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DISTRICT COURT DENIES PLAINTIFFS' MOTION TO REMAND CASE AGAINST AIRPLANE MANUFACTURER

In this federal court case, the plaintiffs allege that the decedent was exposed to asbestos while working as a civilian flight mechanic at the Belle Chasse Air Force Base from the early 1950s through 1979. The Boeing Company removed the case to federal court. The plaintiffs then moved to remand the case back to state court, arguing that the federal court lacks subject matter jurisdiction over the case since defendants do not meet the removal requirements set forth in 28 U.S.C. 1442 (a)(1). In the alternative, the plaintiffs requested that their state law claims against the other defendants be severed and remanded.

The court, in denying the remand, stated, "The 'federal officer' should be able to have a federal court make a determination on the existence of federal subject matter jurisdiction." The court went on to note "it seems likely that the defendants will rely at least in part on a government contractor defense, and they should have the ability to have this matter decided by a federal court."

The court also denied the plaintiffs' alternative request to sever the state law claims and held: "The cited statutory language, as applied to this case, does not require severing and remanding any of the other claims. Such claims do not fall under the language of § 1441(c)(B) nor has it been explained how any of the other claims are 'unrelated.' To the contrary, it appears that all claims are intimately related to those made against the removing defendants. The Court chooses not to sever and remand any matters at this time based on judicial economy."

Read the full decision [here](#).

If you have questions about how this decision may impact your business, please contact:

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