Docket No. 24-2187

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

BRIEF FOR THE PETITIONERS

November 17, 2025

Submitted by:

Team 30
Counsel for Petitioner

QUESTIONS PRESENTED

1. Whether the plaintiff must prove proper venue when challenged, and if so, whether it is enough, for design defect claims, to proffer only that the injury-resulting activities occurred in outer space above a judicial district to establish venue therein, when the defendant has no other potential connections to the forum.
2. Whether the CSLAA, when properly interpreted and applied, covers activities not otherwise contemplated by the statute, and whether it imparts a strict but-for causation standard incongruent with state tort regimes such that an unforeseeable, terroristic act committed in space can render victims of such an act liable for resulting harms.

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The opinion of the United States District Court for the District of Alderaan is unreported. The opinion of the Sixteenth Circuit is unreported and set out in the Record. Record ("R".) at 1a.

STATEMENT OF JURISDICTION

The United States District Court for the District of Alderaan had original jurisdiction pursuant to 28 U.S.C. § 1331, as well as supplemental jurisdiction over all other claims related to the same case or controversy against the Empire pursuant to 28 U.S.C. § 1367(a). The court 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). The court entered judgment on May 4, 2023. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS AND RULES INVOLVED

One central issue on appeal involves the proper causation standard under § 50915 of the Commercial Space Launch Activities Act ("CLSAA"), 51 U.S.C. § 50901 *et seq.* This case also involves 28 U.S.C. § 1391 of the United States Code and Federal Rules of Civil Procedure 12(b)(3) and 50(a), (b). The relevant portions of each statute and rule have been reproduced in the Appendix.

STATEMENT OF THE CASE

A. Statement of Facts

Petitioner Galactic Empire (the "Empire") is an American technology company headquartered in Mountain View, California. R. at 7a. Formed in the aftermath of a 2007 California asteroid strike, the company focuses on planetary defense. R. at 7a. Following two additional meteoroid strikes in California in 2012, the Empire intensified its efforts and began designing and constructing the Defense System One ("DS-1"), a planetary defense system set to orbit Earth and destroy incoming asteroids before they can enter the atmosphere. R. at 7a–8a. The DS-1 was intended to operate in high-Earth orbit, at 65,000 kilometers, so the system could break up approaching objects far away from Earth to prevent any fragments from striking it. R. at 8a–9a.

Due to the size of the DS-1, construction took place in low-Earth orbit under a license from the United States government, rather than on Earth. R. at 3a, 8a. Specifically, the Empire launched materials into space, where robotic "spiders" constructed the DS-1 according to its design. R. at 8a. The Empire conducted these launches hundreds of times, primarily from California, and never from Alderaan. R. at 3a, 12a–13a.

When the Empire announced its plans to create the DS-1, objectors vocalized concerns regarding its potential to be used as a weapon or cause environmental harm. R. at 59a–60a. Though the Empire did its best to emphasize its peaceful, defense-oriented goals, some protests did occur, including in the U.S. State of Alderaan. R. at

19a, 60a. Yet, the Empire did no business in the state, had no employees there, acquired no supplies there, launched no materials from there, and was not even registered to do business within the state. R. at 19a, 60a.

When the DS-1 was undergoing construction in low-Earth orbit, it was attacked by Tunisian citizen and world-renowned space pilot Luke Skywalker. Skywalker acted in conjunction with Alianza Rebelde, S.A. ("Alianza"), a company headquartered and based in Guatemala and run by a single director. R. at 3a, 5a, 8a, 81a. Alianza attained stolen plans revealing a design defect in the DS-1 that had only been discovered by the Empire eight to ten days prior, despite the Empire's efforts to keep the defect quiet. R. at 13a. This defect existed within a specific thermal exhaust port on the DS-1, which, if directly hit by a proton torpedo, would cause the entire DS-1 to explode. R. at 13a. After launching from the Republic of Guatemala, Skywalker fired a proton torpedo into the defective thermal exhaust port, a feat characterized as a "one-in-a-million shot," causing the DS-1's destruction. R. at 2a–3a, 13a, 82a.

Respondent Han Solo, a United States citizen and resident of Chicago, Illinois, was injured in the immediate aftermath of Skywalker's attack. R. at 20a. On the day of the attack, Solo launched his starship, the *Millennium Falcon* ("the Falcon"), from Tunisia into low-Earth orbit. R. at 14a. While flying in low-Earth orbit above Alderaan, shrapnel from the DS-1's explosion collided with the Falcon, damaging it and causing injury to Solo. R. at 4a, 20a.

B. Procedural History

On May 21, 2019, Solo sued Skywalker, Alianza, Guatemala, and the Empire to recover for his injuries. R. at 14a. Solo filed suit in the United States District Court for the State of Alderaan, under the Commercial Space Launch Activities Act ("CSLAA"), claiming more than $4.5 billion in damages. R. at 14a. Per the CLSAA's indemnification provision, the United States intervened in the suit to assist in the Empire's defense. R. at 12a. In its response to Solo's complaint, the Empire raised a Rule 12(b)(3) motion alleging improper venue, which the district court denied. R. at 15a. Before trial, Skywalker and Alianza reached settlement agreements with Solo, and Guatemala successfully moved for summary judgment. R. at 15a.

At an evidentiary hearing on the Empire's Rule 12(b)(3) motion regarding improper venue, Solo proffered two pieces of evidence suggesting Skywalker, the DS-1, and Solo were all within low-Earth orbit above Alderaan at the time of Skywalker's attack. R. at 20a–21a. The district court excluded both on evidentiary grounds, deeming the former unsupported and unreliable and the latter inadmissible hearsay. R. at 21a–22a. The Empire presented no evidence. R. at 21a. The district court concluded that the Empire bore the burden of establishing improper venue and that venue was proper in Alderaan because a substantial portion of the tortious activity occurred in low-Earth orbit above the state. R. at 22a.

Ultimately, the jury found that the Empire was negligent and thus liable under the CSLAA and allocated $2.7 billion in damages against it. R. at 15a. Included in this verdict was the jury's determination that the Empire proximately caused Solo's

injuries. R. at 15a. The district court rendered judgment consistent with the jury's verdict but disregarded its proximate cause determination as immaterial, instead finding the CSLAA requires only "but-for" causation to be met. R. at 41a. The court entered no judgment against the United States directly, due to its interpretation of the CSLAA's indemnity provision. R. at 16a. The Empire and the United States subsequently filed a Rule 50 motion for judgment as a matter of law, asserting the CSLAA required proximate cause, and that Solo could not meet this requirement, which the court denied. R. at 36a.

On appeal, the Sixteenth Circuit upheld the district court's denial of the Empire's 12(b)(3) motion to dismiss and motion for judgment as a matter of law, affirming the district court's venue determination and CSLAA interpretations. R. at 32a, 48a.

SUMMARY OF THE ARGUMENT

This Court should reverse the Sixteenth Circuit's decision that venue in Alderaan was proper and that the Empire and the United States are liable under the CSLAA.

The Sixteenth Circuit incorrectly held that the burden of establishing improper venue fell to the Empire. Rather, the burden should fall to plaintiffs to prove they have brought suit in a permissible forum. This ensures congruency in the law by mirroring the burden placement of venue's closest corollary, personal jurisdiction, and places the burden upon the party best suited to establish the propriety of venue. Further, Solo failed to carry this burden by presenting no evidence as to the propriety

of venue in Alderaan outside of his general contention that his injuries occurred there.

Alternatively, the Empire has shown that venue in Alderaan is improper because the acts giving rise to Solo's design defect claim did not occur there. While the DS-1's explosion occurred in outer space above Alderaan, it was not a substantial event giving rise to Solo's design defect claim. And, even if it was, venue in Alderaan is improper because acts occurring in outer space cannot be said to have occurred in any judicial district. This is the case for two reasons: (1) extending overflight venue principles to outer space is unworkable and contrary to the purpose of venue laws, and (2) the sovereignty principles underlying overflight venue do not extend to outer space. Further, venue remains improper even under the venue statute's fallback provision because the Empire is not subject to personal jurisdiction in Alderaan, as Skywalker's attack on the DS-1 in outer space above it is the Empire's only connection to the state.

Second, the Sixteenth Circuit incorrectly held that the Empire and the United States were liable under the CSLAA. The CSLAA does not apply to activities outside of launch or reentry, and holding otherwise would expand the statutory language beyond its clear text and purpose. Further, international, non-self-executing treaties should not factor into the statutory analysis because the CSLAA's language and purpose are clear. Moreover, the treaties cited by the Sixteenth Circuit govern sovereign states rather than private citizens and are thus inapplicable to the CSLAA.

Additionally, even if the CSLAA applies beyond launch and reentry, it mandates a finding of proximate cause, as evidenced by the statute's "successful claim" language and indemnification regime. Lastly, proximate cause cannot be established here as a matter of law. Skywalker's terrorist attack on the DS-1 was a superseding act which severed the casual chain of the Empire's negligence. His attack was not foreseeable, as it was the first of its kind and required exceptional skill and resources. Because the Sixteenth Circuit failed to recognize that Skywalker's attack was a highly extraordinary event severing the liability of the Empire and the United States, its decision should be reversed.

ARGUMENT

I. The district court could not properly exercise venue over this claim because Solo failed to meet his burden of proving venue, and, even if the burden falls to the Empire, the Empire has shown that venue in Alderaan is improper.

The Sixteenth Circuit's decision should be reversed because Solo should have borne the burden of proving proper venue in Alderaan. Moreover, even if this Court places the burden of proving improper venue on the Empire, the Empire carried its burden by showing that Alderaan does not meet any of the requirements set forth in the federal venue statue, 28 U.S.C. § 1391.

Specifically, venue in Alderaan fails under § 1391(b)(2) because the events surrounding Solo's injury did not substantially give rise to his design defect claim, nor did they occur within Alderaan. Moreover, to the extent Solo contends that venue in Alderaan can alternatively lie under § 1391(b)(3), it cannot, because the only

domestic defendant, the Empire, lacks sufficient minimum contacts with Alderaan. As such, the Sixteenth Circuit's venue determination should be reversed.

A. Solo bore the burden of proving proper venue in Alderaan.

Per the federal venue statute, civil claims otherwise actionable in U.S. District Courts may only be brought in the following forums:

> (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 situation; or
>
> (3) if there is no judicial district in which an action may otherwise be brought as provided [above], 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). When a defendant believes the plaintiff has filed suit against him in an impermissible forum, he may challenge venue as improper and move for mandatory transfer or dismissal of the claim. *See* 28 U.S.C. § 1406 (providing that a district court "*shall* dismiss . . . or transfer" an action "laying venue in the wrong division or district") (emphasis added); Fed. R. Civ. P. 12(b)(3) (affirming that a party may assert an "improper venue" defense).

Once a defendant raises an improper venue challenge, the Court must determine which party has the burden of proving or disproving the defense before conducting a substantive venue analysis. While this Court has not yet decided which party should bear the burden, all but three circuit courts have addressed the issue. *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); *Mitrano v. Hawkes*, 377

F.3d 402, 405 (4th Cir. 2004); *Tobien v. Nationwide Gen. Ins. Co.*, 133 F.4th 613, 618–21 (6th Cir. 2025); *Piedmont Label Co. v. Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979); *In re ZTE (USA) Inc.*, 890 F.3d 1008, 1013–14 (Fed. Cir. 2018); *Pinson v. Rumsfeld*, 192 F. App'x 811, 817 (11th Cir. 2006); *Myers v. Am. Dental Ass'n*, 695 F.2d 716, 724–25 (3d. Cir. 1982); *In re. Peachtree Lane Assocs., Ltd.*, 150 F.3d 788, 792 (7th Cir. 1998); *United States v. Orshek*, 164 F.2d 741, 742 (8th Cir. 1947).

Notably, a majority of circuits agree that the plaintiff should have to prove proper venue when the forum is challenged by the defendant. *Compare Cordis Corp.*, 599 F.2d at 1086 ("[T]here is ample authority placing the burden of [establishing venue] on the plaintiff once a defendant has challenged venue . . . ."), *Gulf Ins. Co.*, 417 F.3d at 355 (stating that the plaintiff must make a prima facie showing of proper venue when venue is challenged), *Mitrano*, 377 F.3d at 405 ("To survive a motion to dismiss for improper venue when no evidentiary hearing is held, the plaintiff [must] make a prima facie showing of venue."), *Tobien*, 133 F.4th at 621 ("[W]hen a defendant files a 12(b)(3) motion to dismiss for improper venue, the plaintiff must show by a preponderance of the evidence that venue is proper."), *Piedmont Label Co.*, 598 F.2d 496 at 496 ("Plaintiff had the burden of showing that venue was properly laid . . . ."), *In re ZTE (USA) Inc.*, 890 F.3d at 1013–14 ("[T]he [p]laintiff bears the burden of establishing proper venue."), *and Pinson*, 192 F. App'x at 817 ("The plaintiff has the burden of showing that venue in the forum is proper."), *with Myers*, 695 F.2d at 724–25 ("[T]he defendant should ordinarily bear the burden of showing improper venue in connection."), *and United States v. Orshek*, 164 F.2d 741, 742 (8th Cir. 1947)

(holding "the burden of proof was upon [the defendants]" to show that venue was improper).

While not every court has expressed reasoning for its burden-placement decision, ample rationale exists for placing the burden on the plaintiff. First, this aligns with the widely accepted notion that a plaintiff should be the one to prove he has raised his claim in a permissible forum. *See Tobien*, 133 F.4th at 619 ("[T]he plaintiff bears the burden of proving venue by a preponderance of the evidence. . . [a]fter all, 'it is the plaintiff's obligation to institute the action in a permissible forum.'") (citations omitted); 14D Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 3862 (4th ed. 2025) (stating that the majority view "may be considered the better view because it is consistent with the plaintiff's threshold obligation to show that the case belongs in the particular district court in which suit has been instituted").

In support of this obligation, courts in the majority emphasize the similarities between venue and personal jurisdiction, the latter of which even courts in the minority recognize as the plaintiff's burden to establish when challenged. *See Tobien*, 133 F.4th at 619–20 (discussing the similarities between personal jurisdiction and venue); *see also Metcalfe v. Renaissance Marine, Inc.*, 566 F.3d 324, 330 (3d Cir. 2009) ("'[T]he burden of demonstrating the facts that establish personal jurisdiction,' falls on the plaintiff . . . .") (quoting *Pinker v. Roche Holdings Ltd.*, 292 F.3d 361, 368 (3d Cir. 2002)); *K-V Pharm. Co. v. J. Uriach & CIA, S.A.*, 648 F.3d 588, 591–92 (8th Cir. 2011) ("To survive a motion to dismiss for lack of personal jurisdiction, a plaintiff

must make a prima facie showing that personal jurisdiction exists."); *Felland v. Clifton*, 682 F.3d 665, 672 (7th Cir. 2012) ("The plaintiff bears the burden of establishing personal jurisdiction . . . .").

In *Tobien*, for example, the Sixth Circuit analogized personal jurisdiction to venue and held that "the plaintiff bears the burden of proving venue" when challenged by the defendant. 133 F.4th at 619–21. Specifically, the court noted that venue and personal jurisdiction "depend[] on identical facts about the defendant's residence," given the venue statute's integration of personal jurisdiction principles. *Id.* at 619–20; *see also* 28 U.S.C. § 1391(b)(3) (stating that, when venue is not proper under the other subsections, the claim can be brought in "any judicial district in which any defendant is subject to the court's *personal jurisdiction*") (emphasis added); § 1391(c)(1) (defining residency of natural persons for venue purposes as "the judicial district in which that person is *domiciled*") (emphasis added); § 1391(c)(2) (defining residency for entities as "any judicial district in which such [entity] is subject to the court's *personal jurisdiction*") (emphasis added). The court also acknowledged that personal jurisdiction and venue are both affirmative defenses and "personal privileges of the defendant," in that they must be raised by a defendant to avoid being waived. *Id.* at 619.

Courts in the minority have improperly characterized this position as "confus[ing] jurisdiction with venue." *Myers*, 695 F.2d at 724; *see also* R. at 24a (citing this language in *Myers* in concluding that "the minority rule is better reasoned"). Specifically, the minority view emphasizes that venue and jurisdiction are distinct,

in that jurisdiction pertains to a court's authority to hear an action, whereas venue relates to where an action may be heard; thus, plaintiffs should have to prove jurisdiction, but not venue. *See Myers*, 695 F.2d at 724 ("Because federal courts are of limited jurisdiction, a presumption arises that they are without jurisdiction until the contrary affirmatively appears. By contrast, a motion to dismiss for improper venue is not an attack on jurisdiction but only an affirmative dilatory defense."); R. at 25a (asserting that a plaintiff should bear the burden of proof "[w]hen a defendant's motion to dismiss raises questions, not about venue, but about a court's power to entertain the action"); *see also* 1A James Wm. Moore, *Moore's Federal Practice* ¶ 0.340[1], at 4010–11 (2d ed. 1994) (distinguishing jurisdictional limitations from venue limitations).

The minority's position is flawed for two reasons. First, it fails to recognize that courts can, and have, concluded that a plaintiff should bear the burden of establishing proper venue without conflating it with personal jurisdiction. The Sixth Circuit illustrated this in *Tobien* when it drew on similarities between personal jurisdiction and venue but never considered the two as one in the same. 133 F.4th at 618–21. Rather, the court simply acknowledged that "venue and personal jurisdiction are closely related concepts in their application." *Id.* at 619.

Second, the functional similarities between venue and personal jurisdiction must be acknowledged to avoid incongruent results like those produced by the minority view. The minority likens venue to other affirmative defenses—forum non conveniens, failure to state a claim, failure to exhaust administrative remedies, and

failure to join an indispensable party—rather than to personal jurisdiction. *See Myers*, 695 F.2d at 742 n.10. But fundamental differences between venue and each of these defenses render their comparison inapt.

For example, though these defenses all, like venue, permit dismissal on procedural grounds alone, their dismissal decisions are far more discretionary. Whereas these defenses only *permit* dismissal, a finding of improper venue *mandates* it. *Compare Sinochem Intern. Co Ltd. v. Malaysia Intern. Shipping Corp.*, 549 U.S. 422, 422 (2007) (stating that a federal court "*may* dismiss an action" under the doctrine of forum nonconveniens) (emphasis added), Fed. R. Civ. P. 19(b) (giving courts discretion to dismiss an action or allow it to proceed when a plaintiff fails to join and an indispensable party), *and* Lee Modjeska, *Administrative Law Practice & Procedure*, § 6:8 (2025) (providing that the consequence of failure to exhaust "is within the discretion of the courts" unless statutorily mandated), *with* 28 U.S.C. § 1406(a) (stating that, when venue is improper, the court "shall dismiss, or . . . transfer such case to any district or division in which [venue is proper]").

Further, though a failure to state a claim defense mandates dismissal, it notably differs from venue in that a plaintiff are *required* to state a claim in his complaint. Thus, at the point a failure to state a claim defense is raised, the plaintiff has already offered support for his claim, making it redundant to place the initial burden back upon him when challenged. Venue, however, need not be pled by the plaintiff in his complaint. Accordingly, placing the burden on the plaintiff to establish

proper venue simply requires him to make an initial showing as to why his chosen forum is permissible.

Conversely, a personal jurisdiction challenge shares far more similarities with an improper venue defense. Neither must be pled by the plaintiff in his complaint, and both mandate dismissal when not established. *See Tobien*, 133 F.4th at 620. Further, both are affirmative defenses and personal privileges of the defendant, which must be asserted early on to avoid being waived. *See Leroy v. Great W. United Corp.*, 443 U.S. 173, 180 (1979). Notably, as the dissent acknowledged below, "[t]he plaintiff often has more knowledge about the facts" in the early stages of proceedings, putting him "in a better position to demonstrate venue [or personal jurisdiction] than the defendant is to defeat it." R. at 76a.

The minority's contrary position fails to reconcile that the very attributes of the affirmative defenses it compares to venue are also present in personal jurisdiction. *See, e.g., Myers*, 695 F.2d at 725 (emphasizing the fact that improper venue is an affirmative defense, and that proper venue need not be alleged in the plaintiff's complaint). As such, its stance should be rejected, and this Court should instead follow the majority view that the plaintiff should bear the burden of proving proper venue in the face of a challenge.

Applying that burden here, Solo's claim should have failed at its outset. Notably, Solo presented no evidence in the entirety of the record from which proper

venue can be ascertained.[1] Rather, he only contended that the DS-1's explosion and his injuries occurred in outer space above Alderaan. *See* R. at 20a–21a. For the reasons discussed below, events occurring above a judicial district's airspace do not establish venue in that judicial district. Thus, Solo failed to carry his burden of establishing proper venue in Alderaan under § 1391(b)(2).

B. Alternatively, the Empire has shown that venue in Alderaan is improper because no substantial events giving rise to Solo's claim occurred there, and the Empire lacks sufficient minimum contacts with the forum.

The Empire has demonstrated that venue in Alderaan is improper because the facts giving rise to Solo's design defect claim did not occur there, and because events or omission occurring in outer space above Alderaan cannot be said to have occurred *in* Alderaan. The Sixteenth Circuit failed to properly analyze the facts giving rise to Solo's design defect claim and erred in concluding that outer space is an extension of a judicial district's airspace. Further, venue in Alderaan fails even under the venue statute's fallback provision because the Empire is not subject to personal jurisdiction there. Accordingly, the Sixteenth Circuit's venue determination should be reversed.

[1] Rather than being constrained to the four corners of the pleadings, courts can consider all evidence in the record in making a venue determination. *See Ambraco Inc. v. Bossclip B V*, 570 F.3d 233, 238 (5th Cir. 2009) (recognizing that "under . . . Rule 12(b)(3), the court is permitted to look at evidence in the record beyond those facts alleged in the complaint and its proper attachments") (citation omitted); *Kukje Hwajae Ins. Co. v. M/V Hyundai Liberty*, 408 F.3d. 1250, 1254 (9th Cir. 2005) (asserting that in Rule 12 (b)(3) motions, "the pleadings need not be accepted as true, and facts outside the pleadings properly may be considered").

1. First, venue is improper in Alderaan under § 1391(b)(2) because the DS-1's explosion was not a substantial event giving rise to Solo's claim, and it did not occur within any judicial district.

Under § 1391(b)(2), venue may lie in any "judicial district in which a substantial part of the events or omissions giving rise to the claim occurred." 28 U.S.C. § 1391(b)(2). The DS-1's explosion is neither a "substantial part of the events . . . giving rise" to Solo's design defect claim, nor is it an event that occurred *within* Alderaan or any United States judicial district.

i. The DS-1's explosion was not a substantial event giving rise to Solo's design defect claim.

§ 1391(b)(2)'s "giving rise to" requirement implicates "only those acts and omissions that have a close nexus to the wrong. . . ." *Jenkins Brick Co. v. Bremer,* 321 F.3d 1366, 1372 (11th Cir. 2023). This typically requires more than the mere event of injury and depends largely upon the specific claim being raised. *Id.* at 1371–72 (suggesting that injury occurring in a district may not be enough, on its own, to meet § 1391(b)(2)'s requirements); *Friends of the Everglades, Inc. v. Noem*, No. 25-22896-CV, 2025 WL 2423258, at * 15 (S.D. Fla. Aug. 21, 2025) (stating that, while courts must not "ignore the place of injury altogether" when undertaking a venue analysis, "the place of injury is not alone sufficient to create venue") (citation omitted).

For example, in *Woodke v. Dahm*, the Eighth Circuit found that venue was not established under § 1391(b)(2) when a plaintiff brought suit in Iowa under the Lanham Act for the defendant's "passing off," the unauthorized removal of identifying marks before resale, of the plaintiff's trailers manufactured within the state. 70 F.3d 983, 985–96 (8th Cir. 1995). The plaintiff argued that venue in Iowa was appropriate

where he resided, manufactured the trailers, and felt the effects of Defendant's actions. *Id.* at 985. However, the court rejected this argument, reasoning that these events "have an insubstantial connection with the kinds of events that give rise to a ["passing off"] claim" and noted the absence of any evidence that the plaintiff's marks were altered in Iowa or that any advertising or sales of the unmarked trailers occurred there. *Id.* at 985.

Just as the court in *Woodke* had to consider the contours of the Lanham Act to determine whether the events alleged had a substantial connection to the plaintiff's claim under the Act, this Court must do the same here. Because the CSLAA is an indemnification regime, the court should focus its inquiry on the events with a "close nexus" to Solo's underlying negligent design claim. *See* R. at 37a (implying that the district court largely applied standards of "Alderaanian state law . . . claims alleging negligent product design").

Thus, a correct § 1391(b)(2) analysis should focus largely on the facts of defective design rather than the place of Solo's injuries. Just as the trailers' manufacturing and the plaintiff's injuries were not events giving rise to the plaintiff's Lanham Act claim in *Woodke*, the DS-1's explosion and Solo's injuries are not enough to constitute a substantial part of the events giving rise to Solo's design defect claim. Rather, the only events or omissions with a "close nexus" to the DS-1's defective design occurred on the ground in California, where the Empire designed a faulty thermal exhaust port, long before the DS-1 ever left Earth's atmosphere. Because the Sixteenth Circuit failed to center its analysis on those acts, and because venue is

improper in Alderaan under § 1391(b)(2), this Court should reverse the Sixteenth Circuit's venue determination.

ii. Events occurring in outer space *above* a judicial district are not *within* that district for the purposes of § 1391(b)(2).

Even if the DS-1's explosion and Solo's injuries can be considered substantial events giving rise to his design defect claim, venue remains improper because activities occurring in outer space cannot be said to have occurred *within* any judicial district for venue purposes. To date, no court has held otherwise, and several factors should caution this Court against doing so now. Specifically, extending overflight venue principles to outer space (1) is unworkable, (2) undermines the purpose of venue laws, and (3) raises sovereignty concerns. Thus, venue in Alderaan is improper under § 1391(b)(2), and the Sixteenth Circuit's venue determination should be reversed.

First, extending overflight venue principles to outer space is unworkable and inconsistent with the purpose of venue laws. Venue laws are rooted in the common law notion that "there is a particular court or courts in which an action should be brought," and § 1391(b)(2) was crafted with the purpose of hosting lawsuits in forums substantially connected "with the events [giving] rise to [them]." *Tobien*, 133 F. 4th at 618 (first quoting 5B Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 3802 (4th ed. 2025); then quoting *Venue*, Black's Law Dictionary (12th ed. 2024)). While overflight venue is feasible within Earth's airspace, this line-drawing exercise proves unworkable in outer space.

When the Sixteenth Circuit extended overflight venue principles to outer space, it improperly relied on cases such as *United States v. Barnard*, 490 F.2d 907 (9th Cir. 1973) and *United States v. Lozoya*, 920 F.3d 1231 (9th Cir. 2019), *overruled en banc*, 982 F.3d 648 (9th Cir. 2020), which addressed venue for crimes committed on airplanes. In *Lozoya*, the defendant was charged with assault after hitting another passenger during a flight from Minneapolis, Minnesota, to Los Angeles, California. 920 F.3d at 1231. The original Ninth Circuit panel held that venue was improper in California, where the plane landed, and instead was proper only "in the district in whose airspace the alleged offense occurred." *Id.* at 1242. Still, the court acknowledged the "creeping absurdity in [its] holding," highlighting the difficulty of proving venue when offenses occur over airspaces home to multiple circuits and districts. *Id.*

Later, sitting *en banc* and overruling the panel decision, the Ninth Circuit escalated this sentiment. While the court did not foreclose the possibility of a flyover venue rule, it asserted that "flyover prosecution is virtually unheard of, for good reason." *United States v. Lozoya*, 982 F.3d 648, 654 (9th Cir. 2020). The court noted the difficulty of pinpointing where an act occurs midair, as "[i]n the span of an hour—the difference between the estimates of two witnesses [of when the act occurred]—an airplane can easily fly over multiple states and districts." *Id.* Equally arduous is determining a plane's exact latitude and longitude, and "then look[ing] down five miles to see which district lay below." *Id.*

Despite the demonstrated difficulty of pinpointing the exact time and place of offenses in navigable airspace, the Sixteenth Circuit chose to extend overflight venue principles into outer space, where spacecraft travel thousands of miles faster, and further, from Earth's surface than airplanes. Yet fundamental differences between air travel and spaceflight render this extension unworkable. For example, while there are limited circumstances in which an airplane could be said to occupy the airspace of more than one U.S. state at any given time, thus limiting the scope of possible judicial districts, the same is not true of spaceflight. At any moment, an object in space can simultaneously be above not only multiple states, but multiple continents at once.[2] This problem becomes especially apparent 65,000 kilometers above Earth in high-Earth orbit, the DS-1's intended destination upon completion, or outside of Earth's orbit entirely, such as on the surface of the Moon. There, even an instantaneous "event or omission" giving rise to a claim could plausibly be above thousands of judicial districts at once.

The difficulty of tying space activity to a single state or judicial district is exacerbated when acts or omissions are continuous. For example, if this Court agrees to extend overflight principles expressed in cases like *Barnard*, perverse results will occur. There, the Ninth Circuit held that venue was proper in any district through which a plane flew while criminal activity occurred aboard. 490 F.2d at 907. This holding should not extend to vehicles in outer space, where spacecraft in low-Earth

[2] For example, one satellite placed in orbit about 36,000 kilometers above Earth covers approximately one third of the Earth's surface at a given time. *See* Yurong Hu & Victor O. K. Li, *Satellite Based Internet: A Tutorial*, IEEE Commc'ns Mag., Mar. 2001, at 155.

orbit, like the DS-1, travel at a rate of 7.8 of kilometers per second, orbiting the entire Earth in just ninety minutes. Types of Orbits, Enabling and Support, EUR. SPACE AGENCY (Mar. 30, 2020), https://www.esa.int/Enabling_Support/Space_-Transportation/Types_of_orbits. Thus, if tortious activity continued throughout the ninety-minute orbit of Earth, venue would be proper in any judicial district on Earth. This outcome is not only unworkablebut also contrary to the notion that venue should have a connection "with the events [giving] rise to the lawsuit." *Tobien*, 133 F.4th at 618 (quoting *Venue*, Black's Law Dictionary (12th ed. 2024)). Applied here, even accepting that the DS-1's explosion in low-Earth orbit may be said to have occurred only above Alderaan, the Sixteenth Circuit's extension of overflight venue principles to outer space should ultimately be rejected as both unworkable and inconsistent with the basic purposes of the venue doctrine.

Second, extending overflight venue principles to outer space implicates sovereignty concerns that cannot be divorced from the venue analysis. While the Sixteenth Circuit contends that venue is entirely divorced from sovereignty, as sovereignty is instead tethered to jurisdictional issues, this is not entirely true. R. at 33a–34a. Though venue and jurisdiction are distinct concepts, it is difficult to conclude that Congress would ever intend to extend venue to areas over which the United States has no sovereignty, when venue principles operate under the presumption that jurisdiction has already been established. Specifically, "jurisdiction addresses whether a dispute may be heard by a federal court at all. *If so*, venue then determines *which* federal court . . . should hear the case." 14D Charles Alan Wright

& Arthur R. Miller, *Federal Practice & Procedure* § 3801 (4th ed. 2025) (emphasis added).

While it is undisputed that the United States maintains sovereignty over its airspace, 49 U.S.C. § 40103, and that the navigable airspace above a district is part of that district, *Barnard,* 490 F.2d at 911, the same cannot be said of outer space, as the United States claims no sovereignty there. *See* Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, art. II, Jan. 27, 1967, 18 U.S.T. 2410 ("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."). As such, extending overflight venue principles to outer space confers venue where there may be no jurisdiction, perverting the aims of venue principles.

The Sixteenth Circuit attempts to side-step this result by amounting aviation safety regulations to declarations of outer space sovereignty. R. at 28a. The court specifically referenced 49 U.S.C. § 40102(a)(32), which defines "navigable airspace" as airspace above minimum flight altitudes, to imply that Congress intended to infinitely extend sovereignty into outer space by not also including a maximum altitude limit. R. at 28a. But an examination of the statute's text, broader context, and purpose reveals that altitude limits in this context speak to aviation safety, not outer space sovereignty.

First, the plain language of these provisions references airspace, not outer space, and aircraft, not spacecraft. *See* § 40102(a)(32) ("Navigable *airspace* means

airspace above the minimum altitudes of flight prescribed by regulations . . . including *airspace* needed to ensure safety in the takeoff and landing of *aircraft*.") (emphasis added). Second, these provisions lie within the air commerce and safety portion of aviation regulations, which make no mention of outer space. *Compare* 49 U.S.C. §§ 40101–50105 (addressing aviation programs), *with* 51 U.S.C. §§ 10101–71302 (addressing national and commercial space programs). Third, the purpose of these regulations, as explained elsewhere in Title 49, is "to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system." § 47101. Put another way, these are safety provisions. Thus, the presence of a minimum but not a maximum altitude standard does not reflect, as the majority implies, an intention by Congress to authorize boundless sovereignty into outer space. Because the Sixteenth Circuit stretched this aviation safety statute beyond its text, context, and purpose, its interpretation as a basis for outer space sovereignty should be rejected.

Thus, the Sixteenth Circuit erred when it dismissed sovereignty concerns as unique to jurisdiction and took for granted that overflight venue principles evolve from the United States' exercise of sovereignty over its airspace. Because the United States does not have sovereignty in outer space, overflight venue principles do not extend there, and the events giving rise to Solo's claim cannot be said to have occurred there, rendering venue improper under 28 U.S.C. § 1391(b)(2). This outcome does not, as the Sixteenth Circuit claims, create a "venue gap" for activities occurring in outer space. *See* R. at 26a. In fact, as discussed below, § 1391(b)(3) specifically contemplates

a situation in which venue cannot lie under (b)(2) and, alternatively, lays venue where a defendant is subject to personal jurisdiction.

2. Even under § 1391(b)(3)'s fallback provision, venue is improper, as the Empire lacks sufficient minimum contacts with Alderaan aside from the DS-1's explosion.

Under 28 U.S.C. § 1391(b)(3), if venue cannot properly lie in either of the other subsections, an action may be brought in "any judicial district in which any defendant is subject to the court's personal jurisdiction." For purposes of the § 1391(b)(3) venue analysis, this Court need only analyze personal jurisdiction through the lens of the Empire because the Empire is the only remaining defendant in the lawsuit. Further, even considering venue as to all initial defendants, other provisions of the venue statute confine the analysis to the Empire as the only United States-resident defendant.

i. Venue under § 1391(b)(3) turns on where the Empire is subject to personal jurisdiction.

This Court should follow the reasoning of those courts which exclude defendants no longer party to the suit from the venue analysis. For example, the Third Circuit in *In re Fine Paper Antitrust Litigation* upheld the district court's decision "that it was not required to confine its venue consideration to the facts as they existed at the time of the complaint." 685 F.2d 810, 819 (3rd Cir. 1982). The court ultimately declined to adhere to a "tradition of mechanical jurisprudence following 'a maxim or a definition with relentless disregard of consequences to a dryly logical extreme.'" *Id.* at 819 (quoting *Hynes v. N.Y. Cen. R. Co.*, 231 N.Y. 229, 235 (1921) (Cardozo, J.)).

Several district courts have adopted the Third Circuit's approach, analyzing venue only through the lens of the parties remaining in a lawsuit. *See Oceanic Expl. Co. v. Conocophillips, Inc.*, No. CIV.A. 04-332(EGS), 2007 WL 420186, *2 (D.D.C. Feb. 5, 2007) ("When certain defendants are dismissed from the case, those defendants are no longer considered in determining whether a case could have been brought in the proposed transferee district."); *Pugh v. Klinger,* 340 F. Supp. 471, 473 (S.D.N.Y. 1971) ("[T]he proper venue of this action appears to be . . . where all *remaining* defendants apparently reside.") (emphasis added); *LG Elecs., Inc v. First Int'l Comput., Inc.*, 138 F. Supp. 2d 574, 584 (D.N.J. 2001) ("Venue defects as to a party whose portion of the action has been severed or settled does not bar transfer of the remainder of the action."); *Piekarski v. Home Owners Sav. Bank*, 743 F. Supp. 38, 43 (D.D.C. 1990) ("The Court cannot blindly consider the case as it was at the time it was filed in reaching its decision, without considering the dismissal or substitution of parties.").

It is true that some courts look to the composition of parties at the outset of the suit in analyzing venue, but their reasoning misinterprets this Court's precedent and runs contrary to the purposes of venue laws. For example, the Federal Circuit, in *In re EMC Corporation*, relied on this Court's decision in *Hoffman v. Blaski*, 363 U.S. 335 (1960), in focusing its venue inquiry on the parties at the time of filing. 501 F. App'x 973, 975 (Fed. Cir. 2013). However, in doing so, it misinterpreted this Court's holding.

While it is true that venue is generally analyzed at the time of filing, the *Hoffman* Court applied this principle to a motion to transfer venue when no

defendants had settled or been dismissed. 363 U.S. at 336–37. There, a Texas defendant sought to transfer venue to Illinois by waiving his statutory venue and personal jurisdiction defenses, although the plaintiffs could not have originally sued him there. *Id.* This Court held that allowing such a transfer "would empower a District Court, upon a finding of convenience, to transfer an action to any district desired by the defendants . . . regardless of the fact that such transferee district was not one in which the action 'might have been brought' by the plaintiff." *Id.* at 344 (quoting 28 U.S.C. § 1404(a)). The Court clarified that the phrase "where it might have been brought" in § 1404 could not "be interpreted to mean . . . where it may now be rebrought, with defendants' consent." *Id.* at 343.

Hoffman can be distinguished from the present case because there, the Court guarded against allowing defendants to forum shop by transferring to any judicial district—including those where the plaintiff could not have brought the suit—by waiving venue and jurisdictional defenses. *See also Piekarski*, 743 F. Supp. at 42–43 ("Courts interpreting *Hoffman* have been particularly cognizant of the danger the Supreme Court was seeking to avert–enabling a defendant to vastly increase the options for venue of a suit by merely consenting to a change of venue to a district in which it could not have been served at the time the plaintiff filed the suit.").

By contrast, in this case, different policy concerns are at play. The Empire is neither seeking transfer nor forum shopping. Instead, it merely asks the Court to analyze where venue is proper for the parties as they stand today—one plaintiff, Han Solo, versus one defendant, the Empire. This dynamic approach more logically follows

from the goal of venue statutes, as stated by this Court, of "protect[ing] the defendant against the risk that a plaintiff will select an unfair or inconvenient place of trial" and ensuring "convenience of litigants and witnesses." *Leroy*, 443 U.S. at 184, 187 (citation omitted). Including dismissed defendants in the § 1391(b)(3) analysis could permit venue in distant forums inconvenient to the remaining litigants and witnesses. Because this outcome is contrary to the purposes of statutory venue laws, this Court should not "confine its venue consideration to the facts as they existed at the time of the complaint" and instead should consider the facts as they exist today. *In re Fine Paper Antitrust Litig.*, 685 F.2d at 819. As Solo's claims against Guatemala, Alianza, and Skywalker have been settled or dismissed, the Empire is the only remaining and relevant defendant for purposes of § 1391(c)(3). Accordingly, as the only remaining defendant, venue under § 1391(b)(3) turns on where the Empire is subject to personal jurisdiction.

Even if the Court declines to exclude Guatemala, Alianza, and Skywalker because they are no longer parties to the case, §§ 1391(c)(3) and (f)(1) still limit venue only to where the Empire is subject to personal jurisdiction. First, § 1391(c)(3) ensures that the presence of foreign defendants in a lawsuit does not impact where venue may lie for domestic defendants. Specifically, the provision requires that "for all venue purposes," defendants "not resident in the United States . . . shall be disregarded in determining where the action may be brought with respect to other defendants," as non-resident defendants "may be sued in any judicial district." *Id.* Accordingly, for the purposes of analyzing proper venue as to the Empire, the Court need only look to

those districts in which the Empire may be subject to personal jurisdiction, notwithstanding the presence of foreign defendants Skywalker, a Tunisian resident, and Alianza, a Guatemalan company.

Further, § 1391(f) specifically governs venue for civil actions against a foreign state and provides only one viable provision under which Guatemala could be subject to venue in Alderaan, (f)(1), and its requirements are not met here. It notably mirrors the analysis under subsection (b)(2), providing that a claim against a foreign state may be brought "in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred." Because, as discussed above, events occurring in low-Earth orbit above a judicial district cannot be considered to have occurred in a judicial district, venue in Alderaan as to Guatemala fails under subsection (f)(1). Accordingly, even including the original defendants, a proper venue analysis under § 1391(b)(3) still turns only upon the Empire's personal jurisdiction.

ii. Because the Empire lacks sufficient minimum contacts in Alderaan, it is not subject to personal jurisdiction there.

As this Court established in *International Shoe Company v. Washington*, a defendant must have "certain minimum contacts" with the forum to establish personal jurisdiction "such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." 326 U.S. 310, 316 (1945) (citation omitted). This principle arises from the Due Process Clause which "protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has . . . no meaningful contacts, ties, or relations." *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471–72 (1985) (citation omitted). In expounding

further on this principle, this Court has made clear that defendants may always be sued in jurisdictions in which they are considered to be "at home." *Daimler AG v. Bauman*, 571 U.S. 117, 136 (2014) (describing the standard for general jurisdiction). Further, a corporation is typically only deemed "at home" in the forum(s) in which it is incorporated or maintains its principal place of business. *Id.* at 137. In a jurisdiction where the defendant is not "at home," personal jurisdiction can only be found when a suit arises out of, or relates to, a defendant's contacts with the forum state. *Id.* at 118 (describing the standard for specific jurisdiction).

To establish such contacts, a defendant must have "purposefully avail[ed] itself of the privilege of conducting activities within the forum state . . . by, for example, exploiting a market in the forum [s]tate or entering a contractual relationship centered there." *Ford Motor Co. v. Mont. Eighth Jud. Dis. Ct.*, 592 U.S. 351, 359 (2021) (citation omitted). Moreover, "[t]he contacts must be the defendant's own choice and not 'random, isolated, or fortuitous.'" *Id.* at 359 (quoting *Keeton v. Hustler Mag., Inc.*, 465 U.S. 770, 774 (1984)). This requirement speaks to foreseeability, in that "the defendant's conduct and connection with the forum [s]tate are such that he should reasonably anticipate being haled into court there." *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980).

In products liability cases, specific jurisdiction is not established when a defendant manufacturer's only contacts with a forum state arise from its product being in the state at the time of a plaintiff's injuries. For example, in *World-Wide Volkswagen*, this Court held that a defendant car manufacturer was not subject to

specific personal jurisdiction in Oklahoma, notwithstanding the fact that the plaintiff's car accident occurred there. *Id.* at 295. In reaching this conclusion, this Court reasoned that the defendants "avail[ed] themselves to none of the privileges and benefits of Oklahoma law," as they "carr[ied] on no activity whatsoever in Oklahoma." *Id.* at 295. Specifically, the Court highlighted that the defendants did not conduct or solicit any business in Oklahoma. *Id.* Conversely, in *Ford Motor Company*, this Court held that Ford was subject to personal jurisdiction where its defective products caused injury because it "advertised, sold, and serviced" the defective products in the forums, thus "purposefully avail[ing] itself of the privilege of conducting activities within the forum [s]tate[s]." 592 U.S. at 365.

Applied here, the Empire is not subject to general jurisdiction in Alderaan because Alderaan is neither its place of incorporation nor its principal place of business. *See id.* at 359. Nor is the Empire subject to specific jurisdiction in Alderaan because it has not "purposefully avail[ed] itself of the privilege of conducting activities" within Alderaan. *See id.* at 361. Unlike the manufacturer in *Ford Motor Company*, the Empire has done no business in Alderaan, has no employees there, and is not registered to do business in the state. Moreover, the Empire has not initiated a single launch from Alderaan. As such, the DS-1's explosion while in low-Earth orbit above Alderaan is the Empire's only contact to the forum, which is insufficient to establish sufficient minimum contacts there. *See World-Wide Volkswagen Corp.,* 44 U.S. at 295 (holding that, without any other contacts to Oklahoma, "the fortuitous circumstance that a single Audi automobile . . . happened to suffer an accident while

passing through Oklahoma" was insufficient to establish sufficient minimum contacts of the distributer in the forum). Venue in Alderaan is thus improper under § 1391(b)(3), and the Sixteenth Circuit's venue determination should be reversed.

II. The CSLAA does not apply because the DS-1's explosion did not occur during launch or reentry; alternatively, if it applies, it requires the establishment of proximate cause, which cannot be met here given Skywalker's superseding, intervening act.

This Court should reverse the Sixteenth Circuit's application of the CSLAA to this case because its text, structure, and purpose indicate that it applies only to launch and reentry. Accordingly, the Empire's activities in low-Earth orbit fall outside of the CSLAA's scope. Further, if the CSLAA applies to licensees' activities in low-Earth orbit, it imports state law principles of proximate cause. To that end, because the Empire did not proximately cause Solo's injuries as a matter of law, the Sixteenth Circuit erred in affirming the denial of the Empire and the United States's renewed motions for judgment as a matter of law ("JMOL").

Judgment as a matter of law may be granted if the Court "finds that a 'reasonable jury would not have a legally sufficient evidentiary basis to find for the [nonmoving] party.'" *Dupree v. Younger*, 598 U.S. 729, 737 (2023) (quoting Fed. R. Civ. P. 50(a), (b)). As to factual issues, the Court "should review all of the evidence in the record" but "must draw all reasonable inferences in favor of the nonmoving party." *Reeves v. Sanderson Plumbing Prods.*, 530 U.S. 133, 150 (2000) (recognizing that the judgment as a matter of law inquiry mirrors that of summary judgment under Rule 56). "[The Court] may not make credibility determinations or weigh . . . evidence." *Id.* Nevertheless, as the Sixteenth Circuit noted, questions of law raised

by a JMOL motion, including questions of statutory interpretation, are reviewed *de novo*. *See Tobin v. Liberty Mut. Ins. Co.*, 553 F.3d 121, 134 (1st Cir. 2009).

Applied here, this Court should find that the Empire is not liable under the CSLAA for three reasons. First, the text, context, and purpose of the CSLAA indicate that it applies only to launch and reentry activities. Second, even if the CSLAA applies here, it incorporates a proximate causation standard. Third, notwithstanding the jury's finding, the Empire did not, as a matter of law, proximately cause Solo's injuries.

A. The CSLAA's text, structure, and purpose indicate that it only governs launch and reentry, not activities occurring in low-Earth orbit.

The term "activity" under § 50915(a)(1), when read in conjunction with the limiting provision following it and the entire statute, encompasses only launch and reentry. Further, this interpretation aligns with Congress's specific intent to regulate only these two narrow windows of activity, as evidenced by the statute's legislative history. Finally, because the language of the CSLAA is clear, non-self-executing treaties do not inform its interpretation. Applied here, because the DS-1's explosion in low-Earth orbit was not a launch or reentry activity, the CSLAA does not apply.

1. Reading the CSLAA as a whole, only launch and reentry are activities carried out under the license as stated in § 50915.

The CSLAA requires United States entities to obtain a license before engaging in launch or reentry activities. *See* 51 U.S.C. § 50904(a). It further requires the United States government to pay the "successful claim" of a third party against a licensee for certain losses "resulting from an activity carried out under the license." §

50915(a)(1). Accordingly, whether the CSLAA applies to this case turns on whether the DS-1's explosion in low-Earth orbit was "an activity *carried out under the license*." *See id.* (emphasis added). Because the word "activity," when properly read in conjunction with its limiting language, includes only launch and reentry, § 50915(a)(1) does not reach the Empire's activities in low-Earth orbit.

To resolve the meaning of "an activity carried out under the license," this Court should first examine the provision against the backdrop of its neighboring provisions and statutory structure. *See K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988) ("In ascertaining the plain meaning of the statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole.") (citing *Bethesda Hosp. Assoc. v. Bowen*, 485 U.S. 399, 403–05 (1988)).

For example, in *Maracich v. Spears*, this Court examined the scope of an exception provision under the Driver's Privacy Protection Act of 1994 ("DPPA"). 570 U.S. 48, 52 (2013). The DPAA prohibits disclosure of drivers' personal information unless an enumerated exception applies. *Id.* In *Maracich*, the Court sought to interpret the meaning of one of the exceptions, which "permits obtaining personal information . . . for use 'in connection with' judicial and administrative proceedings, including 'investigation in anticipation of litigation.'" *Id.* (quoting § 2721(b)(4) of the DPAA). There, the defendants obtained personal information "of thousands of individuals from the South Carolina DMV . . . to find plaintiffs for a lawsuit they had filed against car dealers" in the state. Thus, this Court sought to answer whether the

drivers' personal information was obtained "for use in connection with . . . proceedings," including "investigation in anticipation of litigation." § 2721(b)(4).

The Court cautioned against reading subsection (b)(4) in isolation, reasoning that its "language, in literal terms, could be interpreted" too broadly. To ascertain the meaning of "investigation," the Court recognized that phrases should "be construed in light of their accompanying words." *Id.* at 62 (citation omitted). It recognized that the word "investigation" must be read in conjunction with the phrase following it, "in anticipation of litigation," which "modifies and necessarily narrows" it. *Id.* at 64. Accordingly, the Court held that "investigation" did not extend to commercial solicitation, because commercial solicitation is not the type of activity contemplated "in anticipation of litigation." *Id.* at 63–64 (recognizing that activities in anticipation of litigation include researching the "theory for a complaint" or finding "witnesses for deposition").

Applying the principles expressed in *Maracich* to the case at bar, the term "activity" must be read in light of its neighboring phrases and provisions. Notably, the term "activity" is not immediately defined in § 50915(a)(1) and, standing alone, is certainly capable of multiple meanings. Thus, the Court should next look to the words and phrases accompanying "activity." Here, like the term "investigation" in *Maracich*, the term "activity" does not exist in isolation. Instead, its scope is modified and necessarily narrowed by the phrase that follows it—"carried out under the license." Accordingly, the analysis next turns upon what types of activities can be "carried out under the license," which points the Court to § 50904, defining licensing activities.

See also King v. St. Vincent's Hosp., 502 U.S. 215, 221 (1991) (conducting a textual analysis with an eye towards the statute as a whole, focusing on contextual relevancy as opposed to interpreting subsections in isolation). § 50904 leaves no ambiguity as to what activities are covered by the license. Indeed, subsections (a)(1)–(4) authorize only two types of licenses: (1) a license to launch or operate a launch site, and (2) a license to reenter Earth's orbit or operate a reentry vehicle. *See id.* (requiring licenses only for "launch," "operat[ion of] a launch site or reentry site," and "reent[ry]"). Notably absent from the narrowly enumerated activities is inclusion of any in-orbit activities.

Moreover, looking to the structure of the statute, all other substantive provisions focus solely on launch and reentry. For example, § 50905(a)(2), which governs the Secretary of Transportation's responsibilities as to licensing, urges the Secretary to establish safety procedures for vehicles and systems "that may be used in conducting *licensed* commercial space *launch or reentry activities*." (emphasis added). Similarly, § 50908(d)(1) permits the Secretary to "suspend a license when a previous *launch or reentry under the license* has resulted in serious . . . injury." (emphasis added). Even § 50911, which contemplates advertising which takes place in outer space, regulates only the *launching* of such advertising materials by licensees. *See also* § 50907(a) (requiring licensees to have observers "at [their] launch or reentry site[s]"); § 50909 (permitting suspension of launch or reentry "licensed under this chapter" if detrimental to the public health); § 50910 (ensuring access to

launch or reentry sites where a "commitment . . . has been obtained *for a launch or reentry licensed under this chapter*) (emphasis added).

Accordingly, the Sixteenth Circuit erred when it extracted the word "activity" from its neighboring language and broader statutory scheme and instead analyzed it "in isolation." *See* R. at 42a (interpreting "activity" as used in § 50915 to mean "any activity" carried out under the license); *Maracich*, 570 U.S. at 62 (cautioning against reading statutory language too broadly, in isolation from neighboring provisions). Moreover, it failed to account for the numerous other provisions within the CSLAA that indicate the licenses pertain only to launch or reentry. Because the word "activity" should be read in light of neighboring provisions and statute as a whole, "an activity under the license" can only be that of launch or reentry. Accordingly, the CSLAA does not extend to the Empire's activities in low-Earth orbit.

2. Congress enacted the CSLAA to regulate the launch and reentry of spacecraft and to indemnify losses arising only from those activities.

Because the statutory language and structure plainly confine the application of the CSLAA to launch and reentry activities, the Court need not extend its analysis beyond the text. *See Desert Palace, Inc., v. Costa* 539 U.S. 90, 98 (2003) ("And where, as here, the words of the statute are unambiguous, the judicial inquiry is complete."); *Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 254 (1992) ("When the words of a statute are unambiguous, then, this first canon is also the last: judicial inquiry is complete.") (citation omitted). Nevertheless, to the extent that this Court looks beyond the CSLAA's clear text, examination of its legislative intent reinforces the conclusion that § 50915(a)(1) applies only to launch and reentry. *See United States v. Turkette,* 452

U.S. 676, 580 (1981) (instructing courts to "look first to [a statute's] language" and next to "expressed legislative intent").

Reading the CSLAA to apply only to launch and reentry comports with express congressional intent and the statute's legislative history. First, the CSLAA expressly states that one of its purposes is to give the Secretary of Transportation the authority to "coordinate the conduct of commercial *launch and reentry operations*" and "issue . . . commercial licenses . . . authorizing those operations." 51 U.S.C. § 50901 (emphasis added). Thus, the text itself expresses clear legislative intent for the licenses to regulate *launch and reentry* alone.

Further, the CSLAA's legislative history confirms this intent. In 1998, Congress amended the CSLAA and specifically added reentry to the scope of licensed activities. *See generally* H.R. Res. 1702, 105th Cong. (1988) (enacted). The House Science Committee Report accompanying the amendments asserted that "[t]he Committee wishes to make clear that the Secretary [of Transportation] has no authority to license or regulate activities that take place between the end of the launch phase and the beginning of the reentry phase, such as . . . non-reentry operations in Earth orbit." *Id.* at 22. Likewise, the indemnification provisions, the report clarified, "apply to losses sustained as a result of licensed activities (i.e., launches and reentries), *not* events or activities *between* launch and reentry; after reentry; or uncovered before launch." *Id.* at 23 (emphasis added). Put plainly, "once a launch or reentry is completed, no protection against third party liability is . . . provided." *Id.*

Thus, Congress targeted a narrow window of activities, launch and reentry, and excluded liability beyond those activities. Accordingly, because the Sixteenth Circuit's extension of the CSLAA to in-orbit activities contravenes both the language of the statute and the expressed intent of Congress, this Court should reject its overbroad interpretation and application to the Empire.

3. The inapplicable obligations of the United States under non-self-executing treaties should not inform this Court's interpretation of the CSLAA.

When the Court is presented with statutory language that is clear, an inquiry into relevant treaties is misplaced. *See* Justin Hughes, *The Charming Betsy Canon, American Legal Doctrine, and the Global Rule of Law*, 53 Van. J. Transnat'l L. 1181 (2020); *see also Fund for Animals, Inc. v. Kempthorne*, 472 F.3d 872, 877 (D.C. Cir. 2006) (recognizing that "the canon against abrogation" of treaties "does not apply" when a statute is unambiguous); *In re Rath*, 402 F.3d 1207, 1209 (Fed. Cir. 2005) (finding that a review of international law was irrelevant because the statute at issue was unambiguous); *but see Fund for Animals, Inc.*, 472 F.3d at 879 (Kavanaugh, J., concurring) (suggesting that even *ambiguous* statutes should not be construed against the abrogation of *non-self-executing* treaties). Accordingly, the Sixteenth Circuit erred when it looked beyond the unambiguous language of the CSLAA and analyzed it through the lens of international treaties. Nevertheless, even if this Court considers the CSLAA against the backdrop of international treaties, their status as non-self-executing and their limited application to non-state actors render them uninformative here.

This Court has recognized that "[a] treaty is in its nature a contract between two nations, not a legislative act." *Foster v. Neilson*, 27 U.S. 253, 314 (1989). Thus, treaties serve only as an expression of international bodies absent clear implementing legislation. *See Medellín v. Texas*, 552 U.S. 491, 505 (2008). In fact, "[t]he point of a non-self-executing treaty is that it addresses itself to the political, not the judicial department; and the legislature must execute the contract before it can become a rule for the Court." *Id.* at 516 (citation omitted). To that end, even if Congress incorporates treaty provisions into a statute, "it is the implementing legislation, rather than the agreement itself, that is given effect as law in the United States." Restatement (Third) of the Foreign Rel. L. of the U.S., § 111 cmt. h (A.L.I. 1987); *see also Fund for Animals, Inc.*, 472 F.3d at 879 (Kavanaugh, J., concurring) ([B]ecause non-self-executing treaties have no legal status in American courts, there seems to be little justification for a court to put a thumb on the scale in favor of a non-self-executing treaty when interpreting a statute.").

Here, the Sixteenth Circuit examined three non-self-executing treaties: the Outer Space Treaty, the Liability Convention, and the Registration Convention. R. at 43a. While the court agreed that these non-self-executing treaties are nonbinding and therefore do not create a private right of action, it nevertheless relied on them in interpreting the CSLAA. This reliance on treaties governing sovereign states was especially misplaced in interpreting the CSLAA, which governs only private citizens.

For example, the Outer Space Treaty requires *member states* to provide "continuing supervision" of the activities of non-governmental entities. *See* art. VI, 18

U.S.T. 2410 (emphasis added). Likewise, the Liability Convention attaches liability for launching *states* when they launch objects that cause damage in outer space. *See* arts. II–III, 24 U.S.T. 2389. Notably, neither the Outer Space Treaty nor the Liability Convention attach liability against a state for harms caused in space to its own citizens, as the Sixteenth Circuit is doing here. *See* art. VII, 18 U.S.T. 2410 (providing international liability only for damage by one state to another state or its natural persons); art. VII, 24 U.S.T. 2389 (same). Finally, the Registration Convention expressly requires launching *states* to register with the Secretary-General of the United Nations before sending objects into Outer Space. art. I, 28 U.S.T. 695.

Accordingly, because these treaties speak to duties of sovereign *states*, they are not informative to this Court's interpretation of the CSLAA to commercial space entities. Because the Empire is a private entity operating as an independent commercial space flight operator, the treaty obligations do not apply to its conduct.

B. If the CSLAA applies, the statute imports a proximate causation standard under which the Empire and the United States are not liable for Solo's injuries.

Even if the CSLAA applies to activities occurring in Earth's orbit, the statute requires proximate cause to be established, which cannot be achieved here. Because Skywalker's attack was an intervening, superseding cause of Solo's injuries, the Empire and the United States cannot, as a matter of law, be liable for Solo's injuries. As such, this Court should reverse the Sixteenth Circuit's decision.

1. The CSLAA's "successful claim" language necessitates the application of state tort law principles of proximate cause.

The CSLAA's language indicates that the government will only be liable when a third party brings a "successful claim" against a licensee for injuries "resulting from an activity carried out under the license." 51 U.S.C. § 50915(a). In the absence of applicable substantive federal tort law, "successful claim" necessarily references state-law tort claims. Notably, this Court has recognized that federal common law generally does not exist, and there are no federal statutes defining the types of claims contemplated by the CSLAA. *See Eerie R.R. Co. v. Tompkins*, 304 U.S. 64, 78 (1938) ("There is no federal general common law."); *O'Melveny & Myers v. F.D.I.C.*, 512 U.S. 79, 89 (1994) (discussing "the runaway tendencies of 'federal common law'" and the "extraordinary cases" in which federal judicially-created law is warranted); *Griffin v. Breckenridge*, 403 U.S. 88, 102 (1971) (acknowledging the "constitutional shoals that would lie in the path of interpreting [a statute] as a general federal tort law").

This interpretation of "successful claim" is further supported by the fact that § 50915 aims to indemnify commercial space entities for claims arising out of launch and reentry activities. Notably, in this light, Congress prescribed a three-step indemnification regime by way of § 50915. First, a third party must be awarded damages after bringing a "successful claim" against a licensee. Second, the licensee's actions must not have been deemed willful misconduct. Third, if the first two requirements are met, the government must pay some of the damages awarded in that underlying suit. The preliminary requirement of a "successful claim" indicates

Congress had state tort law in mind when drafting the CSLAA and thus intended to require proximate cause.

Notably, though state tort law is "susceptible to articulation in different . . . ways," states generally agree on "essential components." Marin R. Scordato, *Three Kinds of Fault: Understanding the Purpose and Function of Causation in Tort Law*, 77 U. Mia. L. Rev. 149, 154 n. 1 (2022). One of these essential components is that of proximate cause. *See* David G. Owen, *The Five Elements of Negligence*, 35 Hofstra L. Rev. 1671, 1671 (2007) (discussing the different states' grouping of negligence "elements," but assuring that proximate cause is "essential to negligence," as was "evident from an early date"); *see also* Thomas C. Galligan, Jr., *The Structure of Torts*, 46 Fla. St. U. L. Rev. 485 (2019) (contending that all torts, in structure, follow negligence principles). The widely recognized Restatement of Torts, for example, has listed proximate cause as a necessary element of negligence in each iteration of the treatise. *See* Restatement of the Law (Second), Torts § 430 (requiring actions to also be a "legal cause of [the plaintiff's] harm" for negligence liability); Restatement of the Law (Second), Torts § 430 (same); Restatement of the Law (Third), Torts: Physical & Emotional Harm § 29 (limiting negligence liability to "those harms that result from the risks that made the actor's conduct tortious); *see also* Ronald J. Allen, *Legal Phenomena, Knowledge & Theory: A Cautionary Tale of Hedgehogs and Foxes*, 77 Chi.-Kent L. Rev. 683, 703 (2002) (noting that most states follow the Restatement of Torts); Victor E. Schwartz & Christopher E. Appel, *The Restatement (Third) of Torts Proposes Abandoning Tort Law's Present Injury Requirement to Allow Medical*

Monitoring Claims: Should Courts Follow?, 52 S.W.L. Rev. 512, 513–14 (2024) (noting that the Restatements are cited "thousands of times each year," have been relied upon by every state in developing common law, and that the Restatement of Torts has been "especially influential").

The Sixteenth Circuit, in declining to apply a proximate causation standard, failed to properly analyze the "successful claim" language. Particularly, the court focused almost entirely on § 50915's "resulting from" language in deciding that plaintiffs need only establish actual, or "but-for" causation under the CSLAA. In reaching this conclusion, the Sixteenth Circuit relied on the principle expressed in *Burrage v. United States*, that "courts regularly read phrases like 'results from' to require but-for causality." 571 U.S. 204, 212 (2014).

However, *Burrage* does not mandate the same reading here given the caveat expressed therein that "resulting from" language implies but-for causation only "where there is no textual or contextual indication to the contrary." *Id.* Here, there are both textual and contextual indications to the contrary in the CSLAA for the reasons discussed above. First, § 50915 is merely an indemnification regime, rendering a "successful claim" a prerequisite to the United States' liability. Second, this "successful claim" necessarily rests on state tort law given the limited existence of substantive federal torts.

Other federal indemnification regimes confirm this reading. For example, the most direct corollary to the CSLAA, the Atomic Energy Act of 1954 (the "AEA"), similarly provides a licensing scheme for certain commercial activities and provides

for government indemnification of licensees' "public liability arising out of or in connection with licensed activity." 42 U.S.C. § 2210. Thus, like the CSLAA, a plaintiff must first bring an action based on licensed activity, and second, upon obtaining a favorable verdict, may then be indemnified to a certain extent. *Id.* Notably, the "public liability" claims are governed by *state* substantive law. *See Rainer v. Union Carbide Corp.*, 402 F.3d 608, 618 (6th Cir. 2005) ("Courts are required to look to state law for the substantive rules to apply in deciding claims brought under the Act.").

The Sixteenth Circuit's reliance on *Burrage* is also misguided, as the *Burrage* Court did not reach the proximate cause inquiry undertaken here. Rather, the Court decided only the meaning of the actual cause required by the statute at issue under its "results from" language. 571 U.S. at 210–16. Specifically, the Court rejected the plaintiff's argument that this language encompassed more than just "but-for" cause but also extended to mere substantial or contributing causes. *Id.* It was in this light that the Court announced its principle that phrases like "results from" typically require but-for causality. *Id.* However, the Court acknowledged earlier in the same section that when a statute requires "not merely conduct *but also a specified result of conduct*," his conduct must generally be "both (1) the actual cause, and (2) the 'legal' cause (often called proximate cause) of the result." *Id.* at 210 (emphasis added) (citation omitted). It then explicitly stated that, it "f[ound] it necessary to decide only the first [issue]," which was whether the defendant's actions were the actual cause of harm. *Id.*

As such, not only is the *Burrage* language undecisive in this case, it is inapplicable given that, here, it is uncontested that the CSLAA requires "but-for" actual cause. Rather, the pertinent inquiry is whether the CSLAA imports, in addition to its actual cause requirement, a proximate cause requirement. Moreover, *Burrage* may even be read as favoring a proximate cause requirement under the CSLAA given that the CSLAA not only requires that activities be carried out under the license, but that those activities result in damages—death, bodily injury, or property damage or loss. Because when properly analyzed, the "successful claim" language implicates state tort law principles of proximate cause, the Sixteenth Circuit erred in applying a but-for causation standard.

2. Notwithstanding the jury verdict, Skywalker's terroristic actions were, as a matter of law, a superseding and intervening cause of Solo's injuries.

Skywalker's attack was an intervening, superseding cause of Solo's injuries, as it was neither typical nor foreseeable. Accordingly, this Court should reverse the Sixteenth Circuit's holding and find that the DS-1's design defect was not, as a matter of law, the proximate cause of Solo's injuries.

Though there is no singular definition of proximate cause, states generally agree that [t]he proximate cause of an injury is that cause that in a natural and continuous sequence, unbroken by any efficient intervening cause, produced the [plaintiff's] injuries, and without which the results would not have occurred." 3 Charles F. Krause et. al, *American Law of Torts* § 11:1 (2025); *see also* 57A Am. Jur. 2d *Negligence* § 391 (2025) (providing a near-identical definition as "[o]ne of the most widely quoted definitions" of proximate cause). Notably, "the issue of proximate cause

is one to be decided 'upon mixed considerations of logic, common sense, justice, policy[,] and precedent.'" 3 Charles F. Krause et. al, *American Law of Torts* § 11:1 (2025).

When an intervening act occurs between the time of a defendant's negligent acts and a plaintiff's injury, it may sever the natural and continuous sequence of the proximate causal chain. *See* 57A Am. Jur. 2d *Negligence* § 555 (2025) (contemplating that an intervening cause may "be one which breaks the . . . causal chain . . . between the original negligent . . . act and the injury"). In determining whether an intervening act severs the casual chain, courts often look to whether the act was reasonably *foreseeable*. 65 C.J.S. *Negligence* § 228 (2025). Specifically, "if an act that intervenes between the defendant's conduct and the plaintiff's injury is *not* reasonably foreseeable, this intervening act is [considered] the independent cause of the injury, and it breaks the causal chain that would establish the defendant's liability." *Suzik v. Sea-Land Corp.*, 89 F.3d 345, 348 (7th Cir. 1996) (emphasis added).

Generally, intervening terrorist attacks by third parties are deemed unforeseeable and sufficient to sever a defendant's negligence liability. For example, in *Port Authority of New York and New Jersey v. Arcadian Corporation*, the Third Circuit held that fertilizer manufacturers did not proximately cause the injuries sustained by victims of a World Trade Center bombing, in which the manufacturers' products were used to create the bomb. 189 F.3d 305, 309, 317–19 (3d Cir. 1999). The court rejected the contention that prior explosions involving similar fertilizer components, and increased regulation of such components, rendered this attack

foreseeable. *Id.* at 309, 315. The court reasoned that while awareness of prior attacks and heightened regulations might speak to *subjective* foreseeability, the terroristic exploitation of the defendants' products was "[n]ot *objectively* foreseeable." *Id.* at 315 (emphasis added) ("Objective foreseeability means reasonable foreseeability. The standard does not affix responsibility for future events that are only theoretically, remotely, or just possibly foreseeable.") (citation omitted). Moreover, the court concluded that, though foreseeability is typically a jury determination, "[t]he inferences in th[e] case [were] indeed so clear" that "as a matter of law," the terroristic exploitation defendants' products was unforeseeable. *Id.*

The Tenth Circuit reached the same conclusion in *Gaines-Tabb v. ICI Explosives, USA, Inc.*, where victims of a similar fertilizer-bomb sued the fertilizer manufacturers in tort. 160 F.3d 613, 619, 621 (10th Cir. 1998). There, the court adopted the analysis provided by the Restatement of Torts and considered "(1) whether the situation provide[d] a temptation to which a 'recognizable percentage' of people would yield, [and] (2) [whether] the temptation [was] created at a place where 'persons of a peculiarly vicious type are likely to be.'" *Id.* at 621; Restatement (Second) of Torts § 448 (A.L.I. 1965). After finding that neither of the preceding conditions were met, the court held that the terrorist's actions were a superseding cause of the plaintiff's harm. *Id.* Specifically, the court noted that the ingredients at issue were used in only two prior bombings and that only a small subsection of the population had the capability to acquire the necessary ingredients, mix the proper ratio, and detonate the bomb used in the attack. *Id.* The court emphasized that, while causation

is usually a question of fact, "the question becomes an issue of law when there is no evidence from which a jury could reasonably find the required proximate, causal nexus between the careless act and the resulting injuries." *Id.* at 620 (quoting *Henry v. Merck & Co.*, 877 F.2d 1489, 1495 (10th Cir. 1989)).

Notably, the Sixteenth Circuit did not address any of these principles, and the concurrence relied upon only readily distinguishable case in concluding that a reasonably jury could find the Empire proximately caused Solo's harm. Specifically, the concurrence pointed to *Green Plains Otter Tail, LLC v. Pro-Environmental, Inc.*, 953 F.3d 541 (8th Cir. 2020) to contend that Skywalker's attack was foreseeable. But a close examination of that case demonstrates its attenuation from the one at bar.

In *Green Plains*, an ethanol factory caught on fire and exploded following the failure of one of its regenerative thermal oxidizers ("RTO") due to it not being precharged. *Id.* at 544–45. This was a result, in part, of the factory owner's failure to adhere to the manufacturer's instructions, which warned that precharge levels should be regularly monitored and replenished. *Id.* at 545. The factory owner sued for negligence, and the defendant moved for summary judgment, arguing that the plaintiff's lack of maintenance was a superseding cause which negated its liability. *Id.* The Eighth Circuit rejected this argument, however, because it felt "[r]easonable minds could disagree whether [the defendant] could foresee that a company would view 'suggested' maintenance as mandatory or would ignore it due to the effort required." *Id.* at 548.

Unlike the defect in *Green Plains*, reasonable minds could not disagree as to whether Skywalker's attack was foreseeable. Unlike the design defect in that case, an uncharged safety mechanism that would necessarily result in harm if left uncured, the design defect present in the DS-1 could have existed in perpetuity without ever causing harm, as only a direct hit by a proton torpedo was sufficient to trigger the DS-1's explosion.

Moreover, to the extent Solo may reach for cases aside from *Green Plains* to establish the foreseeability of Skywalker's attack, they, too, are distinguishable. For example, a much more applicable fact pattern is present in *In re September 11 Litigation*, which pertained to tort claims raised against several defendants, including Boeing, following the 9/11 attacks. 280 F. Supp. 279 (S.D.N.Y. 2003). Specifically, plaintiffs alleged that Boeing was liable for injuries sustained by passengers in the 9/11 plane crashes due to the negligent design of the 757's cockpit doors. *Id.* at 286–87, 306–307. Boeing contended that it did not proximately cause the passengers' injuries, because "the criminal acts of the terrorists in hijacking the airplanes and using [them] as weapons of mass destruction constituted an 'efficient intervening cause' which broke the 'natural and continuous sequence' of events flowing from" the 757's design. *Id.* at 308. The court rejected Boeing's position, finding that "Boeing could reasonably have foreseen that terrorists would try to invade the cockpits of airplanes . . . [which] would be imminently dangerous to passengers, crew, and ground victims." *Id.* at 308–09. Notably, the court found that there were "too many" successful prior "efforts by terrorists to hijack airplanes" and concluded that,

though novel, the combination "an airplane hijacking and a suicidal explosion" was not unforeseeable. *Id.*

Even acknowledging the existence of cases such as this, the extraordinary nature of Skywalker's actions aligns him more closely with the intervening actors in *Gaines-Tabb* and *Port Authority*. Unlike the plaintiff's disregard for the product manual instructions in *Green Plains*, or the terrorist attacks in *In re September 11 Litigation*, Skywalker's attack was far from foreseeable. In fact, the record indicates that his attack unprecedented, as he struck the DS-1 with a "one-in-a-million" shot.

Like the bombing in *Gaines-Tabb*, Skywalker's attack required highly extraordinary resources. Specifically, Skywalker employed expensive technology, utilizing an X-wing starfighter, equipped with proton torpedoes, which is a type of weapon historically wielded only by sovereign states. *See* R. at 63a–64a (asserting that a proton torpedo "is the rough equivalent of a guided Tomahawk missile similar to those used by China"). Further, his attack required him to launch into space, a feat achieved by only three other private citizens, all of whom, unlike Solo, are billionaires. Yet Skywalker managed a successful launch backed only by a single-director corporation that has since been dissolved.

Additionally, his attack necessitated an unprecedented level of skill, as it required Skywalker to fly into low-Earth orbit and shoot, from a distance, another moving target only two meters wide in diameter. Thus, just as "only a small number of persons" could effectuate the bombing as in *Gaines-Tabb*, only an experienced space pilot with the requisite means and acumen could accomplish this feat, and such

pilots are presumably few and far between. In fact, even without the technological and financial hurdles, perhaps only Skywalker, described as "one of the best space pilots on Earth," could make this "one-in-a-million-shot." R. at 2a, 5a.

Moreover, though public dissent may have made an attack like Skywalker's "theoretically possible," just as the bombing on the World Trade Center was in *Port Authority*, this is not enough to push the attack beyond the realms of hypothetical possibility and into that of objective foreseeability. This is especially so given the fact that the Empire worked diligently to assuage public concerns by emphasizing its peaceful intentions behind the DS-1, which were even reiterated by the United States.

As such, the Sixteenth Circuit should have found that the Empire and the United States cannot, as a matter of law, be liable under the CSLAA for Solo's harms. While the concurrence is correct that "[t]he issues of foreseeability and superseding cause are properly for the jury to decide when there may be reasonable differences in opinion," R. at 64a (citations omitted), no evidence has been presented from which a jury can *reasonably* conclude that Skywalker's actions were foreseeable. Therefore, Skywalker's attack was a superseding, intervening act severing the liability of the Empire and the United States. As such, this court should reverse the decision of the Sixteenth Circuit.

CONCLUSION

For the foregoing reasons, the Empire respectfully asks this Court to REVERSE the decision of the Sixteenth Circuit Court of Appeals and REMAND to the District Court for the District of Alderaan for further proceedings consistent with this Court's holding.

Respectfully submitted,

Team 30
Counsel for Petitioner

November 17, 2025

APPENDIX

Statutory Provisions

Section 50904 of the Commercial Space Launch Activities Act provides:

> (a) Requirement.—A license is 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 lunch site or reentry site, or to reenter a reentry vehicle, in the United States.

Section 50915 of the Commercial Space Launch Activities Act provides:

> (a) General requirements.
>
> (1) When a launch or reentry license is issued or transferred under this chapter [51 USCS §§ 50901 et seq.], 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
>
> (B) the United States Government against a person for damage or loss to Government property resulting from an activity carried out under the license.

Section 1391 of Title 28 of the United States Code provides:

> (a) Applicability of Section.—Except as otherwise provided by law—
>
> (1) this section shall govern the venue of all civil actions brought in district courts of the United States; and
>
> (2) the proper venue for a civil action shall be determined without regard to whether the action is local or transitory in nature.
>
> (b) Venue in General.—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.

(c) Residency.—For all venue purposes—

(1) a natural person, including an alien lawfully admitted for permanent residence in the United States, shall be deemed to reside in the judicial district in which that person is domiciled;

(2) an entity with the capacity to sue and be sued in its common name under applicable law, whether or not incorporated, shall be deemed to reside, if a defendant, in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question and, if a plaintiff, only in the judicial district in which it maintains its principal place of business; and

(3) a defendant not resident in the United States may be sued in any judicial district, and the joinder of such a defendant shall be disregarded in determining where the action may be brought with respect to other defendants.

(d) Residency of Corporations in States With Multiple Districts.—

For purposes of venue under this chapter, in a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.

(e) Actions Where Defendant Is Officer or Employee of the United States.—

(1) In general.—

A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, or the United States, may, except as otherwise provided by law, be brought in any judicial district in which (A) a defendant in the action resides, (B) 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 (C) the plaintiff resides if no real property is involved in the action. Additional persons may be joined as parties to any such action in accordance with the Federal Rules of Civil Procedure and with such other venue

requirements as would be applicable if the United States or one of its officers, employees, or agencies were not a party.

(2) Service.—

The summons and complaint in such an action shall be served as provided by the Federal Rules of Civil Procedure except that the delivery of the summons and complaint to the officer or agency as required by the rules may be made by certified mail beyond the territorial limits of the district in which the action is brought.

(f) Civil Actions Against a Foreign State.—A civil action against a foreign state as defined in section 1603(a) of this title may be brought—

(1) in any 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;

(2) in any judicial district in which the vessel or cargo of a foreign state is situated, if the claim is asserted under section 1605(b) of this title;

(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business, if the action is brought against an agency or instrumentality of a foreign state as defined in section 1603(b) of this title; or

(4) in the United States District Court for the District of Columbia if the action is brought against a foreign state or political subdivision thereof.

FEDERAL RULES OF CIVIL PROCEDURE

Federal Rule of Civil Procedure Rule 12 provides, in pertinent part:

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

(2) improper venue;

Federal Rule of Civil Procedure Rule 50 provides, in pertinent part:

(a) Judgment as a Matter of Law.

(1) In General. If a party has been fully heard on an issue during a jury trial and the court finds that a reasonable jury would not have a legally

sufficient evidentiary basis to find for the party on that issue, the court may:

(A) resolve the issue against the party; and

(B) grant a motion for judgment as a matter of law against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue.

(2) Motion. A motion for judgment as a matter of law may be made at any time before the case is submitted to the jury. The motion must specify the judgment sought and the law and facts that entitle the movant to the judgment.

(b) Renewing the Motion After Trial; Alternative Motion for a New Trial. If the court does not grant a motion for judgment as a matter of law made under Rule 50(a), the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion. No later than 28 days after the entry of judgment—or if the motion addresses a jury issue not decided by a verdict, no later than 28 days after the jury was discharged—the movant may file a renewed motion for judgment as a matter of law and may include an alternative or joint request for a new trial under Rule 59 . In ruling on the renewed motion, the court may:

(1) allow judgment on the verdict, if the jury returned a verdict;

(2) order a new trial; or

(3) direct the entry of judgment as a matter of law.