

Judge denies Boeing bid to keep wildfire lawsuit in US court

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A federal judge has stuck by his decision to remand one of the Woolsey Fire lawsuits to state court after rejecting the Boeing Co.'s ex parte application to stay the order pending appeal to the 9th U.S. Circuit Court of Appeals.

U.S. District Judge [Michael W. Fitzgerald](#)'s issued his final order Friday. *Von Oeyen v. Southern California Edison Company*, 19-CV-3955 (C.D. Cal., filed April 30, 2019).

The small group of plaintiffs in the matter are the only wildfire victims suing Boeing for damages linked to the Woolsey Fire, which scorched more than 96,000 acres after sparking near the Boeing-owned Santa Susana Field Laboratory in Ventura County last November.

Von Oeyen plaintiffs are represented by Don Howarth and Suzelle M. Smith of Howarth & Smith LLP. Boeing is represented by Gibson, Dunn & Crutcher LLP.

Fitzgerald's decision moves the Boeing case into the coordinated proceedings presided over by Los Angeles County Superior Court Judge William F. Highberger. *Southern California Fire cases* JCCP 5000.

The first group of bellwether trials are to start April 27, 2020.

In his written order finalizing his decision for remand, Fitzgerald said he agreed with plaintiffs' argument that Boeing removed a non-operative complaint to federal court. The judge also rejected Boeing's last-ditch attempt to keep the case in federal court by denying its application to stay the remand order, pending appeal.

Boeing argued once Fitzgerald remands the case, the superior court could immediately begin exercising jurisdiction over the parties, which would force Boeing to engage in wasteful state court litigation before the 9th Circuit can resolve the matter.

Fitzgerald, however, wrote, "Plaintiffs are correct that remand here is based on the procedural defect that Boeing removed the action on a non-operative complaint. Anyway, a stay of remand for purposes of seeking an appeal would be meaningless."

In court filings, plaintiffs argued Boeing's strategic decision to pursue a removal action based on an initial, unserved complaint was a technical error, and the federal court didn't have jurisdiction

over the claims on the first amended operative complaint, since it dealt solely with the damages from the fire that started on Boeing's property.

Smith said in a statement Friday if the fire started on Boeing property, the company should be held responsible for its part in causing and contributing to the incident along with Edison.

"Whether in state or federal court, we were not going to allow Boeing to walk away from this tragedy of epic proportions its neglect caused or contributed to the fire," said Smith. "We are ready to move forward on the merits."

-- Gina Kim

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