NO. _____

In the Supreme Court of the United States

CAROL WILLIAMS,
INDIVIDUALLY AND ON BEHALF OF THE
ESTATE AND WRONGFUL DEATH BENEFICIARIES OF
ANTHONY DAVID WILLIAMS, DECEASED, ET AL.,

Petitioners,

v.

AVCO CORPORATION,

Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Rhode Island

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Rhode Island Supreme Court and Superior Court erred in applying improper pleading standards under the 18-year federal statute of repose, the General Aviation Revitalization Act ("GARA"), which is a result Congress did not intend.

2. Whether the Rhode Island Supreme Court and Superior Court erred by finding that GARA preempts Petitioners' right to liberal discovery.

PARTIES TO THE PROCEEDINGS

Petitioners and Plaintiffs-Appellants below

Petitioners are the surviving family members of Anthony David Williams and William Clayton Young, who were both killed in a single engine airplane crash after it experienced an engine failure and in-flight fire.

- Carol Williams

  Individually and as Personal Representatives of the Estate of her husband, David Anthony Williams

- William Gregory Young and Debra Anne Thigpen

  Individually and on Behalf of the Estate of Their Father, William Clayton Young.

Respondent and Defendant-Appellant below

- AVCO Corporation

  AVCO and its unincorporated division, Lycoming Engines, are responsible for the design, certification, manufacturer, and continuing airworthiness of the Lycoming Engine that failed and caused this accident.

CORPORATE DISCLOSURE STATEMENT

There are no corporate petitioners. To the best of Petitioners' knowledge, AVCO Corporation is a subsidiary of Textron Inc., which is publicly traded under the symbol NYSE: TXT.

LIST OF PROCEEDINGS

Supreme Court of Rhode Island
No. 2024-144-Appeal
Carol Williams et al. v. Avco Corporation
Final Opinion: July 29, 2026

Rhode Island Superior Court, Bristol County
C.A. No. PC-2015-4900
Carol Williams et al., Plaintiffs v.
Avco Corporation, Defendant
Final Decision: January 3, 2024
Entry of Judgment: February 1, 2024

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JURISDICTION

On July 29, 2026, the Supreme Court of Rhode Island entered an order affirming the trial court's grant of summary judgment. (App.1a-24a). The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1257(a) because it is an appeal from a final order from the Supreme Court of Rhode Island and was timely filed.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case implicates important federal issues under the 18-year general aviation statute of repose, known as the General Aviation Revitalization Act ("GARA")[1].

GARA is the result of a careful balancing of the competing interests of aviation manufacturers and accident victims. Accident victims' rights are preserved in the Rolling Provision, GARA § 2(a)(2) and Misrepresentation Exception, § 2(b)(1), shown below.

General Aviation Revitalization Act

Sec. 2. Time limitations on civil actions against aircraft manufacturers.

> (a) IN GENERAL. – Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—
>
> (1) after the applicable limitation period beginning on—

[1] General Aviation Revitalization Act, Pub. L. No. 103-298, 108 Stat. 155, 49 U.S.C. § 40101 (1994), note

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

(b) EXCEPTIONS – Subsection (a) does not apply—

(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

[. . .]

(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

[. . .]

Sec. 3. Other definitions.

[. . .]

(3) the term "limitations period" means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft … .

General Aviation Revitalization Act (GARA), Pub. L. No. 103-298, 108 Stat. 155, 49 U.S.C. § 40101 (1994), note.

STATEMENT OF THE CASE

Petitioners are the representatives of the Estates of Anthony David Williams and William Clayton Young, who were fatally injured in the November 11, 2012 single engine aircraft accident due to failure of Respondent's engine and resulting in-flight fire and power loss.

A. Relevant Facts Underlying the Nature of Petitioners' Writ

Shortly after takeoff in the single Lycoming engine aircraft, the engine failed and the engine lost power, an in-flight fire ensued. All aboard were killed due to a fuel leak in the flow divider, which is part of the fuel injection system that fuels the engine. Other aircraft incorporate flow dividers that divert expelled fuel overboard. This engine dumped the fuel onto the

hot engine, vaporized the fuel in the hoses and lines, which caused loss of power and an in-flight fire.

As Petitioners alleged and proved, during certification of the IO-540-K1A5 engine, Avco selected and mandated which components can be incorporated into the engine and fuel system and assigned the components Lycoming part numbers, which are part of the engine's Type Design. *Pridgen v. Parker Hannifin, Corp. (Pridgen II)*, 916 A.2d 619, 623 (Pa. 2007)[2]; *See* Civil Airworthiness Regulations [CAR] §§ 3.411, 3.415.

As part of the certification process, Avco had to establish that the engine did not "incorporate design features or details which experience has shown to be hazardous or unreliable." CAR § 13.100(a). It was also required to provide a fire-resistant design to avoid a fire hazard. CAR §§ 3.625, 13.102. The applicable regulation specifically provides: "[t]he design and construction of the engine and the materials used shall be such as to minimize the possibility of occurrence and spread of fire because of structural failure, overheating, or other causes." CAR § 13.102. Further, Avco had to demonstrate that the fuel system was "designed and constructed to supply an appropriate mixture of fuel to the cylinders throughout the complete operating range of the engine under all flight and atmospheric conditions," CAR § 13.110. The IO-540 fuel system does not satisfy these certification requirements.

Then, Avco (not the FAA) approved the engine's "type design" and certification under its Delegated Option Authorization [DOA]. *14 C.F.R. Part 21 Subpart*

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[2] There are three *Pridgen* cases: *Pridgen v. Parker Hannifin Corp.*, 905 A.2d 422 (Pa. 2006) (*Pridgen I*); 916 A.2d 619, 623 (Pa. 2007) *(Pridgen II);* and 974 A.2d 1166 (Pa. Super. 2009) (*Pridgen III*),

J, although the certification requirements were not satisfied.

After certification, Avco as the holder of the Type Certificate and Production Certificate for IO-540 engines, Avco bears ongoing duties under (1) the Federal Aviation Regulations [FARs], see 14 C.F.R. Part 21; (2) agreements with the FAA through its delegated authority, 14 C.F.R. Subpart J; 14 C.F.R. § 183.63 and (3) common law. It is required to monitor failure trends in the field, to disclose them to the FAA, provide instructions for continued airworthiness, and to correct design defects. 14 C.F.R. § 21.3(a), (b); 14 C.F.R. § 21.99; 14 C.F.R. § 183.63.

Since the flow divider is part of the engine's type design, Avco was responsible for all of the engine components, including the flow divider, Lycoming part Number 2524426-2. Should the product be defective, Avco, was responsible for taking corrective action. 14 C.F.R. § 21.277. Avco failed to satisfy these duties.

As part of Avco's FAA delegated authority under the DOA, it agreed to be responsible to monitor trends of failures in the field. 14 C.F.R. Part 21 Subpart J. The FAA changed the DOA process to Organization Designation Authorization (ODA) in 2005, which too imposed reporting requirements upon Avco. 14 C.F.R. § 183.63; FAA Order 8100.15B. The ODA holder must "monitor any service information available to it that is associated with approvals or certificates it holds that were issued under its ODA authority." *Id.* It must also notify the FAA when it identifies issues that "might result in an unsafe condition" or "requires corrective action." *Id.* The ODA holder is also responsible to investigate potentially unsafe conditions, and to implement corrective action. *Id.*

Avco also maintains duties under common law. *See Caldwell v. Enstrom Helicopter Corp.*, 230 F.3d 1155, 1157 (9th Cir. 2000) (recognizing common law applies to establish claims against aviation manufacturers); *Sikkelee v. Precision Airmotive Corp.*, 822 F.3d 680, 696-697 (3d Cir. 2016) (*Sikkelee II*).[3]

Avco has access to failure information through other accidents and incidents, Service Difficulty Reports [SDRs] from the field, internal service information reports, internal warranty claims, and other sources. Despite knowledge of the defects in the IO-540, Avco failed to fulfill its affirmative duties to ensure the safety of its products and failed to tell the FAA or warn about the IO-540's pervasive failure history due to its defective design.

Avco requires the IO-540's engine to be overhauled after 2,000 hours or 12 years of use and provides an Overhaul Manual and Illustrated Parts Catalog to facilitate the process. In 2004, eight years before the accident, the engine was overhauled in accordance with Lycoming's specifications. New Lycoming parts were installed during the overhaul less than 18 years prior to the crash; Avco's corporate witness agreed. The new parts included all six-cylinder assemblies (which includes the valves), all engine compartment hoses, and internal parts of the flow divider. The hoses and flow divider parts caused this accident. Since the causative parts for which Lycoming is responsible

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[3] There are three *Sikkelee* cases: *Sikkelee v. Precision Airmotive Corp.*, 45 F. Supp. 3d 431, 435 (M.D. Pa. 2014) (*Sikkelee I*); 822 F.3d 680 (3d Cir. 2016) (*Sikkelee II*); and 907 F.3d 701 (3d Cir. 2018) (*Sikkelee III*).

failed less than 18-years of installation, GARA does not apply.

B. Relevant Procedural History

Respondent sought shelter under the 18-year statute of repose, GARA, since the subject engine had been first delivered over 18 years before the accident. Petitioners pointed to GARA's "Rolling Provision," which restarts the 18-year clock when the parts that later cause an accident are replace.[4] Petitioners looked to GARA's "Misrepresentation, Concealment, or Withholding Exception," or "Misrepresentation Exception" for short, which applies when the manufacturer knowingly misrepresents, conceals, or withholds information that is required to be reported to the FAA which in turn causes an accident.[5]

Petitioners issued document requests relevant to Respondent's liability and the GARA defense. Respondent objected. Petitioners moved to compel. GARA, the Rolling Provision, and the Misrepresentation Exception, came front and center.

Based on his interpretation and application of GARA, the trial court mostly denied Petitioners' motion. The lower court completely rejected Petitioners' claims

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[4] GARA § 2(a)(2). The trial court called this the "New Parts Exception," July 8, 2021 Decision (App.65a) though it is a substantive provision, not an exception, under GARA.

[5] GARA, § (b)(2). Some refer to this as a "fraud" exception, although the word "fraud" is nowhere to be found in GARA. (App.13a; 31a; 65a; 69a-74a). Rather, the exception applies when a manufacturer "knowingly misrepresented" mandatory disclosures to the FAA or "concealed or withheld" that information from the FAA.

under the Misrepresentation Exception because, the courts found, Petitioners had not alleged those claims with sufficient specificity. (App.69a-74a).

However, Petitioners did meet GARA's pleading requirements, and Respondent did not file a motion to dismiss the amended complaint. The trial court ruled that the Rolling Provision applies to the manufacturer of the new part, and not to the original manufacturer. (App.74a-76a). The court further limited discovery under the Rolling Provision to four discrete engine components identified in the amended complaint, albeit one was a lack of an overboard drain and not actually a component. (App.17a). But, there is no pleading requirement under the Rolling Provision. Later, when Petitioners scheduled a Rule 30(b)(6) deposition of Avco's corporate designee, Avco objected to some of the topics Petitioners noticed for inquiry. Again, limiting discovery based on his interpretation of GARA, the trial court denied Petitioners' motion to compel testimony on those topics. *Oct. 2, 2023 Order*. (App.54a-57a).

Without the benefit of full discovery, Petitioners were left mostly defenseless against Respondent's two summary judgment motions, each of which focused on one or more of the engine parts Petitioners had specifically identified in their amended complaint. The trial court ruled that Petitioners had failed to establish a genuine issue of material fact and that Avco was entitled to judgment under GARA because none of the new parts Petitioners had identified triggered the Rolling Provision. Although Petitioners contended that, despite the limited evidence available to them, jury questions remained on whether the Rolling Provision and Misrepresentation Exception precluded Respond-

ent's GARA defense, the trial court granted Respondent's motions. (App.25a-78a). The Supreme Court of Rhode Island affirmed the trial court's rulings. (App. 1a-24a).

REASONS FOR GRANTING THE WRIT

This case presents questions of national importance because the lower courts, including those in the Supreme Court of Rhode Island, have imposed improper pleading requirements as a condition precedent for discovery and improperly determined that liberal discovery was preempted.

I. The Lower Courts Applied Incorrect Pleading Standards Under GARA

Petitioners alleged that Respondent knowingly misrepresented, concealed, and withheld relevant safety information from the FAA about the Lycoming engine's propensity to suffer inflight fires and engine failures, such as occurred here and many other instances beforehand. They alleged separately that the failed components that led to the in-flight fire and engine failure had been installed in the Piper aircraft within GARA's restarted 18-year limitation period, and, therefore, GARA's statute of repose did not bar their claims.

GARA creates a fact-driven statute of repose that, recognizing the substantial lifetime of an aircraft, provides a limit to aircraft manufacturers' "liability-tail" while preserving—through the Rolling Provision and the Misrepresentation Exception—accident victims'

right to have their day in court. GARA does not limit or prohibit discovery.

A. GARA's Rolling Provision is an Affirmative Defense and Does Not Impose a Pleading Requirement

GARA's Rolling Provision does not impose a particular pleading requirement. However, the lower courts effectively imposed one anyway and limited the scope of discovery to parts alleged to be new. Petitioners were not afforded the ability to learn about other parts that were replaced, or caused to be made by Respondent. This heightened pleading requirement is wholly improper.

The trial court's ruling is inconsistent with the statute and Rhode Island Law that provides that the defendant bears the burden of proof on affirmative defenses. *See*, *e.g.*, *Battaglia v. Lombardi*, 273 A.3d 135, 143 (R.I. 2022) (the party that pleaded the defense had the burden of proving that defense). GARA is an affirmative defense: the Rolling Provision does not require a particular pleading as a condition precedent to obtain discovery. GARA § 2(a)(2). Petitioners were entitled to investigate this matter to get an opportunity to establish the record to proceed to trial under the Rolling Provision on claims arising from replaced parts. *Caldwell v. Enstrom Helicopter Corp.*, 230 F.3d 1155, 1157 (9th Cir. 2000) (addressing limitation period for replacement flight manual under GARA's Rolling Provision). However, they were deprived of the ability to conduct a full investigation under the Rolling Provision based on the trial court's improper adoption of Avco's argument that the Rolling Provision must be pleaded by the plaintiff.

B. GARA's Misrepresentation Exception Does Not Require Pleading of Fraud

The lower courts refused discovery under the Misrepresentation Exception because they found that Petitioners needed to plead (without discovery) affirmative acts of fraud. It is important to note that the Misrepresentation Exception also includes concealment and withholding which are not affirmative actions.

The Misrepresentation Exception is not a "Fraud Exception," nor does it require pleading or proof of "fraud," the phraseology that the trial court erroneously adopted in denying Petitioners' motions to compel and granting summary judgment, and the Rhode Island Supreme Court's affirming holding.

GARA's Misrepresentation Exception precludes the GARA statute-of-repose affirmative defense when manufacturers "knowingly" misrepresent, conceal, or withhold required information from the FAA that is causally related to the underlying accident. The term "knowledge" as used in other federal statutes is defined as "'knowledge of the facts that constitute an offense,' but not necessarily with knowledge that the facts amount to illegal conduct." *See U.S. v. Barbosa*, 271 F.3d 438, 458 (3d Cir. 2001); *U.S. v. Gesualdi,* 660 F.2d 59 (2d Cir. 1981) (interpreting the 21 U.S.C. § 843(a)(5) use of a knowing scienter); *U.S. v. Dodd*, 225 F.3d 340, 344 (3d Cir. 2000) (stating "knowingly" means with awareness of conduct). The burden of proving a specific unlawful intent or motive to deceive is eliminated when a statute includes the consciousness element of "knowingly."

In instances where Congress deemed a defendant's subjective deceptive intentions to be the requisite

scienter element of an exception to a statute enacted to protect the defendant from liability, it specifically declared "fraud" to be the standard. For example, in The National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa *et seq.,* Congress granted vaccine manufacturers a presumption that a vaccine's directions and warnings are proper "unless the plaintiff shows — (A) that the manufacturer engaged in the conduct set forth in subparagraph (A) or (B) of section 300aa-23(d)(2) of this title" 42 U.S.C.A § 300aa-22(a)(2)(A). Section 300aa-23(d) sets the scienter and misconduct standard as follows:

> (A) fraud or intentional and wrongful withholding of information from the Secretary during any phase of a proceeding for approval of the vaccine under section 262 of this title, or
>
> (B) intentional and wrongful withholding of information relating to the safety or efficacy of the vaccine after its approval, or
>
> (C) other criminal or illegal activity relating to the safety and effectiveness of vaccines, which activity related to the vaccine related injury or death for which the civil action was brought.

Id. GARA's Misrepresentation Exception's language imposes a standard that actions be done with knowledge — not "fraud."

In *Butler v. Bell Helicopter Textron, Inc.*, 109 Cal. App. 4th 1073 (2003), the California Court of Appeals reversed the grant of summary judgment to a manufacturer under GARA's Misrepresentation Exception, even though the manufacturer's actions were explainable and done without any intent to deceive. 109 Cal.

App. 4th at 1084. The plaintiff argued that Bell Textron failed to report several military accidents to the FAA as required under 14 C.F.R. § 21.3 and was therefore not entitled to GARA protection under the Knowing Misrepresentation Exception. *Id.* at 1088. Bell Textron countered this allegation by arguing that it did not believe it was required to report the military accidents to the FAA and presented an affidavit of a former FAA employee who confirmed Bell's interpretation of Section 21.3 of the FARs. *Id.* at 1076-77. Nonetheless, despite the absence of any intent to deceive, the California Appellate court denied Bell Textron GARA protection because Bell's interpretation of the law was wrong: it was required to report military accidents, but *knowingly* did not. *Id.* at 1088.

The Misrepresentation Exception was next addressed in *Robinson v. Hartzell Propeller, Inc.* (*Robinson I*), 326 F. Supp. 2d 631 (E.D. Pa. 2004), where the court expressly rejected the argument that GARA's proof standard required a showing of fraud. The court noted that for the Misrepresentation Exception to apply, "the plaintiff must offer evidence that the defendant knowingly misrepresented or concealed this design defect in communications with the FAA." *Id.* at 647. The court further explained, "this determination 'is factually driven and requires the jury, not an expert, to review and weigh all documents that may support a misrepresentation claim and determine whether [the defendant] in fact misrepresented or concealed material to the FAA.'" *Id.* at 654.

Following the path of the foregoing cases, the subsequent decisions on GARA's Misrepresentation Exception all applied knowledge as the element, not fraud. *Moyer v. Teledyne Cont'l Motors, Inc.*, 979 A.2d

336, 345-56 (Pa. Super. 2009) (applying "knowledge" as the standard for GARA's Misrepresentation Exception); *Side Tr. & Savs. Bank of Peoria v. Mitsubishi Heavy Indus.*, 927 N.E.2d 179, 448-450 (Ill. App. Ct. 2010) (finding no evidence defendant knew what it said to the FAA was wrong).

Petitioners' amended complaint satisfies the GARA pleading requirement by specifically pleading facts necessary to prove that Avco knowingly misrepresented, concealed or withheld facts concerning the certification of the engine, as it does not satisfy the applicable regulations. Petitioners also pleaded that Avco lacked candor with respect to its ongoing obligations for continuing airworthiness of its engines particularly given their heightened responsibility under FAA delegated authority under the DOA and ODA programs.

The trial court erroneously deprived Petitioners of any discovery whatsoever relevant to the Misrepresentation Exception, based on the pleadings alone, so that Petitioners could get no benefit from the Misrepresentation Exception. *July 8, 2021 Decision*; (App. 61a-78a). But the amended complaint does satisfy GARA's pleading requirements for the Misrepresentation Exception, even though Petitioners could only aver facts publicly available to them. Other documents concerning Avco's misrepresentation, concealment, and withholding lie exclusively in the hands of Avco, and are kept from the public and have been shielded by the orders refusing discovery in the case below and by protective orders in other litigation. As applied, the Rhode Island courts have eviscerated the purpose of discovery and protections under GARA's Misrepresentation Exception.

II. GARA Does Not Preempt State Law Discovery Procedures

Despite a lack of statutory or legal authority, the Supreme Court of Rhode Island and Superior Court accepted Avco's argument and determined that Petitioners' discovery efforts were preempted by GARA, contrary to Rule 26 and GARA. (App.1a-78a).

In interpreting a statute, the court are required to begin with its plain language. *See U.S. v. Ron Pair Enters.*, 489 U.S. 235, 241 (1989); *LaPlante v. Honda N. Am.*, 697 A.2d 625, 629 (R.I. 1997). This Court has stated:

> In the event that a real or seeming ambiguity is perceived in reading the language of a statute, this court will attempt to ascertain the intention of the legislative body from a consideration of the entire statute, keeping in mind its nature, object, language and arrangement." *Algiere v. Fox*, 122 R.I. 55, 58, 404 A.2d 72, 74 (1979). Even in the face of ambiguity it is the text that is paramount. Furthermore, this Court will adopt a construction that avoids an absurd or unjust result.

LaPlante, 697 A.2d at 628.

In the American system of separation of powers, the judiciary shall respect Congress's legislative role and not judicially legislate. *See Barr v. Am. Ass'n of Political Consultants*, 591 U.S. 610, 627 (2020). Totally engrafting a non-existent legal standard into a federal statute is beyond the power of any court. The Federal Aviation Act and its GARA amendment do not preempt the Rhode Island liberal discovery rules or the Rhode

Island Constitution. *Sikkelee III*, 907 F.3d at 709; *Sikkelee II,* 822 F.3d at 696-697.

In *Sikkelee II,* the Third Circuit Court of Appeals recognized that legal remedies available to litigants that are not specifically prohibited by GARA are not preempted. 822 F.3d at 696-697. The Court stated "[t]he historic police powers of the States were not to be superseded by [a] [f]ederal [a]ct unless that was the clear and manifest purpose of Congress." *Id.* (*quoting Wyeth v. Levine*, 555 U.S. 555, 579 (2009)). The Federal Aviation Act and GARA do not express any such congressional intent. *Sikkelee II*, 822 F.3d at 696-99. As the United States Supreme Court has recognized in rejecting a similar preemption argument in the context of pharmaceuticals, state tort claims are a valuable source of information and are part of the regulatory process. *Wyeth*, 555 U.S. at 565).

Petitioners attempted to gain access to relevant information, most of which is in Respondent's exclusive control, but were unable to do so based on the trial court's misunderstanding of the facts and law. The lower courts' failure to apply Rhode Island's discovery rules incorrectly denied Petitioners of the ability to gather the information essential to the proof of their case, and disarmed them in the face of Avco's motions for summary judgment. The Superior Court granted Avco's motions for summary judgment and entered judgment, which was affirmed by the Supreme Court of Rhode Island.

The lower courts also erred by limiting the general scope of discovery to the investigation of the accident and four discrete engine components identified in the amended complaint that were alleged to be new. (App.1a-68a). Other components of the engine assembly

and fuel system were also alleged to be new, but the courts did not authorize discovery on those parts or the engine as a whole. GARA does not have a pleading requirement concerning the Rolling Provision. Nor should discovery be strictly construed to prohibit accident victims from developing the records.

The trial court erred in finding GARA preempts discovery. This decision is unsupported by GARA's text and any precedential case since GARA's passage over 30 years ago. This misapplication of GARA led the lower courts to grant Avco dispositive relief through Petitioners' discovery motions, which eviscerated Petitioners' right to develop the record fully, in violation of Rhode Island law on discovery and Petitioners' constitutional right to justice and right to a jury trial. Petitioners suffered insurmountable prejudice as a result of the trial court's discovery rulings. The lower courts further erred by granting summary judgment under GARA, even based on the limited record caused by the courts' discovery orders, as jury questions remained to be determined. The Supreme Court of Rhode Island erred in affirming these rulings. GARA does not preempt discovery.

The lower courts further erred by refusing Petitioners discovery on the Misrepresentation Exception based on the pleadings. At the outset, Petitioners' amended complaint satisfies GARA's pleading requirements. In the context of a Rule 12(b)(6) motion to dismiss, "this Court examines the allegations contained in the plaintiff's complaint, assumes them to be true, and views them in the light most favorable to the plaintiff." *Resmini v. Verizon New Eng., Inc.*, 295 A.3d 60, 63 (R.I. 2023). Similarly, Petitioners' Misrepresentation Exception argument should not have been quashed

without the benefit of discovery on the documents and information that are shielded from the public.

Even if the amended complaint were to fall short of GARA's pleading requirement, nothing in GARA precludes litigants from engaging in discovery relevant to the claims and defenses. Without discovery, there is no way for plaintiffs to access the certification documents, engineering drawings, internal reports, reports of failures, among other relevant information that is not out in the public.

Petitioners averred and presented evidence of other instances of failure, which is relevant to establish notice and defect. "Evidence of other accidents of a similar nature . . . would have tended to furnish a basis for a reasonable inference that the defendant knew or should have known there was a reasonable probability of danger to its patrons from the operation of automobiles in that area." *Cofone v. Narragansett Racing Ass'n*, 237 A.2d 717, 722 (R.I. 1968). Other similar accident evidence is also relevant to establish that defendant was on notice of defect. *P. B. Mutrie Motor Transp., Inc. v. Interchemical Corp.*, 378 F.2d 447, 450 (1st Cir. 1967).

Service Difficulty Reports ("SDRs") are an extremely important tool that Congress requires the FAA to publish. 49 U.S.C. § 40114(a)(2); *Aerosource, Inc. v. Slater*, 142 F.3d 572, 574-575 (3d Cir. 1998). The purpose of the SDR database is to provide the FAA and industry with a very essential service of analyzing failure trends in the field. SDRs are submitted in the field and provide important information to manufacturers, operators and maintainers about similar problems encountered in the field. Other accidents and SDRs put manufacturers on notice and

trigger their obligations to investigate and report. *Robinson I*, 326 F. Supp. 2d 631 at 657. This is particularly important when the manufacturer also holds delegated authority from the FAA, which imposes additional requirements to review failures in the field. *FAA Order 8100.15B.* SDRs are a valuable resource used routinely in the field and in aviation litigation. *Snider v. Sterling Airways, Inc.*, 758 F. App'x 283, 288 (3d Cir. 2018) ("We agree with the district court that such [SDR] evidence was 'wholly relevant and not unfair or unduly prejudicial to the interests of' [defendant]").

The trial court erred in ignoring the entirety of Petitioners' amended complaint, only citing a single paragraph, and rejected Petitioners' argument that other instances of failure are relevant to establish defect, notice, and Avco's failure to report such defects to the FAA for the purposes of GARA's Misrepresentation Exception.

To support this decision, the court cited the case *Theobald v. Piper Aircraft, Inc.*, 309 F. Supp. 2d 1253, 1263 (S.D. Fla. 2018), which is a case that was decided on summary judgment after discovery was permitted in the ordinary course. (App.70a-71a). The *Theobald* court did not hold that other accidents are irrelevant to the Misrepresentation Exception. It merely held that under the circumstances in that case, plaintiffs did not establish that defendant failed to disclose or misrepresented information to the FAA. *Id.*

Unlike *Theobald,* Petitioners here have not had the benefit of discovery. Petitioners had no way of getting information that Avco held internally. Further, Petitioners' amended complaint avers that Avco misrepresented to the FAA that the IO-540 satisfies the appli-

cable regulations when it certified the engine under its DOA. Petitioners also averred that Avco withheld the reasons for failures, provided false service and operation information, and failed to notify the FAA of these issues or make the simple corrective action of installing an overboard drain.

The trial court recognized that discovery is necessary in GARA cases, citing *LeBlanc v. Panther Helicopters, Inc.*, No. 14-1617, 14-1791, 14-1875, 14-2326, 2016 WL 1161274 (E.D. La. Mar. 23, 2016); *Johnson v. Precision Airmotive, LLC*, No. 4:07cv1695 CDP, 2008 WL 2570825 (E.D. Mo. June 26, 2008); and *Clark v. PHI, Inc.*, No. 12-411, 2012 WL 3065429 (E.D. La. 2012).

> The United States District Court for the Eastern District of Louisiana dealt with a related set of facts in Leblanc which involved a helicopter crash resulting in the death of one person and severe injuries to three passengers. [*LeBlanc*, 2016 WL 1161274] at *1. In that case, the defendants similarly raised GARA as a defense and moved for summary judgment on the grounds that the helicopter was delivered to the original purchaser in May 1991 and, therefore, the plaintiffs' claim is barred. *Id.* at *2. On the other hand, the plaintiffs asserted that discovery would "disclose defects to components of the helicopter that were delivered within the last eighteen years" which would, therefore, bar the application of GARA. *Id.* at *2.
>
> The Court decided in favor of the plaintiffs and denied summary judgment on the grounds that the defendants' motion for summary judgment was premature as it had been "filed . . .

> two weeks before the Court entered a scheduling order. Initial disclosures have not been completed and almost no discovery has been conducted." *Id.* at *5. The Court further reiterated the reasoning outlined in *Johnson*, explaining that "[d]iscovery will be necessary to determine what was done to the helicopter and when, and which parties have manufactured parts of the helicopter that were less than eighteen years-old." *Id.*

(App.76a-77a). However, the lower courts refused most discovery, which eviscerates the compromise that Congress reached in including the Rolling Provision and Misrepresentation Exception in GARA.

Aviation accident victims should be afforded their right to discovery to fully develop the record, and GARA does not preempt that right.

CONCLUSION

For the foregoing reasons, each and/or any one of them, the Court should grant the petition for writ of certiorari.

Respectfully submitted,

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