**In the Matter of:**

**CHARLES SHI,** **ARB CASE NO. 2017-0072**

**COMPLAINANT,** **ALJ CASE NO. 2016-AIR-00020**

**v.** **DATE: February 27, 2020**

**MOOG INC., AIRCRAFT GROUP,**

**RESPONDENT.**

**Appearances:**

***For the Complainant*:**
**Charles Shi; *pro se*; Shanghai, China**

***For the Respondent*:**
**Robert J. Lane, Jr., Esq. and Jessica L. Copeland, Esq.; *Hodgson Russ, LLP*; Buffalo, New York**

**Before: Thomas H. Burrell, *Acting Chief Administrative Appeals Judge*, James A. Haynes and Heather C. Leslie, *Administrative Appeals Judges.***

## ORDER DENYING RECONSIDERATION

PER CURIAM. The Complainant, Charles Shi, filed a retaliation complaint under the employee protection provision of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21 or Act)[1] with the Department of Labor's Occupational Safety and Health Administration (OSHA).

[1] 49 U.S.C. § 42121 (2000). AIR 21's implementing regulations are found at 29 C.F.R. Part 1979 (2019).

Complainant alleged that his employer, a Chinese subsidiary of Respondent Moog Inc., terminated his employment in retaliation for making safety-related complaints. An Administrative Law Judge (ALJ) dismissed Complainant's complaint sua sponte for lack of jurisdiction because adjudication of Complainant's complaint would require impermissible extraterritorial reach. Complainant appealed. Applying *Morrison v. Nat'l Australia Bank, Ltd.*, 561 U.S. 247 (2010), we affirmed, concluding that Congress did not intend for AIR 21 to apply extraterritorially and that Complainant's case did not represent a domestic application of AIR 21. On January 15, 2020, Complainant requested reconsideration of our decision.

The Board is authorized to reconsider our decisions under AIR 21.[2] We will reconsider our decisions under limited circumstances, which include: (i) material differences in fact or law from those presented to a court of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the court's decision, (iii) a change in the law after the court's decision, or (iv) failure to consider material facts presented to the court before its decision.[3]

Complainant contends that we should reconsider our decision for reasons including that he is entitled to a hearing, Respondent's has engaged in deceit, there are safety concerns on aircraft, the purposes of AIR 21, that the effects of the activity he complained about are felt in the United States, and that the Board "probably" did not read his petition and evidentiary support. To the contrary, we have reviewed all of Complainant's submissions, but continue to hold that the employee protection provisions of AIR 21 are not extraterritorial and that in this case there is no permissible domestic application allowing for adjudication of this matter. None of Complainant's arguments fall within any of the four limited circumstances under which we will reconsider our decisions. Therefore, we **DENY** Complainant's motion. We also **DENY** his motions to compel Respondent to disclose information and to strike Respondent's brief.

**SO ORDERED.**

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[2] *See Powers v. Paper, Allied-Industrial Chemical & Energy Workers Int'l Union (PACE),* ARB No. 04-111, ALJ No. 2004-AIR-00019, slip op. at 3-4 (ARB Dec. 21, 2007).

[3] *Williams v. United Airlines*, ARB No. 08-063, ALJ No. 2008-AIR-003, slip op. at 2-3 (ARB June 23, 2010).