



**The Business Court of Texas,
First Division**

SOUTHWEST AIRLINES PILOTS	§	
ASSOCIATION (SWAPA),	§	
<i>Plaintiff,</i>	§	Cause No. 25-BC01A-0040
v.	§	
THE BOEING COMPANY,	§	
<i>Defendant.</i>	§	

**Memorandum Opinion and Interlocutory Order
Granting Defendant’s Motion for Summary Judgment**

¶1 Before the Court is *Defendant The Boeing Company’s Renewed Traditional Motion for Summary Judgment* and responsive filings. By its renewed motion, Defendant The Boeing Company (“Boeing”) moves for summary judgment on all claims asserted by Plaintiff Southwest Airlines Pilots Association (“SWAPA”), arguing that the claims brought in Plaintiff’s *Consolidated and Amended Petition* cannot satisfy proximate cause as a matter of law. While the Court finds that the motion is well-taken, the Court concludes that the motion is only partially dispositive. Accordingly, as

explained below, the Court GRANTS summary judgment as to SWAPA's pleaded consequential damages only.

I. Scope of Boeing's Motion

¶2 Boeing's renewed motion challenges all of SWAPA's claims (fraudulent and negligent misrepresentation, tortious interference, negligence, and fraud by nondisclosure) on grounds that SWAPA cannot establish the essential element of proximate causation. SWAPA's response presumes that proximate causation is a necessary element of its claims but contends that its pleading supports recovery under that standard. Boeing's earlier motion on the same grounds was denied without prejudice. *See Sw. Airlines Pilots Assoc. v. The Boeing Co.*, 2026 Tex. Bus. 37, at ¶¶ 17-18 (1st Div.) (mem. op.).

¶3 The parties are correct that proximate cause is an essential element for each of SWAPA's claims. But that causation standard applies only to *consequential* damages. *See Lesikar v. Rappeport*, 33 S.W.3d 282, 305 (Tex. App.—Texarkana 2000) (explaining that “courts speak of a proximate cause or a foreseeability showing in the context of special or consequential actual damages only, not in the context of direct actual damages”). Proximate cause is not the requisite standard for direct damages. *Id.* Therefore, Boeing's

motion—which only challenges proximate cause—reaches all pleaded consequential damages sought by SWAPA's claims; it cannot reach any direct damages.

¶4 Moreover, the Texas Rules of Civil Procedure require that consequential damages be specifically pleaded. *See* TEX. R. CIV. P. 56; *Lesikar*, 33 S.W.3d at 305. The Rules do not require parties to plead direct damages with any specificity. *See Arthur Andersen & Co. v. Perry Equip. Corp.*, 945 S.W.2d 812, 816 (Tex. 1997) (contrasting direct damages and consequential damages); *AKIB Constr. Inc. v. Shipwash*, 582 S.W.3d 791, 809 (Tex. App.—Houston [1st Dist.] 2019). For this reason, causation of direct damages is not susceptible to being weighed at the pleadings stage. Instead, the Court can assess only whether SWAPA's pleaded consequential damages lie beyond the reach of proximate causation as Boeing contends in its motion.

II. Proximate Causation and SWAPA's Pleaded Consequential Damages

¶5 SWAPA's initial pleadings advanced, through various causes of action, what can be summarized as two categories of claims. First, SWAPA alleged Boeing rushed its rollout of the 737 MAX, leading to two crashes and the grounding of the fleet, and resulting in costly federal investigations. SWAPA sought damages based on flights its pilots would have piloted, does it

would have received, and fees it incurred in connection with the investigations—all of which constitute consequential damages. Separately, SWAPA alleged misrepresentations, omissions, and tortious interference with its collective bargaining negotiations with Southwest Airlines ("Southwest"). SWAPA's pleadings failed to articulate damages attributed to this second category.

¶6 Presented with Boeing's prior motion, this Court determined that proximate causation was lacking for the first category of claims—reaching the same conclusion as Illinois federal courts presented with similar actions. *See Sw. Airlines Pilots Assoc.*, 2026 Tex. Bus. 37, at ¶¶ 6, 8 (discussing *In re Boeing 737 MAX Pilots Litig.*, 638 F.Supp.3d 838 (N.D. Ill. 2022) (mem. op.), and *Christensen v. Boeing Co.*, No. 20 C 1813, 2021 WL 83548 (N.D. Ill. Jan. 11, 2021) (mem. op.)). As to the second category, the Court concluded that the pleaded damages bore no causal link to the misconduct alleged. Even so, Texas law required SWAPA be afforded an opportunity to replead. *Id.* at ¶ 16. Accordingly, the Court directed SWAPA to replead to specify damages proximately caused by Boeing's alleged interference in SWAPA's collective bargaining negotiations. *Id.*

¶7 Yet, SWAPA failed to cure its deficiency. In its amended petition, SWAPA doubled down on its pleading of special damages only in the form of lost wages, lost dues, and attorneys' fees. *See, e.g.*, Pl.'s Am. Pet. at ¶¶ 245–46, 249 (lost wages); *id.* at ¶¶ 259–60 (lost dues and attorneys' fees). But even according to SWAPA, these damages were not proximately caused by any acts or omissions by Boeing in connection with SWAPA's collective bargaining negotiations; to the contrary, SWAPA's pleading attributes these damages to the grounding of the aircraft and subsequent investigations. For example, SWAPA pleads:

- “*With the 737 MAX removed from service, SWAPA Members were deprived of the economic benefits . . .*” Pl.'s Am. Pet. at ¶ 245 (emphasis added).
- “Southwest’s published flight schedules that incorporated the 737 MAX when compared to Southwest’s actual operations *subsequent to the grounding . . .*” *Id.* at ¶ 249 (emphasis added).
- “*In connection with both [federal] investigations, SWAPA also had to prepare for government-run interviews . . . SWAPA was forced to spend hundreds of thousands of dollars in legal fees that it would not have but for Boeing’s misconduct.*” *Id.* at ¶¶ 258–59 (emphasis added).

SWAPA's petition does not allege that the grounding of the fleet, subsequent investigations, or resulting damages were *caused in any way by* Boeing's interference with SWAPA's collective bargaining negotiations with Southwest. Taking SWAPA's own allegations as true, the Court concludes as a matter of law that proximate cause does not exist for SWAPA's alleged consequential damages of lost earnings, lost dues, and incurred attorneys' fees.

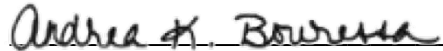
¶8 In sum, consistent with *In re Boeing* (638 F.Supp.3d 838) and *Christensen* (2021 WL 83548), this Court holds that SWAPA cannot establish proximate cause for its pleaded damages related to the grounding of the 737 MAX fleet and related federal investigations. Further, nothing Boeing said or failed to say, or did or failed to do, in relation to SWAPA's collective bargaining negotiations with Southwest is alleged by SWAPA to have *caused* the grounding of the 737 MAX fleet. On its face, SWAPA's pleading negates any causal link between Boeing's alleged interference with SWAPA's collective bargaining process and SWAPA's pleaded consequential damages. The Court therefore finds that Boeing should prevail on its motion.

¶9 However, the Court cannot grant greater relief than Boeing sought in its motion. *See G & H Towing Co. v. Magee*, 347 S.W.3d 293, 297 (Tex.

2011) (per curiam). As previously noted, Boeing's motion only reaches the consequential damages pleaded in SWAPA's live petition and no more. To the extent SWAPA seeks direct damages for representations or omissions made by Boeing to SWAPA and its Members which induced it to enter into a disadvantageous collective bargaining agreement with Southwest, SWAPA's claims for those damages remain pending before the Court.

¶10 IT IS THEREFORE ORDERED that *Defendant The Boeing Company's Renewed Motion for Summary Judgment* is GRANTED and SWAPA's claims for consequential damages, including lost wages, lost dues, and attorneys' fees are DISMISSED. SWAPA's claims for direct damages remain pending. This is an interlocutory order.

SO ORDERED.


ANDREA K. BOURESSA
Judge of the Texas Business Court,
First Division

SIGNED ON: September 28, 2026.