

F. EMMETT FITZPATRICK, III, ESQ.
FLAMM WALTON HEIMBACH PC
794 Penllyn Pike
Blue Bell PA 19422
267.419.1505
fef@flammlaw.com

JOSEPH D. MANCANO, ESQ.
MANCANO LAW, PLLC
353 West Lancaster Ave., St. 300
Wayne PA 19087
215.399.5806
jdm@mancanolaw.com

For Immediate Release

SETTLEMENT ANNOUNCED IN BOEING WHISTLEBLOWER CASE

Boeing To Pay \$8.1 Million to Resolve Allegations That It Knowingly Submitted Fraudulent Claims for Manufacturing Work Performed Under Contracts With the United States Department of Defense For The Production of V-22 Osprey Aircraft

PHILADELPHIA, PA — Thursday, September 28, 2023 —The United States Attorney's Office for the Eastern District of Pennsylvania announced today that The Boeing Company, one of the nation's largest defense contractors, will pay \$8.1 million dollars, plus the whistleblowers' attorneys' fees, to settle a longstanding Qui Tam lawsuit. The lawsuit was brought by F. Emmett Fitzpatrick, III and Joseph D. Mancano on behalf of the United States government under the federal False Claims Act.

In response to that settlement, attorneys Fitzpatrick and Mancano stated: "The whistleblowers in this case should be commended for their courage and perseverance, and for the vital assistance they provided to the government over the nearly seven years since their claims were filed. We appreciate the fact that the United States Attorney's Office for the Eastern District of Pennsylvania worked closely with us throughout the process. The American public deserves honesty from companies that contract with their government."

The whistleblowers are former Boeing employees whose Complaint alleged that the company made false claims to the United States government for a period of at least three years, during which time Boeing manufactured and delivered approximately 80 V-22 Osprey aircraft to the Department of Defense. Following its investigation the government contended that Boeing failed to comply with the subject manufacturing specifications for a longer period of time - from January 1, 2007 through December 31, 2018. Specifically the Relators' Complaint alleged that Boeing:

- knowingly manufactured V-22 components without having performed critical Temperature Uniformity Surveys required by the government's specifications
- knowingly produced and delivered V-22 aircraft which contained components that did not conform to contract specifications

- knowingly failed to disclose its non-compliant "Free Air Cure" process and products to the Department of Defense
- knowingly created false and fraudulent Temperature Uniformity Survey Compliance Reports and submitted them to the Department of Defense
- knowingly failed to generate and maintain required Temperature Uniformity Survey Compliance Reports

The V-22 Osprey is a military aircraft that utilizes tilt-rotor technology to combine the vertical performance of a helicopter with the speed and range of a fixed-wing airplane. Approximately half of a V-22's components are made of carbon fiber, a material which can be engineered to have similar properties to metals, with comparatively less weight.

V-22 carbon fiber components are made in autoclaves - large oven/pressure vessels that subject the material to specified temperatures and pressures for specified periods of time. The Relators' Complaint alleged that uniform molecular bonding will not take place if the fabrication process is not performed in exact accordance with applicable temperature specifications, whereupon the components will contain resin voids, linear porosity, and other defects not visible to the eye, and that such defects can compromise the strength and other characteristics of the material and cause catastrophic structural failures and delaminations.

The Relators' Complaint alleged that Boeing knowingly failed to perform critical autoclave testing procedures called Temperature Uniformity Surveys which were mandated by the manufacturing specifications, and quoted from a Boeing engineer's own written assessment that the risks of not performing those "free air cure maintenance activities" included "non-uniform cure profile within parts...unknown residual stress effect...acceptance of discrepant parts".

The Relators' Complaint is entitled *United States of America ex rel. Robert C. Roath, et al., v. The Boeing Company*, US District Court for the Eastern District of Pennsylvania, No. 16-6547. It can be downloaded by clicking [here](#), or on Pacer.

On September 28, 2023 the United States Department of Justice announced that it had reached an agreement with Boeing to settle the government's claims in return for a payment of \$8.1 million dollars. The Relators will receive \$1,539,000 from that amount for their contributions to the government's prosecution of their whistleblower claims. In addition Boeing is statutorily required to pay the Relators' attorneys' fees.

The Department of Justice did not file its own Complaint against Boeing, but intervened in the Relators' Qui Tam action for settlement purposes. The Settlement Agreement provides that the resolution is neither an admission of liability by Boeing nor a concession by the United States that its claims are not well founded.

The whistleblowers were jointly represented by F. Emmett Fitzpatrick, III, Esq., and Joseph D. Mancano, Esq. For more information please contact them.