

Doc K (2)
EXTRACT
FROM
MR LYNDIA QC
(RESPONDENTS COUNSEL)
- JULY 2009

BRIAN LITTLE

-v-

MAGELLAN AEROSPACE (UK) LIMITED
MAGELLAN AEROSPACE CORPORATION

SUBMISSIONS ON THE RESPONDENTS'
VIEWS ON "REASONABLE BELIEF"

PANA 12. What is apparent from the above is that, the first question of Column 3 does not ask whether the allegation containing the alleged PD was in fact true: the first question of Column 3 asks, if the allegations were true, would it constitute a breach of legal duty.

13. The second question in Column 3 is wholly different. That concerns whether the Respondents accept that Mr Little had reasonable grounds for believing that the alleged PD was true and revealed a breach of legal duty by the Respondents. It is for this reason that there is no disharmony whatsoever between the answer to question 1 of Column 3 in regard to a specific alleged PD being "Yes" and the answer to question 2 of Column 3 being "No".

14. As to that question of reasonable belief, it has never been the Respondents' view or, the submissions on their behalf, suggested on behalf of the Respondents, that there can only be "reasonable belief" if the alleged PD were true and/or if there was in fact a breach of duty. It is fully accepted (and is clear) that a Claimant could reasonably believe that his or her employer was guilty of a breach of legal duty when, in fact, there was no such breach of duty.

or correctly as per the legislation ERA para 43B
(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject

Respondents' Position in regard to alleged Protected Disclosures

	COL 1	COL 2	COL 3	COLUMN 4	
PD 19	Yes	No	(1) Did disclosure tend to show breach? Yes (2) Did Claimant reasonably believe it tended to show breach at time made? Yes (3) Was it in public interest? No	Yes	
PD 20	No	No	(1) Did disclosure tend to show breach? Yes (2) Did Claimant reasonably believe it tended to show breach at time made? Yes (3) Was it in public interest? No	Yes	
	Is it admitted that the alleged disclosure was communicated by the Claimant to the Respondent. Yes or No	If the Tribunal finds it was disclosed as alleged by the Claimant was it a Qualifying Disclosure or not Yes or No	If it was not a qualifying why not? (1) was it a disclosure which didn't tend to show breach (2) Claimant didn't reasonably believe it at time made (3) not in public interest	If the Tribunal finds it to be a Qualifying Disclosure was it a Protected Disclosure Yes or No	If not why not Good Faith?
PD 22	RA Neill No A340-	No 8/9 AUGUST 2006	(1) Did disclosure tend to show breach? No (2) Did Claimant reasonably believe it tended to show breach at time made? No (3) Was it in public interest? No	Yes	MAC FINANCIAL STATEMENTS.
PD 23	RA Neill / M Edwards Yes A340-	No 10 AUGUST 2006	(1) Did disclosure tend to show breach? Yes (2) Did Claimant reasonably believe it tended to show breach at time made? No (3) Was it in public interest? No	Yes	MAC FINANCIAL STATEMENTS.
PD 24	J Dekker Yes A340-	No 14 September 2006	(1) Did disclosure tend to show breach? Yes (2) Did Claimant reasonably believe it tended to show breach at time made? No (3) Was it in public interest? No	Yes	MAC FINANCIAL STATEMENTS.

DISMISSED ON ARRIVAL AT TORONTO AIRPORT FOR STRATEGIC PLANNING MEETINGS ON 18 SEPTEMBER 2006.

Respondents' Position in regard to alleged Protected Disclosures

PD 12	Yes	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	No No No	No	Lack of Good Faith
	<i>See witness statement</i>					
PD 13	Yes	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	No No No	No	Lack of Good Faith
		<u>Part B</u>				
PD 14	No	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	No No No	Yes	
PD 15	No	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	Yes No No	Yes	
PD 16	Yes	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	No No No	Yes	
PD 17	No	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	Yes No No	Yes	

Respondents' Position in regard to alleged Protected Disclosures

PD 6	Yes	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	Yes Yes No	Yes	
	<i>See witness statements</i>					
PD 7	No	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	Yes Yes No	Yes	
	<i>Part B.</i>					
PD 8	No	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	No No No	Yes	
PD 9	No	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	Yes Yes No	Yes	
PD 10	No	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	No No No	Yes	
PD 11	Yes	No	(1) Did disclosure tend to show breach? (2) Did Claimant reasonably believe it tended to show breach at time made? (3) Was it in public interest?	No No No	Yes	

Respondents' Position in regard to alleged Protected Disclosures

	Column 1	Column 2	Column 3	Column 4	Column 5
	Is it admitted that the alleged disclosure was communicated by the Claimant to the Respondent. Yes or No	If the Tribunal finds it was disclosed as alleged by the Claimant was it a Qualifying Disclosure or not Yes or No	If it was not a qualifying why not? (1) was it a disclosure which didn't tend to show breach (2) Claimant didn't reasonably believe it at time made (3) not in public interest	If the Tribunal finds it to be a Qualifying Disclosure was it a Protected Disclosure. Yes or No	If not why not Good Faith?
PD 1	No <i>See w/ statements Part B.</i>	No	(1) Did disclosure tend to show breach? Yes (2) Did Claimant reasonably believe it tended to show breach at time made? Yes (3) Was it in public interest? No	Yes	
PD 2	No	No	(1) Did disclosure tend to show breach? No (2) Did Claimant reasonably believe it tended to show breach at time made? No (3) Was it in public interest? No	No	Yes
PD 3	No	No	(1) Did disclosure tend to show breach? Yes (2) Did Claimant reasonably believe it tended to show breach at time made? No (3) Was it in public interest? No	Yes	Yes
PD 4	Yes	No	(1) Did disclosure tend to show breach? Yes (2) Did Claimant reasonably believe it tended to show breach at time made? Yes (3) Was it in public interest? No	Yes	Yes
PD 5	Yes	No	(1) Did disclosure tend to show breach? Yes (2) Did Claimant reasonably believe it tended to show breach at time made? Yes (3) Was it in public interest? No	Yes	Yes