, The Missouri Air National Guard, military pilots, and particularly Stilwell of its dangerous characteristics and its propensity to have a structural failure of its longerons causing in-flight breakup of the aircraft.

40. Boeing did not give any warning of the dangerous characteristics of the F-15 and its propensity to structurally fail in-flight.

WHEREFORE, on Count III, Stilwell prays judgment against Boeing for such damages as are fair and reasonable, prejudgment interest, and for his costs herein expended.

#### **COUNT IV**

##### **NEGLIGENTLY SUPPLYING DANGEROUS INSTRUMENTALITY**

41. Stilwell reallages and incorporates herein by reference paragraphs 1 through 40 above as paragraph 41 of Count IV as if more fully set out herein.

42. The F-15 was manufactured in such a manner that it could experience catastrophic in-flight structural failure during normal operation.

43. Stilwell was piloting the F-15 in a reasonably expected and foreseeable manner.

44. Boeing had no reason to believe that those for whose use the F-15 was supplied would realize its dangerous condition.



45. Boeing knew or had information – and/or access to information – from which it, in the exercise of ordinary care, should have known of such dangerous condition.

46. Boeing failed to adequately warn of the dangerous conditions of the F-15.

WHEREFORE, on Count IV, Stilwell prays judgment against Boeing for such damages as are fair and reasonable, prejudgment interest, and for his costs herein expended.

## **COUNT V**

### **PUNITIVE DAMAGES**

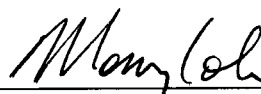
47. Stilwell reallages and incorporates herein by reference paragraphs 1 through 46 above as paragraph 47 of Count V as if more fully set out herein.

48. Boeing failed to manufacture mission-critical components to required specifications and failed to employ adequate quality control measures to detect substantial and life-threatening manufacturing defects.

49. The aforesaid misconduct of Boeing constituted a gross indifference and a willful, wanton, reckless or conscious disregard for the safety of F-15 pilots, including Stilwell, and Stilwell is thereby entitled to exemplary and punitive damages against Boeing.

WHEREFORE, on Count V, Stilwell prays judgment against Boeing for punitive damages in an amount in excess of \$75,000 to punish Boeing for its conduct and deter others from like conduct in the future, for prejudgment interest, and for his costs herein expended.

GRAY, RITTER & GRAHAM, P.C.

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