No. 24-2187

In the

Supreme Court of the United States

GALACTIC EMPIRE, INC.,

Petitioner,

and

THE UNITED STATES OF AMERICA,

Interventor-Petitioner,

v.

HAN SOLO,

Respondent.

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

BRIEF FOR PETITIONERS

TEAM # 26
Counsel for Petitioners
November 16, 2025

QUESTIONS PRESENTED

1. Whether the district court incorrectly exercised venue in this civil lawsuit concerning torts committed and damages sustained in outer space.

2. Whether the district court incorrectly interpreted and applied the Commercial Space Launch Activities Act, 51 U.S.C. § 50901 *et seq.*, as imposing a pure but-for causation standard for torts committed in outer space.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Sixteenth Circuit is unreported and set out in the Record on Appeal. Record ("R.") at 1a–84a. The opinion of the United States District Court for the District of Alderaan is also unreported and not part of the Record.

STATEMENT OF JURISDICTION

The United States District Court for the District of Alderaan had original jurisdiction over this case pursuant to 28 U.S.C. § 1332 and entered judgment on May 25, 2022. The United States Court of Appeals for the Sixteenth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291 and § 1294(1) and issued an opinion on May 4, 2023. This Court granted Petitioners' writ of certiorari and has jurisdiction pursuant to 28 U.S.C. § 1254(1). *See* Order Granting Cert., Oct. 6, 2025, No. 24-2187.

STATUTORY PROVISIONS INVOLVED

This case involves the general venue statute, 28 U.S.C. § 1391, and the Commercial Space Launch Activities Act, 51 U.S.C. § 50901 *et seq.*, which are reproduced in relevant part in the Appendix.

STATEMENT OF THE CASE

I. Statement of Facts

The Galactic Empire, Inc. (the "Empire") is a company headquartered in California. R. at 7a. It has no business ties to Alderaan, employs no personnel there, and has never been registered to do business in the state. R. at 19a. In 2012, the Empire publicly announced plans to design, construct, and operate a massive orbital

planetary-defense system called the "DS-1." R. at 7a. This announcement followed a devastating series of meteoroid strikes in Northern California, and the DS-1 was to be used to prevent future strikes. R. at 7a. To this end, the Empire emphasized its peaceful intent to undertake a "legitimate mission that benefits all humankind." R. at 68a.

Due to its massive size, construction of the DS-1 was carried out in low Earth orbit ("LEO"). R. at 8a. Instead of being built on the Earth's surface, "the Empire launched supplies and construction materials into [LEO]." R. at 8a. None of the construction materials were procured from Alderaan. R. at 19a. Most of the supply launches originated in California, and of the launches that did occur elsewhere in the United States, none occurred from Alderaan. R. at 13a.

The DS-1 was designed to be a spherical space station with a 120-kilometer diameter powered by a hypermatter reactor that would destroy incoming meteoroids with an eight tributary beam superlaser. R. at 7a–8a. Construction began in 2012 and continued for five years, with robotic spiders performing most of the assembly work in LEO. R. at 8a. The Empire fully complied with its obligations under the Commercial Space Launch Activities Act ("CSLAA") by obtaining all required federal launch licenses and procuring $500 million in liability insurance, the maximally required statutory amount. R. at 11a. By May 2017, the DS-1 was approximately 50 percent complete and was orbiting at about 460 kilometers above the Earth's surface. R. at 8a, 12a.

Within that same month, the Empire discovered that the DS-1 contained a design defect: a direct strike on a two-meter-wide thermal exhaust port by a proton torpedo could trigger a chain reaction and destroy the entire station. R. at 13a. The Empire took steps to keep this information confidential. R. at 13a. Despite this, a Guatemalan-based rebel company, Alianza Rebelde S.A., learned of the flaw and partnered with Luke Skywalker, a Tunisian citizen and highly skilled space pilot, to attempt a strike on the thermal exhaust port. R. at 3a, 13a.

On May 25, 2017, approximately eight to ten days after the Empire learned of the design flaw, Skywalker launched his attack from Guatemala, piloting an Incom T65-B X-wing starfighter into LEO. R. at 13a. He fired a proton torpedo directly into the small thermal exhaust port, triggering a catastrophic explosion. R. at 13a. The explosion generated thousands of fragments, damaging a nearby spaceship, the Millennium Falcon, which was traveling in LEO at that time. R. at 14a.

Han Solo, a U.S. citizen and billionaire businessman, was piloting the Millennium Falcon for tourism purposes when DS-1 fragments collided with his ship. R. at 3a–4a, 14a. The Falcon suffered damage to its navigational computer and its Isu-Sim SSP05 hyperdrive, which Solo alleged would require $4.5 billion to repair. R. at 14a.

II. Procedural History

Solo filed suit on May 21, 2019 in the United States District Court for the District of Alderaan against Skywalker, Alianza Rebelde, the Republic of Guatemala, and the Empire, alleging negligent product design and seeking compensation for

bodily injury and property damage. R. at 14a, 37a. The United States intervened pursuant to 51 U.S.C. § 50915(b)(2). R. at 4a.

Skywalker and Alianza Rebelde settled with Solo before trial. R. at 5a. Guatemala was dismissed on summary judgment after asserting sovereign immunity. R. at 6a. The case proceeded to trial solely against the Empire for negligent product design, with the United States participating as intervenor. R. at 15a, 37a.

Before trial, "[t]he Empire timely filed a Rule 12(b)(3) motion, challenging venue in Alderaan as improper." R. at 15a. The district court held an evidentiary hearing on the Empire's Rule 12(b)(3) motion and struck Solo's venue evidence as unreliable. R. at 20a–21a. The Empire did not present evidence on the question of venue. R. at 21a. The district court denied the Empire's 12(b)(3) motion after determining that "the Empire bore the burden to produce evidence supporting its venue defense but failed to do so." R. at 22a.

Following a jury trial, the jury found both the Empire and Skywalker negligent and apportioned fault equally, assigning 50 percent of the responsibility to the Empire. R. at 15a. The jury awarded Solo $1 million in bodily injury damages and $4.499 billion in property damages, for a total of $4.5 billion. R. at 15a. The Empire's share of damages amounted to $2.25 billion. R. at 15a.

The Empire and the United States then filed a renewed motion for judgment as a matter of law ("JMOL"), arguing that the applicable causation standard is that of proximate cause. R. at 35a. The Empire and the United States argued that Skywalker's actions were unforeseeable and constituted "an intervening, superseding

cause that destroyed any causal connection between the Empire's negligence and Solo's damages." R. at 35a. The district court nevertheless denied the renewed motion for JMOL. R. at 35a.

The district court entered judgment on May 25, 2022, adding $450 million in prejudgment interest for a total judgment of $2.7 billion against the Empire. R. at 35a. The court also determined that the U.S. Government's indemnity obligation under 51 U.S.C. § 50915(a) amounted to $2.2 billion after excluding the Empire's $500 million of liability insurance. R. at 16a.

The Empire appealed the district court's denial of both the venue challenge and the renewed motion for JMOL. R. at 17a, 35a. The Sixteenth Circuit affirmed the district court's decision on both issues. R. at 34a, 52a. The Empire and the United States (collectively "Petitioners") filed a petition for a writ of certiorari, which was granted by this Court on October 6, 2025. *See* Order Granting Cert., Oct. 6, 2025, No. 24-2187.

SUMMARY OF THE ARGUMENT

The lower courts improperly placed the burden on defendants to establish proper venue when challenged. The majority of circuits require plaintiffs to carry this burden because, like personal jurisdiction, which is plaintiffs' burden to establish, venue is an affirmative, dilatory defense that often turns on the same facts as the personal jurisdiction inquiry. Plaintiffs are also better equipped to establish venue than defendants are to disprove it. Thus, this Court should hold that plaintiffs must bear the burden of establishing proper venue. When an evidentiary hearing is held,

this burden must be met by a preponderance of the evidence. Here, Solo failed to present any competent evidence to support his choice of venue. As such, he has not met his burden, and this case must be dismissed.

The lower courts also improperly found that, under 28 U.S.C. § 1391(b)(2), a substantial part of the events giving rise to Solo's claim occurred in Alderaan, making Alderaan the proper venue for this case. However, the events Solo alleged as the basis of his claim did not actually occur "in" the District of Alderaan, but "in" LEO. Overflight venue principles cannot be extended to LEO. Navigable airspace and LEO can be distinguished by their governing venue statutes (criminal versus civil), the predictability of airplane flight, differences in sovereignty principles, and their respective governance under completely different legal frameworks. Finally, the further a tort occurs from Earth, the more difficult and absurd it becomes to identify a district where venue is proper under the lower courts' test. This Court should instead adopt a bright-line rule that venue under § 1391(b)(2) requires a territorial nexus for any activity to be considered "in" a judicial district. This rule accords with how venue is determined on the high seas. Under this territorial nexus rule, the only judicial district with any meaningful terrestrial nexus to Solo's claim is California, where the design of and launches assembling the DS-1 components took place. Accordingly, venue properly lies only in California.

The lower courts misinterpreted and misapplied the CSLAA by imposing a pure but-for causation standard. Congress enacted the CSLAA to encourage the private sector's participation in the peaceful use of outer space, not to create a federal

negligence regime that upends long-settled common law tort principles or invent a new private right of action. By reading the CSLAA to impose a pure but-for causation standard, the district court violated the *Erie* Doctrine, which requires federal courts sitting in diversity to apply state substantive law. Nothing in the text or legislative history of the CSLAA suggests that Congress intended to displace the common law proximate cause standard. The lower courts' reading of the CSLAA transforms its insurance and indemnification provisions into tort liability standards that Congress never enacted. Imposing a pure but-for causation standard would expose the private sector to limitless liability for even the most remote harms, deterring the private participation in space exploration that Congress intended to encourage.

Under traditional proximate cause principles, Skywalker's terrorist attack constitutes a superseding cause as a matter of law because the attack was both unforeseeable and highly extraordinary. Consequently, any causal connection between the Empire's conduct and Solo's injuries is severed. Therefore, the judgment below should be vacated, and judgment as a matter of law should be entered for Petitioners.

ARGUMENT

I. THE DISTRICT COURT IMPROPERLY FOUND VENUE IN ALDERAAN.

The district court's denial of the Empire's Rule 12(b)(3) motion was erroneous. This Court reviews the district court's venue ruling de novo. *See Mitrano v. Hawes*, 377 F.3d 402, 405 (4th Cir. 2004). Any questions of law raised by the venue challenge, including the interpretation of the Federal Rules of Civil Procedure or the general

venue statute, are also reviewed de novo. *See Merchant v. Corizon Health, Inc.*, 993 F.3d 733, 739 (9th Cir. 2021); *see also Call Henry, Inc. v. United States*, 855 F.3d 1348, 1354 (Fed. Cir. 2017).

A. Plaintiffs Bear the Burden to Establish that Venue is Proper.

Federal courts have not reached a uniform rule regarding which party carries the burden of establishing proper venue when it is challenged. *See In re ZTE (USA) Inc.*, 890 F.3d 1008, 1013 (Fed. Cir. 2018). Leading authorities on federal procedure are also divided over this issue. *Moore's Federal Practice* contends that defendants must demonstrate that venue is improper, whereas *Federal Practice and Procedure* places the burden on plaintiffs, consistent with jurisdictional challenges. *See* 17 *Moore's Federal Practice - Civil* § 110.01[5][c] (2025); Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1352 (4th ed. 2024).

However, the majority of circuits—the First, Second, Fourth, Ninth, Eleventh, Federal, and, most recently, the Sixth—place the burden to prove proper venue on plaintiffs. *See Cordis Corp. v. Cardiac Pacemakers*, 599 F.2d 1085, 1086 (1st Cir. 1979); *Gulf Ins. Co. v. Glasbrenner*, 417 F.3d 353, 355 (2d Cir. 2005); *Aggarao v. MOL Ship Mgmt. Co., Ltd.*, 675 F.3d 355, 366 (4th Cir. 2012); *Piedmont Label Co. v. Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979); *Delong Equip. Co. v. Wash. Mills Abrasive Co.*, 840 F.2d 843, 845 (11th Cir. 1988); *ZTE*, 890 F.3d at 1013; *Tobien v. Nationwide Gen. Ins. Co.*, 133 F.4th 613, 619 (6th Cir. 2025).

To resolve this circuit split and promote clarity and uniformity across the circuits, this Court should hold that plaintiffs bear the burden of establishing proper

venue. As the courts following the majority rule have observed, this approach accords with the principle that plaintiffs are responsible for selecting a proper forum in which to file suit. *See Tobien*, 133 F.4th at 619; *see also* Wright & Miller, § 1352 ("[I]t is the plaintiff's obligation to institute his action in a permissible forum, both in terms of jurisdiction and venue. There seems to be little justification for distinguishing between the two types of defenses in determining the placement of the burden.").

Venue is a dilatory defense, as opposed to an exculpatory or substantive one, and as such, it does not touch upon the merits of the underlying case. *See Tobien*, 133 F.4th at 620. This distinguishes venue challenges from defenses that *do* address the merits or exert a preclusive effect, such as duress, fraud, or contributory negligence, which defendants *do* have the burden to prove. *See Myers v. Am. Dental Ass'n*, 695 F.2d 716, 732 (3d Cir. 1982) (Garth, J., dissenting); Fed. R. Civ. P. 8(c). The same reasoning applies even though improper venue is an affirmative defense, as "so too is personal jurisdiction . . . and the plaintiff has the burden of establishing it." *MB Fin. Bank, N.A. v. Walker*, 741 F. Supp. 2d 912, 915 (N.D. Ill. 2010). Moreover, as this Court has recognized, venue and personal jurisdiction share the common feature that they "both are personal privileges of the defendant." *LeRoy v. Great W. United Corp.*, 443 U.S. 173, 180 (1979). Accordingly, requiring plaintiffs to establish venue reinforces the fundamental symmetry between these two procedural safeguards.

From a practical standpoint, placing the burden on plaintiffs comports with the "same burden-shifting framework [that] applies to motions to dismiss for lack of personal jurisdiction." *Tobien*, 133 F.4th at 619. This is crucial, as in many actions,

personal jurisdiction and venue turn on the same facts, particularly when the venue analysis depends on the defendant's residence or 28 U.S.C. § 1391(b)(3), the fallback rule. *See id.* Under § 1391(b)(3), for instance, venue is proper in any district where the defendant is subject to personal jurisdiction, making a Rule 12(b)(3) motion to dismiss for improper venue functionally equivalent to a Rule 12(b)(2) motion for lack of personal jurisdiction when venue has been established under the fallback rule. *See id.* Placing the burden of establishing personal jurisdiction on plaintiffs while requiring defendants to disprove venue with the same evidence would lead to absurd and illogical evidentiary demands at the pleading stage.

Finally, as the dissent below recognized, plaintiffs are generally better positioned to establish proper venue than defendants are to disprove it, particularly given the limited time—within 21 days of being served the summons and complaint—defendants have to raise a venue challenge. *See* Fed. R. Civ. P. 12(a)(1)(A), (b), (h)(1); R. at 76a. Although plaintiffs initially enjoy a "venue privilege" to select any proper forum, *Van Dusen v. Barrack*, 376 U.S. 612, 635 (1964), that privilege operates within a framework designed to protect defendants from forums that are unfair or inconvenient. *See LeRoy*, 443 U.S. at 183–84. Thus, any ambiguity in the general venue statute, 28 U.S.C. § 1391, should be resolved in favor of defendants' protection rather than plaintiffs' convenience.

In addition to holding that plaintiffs must bear the burden of establishing proper venue, this Court should hold, as the Second Circuit has, that when venue is decided based on pleadings and affidavits, "the plaintiff need only make a prima facie

showing" of venue, but if an evidentiary hearing is held, "the plaintiff must demonstrate [venue] by a preponderance of the evidence." *Gulf*, 417 F.3d at 355.

Here, the Empire timely moved to dismiss under Rule 12(b)(3). *See* R. at 15a. Following the district court's evidentiary hearing, however, plaintiff Solo failed to present any competent evidence to support his choice of venue. *See* R. at 21a. Thus, Solo has not met his burden to establish proper venue by a preponderance of the evidence, and this case must be dismissed as a result.

B. Solo Has Not Shown That a Substantial Part of the Events Giving Rise to His Claim Occurred in Alderaan.

Even if this Court were to find that defendants should bear the burden of proving venue, this case must still be dismissed because the District of Alderaan is an improper venue.

Although the CSLAA grants federal courts "exclusive jurisdiction" over third-party claims arising from CSLAA-licensed activities, it is silent on venue. 51 U.S.C. § 50914(g). Accordingly, venue is governed by the general venue statute, 28 U.S.C. § 1391. Section 1391(b)(1), which allows an action to be brought in "a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located," does not apply here, as the defendants were not all residents of the same state. The Empire is headquartered in California, Luke Skywalker is a Tunisian citizen, Alianza Rebelde S.A. was formerly a Guatemalan company, and, of course, the Republic of Guatemala is a foreign country. *See* R. at 4a–5a, 7a. *See also* 28 U.S.C. § 1391(c) (providing that a corporation "shall be deemed to reside . . . in any judicial district in which [they are] subject to the court's personal jurisdiction").

Section 1391(b)(2) provides that a civil action may be brought in "a judicial district in which 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." Here, the venue analysis hinges on two main questions: (1) whether the events alleged to have occurred in the District of Alderaan actually occurred "in" the district; and, if so, (2) whether those events constituted a "substantial part" of the events giving rise to Solo's claim.

The lower courts improperly applied overflight venue doctrine to an incident occurring hundreds of kilometers above Earth in LEO. Torts occurring in LEO cannot meaningfully be said to occur "in" a terrestrial district under the logic of overflight venue. Accordingly, this Court should adopt a bright-line terrestrial nexus rule, under which an outer space event occurs "in" a district only when it has a concrete connection to Earth, such as where the space vehicle was designed, manufactured, licensed, or launched.

Because the events in this case lack any terrestrial nexus to Alderaan, Solo fails both prongs, making venue improper in the District of Alderaan.

1. Overflight venue jurisprudence cannot translate to low Earth orbit.

First, Solo's claim fails because he has not shown that the events alleged to have occurred in the District of Alderaan actually occurred "in" the district. This is because events occurring in LEO above a judicial district do not occur "in" that district. The lower courts improperly extended principles governing navigable airspace and overflight venue to LEO.

Despite decades of debate, there is no universally agreed-upon boundary where airspace ends and outer space begins. *See* Alex S. Li, *Ruling Outer Space: Defining the Boundary and Determining Jurisdictional Authority*, 73 Okla. L. Rev. 711, 713 (2021) ("Although certain countries have officially recognized an altitude of 100 kilometers [as the start of LEO,] 'a lack of political will . . . at the international level' has stymied any effort [to agree upon a boundary]."). *See also* National Aeronautics and Space Administration (NASA), *Commercial Space Frequently Asked Questions* (Apr. 7, 2024), https://www.nasa.gov/humans-in-space/leo-economy-frequently-asked-questions/ (last visited Nov. 12, 2025) (indicating that LEO ends, and medium Earth orbit begins, at around 2,000 kilometers). Nevertheless, here, at the time of its destruction, the DS-1 was orbiting approximately 460 kilometers above the Earth, a distance that is certainly past navigable airspace and within LEO. *See* R. at 8a.

The lower courts extended overflight venue principles, holding that "the navigable airspace above that district is a part of the district," to conclude that a tort in LEO may be deemed to have occurred in the district below. *United States v. Barnard*, 490 F.2d 907, 911 (9th Cir. 1973); *see also* R. at 28a–29a, 31a. However, these principles inherently rely upon the predictability of a plane's flight path. For instance, the Ninth Circuit in *Barnard* held that the "basis for venue in the Southern District [of California] . . . [was] the flights of defendants' airplane over that district as it progressed from Mexico to its landing in the Central District of California." *Id.* at 910. Vehicles in Earth's orbit, however, lack any fixed or predictable location at the moment a tort occurs.

Barnard also involved a "continuing" crime that made venue proper "in any district in which the continuing conduct [had] occurred." *Id.* Torts occurring in outer space, however, are more likely to be discrete events, making venue even more difficult to pinpoint. When an overflight offense occurs "in an instant and likely in the airspace of only one district," the court must then engage in detailed mathematical calculations that admittedly "require some effort." *United States v. Lozoya*, 920 F.3d 1231, 1239, 1242 (9th Cir. 2019). For instance, in *Lozoya*, the Ninth Circuit considered the following:

> At the time Flight 2321 made its Minneapolis-to-Los Angeles run . . . it apparently traveled at an average speed 368 miles-per-hour, and its route map suggests that it crossed over at least eight different districts during its flight time. But Sullivan, Flight 2321's lead flight attendant, testified . . . that the flight lasted "[a]pproxiamtely three hours," that he received word of "an assault of some sort" "at least an hour" after takeoff, that he spent "30 to 45 minutes at least" investigating the incident, and that the captain made the announcement that the aircraft would soon be landing—which usually occurs "[t]wenty-five minutes before landing"—after Sullivan finished his investigation.

Id. at 1242. While such analysis is complex but feasible for aircraft with defined routes, it would be practically impossible for orbital vehicles, which continuously circle the Earth without any clear flight itinerary, fixed points of reference, or eyewitnesses to help corroborate location. Even *Lozoya* acknowledged the "creeping absurdity" of applying overflight venue principles to flights traversing multiple districts. *Id.* Extending this logic to LEO, a zone even further from the surface of the Earth, would be even more absurd, transforming an already strained doctrine into an unworkable and unreasonable venue rule.

Finally, overflight venue analysis is inherently bounded by a plane's takeoff and landing, as a plane cannot keep flying forever. When an offense occurs mid-flight, courts can (although with considerable difficulty) reasonably be asked to anchor venue to the defendant's location between these two identifiable points. By contrast, an object in LEO is in constant motion around the planet, with no fixed point of departure, destination, or terrestrial connection. Here, for instance, the DS-1 was set to orbit into perpetuity, and had been orbiting for five years while under construction before being attacked. *See* R. at 8a, 12a. Extending overflight venue principles to such activity would defy the practical limits of judicial administration.

Additionally, most cases governing overflight venue are criminal cases, *see* R. at 28a, whereas the CSLAA addresses tort claims such as "death, bodily injury, or property damage or loss." 51 U.S.C. § 50914. While criminal overflight cases offer useful guidance for understanding how the law applies to conduct occurring beyond terrestrial borders, their underlying constitutional and statutory purposes differ sharply from the civil venue principles governing tort claims.

Criminal venue is governed by Article III of the Constitution, which requires criminal trials to be held in the state and district where the crime was committed, and by the Sixth Amendment, which guarantees defendants the right to a trial by jury in that same state and district. *See* U.S. Const. art. III, § 2, cl.3; amend. VI. As this Court has recognized, the Framers, "[a]ware of the unfairness and hardship to which trial in an environment alien to the accused exposes him," embedded these safeguards to protect defendants. *United States v. Johnson*, 323 U.S. 273, 275 (1944).

Those protections reflect an "underlying spirit of constitutional concern for trial in the vicinage," designed to prevent the government from prosecuting defendants in distant or strategically chosen forums. *Id.* at 276. As such, "[q]uestions of venue in criminal cases . . . are not merely matters of formal legal procedure. They raise deep issues of public policy in the light of which legislation must be construed." *Id.* In short, criminal venue rules are rooted in individual liberty and public confidence in the fair administration of justice.

Civil venue, by contrast, is a statutory construct, not a constitutional guarantee. It is governed by 28 U.S.C. § 1391, which serves to balance fairness to defendants with administrative efficiency. *See Cottman Transmission Sys. v. Martino*, 36 F.3d 291, 294 (3d Cir. 1994). Unlike criminal venue, which is strictly construed, civil venue allows for broader flexibility, recognizing that a single claim may have substantial connections to multiple districts. *See In re Space Expl. Techs., Corp.*, 99 F.4th 233, 239 (5th Cir. 2024). Thus, contrary to the lower courts' conflation of criminal and civil venue analyses, *see* R. at 28a–29a, the distinction between the two underscores why analogies to criminal overflight cases should not dictate civil venue determinations in LEO and outer space.

While the mathematical precision and constitutional logic underlying criminal overflight venue cases cannot translate cleanly to torts in LEO, some of their structural reasoning remains applicable. The Ninth Circuit later revisited *Lozoya* in *United States v. Lozoya*, 982 F.3d 648, 657 (9th Cir. 2020), clarifying that venue for in-flight offenses lies in the district where the aircraft landed rather than any district

it overflew. In doing so, the court explained that it would be unfair to limit venue to a "flyover district in which the defendant never set foot." *Id.* at 652. This emphasis on terrestrial contact is "plainly sensible," as it aligns venue with the location of witnesses, evidence, and, often, the defendant's residence. *Id.* at 654. By the same logic, a rule governing torts occurring in LEO must likewise anchor venue to identifiable terrestrial connections, such as the site of launch, rather than the orbital path itself. Such an approach would likewise avoid the "creeping absurdity" the earlier *Lozoya* decision warned against—where a defendant is haled into court in a district where they never set foot, but merely orbited over while far above the Earth's surface.

2. Low Earth orbit's non-sovereign and technical features demand a distinct venue framework.

The lower courts contended that "[t]he only meaningful legal difference between 'airspace' and 'outer space' is one about *sovereignty*." R. at 31a. They dismissed this distinction as irrelevant, asserting that the notion of sovereignty "implicates jurisdiction, not venue." R. at 31a. However, sovereignty principles are anything but irrelevant for questions regarding aviation and space. Aviation law is based upon the foundational principle, agreed to by the 193 state signatories of the Convention on International Civil Aviation, that "every State has complete and exclusive sovereignty over the airspace above its territory." Convention on International Civil Aviation ("Chicago Convention"), art. I, Dec. 7, 1944, 15 U.N.T.S. 295; *see also* Status of the Convention on International Civil Aviation, Int'l Civ. Aviation Org., https://www2023.icao.int/secretariat/legal/List%20of%20Parties/Chic

ago_EN.pdf (last visited Nov. 10, 2025); 49 U.S.C. § 40103(a)(1) ("The United States Government has exclusive sovereignty of airspace of the United States."). As such, an aircraft operating within a nation's airspace is subject to that nation's aviation laws and regulatory authority, including its sovereign right to control or deny access to its airspace. *See* 49 U.S.C. §§ 40103(c), (d) (restricting foreign aircraft from operating in U.S. airspace without prior authorization).

By contrast, once a vehicle crosses into outer space, it is freed from the territorial jurisdiction of any nation and operates under the principle of free exploration and use codified in the Outer Space Treaty. *See* Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies ("Outer Space Treaty"), art. II, Jan. 27, 1967, 610 U.N.T.S. 205 ("Outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means."). An examination of the state of the law during the earliest developments in space exploration is instructive here:

> While the legal status of outer space was not clear prior to the launch of the first satellites, there were political precedents, such as the freedom of the high seas, to suggest that orbital space at least would be free for the use of any state. International law for space emerged very rapidly. No states protested in 1955 when the United States and the Soviet Union separately announced plans to launch satellites . . . No protests accompanied the eventual overflight of satellites over sovereign territory. Freedom of space was therefore established. The principle was formalized by [the Outer Space Treaty].

Karl Leib, *State Sovereignty in Space: Current Models and Possible Futures*, 13 Astropolitics 1, 5 (2015), https://doi.org/10.1080/14777622.2015.1015112. The early

consensus to permit the use of outer space by all nations reflects a foundational legal distinction between airspace and outer space from the very genesis of space law. The emergence of satellites, which orbit in LEO, then reinforced that outer space is a domain free from territorial claims or national appropriation. *See* European Space Agency (ESA), Types of Orbits, https://www.esa.int/Enabling_Support/Space_Transportation/Types_of_orbits (last visited Nov. 12, 2025) (explaining that satellites orbit in LEO). Accordingly, venue analysis for conduct occurring in LEO must be guided by a framework consistent with this absence of territorial jurisdiction, rather than by analogies rooted in sovereign airspace.

Sovereignty is not the only facet that distinguishes airspace from LEO. Aircrafts operate within a predictable atmospheric corridor, governed by aerodynamic forces distinct from the gravitational and orbital mechanics that determine movement in outer space. *See* Argyris G. Panaras, *Aerodynamic Principles of Flight Vehicles* 6–7 (Am. Inst. of Aeronautics & Astronautics 2012); *see also* Lynnane George, *Chapter 1: Orbital Basics*, in *Introduction to Orbital Mechanics* (Univ. of Colo. Colo. Springs), https://oer.pressbooks.pub/lynnanegeorge/chapter/copy-of-chapter-1__editing/ (last visited Nov. 12, 2025). By contrast, objects in orbit are governed by Newtonian physics, moving in continuous free fall around Earth under the constant influence of gravity, making their movements more unstable and unpredictable. *Id.* These unique physical forces governing spacecraft in LEO make it even more difficult for a court to apply the kind of mathematical calculations the *Lozoya* court envisioned.

Next, airspace and outer space are governed by distinct legal frameworks. International airspace is regulated primarily by the Chicago Convention and the standards and recommended practices issued by the International Civil Aviation Organization ("ICAO"), both of which are grounded in the foundational principle that each nation exercises "complete and exclusive sovereignty over the airspace above its territory." Chicago Convention art. I. Domestically, Congress has codified this principle in the Federal Aviation Act of 1958. *See* 49 U.S.C. § 40103(a)(1) ("The United States Government has exclusive sovereignty of airspace of the United States."). Criminal jurisdiction in airspace is likewise governed by a distinct statutory regime, including the "special aircraft jurisdiction of the United States." 49 U.S.C. § 46501(2). Outer space, by contrast, is governed by an entirely separate body of international law, including the Outer Space Treaty and the Liability Convention, which reject territorial control and instead impose a fundamentally different set of rights, obligations, and regulatory considerations. *See* Convention on International Liability for Damage Caused by Space Objects ("Liability Convention"), Mar. 29, 1972, 961 U.N.T.S. 187. Likewise, the inclusion of the CSLAA's exclusive jurisdiction provision, 51 U.S.C. § 50914(g), further confirms that Congress has established a distinct statutory regime for space launch and reentry activities that does not mirror the legal framework governing airspace.

Finally, the further a tort occurs from Earth, the increasingly absurd an application of airspace principles will be. Where an aircraft flying at 20,000 feet, or *6 kilometers*, above Earth already raises concerns about pinpointing venue when a

crime "occur[s] over the northeastern United States, home to three circuits, fifteen districts, and a half-dozen major airports, all in close proximity," *Lozoya*, 920 F.3d at 1242, it requires far more than a simple, easy extension to apply those principles to objects like the DS-1, which orbited the Earth *460 kilometers* above the surface. *See* R. at 8a. While the lower courts stressed that it was "not definitively decid[ing] where venue might lie for every other incident that occurs in outer space," R. at 27a, the logic it adopted offers no workable stopping point. If mere orbital passage is enough to place a tort "in" the district below, nothing would prevent venue for a tort occurring on Mars from being assigned to whichever district on Earth that happened to be rotating beneath the planet at that instant. As Judge Walt recognized in the dissent below, "[c]an one really pinpoint a singular judicial district in which a substantial part of the events or omissions giving rise to the claim occurred . . . if an entire hemisphere is 'below' the tort when it occurs?" R. at 72a. The farther an object is from Earth, the larger the geographic footprint directly beneath it. Under the majority's approach, if the tort occurred far enough into space, venue for a space tort could theoretically be proper in every district in the United States. This strikes precisely at the fear that venue might be proper in a "district in which the defendant never set foot." *Lozoya*, 982 F.3d at 652.

For these reasons, it is far more coherent to adopt a distinct framework beginning at the boundary between airspace and LEO for outer space torts. LEO marks a new threshold where both the physical environment and the governing legal regimes diverge sharply from those applicable to airspace. That approach is far more

tenable than the lower courts' rule, which either improperly allows navigable airspace principles to extend into infinity or, alternatively, implies that those principles inexplicably terminate at the *end* of LEO. Although Judge Walt proposed drawing the boundary between airspace and LEO at 90 kilometers, this case does not require the resolution of the precise altitude at which airspace ends, as the DS-1 was unquestionably within LEO. *See* R. at 74a, 8a. This Court must simply recognize that airspace-based venue rules cannot govern torts arising from objects orbiting hundreds of kilometers above Earth in a domain governed by fundamentally different physical and legal regimes.

3. "In" requires a terrestrial nexus to a judicial district.

Because the principles governing navigable airspace do not extend to LEO, this Court should adopt a bright-line rule that venue under § 1391(b)(2) requires a terrestrial nexus for any outer space activity to be considered "in" a judicial district. Such a rule would eliminate the potential venue gaps that concerned the lower courts, *see* R. at 26a, provide predictability and administrability for outer space torts, and avoid the absurdity of potentially extending airspace principles upward into infinity. A terrestrial nexus rule also aligns with the Liability Convention, which provides that, "[i]n the event of damage being caused elsewhere than on the surface of the earth . . . the [launching State] shall be liable," subject to fault determinations. *See* Liability Convention art. II. This provision focuses liability not on which country lies beneath the damage at the moment it occurs, but on the terrestrial origin of the space object itself.

The D.C. Circuit's analysis of venue gaps when the events of a claim occur in Antarctica is instructive. *See Beattie v. United States*, 756 F.2d 91, 104 (D.C. Cir. 1984). There, the concern was that dismissal for improper venue "creates a gap between jurisdiction and venue and works a hardship not usually found in dismissals for lack of venue, which are often done with an eye toward another court in which subject matter jurisdiction and venue can both be established." *Id.* Outer space torts, however, would not suffer this problem under a terrestrial nexus rule. A space vehicle must be designed, manufactured, licensed, and launched from somewhere on Earth, ensuring that there will always be a terrestrial connection and thus a proper venue for a third party to bring a claim, should one arise.

This bright-line rule also accords with how venue is determined on the high seas. *See* 18 U.S.C. § 3238. In fact, LEO is more analogous to the high seas than navigable airspace for purposes of legal administration, as the right of any state "to launch spacecraft into space, to orbit or send spacecraft to celestial bodies, and to return spacecraft to Earth [without violating] sovereign air space . . . make[s] space the legal equivalent of the high seas, which any state, even landlocked ones, may use." Leib, 13 Astropolitics at 6.

There is no robust civil case law applying the general venue statute, § 1391, to incidents occurring on the high seas, as admiralty claims historically proceeded under separate jurisdictional and venue principles. *See* Wright & Miller, § 3817 ("Admiralty proceedings are governed by their own distinctive rules of venue, unhampered by statute."); s*ee also Gipromer v. SS Tempo*, 487 F. Supp. 631, 633 (S.D.N.Y. 1980) ("In

[admiralty and maritime] claims, [§ 1391 does] not apply. Instead, the general admiralty practice prevails, in which venue and personal jurisdiction analyses merge."). On the other hand, crimes committed on the high seas are governed by 18 U.S.C. § 3238, which provides that the trial of an offense "begun or committed upon the high seas, or elsewhere out of the jurisdiction of any particular State or district, shall be in the district in which the offender . . . is arrested or is first brought." If the defendant is not arrested or brought into any U.S. district, venue lies "in the district of the last known residence of the offender." *Id.* As with crimes occurring in navigable airspace, criminal venue on the high seas is framed by constitutional concerns for individual liberty. *See Johnson*, 323 U.S. at 276. Nevertheless, the structural logic of maritime venue remains instructive. When conduct occurs in sovereignty-free domains of the oceans, venue is necessarily anchored to a terrestrial point of contact rather than the location of the conduct itself. As such, there is no concern of venue gaps. Similarly, by adopting a terrestrial nexus rule for outer space claims, this Court will ensure that venue gaps are avoided and that a determinable district in which venue is proper will always exist. Rather than where the defendant was arrested or first brought, for outer space tort cases such as the present action, courts can look to where the defendant company designed, manufactured, licensed, and launched their space vehicle, or where the company resides under § 1391(c). These Earth-based connections supply the same type of venue foothold that § 3238 uses for the high seas while respecting the fundamentally different physical and legal character of outer space.

In sum, because LEO—like the high seas—lies outside the territorial sovereignty of any nation, venue cannot arise from the location of the harm itself. A terrestrial nexus rule both reflects this basic physical truth and provides a clear, predictable, and administrable method for locating a proper venue for outer space torts. By grounding venue in Earth-based activities such as design, manufacture, license, and launch, this Court can ensure that outer space claims always have a proper forum while preventing the unworkable extension of aviation law principles into space, a domain entirely different from navigable airspace.

4. A "substantial part" of events occurred in California, where venue is proper.

Solo's claim also fails because a substantial part of the events giving rise to his claim occurred in California, not Alderaan. Under § 1391(b)(2), "[e]vents or omissions that might only have some tangential connection with the dispute in litigation are not enough. Substantiality is intended to preserve the element of fairness so that a defendant is not haled into a remote district having no real relationship to the dispute." *Cottman*, 36 F.3d at 294. The substantiality inquiry is distinct from the "minimum contacts" test used to establish personal jurisdiction: while the latter examines a defendant's overall connections with the forum, the former focuses narrowly on where the events giving rise to the particular claim occurred. *See Gulf*, 417 F.3d at 357; *see also Int'l Shoe Co. v. Washington*, 326 U.S. 310, 311 (1945). Even though venue *can* be proper in multiple districts, *see In re Space Expl. Techs.*, 99 F.4th at 239, no events establishing a terrestrial nexus occurred in Alderaan. By contrast, the only judicial district with any meaningful terrestrial nexus to Solo's claim is

California, where the DS-1 was designed and launched. *See* R. at 7a–8a, 13a. Where a negligent product design claim requires a showing that the defendant "failed to exercise due care in some respect" during the product's design, and where that inquiry "focus[es] . . . on the conduct of the . . . manufacturer," *Bragg v. Hi-Ranger, Inc.*, 462 S.E.2d 321, 326 (Ct. App. 1995), it follows that a substantial part of the events giving rise to such a claim occurred where the negligent design allegedly took place. Here, that location is California. Accordingly, venue properly lies in California.

There is little case law addressing venue disputes in design defect cases, as these suits are usually brought where large manufacturers already have clear jurisdictional ties, making venue challenges uncommon under § 1391(b)(2). Nevertheless, courts have recognized that the site of injury is not dispositive in determining proper venue. *See Holley v. BSH Home Appliances Corp.*, No. 2:19-CV-04168-BCW, 2019 WL 11274862 at *2 (W.D. Mo. Oct. 29, 2019) (finding venue improper in the Western District of Missouri, where a house fire occurred, because "Plaintiffs' products liability claims mainly derive from the dishwasher's design and manufacture, which likely occurred in Delaware").

So too, here, the site of injury, even if considered by this Court to have occurred "in" Alderaan, should not be dispositive. The Empire is headquartered in Mountain View, California. *See* R. at 7a. It has no business ties to Alderaan, having never even been registered to do business there. *See* R. at 19a. It employs no personnel there and procured no materials from the district. *See* R. at 19a. Most of the launches that delivered construction materials for the DS-1 originated in California. *See* R. at 13a.

Of the launches that did occur elsewhere in the United States, none occurred from Alderaan. *See* R. at 13a. The Empire produces only one relevant product—the DS-1—and neither the DS-1 nor any of its component parts has ever entered Alderaan. *See* R. at 13a. Finding venue to be proper in Alderaan merely because Solo allegedly suffered injury while orbiting hundreds of kilometers above the district would treat that incidental geographical fact as the "tangential connection" that courts have expressly cautioned against allowing to dictate venue. *See Cottman*, 36 F.3d at 294.

Finding venue where a product was designed and launched aligns with courts' interpretation of § 1391 to be protective of defendants. Although Congress amended § 1391 to eliminate the former requirement that courts identify the single "best" venue, courts recognize that "the weighing of 'substantial' may at times seem to take on that flavor." *Cottman*, 36 F.3d at 294. This is because the substantiality requirement continues to reflect the same concern for fairness and convenience, ensuring that venue "favors the defendant" and is limited to districts with a meaningful connection to the dispute. *Id.* Here, that connection overwhelmingly points to California. The Empire disproportionately conducted its operations relating to this dispute in California. Consistent with § 1391's text and purpose, the Eighth Circuit has stressed that "Congress meant to require courts to focus on relevant activities of the defendant, not of the plaintiff." *Woodke v. Dahm*, 70 F.3d 983, 985 (8th Cir. 1995). Finding venue to be proper in Alderaan despite the Empire's complete lack of meaningful activity there would cut against the goal of § 1391 to tether venue to the defendant's own conduct, not to the plaintiff's tangential chosen forum.

For the foregoing reasons, Solo has not shown that any event with a terrestrial nexus constituting a substantial part of the events giving rise to his claim occurred in Alderaan. Thus, venue is improper in Alderaan, and his suit must be dismissed.

II. THE DISTRICT COURT IMPROPERLY INTERPRETED AND APPLIED THE CSLAA.

In 1984, Congress passed the CSLAA with the purpose of "promot[ing] economic growth and entrepreneurial activity" through the private sector's "use of the space environment for peaceful purposes." 51 U.S.C. § 50901. With these goals in mind and recognizing the scientific consensus of the potential threat posed by near-Earth objects, the Empire stepped forward to "save the Earth from another extinction event." R. at 68a. When it announced its plans to build and operate the DS-1, the Empire emphasized its peaceful intent to undertake a "legitimate mission that benefits all humankind." *See* R. at 68a; (citing Yang Liu, *Earth's First Line of Defense: Establishing Celestial Body-Based Planetary Defense Systems*, 100 Int'l L. Stud. 708, 709 (2023)).

The CSLAA lays out, in relevant part, three general schemes. The first is a licensing scheme requiring a license issued by the Secretary of Transportation before any person launches from or reenters a launch vehicle into the United States, or before any United States citizen does so abroad. *See* 51 U.S.C. § 50904. The second is an insurance scheme, requiring the licensee to carry liability insurance or demonstrate financial responsibility up to $500 million for third-party injuries resulting from a licensed activity. *See* 51 U.S.C. § 50914. The third is an indemnity scheme under which the United States Government agrees to pay the remaining

amount of a successful third-party claim exceeding $500 million. *See* 51 U.S.C. § 50915.

The district court improperly interpreted these provisions to set its own standards for underlying third-party tort claims. These provisions were designed solely to regulate licensing, insurance, and indemnity. The CSLAA does not create a private right of action for third parties, nor does it create its own causation standards for tort claims. Even if the statute were assumed to create such standards, the CSLAA does not impose a pure but-for cause standard in place of the proximate cause standard required under state common law.

Denial of a motion for JMOL is reviewed de novo. *See Kim v. Am. Honda Motor Co.*, 86 F.4th 150, 159 (5th Cir. 2023). Any questions of law raised by a JMOL motion, including the interpretation of statutes, are also reviewed de novo. *See Salazar v. S. San Antonio Indep. Sch. Dist.*, 953 F.3d 273, 284 (5th Cir. 2017); *see also Teemac v. Henderson*, 298 F.3d 452, 456 (5th Cir. 2002).

A. Proximate Cause is the Proper Causation Standard under California and Alderaanian State Law.

The lower courts' improper causation analysis rested on an incorrect choice-of-law framework. They assumed the CSLAA created a private right of action and a substantive causation standard for third-party tort claims. *See* R. at 37a. However, *Erie* rejects this assumption unless Congress explicitly creates a federal cause of action or substantive rules for causation, which the CSLAA does not. *See Erie R. Co. v. Tompkins*, 304 U.S. 64, 78 (1938). Instead, the CSLAA presumes that substantive state law will govern the underlying tort claim.

1. The district court improperly applied the *Erie* Doctrine.

It is well established that federal courts sitting in diversity jurisdiction must apply federal procedural law and state substantive law. *See id.* ("Except in matters governed by the Federal Constitution or by acts of Congress, the law to be applied in any case is the law of the state."); *see also* 28 U.S.C. § 1652. This concept, known as the *Erie* Doctrine, relies on the longstanding principle that "Congress has no power to declare substantive rules of common law applicable in a state whether they be . . . commercial law or a part of the law of torts. And no clause in the Constitution purports to confer such a power upon the federal courts." *Erie*, 304 U.S. at 78.

The issue of causation is undoubtedly one of substantive law and is therefore governed by the law of the state in which the court exercises jurisdiction. *See Corley v. United States*, 11 F.4th 79, 85 (2d Cir. 2021) (quoting *Pappas v. Philip Morris, Inc.*, 915 F.3d 889, 894 (2d Cir. 2019)) ("[P]rocedural law is 'the judicial process for enforcing rights and duties recognized by substantive law,' while substantive law is 'the law that governs the rights and obligations of individuals within a given jurisdiction.'"). Whether jurisdiction is exercised in Alderaan or California, both states follow the well-established proximate cause standard for findings of negligence. *See* R. at 37a; *see also Bigbee v. Pac. Tel. & Tel. Co.*, 34 Cal. 3d 49, 54 n.4 (Cal. 1983) ("Proximate cause is a necessary element of both negligence and strict products liability actions.").

Here, the district court exercised diversity jurisdiction over the Empire and properly applied federal law to all procedural issues. *See* R. at 16a–17a, 37a. The

court "generally applied the substantive law of the State of Alderaan" to substantive issues, with the sole exception of the applicable causation standard for Solo's claim. R. at 37a. Instead, the district court imposed a pure but-for cause standard that it assumed was mandated by the CSLAA. *See* R. at 46a. This violated the *Erie* Doctrine and was "an unconstitutional assumption of powers." *Erie*, 304 U.S. at 79 (internal quotations omitted). As this Court emphasized in *Erie*, federal courts do not "have the power to use their judgment as to what the rules of common law are," nor can they assume that there is "a transcendental body of law outside of any particular State." *Id.* Thus, the district court was required to apply the state law of Alderaan (if venue were truly proper there) to all issues of substantive law, but failed to do so.

2. The CSLAA does not create a private right of action or set out its own elements of tort liability.

If the underlying tort action was "governed by the Federal Constitution or by [an] act[] of Congress," the district court would have properly applied *Erie*. *Id.* In such cases, a federal court applies the substantive law set forth by the Constitution or the federal statute under which the claim was brought. *See* 28 U.S.C. § 1652. Here, the cause of action against the Empire was negligent product design, a claim brought under state common law, not under any federal laws or the CSLAA. *See* R. at 37a. The CSLAA does not create any private right of action for private actors such as Solo to sue under.[1] Nowhere does the statute, or the international treaties it was meant to effectuate, authorize private parties to sue licensees or the Government for

[1] The lower courts determined "that the CSLAA does not permit a direct action against the United States." R. at 16a. It is unclear, however, on what basis the court concluded that the CSLAA permits a direct action against licensees by anyone other than the Secretary of Transportation.

damages.[2] In fact, the CSLAA empowers only the Secretary of Transportation to enforce the statute and collect civil penalties against those who violate it. *See* 51 U.S.C. § 50917. Conduct that would constitute a violation of the statute includes failing to obtain the proper licenses or liability insurance for launch and reentry, *not* negligently designing a launch vehicle. *See* § 50917(a). This is clear from the fact that civil penalties for violations of any chapter of the CSLAA are capped at $100,000 and can only be imposed after the Secretary of Transportation finds there to be a violation. *See* § 50917(c)(1).

The CSLAA also does not create any substantive law for tort liability. In this way, it is distinguishable from statutes such as the Federal Employers' Liability Act ("FELA"), which this Court has held imposes a more relaxed causation standard than ordinary tort law. *See CSX Transp., Inc. v. McBride*, 564 U.S. 685, 705 (2011). It is distinguishable first because FELA explicitly created a private right of action for private actors to sue under. *See* 45 U.S.C. § 51 ("Every common carrier by railroad while engaging in commerce . . . shall be liable in damages to *any person* suffering injury.") (emphasis added). In fact, FELA was enacted specifically to give workers a

[2] Congress passed the CSLAA to effectuate its obligations under international treaties. *See* 51 U.S.C. § 50919 (directing the Secretary of Transportation to carry out the CSLAA consistent with any "obligation the United States Government assumes in a treaty, convention, or agreement in force between the Government and the government of a foreign country."). The relevant treaties (the Liability Convention, the Outer Space Treaty and the Registration Convention) are not self-executing and therefore do not create a private right of action. *See Medellin v. Texas*, 552 U.S. 491, 506 n.3 (2008) ("Even when treaties are self-executing in the sense that they create federal law, the background presumption is that international agreements, even those directly benefiting private persons, generally do not create private rights or provide for a private cause of action in domestic courts.") (internal quotations omitted). As the Sixteenth Circuit noted, "[n]othing in any of these three treaties appears to relate to enforcement actions by private citizens." *Id.* Accordingly, nothing in the CSLAA authorizes a private citizen to sue under the statute.

federal tort remedy against their employers. *See CSX Transp.*, 564 U.S. at 692 (discussing Congress's "humanitarian and remedial goals" in enacting FELA). Second, FELA expressly created its own causation standard by holding common carriers liable for "injury or death resulting *in whole or in part* from the negligence." § 51 (emphasis added). Congress's use of the statutory phrase "in whole or in part" prescribed a causation standard specific to FELA cases. *CSX Transp.*, 564 U.S. at 705. In FELA cases, a defendant railroad "'caused or contributed to' a railroad worker's injury 'if [the railroad's] negligence played a part—no matter how small—in bringing about the injury.'" *Id*. The CSLAA does not contain such broad language, nor is there any evidence suggesting that Congress intended to relax the causation standard below what is required under the common law of torts.

In sum, the CSLAA does not create a private cause of action or set out its own elements of tort liability. Instead, it relies on an ordinary common-law showing of negligence, which includes proximate cause.

3. The CSLAA does not preempt state law for third-party tort claims.

The Sixteenth Circuit improperly held that if the CSLAA adopts a lower causation standard than state law, it may preempt that state law. *See* R. at 51a n.19 (citing 51 U.S.C. § 50919(c)(1)). This was an erroneous reading of § 50919(c)(1) because there is no indication that Congress intended to preempt state tort law. Rather, this provision preempts state laws that conflict with the CSLAA's regulatory schemes, such as licensing and insurance, *not* third-party tort claims.

Moreover, the subsequent provision, § 50919(c)(2), provides that a state may enact laws that are "in addition to or more stringent than" the CSLAA's requirements. 51 U.S.C. § 50919(c)(2). Even if one assumed that the CSLAA required a showing of but-for causation for third-party tort claims, a state law imposing a more stringent proximate cause standard in addition would not be preempted, because a common law showing of negligence already requires but-for causation at a minimum. *See Comcast Corp. v. Nat'l Ass'n of Afr. Am.-Owned Media*, 589 U.S. 327, 335 (2020) (holding that, under common law since 1866, "a showing of but-for causation [is] a prerequisite to a tort suit"). Thus, the lower courts' conclusion that the CSLAA preempts and discards proximate cause standards under state common law is not supported by the statute.

B. Proximate Cause is the Proper Causation Standard under the CSLAA.

Even if the CSLAA is interpreted to impose its own standard of causation for third-party tort claims, that standard is proximate cause, as reflected by the statute's plain language. The lower courts relied on the use of the phrase "resulting from" in § 50914 (the "Insurance Provision") and § 50915 (the "Indemnity Provision") to improperly conclude that the CSLAA requires only proof of but-for causation. However, read in its entirety, the statute imposes the common law proximate cause standard.

1. The Insurance Provision imposes a proximate cause standard.

The Insurance Provision requires that a licensee "obtain liability insurance or demonstrate financial responsibility . . . to compensate for . . . loss from claims by a third party for death, bodily injury, or property damage or loss resulting from an activity carried out under the license." § 50914(a)(1)(A). The phrase "resulting from" in this provision does not impose a pure but-for cause standard.

The proximate cause standard is premised upon the idea that "not all factual causes contributing to an injury should be legally cognizable causes." *CSX Transp.*, 564 U.S. at 701. In order to discard the proximate cause standard and subject all causes-in-fact (i.e., but-for causes) to potential liability, there needs to be clear textual evidence of Congress's intent to do so. *See id.* at 710 (Roberts, J., dissenting) ("If Congress had intended such a sea change in negligence principles, it would have said so clearly."); *see also United States v. George*, 949 F.3d 1181, 1187 (9th Cir. 2020) ("[P]roximate cause is a well-established principle of the common-law, and we presume that the Sentencing Commission did not mean to dispense with it without saying so."). In *CSX Transp.*, this Court held that FELA's use of the phrase "resulting *in whole or in part* from" was evidence of Congress's intent to lower the causation standard to all factual causes, no matter how small a role the cause played in bringing about the injury. *See CSX Transp.*, 564 U.S. at 701 (emphasis added). No such language exists in the CSLAA, and therefore nothing in the statute indicates that Congress intended to eliminate the proximate cause requirement or replace it with a pure but-for cause standard.

Although the CSLAA does not explicitly mention proximate cause, "this Court has more than once found a proximate-cause requirement built into a statute that did not expressly impose one." *Paroline v. United States*, 572 U.S. 434, 446 (2014); *see also Holmes v. Sec. Inv. Prot. Corp.*, 503 U.S. 258, 258 (1992) (finding a proximate cause requirement built into § 1964 of the Securities Investor Protection Act); *see also Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters*, 459 U.S. 519, 533–534, 534 n.29, 536 n.33 (1983) (finding a proximate cause requirement built into § 4 of the Clayton Act and § 7 of the Sherman Act). Even though the CSLAA "[makes] no express reference to proximate causation, the Court might well hold that a showing of proximate cause was required. Proximate cause is a standard aspect of causation in criminal law and the law of torts." *Paroline*, 572 U.S. at 434.

The Insurance Provision mandates coverage on losses from "claims by a third party." § 50914(a)(1)(A). This refers to common law tort claims, which necessitate a showing of proximate cause to be successful. In this context, § 50914(a)(1)(A)'s use of "resulting from" without any qualifying language, such as "in whole or in part," merely links the licensed activity to the potential claims it may generate. It does not define the level of causal connection required to establish liability. In short, the statute presupposes, rather than replaces, the common law causation framework.

This reading aligns with the structure and purpose of the Insurance Provision, which was created to address the financial responsibility and insurance requirements for licensees. The provision ensures that licensees have adequate financial resources to satisfy potential judgments for claims that meet the common law proximate cause

standard. Nothing in the text or its legislative history suggests that Congress intended these insurance requirements to discard the well-established proximate cause standard.

2. The Indemnity Provision imposes a proximate cause standard.

The Indemnity Provision requires the United States Government to provide payment for "a successful claim . . . of a third party against a [licensee] resulting from an activity carried out under the license . . . for death, bodily injury, or property damage or loss resulting from an activity carried out under the license." § 50915(a)(1). The lower courts asserted that "[i]t is well-settled that the statutory phrase 'resulting from,' as used in [the Indemnity Provision], means only but-for causation." R. at 47a. In support of this, the Sixteenth Circuit cited a Federal Circuit decision discussing the causation standard under 38 U.S.C. § 1110, which requires the United States to pay a veteran for "disabilit[ies] resulting from personal injury suffered or disease contracted in line of duty." *Spicer v. McDonough*, 61 F.4th 1360, 1362 (Fed. Cir. 2023); *see also* R. at 47a. This statute is distinguishable from the CSLAA because in § 1110, "resulting from" links two factual elements: a veteran's injury to a resulting disability. In the Indemnity Provision, the phrase "resulting from" links a licensed activity to a "successful claim," which is not a mere factual element. § 50915(a)(1). A "successful claim" requires satisfaction of the causation standard on which the claim is based.

The term "resulting from" cannot be read in isolation or "divorced from the remainder of [the Indemnity Provision], which also requires proof of a 'successful claim,'" which "refers not to the indemnity claim against the Government but instead

to the underlying claim by the third party against the licensee." R. at 56a–57a. The Insurance Provision uses the word "claim" because licensees are required to maintain coverage, regardless of the outcome of any third-party claim. *See* § 50914(a)(1)(A). In contrast, the Indemnity Provision refers to a "successful claim" because the Government's payment obligations are triggered only after a third party actually establishes liability. Accordingly, the Indemnity Provision does not impose a pure but-for causation standard. By conditioning Government indemnification on a "successful claim," Congress incorporated all elements of the underlying common law tort action, including proximate cause.

Furthermore, both the Insurance and Indemnity Provisions use the phrase "resulting from an activity carried out under the license." §§ 50914(a)(1)(A), 50915(a)(1). An "activity under the license" does not cover activities that occur in outer space. Under 51 U.S.C. § 50904 (the "Licensing Provision"), a license is required for launch, reentry, or operating a launch or reentry site, commonly known as spaceports. The Department of Transportation's regulations created under the Licensing Provision explicitly state that CSLAA licenses only cover launch, reentry, and spaceport operations. *See* 14 C.F.R. § 413.3 (mentioning no conduct other than launch, reentry, or operating a spaceport). Other licenses are required for activities in outer space, such as a license from the Department of Commerce for satellites that take images of Earth, or a license from the Federal Communications Commission for satellites that communicate using radio frequencies. *See* 51 U.S.C. § 60121 *et seq*. and

associated regulations at 15 C.F.R. § 960; *see also* 47 U.S.C. § 152(a) *et seq*. and associated regulations at 47 C.F.R. § 25.102.

The lower courts asserted that an activity carried out "under the license" must include activities in outer space, because the Liability Convention makes the United States Government responsible for damages in outer space when it is the "launching state." *See* R. at 45a; *see also* Liability Convention arts. II–III. This overbroad reading cannot be justified because the Liability Convention does not apply to claims brought by a citizen of the country that launched the vehicle. *See* Liability Convention art. VII ("The provisions of this Convention shall not apply to damage caused by a space object of a launching State to nationals of that launching State."). Han Solo, a United States citizen, claims that his damages were caused by the DS-1, which was launched from the U.S., pursuant to a license granted by the United States Government. *See* R. at 11a, 14a. Accordingly, even when read in light of the Liability Convention, an activity "under the license" covers exclusively launch, reentry, and spaceport operations. Therefore, neither the Insurance nor Indemnity Provisions lowers the applicable causation standard for third-party tort claims resulting from activities that occur in outer space.

Thus, proximate cause is the proper causation standard for third-party tort claims under the plain language of the CSLAA.

C. A Proximate Cause Standard is Consistent with the CSLAA's Purpose.

Congress's primary purpose in enacting the CSLAA was to encourage the private sector's use of the space environment for peaceful purposes. *See* 51 U.S.C. §

50901(b). Congress also intended to create a government risk-sharing regime with the private sector to comply with its obligations under the Liability Convention. *See* R. at 11a. Imposing a pure but-for cause standard for third-party tort claims would be wholly inconsistent with these purposes.

A pure but-for cause standard would expose licensees and the Government to virtually unlimited liability. In a highly complex and inherently dangerous environment such as spaceflight, nearly every harm could be traced back in some minimal way to a component of the launch vehicle, a design choice, or an action taken during launch and reentry. Under such a rule, even remote or unforeseeable consequences could be deemed to "result from" the licensed activity. This would impose liability far beyond the bounds of traditional tort principles, effectively making licensees liable for any injury even tangentially related to their licensed activity. *See CSX Transp.*, 564 U.S. at 705 (Roberts, J., dissenting) (quoting *Waters v. Merchants' Louisville Ins. Co.*, 11 Pet. 213, 223 (1837)) ("It is a well established principle of [the common] law, that in all cases of loss we are to attribute it to the proximate cause, and not to any remote cause.").

Such an exposure regime would directly undercut the CSLAA's purpose. Congress knew of the dangers and risks of space transportation. *See* 51 U.S.C. § 50901(a)(12) ("[S]pace transportation is inherently risky."). Nonetheless, Congress sought to encourage private sector participation because it recognized that increased participation in space exploration could strengthen the nation's "competitive position internationally, contributing to the national interest and economic well-being of the

United States." 51 U.S.C. § 50901(a)(5). However, if any causal contribution, no matter how slight or unforeseeable, would trigger liability, the result would be deterrence, not participation. The intended growth of the private commercial space industry would stall, and the very development Congress sought to promote would be undermined.

For similar reasons, courts routinely apply proximate cause, not pure but-for causation, for activities in high-risk, heavily regulated, yet critically necessary industries, such as the operation of industrial facilities or the practice of medicine. *See Bobo v. Tennessee Valley Auth.*, 138 F. Supp. 3d 1285, 1315 (N.D. Ala. 2015) (requiring a showing of proximate cause for claims that airborne asbestos fibers in a power plant caused cancer); *see also Clinkscales v. Tostanoski*, 241 A.D.3d 773, 776 (2d Dep't 2025) ("The requisite elements of proof in a medical malpractice action are a [deviation] from accepted standards of medical practice, and evidence that such deviation was a proximate cause of injury.") (internal quotations omitted).

Moreover, expanding liability to impose a pure but-for causation standard would distort the Government's design of a risk-sharing regime with the private sector. Congress wrote the Indemnity Provision to shift some burden of risk for third-party injuries onto the Government, not to guarantee Government coverage for any and all harms loosely traceable to a launch activity. *See* 51 U.S.C. § 50915(d)(1)(A) (directing the Secretary of Transportation to "survey the causes and extent of damage" before agreeing to indemnify). Imposing a pure but-for cause standard would

dramatically expand indemnity exposure and shift costs onto taxpayers, contrary to the statute's risk-sharing purpose.

Thus, reading the CSLAA to impose a pure but-for causation standard conflicts with Congress's policy goals, exceeds the scope of the risk-sharing framework, and undermines the statute's purpose of fostering private space activity.

D. Under the Proximate Cause Standard, Skywalker's Deliberate Attack was a Superseding Cause that Severs the Chain of Causation as a Matter of Law.

"To prevent 'infinite liability,' . . . courts and legislatures appropriately place limits on the chain of causation that may support recovery on any particular claim." *CSX Transp.*, 564 U.S. at 701. The common law standard of "proximate cause" imposes such limits. For a negligent act or omission to be a "but-for cause" or a "cause-in-fact," the factfinder is asked whether the plaintiff's injury would have occurred "but for" the defendant's conduct. *See George*, 949 F.3d at 1187 ("[A] but-for cause of a harm can be anything without which the harm would not have happened."). This is a "relatively undemanding standard," and thus, the common law developed the additional requirement of "proximate causation" to "exclude[] some of the improbable or remote causal connections that would satisfy a pure but-for cause standard." *Id.*

The proximate cause of an injury is "a natural and continuous sequence, unbroken by any . . . intervening cause." *Jensen v. EXC, Inc.*, 82 F.4th 835, 857 (9th Cir. 2023). "[A]n intervening cause becomes a 'superseding cause,' and thereby breaks the causal chain between the original actor's negligence and the plaintiff's injuries"

when the intervening cause was (1) unforeseeable and (2) highly extraordinary in hindsight. R. at 40a; *see Jensen,* 82 F.4th at 858.

Here, Luke Skywalker's intervening terrorist attack was a superseding cause that broke the causal chain between the Empire's negligent product design and Solo's injuries as a matter of law.

1. Skywalker's attack was unforeseeable.

Whether an intervention was unforeseeable and thus a "superseding cause" is based on a convergence of several factors. Some of these factors include: (1) whether the intervening force was normal or expected; (2) whether the "intervening force is operating independently"; (3) whether the "intervening force is due to a third person's act"; and (4) whether "the intervening force is due to an act of a third person which is wrongful toward the [injured party] and as such subjects the third person to liability to him." Restatement (Second) of Torts §§ 442, 443 cmt. b (1965).

Skywalker's attack and Solo's resulting injuries were entirely abnormal and unexpected. First, it was unexpected that anyone would have the financial and technical capabilities to carry out the attack. *See* R. at 81a (discussing the "daunting financial and technical capabilities required to stage an attack of this nature"). An ordinary citizen could not have carried out this attack, but Skywalker is considered "one of the best space pilots on Earth." R. at 5a, 59a. Additionally, Skywalker, a Tunisian citizen, had the backing of Alianza Rebelde S.A., a Guatemalan company, which supplied him with the vehicle and weapon used to carry out the attack. *See* R. at 3a, 5a, 13a. The cooperation between this skilled Tunisian citizen and this

Guatemalan company was unforeseeable. Alianza Rebelde was a private entity controlled by a single wealthy director and "operated deep within the forests amid the Mayan ruins near Tikal, Guatemala." R. at 82a. The fact that Alianza Rebelde, a non-government entity, was able to stage a space launch at all, especially without the knowledge or approval of the Republic of Guatemala, was highly unexpected. *See* R. at 3a, 82a. In fact, since 2018, there have only been three people with "the financial ability, interest, and technical capabilities" to even launch any kind of vessel into space (one of whom is Han Solo), and none of the three was Skywalker. R. at 82a.

Even among well-resourced *government* entities, few have the capacity to launch into outer space, considering the substantial financial and technical limitations of conducting such an operation. *See* R. at 82a. The cost to launch a single mission into space is approximately $2 billion. *See* R. at 82a. There are only 16 government-run space agencies that boast any launch capabilities of their own, and "only three have managed to send humans to space." Julia Seibert, *Countries with Space Programs: An Overview,* Space Insider (Jan. 7 2024), https://spaceinsider.tech/2023/11/27/countries-with-space-programs-an-overview (last visited Nov. 11 2025). Despite the considerable financial and technical barriers that would make it difficult for even government agencies to perform such a feat, Skywalker and Alianza Rebelde somehow obtained possession of an X-wing starfighter equipped with proton torpedoes and staged a human-operated space launch. *See* R. at 82a. There was no evidence presented to explain how Skywalker and Alianza Rebelde got hold of their spacecraft and weapon, or if there were signs of Alianza Rebelde's launch capabilities

that would have warned the Empire of an impending attack. The resulting attack was therefore highly unexpected.

Second, it was unexpected that Skywalker and Alianza Rebelde would obtain classified information about the DS-1's design flaw. Upon learning of the defect, the Empire took steps "to keep that information private and to avoid its dissemination." R. at 13a. Nevertheless, Alianza Rebelde was made aware of the flaw and dispatched Skywalker to exploit it within only eight to ten days of the Empire becoming aware of it. *See* R. at 13a.

Third, it was unexpected for anyone to successfully execute such an incredibly precise strike on a relatively small design flaw with the specific weapon necessary to create the resulting damage. The DS-1's design defect was in its thermal exhaust port, an area only two meters in diameter that was protected by state-of-the-art safety features. *See* R. at 13a, 48a. The rest of the DS-1 was roughly 1/25th the size of the moon, or 138,992 meters in diameter. *See* R. at 60a. The resulting explosion could have only occurred if the exhaust port sustained a direct hit from a very specific kind of weapon, a proton torpedo. *See* R. at 13a. A proton torpedo is the "rough equivalent of a guided Tomahawk missile." R. at 64a. "The use of missiles is rare," even for well-resourced, conventional terrorist groups. *See* U.N. Office on Drugs & Crime, Conventional Terrorist Weapons, https://www.unodc.org/images/odccp/terrorism_weapons_conventional.html (last visited Nov. 11, 2025). These types of weapons are not expected to be in the possession of or operated by civilians such as Skywalker. *See id.* In fact, there is an international control regime of 35 member states, including the

G-7 industrialized countries, which actively "seek[s] to limit the proliferation of missiles and missile technology." U.S. Dep't of State, Bureau of Int'l Security & Nonproliferation, *Missile Technology Control Regime (MTCR) Frequently Asked Questions*, https://www.state.gov/bureau-of-international-security-and-nonproliferation/releases/2025/01/missile-technology-control-regime-mtcr-frequently-asked-questions (last visited Nov. 11, 2025).

A culmination of all of these factors—that a highly sophisticated, well-resourced pilot would discover the DS-1's confidential design flaw very shortly after it was discovered by the manufacturer itself, be motivated to execute such an attack, obtain the specific weapon necessary to cause the resulting explosion, and successfully fire and hit a two-meter target—was highly unexpected.

As for the Restatement's second and third factors, Skywalker operated as a third party with the support of Alianza Rebelde, a foreign corporation with no connection to the Empire. *See* R. at 13a. It was not reasonably foreseeable for the Empire to know and control the actions of an independent third party. Furthermore, Alianza Rebelde acted without the support of any nation, let alone a member state of the Outer Space Treaty. *See* R. at 81a. It was therefore unforeseeable that a private entity, without the financial and technical support or authorization of any nation, could stage an outer-space attack. *See* R. at 3a.

Finally, as for the fourth factor, Skywalker's intervening actions were directly wrongful toward Solo, making Skywalker ultimately liable for Solo's injuries. The

jury agreed that Skywalker's negligence caused Solo's injuries and apportioned half the fault in Solo's claim against the Empire to Skywalker. *See* R. at 15a.

The convergence of multiple unforeseeable conditions of Skywalker's intervention constitutes a superseding cause that severs any causal chain between the Empire's conduct and Solo's injuries.

2. Skywalker's attack was highly extraordinary.

An intervention becomes a superseding cause when the event appears to be extraordinary. *See* Restatement (Second) of Torts § 442. The issue of who bears liability for highly extraordinary events "is a matter of law for the court." *Port Auth. of N.Y. & N.J. v. Arcadian Corp.*, 189 F.3d 305, 318 (3d Cir. 1999). A defendant is not liable for harms from an intervening cause "where the chain of events leading to the injury appears highly extraordinary in retrospect." *Majeska v. D.C.*, 812 A.2d 948, 951 (D.C. 2002). Skywalker's intervening act of terror was highly extraordinary, constituting a superseding cause as a matter of law.

Courts have routinely held that, as a matter of law, terrorist attacks are highly extraordinary events that sever the causal link between negligence by another actor and the resulting injuries. *See Port. Auth.*, 189 F.3d at 319. For instance, when a group of terrorists used fertilizer to construct an explosive device and bombed the World Trade Center in 1993, the manufacturer of the fertilizing product could not be held liable for negligent product design. *See id.* ("[A]s a matter of law . . . the World Trade Center bombing was not a natural or probable consequence of any design defect in defendants' products. In addition, the terrorists' actions were superseding and

intervening events breaking the chain of causation."). Similarly, a defendant fertilizer manufacturer could not be held liable for negligent product design when the Oklahoma City bomber used the defendant's fertilizer to carry out their terrorist attack. *See Gaines-Tabb v. ICI Explosives, USA, Inc.*, 160 F.3d 613, 621 (10th Cir. 1998) ("Because the conduct of the bomber or bombers was unforeseeable, independent of the acts of defendants, and adequate by itself to bring about plaintiffs' injuries, the criminal activities of the bomber or bombers acted as the supervening cause of plaintiffs' injuries.").

Terrorist attacks are *per se* extraordinary and superseding events, no matter the surrounding circumstances. Accordingly, the Third Circuit rejected the argument that a terrorist attack on a nuclear facility was foreseeable, despite the increased risk of an attack after September 11th and the proximity of the facility to an urban center. *See N.J. Dep't of Env't Prot. v. U.S. Nuclear Regul. Comm'n,* 561 F.3d 132, 141 (3d Cir. 2009) ("A terrorist attack on a nuclear facility would be a superseding cause of the environmental effects felt after an attack."). Therefore, it is immaterial whether DS-1 was "reviled worldwide" or whether there had been protests against its construction. *See* R. at 59a, 66a. A terrorist attack is an extraordinary event "[i]n light of the elaborate efforts the terrorists [must go] through to commit their heinous crime." *Port Auth. of N.Y. & N.J. v. Arcadian Corp.*, 991 F. Supp. 390, 410 (D.N.J. 1997).

Thus, Skywalker's terrorist attack was a superseding cause, severing the causal link between the Empire's negligence and Solo's injuries as a matter of law.

The lower courts erred in denying Petitioners' renewed motion for JMOL by improperly interpreting the CSLAA and applying a pure but-for causation standard.

CONCLUSION

The judgment below cannot stand. Plaintiffs bear the burden of proving that venue is proper and failed to do so. Venue properly lies in California, where a substantial part of the events giving rise to the claim occurred.

Second, the CSLAA neither creates a private right of action nor alters the elements of negligence under state common law. The lower courts' decision to replace the settled proximate cause standard with a pure but-for standard violated the *Erie* Doctrine. Under the proximate cause standard, Skywalker's unforeseen, highly extraordinary terrorist attack constitutes a superseding cause as a matter of law.

For these reasons, Petitioners respectfully request that this Court: (1) reverse and remand with instructions to dismiss for improper venue; and (2) reverse and vacate the judgment with instructions to enter judgment as a matter of law in Petitioners' favor.

Dated: November 16, 2025

Respectfully submitted,
/s/ Team #26

Counsel for Petitioners

APPENDIX

Statutory Provisions

Section 1391(b) of Title 28 of the United States Code provides:

> A civil action may be brought in—
> (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
> (2) 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 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, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b).

Section 50904(a) of Title 51 of the United States Code provides:

> A license issued or transferred under this chapter, or a permit, is required for the following:
> (1) for a person to launch a launch vehicle or to operate a launch site or reentry site, or to reenter a reentry vehicle, in the United States.
> (2) for a citizen of the United States (as defined in section 50902(1)(A) or (B) of this title) to launch a launch vehicle or to operate a launch site or reentry site, or to reenter a reentry vehicle, outside the United States.

51 U.S.C. § 50904(a).

Section 50914(a)(1) of Title 51 of the United States Code provides:

> When a launch or reentry license is issued or transferred under this chapter, the licensee or transferee shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—
> (A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out under the license; and

51 U.S.C. § 50914(a)(1).

Section 50915(a)(1) of Title 51 of the United States Code provides:

> [T]he 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 issued or transferred under this chapter for death, bodily injury, or property damage or loss resulting from an activity carried out under the license. However, claims may be paid under this section only to the extent the total amount of successful claims related to one launch or reentry—
>
> (A) is more than the amount of insurance or demonstration of financial responsibility required under section 50914(a)(1)(A) of this title; and

51 U.S.C. § 50915(a)(1).