

Whidbey Island Residents File Class Action Lawsuit Against U.S. Navy Over Impact of New Growler Flights

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Susman Godfrey L.L.P. and Marzulla Law, LLC have filed a class action lawsuit on behalf of the owners of more than 30 properties located near Naval Outlying Field Coupeville (OLF Coupeville), an airstrip on Whidbey Island, Washington, that is now used as the principal field-carrier landing training ground for the Navy's EA-18G Growler fleet that is stationed nearby.

The complaint alleges that the Navy has started conducting its 24,100 planned annual Growler flights at OLF Coupeville, representing a nearly 400% increase in field-carrier landing missions. The noise and vibrations from the jets as well as what the Navy itself has described as required "accident potential zones" that are not compatible with residential use, result in a taking of property without just compensation in violation of the Fifth Amendment.

Growlers are very loud and Whidbey Island is now home to nearly all of them. The extreme noise and vibrations from the jets deprive plaintiffs of the use and enjoyment of their land.

The lawsuit alleges that the 24 named plaintiffs have sustained tens of millions of dollars in damages. Damages to potential class members from the area surrounding the airstrip will likely total in the hundreds of millions of dollars.

"Our clients are patriotic people who value and respect the Navy's mission, the important role the service members stationed at NAS Whidbey serve in fulfilling that mission, and the longstanding role of the Navy in supporting the economy on the island," said Steve Morrissey, a partner with Susman Godfrey and counsel to the class of plaintiffs in the case. "But these unilateral actions that the Navy has taken through its dramatic increase in flight activities at OLF Coupeville have severe impacts on area residents, and the Navy must be held responsible for what it has done to area properties and property values."

Morrissey notes the situation is so intolerable that two churches on Whidbey Island located away from the airfield are contemplating offering respite for those living near OLF Coupeville when the Growlers are flying. They would provide space to cancer patients undergoing chemotherapy, PTSD sufferers, people who need to make business calls during flights, mothers with children and babies, and others.

"With the new Growler flights flying repeatedly less than 100 feet directly over my house, the noise and house shaking is now intolerable," says class member Paul Firnstahl, who is a former Vietnam War veteran with a disability rating for PTSD and Agent Orange exposure. "But I have no choice but to stay since I am on a fixed income and have nowhere to go with my high mortgage."

The flights also pose unreasonable dangers for the residents. Many of the plaintiffs own homes that are within accident potential zones (APZs) around the airstrip, as defined by the Navy itself in an Environmental Impact Statement. Under Naval Instructions, an APZ is an area where the risk of a crash or other aircraft mishap is so sufficiently high that the land is generally not considered compatible with residential use.

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"We want appropriate compensation for our clients, which they are entitled to under the Fifth Amendment of the Constitution," said Morrissey. "In addition to the noise, they have also been put at unconscionable risk since most of their properties now lie within Navy-identified exclusion zones. This has had a detrimental effect on their daily lives, as well as the value of homes and properties that represent a significant portion of these people's life savings."

In addition to Morrissey, the Susman Godfrey team includes partner Jordan Connors and associate Jenna Farleigh. Roger and Nancie Marzulla of Marzulla Law, LLC in Washington, D.C., one of the nation's leading law firms for pursuing cases in the U.S. Court of Federal Claims, are serving as co-counsel with Susman Godfrey.