No. 24-cv-2817

IN THE

Supreme Court of the United States

GALACTIC EMPIRE, INC.,

Petitioner,

and

THE UNITED STATES OF AMERICA,

Petitioner,

v.

HAN SOLO,

Respondent.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTEENTH CIRCUIT

Arising from Civil Action No. 19-cv-421
In the United States District Court for the District of Alderaan

BRIEF FOR PETITIONERS

ORAL ARGUMENT REQUESTED

Attorneys for Petitioner **(#86)**

QUESTIONS PRESENTED

I. Following a timely motion to dismiss for improper venue, does the plaintiff who selects where to file the lawsuit—or the defendant who must respond to the plaintiff's lawsuit—have the burden to establish that plaintiff's chosen venue is proper? Additionally, should the overflight venue doctrine—which applies to crimes on airplanes in United States airspace, and which is rooted in constitutional protections for criminal defendants—be applied to civil torts committed in outer space, allowing district courts to find proper venue to infinity and beyond anywhere above the airspace of that district?

II. When looking to the canons of statutory interpretation and the non-self-executing treaties on the same matter, given that the damage did not occur in launch or reentry, does the Commercial Launch Space Activities Act apply to this current case? If it does apply, is it proper to infer a but-for causation standard when state and common law often require proximate causation findings, especially in indemnity schemes? Additionally, a design defect is only the proximate cause of an injury despite a third-party intervening act only when the intervening act was reasonably foreseeable to the original manufacturer. Is the manufacturer of a spacecraft the proximate cause of injuries caused by a one-in-million shot by terrorist attack on the spacecraft?

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STATEMENT OF JURISDICTION

The judgment of the court of appeals was entered on May 4, 2023. R. 1a. The writ of certiorari was granted on October 6, 2025. This Court has jurisdiction subject to 28 U.S.C. § 1254(1).

OPINIONS BELOW

The opinion of the district court is unreported and not included in the record. The opinion, concurrence, and dissent of the Sixteenth Circuit are unreported and set out in the record. R. 1a–52a (opinion); R. 53a–66a (concurrence); R. 67a–84a.

STATUTES INVOLVED

This case involves the interpretation and application of both the general venue statute, 28 U.S.C. § 1391(b), and the Commercial Space Launch Activities Act (CSLAA), 51 U.S.C. § 50901 *et seq.*, in the context of torts committed in outer space.

STATEMENT OF THE CASE

I. Statement of the Facts

The Conception of the DS-1. More than sixty-six million years ago, a large 10-kilometer meteoroid struck the Earth leading to the Cretaceous-Paleogene extinction event, wiping out seventy-five percent of all plant and animal species on Earth. R. 67a. In 2013, the Chelyabinsk meteoroid—a relatively miniscule meteor—exploded thirty meters above the ground and released thirty times as much energy as the atomic bomb at Hiroshima, causing damage to 7,000 buildings and 1,500

people. R. 67a. In northern California alone, where Petitioner, Galactic Empire, Inc. ("Empire"), is based, multiple meteoroids meteoroids struck in 2007 and 2012. R. 7a.

While NASA has conducted its own studies about planetary defense, it has not developed any planetary defense system that can defend against such catastrophic events. R. 68a.

Petitioner Empire is an American company headquartered in Mountain View, California. R. 7a. Seeing this existential threat to mankind and all life on Earth, Empire resolved to design an interplanetary defense system capable of defending the Earth from meteoroids. R. 68a. In 2012, after a meteor strike in northern California, Empire publicly announced plans to build "Defense System One" or "DS-1." R. 7a. The DS-1 was designed to be a massive spherical space station with a 120-kilometer diameter powered by a non-nuclear, hypermatter reactor which could destroy approaching asteroids before they enter Earth's atmosphere using a superlaser. R. 8a.

Empire has zero ties to Alderaan: Empire has never done any business in Alderaan. R. 19a. None of Empire's employees are from Alderaan. R. 19a. None of the supplies for the DS-1 are from Alderaan. R. 19a. And Empire has never registered to do business in Alderaan. R. 19a.

The Construction of the DS-1. The Empire began constructing the DS-1 in low Earth orbit (LEO) in May 2012, approximately 460 kilometers above the Earth's surface. R. 8a It was scheduled to be completed in ten years, after which it would be

accelerated into high Earth orbit 65,000 kilometers away. R. 8a–9a. To construct the massive space station, Empire launched supplies and construction materials into LEO,

The DS-1 was under construction for five years before it was destroyed. R. 12a. In that interval, Empire conducted hundreds of space launches to transport supplies and materials to the DS-1, where robotic "spiders" would perform most of the construction work. R. 8a, 12a. Most of these launches originated in California. R. 13a. Some occurred in other states. R. 13a. Notably, none of the launches occurred in the State of Alderaan. R. 13a. The Empire properly obtained the necessary licenses and liability insurance for each space launch from the Secretary of Transportation under Chapter 509. R. 11a. These licenses trigger the United States as an intervenor for any "successful claim" brought against licensees exceeing $500 million dollars. R. 10a.

The Destruction of the DS-1. On May 25, 2017, while under construction, the DS-1 was attacked and blown up in a terrorist attack perpetrated by Luke Skywalker, a Tunisian citizen from Tatooine, who launched his Incom T65-B X-wing starfighter from Guatemala with the assistance of a Guatemalan company, Alianza Rebelde S.A. ("Alianza"). R. 13a (date of attack); R. 3a (background of Skywalker and Alianza).

The DS-1 contained a major design defect: if a specific exhaust port—only two meters in diameter—was struck, it would trigger a chain reaction causing the DS-1

to explode. R. 13a. While the Empire did not discover the design defect until the eight to ten days leading up to the attack, the information was not widely-publicized and the Empire kept that information private. R. 13a. Nevertheless, Alianza learned about the fatal flaw and sent Skywalker attack the exhaust port and destroy the DS-1. R. 13a. Skywalker's one-in-a-million attack was successful and the DS-1 exploded into thousands of fragments, some of which struck other satellites in LEO, some which de-orbited and landed on Earth (primarily in Alderaan), and some which damaged billionaire Han Solo's spaceship, the *Millenium Falcon* (the "Falcon"). R. 2a-3a. The Falcon cost $18.2 billion to build. R. 14a. And on the date of the explosion, Solo had launched his ship from a spaceport in Tunisia—at a cost of at least $2 billion. R. 14a, 64a. Solo is a United States citizen and resident of Correllia, Chicago, Illinois. R. 4a. Though Solo was required to obtain a space-launch license from the United States government due to his citizenship, he did not comply and was fined the maximum extent allowed under the CSLAA. R. 14a.

II. Procedural History

The District Court. On May 21, 2019, following the explosion, Respondent Solo filed suit in the United States District Court for the State of Alderaan against Skywalker, Alianza, Guatemala, and Empire. R. 14a. Solo alleged that the explosion caused bodily injuries to him and property damage to his ship, including to the ship's navigational computer and hyperdrive, which was allegedly rendered inoperative, leading to repairs he claims cost $4.5 billion. R. 14a.

The Venue Motion. Solo alleged that venue was proper in Alderaan under 28 U.S.C. § 1391(b)(2) because Alderaan was a "judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is subject of the action is situated." R. 18a. Empire timely filed a Rule 12(b)(3) motion challenging venue in Alderaan as improper. R. 15a. No other defendant claimed venue was improper. R. 15a. The district court denied the motion. R. 15a. The district court did not certify its venue ruling for immediate appeal. R. 17a. The Empire did not seek a writ of mandamus challenging that ruling. R. 18a. Thus, because the district court's interlocutory venue ruling was not subject to immediate appeal, the Empire had to await the entry of a final judgment to challenge venue. R. 18a.

The Jury Trial. The case proceeded to a jury trial, which found Empire and Skywalker were each fifty-percent responsible for Solo's damages, setting Empire's liability at $2.25 billion. R. 15a.

The Appellate Court. The Sixteenth Circuit affirmed the district court judgment. R. 52a. It overruled Empire's challenge that venue was improper in Alderaan, holding that a substantial part of the events or omissions giving rise to Solo's claim occurred in the district of Alderaan. R. 34a. It also held that the district court correctly denied Empire's renewed motion for judgment as a matter of law (JMOL), overruling Empire's second issue and the United States' only issue. R. 52a.

Certiorari Granted. This Court granted certiorari on October 6, 2025, limited to the following questions: (1) whether the district court properly exercised venue involving torts committed and damages sustained in outer space, and (2) whether the district court properly interpreted and applied the CSLAA Act, 51 U.S.C. § 50901 *et seq*.

SUMMARY OF THE ARGUMENT

I.

The Sixteenth Circuit's venue decision ought to be **reversed** due to two independent errors of law: (1) placing the burden to prove that plaintiff's chosen venue was proper onto the defendant, and (2) incorrectly finding that venue was proper in Alderaan. *First*, it incorrectly rejected the plaintiff-burden majority approach followed by at least seven circuits in favor of the unpopular defendant-burden minority approach followed by only two circuits. The majority of circuits have correctly reasoned that the assertion of venue and jurisdictional defenses are very much intertwined and it would be illogical to have opposite burdens as the relevant facts and inquiry to determine the two are usually identical. *Second*, the Sixteenth Circuit incorrectly determined that Alderaan could be a proper venue for the lawsuit. Even though there was no reliable evidence placing venue in Alderaan, the Sixteenth Circuit sought to justify venue in Alderaan based on an "overflight venue doctrine" which has only been applied to criminal cases, never civil torts. This result would also find venue appropriate in nearly any judicial district—which this Court has held to be unacceptable—and it carelessly ignores differences between the legal treatment of United States airspace and of outer space.

II.

The Sixteenth Circuit's holding in the JMOL for causation ought to be **reversed** due to three independent errors of law: (1) the CSLAA does not apply to

this case, (2) alternatively, if the CSLAA does apply, it does not impose a but-for causation standard, and (3) the Empire was not the proximate cause of the injuries.

First, it incorrectly read the "activities under the license" as encompassing any activities in space. In reality, as the name implies, the statute only covers "launch" and "reentry" under the standard statutory construction provisions. The Circuit also incorrectly allowed the international treaties to impact their viewpoint of this statute, when in reality they should not be taken into account.

Second, the Sixteenth Circuit incorrectly determined that the applicable standard was "but-for" causation. The cases cited in the opinion impose a but-for causation when analyzing the term “resulting from,” but fails to account for the textual and contextual inferences that change this meaning. The treaties requiring only a but-for liability standard are precluded, making state law and common law the applicable standard.

Third, Empire was not the proximate cause of Solo’s injuries. Instead, it was Skywalker’s terrorist attack on DS-1. Skywalker’s attack was an intervening act that severed the chain of causation resulting from Empire’s design defect because it was extraordinary, out of the control of Empire, and could not have been anticipated by Empire. Skywalker’s attack was extraordinary because it was a terrorist attack on DS-1. Additionally, the attack was neither under the control of the Empire nor reasonably anticipated by the Empire. Overall, Skywalker’s attack was not reasonably foreseeable as a probable result of a design defect which requires billions of dollars and one-in-a million shot to successfully target.

ARGUMENT

This Court should **reverse** the decision of the Sixteenth Circuit for two reasons:

(1) The burden to select an appropriate venue falls onto the plaintiff, and venue for outer space torts cannot be properly determined by the overflight doctrine.

(2) The court of appeals incorrectly applied the CSLAA.

Standard of Review. A de novo standard of review applies to this case. When cases involve "developing legal principles for use in future cases, appellate courts typically review the decision de novo." *Bufkin v. Collins*, 604 U.S. 369, 382 (2025). Indeed, decisions on "questions of law" are "reviewable de novo." *Highmark Inc. v. Allcare Health Mgmt. Sys., Inc.*, 572 U.S. 559, 563 (2014) (internal citation omitted). First, determination of venue—which requires interpretation of 28 U.S.C. § 1391—is a matter of law reviewed de novo. *See Call Henry, Inc. v. United States*, 855 F.3d 1348, 1354 (Fed. Cir. 2017) ("we interpret statutes, contracts, and regulations *de novo*"). Second, courts review denials of renewed motions for JMOL and questions of law raised those motions de novo. *See Kim v. Am. Honda Motor Co.*, 86 F.4th 150, 159 (5th Cir. 2023). A JMOL is proper if a reasonable jury would not have a legally sufficient evidentiary basis to find for the non-movant. *See id.* at 159. To the extent the JMOL motion challenges the evidence supporting the jury's factual findings, the court views the evidence in the light most favorable to the non-movant. *See id*.

I. THE SIXTEENTH CIRCUIT ERRED AS A MATTER OF LAW BY PLACING THE BURDEN TO PROVE VENUE ON THE DEFENDANT AND BY APPLYING THE CRIMINAL OVERFLIGHT VENUE DOCTRINE TO OUTER SPACE TORTS.

This Honorable Court ought to reverse the Sixteenth Circuit's venue ruling because of two independent errors of law: (1) it improperly placed the burden to establish venue on the defendant, and (2) it incorrectly determined that Alderaan was a proper venue. Each of these two errors is a standalone reason for which this Court should reverse.

A. THE SIXTEENTH CIRCUIT IMPROPERLY PLACED THE BURDEN TO ESTABLISH VENUE ON THE DEFENDANT.

The first reason this Court should reverse is because the Sixteenth Circuit, following a timely challenge that venue was improper, incorrectly placed the burden to establish proper venue on the defendant rather than the plaintiff. See R. 15a (timely Rule 12(b)(3) motion); R. 22a (holding). Specifically, the Sixteenth Circuit decided to apply a minority, defendant-burden approach only followed by two circuits, rather than the majority, plaintiff-burden approach followed by at least six circuits. See R. 22a.

1. The Circuit Split

"The majority of circuits that have considered this question have placed the burden on the plaintiff when a defendant challenges venue as improper. Specifically, the First, Second, Fourth, Ninth, Eleventh, and Federal circuits place that burden on

the defendant." R. 23a.[1] On the other hand, "the Third and Eighth Circuits place that burden on the defendant." R. 23a.[2] One circuit—the Seventh Circuit—has come down on both sides of the issue. R. 23a.[3]

Though "[a] number of federal courts have concluded that the burden . . . is on the defendant, since venue is a 'personal privilege' that can be waived and a lack of venue should be established by the party asserting it . . . a larger number of federal courts have imposed the burden on the plaintiff in keeping with the rule applied in the context of subject matter and personal jurisdiction defenses." 5B CHARLES ALAN WRIGHT, ARTHUR R. MILLER & A. BENJAMIN SPENCER, FEDERAL PRACTICE AND PROCEDURE § 1352 (4th ed.) (September 2025 Update) (hereinafter, WRIGHT & MILLER). *Id.* "The latter view seems correct inasmuch as it is the plaintiff's obligation to institute his action in a permissible forum, both in regards to venue and jurisdiction. There is little to no justification for distinguishing between these two types of defenses in determining the placement of the burden." *Id.*

According to the Sixteenth Circuit's opinion, four circuits—"the Fifth, Sixth, Tenth, and D.C. Circuits"—have not definitively weighed in on the issue. R. 24a.[4]

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[1] Citing *In re ZTE (USA) Inc.*, 890 F.3d 1008, 1013 (Fed. Cir. 2018); *Gulf Ins. Co. v. Glasbrenner*, 417 F.3d 353 (2d Cir. 2005); *Mitrano v. Hawes*, 377 F.3d 402 (4th Cir. 2004); *Delong Equip. Co. v. Wash. Mills Abrasive Co.*, 840 F.2d 843 (11th Cir. 1988); *Cordis Corp. v. Cardiac Pacemakers*, 599 F.2d 1085 (1st Cir. 1979); *Piedmont Label Co. v. Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979).

[2] Citing *Myers v. Am. Dental Ass'n*, 695 F.2d 716, 724 (3d Cir. 1982); *United States v. Orshek*, 164 F.2d 741, 742 (8th Cir. 1947); *Brigdon v. Slater*, 100 F.Supp.2d 1162, 1164 (W.D. Mo. 2000) ("nationally there is a split of authority . . . in the Eighth Circuit, the defendant bears the burden of establishing proper venue").

[3] Citing *Grantham v. Challenge-Cook Bros., Inc.*, 420 F.2d 1182 (7th Cir. 1969); *but see Matter of Peachtree Lane Assocs., Ltd.*, 150 F.3d 788 (7th Cir. 1998).

[4] Citing *Reilly v. Meffe*, 6 F.Supp.3d 760, 765 (S.D. Ohio 2014) ("There is a split of authority among district courts in the Sixth Circuit regarding who bears the burden of proof when venue is challenged

However, the Sixth Circuit recently joined the majority. *Tobien v. Nationwide General Insurance Co.*, 133 F.4th 613 (6th Cir. 2025). In *Tobien*, the Sixth Circuit discussed and explicitly rejected the faulty reasoning behind the minority approach promoted by the Third Circuit in *Myers* and the Eighth Circuit in *Orshek*—an approach the Sixteenth Circuit seeks to advance in its opinion. *Id.* (citing *Myers,* 695 F.2d at 724; *Orshek*, 164 F.2d at 742).

2. Why This Court Should Adopt the Majority Approach

In the present case, the Sixteenth Circuit brushed aside the majority approach because it believes that most of its sister courts—the First, Second, Fourth, Sixth, Ninth, Eleventh, and Federal Circuits—all got it wrong and simply "confuse jurisdiction with venue or offer no reasons to support their position." R. 24a (citing *Myers*, 695 F.2d at 724). The thrust of the minority approach's reasoning lies in the mistaken belief that determination of venue is fundamentally distinct from the determination of jurisdiction. R. 24a (citing *Simon v. Ward*, 80 F.Supp.2d 464, 467 (E.D. Pa. 2000); *Myers*, 695 F.2d at 724.

However, venue and jurisdiction are intertwined, and it is more logical that the burden be placed on the plaintiff when either is challenged. Earlier this year, in *Tobien*, the Sixth Circuit held that "[t]he majority [approach] is correct: when a defendant challenges the venue, the plaintiff bears the burden of proving venue[.]" 133 F.4th at 619. This outcome "makes sense. After all, it is the plaintiff's obligation

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as improper."); *see also ZTE*, 890 F.3d at 1013 (noting division between district courts in the Fifth Circuit).

to institute the action in a permissible forum." *Id.* Moreover, "venue and personal jurisdiction are closely related concepts in their application." *Id.* "[B]oth are personal privileges of the defendant," both are affirmative defenses unrelated to the merits of the claim, "[a]nd crucially, both often turn on the same facts." *Id.* (quoting *Leroy v. Great W. United Corp.*, 443 U.S. 173, 180 (1979)).

For example, "whether there's personal jurisdiction and proper venue depends on identical facts about the defendant's residence." *Id.* at 619. "[F]or venue purposes, Congress has tied an entity's place of residence to personal jurisdiction" with § 1391 providing that a corporate entity resides, and venue is thus proper in, any "judicial district in which [it] is subject to the court's personal jurisdiction." *Tobien*, 133 F.4th at 619–20 (citing 28 U.S.C. § 1391(c)(2)).

Moreover, "where venue isn't available under § 1391(b)(1) or (b)(2), the fallback rule provides that venue is proper in 'any jurisdiction in which any defendant is subject to the court's personal jurisdiction.'" *Id.* (quoting 28 U.S.C. § 1391(b)(3)). In such a situation, "the questions of venue and personal jurisdiction are identical . . . It wouldn't make sense for courts to use different burdens of proof in evaluating these motions." *Id*.

In short, due to the significant similarities between venue and personal jurisdiction, and similar processes for determining whether each is proper, it would be inconsistent to apply different burdens of proof.

3. Why This Court Should Reject the Minority Approach

The Third Circuit had argued that, because "(a) venue is an affirmative defense that a court will not raise on its own motion, and (b) the plaintiff doesn't have to allege in his complaint that venue is proper," it thus "logically follow[s]" that the defendant bears the burden. *Tobien*, 133 F.4th at 620 (citing *Myers*, 695 F.2d at 724). However, the Third Circuit's "very same premises would mean that the defendant must disprove personal jurisdiction." *Id.* (citing *Myers*, 695 F.2d at 724). Nevertheless, the Third Circuit itself has held that the plaintiff, not the defendant, bears the burden of establishing personal jurisdiction. See, e.g., *IMO Indus., Inc. v. Kiekert AG*, 155 F.3d 254, 257 (3d Cir. 1998).

Moreover, the Third Circuit's argument that defendants normally bear the burden to prove affirmative defenses also fails. As the dissent to *Myers* explained, the Third Circuit confused "affirmative *exculpatory* or substantive defenses" with "affirmative *dilatory* defenses" like venue. *Tobien*, 133. F.4th at 620 (citing *Myers*, 695 F.2d at 733 (Garth, J., concurring and dissenting)) (emphasis in original). "Substantive" defenses, if established, terminate litigation for the defendant on the merits. *Id.* (citing *Defense*, *Black's Law Dictionary* (12th ed. 2024)). By contrast, "dilatory" defenses, like venue, only "temporarily obstruct[] or delay[] a lawsuit but does not address the merits." *Id.* (citing *Defense*, Black's Law Dictionary (12th ed. 2024)). Thus, though defendants bear the burden to prove affirmative substantive defenses, like those in Rule 8(c),[5] with respect to venue and jurisdiction, "plaintiffs

[5] Including, e.g., assumption of risk, contributory negligence, duress, estoppel, fraud, illegality, statute of frauds, waiver; but not mentioning personal jurisdiction nor improper venue. *See* Fed. R. Civ. P. 8(c)(1).

ha[ve] traditionally had the burden of proving that a court has authority to hear his case." *Myers*, 695 F.2d at 732 (Garth, J., concurring and dissenting).

The Eighth Circuit's justification for their defendant-burden approach is based on the fact that "the motion was interposed by the defendants the burden of proof was upon them." *Orshek*, 164 F.2d at 742. However, as explained above, not all affirmative defenses—such as a lack of jurisdiction—need to be proven by the asserting defendant. Indeed, the Third Circuit held that the plaintiff bears the burden to establish personal jurisdiction. See *IMO Indus.*, 155 F.3d at 257. Moreover, district courts within the Eighth Circuit appear to have split since *Orshek*, with some district courts within the circuit following the plaintiff-burden approach.[6]

4. A Circuit Split From Within: The Seventh Circuit

There is one Circuit that has fallen on both sides of the circuit split. See *Grantham v. Challenge-Cook Bros., Inc.*, 420 F.2d 1182 (7th Cir. 1969) (plaintiff-burden approach) ("Plaintiff has the burden of establishing proper venue."); but see *Matter of Peachtree Lane Assocs., Ltd.*, 150 F.3d 788 (7th Cir. 1998) (defendant-burden approach) ("the party challenging venue bears the burden of establishing by a preponderance of the evidence that the case was incorrectly venued").

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[6] *See, e.g., Pfeiffer v. International Academy of Biomagnetic Med.,* 521 F.Supp. 1331, 1336 (W.D. Mo. 1981) ("While there is some conflict, the better view is that once defendant has raised the defense of improper venue under Rule 12(b)(3) of the Federal Rules of Civil Procedure, and the Court is therefore reviewing the allegations in plaintiff's complaint alone, as here, the plaintiff bears the burden of proving proper venue."); *but see Brigdon*, 100 F.Supp.2d at 1164 n.2 ("While there are good arguments for requiring a plaintiff to prove venue, the [District] Court is bound by *Orshek*.").

However, while it appears that the Seventh Circuit has unresolved tension, these cases are distinguishable. The defendant-burden case, *Peachtree*, was a bankruptcy case determining venue under 28 U.S.C. § 1408—which is specifically a Chapter 11 bankruptcy venue statue. *Peachtree*, 150 F.3d 788. Indeed, the supporting case law for the defendant-burden in *Peachtree* applies bankruptcy law rules. *Id.* (citing *In re Manville Forest Prod. Corp.*, 896 F.2d 1384; *In re Commonwealth Oil Ref. Co.*, 596 F.2d 1239, 1241 (5th Cir. 1979)). This is not a bankruptcy case, so *Peachtree* does not and should not apply here.

Indeed, when determining venue in "standard civil cases" rather than "bankruptcy cases," district courts in the Seventh Circuit have place the burden on the plaintiff.[7] The court in *Robillard* explained:

> This Court does not agree that the Seventh Circuit law is unsettled. Rather, it appears to establish different standards for bankruptcy cases, *see Peachtree Lane Assocs.*, 150 F.3d at 792 (requiring that defendants establish that venue is improper), versus standard civil cases, *see Int'l Travelers Cheque Co. v. BankAmerica Corp.*, 660 F.2d 215, 222 (7th Cir. 1981) (requiring that plaintiffs establish that venue is proper), because different rules apply when determining venue for bankruptcy cases.

Robillard, 2025 WL 1895986, at *4 n.4. In short, for bankruptcy cases, the defendant-burden applies; in all other "standard" civil cases, the plaintiff-burden applies.

5. Conclusion: Adopt the Plaintiff-Burden Approach

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[7] *See, e.g., Robillard v. Knutson*, No. 24-CV-1077-JPS, 2025 WL 1895986 (E.D. Wis. July 9, 2025); *Malley v. Farias*, No. 24-C-1116, 2024 WL 5264676, at *1 (E.D. Wis. Dec. 31, 2024) (citing *Allstate Life Ins. Co.*, 80 F. Supp. 3d at 875 and *Burns v. Joseph Ertl, Inc.*, No. 11-C-0132, 2011 WL 3472370, at *1 (E.D. Wis. Aug. 8, 2011)); *Int'l Travelers Cheque Co. v. BankAmerica Corp.,* 660 F.2d 215, 222 (7th Cir. 1981).

For the aforementioned reasons, this Court should adopt the plaintiff-burden approach followed by the majority of circuits. The majority approach best reflects established principles governing burdens in procedural matters. The two circuits following the minority approach have flawed reasoning, and district courts within them have adopted the plaintiff-burden approach.

Relief Requested. In *Tobien*, the Sixth Circuit held that the plaintiff had failed to establish that venue was proper under 28 U.S.C. § 1391(b)(2). 133 F.4th at 622. The Sixth Circuit agreed with the district court's decision to dismiss the lawsuit outright rather than transfer the case. *Id.* Transfer would not have been "in the interest of justice" because his claim would likely fail on the merits if transferred to the appropriate district. *Id.* at 623–24. Applying that to the present case, because Respondent failed to establish that venue is proper under 28 U.S.C. § 1391(b)(2), their claim should either be dismissed or transferred out of Alderaan and to California in the interest of justice.

B. THE SIXTEENTH CIRCUIT INCORRECTLY DETERMINED THAT ALDERAAN WAS A PROPER VENUE UNDER 28 U.S.C. § 1391(B)(2).

There are three bases for venue. A civil action may be brought in a district where:

> (1) . . . any defendant resides, if all defendants are residents of the State in which the district is located;
> (2) . . . a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated; or
> (3) if there is no district in which an action may otherwise be brought as provided in this section, [where] any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b)(1)–(3).

Here, Respondent Solo alleged venue was proper in Alderaan under 28 U.S.C. § 1391(b)(2) because "a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in Alderaan," and the Sixteenth Circuit agreed. See R. 18a. The concurrence further argues (1) that, even if venue was not proper under § 1391(b)(2), venue would still be proper in Alderaan under § 1391(b)(3), and (2) that venue is proper in Alderaan due to previous, now-dismissed defendants. See R. 55a. As explained below, all of these arguments fail.

1. There is no reliable evidence placing venue in Alderaan.

The Empire "has never done any business in Alderaan. None of its employees are from Alderaan; it acquired no supplies from Alderaan; and it never even registered to do business there." R. 19a. The launches of DS-1 construction materials took place in California and other states, not Alderaan. R. 13a. The X-wing starfighter piloted by Luke Skywalker was launched in Guatemala, not Alderaan. R. 3a. The explosion took place in LEO, not in Alderaan. R. 3a.

Yet, Respondent nevertheless alleges that a "substantial part of the events or omissions giving rise to the claim" occurred in Alderaan. R. 18a. Specifically, Respondent alleges that (1) the DS-1 was destroyed while orbiting in LEO directly above Alderaan, (2) Skywalker entered navigable airspace in LEO directly above Alderaan, and (3) the *Millenium Falcon* was in orbit directly above Alderaan when it was struck. R at 20a.

However, there is no evidence to support these claims. Solo's expert witness, Wedge Antilles, who "supported Solo's claim that all the relevant events giving rise to his claim—that is, the position of the DS-1, Skywalker, and the *Millenium Falcon*—occurred in LEO directly above Alderaan" was struck as unreliable under Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), for lacking a sufficient factual basis. R. 21a. Specifically, Antilles "had not accounted for horizontal velocity, under which de-orbiting objects generally do not fall straight down but instead continue to follow a curved path around the Earth." R. 21a. Skywalker also refused to testify. R. 21a. Additionally, Solo's own testimony about his location at the time of the explosion, and the navigational computer data showing that the ship was above Alderaan, were both excluded as hearsay.[8] R. 21a.

There does exist one piece of information remaining tying venue to Alderaan. The Sixteenth Circuit does note that, at the time of its destruction, the DS-1 was orbiting the Earth at approximately 460 kilometers above the Earth's surface, see R. 8a, and some of these fragments de-orbited and landed on Earth, primarily in the state of Alderaan, see R. 3a. However, applying the trial court's explanation of "horizontal velocity," the presence of these de-orbited fragments in the state of Alderaan strongly suggests that the explosion occurred somewhere *besides* Alderaan. See R. 21a n.12. If the explosion had occurred directly over Alderaan, the fragments

[8] The computer data was "inconclusive" because it gave rise to "equal inferences" showing Solo was orbiting above Ethiopia and another that the data was damaged from the explosion. See R. 21a n.13.

would have "not fall[en] straight down" to Alderaan but instead would have "continue[d] to follow a curved path around the Earth" and landed elsewhere. R. 21a n.12.

2. The Overflight Venue Doctrine Should Not Extend to Outer Space

Nevertheless, despite the lack of facts connecting to Alderaan, the Sixteenth Circuit seeks to establish venue through an inappropriate extension of the "overflight venue" doctrine—which allows States to exercise venue over crimes occuring within their airspace—from airplane-crime prosecutions to outer space civil torts. Specifically, the Sixteenth Circuit concluded that "venue in a tort action can be proper in a district if the tort occurred in the airspace 'above' that district." R. 29a. To support this radical new application of the criminal overflight venue doctrine to civil torts, the Sixteenth Circuit only cites criminal cases, failing to cite any civil case law or other authority justifying their extension of a criminal venue doctrine to civil torts.

First, with respect to this Court's previous holdings, the Sixteenth Circuit cites *Rodriguez-Moreno*, where this Court held that criminal venue was proper "in all of the places that any part of [the crime] took place." 526 U.S. 275, 282 (1999). However, that opinion *never* mentions the words "civil" or "tort." See *id.* The reasoning from the holding comes from this Court's interpretation of a criminal defendant's rights under the Constitution and the nature of criminal activity. See *id.* Specifically, this Court discussed Article III's guarantee that "[t]he Trial of all Crimes . . . shall be held in the State where the said Crimes shall have been committed." *Id.* at 278 (quoting U.S.

CONST. art. III, § 2, cl. 3). The Court also discussed the Sixth Amendment guarantee that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, but an impartial jury of the State and district wherein the crime shall have been committed." *Id.* (citing U.S. Const. amend. VI). Finally, this Court noted that the Federal Rules of Criminal Procedure dictate that "prosecution shall be had in a district in which the offense was committed." *Id.* (citing Fed. R. Crim. P. 18).

Next, with respect to the nature of criminal offenses, this Court noted, for example, that "kidnaping, once begun, does not end until the victim is free. It does not make sense, then, to speak of it in discrete geographic fragments" and thus venue was proper in any place the kidnaping occurred. *Id.* at 281. This reasoning, while very sound in criminal cases, does not extend to civil torts, which are not governed by the aforementioned constitutional protections, and which are by nature much different than criminal charges. The comparison is particularly inapt when dealing with a personal injury lawsuit stemming from a near-instantaneous explosion in outer space.

The Sixteenth Circuit also points to decisions by courts of appeals, including the *original* panel opinion in *United States v. Lozoya*, 920 F.3d 1231 (9th Cir. 2019) (*Lozoya I*), which was later overruled by the same circuit in *Lozoya v. United States*, 982 F.3d 648, 652 (9th Cir. 2020) (*Lozoya II*). See R. 29a ("We also find the original panel opinion in . . . *Lozoya* . . . instructive.").

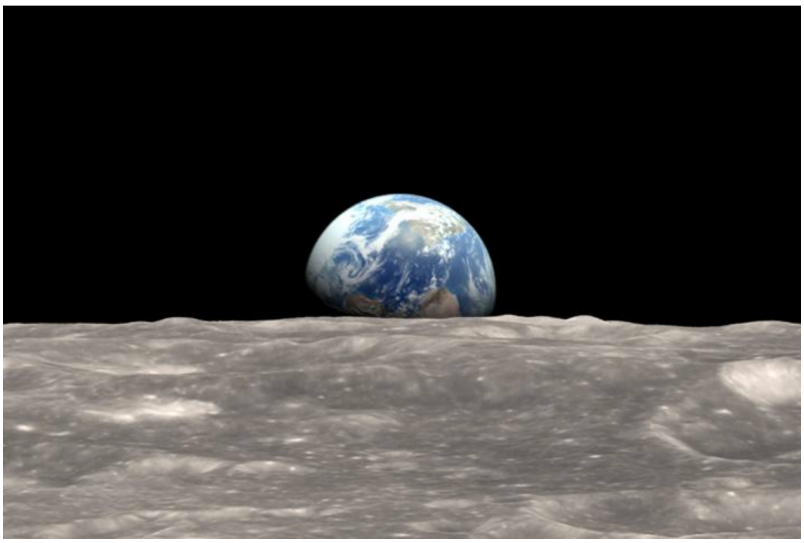
In *Lozoya I*, a passenger committed a single, instantaneous act of assault, and was tried in the district where the plane landed and was convicted. *Lozoya I* at 1239. The passenger appealed her conviction and argued that venue was not proper in that

district, and the panel agreed with her. *Id.* at 1241 (the district in which assault occurred, rather than district in which plane landed, was proper venue where assault occurred before flight entered airspace of district in which it landed). In that case, the Ninth Circuit acknowledged a "creeping absuridity in our holding. Should it really be necessary for the government to pinpoint where precisely in the spacious skies an alleged assault occurred? Imagine an inflight robbery or homicide—or some other nightmare at 20,000 feet—that were to occur over the northeastern United States, home to three circuits, fifteen districts, and a half-dozen major airports, all in close proximity." *Id.* at 1242. However, the Ninth Circuit temporarily dismissed this "absurdity" because "[h]owever valid these questions and the practical concerns that underlie them might be, they are insufficient to overcome the combined force of the Constitution, *Rodriguez-Moreno*, and our own case law. These authorities compel our conclusion[.]" *Id.* In the present case, however, the criminal protections under the Constitution do not apply, and the reasoning in *Rodriguez-Moreno* and in *Lozoya I* only applies to criminal violations, not to civil torts.

Lozoya II's deep discussion of these constitutional safeguards provides further support that the overflight venue doctrine is inapplicable to civil torts. The Ninth Circuit explained how "[t]he Constitution safeguards a criminal defendant's venue right in two places [i.e., Article III and the Sixth Amendment]." *Lozoya II* at 651. The court of appeals also explained that "[n]either Article III nor the Sixth Amendment says that a state or district includes airspace, and there is, of course, no indication that the Framers intended as such." *Id.* at 652. Indeed, the policy behind such

protections was "to protect the criminal defendant from 'the unfairness and hardship to which trial in an environment alien to the accused exposes him.'" *Id.*

"Venue for outer-space torts does not, and should never depend on which landmass the tort is 'over' when it happens" R. 69a (Walt, J., dissenting). The "creeping absurdity" of the overflight venue doctrine has come to the fore, and Respondent would have district courts exercise venue anywhere above a district *to infinity and beyond*. This approach looks over the glaring problem that, "[a]s one moves sufficiently far away from Earth, space objects cease to be 'over' and 'above' specific districts—or even countries or continents. Given enough distance from Earth, outer-space torts could fairly be considered 'over' every district, country, and continent in whatever hemisphere happens to be facing the actors when the tortious conduct occurs." R. 72a. "Pray tell," Justice Walt asks, "which U.S. district was [the photographer] 'flying over' when this photograph was taken?"



R. 70a (citing William Anders, *Earthrise* (photograph Dec. 23, 1968), https://eoimages.gsfc.nasa.gov/images/imagerecords/82000/82693/earthrise_vis_1092.jpg).

The Sixteenth Circuit's approach would find venue proper in all of them. The utter lack of precision in the Sixteenth Circuit's application of the overflight venue doctrine to outer space is precisely why this Court ought to reverse the Sixteenth Circuit's venue decision. The Court has explained that "such a reading of § 1391(b) is inconsistent with the underlying purpose of the provision, for it would leave the venue decision entirely in the hands of the plaintiffs, rather than making it primarily a matter of convenience of litigants and witnesses." *Leroy*, 443 U.S. at 180 (internal quotation omitted).

As this Court explained in *Leroy*, under § 1391(b), "Congress did not intend to . . . give [a] party an unfettered choice among a list of different districts . . . . Rather, it resticted venue to either the residence of the defendants or to 'a place which may be more convenient to the litigants' . . . 'or to the witnesses who are to testify in the case.'" *Id.* at 185 (citing *Denver & R. G. W. R. Co. v. Railroad Trainmen*, 387 U.S. 556, 560 (1967)). Thus, "the broadest interpretation of the language of § 1391(b) that is even arguably acceptable is that in the unusual case in which it is not clear that the claim arose in only one specific district, a plaintiff may choose between those two (or conceivably even more) districts that with approximately equal plausibility—in terms of the availability of witnesses, the accessibility of other relevant evidence, and the

convenience of the defendant (but *not* of the plaintiff)—may be assigned as the locus of the claim." *Id.* at 185.

Just as this Court reasoned in *Leroy*, failure to reject the Sixteenth Circuit's application of the "overflight venue" doctrine to outer space would allow plaintiffs to chose virtually any district they'd like—an outcome unintended by Congress and an outcome which this Court has previously rejected. *Id.* at 186. Failure to reverse in the present case would unacceptably "subject the [defendant] to suit in almost every district in the country." *Id*. Likewise, this Court should reverse the Sixteenth Circuit's decision finding venue proper in Alderaan merely because the DS-1 *might have* passed over it while in LEO, or else subject the defendant to venue all over this side of the hemisphere. Plaintiffs may choose between districts with "approximately equal plausibility," not any district with the smallest modicum of connection.

3. Sovereignty Does Matter to Venue

Overflight venue rules break down where sovereignty stops existing. The Sixteenth Circuit states that the "only meaningful legal difference between 'airspace' and 'outer space' is one about *sovereignty*, but . . . that question implicates jurisdiction, not venue." R. 31a. This is incorrect: "[T]he majority disregards legal notions about national sovereignty as somehow insignificant to venue determinations. They are not." R. 73a (Walt, J., dissenting). The "entire stated rationale for the majority's 'overflight venue' rule is premised upon the assumption that each state owns and controls the navigable airspace above it. That assumption is nothing more than a disguised notion about sovereignty." *Id.* States do not, however, control outer space above them.

With respect to sovereignty in outer space, the Outer Space Treaty—signed and ratified by the United States in 1967—explicitly states, "[o]uter space . . . is not subject to national appropriation by claim of sovereignty[.]" The Treaty on Principles Governing the Activities of States in the Exploration and Use of Space, Including the Moon and Other Celestial Bodies, 18 U.S.T. 2410, art. II (the Outer Space Treaty). Indeed, "outer space . . . shall be the province of all mankind" and "shall be free for exploration and use by all States without discrimination of any kind." *Id.* art. I.

On the opposite hand, "[t]he United States Government has exclusive sovereignty of airspace of the United States." 49 U.S.C. § 40103. For example, the Secretary of Transportation has the authority to decide whether to authorize navigation of foreign aircraft. 49 U.S.C.A. § 41703 (West). Furthermore, the Chicago Convention, which "established core principles permitting international transport by air," instructs that "every State has complete and exclusive sovereignty over the airspace above its territory" and that "no state aircraft . . . shall fly over the territory of another State . . . without authorization by special agreement or otherwise." Convention on International Civil Aviation, Dec. 7, 1944, 61 Stat. 1180, 1212 (the "Chicago Convention").

Accordingly, "[w]hen the Soviet Union and the United States began launching artificial satellites, neither country sought consent from other states over whose territory the satellites orbited . . . [and] the launches did not elicit any accusations that a state's sovereignty had been violated." Dr. Jinyuan Su, *The Delimitation Between Airspace and Outer Space and the Emergence of Aerospace* Objects, 78 J. Air

L. ¶ Com. 355, 359 (2013). However, the Soviet Union could not have flown airplanes into United States airspace without authorization.

In short, there are very significant differences between airspace and outer space, and this Court should not treat space objects as airplanes. Indeed, Empire began constructing the DS-1 in 2012, five years before its destruction in 2017. R. 12a. In those years, it orbited over multiple districts, states, nations, and continents. There is no plane that could possibly remain in the air for anywhere close to that amount of time, nor could it cross over the vast areas passed over by the DS-1. Indeed, the longest airplane flight ever recorded lasted just under sixty-five days.[9]

Moreover, the Sixteenth Circuit's interpretation implies that federal statutes—e.g., those allowing the United States government to regulate United States airspace—are enforceable in outer space. This implies that our government could control how other countries send satellites or other spacecraft into outer space under the same rules applied to aircraft flying over the continental United States. See, e.g., 49 U.S.C. § 40103. The United States government cannot and has never tried to regulate the outer space as United States airspace because this would trample on the aforementioned international agreements.

Lastly, to justify the extension of "airspace" into "outer space," the Sixteenth Circuit points to the lack of universally agreed-upon altitude deliniating airspace from outer space. See R. 32a–33a. However, the disputed options are a "bright line"

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[9] Jacopo Prisco, *The world's longest flight spent more than two months in the air*, CNN (Jan. 24, 2023), https://edition.cnn.com/travel/article/longest-ever-continuous-flight-1959.

rule of 90 kilometers followed by "a majority of nations" or a 100 kilometer rule based on the Kármán line. R. 32a-33a. The DS-1 was orbiting earth at approximately 460 kilometers above the surface. R. 8a. The lack of agreed upon rule is irrelevant because the DS-1, was much further beyond "airspace" under either definition.

4. There Will Be No Venue Gap

The Sixteenth Circuit states that "the implication of the Empire's argument is that"—similar to the venue gap concerns in Antarctic torts echoed in *Beattie*—"no *venue* can ever exist for torts that occur exclusively in outerspace because such claims necessarily must be tethered to some conduct that occurs on terrestrial Earth. That argument would impermissibly create a venue gap." R. 26a (citing *Beattie v. United States*, 756 F.2d 91, 104 (D.C. Cir. 1984)). The concurrence echoes this argument. R. 55a.

However, while venue is not proper in Alderaan, venue would be proper in California because "the only actions that occurred *in* a judicial district occurred in California." R. 26a. Thus, because California would be proper venue, see Part I.A.6, there is no venue gap created here, and the Sixteenth Circuit's concerns about a venue gap are unfounded.

Moreover, the Sixteenth Circuit's "overflight doctrine" approach based on where the tort allegedly occurred is likely to create massive venue gap problems. Rather than tying venue to specific actions—such as the design of the DS-1, or the launching of construction materials to build the DS-1, or the business activities and registration of Galactic Empire in California, or the launching of a terrorist

starfighter in Tatooine—the Sixteenth Circuit seeks to determine venue based on location of the tort. If the tort were to occur in a location in outer space that was not directly over a United States district, then—under the Sixteenth Circuit's approach—there would be a venue gap.

5. Addressing the Concurrence

The Sixteenth Circuit's concurrence contends that venue is proper in Alderaan because former defendants who have been dismissed from the lawsuit would be subject to venue there. R. 55a. Next, the concurrence argues that, even if § 1391(b)(2) did not take venue out of Alderaan, venue would still be proper in Alderaan under § 1391(b)(3) because it was a judicial district that had personal jurisdiction over Luke Skywalker—a former defendant no longer involved in the case. R. 53a. Petitioner disagrees with both of these arguments.

"[T]here is no evidence, either way, indicating whether Luke Skywalker flew into any airspace over which Alderaan does or ever could claim airspace." R. 75a. Skywalker, after all, flew out of Guatemala and is a citizen of Tunisia. R. 5a. And, under § 1391(b)(2), venue must be proper as to each specific claim against each specific defendant. "The fact that a claim for some of the plaintiffs or against some of the defendants arose in a particular district does not make that district a proper venue for parties as to whom the claim arose somewhere else. WRIGHT & MILLER § 3807 (citing, inter alia, *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004); *Pioneer Surgical Technology, Inc. v. Vikingcraft Spine, Inc.* 2010 Wl 2925970 (W.D. Mich. 2010) ("The plaintiff must show that venue is proper for each claim and as to

each defendant in order for the court to retain the action.") (internal quotation omitted)).

Thus, the concurrence's contention that venue is proper in Alderaan against Empire because other defendants had connections to Alderaan carries no legal weight, and should be rejected.

6. Conclusion: Venue was proper only in California.

Venue in this case was proper only in California, and was improper in Alderaan. Solo was injured by a terrorist attack which destroyed property owned, designed, and launched into orbit by Empire, a California entity. California was the state in which the DS-1 as allegedly defectively designed. The majority of the space launches carrying materials to build the DS-1 occurred in California (and none in Alderaan). All the relevant witnesses would be Empire's employees, who are based in California. The only "part" of this case occurring in Alderaan was the fragments that landed there, which—applying physical principles, see Part I.B.1—suggest that the explosion occurred anywhere except Alderaan, since the fragments would have been carried by momentum far away from the explosion before settling back to Earth along a very long, curved trajectory.

In short, because all the substantial parts of events or omissions that gave rise to the present claim occurred in California, venue under § 1391(b)(2) was only proper in California.

The Sixteenth Circuit incorrectly determined that Alderaan was a proper venue, basing its decision on an erroneous extension of the "overflight venue" doctrine

from airspace to outer space. The Sixteenth Circuit's decision is wholly based on inapplicable criminal venue cases invoking constitutional protections to criminal defendants, and which never mention application to civil torts, and also brushes aside glaring issues of international sovereignty that its venue regime—which could find "proper" venue *to infinity and beyond* anywhere above a district—inevitably triggers. And venue is not proper in Alderaan under § 1391. Venue is only proper in California, and this case should have been transferred to California in the interests of justice.

For all the aforementioned reasons, this Court ought to reverse the Sixteenth Circuit's decision.

II. APPLICATION OF THE CSLAA AND IT'S CAUSATION STANDARD

This Honorable Court ought to reverse the Sixteenth Circuit's decision because it erred as a matter of law three ways: (1) it incorrectly applied the CSLAA to this case, (2) it interpreted the CSLAA to impose a but-for causation standard, and (3) Empire was not the proximate cause of the accident. Each of these three errors is a standalone reason for which this Court should reverse.

A. THE SIXTEENTH CIRCUIT INCORRECTLY DETERMINED THAT THE CSLAA APPLIED TO THIS CASE.

This Honorable Court should find that the court improperly applied the CSLAA as it only applies to launches and reentries. The statutory canons of interpretation would support the narrow reading of "activities under the license" in the CSLAA as the terms "launch" and "reentry" are repeated in every substantive provision of the act (over 138 times). See 51 U.S.C. §50901 *et seq*. Although this

statute does not have precedent, scholars have repeatedly held that this statute is limited to launches and reentries as "an intentionally limited form of regulation."[10] This is also supported by the learning period enacted by Congress, which aims to develop safety regulations over time. *See id*. The textual analysis and congressional intent lend themselves to the narrow reading of the CSLAA to exclusively apply to "launch" and "reentry."

1. The CSLAA Should Be Narrowly Read to Encompass Launch and Reentry Activity Only Under the Principles of Statutory Interpretation.

The majority incorrectly states that the term "activity carried out under the license" supports a broad interpretation of outer space activities contrary to renowned principles of statutory interpretation. The "fair reading" method of statutory interpretation requires that we determine the application of a given statute "on the basis of how a reasonable reader, fully competent in the language, would have understood the text at the time it was issued."[11] Most importantly, the legislative purpose must be derived from the text "as concretely as possible." *Id.* at 64. A "highly generalized purpose" does not constitute a good interpretation of legislative intent.

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[10] *See* Thomas J. Herron, *Deep Space Thinking: What Elon Musk's Idea to Nuke Mars Teaches Us About Regulating the "Visionaries and Daredevils" of Outer Space*, 41 Colum. J. Envtl. L. 553, 587 (2016) ("FAA regulates private spacecraft and...launches, reentries, and operations of launch sites, but its current licensing power does not apply to orbital or in-space operations"); *see also Regulation of Commercial Human Spaceflight Safety,* Congressional Research Service, CRS Report No. R48050 (2025) ("Launch and reentry authorities do not extend to operations in space", expressing national concern that there is no legislative to cover "activities in space"

[11] Antonin Scalia & Bryan A. Garner, *Reading the Law: The Interpretation of Legal Texts* 47 (2012).

Id. To assist in deriving purpose "we do not construe statutory phrases in isolation, we read the statute as a whole." *United States v. Morton*, 467 U.S. 822, 828 (1984)

In constructing our statutory analysis, there are three key canons of construction; (1) fixed-meaning, (2) omitted-case, and (3) negative-implication.[12] Fixed meaning gives the words the definition at the time that the statute was adopted. *See id.* at 77. Omitted case ensures that nothing is to be added to what the text states or reasonably implies, noting that it is not within a judge's power to "enlarge or improve or change the law," only to interpret it. *See id.* at 88; *See* Edward H. Levi, "The Nature of Judicial Reasoning," in Law and Philosophy: A Symposium 263, 274 (Sidney Hook ed., 1964) ("Granted the right and duty of the court to interpret the document, it has not been given the duty or the opportunity to rewrite the words."). In contrast, this concept also highlights a judicial "deep reluctance" to interpret a statue "so as to render superfluous other provisions in the same enactment." *Freytag v. Comm'r*, 501 U.S. 868, 877 (1991). Negative implication observes that the expression of one term implies the exclusions of others. *See id.* at 98.

The CSLAA can be narrowed to the particular purpose of protecting private parties for incidents occurring during launch and reentry. More specifically, § 50903 states that the purpose of the act is to "encourage, facilitate, and promote commercial space *launches and reentries* by the private sector." 51 U.S.C. § 50903 (emphasis added). It goes on to note that the act aims to "build, expand, modernize, or operate

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[12] *See generally* Scalia & Garner, *supra* (2012)

a space *launch or reentry* infrastructure." *Id*. Given the repetition of the terms "launch and reentry" in the purpose provisions and the remainder of the statute, it would be rash to adopt the majorities approach of the "highly generalized purpose" that is served when this statute encompasses all space activities.[13]

In looking at the fixed meaning canon of construction, we look at the history that would inform how the legislatures interpreted this statute. *See id*. The original indemnity scheme that covered private launches was passed in 1988.[14] In 1998, Congress expanded this power to the Federal Aviation Administration to determine the licenses granted for reentries as well, as private space travel had grown in popularity.[15] Initially, the FAA was prohibited from issuing safety regulations surrounding operation and design of privately licensed spacecrafts as they did not want to "overregulate the [private spaceflight] industry before it had the opportunity to grow". H.R. Rep. No. 114-19. In creating the indemnity scheme, there was a balance to "neither stifle innovation" nor "expose the public to excessive risk." *Id*.

Commenting on the maximum payable amount for liability under the CSLAA ($1.5 million), legislative members also noted "it is unlikely that damages paid . . . would exceed" the amount "given the position of the launching facilities and that the early stages of launch are typically the most dangerous." *Id*. Given the cost of Solo's

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[13] *See* Scalia & Garner, *supra*, at 64.
[14] *See Heron, 41 Colum. J. Envtl. L.* at 587
[15] "Deep Space Thinking: What Elon Musk's Idea to Nuke Mars Teaches Us About Regulating the "Visionaries and Daredevils" of Outer Space"

ship alone, this value estimation for the indemnity clause speaks to the limited nature of the CSLAA. With this context in the forefront of legislative decision-making, it is clear that Congress would have intended to limit liability to instances only of launch and reentry.

Under the omitted-case canon, "activity under the license" is being judicially enlarged when the "activity" is read to expand to all outer space activity. To ignore the repetition of the terms "launch" and "reentry," as was pointed out in the concurrence and dissent, is to grant these phrases to be "superfluous" in each substantive subtitle and the title of the act itself. The indemnity statute itself reads that claims will be paid out "only to the extent the total amount of the successful claims related to *one launch or reentry*." 51 U.S.C. §50915 (emphasis added). This specifical line also plays a role in the negative-implication canon. The terminology of "one launch or reentry" gives direct contextual meaning, limiting the "activity" under the license to a singular instance of one of these two possible events. *See id*.

2. The Existence of Non-Self-Executing International Treaties Should Not Change the Application of the CSLAA.

i. International Treaties that Guide Outer Space Travel

As discussed in the opinion, there are three major treaties that guide international space travel; (1) the Outer Space Treaty, (2) the Liability Convention, and (3) the Registration Convention. *See* R at 43a. The Outer Space Treaty was signed in 1967 to promote international cooperation and limit military conflict in

outer space.[16] Scholars note that the "omission of language [in the Outer Space Treaty] addressing private appropriation in outer space has created ambiguity" for those interpreting its applicability to private parties. *Id.* at 609. At the time that it was adopted, the concept of private space travel was unheard of. *Id.* The registration convention requires that member states maintain a registry of objects sent into space but are free to negotiate between members "who maintains jurisdiction and control over any space object." *Id.* at 577.

The major convention that the opinion focuses on is the Liability Convention. *See* R. 43a. This convention holds the "launching state" liable for damage ("personal injury or . . . damage to property of States or of persons") caused by the space object "on the surface of the earth or to [an] aircraft in flight." G.A. Res. 2777 (XXVI), art. I-II (Nov. 29, 1971). The "launching state" is defined as either the state that procures the launching of a space object or whose territory or facility a space object is launched from. *Id.* art. I. The treaty opts for democratic resolution of space issues, but if a resolution is not met, there is an option to pursue non-binding arbitration through a Claims Commission. *Id.* art. XIV-XX.

ii. Split: Non-Self Executing Treaties do not change statutory meaning.

When it comes to regulation authority, it has been held that Congress has been given the "power to abrogate or modify" a treaty or previous legislation, and upon doing so, "that is the final word." *Fund for Animals, Inc. v. Kempthorne*, 472

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[16] *See Heron, 41 Colum. J. Envtl. L.* at 560.

F.3d 872, 876 (D.C. Cir. 2006). We recognize that the intention to abrogate must be "clearly expressed" by Congress, and the presence of ambiguity would skew the statute in favor of the treaty. *Bennet v. Islamic Republic of Iran*, 618 F. 3d 19, 23-24 (D.C. Cir. 2010). However, this canon of construction is a two-step test. The first step requires that the statute *must* be ambiguous. *See Kempthorne*, 472 F.3d at 876. Additionally, the treaty is only one element of the statutory construction and has "no independent significance in resolving" the intended meaning of a statute. *Hopson v. Kreps*, 622 F. 2d 1375 (9th Cir. 1980).

The terminology "activity carried out under this license" in the CSLAA is not ambiguous. The term "reentry" is used 139 times in the statute and "launch" is used even more so, including the title of the act itself. It is clear by the canons of interpretation above that congress enacted this statute only to cover launch and reentry in private space travel.

Alternatively, if the statute is ambiguous in what "activities" it covers under its license, Congress could be seen as "abrogating" the requirements of the liability convention as the CSLAA was adopted after the treaty was signed. Being able to narrow the convention's scope to launch and reentry activities is within congressional power and is the "final word" on what treaty provisions congress intends to adopt. *See Kempthorne*, 472 F.3d at 876.

B. ALTERNATIVELY, THE SIXTEENTH CIRCUIT INCORRECTLY DETERMINED THAT THE CSLAA INVOKED ONLY A "BUT-FOR" CAUSATION STANDARD.

The majority incorrectly applies a but-for causation standard to this case instead of deferring to the proximate causation standard that would be expected. In interpreting the statutory language, 51 USC § 50915 gives the relevant terminology for liability over incidents occurring in space. The language that the majority relies on:

> "The Secretary of Transportation shall provide for the payment by the United States Government of a *successful claim* (including reasonable litigation or settlement expenses) of a third party against [a licensee] *resulting from* an activity carried out under the license…under this chapter for death, bodily injury, or property damage, or loss *resulting from* an activity carried out under the license".

51 U.S.C.A. §50915(a)(1). Specifically, the majority points to the phrasing "resulting from" as implying a broader but-for causation standard, per *Burrage* and *Spicer*. *See Burrage v. United States*, 571 U.S. 204, 212 (2014); *Spicer v. McDonough*, 61 F.4th 1360, 1364. This analysis improperly disregards the textual and contextual elements that change the meaning of the causation standard and improperly reads in the liability convention, which does not apply to this case.

1. **Textual and Contextual Analysis of Causation**

If the CSLAA is interpreted to apply to this case, this Honorable Court should find that the Sixteenth Circuit incorrectly applied a but-for causation standard as it did not consider the textual or contextual indications when interpreting the statute. The majority cites *Burrage* to imply that the terminology "resulting from" should imply a but-for causation standard. *See* 571 U.S. at 212. However, both *Burrage* and *Spicer* note that "textual" or "contextual" indications will change the meaning of the

textual interpretation of the term "resulting from." *See Burrage*, 571 U.S. at 212; *see also Spicer*, 61 F.4th at 1364. Additionally, this Honorable Court's precedent makes a distinction for causation interpretation for insurance policies. Case law supports the "well-established principle" that "in all cases of loss" there is an assumption that the loss must be attributed to "proximate cause" and not simply to "remote cause." *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 132 (2014) (citing *Waters v. Merchants' Louisville Ins. Co.*, 36 U.S. 213, 216 (1837)). However, what the majority fails to address is that but-for causation is implied "when there is no textual or contextual indication to the contrary." *See Burrage* 571 U.S. at 212. To echo the concurrence argument, the term "successful claim" indicates a deference to usual and customary state tort and product liability laws. See R. 57a.

2. The Liability Convention Does Not Apply to This Case

It would be unwise for this court to read the CSLAA in accordance with any liability standard implied by the Liability Convention because the articles do not apply to this case. On its face, there are three key elements of the liability convention that preclude it from informing this case: (1) Article VII forbids a claim by a citizen of the same launching state, (2) Article VI ensures that there is liability for actors who are not conforming with international law, (3) a claim in a nation's court would preclude proceeding under the liability convention.

Article 7 of the Liability Convention specifically mentions that the convention will not apply to damages "caused by a space object of a launching state to . . . Nationals of that launching state." *Id.* art. VII. We know the "launching state" in

this case is the United States as the items launched for the DS-1 were launched in California. *See* R. 8a. Although Han Solo launched the Millennium Falcon from Tunisia, he is a resident of Corellia, Chicago, Illinois and continues to be a "national" of the United States. *See* R. 4a. As such, Solo would be precluded from suing the United States under the Liability Convention. *See* G.A. Res. 2777, art. XII.

Furthermore, in Article VI of the Liability Convention, "no exoneration" whatsoever shall be granted when activities conducted by the launching state "are not in conformity with international law." *Id.* art. VI. International law would imply that the actor must be in compliance with the Outer Space Treaty, the Registration Treaty, and the Liability Convention. *See id*. Furthermore, if this Honorable Court must assume that Chapter 509 is the enactment of the liability convention, the licensing requirements enforced by the Federal Aviation Administration would become a source of "law." *See id*., 51 USC § 50915. Solo was charged a fine for being out of compliance with these licensing requirements whereas the Galactic Empire was licensed for each and every one of their launches of supplies. *See* R at 11a, 14a. This would imply that Solo cannot be exonerated entirely for liability of any part he played in this, speaking to a more complicated balancing "proximate cause" standard rather than a minimal "but-for" causation standard. See G.A. Res. 2777, *supra* art. VI.

Finally, the Liability Convention finds its enforcement in a non-binding arbitration procedure made up of a "Claims Commission." Additionally, the

resolution emphasizes that state actors can pursue a claim "in the courts . . . of a launching state" but this precludes the state from presenting a claim under the procedures laid out in the liability convention. *Id.* art. XI. This dichotomy of approaches emphasizes the idea that rights to compensation must be based in the common law of local American courts rather than the international law of the Claims Commission.[17] As was stated previously, this would assume that the claim must be "governed by usual and customary state substantive laws" including "necessity of proof of negligence" and "proof that such negligence proximately caused the third party's damages." *See* R. 57a.

C. LUKE SKYWALKER, NOT THE EMPIRE, WAS THE PROXIMATE CAUSE OF THE ACCIDENT

This Court should reverse the Sixteenth Circuit Court's holding because The Empire did not proximately cause Solo's injuries. Instead, when Skywalker intentionally shot the DS-1, his attack was so extraordinary and unforeseeable that it broke the chain of causation formed by the DS-1 design defect and became the sole proximate cause of Solo's injury. The causation requirement of a negligence claim demands the plaintiff to show both factual and legal causation. *Hakim v. Safariland*, LLC, 79 F.4th 861, 872 (7th Cir. 2023). Here, it is undisputed that both the Empire

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[17] *See* Brian Beck, *The Next, Small, Step for Mankind: Fixing the Inadequacies of the International Space Law Treaty Regime to Accommodate the Modern Space Flight Industry*, 19 Alb. L.J. Sci. & Tech. 1, 10 (2009).

and Skywalker satisfied the lower, factual causation standard. R. 36a. Only Skywalker, however, satisfies the higher, legal causation standard.

Proximate causation is first and foremost "a question of foreseeability." *Hakim*, 79 F.4th at 872. An injury is deemed to be foreseeable only when it is a "*reasonably* foreseeable result of the defendant's conduct." *Id.* at 871 (emphasis added). In discerning the parameters of foreseeability, the courts ask if "the injury is of a type that a reasonable person would see *as a likely result* of his or her conduct." *Scott v. Wendy's Props., LLC*, 131 F.4th 815, 819 (7th Cir. 2025) (emphasis in original). This reasonableness qualification comports with reason because "a defendant is not held liable for every conceivable consequence that might somehow be causally related to its conduct." *Port Auth. of New York & New Jersey v. Arcadian Corp.*, 189 F.3d 305, 318 (3d Cir. 1999). While courts could defer the question of foreseeability to the jury, judges should decide proximate causation question efficiently as a matter of law when the facts support the conclusion.

Importantly, considerations of public policy and fairness are the leading lampposts that guide courts throughout proximate causation analysis. *Port Auth.*, 189 F.3d at 312. Indeed, the Third Circuit emphasized that "the legal bounds of duty and of proximate cause are aspects of tort law in which issues of fairness and public policy are *particularly relevant*." *Id.* (emphasis added).

Courts only find a defendant's action to constitute the proximate cause of an injury when such action produces the injury "in a natural and continuous sequence, unbroken by any efficient intervening cause . . . and without which the injury would

not have occurred." *Jensen v. EXC, Inc.*, 82 F.4th 835, 857 (9th Cir. 2023). Consequently, an "efficient intervening cause" breaks the chain of causation and forms a separate, superseding cause where the harm is the result of an unforeseeable intervening force. *Hunter v. Mueske*, 73 F.4th 561, 568 (7th Cir. 2023). Said differently, the original proximate causation ceases to exist when "the continuum between Defendant's actions and the ultimate harm is occupied by the conduct of deliberative and autonomous decision-makers." *Dixon v. Burje Cnty., Ga*, 303 F.3d 1271, 1275 (11th Cir. 2002).

Here, Skywalker attacked on the DS-1 as "deliberative and autonomous decision-maker," occupying the "continuum between [The Empire's] actions and [Solo's] harm." *See* R. 3a, 13a; *see id*. Indeed, the facts undeniably show that Skywalker's attack was an extraordinary act conducted by a third party, rendering it a superseding cause to the Empire's design defect, making the attack not reasonably foreseeable as a matter of law. *See Dixon*, 303 F.3d at 127; *see Port Auth.*, 189 F.3d at 318-19.

Additionally, whether an event is reasonably foreseeable depends on the context of the events that led to the harm. *Scott*, 131 F.4th at 821. The inquiry turns on the extent to which "the intervening cause was the natural and probable result of the defendant's own negligence." *Id*. at 820 (cleaned up). And while different U.S. courts approach this inquiry from a slightly different angles, in the context of third party intervenors, courts seem to focus on the extraordinary nature of the third-party action, control over third-parties, and reasonable anticipation of subsequent event.

Port Auth., 189 F.3d at 318*; Lawton v. Hyundai Motor Am., Inc.*, 734 F. Supp. 3d 904 (W.D. Mo. 2024); *Pals v. Wkly.*, 12 F.4th 878 (8th Cir. 2021).

(1) The Empire Could not Have Foreseen Luke Skywalker's Criminal Attack Because the Attack was Extraordinary

Empire could not have reasonably foreseen Solo's injuries because Luke Skywalker's attack constituted an extraordinary intervening act as a matter of law. In determining whether an injury is the natural and probable result of an action, tort law looks to the extraordinary nature of an intervening cause. Restatement (Second) of Torts § 442 (1965) (highlighting whether the operation or the consequences of the intervening force "appear[ed] after the event to be extraordinary rather than normal in view of the circumstances existing at the time of its operation"). If the intervening cause is highly extraordinary in hindsight, courts find that the intervening factor severs the chain of causation and the extraordinary event becomes the sole proximate cause of the injury. *Id.*; *Port Auth.* 189 F.3d at 318-19.

Courts hold that an intervening event qualifies as extraordinary if the injury does not flow from the original design defect because the intervening cause was an intentional criminal act with the sole purpose of creating harm. *See Port Auth.*, 189 F.3d at 318-19. Indeed, courts tend to find that acts of terrorism are especially likely to constitute a superseding cause. *Id.*; *N.J. Dep't of Envtl. Prot. v. U.S. Nuclear Regulatory Comm'n,* 561 F.3d 132, 141 (3d Cir. 2009). In *Port Authority*, the Third Circuit held that a manufacturer of fertilizer—which terrorists used to construct a bomb and detonate it under a building—did not proximately cause the explosion. *See*

189 F.3d at 309-10, 318-19. The court reasoned that because the terrorists' actions were so extraordinary, they could not have been foreseen by the defendants as a matter of law. *Id*. The court noted that when the injury is merely a possible, but not a probable result of the design defect, the original design defect is not the proximate cause of the injury. *Id*. at 318. Because of the deliberate and intentional nature of the bomber's conduct, the Third Circuit correctly drew a line in the causation chain, attributing the attack solely to the criminal actors. *Id*. at 318-19.

Similarly here, Solo's injuries did not naturally flow from Empire's design defect because Skywalker's attack was intentional, independent, and terrorist. Thus, it was so extraordinary that neither reason nor policy could hold it reasonably foreseeable. *See* R. 3a; *see Port Auth*., 189 F.3d at 318-19. Here also, the unfavorable publicity that the DS-1 received could not impose foreseeability to Empire because the law has not recognized bad publicity as a factor in determining foreseeability analysis. *See* Restatement (Second) of Torts § 442 (1965). Additionally, Alianza commissioned Skywalker to shoot the one-in-a million shot at a tiny diameter on the DS-1 in outer space using a specialized weapon, with only a few days' notice and only one shot. *See* R. 13a. This "constellation of circumstances" are objectively extraordinary do not flow from The Empire's design defect. *See* R. 13a, 83a; *see also Port Auth*., 189 F.3d at 318-19

Conversely, a court did not find sufficient evidence supporting a similar proximate causation argument when a terrorist attack exploited an aircraft manufacturer's design defect and resulted in the explosion of the World Trade Center.

In re Sept. 11 Litig., 280 F. Supp. 2d 279, 208-10 (S.D.N.Y. 2003). In that case, the court refused to grant the airplane manufacturer a motion to dismiss based on a break in the chain of causation by the terrorist attack because the court found that the manufacturer of cockpit doors could be found by a reasonable jury to have foreseen a cockpit hijacking. *Id*. The court distinguished other *per se* cases such as *Port Authority* by recognizing that intervening acts successfully break the chain of causation of a design defect when the injuries would not have been foreseeable to the *product manufacturer*. *Id*. at 310. The court's distinction lied in the fact that a fertilizer manufacturer could not have foreseen the kind of harm that resulted from terrorists mixing the product with another chemical to blow up a building. *Id*. But a cockpit door with a design defect that did not prevent easy opening "would [have been] imminently dangerous to passengers, crew and ground victim" and therefore was not intercepted by the attack *per se*. *See id*.

This case is easily distinguishable. The DS-1 design defect in the thermal exhaust port alone does not produce the kind of injury that Solo sustained. There is no evidence in the record showing that a thermal exhaust port is a feature designed for the direct safety of nearby spacecrafts. *See* R. 1a-84a. Therefore, the kind of the injury suffered by Solo is not similar in kind from that which would have occurred from a malfunctioning exhaust port—especially since Solo's spacecraft was not even registered under the CSLAA as a vehicle operating in space. *See In re Sept. 11 Litig.*, 280 F. Supp. 2d at 310. Moreover, the design defect was not widely-publicized, reducing even further the reasonable foreseeability of the attack. *See* R. 13a.

Similarly, that Empire sought to keep the information private is not alone sufficient to impute a foreseeability burden on The Empire. *See id.* This case is closer to *Port Authority*, where the fertilizer manufacturer's negligence could not have alone resulted in damages to life and property. *See id.; see Port Auth,* 189 F.3d at 318-19.

(2) The Empire was not the Proximate Cause of Solo's injury because the Empire did not have Control over Luke Skywalker's Actions

Courts have consistently held that when the original negligent party has no control over the third party's actions, the third party actions constitute an intervening act that severs the chain of causation. *See Lawton,* 734 F. Supp.3d at 911. The Second Restatement of Torts similarly emphasizes this by stating that one factor in finding a superseding cause is when "the intervening force is operating independently of any situation created by the actor's negligence." Restatement (Second) of Torts § 442(a) (1965). This limitation makes sense because it correctly attaches liability to the act most directly responsible for the harmful effect.

In *Lawton*, the district court correctly found that a criminal act, which would not have occurred but for the manufacturer's negligence, was a superseding cause of harm as a matter of law because of the thief's independent conduct, over which the manufacturer had no control. *Lawton*, 734 F. Supp. 3d at 911-12. In that case, the car manufacturer neglected to install an anti-theft device, a design defect that social media had publicized extensively. *Id.* at 906-07. In that case, a thief was attempting to steal the plaintiff's car when the plaintiff yelled out in an attempt to scare the thief away, but instead, the thief shot the plaintiff. *Id.* The court found as a matter law

that the shooting constituted an "independent conduct" that strayed from the natural and probable consequence of the manufacturer's negligence. *Id*. at 911-12.

The court emphasized that independent conduct is particularly potent when "the chain of causation includes a series of events, subsequent to the initial act or omission, over which the defendant had no control." *Id*. In such cases, manufacturer's liability does not extend so far as to cover such criminal activity. *Id*. The court concluded that even if the design defect made the cars attractive to thieves, the design defect was not the proximate cause of the injury caused by the thieves because "the chain of causation involved two distinct criminal acts by third parties." *Id*.

Similar to *Lawton*, the case at hand involves an intermediate attack, which created a subsequent chain of events over which Empire had no control. Like in *Lawton*, Alianza took advantage of the defect information to intentionally cause harm by asking Skywalker to attack the DS-1. R. 13a. The attack was the direct cause of harm to Solo's ship, as well as the result of deliberate and "independent conduct" by Alianza and Skywalker. *Id*.; *see Lawton*, 734 F.Supp.3d at 912. Additionally in *Lawton*, social media accounts shared viral step-by-step tutorials on how to break into the manufacturer's cars. *See* 743 F.Supp.3d at 906-07. Here, even though the launching of DS-1 was publicized, the design defect was not publicized. R. 3a, 13a This distinction is significant because the court refused to find the viral nature of the tutorials sufficient to render a resulting criminal act foreseeable. *See Lawton*, 734 F.Supp.3d at 911-12. Empire even took extra steps in ensuring that such information remain confidential, making the attack even less foreseeable than in *Lawton*. R. 13a;

see Lawton, 734 F.Supp.3d at 911-12. Neither did unfavorable press about the DS-1 rise to the level of a break-in tutorial, a fact which the court did not find sufficient to show reasonable foreseeability of the criminal act. *See Lawton*, 734 F.Supp.3d at 911-12; R. 3a.

Also out of the Empire's control, and therefore unforeseeable, was Solo's unregistered spacecraft. R. 14a. The Empire had complied with the CSLAA regulatory requirements and the existence of an unregistered vehicle at risk of sustaining injury close-by was an independent inaction over which the Empire has no control. *See id.; see Lawton*, 743 F.Supp.3d at 912. Here, the harm to Solo involved three distinct independent acts: Solo spaceship entering the orbit unregistered, Alianza finding out about the defect despite The Empire's measures to keep it confidential, and Skywalker's attack on DS-1. R. 3a, 13a, 14a; *see Lawton*, 734 F.Supp.3d at 911-12. Alianza and Skywalker bad-faith acts, like in *Lawton's*, created "a series of events" over which the Empire did not have control. *See id.* at 911-12. For this reason, the attack was not reasonably foreseeable. *See id*.

(3) The Empire was not the Proximate Cause of Han Solo's Injury Because the Empire Could not have Anticipated Luke Skywalker's Attack

The newly discovered DS-1 design defect did not satisfy the proximate cause requirement because Empire could not have anticipated Skywalker's attack. Some U.S. courts approach the question of foreseeability of a misconduct following an original act of negligence via the lens of anticipation. *See Pals*, 12 F.4th at 881-82. Specifically, courts only find the original act of negligent to constitute a continuous

chain of causality despite an intermediate misconduct when the intermediate misconduct "was to be anticipated, and taking the risk of it was unforeseeable, that liability will be imposed for consequences to which such intervening acts contributed." *Hundley v. D.C.*, 494 F.3d 1097, 1105 (D.C. Cir. 2007).

Where a third-party is involved, this sentiment is further echoed in the Second Restatement of Torts, which considers the intentional tort of a third person to be a superseding cause of harm even if an earlier negligent conduct "created a situation which afforded an opportunity to the third person to commit such a tort[.]" Restatement (Second) of Torts § 448 (1965). Only when "the actor at the time of his negligent conduct realized or should have realized the likelihood that such a situation might be created, and that a third person might avail himself of the opportunity to commit such a tort or crime" does the law attach foreseeability. *Id*.

Here, Skywalker's attack was so extraordinary and could not have been anticipated by the Empire even when it found out about the design defect. See R. 13a; *see Port Auth.*, 189 F.3d at 318. Skywalker's collaboration attack with Alianza's was not within the bounds of natural and probable consequences that arise out of a design defect. Nor does the record show that Empire realized of should have realized that a third party was *likely* "to avail [itself] of the opportunity to commit such a tort or crime." *See* R. 1a-84a; *see* Restatement (Second) of Torts § 448 (1965). Just because The Empire sought to keep the defect private does not extend its liability so far as to hold a one-in-a million attack reasonably foreseeable. *See* R. 13a.

The Eights Circuit addressed this issue, holding that a road contractor's failure to report a highway backup was not the proximate cause of death of car riders who were hit by a negligent truck on the same highway. *Pals*, 12 F.4th at 882-83. In that case, the contractor had diverted highway traffic during re-paving, when two cars collided on the diverted street. *Id*. at 880. Because of the accident, traffic behind the collision began to back up, causing a significant reduction in speed. *Id*. The contractor had failed to report the backup, which had led to the Department of Transportation's failure to erect signage to warn the upcoming traffic. *Id*. at 881. Shortly thereafter, a negligent truck driver, not warned by signs, ran into the traffic, rear-ending the last car, and killing all of its riders. *Id*. at 880-81. The circuit court held that the truck driver's negligence broke the chain of causality created by the contractor's negligence and acted as a superseding cause of the riders' death because the truck driver's negligence could not have been anticipated by the contractor. *Id*. at 882-83. The court reasoned that the contractor was not required to reasonably anticipate a negligent driver to "completely failed to see a stoppage that extended for at least half a mile when every other driver saw the congestion in time to stop safely." *Id*. The court's emphasis on the conduct of other drivers is key because it shows that the bounds of foreseeability are measured by the likeliness of an intervening events, which turns on the conducts of others in a similar situation. *See id*.

The case at hand is similar to *Pals* because the Empire could not reasonably anticipate that Skywalker would attack DS-1. The chain of causation created by Empire's design defect did not naturally include a deliberate, skillful, one-in-a million

attack by a third party, an even more unpredictable event than a negligent truck driver on cruise control, which the court held was not reasonably anticipated. *See* R. 2a; *see Pals*, 12 F.4th at 882-83. Also similarl here, the small size of the target which would lead to the chain reaction especially from a far distance, combined with the prohibitively large expense of launching the attack, is a testament to the unlikely nature of this attack which could not be reasonably anticipated by Empire. R. 13a, 64a; *see Pals*, 12 F.4th at 882-83.

Moreover, The Empire could not have reasonably anticipated that a third-party would conduct an attack on the DS-1 even if it had attracted unfavorable publicity. To hold so would be contrary to the public policy of not only limiting liability to the bounds of reason, but also to the public policy of encouraging information sharing. Additionally, the judge Windu's opinion that Empire should have anticipated that other states would exercise self-help is misguided. R. 63. This is because self-help is a narrowly-tailored, court-recognized doctrine to remedy a breach of contract without breaching peace. *Barrett v. Harwood*, 189 F.3d 297, 300 (2d Cir. 1999). It does extend so far as to cover intentional torts in response to potential treaty violations based on murky grounds at best. To recognize it as so would be counter to public policy and a breach of peace. Moreover, neither Alianza, certainly nor Solo, are parties to the treaty. Therefore, even if self-help doctrine is recognized in the context of international treaties, it cannot extend to private actors as a matter of law.

The same logic applies to the Judge Windu's opinion with regards to assessing risk of self-help as foreseeable based on every state's gross domestic product. R. 64.

This logic is faulty because it is based on two wrong assumptions: first, it assumes that Solo was acting on behalf of a state, which he was not. R. 13a. Second, it assumes that a state would reasonably be expected to spend up to its annual gross domestic product to fire a missile, an assumption which does not find its support in notions of common sense nor theories of legal liability. Moreover, as the Judge Walt suggested, self-help applies to peaceful means, such as "unilaterally imposing monetary sanctions or seeking the assistance from the World Trade Organization," and not to military actions.

For these reasons, Empire could not have been expected to reasonably anticipate Skywalker's attack and therefore cannot be liable for its resulting injuries.

CONCLUSION & PRAYER

This Court should **reverse** the venue and causation decisions of the Sixteenth Circuit because plaintiffs have the obligation to file suit in a proper forum, the criminal overflight doctrine does not apply to outer space torts, the CSLAA does not apply to this case, the CSLAA does not impose a but-for causation standard, and Galactic Empire was not the proximate cause of this incident.