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19 ON BEHALF OF ALL PLAINTIFFS' COUNSEL
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN RE

AIR CRASH AT TAIPEI, TAIWAN,
ON OCTOBER 31, 2000

MDL NO. 1394-GAF

CASE MANAGEMENT ORDER NO. 1

This Document Relates to:

ALL CASES

I. APPLICATION

This Order shall apply to those actions transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to the Panel's Transfer Order dated April 18, 2001, as well as all Related Actions originally filed in the United States District Court Central District of California, or otherwise transferred or removed to this Court. This Order shall also apply to any "tag-along" actions transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 12 of the Rules of Procedure of the Judicial Panel for Multidistrict Litigation, subsequent to the filing of the final Transfer Order by the Clerk of this Court, and any Related Actions subsequently filed in this Court or otherwise transferred or removed to this Court. A list of the

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actions filed, transferred, or removed to this Court is attached to this Order as Appendix A.

Within twenty (20) days after service of this Order by Plaintiffs' Liaison Counsel as set forth below, any party may object to the application of this Order, or any provisions contained herein by filing an application for relief with the Court.

II. CONSOLIDATION

In accordance with Rule 42(a) of the Federal Rules of Civil Procedure, the actions subject to this Order are hereby consolidated for pretrial purposes only, and this case will hereinafter be referred to as "In Re Air Crash Disaster at Taipei, Taiwan on October 31, 2000," MDL No. 1394 ("the Consolidated Actions").

III. MASTER FILE AND MASTER DOCKET

A. A Master File is hereby established for the pleadings and papers filed in the Consolidated Actions, and for all other cases filed in or transferred or removed to this Court and consolidated with the Consolidated Actions. The Master File shall be denominated Misc. No. _____, and MDL No. 1394. An original of the Order shall be filed by the Clerk of Court in the Master File, and Plaintiff's Liaison Counsel shall mail a copy of this Order to counsel of record in each of the Consolidated Actions

1 D. When a paper is intended to apply to one or more, but not
2 all of the actions, this Court's docket number for each such
3 individual action to which the paper is intended to apply and the
4 last name of the first named plaintiff therein shall appear
5 immediately below the words "This Document Relates to:" in the
6 caption set forth above. The Clerk shall file all such pleadings a
7 papers in the file pertaining to each such individual action, and
8 shall note such filing on the docket for the individual action.
9

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11 **IV. ADMISSION OF ATTORNEYS**

12 All attorneys of record to the parties in the Consolidated
13 Actions are deemed admitted pro hac vice to practice before this
14 Court, and no pro hac vice applications for admission to practice b
15 counsel of record are required. No counsel of record for any party
16 shall be required to obtain local counsel in the Central District o
17 California.
18

19
20 **V. ORGANIZATION OF PLAINTIFFS' COUNSEL**

21 A. Prosecution of the pretrial aspects of this litigation on
22 behalf of plaintiffs shall be undertaken by the Plaintiffs' Steerin
23 Committee ("PSC"), and managed/coordinated by the
24 Administrative/Management Committee members thereof ("PAC"). The
25 members of the Plaintiffs' Steering Committee and
26 Plaintiffs' Administrative/Management Committee are identified
27 (alphabetically) as follows:

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Cotchett, Pitre & Simon (PAC)
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Law Offices of J. Paul Stockdale
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Speiser Krause
Juanita M. Madole, Esquire
John J. Veth, Esquire
One Park Plaza, Suite 470
Irvine, CA 92614-8520

Sterns & Walker (PAC)
Gerald C. Sterns, Esquire
901 Clay Street
Oakland, California 94607

The duties, responsibilities and makeup of the PAC is subject to modification by the PSC, by agreement, and subject to Court approval.

B. The PSC is vested by the Court with the following responsibilities and duties relating to this action in order to consolidate and coordinate discovery and to prevent duplication of effort or duplicative papers on behalf of plaintiffs:

1. To advance the common interests of the Plaintiffs in the prosecution of the issues of liability in the actions against Defendants;
2. To conduct the examination of witnesses in depositions as

1 they deem appropriate subject to the right of
2 non-PSC members to attend and submit questions
3 to the examining Plaintiff's attorney;

4 3. To coordinate and direct the
5 pretrial preparation of this matter and to
6 delegate work responsibilities to selected
7 counsel as may be required;

8 4. To avoid conducting duplicative
9 discovery or filing duplicative pleadings; and

10 5. To perform such other functions as
11 may be authorized by further Order of this
12 Court.

13 C. The PAC is vested by the Court with the following
14 responsibilities and duties relating to this action on behalf of th
15 Plaintiffs:

16 1. To designate persons to brief and argue motions;

17 2. To initiate and coordinate the conducting of written
18 and oral discovery proceedings;

19 3. To designate spokespersons and pretrial conferences;

20 4. To call meetings of plaintiffs' counsel as they deem
21 necessary and appropriate from time to time;

22 5. To provide general coordination of activities of
23 plaintiffs' counsel and to delegate work responsibilities to select
24 counsel, including non-PSC members as may be required;
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6. To coordinate this matter with any other related litigation not otherwise referred to herein;

7. To provide periodic reports to non-PSC plaintiffs' counsel concerning the status of the litigation on no less than a quarterly basis;

8. To establish and maintain a depository for all documents served upon Plaintiffs' counsel and to make such files available to counsel for all plaintiffs upon request; and

9. To bind the PSC and PAC in scheduling depositions, setting agenda and otherwise interacting with defense counsel.

D. Attorney Juanita M. Madole, Esq. of the law firm of Speise Krause, shall serve as Plaintiffs' Liaison Counsel. Plaintiffs' Liaison Counsel shall be authorized to receive notices on behalf of plaintiffs and shall be responsible for the preparation and transmittal of copies of such notices as they may receive as Liaison Counsel to each of the attorneys included on the list prepared in accordance with applicable Local Rules. Plaintiffs' Liaison Counsel shall also have the following duties and responsibilities:

1. To maintain a current Master Service List of all counsel of record; and

2. To maintain records of receipts and disbursements for liability, investigation and related matters advanced by members of the PSC and received by the PSC and to report in writing to the PSC concerning disbursements and receipts; and

1 3. To notify the PSC and counsel for all defendants or
2 the filing and transfer of any case which relates to any claim or
3 cause of action which is embraced with the scope of the Consolidate
4 Actions.

5 All parties shall submit to Plaintiffs' Liaison Counsel a list
6 of attorneys for the purpose of preparation, maintenance and
7 distribution of a Master Service List. The Master Service List as
8 July 1, 2001 is attached hereto as Appendix B. The Master Service
9 List, as periodically updated, shall be maintained by the Clerk and
10 Liaison Counsel in the service of any paper or Order.
11

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13 **VI. PLAINTIFFS' STEERING COMMITTEE EXPENSES**

14 It is the opinion of the Court that certain measures must be
15 taken to ensure the presence of an expense fund from which, at least
16 in part, the pretrial expenses of Plaintiffs' Steering Committee
17 acting in its representative capacity, and of any attorneys
18 performing services at their direction and request will be paid or
19 reimbursed.
20

21 The PSC, and attorneys performing services at their direction
22 and request, shall be reimbursed for all reasonable expenses (except
23 travel expenses which shall be considered at or before the conclusion
24 of these pretrial proceedings) incurred by its members in the
25 performance of their duties. Such reimbursement shall be assessed
26 follows:
27

1 A. Within thirty (30) days from the date of this Order
2 for pending cases and for other cases at the time of the
3 commencement, transfer, or removal of any lawsuit against
4 any defendant in this litigation before this Court or any
5 other United States District Court subject to the
6 conditional transfer order pending in this litigation,
7 counsel for the Plaintiff in each such case
8 will deposit with Liaison Counsel the sum of \$2,500.00 per
9 passenger to be used on an ongoing basis for the payment of PS
10 costs and expenses. Liaison Counsel shall retain an interest
11 bearing account for these Rinds at a federally insured (FDIC)
12 financial institution. Within six (6) months from the date of
13 this Order for pending cases and for other cases at the time o
14 the commencement, transfer, or removal of any lawsuit against
15 any defendant in this litigation before this Court or any othe
16 United States District Court subject to the conditional
17 transfer order pending in this litigation, counsel for the
18 Plaintiff in each such case will deposit with Liaison Counsel
19 an additional \$2,500.00 per decedent. The combined \$5,000.00
20 per Plaintiff advancement shall be credited against any furthe
21 expense assessment made against each case pursuant to the term
22 of this Order. The monies advanced by counsel, as stated above
23 will be returned to counsel without interest when the one
24 percent (1%) withheld provided for in paragraph VI(A) is
25 deposited. Furthermore, the \$5,000 per passenger advance shall
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1 be returned to counsel without interest if the case is resolved
2 prior to September 30, 2001. "Resolved" as used herein include
3 an agreement to settle for a specific amount even if the
4 paperwork and Court approvals are not completed until after
5 September 30, 2001, provided that plaintiff and Defendants
6 advise the Court and Plaintiffs' Liaison Counsel in writing of
7 the fact of settlement.
8

9 B. Prior to the entry of judgment and/or termination of
10 any action and at the time of distribution of the gross
11 settlement or other proceeds, in any case that is resolved
12 on or after September 30, 2001, counsel for the defendant
13 shall withhold 1%, of the gross settlement and issue a
14 check for that amount to Juanita M. Madole, Liaison
15 Counsel, MDL 1394 for deposit in the PSC Expense
16 Reimbursement Fund. The assessment shall be calculated
17 based upon the gross proceeds, including the cash value of
18 any payment that is structured in whole or in part. If
19 the expense assessment calculated by the Defendant(s) or
20 Plaintiffs' Liaison Counsel, the Defendant(s) or
21 Plaintiffs' Liaison Counsel shall report that fact to the
22 plaintiff's or claimant's attorneys and no distributions
23 shall be made until agreement is reached with respect to
24 the amount of the assessment or until a Court Order
25 authorizing or directing payment is entered. Plaintiffs'
26 Liaison Counsel shall treat these amounts in confidence.
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C. The settlement, judgment or termination shall become final and binding upon the parties thereto only upon a showing that the Defendant(s) has withheld and forwarded to Plaintiffs' Liaison Counsel one percent (1%) of the gross amount of the settlement, judgment or termination.

VI. DISCOVERY AND LAW AND MOTION

The Initial Disclosure requirements contained in Rule 26 are hereby suspended. The parties are to commence discovery on liability and damages issues forthwith. Defendants' initial law and motion matters shall be filed by August 30, 2001.

VIII. SECOND STATUS CONFERENCE

The Court hereby schedules a second status conference on October 5, 2001 at 10:00 a.m.

DATED: July ____, 2001

GARY A. FEESS
United States District Judge

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PROOF OF SERVICE

I declare that I am over the age of eighteen and not a party to this action. My business address is 1801 Avenue of the Stars, Suite 1450, Los Angeles, California 90067. On the date indicated below, I served the following document(s) described as

CASE MANAGEMENT ORDER NO. 1

on the interested parties in this action, addressed as stated on the attached service list:

- () **By Mail.** By placing each document in a sealed envelope, with postage thereon fully prepaid, in the United States Mail at Los Angeles, California.
- (X) **By Mail in the Ordinary Course of Business.** I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. Under that practice, it would be enclosed in a sealed envelope, with postage thereon fully prepaid, and deposited with the United States Postal Service at Los Angeles, California, on the same day this declaration was executed.

() **By Personal Service.** I personally delivered the above-referenced documents by hand.

() **By Overnight Courier.** I caused the above-referenced document(s) to be delivered by an overnight courier service to those persons identified on the attached service list.

() **By Facsimile Machine.** I caused the above-referenced document(s) to be transmitted by facsimile machine to those persons identified on the attached service list.

() I am an active member of the State Bar of California and am licensed to practice before this Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July ____, 2001 at Los Angeles, California.

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Service List
In re Air Crash at Taipei, Taiwan on October 31, 2000
MDL 1394-GAF

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