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No. 73797-0

IN THE WASHINGTON STATE COURT OF APPEALS

DIVISION I

The Boeing Company, Marc Birtel,

Respondents,

vs.

Michael A. Leon,

Appellant.

FILED
COURT OF APPEALS
STATE OF WASHINGTON
2016 MAY 12 PM 4:20

APPEAL FROM THE SUPERIOR COURT

OF KING COUNTY

Cause No. 14-2-34320-5

OPENING BRIEF OF APPELLANT

MICHAEL A. LEON
Plaintiff Pro Se

MICHAEL A. LEON
444 W. Orange Grove Road, #1136
Tucson, Arizona 85704
(520) 256-8457
Email: Michael1Lion@yahoo.com
Plaintiff Pro Se

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Restatement (Second) of Torts § 766(b), cmt c (1979).
Washington Practice: Tort Law and Practice § 3.1, at 116 18 39

I. OVERVIEW AND RELIEF REQUESTED¹

This case arises from defamation and interference with business expectancy. On January 7, 2013, a battery overheated and started a fire in an empty 787 operated by Japan Airlines (JAL) at Boston's Logan International Airport. On January 9, United Airlines reported a problem in one of its six 787s with the wiring in the same area as the battery fire on JAL's airliner; subsequently, the U.S. National Transportation Safety Board opened a safety probe. On January 11, 2013, the FAA announced a comprehensive review of the 787's critical systems, including the design, manufacture and assembly of the aircraft. U.S. Department of Transportation secretary Ray LaHood stated the administration was "looking for the root causes" behind the recent issues. The head of the FAA, Michael Huerta, said that so far nothing found "suggests [the 787] is

¹ It is written "The Lord said to my Lord: "Sit at my right hand until I put your enemies under your feet." Matthew 22:44

It is written For David did not ascend to heaven, and yet he said, "The Lord said to my Lord: "Sit at my right hand.

Acts 2:34

It is written Of David. A psalm. The LORD says to my lord: "Sit at my right hand until I make your enemies a footstool for your feet." Psalm 110:1

Leviticus 23:4

It is written "These are the appointed feasts of the LORD, the holy convocations, which you shall proclaim at the time appointed for them.

It is written In a dispute, they shall act as judges, and they shall judge it according to my judgments. They shall keep my laws and my statutes in all my appointed feasts, and they shall keep my Sabbaths holy.

Ezekiel 44:24

not safe" Japan's transport ministry have also launched an investigation in response.

As will be explained below Michael demands judgment against defendants, and each of them, for the following relief:

- a. Produce report and all notes, memoranda in connection with November 7, 2006 Boeing supplier Securaplane premises Tucson Arizona and disclose who ordered report prepare for
- b. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in retaliation against individuals in close association with an individual who engages in protected activity or against individuals who participate in an employment discrimination proceeding;
- c. Order Defendants to institute and carry out policies, practices and programs which prohibit retaliation and which eradicate the effects of their past and present unlawful employment practices;
- d. Order Defendants to make whole Michael Leon by providing appropriate back pay and front pay for actual damages with pre-judgment interest, in an amount to be determined at trial, and other affirmative relief if necessary to eradicate the effects of their unlawful employment practices, including but not limited to Michael Leon's pecuniary losses;
- e. Order Defendants to make whole Michael Leon by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including medical expenses, in amounts to be determined at trial;
- f. Order Defendants to make whole Michael Leon by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices complained of above, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial;
- g. Order Defendants to pay Michael Leon his special damages in amounts to be determined at trial;
- h. Order Defendants to pay damages to Michael Leon for any and all injuries to his career, in amounts to be determined at trial;
- i. Award Michael Leon the costs of this action, previous actions and any such further relief as the Court may deem just, proper and equitable; and

j. Grant such further relief as the Court deems necessary and proper in the public interest.
This appeal follows the trial court's dismissal of Mr. Leon's claims on Boeing's and Marc Birtel's summary judgment motion. There are material issues of fact that precluded summary judgment. The trial court's ruling should be reversed and this case remanded.

II. ASSIGNMENTS OF ERROR²

Mr. Leon has obtained a verbatim report of proceedings and incorporates citations into this brief.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERRORS³

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<http://news.yahoo.com/ba-jet-engine-failure-uncontained-pieces-hit-runway-102049335--sector.html>

<https://www.yahoo.com/tech/s/uk-2013-dreamliner-fire-caused-crossed-wires-115844024.html>

NTSB determined battery issue in report 2013 grounding and UK now has determined related to battery 2013

UK: 2013 Dreamliner fire caused by crossed wires

LONDON (AP) — British aviation investigators reported Wednesday that a 2013 fire on a Boeing 787 Dreamliner started in a battery for the plane's emergency locator transmitter — a finding that triggered recommendations to improve safety on similar battery-powered equipment on planes.

The Air Accidents Investigations Branch said in a report that crossed and trapped wires under the battery compartment created a short circuit on the Ethiopian Airlines-operated plane parked at London's Heathrow Airport on July 12, 2013. The fire then spread to the fuselage, which is made of composite material.

Among the recommendations, the branch said the U.S. Federal Aviation Administration, together with similar bodies in Europe and Canada, should conduct a review of equipment powered by lithium metal batteries to ensure they have "an acceptable level of circuit protection."

Boeing said in a statement it stood by the 787's overall integrity.

"We are committed to a process of continual improvement of our airplanes and we will carefully review the AAIB's recommendations," Boeing said. "It is important that any potential changes to the airplane's design be reviewed with great care, and with due consideration for any potential unintended consequences of any change."

A. Because there were material issues of fact at issue established by the record, the trial court erred by granting respondent's summary judgment motion and dismissing appellant's claims as a matter of law. The Eighth Circuit has stated that if two cases arise "out of the same nucleus of operative fact . . . the two cases are really the same 'claim' or 'cause of action' for purposes of res judicata." *Ruple v. City of Vermillion*, 714 F.2d 860, 861 (8th Cir. 1983). Here this is not the case. Plaintiff a pro se litigant filed the *Leon v. Meggitt Chicago Leon v. Meggitt* 1:13-cv-01679 in response to judicial order 4:13-cv-00111-CKJ False Claims Act 31

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<http://news.yahoo.com/ba-jet-engine-failure-uncontained-pieces-hit-runway-102049335--sector.html>

<https://www.yahoo.com/tech/s/uk-2013-dreamliner-fire-caused-crossed-wires-115844024.html>

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U.S.C. § 3729 as this what Plaintiff understood the instruction was to do because complete diveristy jurisdiction did not exist. Judge Shadur at the request of defendants transferred to Arizona resulting in 4:12-cv-00226-DCB case opening. The primary action 4:13-cv-00111-CKJ has been remanded and reversed Ninth Circuit.

- 4:12-cv-00226-DCB federal court action established the existence of a post-employment retaliation claim because of the continual violation doctrine with subcontractor Meggitt Fiona Grieg former employer incorporating years of abuses, while the current Washington state complaint seeks a determination of interference with business expectancy based on defamation continual to present third party Boeing Mark Birtel. Countrywide Home Loans, Inc. v. Blair (In re Blair), 324 B.R. 725, 731 (Bankr. W.D. Ark. 2005); see also Jennen v. Hunter (In re Hunter), 52 B.R. 912, 915 (D.N.D. 1984).

B. In addition, Plaintiff had no reason to pursue issues related to interference with business expectancy in the current Washington state court action because the Plaintiff had not begun seeking employment opportunities to supplement his ssdi income to afford service dog food and prescriptions until after January 2013. (Mtn Summary Judgment Transcript 6 26 2015 pg. 8, lines 13-16.) I was not aware previously that I could earn income under \$1,000 a month and still receive SSDI. I was advised by Social Security Administration that I could and I wanted to try to do a little bit of work.

C. There remain genuine issues of material fact regarding whether the Defendants' actions fall under defamation and interference with

business expectancy motion for summary judgment is denied. The Defendants argue that the same nucleus of operative fact—the Defendants defamation and infliction of emotional distress against Michael Leon 2013 Dreamlier—is the basis for all the actions, and because Michael Leon did not allege tortious interference against agent Marc R. Birttel of The Boeing Company third parties in the post employment retaliation against Meggit former employer or the FALSE CLAIMS Act concerning The Boeing Company K-46 Pegasus, res judicata now precludes Michael Leon from doing so in the current action

D. There remain genuine issues of material fact regarding whether the Defendants' Third Party Marc R. Birttel of The Boeing Company qualified defamation privileges may be overcome only by a showing of "excessive publication" actual malice—that is, "the defendant's knowledge or reckless disregard as to the falsity of the statement." and A valid business expectancy for purposes of a tortious interference claim involves a prospective business relationship that would be of pecuniary value to the plaintiff, including "the prospect of obtaining employment." Restatement (Second) of Torts § 766(b), cmt c (1979).

IV. STATEMENT OF THE CASE

A. Procedural History

- Mr. Leon's Complaint was filed on December 26 2014 (Docket #1). Defendants filed Motion for Summary Judgment (Docket #9) April 6, 2015 and Limited Admission April 14, 2015 (Docket

#12). Mr. Leon filed objection and propounded discovery (request for production, admissions and interrogatories) on April 22, 2015 (Docket #15 & 16). Mr. Leon, a handicapped individual sought continuance on April 27, 2015. (Docket #17). The Court granted summary judgment without any legal reasoning order on June 26, 2015 (Docket #33). The Judge asked defendants if they wanted to pursue sanctions against Mr. Leon evidencing bias. The Defendants declined. Mr. Leon requested continuances both on the hearing for motion for limited admission and motion for summary judgment which were denied. Mr. Leon is indigent and could not afford verbatim report of proceedings nor was one provided despite pauperis order and request for transcripts. . I object to the Defendants evidence presented in this summary judgment. I objected in the opposition to motion for summary judgment I filed and I am objecting on the record here to the mischaracterization of facts.

- **Declaration Steve Koh Exhibit A Order Vex Litigant Order Judicial misconduct complaints pending against Judge David Bury and Presiding Judge Raner Collins Section 455b conflict of interest owning Boeing Stock. The Boeing Corporation sued not The Boeing Company. These are not the same parties. There is no entity named Boeing Corporation. There is only The Boeing Company. The Boeing Company therefore not served in these matters privity non existent. The 4:12-cv-00226-DCB in court of**

appeals will be reversed and remanded overly broad vexatious litigant order.

- **Declaration Steve Koh Exhibit B Notice of Violation & Order**
The notice of violation filed in a matter that is closed in the US District Court before the Ninth Circuit Court of Appeals – the US District Court does not have concurrent litigation in this matter as it closed the case, matter appealed vexatious litigant order overbroad and unconstitutional
- **Declaration Steve Koh Exhibit C Order USDC District Court Western District Washington** Judge Richard Jones the Judge for the Western District of Washington Court, in the very Order attached as Exhibit C to Declaration of Steve Koh motion for summary judgment the Court itself states that it may be wrong pg. 1 line 22 Leon v. Exponent Leon v. The Boeing Company 2:14 ccv00095 RAJ. Plaintiff is handicapped medicated and at times difficult to write the court stated was incomprehensible but did not provide leave to amend.

B. Facts

This is an action to recover damages and civil penalties arising out of defamation and interference with business expectancy. On January 7, 2013, a battery overheated and started a fire in an empty 787 operated by Japan Airlines (JAL) at Boston's Logan International Airport. On January 9, United Airlines reported a problem in one of its six 787s with the wiring in the same area as the battery fire on JAL's airliner; subsequently, the U.S. National Transportation Safety Board opened a safety probe.

On January 11, 2013, the FAA announced a comprehensive review of the 787's critical systems, including the design, manufacture and assembly of the aircraft. U.S. Department of Transportation secretary Ray LaHood

stated the administration was "looking for the root causes" behind the recent issues. The head of the FAA, Michael Huerta, said that so far nothing found "suggests [the 787] is not safe".Japan's transport ministry have also launched an investigation in response.

On January 16, 2013, an All Nippon Airways (ANA) 787 made an emergency landing at Takamatsu Airport on Shikoku Island after the flight crew received a computer warning that there was smoke inside one of the electrical compartments. ANA said that there was an error message in the cockpit citing a battery malfunction. Passengers and crew were evacuated using the emergency slides.[12] According to The Register, there are no fire-suppression systems in the electrical compartments holding batteries, only smoke detectors.

A media firestorm ensued as a result of these events and grounding of Dreamliners. Boeing, in an attempt to deflect blame issued defamatory statements concerning Plaintiff to the media and government authorities.

A illegitimate personal vendetta and profit motive against Plaintiff Michael Leon began and with unlawful malice and vindictiveness began a campaign to defame Plaintiff, on January 22 2013 next gov Marc Birtel stated Plaintiff was a convicted felon perpetuating negativity in an attempt to further discredit Plaintiff concerning safety concerns.

As part of Boeing's libelous campaign against Plaintiff, Boeing and Fiona Griegg (spokesperson for all of the defendant companies in articles) stated that I was fired for internet email violation when the decision of Judge Dorsey states otherwise. These statements were published all over the internet and continue to this date.

Boeing knowingly perpetuated falsehoods against Plaintiff Michael Leon by stating that Plaintiff lied to fire investigators.

On January 22, 2013 Boeing spokesman Marc Birtel said the 2006 fire resulted from "an improper test set up, not the design of the battery."

The Boeing Company said that Leon falsified his employment history and violated company email and internet policies.

Boeing kept claiming no battery issues – Exponent report states improper test setup Constant redesigns 2013 and 1/14/2014

Boeing spokesman Marc Birtel said the 2006 fire resulted from "an improper test set up, not the design of the battery." FAA spokeswoman Laura Brown said the agency "investigated Mr. Leon's complaints in 2008 and 2009. The investigation determined that the battery charging units in the complaints were prototypes, and none are installed in Boeing 787 aircraft. Our reviews also determined Securaplane's production of a particular printed circuit board complied with FAA requirements."

On December 1, 2014 NTSB Inadequate design and testing caused last year's battery fire that led to the grounding of Boeing Co. (BA)'s Dreamliner jets for more than three months, investigators concluded.

The NTSB found fault with The Boeing Company and the FAA.

Mr. Birtel, Director, International Communications & Media Relations for The Boeing Company made false and defamatory communications about Plaintiff Michael Leon to Nextgov and Reuters.

These false and defamatory communications were relied upon and published by Nextgov and Reuters and republished by other media opined upon Mr. Birtel's false and defamatory statements on Nextgov., Reuters.com, many other national and international websites which was and is available for viewing by any person with internet access.

No privilege, or qualified privilege existed or exists for Mr. Birtel, The Boeing Company, Nextgov or Reuters to make aforementioned false and defamatory statements.

Mr. Birtel, The Boeing Company, Nextgov and Reuters acted with negligence or malice when making the false and defamatory statements. As a result of the acts and omissions of Mr. Birtel, The Boeing Company, Nextgov and Reuters, Plaintiff is entitled to costs, attorneys' fees and damages at an amount to be proven at trial.

Michael Leon has and had a valid business expectancy in obtaining employment, prospective consultation customers concerning electronics. Mr. Birtel, The Boeing Company, Nextgov and Reuters knew of Plaintiff Michael Leon's business expectancy.

Mr. Birtel, The Boeing Company, Nextgov and Reuters intentionally interfered with this expectancy which caused a loss of prospective employment, prospective customers, sales and profits.

Mr. Birtel, The Boeing Company, Nextgov and Reuters acted with improper motive-greed, retaliation, ill will and deviation from commercial norms.

Mr. Birtel, The Boeing Company, Nextgov and Reuters used improper means-publishing false and defamatory communications.

As a result of the acts and omissions of Mr. Birtel, The Boeing Company, Nextgov and Reuters, Plaintiff is entitled to costs, attorneys' fees and damages at an amount to be proven at trial.

V. STANDARD OF REVIEW

The appellate court reviews an order granting summary judgment de novo, and engages in the same inquiry as the trial court. *Weden v. San Juan County*, 135 Wn.2d 678,689,958 P.2d 273 (1998). Summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." CR 56(c); *Folsom v. Burger King*, 135 Wn.2d 658,663,958 P.2d 301 (1998). All facts and reasonable inferences from the facts are viewed in the light most

favorable to the non-moving party, here Mr. Leon. Mountain Park Homeowners Association v. Tydings, 125 Wn.2d 337,341,883 P.2d 1383 (1994). Here Mr. Leon was not even allowed discovery but merely based on misrepresentations to the Court and faulty evidence presented by the Defendants. The fact that a continuance was not even provided for discovery to be conducted to Mr. Leon is biased and prejudicial. Mr. Leon, a terminally ill individual cannot obtain his mail everyday and received notice late. Mr. Leon cobbled together a response to motion for summary judgment as best as he could despite the denial of discovery and due process. Mr. Leon appeared on the summary judgment hearing as he could not travel with his service dog to Washington State. Mr. Leon was clearly at a disadvantage due to this denial. Motions for continuance of summary judgment to conduct additional discovery are broadly favored and should be liberally granted to safeguard non-moving parties from summary judgment motions that they cannot adequately oppose. Fed. R. Civ. P. 56(d). American Family Life Assur. Co. of Columbus v. Biles, 714 F.3d 887 (5th Cir. 2013).

VI. ARGUMENT

As a general rule, motions to dismiss and motions for summary judgment are not granted without leave to amend. In this proceeding, Mr. Leon had asserted that discovery was necessary to fully prepare objection to

summary judgment and therefore needed a continuance which was denied. The trial court committed further reversible error in denying continuances for a disabled, handicapped Plaintiff from out of state. Based upon erroneous factual and legal contentions, the Court granted Defendants motion for summary judgment. The trial court erroneously concluded that there were no material facts at issue disputed. Washington State claims that is favorable to disabled and grants equal access to the Courts.

1. No Continuances were granted discriminating against handicapped out of state Plaintiff

Plaintiff has not had ample time since the filing of the lawsuit to conduct discovery the motion for summary judgment premature. This matter is in its infancy. Parties have only recently been served and filed answer.

Motions for continuance of summary judgment to conduct additional discovery are broadly favored and should be liberally granted to safeguard non-moving parties from summary judgment motions that they cannot adequately oppose. Fed. R. Civ. P. 56(d). American Family Life Assur. Co. of Columbus v. Biles, 714 F.3d 887 (5th Cir. 2013).

In Plaintiff's request for continuance Plaintiff stated: Plaintiff requests this court to refrain from acting on summary judgment request and postpone opposition deadline until discovery can be conducted;

Plaintiff in the process of drafting discovery prior to receipt in mail of motion for summary judgment

Plaintiff is terminally ill, handicapped non attorney and requires additional time

Plaintiff has several actions courts requiring diligence

Plaintiff believes through discovery facts and evidence gathered will influence outcome of pending summary judgment motion. *C.B. Trucking, Inc. v. Waste Management, Inc.*, 137 F.3d 41, 39 Fed. R. Serv. 3d (LCP) 1117 (1st Cir. 1998).

Plaintiff seeks clarification when opposition is due.

Plaintiff seeks vacating of June 26 2015 hearing for reason premature.

A defendant may move for summary judgment in one of two ways: (1) by setting out the defendant's version of the facts and alleging that there is no genuine issue of material fact, or (2) by pointing out to the trial court that the plaintiff lacks sufficient evidence to support its case. *Seybold v. Neu*, 105 Wn. App. 666, 676, 19 P.3d 1068 (2001).

A defendant moving for summary judgment in this second way may do so

“by ‘showing - that is, pointing out to the [trial] court - that there is an

absence of evidence to support the nonmoving party's case.’ ” *Young v.*

Key Pharmaceuticals, Inc., 112 Wn.2d 216, 225 n.1, 770 P.2d 182 (1989)

(quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 106 S. Ct. 2548, 91

L. Ed. 2d 265 (1986)). The failure of proof as to an essential element of

the plaintiffs case “necessarily renders all other facts immaterial.” *Id.* at

225 (quoting *Celotex*, 477 U.S. at 322-23).

Plaintiff has not had any opportunity at all to present this case. Discovery

is underway by Plaintiff and to be mailed out. Discovery conducted is

critical to the adjudication process and for Plaintiff to prepare opposition

demonstrating justifiable controversy exists.

The US Court of Appeals Ninth Circuit Court matter pending 14-17009

Leon v. Meggitt has not determined I am vexatious litigant. The US Court

of Appeals Ninth Circuit reversed and remanded false claims against Boeing in 13-15696 US relator, Leon v. Meggitt, Boeing. The 13-71450 Leon v. Securaplane matter has not had final mandate issued. Defendants attempt to darken poison waters.

.CR 56(f) 'protects a party opposing a summary judgment motion who for valid reasons cannot by affidavit-or presumably by any other means authorized under Rule 56(e)-present 'facts essential to justify his opposition' to the motion.'... In such a case, the trial court may then refuse summary judgment, order a continuance to give the party opposing summary judgment an opportunity to gather and present the evidentiary facts, or 'make such other order as is just.'... Moore v. Pay'N Save 581 P.2d 159, 161, Wash.App. Div. ; Potter v. Van Waters & Rogers, Inc. 578 P.2d 859, 864+, Wash.App. Div. 1; Garbell v. Tall's Travel Shop, Inc. 563 P.2d 211, 211, Wash.App. Div. 1 Court was hesitant to cut plaintiffs in automobile products liability suit off from their right to trial by means of summary judgment when they had neither opportunity nor occasion to take advantage of rule permitting party opposing summary judgment motion to obtain continuance so as to gather and present evidentiary facts. CR 56(f).

Discovery was not allowed prior to motion for summary judgment which prejudiced appellant abuse of discretion.

The judge dismissed the action without rhyme or legal reasoning. Citing Foman v. Davis, 371 US 178 – 1962; Lopez v. Smith, 203 F. 3d 1122 -

2000. Judge gave no legal reasoning for dismissal granting summary judgment cite ninth circuit forman v. davis, etc. The judge refused continuances of disabled. ⁴

- Plaintiff pro se litigant Michael Leon hereby requests extension of time to file opposition to motion for summary judgment and requests postponement of ruling until after discovery completed.
- No discovery had been conducted
- Plaintiff has not had any opportunity at all to present this case. Discovery is underway by Plaintiff and to be mailed out. Discovery conducted is critical to the adjudication process and for Plaintiff to prepare opposition demonstrating justifiable controversy exists. ...In such a case, the trial court may then refuse summary judgment, order a continuance to give the party opposing summary judgment an

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<http://www.courts.wa.gov/content/Briefs/A01/670301%20appellant's.pdf>

The National Transportation Safety Board (NTSB) said a failure in the plane's GE90 engine was not contained by the engine's casing and that it had found several pieces of the high pressure compressor spool on the runway.

If a blade at the front of the engine fails, the casing is designed to retain it. The NTSB's findings therefore suggest that the failure was within the internal part of the engine.

"Initial examination of the left engine revealed multiple breaches of the engine case in the area around the high pressure compressor," the NTSB said in a statement.

<http://www.thedailybeast.com/articles/2015/09/14/exclusive-boeing-and-ge-warned-about-airplane-engine-that-exploded.html?ref=yfp>

<http://gizmodo.com/the-faa-warned-boeing-about-the-flaw-that-caused-a-777->

[1730504726?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+gizmodo%2Ffull+%28Gizmodo%29&ref=yfp](http://gizmodo.com/the-faa-warned-boeing-about-the-flaw-that-caused-a-777-1730504726?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+gizmodo%2Ffull+%28Gizmodo%29&ref=yfp)

opportunity to gather and present the evidentiary facts, or ‘make such other order as is just.’... Moore v. Pay’N Save 581 P.2d 159, 161, Wash.App. Div. ; Potter v. Van Waters & Rogers, Inc. 578 P.2d 859, 864+, Wash.App. Div. 1; Garbell v. Tall’s Travel Shop, Inc. 563 P.2d 211, 211, Wash.App. Div. 1. Plaintiff has not had any opportunity at all to present this case. Discovery is underway by Plaintiff and to be mailed out. Discovery conducted is critical to the adjudication process and for Plaintiff to prepare opposition demonstrating justifiable controversy exists.

Court was hesitant to cut plaintiffs in automobile products liability suit off from their right to trial by means of summary judgment when they had neither opportunity nor occasion to take advantage of rule permitting party opposing summary judgment motion to obtain continuance so as to gather and present evidentiary facts. CR 56(f).

The bulk of Defendants’ motion for summary judgment argues that res judicata doctrine bars this particular action from litigation and rehashes the facts and argument underlying Defendants’ initial Motion to Dismiss in the closed United States District Court Arizona Case No. Leon v. Meggitt 4:12-cv-00226-DCB (hereinafter referred to as the “226” matter) for Title VII Post Employment Retaliation against Meggitt, Inc. before the United States Court of Appeals for the Ninth Circuit Case No. 14-17009.

Defendants’ fail to mention to this Court the procedural history associated with the Leon v. Meggitt 4:12-cv-00226-DCB in an attempt to muddy the waters concerning this separate set of claims. Likewise, Defendants attempt to merge the 4:13-cv-00111-CKJ False Claims Act (hereinafter

referred to as the “111” matter) arising from 2006 and the USDOJ FAA Leon v. Securaplane US Labor Board 2008 AIR 00012 (hereinafter referred to as the “DOJ FAA” matter) concerning Plaintiff’s former employer Securaplane and Parent Company Meggitt actions arising from 2007.

1.1 The Previous Actions a) False Claims Act 31 U.S.C. § 3729 and b) Title VII Post Employment Retaliation

a. False Claims Act 31 U.S.C. § 3729 Leon v. The Boeing Company 4:13-cv-00111-CKJ Reversed and Remanded United States Court of Appeals Ninth Circuit

The False Claims Act 31 U.S.C. § 3729 actions which were duplicated pursuant to the erroneous direction of Order March 26, 2013 DKT 8 concern Boeing’s false statements and claims primarily encompass the category of fraudulent acts that were witnessed and reported by Relator Michael A. Leon. Boeing fraudulently bid to acquire the contract of the program for the KC-46A “Pegasus Tanker.” These false statements and claims occurred in 2007. The statute of limitations for False Claims Act 31 U.S.C. § 3729 is different than that of other types of claims. Relator’s First Amended Complaint and Amended Disclosure Statement provided to United States Attorney General Loretta E. Lynch United States Department of Justice and Arizona Attorney General Mark Brnovich pursuant to and in accordance with 31 U.S.C. §3730(b)(1). (Michael A. Leon Decl., Ex. O-P.).

The NTSB’s (National Transportation Safety Board) final incident report states that the cause of the aircraft fires lie entirely with the design and manufacture of the Lithium ion battery. They further stated that Boeing failed to adequately test the battery for catastrophic failures. Boeing has been aware of the thermal defects of this battery as long ago as November of 2006 and has failed to lead to appropriate remedial reports to the United States. This failure to disclose is defrauding the Air Force. (Michael A. Leon Decl., Ex. A.).

The Boeing Company has a pattern of safety violations, concealing defects and governmental judgments. The FAA (Federal Aviation Administration) fined The Boeing Company \$275 safety violations Seattle Times dated July 26, 2013 in connection with the 777. (Michael A. Leon Decl., Ex. N.).

b. Title VII Post Employment Retaliation Leon v. Meggitt 4:12-cv-00226-DCB

The Leon v. Meggitt 1:13-cv-01679 United States District Court Northern District of Illinois transferred from Chicago to Arizona District Court at the request of Defendants to litigate matter assigned number 4:12-cv-00226-DCB was filed subsequent to Leon v. Meggitt, et al. Case No. 4:13-cv-00111-CKJ False Claims Act 31 U.S.C. § 3729 on February 25 2013. Nowhere in Defendants' Motion for Summary Judgment do they make mention of the Leon v. Meggitt 1:13-cv-01679 Post Employment Retaliation concerning former employer Meggitt PLC in an attempt to confuse this Court. A first amended complaint was filed in the matter. The motion for leave to file Second Amended Complaint was not granted as Plaintiff's mislead concerning additional defendants. Pursuant to the presiding judge Cindy Jorgenson in the Leon v. Meggitt, et al. Case No. 4:13-cv-00111-CKJ False Claims Act 31 U.S.C. § 3729 et seq. directing Plaintiff to file separate federal and state actions in an Order dated March 26, 2013 [DKT 8] which has been reversed and remanded to the Arizona for abuse and discretion by the presiding judge Cindy Jorgenson for amended filing of complaint, further proceedings on March 2 2015. (Michael A. Leon Decl., Ex. B.). Marc Birtel was and is not a defendant in this matter. The court proceedings were dismissed in California and Washington jurisdiction as the Defendants stated to the Court that the matter was being litigated in Arizona 4:12-cv-00226-DCB not due to merit of claims but in an effort to avoid duplicity. This matter is based on continual violation post-employment retaliation that has been occurring for years since 2007 on a local level reaching crescendo on international stage now by former employers Securaplane and Meggitt PLC. The Boeing Company not a named defendant in this matter. Plaintiff erroneously sued Boeing which does not exist therefore service was not affected.

This matter was further complicated by the Arizona District Court failing to file the action correctly under seal in compliance with the act and dismissed without reasoning and failure to amend. The judge jorgenson

district court judge stated in the decision that state tort actions existed and that federal claims lack of diversity false claims should not be mixed together. Plaintiff then uncertain which federal forum to file filed separate actions against individual Defendants in separate federal courts as Plaintiff had been barred from any state court legal recourse due to adjudication proceedings arising from Securaplane wrongful termination in 2007 separate actions prelitigation order in 2012 filed in Michael A Leon vs. Securaplane Technologies Pima County Superior Court Case No. C20120876 without application. This was Plaintiff's understanding that the March 26, 2013 [DKT 8] Order advised Plaintiff to do.

Nonetheless, Plaintiff, a terminally ill disabled pro se litigant filed state court action on May 24, 2013 with application seeking legal recourse pursuant to judge jorgenson statement in order for state court claims in connection with 2013 Dreamliner grounding Michael A Leon vs. Meggitt PLC et al Pima County Superior Court Case No. C20132950 said application was denied leaving no legal recourse. The matter was never filed and never served.

A pattern of abuse of discretion has been found with the Arizona District Court and Leon v. Meggitt 4:12-cv-00226-DCB is confident that the appellate matter Leon v. Meggitt will reverse and remand to Arizona District Court for further proceedings. The multiple individual actions were absorbed into the Leon v. Meggitt 4:12-cv-00226-DCB which was transferred from the United States District Court Northern District of Illinois.

c. Previous Actions Unrelated to January 22 2013 action Leon v. Securaplane US Labor Board 2008 AIR 00012

The Boeing Company financed subcontractor Securaplane legal defense in this action. Seyfarth Shaw, longtime counsel for The Boeing Company in Chicago Illinois. Ogletree Deakins retained by Danaher Meggitt Securaplane Pima County Superior Court tort actions locally. During the labor board trial in this matter, Securaplane retained Oro Valley Police Officers for security it was unveiled later through discovery.

Exponent a client of The Boeing Company was retained by The Boeing Company as consultants to perform analysis of fire originating from battery explosion in 2006 at the Securaplane premises. The Boeing Company was protecting its interests to insure that the issues of the battery

for the Dreamliner remained suppressed from the public and the government.

1.2 The Present Action Washington State Court Action for Defamation and Interference with Business Expectancy Leon v. Marc Birtel, The Boeing Company 14-2-34320-5

Defendants' The Boeing Company and Marc Birtel's Motion for Summary Judgment is rife with the same types of factual misstatements as Defendants' PLC original Motion to Dismiss in the Leon v. Meggitt 4:12-cv-00226-DCB action. For example, the Defendants claims that Plaintiff has had an opportunity to litigate these claims in this Washington state action multiple times: (1) Defamation (2) Interference with Business Expectancy. These statements are unsupported by any competent testimony, contrary to the documentary evidence, and are inaccurate even under the most liberal standards of accuracy.

The complaint filed herewith is only against Marc Birtel and The Boeing Company contrary to Defendants statements concerning interference with business expectancy which has never been raised in a court of law previously. Fiona Grieg is not named in this Complaint nor are any other defendants from previous litigations. The interference with business expectancy is ongoing and no statute of limitations as it is continual violation. Further, passage of time had to transpire since defamatory statements to show relationship with interference with business prospects.

1.3 Vexatious Litigant Order non existent US District Court Arizona – Judicial Misconduct Complaints

Defendants admit that there is no enforcement of Order a stay as it is pending in Ninth Circuit Court of Appeals. (Mtn Summary Judgment Transcript 6 26 2015 Pg. 11 lines 13-15.) Judge Jorgenson in Order dated May 6 2015 DKT 19-1 4:13-cv-00111-CKJ states that no such Order exists in case pg. 3 lines 25-27. A Vexatious Litigant Order was attempted in Leon v. Meggitt 4:12-cv-00226-DCB action, however, the Leon v. Meggitt 4:12-cv-00226-DCB is closed and subject of an appeal before the United States Court of Appeals for the Ninth Circuit Case No. 14-17009. The dismissal will in all probability be reversed and remanded as the 4:13-cv-00111-CKJ for the reasons that the Order is overly broad attempting to encroach individual state sovereignty and attempting to bar any future Title VII, the ADA, or the FCA. The United States Court of Appeals for

the Ninth Circuit has already reversed and remanded a False Claims Act matter for Plaintiff to pursue 4:13-cv-00111-CKJ. Further pending Judicial Misconduct Complaints pending against Judges Collins and Bury. (Michael A. Leon Decl., Ex. C-M.).

The existence of factual disputes as to whether these claims against Marc Birtel and the Boeing Company interference with business expectancy defamation have been litigated previously similarly preclude the grant of summary judgment on these claims. Plaintiff Michael Leon respectfully requests that the Court deny the Defendants' Motion for Summary Judgment.

Defendants argument fails concerning vex litigant because the 111 false claims matter reinstated not dismissed upon which subsequent actions filed at the misguidance of judge jorgenson stating state and federal. The court found this judge abused discretion remanded for false claims matter going forward which has nothing to do with events January 2013 as defendants claim.

The Court erred in issuing Vexatious litigant Order applicable to all states with no boundaries in the 4:12-cv-00226-DCB matter. Vexatious Litigant Order raising litigations prior to this set of cause of action in 2013 Dreamliner different cases through the years, issues merging to darken waters preventing state and federal filings no legal remedies for this action or any further causes of action retaliatory. Securaplane, employer defendant in prior to 2013 actions unrelated to 2013 worldwide grounding Dreamliner aircraft defamatory statements issued by The Boeing Company. In addition, this judge refusal to allow efiled despite the fact that Plaintiff has efiled for years in that Court and Appellate Courts, Plaintiff submitted several motions to efile as he is disabled, impoverished demonstrates Section 1983 and abuse of discretion. This same judicial officer which owns litigant Boeing stock.

This matter was transferred from Chicago Illinois. Plaintiff a pro se litigant has encountered abuses by Arizona District Court. The matter was dismissed in Chicago Illinois forum at the request of Defendants under the ruse to the judge that it would be under the ruse of in the best interests of all as the Plaintiff and Defendant Securaplane located in Arizona. The Chicago Judge TRANSFERRED the matter to Arizona in the interest of judicial resources. It is well-established that a defendant's home forum is presumed to be convenient. See, e.g., World-Wide Volkswagen Corp. v.

Woodson, 444 U.S. 286, 303 (1980) (defendant's home forum is presumptively convenient); *Lony v. E.I. Du Pont de Nemours & Co.*, 935 F.2d 604, 608 (3d Cir. 1991) (rejecting defendant's challenge to its home state as an appropriate forum).

Indeed, when a local plaintiff sues a local defendant in the defendant's home forum, it is "unusual" for the defendant to seek dismissal based on forum non conveniens and therefore, "this fact should weigh strongly against dismissal." *Reid-Walen v. Hansen*, 933 F.2d 1390, 1395 (8th Cir. 1991). The Defendant Exponent is a California citizen. Likewise, Chicago Illinois is the home forum of The Boeing Company yet they repeatedly have transferred to Arizona wherein the matter will be held in suspension as the other matters pattern.

Leon objects the order granting relief for the vexatious litigant order entered by the district court restricting his future filing of actions or papers without leave of the court in any court including individual states. Review of the district court's vexatious litigant order for abuse of discretion. See *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir.1984); *Wood v. Santa Barbara Chamber of Commerce, Inc.*, 705 F.2d 1515, 1524 (9th Cir.1983), cert. denied, 465 U.S. 1081, 104 S.Ct. 1446, 79 L.Ed.2d 765 (1984); *Moy v. United States*, 906 F.2d 467, 469 (9th Cir.1990).

Another problem with the vexatious litigant order is its breadth. ...injunction expressly applies to any further actions for relief under Title VII, the ADA, or the FCA. Here we have the Arizona District Court, a lower court, attempting to usurp the U.S. Court of Appeals for the Ninth Circuit which has remanded and reversed False Claims Act against The Boeing Company.

The order has no boundaries. Compare *Moy*, 906 F.2d at 470. If we are to permit pre-filing restrictive orders, these orders must be narrowly tailored to closely fit the specific vice encountered. See *Wood*, 705 F.2d at 1523–26. Narrowly tailored orders are needed “to prevent infringement on the litigator's right of access to the courts.” *Sires*, 748 F.2d at 51; see also *Wood*, 705 F.2d at 1525 (if restrictive orders are “used too freely or couched in overly broad terms, injunctions against future litigation may block free access to the courts”). The order is not narrowly tailored and the district court's order is overly broad and cannot be upheld. Federal Court of District of Arizona cannot impose this prohibition amongst all state courts.

The order threatens to retain jurisdiction and issue sanctions if Plaintiff does not file a copy of the Order with any court of law in any state and threatening sanctions. Defendants The Boeing Company and the Judge in the 226 matter continually file pleadings despite this matter closed without jurisdiction as the matter pending in the US Court of Appeals for the Ninth Circuit.

Restricting access to the courts is, however, a serious matter. “[T]he right of access to the courts is a fundamental right protected by the Constitution.” *Delew v. Wagner*, 143 F.3d 1219, 1222 (9th Cir.1998). The First Amendment “right of the people ... to petition the Government for a redress of grievances,” which secures the right to access the courts, has been termed “one of the most precious of the liberties safeguarded by the Bill of Rights.” *BE & K Const. Co. v. NLRB*, 536 U.S. 516, 524–25, 122 S.Ct. 2390, 153 L.Ed.2d 499 (2002) (internal quotation marks omitted, alteration in original); see also *Christopher v. Harbury*, 536 U.S. 403, 415 n. 12, 122 S.Ct. 2179, 153 L.Ed.2d 413 (2002) (noting that the Supreme Court has located the court access right in the Privileges and Immunities clause, the First Amendment petition clause, the Fifth Amendment due process *1062 clause, and the Fourteenth Amendment equal protection clause).

Profligate use of pre-filing orders could infringe this important right, *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir.2007) (per curiam), as the pre-clearance requirement imposes a substantial burden on the free-access guarantee. “Among all other citizens, [the vexatious litigant] is to be restricted in his right of access to the courts.... We cannot predict what harm might come to him as a result, and he should not be forced to predict it either. What he does know is that a Sword of Damocles hangs over his hopes for federal access for the foreseeable future.” *Moy v. United States*, 906 F.2d 467, 470 (9th Cir.1990).

The district court also cites the Ringgolds' motions practice, taking issue with their “numerous motions to vacate prior decisions or relief from judgment.” But examination of the court's list of “baseless motions” reveals that this description is not entirely accurate. For example, the district court granted one of the motions. A successful motion is neither “baseless” nor “frivolous.” The list also includes motions, accompanied by medical records, that Ringgold filed requesting a medical accommodation in the briefing schedule—also not frivolous. And the list includes a joint motion to stipulate to a change in the briefing schedule. Again, not frivolous.

Michael Leon appeal granted 13-15696 remanded. Michael Leon has been granted other motions as well in matters. As the Ringgolds had to argue that their filings were not frivolous, such repetition was inevitable. What's more, the district court invited their response, so it is particularly inappropriate to hold it against them. Michael Leon has had to engage in similar activities to the Court.

The Arizona Court contradicts itself in Order when referring to Ringgold-Lockhart decision. The Court speaking out of both sides of mouth states

Order ECF 87 4:12-cv-00226-DCB p. 21 admits that Courts cannot determine whether case has merit then speaks for all other Courts in the nation, federal and state Order ECF 87 4:12-cv-00226-DCB p. 23 as well as preventing disabled pro se litigant from any and all future ADA filings, Title VII and FCA during Plaintiff's lifetime, a handicapped individual. The Court in Ringgold found the administration of state courts or probate courts was too expansive." The part of this order that bars the Ringgolds from litigating any action "relat[ing] to ... the administration of state courts or probate courts" is expansive. The district court has not shown that this breadth is justified. The District Court in one breath says that "Courts cannot properly say whether a suit is meritorious on pleadings alone" Order ECF 87 4:12-cv-00226-DCB line 9 but then lines Order ECF 87 4:12-cv-00226-DCB 11-12 says permitted to file in the event he seeks to file a claim of merit. Order ECF 87 4:12-cv-00226-DCB pg. 23 then proceeds to determine what other states perceive to have merit lines 3-5. To the Plaintiff, whose life is destroyed the matter possesses merit.

Defendants attempted to bar any recourse in any state by broad vexatious litigant order as demonstrated by the filing of notice of violation. Plaintiff Leon filed Washington State Court matter interference with business expectancy. Plaintiff sole income is not enough medical, service dog and

outstanding balances. Social Security allows up to \$1,000 a month. Since international defamation libel, Plaintiff unable to secure any type of work for supplement income. Plaintiff has lost opportunities with Honeywell among other consulting endeavors.

The sum and substance of the Defendants' position is that Plaintiff Michael Leon is to continually endure harassment, defamation libel and slander at the hands of former employers, third party subcontractors without any remedies in any legal forum. Michael Leon is to remain beleaguered by these corporate titans and their corporate counsel. Defendants misapprehend that Michael Leon has had day his day in Court and is re-litigating actions recycling these causes of action. The Defendants and the Arizona Court's warped perceptions (spin) vs. reality.

To the contrary, Michael Leon has never had his day in Court as the Arizona District Court has continually prevented equal access to the Court for handicapped pro se litigant due to abuses of discretion. The Ninth Circuit noted the abuse of discretion by the Arizona District Court. The Ninth Circuit on March 2 2015 found that the Arizona District Court abused discretion in Leon vs. Meggitt No. 13-15696 reversed and remanded to the Arizona District Court. The judge dismissed the action

without rhyme or legal reasoning. Citing *Foman v. Davis*, 371 US 178 – 1962; *Lopez v. Smith*, 203 F. 3d 1122 - 2000. Likewise in this matter the Court did not allow filing of amended complaint or explain cure deficiencies.

Arizona District Court has and still engages in patterns of abuses of discretion. This case is not frivolous nor is the No. 13-15696 case frivolous as it is an active matter remanded to the US District Court of Arizona March 2 2015.

i. Res judicata not shown elements not met

Defendants mischaracterize that Plaintiffs lawsuit is frivolous, meritless and that the res judicata doctrine applies. If the Courts cannot state that a claim is meritless alone on the pleadings, defense counsel surely cannot. Defendants misrepresent that Plaintiff is re-litigating matters that they have barred from proceeding, stonewalling. The matter has never been heard in Court.

The res judicata argument does not apply in this matter. All elements have not been met required for defense of res judicata doctrine as follows:

First element, the parties are not the same. Defendants mention the Washington District Court matter which was once again like the Chicago matter dismissed as Defendants stated that the matter was duplicative and being argued in Arizona the 226 matter darkening the waters. Judge Richard Jones the Judge for the Western District of Washington Court, in the very Order attached as Exhibit C to Declaration of Steve Koh motion for summary judgment the Court itself states that it may be wrong pg. 1 line 22 Leon v. Exponent Leon v. The Boeing Company 2:14 ccv00095 RAJ. Plaintiff is handicapped medicated and at times difficult to write the court stated was incomprehensible but did not provide leave to amend.

Second element, the claim is not the same defamation the libelous statement still on website as of this date. Interference with business expectancy claim never raised as passage of time had not occurred. The four elements of res judicata are not met in this case. No final judgment applied.

There is not the same identity in persons and parties. Marc Birtel has only been brought in recently as individual and as an agent for The Boeing Company. Marc Birtel was not named in the 226 matter or any others. The Boeing Company misrepresented to the Judge in the Washington

District Court matter that Marc Birtel named in 226 litigation and that duplicative convincing Judge to dismiss.

Judgment - Res Judicata - Elements. Application of the doctrine of res judicata requires identity between a prior final judgment on the merits and a subsequent action as to (1) persons and parties, (2) cause of action, (3) subject matter, and (4) the quality of the persons for or against whom the claim is made. Additionally, Defendants further mischaracterize the following which Plaintiff is clarifying for this Court:

- The 226 matter in court of appeals will be reversed and remanded overly broad vexatious litigant matter which is not enforced pursuant to Judge Cindy Jorgenson stating in Order Exhibit A to Declaration of Steve Koh in motion for summary judgment. Judicial misconduct complaints pending against Judge David Bury and Presiding Judge Raner Collins Section 455b conflict of interest owning Boeing Stock. The Boeing Corporation sued not The Boeing Company. These are not the same parties. There is no entity named Boeing Corporation. There is only The Boeing Company. The Boeing Company therefore not served in these matters privity non existent.

- Further the Court includes actions from 2010 in vexatious litigant order completely unrelated to the False Claims Act matter and this matter. The 2010 matters arising from Securaplane subcontractor litigation defamation in which Boeing financed the legal defense in the United States Department of Labor proceedings prior to the unveiling of the Dreamliner July 8 2007 and financed Exponent Consultant analysis of battery explosion in 2006 at Securaplane premises which Michael Leon injured.
- The notice of violation filed in a matter that is closed in the US District Court before the Ninth Circuit Court of Appeals – the US District Court does not have concurrent litigation in this matter as it closed the case, matter appealed vexatious litigant order overbroad and unconstitutional Exhibit B to Declaration of Steve Koh
- Fiona Grieg was not named in this lawsuit. This lawsuit named Marc R. Birtel and his employer The Boeing Company. Marc R. Birtel has not participated substantially in litigations. Simply because The Boeing Company appeared despite not formally served with lawsuits due to erroneous name Boeing Corporation, Marc R. Birtel has not been a substantial party to the lawsuits.

The same parties and the same claims not raised.

ii. Res Judicata actions could NOT have been litigated prior interference with business expectancy demonstrated over time and is occurring as a result

Plaintiff has attempted to obtain employment part time as consultant to supplement social security disability award monthly as is not enough to cover expenses. Recipients are allowed to earn \$1,000 or less per month while receiving benefits.

Judgment — Res Judicata — Identity of Parties — Privity — What Constitutes. For purposes of the doctrine of res judicata, a person was a party, or was in privity to a party, in previous litigation only if that person exercised actual control over, or substantially participated in, the previous litigation. Being aware of the previous litigation is not sufficient to place the person in privity with a party to that litigation. *LOVERIDGE v.*

FRED MEYER, INC 125 Wn.2d 759 (Wash. 1995)

<https://casetext.com/case/loveridge-v-fred-meyer-inc-1>

[1] Res judicata refers to "the preclusive effect of judgments, including the relitigation of claims and issues that were litigated, or might have been litigated, in a prior action."¹² It is designed to "prevent relitigation of already determined causes and curtail multiplicity of actions and harassment in the courts". For the doctrine to apply, a prior judgment must have a concurrence of identity with a subsequent action in (1) subject matter, (2) cause of action, (3) persons and parties, and (4) the quality of the persons for or against whom the claim is made. *764764. Philip A. Trautman, Claim and Issue Preclusion in Civil Litigation in Washington, 60 Wn. L. Rev. 805, 805 (1985). *Bordeaux v. Ingersoll Rand Co.*, 71 Wn.2d 392, 395, 429 P.2d 207 (1967). See *Rains v. State*, 100 Wn.2d 660, 663, 674 P.2d 165 (1983). Trautman, at 819 (citing *Puget Sound Gillnetters Ass'n v. Moos*, 92 Wn.2d 939, 953, 603 P.2d 819 (1979)).

The meaning of "privity" for res judicata purposes was discussed in *Owens v. Kuro*:

Privity does not arise from the mere fact that persons as litigants are interested in the same question or in proving or disproving the same state of facts. Privity within the meaning of the doctrine of res judicata is privity as it exists in relation to the subject matter of the litigation, and the rule is

construed strictly to mean parties claiming under the same title. It denotes mutual or successive relationship to the same right or property.

The United States Supreme Court in *General Tel. Co. of Northwest, Inc. v. EEOC*, supra, notes a potential divergence of interests between the EEOC and the aggrieved person in a discrimination suit. Consistent with this observation in *General Telephone*, the court in *Riddle v. Cerro Wire Cable *769769 Group, Inc.*, supra, concluded that, absent an identity of interests, there is no privity between the employee and the EEOC that would bind the employee under *res judicata*.

Respondent Kimberly Loveridge did not control or participate in the federal litigation in which Fred Meyer was defendant and the EEOC was plaintiff. She did not sign the consent decree, nor did she receive any benefits from it. Her interest in damages for the charged discrimination were bypassed in the EEOC's pursuit of injunctive relief against Fred Meyer. Absent her participation in the proceedings or an identity of interests with the EEOC, Ms. Loveridge cannot be considered a party in privity with the EEOC for *res judicata* purposes.

We affirm the decision of the Court of Appeals which reversed the trial court ruling that a consent decree between Petitioner Fred Meyer, Inc. and the Equal Employment Opportunity Commission in the United States District Court barred Respondent Kimberly Loveridge from asserting a subsequent claim of discrimination against Petitioner in the Superior Court of Washington for Snohomish County.

Case law used by defendants cites to marriage dissolutions which has received negative treatment. *Karlberg v. Otten* 167 Wash App 522. *Pederson v. Potter* 103 Wash App 62. Res judicata, or claim preclusion, bars the relitigation of claims and issues that were litigated or might have been litigated in an earlier action. *Pederson v. Potter*, 103 Wn.App. 62, 69, 11 P.3d 833 (2000), review denied, 143 Wn.2d 1006 (2001). Application of the doctrine requires identity between a prior judgment and a subsequent action as to (1) persons and parties, (2) cause of action, (3) subject matter, and (4) the quality of persons for or against whom the claim is made. *Pederson*, 103 Wn. App. at 69.

In general, res judicata applies to dissolution proceedings. In *re Marriage of Timmons*, 94 Wn.2d 594, 597, 617 P.2d 1032 (1980). But when dissolution is obtained by the agreement of the parties or by default, the

doctrine is not applied to children's residential schedules. Timmons, 94 Wn.2d at 598-600; In re Marriage of Akon, 160 Wn.App. 48, 62-63, 248 P.3d 94 (2011). Even before subsection (4) was added, the statute was understood as manifesting "an intent to moderate the harshness of res judicata, regardless of whether or not the decree was contested, due to the public interest in the welfare of children." Timmons, 94 Wn.2d at 599, discussing former RCW 26.09.260 (1973). When a dissolution was uncontested, on a subsequent petition to modify, predecree facts are "unknown" within the meaning of RCW 26.09.260(1) and can be considered by the trial court. Timmons, 94 Wn.2d at 600. This assures that there will be "true judicial consideration of all relevant facts concerning the welfare of the children." Timmons, 94 Wn.2d at 599.

Under Timmons, res judicata does not bar the modification court from considering Alexandra's allegations of domestic violence during the marriage. Robert and Alexandra did not contest parenting plan issues at their dissolution trial. Therefore, facts known to the parties before the decree were available for consideration at the modification trial to the extent they were relevant to the welfare of the children. By adding subsection (4) to RCW 26.09.260, the legislature specifically authorized

trial courts to impose ".191 restrictions" in a modification as readily as in a dissolution.

These statements have not be retracted by The Boeng Company and exist to this very date reopening liability. The Boeing Company has not once addressed these statements defamatory pointed out by Plaintiff Michael Leon. In California and other primary rights jurisdictions, certain rights are accorded "primary" status; these rights include the right to be free from injury to person and the right to be free from injury to property The number of primary rights violated is significant because it determines the number of causes of action a plaintiff has in California. The victim's primary rights to be free from personal injury and free from injury to property were violated in the above-described. The number of causes of action is crucial in determining whether the victim can file two lawsuits based on the accident. An axiom of res judicata states that a plaintiff must sue on the entire cause of action at one time and may not "split" the cause of action. The victim in this example has two distinct causes of action.' Thus, the victim can proceed against the defendant in two separate suits without "splitting" the cause of action, and res judicata will not bar the second suit. According to the primary rights

theory, the fact that the victim sustained both kinds of damage in the same transaction or occurrence has no bearing on the preclusive effect of the first lawsuit.

This action concerns Mark Birtel agent of Boeing in an attempt to deflect blame Boeing during 2013 grounding defamed Michael Leon blacklisting worldwide interference with business expectancy no apology ever made, websites run to this date continuation violation theory. The entire battery was redesigned and Plaintiff hypothesis was correct all along as exhibited in the NTSB report conclusions and recommendation NTSB Decision AIR/14/01 PB 2014 108867 Auxillary Power Unit Battery Fire Japan Airlines Boeing 787-8 JA829JBoston Massachusetts January 7 2013 Incident Report Pg 78 conclusions Pg 80-83 recommendations NTSB Report FAA. (Michael A. Leon Decl., Ex. A.).

- Plaintiff could not previously raise these issues because relationship not shown between actions and interference with business expectancy
- Plaintiff is allowed to supplement income on social security disability needs funds to support service dog and prescriptions

- Plaintiff seeking employment employers interested and then
defamation libel occurs The Boeing Company internationally disparaged
Plaintiff
- Plaintiff only recently recognized interference with business
expectancy during pursuit of supplemental employment
- Plaintiff wants to engage in some gainful activity only 57 years old
to feel productive, supplement income provide for grandchildren

Defendant Marc Birtel individually liable and The Boeing Company“Vicarious liability is legal responsibility by virtue of a legal relationship.” 16 David K. DeWolf & Keller W. Allen, Washington Practice: Tort Law and Practice § 3.1, at 116 (3rd ed. 2006). Generally speaking, a person may be vicariously liable, and thus legally responsible, for another’s tort if the tortfeasor was an (1) employee acting in the course and scope of employment; (2) an agent whose tort is imputed to her principal; or (3) a family member for whom the other is legally responsible. 16 DeWolf & Allen, supra, at 116. Here, Thola alleged the first and second theories of vicarious liability.

In addition, because tortious interference is an intentional tort, plaintiffs are also entitled to recover punitive damages in order to punish the defendant for their bad behavior. For this reason, some plaintiffs will elect to sue for tortious interference rather than sue for the breach of contract itself. Contract suits don't provide for punitive damages, thus tortious interference plaintiffs have the possibility of recovering even more money than the contract was worth.

Pro se litigants' court submissions are to be construed liberally and held to less stringent standards than submissions of lawyers. If the court can reasonably read the submissions, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigant's unfamiliarity with rule requirements.

Boag v. MacDougall, 454 U.S. 364, 102 S.Ct. 700, 70 L.Ed.2d 551 (1982); Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976)(quoting Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)); Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); McDowell v. Delaware State Police, 88 F.3d 188, 189 (3rd Cir. 1996); United States v. Day, 969 F.2d 39, 42 (3rd Cir. 1992)(holding pro se petition cannot be held to same standard as pleadings

drafted by attorneys); *Then v. I.N.S.*, 58 F.Supp.2d 422, 429 (D.N.J. 1999).

The courts provide pro se parties wide latitude when construing their pleadings and papers. When interpreting pro se papers, the Court should use common sense to determine what relief the party desires. *S.E.C. v. Elliott*, 953 F.2d 1560, 1582 (11th Cir. 1992). See also, *United States v. Miller*, 197 F.3d 644, 648 (3rd Cir. 1999) (Court has special obligation to construe pro se litigants' pleadings liberally); *Poling v. K.Hovnanian Enterprises*, 99 F.Supp.2d 502, 506-07 (D.N.J. 2000).

The U.S. Supreme Court has stated: “The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence in support of the claims. Indeed it may appear on the face of the pleadings that a recovery is very remote and unlikely, but that is not the test.” *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). Rather, “a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957).ⁱ

Even a cause of action for fraud which must be specifically pleaded satisfies the particularity requirement for fraud if it identifies

circumstances constituting fraud so that defendant can prepare an adequate answer from the allegations. *Deutsch v. Flannery*, (9th Cir.1987), 823 F.2d 1361, 1365.

The False CLAIMS LAWSUIT completely unrelated remanded back from Ninth Circuit 226, 111, 287 all based on 111 judge advised to file state and federal lawsuits plaintiff confused lawsuit which has been remanded back to Arizona District COURT – plaintiff disabled pro se litigant made mistake in verbage - this matter defamation and interference with business expectancy.

The Defendants are not entitled to summary judgment. The Defendants took no affirmative acts to correct or remove the defamatory statements. There are also disputed issues of material fact as to Marc Birtel individually liable as well as acting as agent of The Boeing Company. The Boeing Company retained Exponent Consultants and Seyfarth Shaw for Securaplane defense in *Leon v. Securaplane US Labor Board 2008 AIR 00012*.

Finally, the Defendants are not entitled to judgment on Plaintiff's interference with business expectancy claim. The Defendants' arguments that Plaintiff is simply recasting claims and that Washington law does not provide for these causes of action is incorrect. These statements have not be retracted by the Boeing Compaany and exist to this very date reopening liability and ongoing statute of limitations. The existence of material disputes of fact preclude summary judgment on these claims.

The right to sue first amendment right to petition. Due process fifth and fourteenth amendments right to defend against accusations. Marc Birtel personal liability as well as The Boeing Company vicarious liability.

The only thing I wanted to do was to insure the safety of passengers and consumers on flights as a result The Boeing Company continues to attempt to destroy me for bringing to the attention safety issues. For the reasons set forth above, Plaintiff Michael A. Leon, a veteran and disabled pro se litigant respectfully requests that the Court deny the Defendants' Motion for Summary Judgment.

- Defendants have failed to establish that Plaintiff's claims are barred under the doctrine Res Judicata – different parties, different causes of action. First element, the parties are not the same. Defendants mention the Washington District Court matter which was once again like the Chicago matter dismissed as Defendants stated that the matter was duplicative and being argued in Arizona the 4:12-cv-00226-DCB matter darkening the waters. Judge Richard Jones the Judge for the Western District of Washington Court, in the very Order attached as Exhibit C to Declaration of Steve Koh motion for summary judgment the Court itself states that it may be wrong pg. 1 line 22 Leon v. Exponent Leon v. The Boeing Company 2:14 ccv00095 RAJ. Plaintiff is handicapped medicated and at times difficult to write the court stated was incomprehensible but did not provide leave to amend. Second element, the claim is not the same defamation the libelous statement still on website as of this date. Interference with business expectancy claim never raised as passage of time had not occurred. The four elements of res judicata are not met in this case. No final judgment applied. here is not the same identity in persons and parties. Marc Birtel has only been brought in recently as individual and as an agent for The Boeing Company. Marc Birtel was not named in the 226 matter or any others. The Boeing Company misrepresented to the Judge in the Washington District Court matter that Marc Birtel named in 4:12-cv-00226-DCB litigation and that duplicative convincing Judge to dismiss.
- Defendants have failed to establish Plaintiff is a vexatious litigant as judicial misconduct judge violations pending 28 U.S. Code § 455(b)(4), Section 1983 and case pending in United States Court of Appeals Ninth Circuit and intertwining causes of action to mislead this Court from various years and differing parties including US relator False Claims Act. The 2010 matters arising from Securaplane subcontractor litigation defamation in which Boeing financed the legal defense in the United States Department of Labor proceedings prior to the unveiling of the Dreamliner July 8 2007 and financed Exponent Consultant analysis of

battery explosion in 2006 at Securapalme premises which Michael Leon injured. Vex litigant erroneous and biased judicial analysis.

Durley v. Mayo, 351 U.S. 277 (1956)

Res judicata is not a rigid doctrine in Florida. The Supreme Court recently refused to apply it where to do so would "defeat the ends of justice." Universal Const. Co. v. City of Ft. Lauderdale, 68 So.2d 366, 369. [Footnote 2/4] Once the facts alleged by petitioner are conceded, as they must be on the present record, it defeats the ends of justice to deny relief here.

"The basic principle upon which the doctrine of res judicata rests is that there should be an end to litigation, and that, 'in the interest of the State, every justiciable controversy should be settled in one action, in order that the courts and the parties will not be bothered for the same cause by interminable litigation.' 59 So.2d at 44; italics supplied. Nevertheless, when a choice must be made, we apprehend that the State, as well as the courts, is more interested in the fair and proper administration of justice than in rigidly applying a fiction of the law designed to terminate litigation."

68 So.2d at 369.

Once we reach the merits, the answer seems clear. It is well settled that, to obtain a conviction by the use of testimony known by the prosecution to be perjured offends due process. *Mooney v. Holohan*, 294 U. S. 103; *Pyle v. Kansas*, 317 U. S. 213. While the petition did not allege that the prosecution knew that petitioner's codefendants were lying when they implicated petitioner, the State now knows that the testimony of the only witnesses against petitioner was false. No competent evidence remains to support the conviction. Deprivation of a hearing under these circumstances amounts, in my opinion, to a denial of due process of law.

Perhaps a hearing on the charges would dispel them. But, on the present record, we have a grave miscarriage of justice involving an invasion of federal rights guaranteed by the Fourteenth Amendment.

In the 1949 petition, petitioner argued that the testimony was perjured, but he did not present this as a federal question. The 1952 petition did not mention the perjured testimony issue.

The Florida Supreme Court stated the rationale of these decisions as follows:

"It is elementary that a writ of habeas corpus cannot be used as a substitute for appeal, motion to quash or a motion in arrest of judgment."

Johnson v. Mayo, 69 So.2d at 308.

Petitioner's claim of a denial of federal rights because his conviction is based solely on perjured testimony obviously could not have been raised on direct appeal. He did not obtain the affidavits showing that the witnesses had lied until long after the time to appeal his conviction had expired.

2. No Discovery Permitted

The judge refused continuance of motion for summary judgment prejudicing plaintiff as far as ample time and evidence to prepare opposition to motion for summary judgment.

Plaintiff has not had any opportunity at all to present this case. Discovery is underway by Plaintiff and to be mailed out. Discovery conducted is critical to the adjudication process and for Plaintiff to prepare opposition demonstrating justifiable controversy exists.

...In such a case, the trial court may then refuse summary judgment, order a continuance to give the party opposing summary judgment an opportunity to gather and present the evidentiary facts, or 'make such other order as is just.'... Moore v. Pay'N Save 581 P.2d 159, 161, Wash.App. Div. ; Potter v. Van Waters & Rogers, Inc. 578 P.2d 859, 864+, Wash.App. Div. 1; Garbell v. Tall's Travel Shop, Inc. 563 P.2d 211, 211, Wash.App. Div. 1. Plaintiff has not had any opportunity at all to present this case. Discovery is underway by Plaintiff and to be mailed out. Discovery conducted is critical to the adjudication process and for Plaintiff to prepare opposition demonstrating justifiable controversy exists.

3. Dismissal; Summary Judgment granted with No Legal Reasoning

The judge dismissed the action without rhyme or legal reasoning. Citing Foman v. Davis, 371 US 178 – 1962; Lopez v. Smith, 203 F. 3d 1122 - 2000. Judge gave no legal reasoning for dismissal granting summary judgment cite ninth circuit forman v. davis, etc. The judge refused continuances of disabled.

3. Judicial Bias; Abuse of Discretion

Restricting access to the courts is, however, a serious matter. “[T]he right of access to the courts is a fundamental right protected by the Constitution.” Delew v. Wagner, 143 F.3d 1219, 1222 (9th Cir.1998). The First Amendment “right of the people ... to petition the Government for a redress of grievances,” which secures the right to access the courts, has been termed “one of the most precious of the liberties safeguarded by the

Bill of Rights.” BE & K Const. Co. v. NLRB, 536 U.S. 516, 524–25, 122 S.Ct. 2390, 153 L.Ed.2d 499 (2002) (internal quotation marks omitted, alteration in original); see also Christopher v. Harbury, 536 U.S. 403, 415 n. 12, 122 S.Ct. 2179, 153 L.Ed.2d 413 (2002) (noting that the Supreme Court has located the court access right in the Privileges and Immunities clause, the First Amendment petition clause, the Fifth Amendment due process *1062 clause, and the Fourteenth Amendment equal protection clause).

Defendants attempt to darken poison waters.

.CR 56(f) ‘protects a party opposing a summary judgment motion who for valid reasons cannot by affidavit-or presumably by any other means authorized under Rule 56(e)-present ‘facts essential to justify his opposition’ to the motion.’...

In such a case, the trial court may then refuse summary judgment, order a continuance to give the party opposing summary judgment an opportunity to gather and present the evidentiary facts, or ‘make such other order as is just.’... Moore v. Pay’N Save 581 P.2d 159, 161, Wash.App. Div. ; Potter v. Van Waters & Rogers, Inc. 578 P.2d 859, 864+, Wash.App. Div. 1; Garbell v. Tall’s Travel Shop, Inc. 563 P.2d 211, 211, Wash.App. Div. 1 Court was hesitant to cut plaintiffs in automobile products liability suit off from their right to trial by means of summary judgment when they had neither opportunity nor occasion to take advantage of rule permitting party opposing summary judgment motion to obtain continuance so as to gather and present evidentiary facts. CR 56(f).

5. Misrepresentation to Judge

- Genuine issues of material fact exist
- Defendants misrepresented to the Judge that Marc Birtel had been named in lawsuit previously and sued.
- Defendants misrepresented the number of lawsuits filed through the years unrelated to this litigation.
- Defamation Interference with Business Expectancy Retaliation.

a. Marc Birtel was not privity

In Headley v. Bacon, 828 F. 2d 1272 - Privity does not exist merely because parties happen to be interested in the same question, or in proving or disproving the same state of facts. See Duncan v. Clements, 744 F.2d 48, 52 (8th Cir.1984) (quoting American Polled Hereford Ass’n v. Kansas City, 626 S.W.2d 237, 241 (Mo.1982)). On the record before us, the facts

relevant to the defendants' relationship are not disputed, just their legal significance. The district court said, "I find that the parties are, indeed, in privity." Memorandum and order at 5 (emphasis added). This was a ruling on a motion for summary judgment, however; there appears to have been no factfinding and the court, therefore, merely set forth its conclusion of law. We therefore conclude that the district court erred in its determination that the defendants were in privity with the City in Headley I, at least with respect to the claims against them in their individual capacity. Even for the claims brought against them in their official capacity, privity is not automatic. The district court's order here appealed from was a grant of summary judgment. There have been no findings of fact in this case to allow a determination whether the relationship between all or any of the individual defendants in their official capacity and the City with respect to Headley I rose to the level of "near identity" required to constitute privity.⁹ Under such circumstances, therefore, the district court also erred in granting summary. Central to the holdings in all these cases, however, was that the defendant officials were sued in their official capacities. The actions of their agencies, not their personal actions, were at issue. By contrast, a judgment against a government does not bind its officials sued in their personal capacities. *Beard v. O'Neal*, 728 F.2d 894, 896-97 (7th Cir. 1984) (FBI informant and officials sued in individual capacities not in privity with FBI agent who was defendant in prior unsuccessful *Bivens* -type action), cert. denied, 469 U.S. 825, 105 S.Ct. 104, 83 L.Ed.2d 48 (1984); cf. *Garza v. Henderson*, 779 F.2d 390, 393-94 (7th Cir. 1985) (prison discipline committee members sued in official and personal capacities not collaterally estopped by judgment in prior habeas corpus proceeding against warden).

The third factor to consider is whether the original action was judged on the merits of the case and whether that judgment was a final judgment. Final judgment does not occur when the case is settled by the parties on their own, or where the judge decides a motion or makes some other determination that does not resolve the case based on the facts and evidence of the case. This means that the final judgment must concern the actual facts giving rise to the claim. Dismissal of a case because the court does not have subject matter jurisdiction, because the service of process was improper, because the venue was improper or because a necessary party has not been joined, for example, are not judgments on the merits. Grants of these types of motions to dismiss really have nothing to do with the facts, except that the litigation is precluded by a technicality. As such, subsequent litigation as to whether the defendant is liable would not be barred.

The doctrine of res judicata is not usually raised by motion. Under the federal rules, it must be raised by affirmative defense. In most situations, if a defendant does not raise the defense of res judicata, it is waived. See *Rotec Industries, Inc. v. Mitsubishi Corp.*, 348 F.3d 1116, 1119 (9th Cir. 2003) (“Claim preclusion is an affirmative defense which may be deemed waived if not raised in the pleadings. Moreover, the failure of the defendant to object to the prosecution of dual proceedings while both proceedings are pending also constitutes waiver.”).

Collateral estoppel arises when the claim (cause of action) at the bar has not been litigated, but the exact issue that is now before the court has been raised and litigated in an earlier action or proceeding. Collateral estoppel is a bit different than res judicata, although the rationale is the same – it is a tool to prevent re-litigation of issues already litigated. See *U.S. v. Wells*, 347 F.3d 280, 285 (8th Cir. 2003) (“The collateral estoppel doctrine provides that ‘when an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit.’ ”).

Moreover, litigation involving officials in their official capacity does not preclude relitigation in their personal capacity. *Roy v. City of Augusta, Maine*, 712 F.2d 1517, 1521-1522 (1st Cir.1983); cf. *Unimex, Inc. v. HUD*, 594 F.2d 1060, 1061 n. 3 (5th Cir.1979) (per curiam); Restatement (Second) of Judgments Sec. 36(2) and comment e (1982); *Wright, Miller & Cooper* Sec. 4458 at 508-09 judgment even for the defendants in their official capacity.

- *False Claims Act 31 U.S.C. § 3729 Leon v. The Boeing Company 4:13-cv-00111-CKJ Reversed and Remanded United States Court of Appeals Ninth Circuit*
- *Leon v. Meggitt 1:13-cv-01679 Original action Chicago False Claims Act transferred to Arizona at the request of Defendants opened Title VII Post Employment Retaliation Leon v. Meggitt 4:12-cv-00226-DCB pending USCA Ninth Circuit Case No. 14-17009 will be reversed and remanded vex litigant order broad prohibits any future federal actions Title VII, the ADA, or the FCA unconstitutional, not narrowly tailored – 9th Court appeals allowed post vex litigant order FCA 13-15696 under seal reversal remand for submission to US Attorney General and Arizona Attorney General 4:13-cv-00111-CKJ*

- *The Present Action Washington State Court Action for Defamation and Interference with Business Expectancy Leon v. Marc Birtel, The Boeing Company 14-2-34320-5*
- **Previous Actions Unrelated to January 22 2013 action Leon v. Securaplane US Labor Board 2008 AIR 00012 wrongful termination – all actions prior to 2013**

b. Vexatious Litigant Order

Vexatious litigant order discrepancy. The US Court of Appeals Ninth Circuit Court matter pending 14-17009 Leon v. Meggitt has not determined I am vexatious litigant. The US Court of Appeals Ninth Circuit reversed and remanded false claims against Boeing in 13-15696 US relator, Leon v. Meggitt, Boeing.

The 13-71450 Leon v. Securaplane matter has not had final mandate issued. Defendants attempt to darken poison waters. CR 56(f) 'protects a party opposing a summary judgment motion who for valid reasons cannot by affidavit-or presumably by any other means authorized under Rule 56(e)-present 'facts essential to justify his opposition' to the motion.'...

- "The All Writs Acts, 28 U.S.C. § 1651(a), provides district courts with the inherent power to enter pre-filing orders against vexatious litigants." *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007). However, there are several criteria that are to be met. (1) the litigant has received notice and a chance to be heard before the order is entered, (2) there is an adequate record for review, (3) the litigant's actions are frivolous or harassing, and*99(4) the vexatious litigant order is "narrowly tailored to closely fit the specific vice encountered." *Id.* at 1147-48; *Molski*, 500 F.3d at 1057. Plaintiff did not have a chance to be heard. The federal vex litigant order is not narrowly ordered. The court

analysis is incorrect for vex litigant if it is merging different causes of action for different periods of time with different parties. The matters are not frivolous or without merit as the Ninth Circuit reversal demonstrates.

VI. CONCLUSION

For the foregoing reasons, the trial court improperly granted summary judgment in favor of Boeing. The ruling should be reversed, and this case remanded.

Dated: February 16, 2016

/s/ 
Michael A. Leon

Copy of the foregoing mailed this date to:

Steve Koh
Perkins Coie 1201 3rd Ave, Seattle, WA 98101

Thomas D. Ryerson
Perkins Coie 2901 N. Central Avenue
Suite 2000 Phoenix, AZ 85012-2788

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◀ 2 Kings 6:16 ▶

Parallel Verses

New International Version

"Don't be afraid," the prophet answered. "Those who are with us are more than those who are with them."

2 Chronicles 32:7 ▶

Parallel Verses

New International Version

"Be strong and courageous. Do not be afraid or discouraged because of the king of Assyria and the vast army with him, for there is a greater power with us than with him.