

**CAUSE NO. 2009-33036
ALL ACTIONS**

IN RE:) **11TH JUDICIAL DISTRICT**
)
CONTINENTAL) **COURT OF**
)
AIRLINES FLIGHT 1404) **HARRIS COUNTY**

CASE MANAGEMENT ORDER

The purpose of this Order is to promote the expeditious and efficient process of pretrial matters to prepare these cases for trial. This Order does not constitute a determination that these actions should be consolidated for trial, nor does it have the effect of making any entity a party to an action in which it has not been joined and served in accordance with the Texas Rules of Civil Procedure.

I. Pretrial Consolidation and Coordination

A. Coordinated Cases

By order of the Multidistrict Litigation Panel several personal injury actions have been assigned to the Honorable Mike Miller of the 11th Judicial District Court in Harris County (Pretrial Court) for coordinated pretrial proceedings pursuant to Texas Rule of Judicial Administration 13 (Rule 13). Such cases are referred to hereinafter as the "Coordinated Cases." Discovery in the Coordinated Cases shall proceed under Level 3 pursuant to Tex. R. Civ. P. 190.4.

B. Applicability of Order

The terms of this Order shall apply automatically to the Coordinated Cases and to all other cases that become a part of this proceeding as tag-along cases pursuant to Rule 13.2(g).

the Electronic Filing of Court Documents attached as Exhibit A. Documents electronically filed with the Court must be electronically served, and each party will register with Texas Online for receipt of electronic service of such documents.

E. Service of Documents

The proper method of service of documents shall be by electronic mail with the exception of voluminous attachments, which shall be served on Liaison Counsel for the opposing party by next day mail and all other opposing counsel by regular mail.

III. Submissions and Hearings

All submissions to the Pretrial Court shall be in the form of motions, captioned, formatted, filed and served as set forth in this Order. Settings for hearings with the Pretrial Court shall be obtained through the Court Coordinators for the Pretrial Court.

IV. Organization of Counsel

A. Plaintiffs' Management Structure

Liaison Counsel for the Plaintiffs shall be:

Jason A. Gibson
jag@jag-lawfirm.com
The Gibson Law Firm
The Lyric Centre
440 Louisiana, Ste. 2050
Houston, TX 77002
Phone: 713-650-1010
Facsimile: 713-650-1011

The Pretrial Court may serve notices, orders, and other court documents on Jason Gibson on behalf of all Plaintiffs, and Jason Gibson shall ensure that all Plaintiffs' counsel are provided with such court notices, orders and other court documents. Counsel of record for each individual Plaintiff shall remain lead counsel for that case.

B. Defendants' Management Structure

Lead Counsel for the Defendants shall be:

John H. Martin
John.Martin@tklaw.com
Thompson & Knight, LLP
1722 Routh Street, Suite 1500
Dallas, TX 75201
Telephone: 214-969-1700
Facsimile: 214-969-1751

Liaison Counsel for Defendants shall be:

Jennifer P. Henry
Jennifer.Henry@tklaw.com
Thompson & Knight, LLP
Burnett Plaza Suite 1600
801 Cherry Street, Unit #1
Fort Worth, Texas 76102
Telephone: 817-347-1733
Facsimile: 214-999-1616

The Defendants' Lead Counsel and Defendants' Liaison Counsel are hereby approved to act on behalf of all Defendants' counsel, as long as such action is taken with the unanimous consent of all Defendants. The Pretrial Court may serve notices, orders, and other court documents on Jennifer P. Henry, and she shall ensure that all Defendants' counsel are provided with such court notices, orders, and other court documents. Counsel of record for each defendant shall remain lead counsel for that defendant.

V. Pleadings

Each Defendant may file a Master Answer to apply to each of the Coordinated Cases in which the defendant has been named and served with a petition, as well as all future tag-along cases that are transferred to this MDL proceeding. Defendants may freely amend their Master Answer, as permitted by the Texas Rules of Civil Procedure,

until the deadline established in section XIII for amending pleadings is reached; after which, leave of Court must be obtained for further pleading amendments.

VI. General Discovery Rules

A. Applicability of Rules

Except as otherwise provided in this Order, the Texas Rules of Civil Procedure and the Local Rules of Harris County shall apply to this proceeding.

B. Discovery Dispute Resolution

Parties and their attorneys are expected to cooperate in discovery and to make agreements reasonably necessary for the efficient disposition of the Coordinated Cases.¹ To avoid unnecessary litigation concerning discovery disputes, counsel shall make meaningful and reasonable efforts to confer before filing any motion on discovery issues; face-to-face conferences are encouraged before setting any discovery motions for hearing by the Court.

C. Agreed Protective Order

A protective order will be entered by the Pretrial Court to protect the confidential nature of documents and electronic data produced in the Coordinated Cases.

VII. Rules Applicable to Written Discovery

A. Master Discovery

1. Plaintiffs will jointly prepare master interrogatories, master requests for production, and master requests for admissions for service upon the Defendants. Master Discovery will not seek duplicative information and/or material previously produced by the Defendants in the Coordinated Cases prior to their transfer to the Pretrial Court.

¹ Tex. R. Civ. P. 191.2.

2. Defendants will prepare one set of master interrogatories, master requests for production, and master requests for admissions for service upon all Plaintiffs.

3. Master Discovery shall have no effect on discovery previously served in individual cases before transfer to the Pretrial Court; parties must still supplement their responses to these requests as required by the Texas Rules of Civil Procedure.

B. Requests for Disclosure

All parties will be deemed to have served requests for disclosure on all other parties in accordance with Texas Rule of Civil Procedure 194. The parties shall serve master responses to all applicable subparts of Tex. R. Civ. P. 194.2 within 30 days of this Order and shall supplement and amend their responses timely as required by the Texas Rules of Civil Procedure. To the extent that information and/or materials have already been provided, repetitive service is unnecessary. In answering requests for disclosure propounded in individual cases, a party thereafter may simply refer to the master responses in lieu of repeating the information stated in the master responses.

C. Document Production

All documents produced by any party shall be produced in electronic, pdf format and in the manner required by Rule 196.3(c) of the Texas Rules of Civil Procedure. The parties agree that an index shall accompany all voluminous discovery produced in CD or DVD format and that the index will provide a reasonable description of the documents being produced.

VIII. Rules Applicable to Depositions

A. General

The scheduling and conduct of depositions, including resolution of any disputes arising during depositions, shall be in accordance with the procedures set forth in the Texas Rules of Civil Procedure. To the extent possible, counsel shall use their best efforts to coordinate the scheduling of depositions of “core” witnesses (as that term is defined below) with counsel in cases that arise from the same accident that are asserted against these or other defendants (including but not limited to The Boeing Company) and that are pending in other jurisdictions.

B. Scheduling of Depositions

1. To avoid more than one deposition of any person, Liaison Counsel for both Plaintiffs and Defendants shall attempt to establish by mutual agreement a schedule for depositions in this proceeding and all other coordinated proceedings that reflects a sequencing that is consistent with (a) the availability of documents from among those produced by the parties and third-parties; (b) the objective of avoiding the need to subject any person to repeated depositions; and (c) the need to preserve relevant testimony. Counsel for Continental is directed to send a letter to counsel currently known to represent passengers of Flight 1404 informing them of the time and place of the depositions of the first ten (10) core witnesses, advising them of the Court’s and parties’ intent that each witness only be deposed one time, and inviting them to attend and participate. The letter shall be sent so as to give at least forty-five (45) days notice of the first deposition and shall require the recipients to notify Defendants’ Liaison Counsel at least seven (7) days prior to each deposition if they are going to attend. Counsel for

Continental is directed to continue sending letters to those described above informing of the time and place of the next series of ten (10) depositions of core witnesses sufficiently in advance of said depositions until all core witnesses have been deposed.

2. All depositions shall be set by formal deposition notice. Deposition notices and all letters regarding scheduling, rescheduling, timing, location, or similar details regarding depositions shall be served on all parties electronically. Parties shall be permitted to attend depositions by telephone, provided that any party wishing to attend by telephone is responsible for making suitable arrangements. The failure to make suitable arrangements for telephonic attendance shall not be grounds for postponing or delaying the deposition.

3. A "core deposition" is any deposition that extends beyond case-specific matters and is likely to be a deposition requested in more than one case. The parties are ordered to confer upon deposition scheduling for core depositions and agree to as many depositions as is reasonable, taking into consideration the date, time, and location of the deposition. By July 20, 2009, the parties are to reach agreement as to the scheduling of depositions of ten (10) core witnesses to begin on or after September 1, 2009 so that notice may be given to non-parties of the time and place for these depositions, as required in paragraph 1 above. In order to give adequate time to schedule these depositions, Liaison Counsel for Plaintiffs shall notify Liaison Counsel for Defendants of the identity of the first ten (10) core witnesses Plaintiffs wish to depose by July 10, 2009. At the present date, Plaintiffs submit that core witnesses include the individuals listed in Exhibit B. Defendants submit that core witnesses include the individuals listed in Exhibit C.

4. Depositions of case-specific fact witnesses and damage related experts may be taken in this proceeding at any time. Counsel for the parties are to meet and confer as to the sequencing and scheduling of case-specific fact discovery.

C. Expert Witness Files and Reports

With the exception of treating physicians who were not retained by the parties for purposes of litigation, any expert witnesses disclosed in response to Rule 194.2(f) shall prepare a written report that contains the information required by Rule 194.2(f)(1)-(4) and shall provide a copy of the expert's complete file (or a listing of the items contained in the expert's file to the extent such documents have already been produced in the litigation) at the time the expert is designated by the respective party.

D. Conduct of Depositions

In any deposition, attorneys for the Plaintiffs and Defendants shall attempt to reach an agreement regarding the questioners. Questioners shall divide their time by agreement. It is expected that counsel will confer prior to each deposition to determine how time will be allotted to each participating attorney. In the event that an agreement cannot be reached, the Pretrial Court shall appoint questioners. Counsel shall use reasonable efforts to avoid duplicative or repetitive questioning of witnesses.

E. Duration of Examinations

Except as modified herein, all depositions shall be governed by the Texas Rules of Civil Procedure. Except by agreement of the parties or with leave of the Pretrial Court, the duration of depositions shall be limited as follows, excluding time taken for breaks, meals, and other reasons: non-party fact witnesses shall be limited to six (6) hours for all Plaintiffs and six (6) hours for all Defendants; individual plaintiffs shall be

limited to six (6) hours for all Defendants; experts and corporate representatives shall be limited to eight (8) hours for all Plaintiffs and eight (8) hours for all Defendants.

F. Supplemental Depositions

Witnesses shall not be subjected to more than one deposition conducted within the limitations described above, or to repetitive and redundant questioning. Absent agreement of counsel, supplemental depositions will be permitted only upon motion demonstrating (a) a good and reasonable need for the information sought; and (b) good and reasonable reasons why the information cannot be obtained from any persons available for future depositions. If permitted, a supplemental deposition shall be treated as the resumption of the deposition originally noticed. Plaintiffs' Counsel in the Coordinated Cases may not re-depose a witness if they later file suit on behalf of other passengers.

G. Videotaping

A party may record a deposition by videotape pursuant to Tex. R. Civ. P. 199(1)(c) if notice of the intent to videotape the deposition is given to all parties at least three (3) business days prior to the deposition.

IX. EXISTING DOCKET CONTROL DEADLINES, SCHEDULING ORDER DEADLINES, AND TRIAL DATES

All existing trial settings, discovery deadlines, docket control deadlines and scheduling order deadlines are vacated. All further discovery deadlines and scheduling deadlines shall be determined by the Pretrial Court.

X. MEDIATION

The parties may agree to mediate any claim or group of claims at any time. The parties agree to mediate in good faith. The Plaintiffs and Defendants shall agree to a list

of mediators; if the parties are unable to agree, the Pretrial Court will appoint one or more mediators. Plaintiffs will provide settlement demands and all relevant damage documentation to Defendants at least thirty (30) days before the scheduled mediation. Defendants will provide a settlement offer seven (7) days prior to the scheduled mediation. Plaintiffs must be physically present at the mediation, and a person with full authority to settle the case shall be physically present on behalf of the Defendants. The pilot defendants are not required to attend the mediation.

XI. COUNSEL SHALL IMMEDIATELY NOTIFY THE PRETRIAL JUDGE WHEN A CASE SETTLES

XII. REMAND PROCEDURES

Counsel for the Plaintiffs may file and serve on all parties a notice that discovery as to that plaintiff's claim is complete and that remand for trial is appropriate. Objections to remand shall be made within seven (7) days. The court may conduct a hearing on any objections to remand. Trial settings will be handled in accordance with Rule 13.6(d) of the Texas Rules of Judicial Administration.

XIII. SCHEDULING ORDER

- | | |
|---------|---|
| 7-1-09 | Defendants must disclose to all Plaintiffs whether they have been properly named, whether they have been sued in their proper capacity, and whether there is another related or affiliated entity that would be a more proper party, assuming the theories alleged by the Plaintiffs in their current petitions. |
| 7-15-09 | All parties shall serve Master discovery requests; the parties shall be permitted to serve case-specific discovery up to twenty (20) additional interrogatories, twenty (20) non-duplicative requests for production, and twenty (20) requests for admission as necessary unless otherwise agreed to or ordered by the Pretrial Court |
| 9-01-09 | Fact witness depositions may commence after this date; case-specific fact witness depositions may begin prior to this date. |

4-01-10 Fact witness discovery ends

Not later than 30 days after the NTSB releases its Final Report and probable cause finding, or by July 1, 2010, whichever is earlier:

Plaintiffs must designate testifying experts, providing written reports and information required by Rule 194.2(f). The Court understands that amendment to this deadline may be necessary in the event that the NTSB has failed to release critical information and/or components of the aircraft wreckage by July 1, 2010.

30 days after the Plaintiffs' testifying liability experts submit reports and Rule 194.2(f) information, Defendants must designate testifying experts, providing written reports and information required by Rule 194.2(f).

14 days after the Defendants' testifying liability experts submit reports and Rule 194.2(f) information, expert depositions may commence and continue for a period of two months.

8-16-10 The parties must submit each case to mediation by this date or when liability expert depositions begin, whichever is earlier.

30 days after the depositions of Defendants' liability experts are completed, Plaintiffs must designate any rebuttal experts and provide written reports and information required by Rule 194.2(f).

Within sixty (60) days after the NTSB releases its Final Report and probable cause finding, the following must occur:

All potentially responsible third parties must be named. All parties, except newly designated potentially responsible third parties, must be added and if necessary served, whether by amended or third-party practice. Provisions of the Tex. R. Civ. P. of naming additional defendants will apply;


Within thirty (30) days after expert discovery is completed (including rebuttal expert discovery), all pleading amendments and supplements must be filed.

11-1-10 All motions to exclude expert testimony and evidentiary challenges to exclude testimony must be filed by this date, unless extended by leave of court

12-1-10

Dispositive Motions must be heard by oral hearing or set for submission on or before this date.

Signed on July 8, 2009.

A handwritten signature in black ink, appearing to read "Mike Miller", written over a horizontal line.

Judge Mike Miller
Rule 13 Pretrial Judge

EXHIBIT A

HARRIS COUNTY

LOCAL RULES OF THE DISTRICT COURTS

concerning the

ELECTRONIC FILING OF COURT DOCUMENTS

PART 1. GENERAL PROVISIONS

Rule 1.1 Purpose

These rules govern the electronic filing and service of court documents, by any method other than fax filing, in Harris County. These rules are adopted pursuant to Rule 3a of the Texas Rules of Civil Procedure and may be known as the "Harris County Local Rules of the District Courts Concerning the Electronic Filing of Court Documents."

Rule 1.2 Effect on Existing Local Rules

These rules are adopted in addition to any other local rules of the district courts in Harris County. These rules do not supersede or replace any previously adopted local rules. These rules are in addition to current local rules, Part 4 electronic court documents (fax filing).

PART 2. DEFINITIONS

Rule 2.1 Specific Terms

The following definitions apply to these rules:

- (a) "Convenience fee" is a fee charged in connection with electronic filing that is in addition to regular filing fees. A Convenience Fee charged by the District Clerk *shall not be* considered as a court cost.
- (b) "District clerk" means the Harris County District Clerk.
- (c) "Document" means a pleading, plea, motion, application, request, exhibit, brief, memorandum of law, paper, or other instrument in paper form or electronic form.
- (d) "Electronic filing" is a process by which a filer files a court document with the district clerk's office by means of an online computer transmission of the document in electronic form. For purposes of these rules, the process does not include the filing of



faxed documents which is described as the "electronic filing of documents" in Section 51.801, Government Code.

(e) "Electronic Filing Service Provider (EFSP)" is a business entity that provides electronic filing services and support to its customers (filers). An attorney or law firm may act as an EFSP.

(f) "Electronic Service" is a method of serving a document upon a party in a case by electronically transmitting the document to that party's e-mail address.

(g) "Electronically File" means to file a document by means of electronic filing.

(h) "Electronically Serve" means to serve a document by means of electronic service.

(i) "Filer" means a person who files a document, including an attorney.

(j) "Party" means a person appearing in any case or proceeding, whether represented or appearing pro se, or an attorney of record for a party in any case or proceeding.

(k) "Regular Filing Fees" are those filing fees charged in connection with traditional filing.

(l) "Rules" are the Harris County Local Rules of the District Courts concerning the Electronic Filing of Documents.

(m) "Traditional Filing" is a process by which a filer files a paper document with a clerk or a judge.

Rule 2.2 Application to Pro Se Litigants

The term "counsel" shall apply to an individual litigant in the event a party appears pro se.

PART 3. APPLICABILITY

Rule 3.1 Scope

(a) These rules apply to the filing of documents in all non-juvenile civil cases, including cases that are appeals from lower courts, before the various district courts with jurisdiction in Harris County.

(b) These rules apply to the filing of documents in cases before the various district courts referred to in paragraph (a) above that are subsequently assigned to associate judges or any other similar judicial authorities.

Rule 3.2 Clerks

These rules apply only to the filing of documents with the district clerk. These rules do not apply to the filing of documents directly with a judge as contemplated by TEX. R. CIV. P. 74.

Rule 3.3 Documents That May Be Electronically Filed

(a) A document that can be filed in a traditional manner with the district clerk may be electronically filed with the exception of the following documents:

- i) citations or writs bearing the seal of the court;
- ii) returns of citation;
- iii) bonds;
- iv) subpoenas;
- v) proof of service of subpoenas;
- vi) documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;
- vii) documents sealed pursuant to TEX. R. CIV. P. 76a; and
- viii) documents to which access is otherwise restricted by law or court order, including a document filed in a proceeding under Chapter 33, Family Code.

(b) A motion to have a document sealed, as well as any response to such a motion, may be electronically filed.

Rule 3.4 Documents Containing Signatures

(a) A document that is required to be verified, notarized, acknowledged, sworn to, or made under oath may be electronically filed only as a scanned image.

(b) A document that requires the signatures of opposing parties (such as a Rule 11 agreement) may be electronically filed only as a scanned image.

(c) Any affidavit or other paper described in Rule 3.4(a) or (b) that is to be attached to an electronically-filed document may be scanned and electronically filed along with the underlying document.

(d) Where a filer has electronically filed a scanned image under this rule, a court may require the filer to properly file the document in a traditional manner with the district clerk. A third party may request the court in which the matter is pending to allow inspection of a document maintained by the filer.

PART 4. FILING MECHANICS

Rule 4.1 TexasOnline

(a) Texas Online is a project of the TexasOnline Authority, a state entity charged with establishing a common electronic infrastructure through which state agencies and local governments may electronically send and receive documents and required payments.

(b) To become registered to electronically file documents, filers must follow registration procedures outlined by TexasOnline. The procedure can be accessed from TexasOnline's website at "www.texasonline.com."

(c) Filers do not electronically file documents directly with the district clerk. Rather, filers indirectly file a document with the district clerk by electronically transmitting the document to an electronic filing service provider (EFSP) which then electronically transmits the document to TexasOnline which then electronically transmits the document to the district clerk. A filer filing or serving a document must have a valid account with an EFSP and with TexasOnline.

(d) Consistent with standards promulgated by the Judicial Committee on Information Technology (JCIT), TexasOnline will specify the permissible formats for documents that will be electronically filed and electronically served.

(e) Filers who electronically file documents will pay regular filing fees to the district clerk indirectly through TexasOnline by a method set forth by TexasOnline.

(f) An EFSP may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees.

(g) TexasOnline will charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees and will be in an amount not to exceed the amount approved by the TexasOnline Authority.

(h) The district clerk may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees, credit card fees, or other fees.

Rule 4.2 Signatures

(a) Upon completion of the initial registration procedures, each filer will be issued a confidential and unique electronic identifier. Each filer must use his or her identifier in

order to electronically file documents. Use of the identifier to electronically file documents constitutes a "digital signature" on the particular document.

(b) The attachment of a digital signature on an electronically-filed document is deemed to constitute a signature on the document for purposes of signature requirements imposed by the Texas Rules of Civil Procedure or any other law. The person whose name appears first in the signature block of an initial pleading is deemed to be the attorney in charge for the purposes of Texas Rules of Civil Procedure 8, unless otherwise designated. The digital signature on any document filed is deemed to be the signature of the attorney whose name appears first in the signature block of the document for the purpose of Texas Rules of Civil Procedure 13 and 57.

(c) A digital signature on an electronically-filed document is deemed to constitute a signature by the filer for the purpose of authorizing the payment of document filing fees.

Rule 4.3 Time Document is Filed

(a) A filer may electronically transmit a document through an EFSP to TexasOnline 24 hours per day each and every day of the year, except during brief periods of state-approved scheduled maintenance which will usually occur in the early hours of Sunday morning.

(b) Upon sending an electronically-transmitted document to a filer's EFSP, the filer is deemed to have delivered the document to the clerk and, subject to Rule 4.3(h), the document is deemed to be filed. If a document is electronically transmitted to the filer's EFSP and is electronically transmitted on or before the last day for filing the same, the document, if received by the clerk not more than ten days tardily, shall be filed by the clerk and deemed filed in time. A transmission report by the filer to the filer's EFSP shall be prima facie evidence of date and time of transmission.

(c) On receipt of a filer's document, the filer's EFSP must send the document to Texas Online in the required electronic file format along with an indication of the time the filer sent the document to the EFSP and the filer's payment information. TexasOnline will electronically transmit to the filer an "acknowledgment" that the document has been received by TexasOnline. The acknowledgment will note the date and time that the electronically-transmitted document was received by TexasOnline.

(d) Upon receiving a document from a filer's EFSP, TexasOnline shall electronically transmit the document to the district clerk. If the document was not properly formatted, Texas Online will transmit a warning to the filer's EFSP.

(e) Not later than the first business day after receiving a document from TexasOnline, the district clerk shall decide whether the document will be accepted for filing. The district clerk shall accept the document for filing provided that the document is not misdirected and complies with all filing requirements. The district clerk shall handle electronically-

transmitted documents that are filed in connection with an affidavit of inability to afford court costs in the manner required by TEX. R. CIV. P. 145. If the clerk fails to accept or reject a document within the time period, the document is deemed to have been accepted and filed.

(f) If the document is accepted for filing, the district clerk shall note the date and time of filing which, with the exception of subsection (h) below, shall be the date and time that the filer transmitted the document to the filer's EFSP. The district clerk shall inform TexasOnline of its action the same day action is taken. TexasOnline shall, on that same day, electronically transmit to the filer's EFSP a "confirmation" that the document has been accepted for filing by the district clerk. The EFSP will electronically transmit the confirmation to the filer. This confirmation will include an electronically "file-marked" copy of the front page of the document showing the date and time the district clerk considers the document to have been filed.

(g) If the document is not accepted for filing, the district clerk shall inform TexasOnline of its action, and the reason for such action, the same day action is taken. TexasOnline shall, on that same day, electronically transmit to the filer's EFSP an "alert" that the document was not accepted along with the reason the document was not accepted. The EFSP will electronically transmit the alert to the filer.

(h) Except in cases of injunction, attachment, garnishment, sequestration, or distress proceedings, documents that serve to commence a civil suit will not be deemed to have been filed on Sunday when the document is electronically transmitted to the filer's EFSP, TexasOnline, or the Clerk on Sunday. Such documents will be deemed to have been filed on the succeeding Monday.

Rule 4.4 Filing Deadlines Not Altered

The electronic filing of a document does not alter any filing deadlines.

Rule 4.5 Multiple Documents

(a) Except as provided by subsection (b) below, a filer may include only one document in an electronic transmission to TexasOnline.

(b) A filer may electronically transmit a document to TexasOnline that includes another document as an attachment (e.g., a motion to which is attached a brief in support of the motion).

Rule 4.6 Official Document

(a) The district clerk's file for a particular case may contain a combination of electronically-filed documents and traditionally-filed documents.

(b) The district clerk may maintain and make available electronically-filed documents in any manner allowed by law.

Rule 4.7 E-mail Address Required

In addition to the information required on a pleading by TEX. R. CIV. P. 57, a filer must include an e-mail address on any electronically-filed document.

Rule 4.8 Document Format

(a) Electronically-filed documents must be computer-formatted as specified by TexasOnline. Electronically-filed documents must also be formatted for printing on 8 1/2-inch by 11-inch paper.

(b) An electronically-filed pleading is deemed to comply with TEX. R. CIV. P. 45.

PART 5. SERVICE OF DOCUMENTS OTHER THAN CITATION

Rule 5.1 Electronic Service of Documents Permissible

(a) In addition to the methods of serving documents (other than the citation to be served upon the filing of a cause of action) set forth in TEX. R. CIV. P. 21a, a filer may serve documents upon another party in the case by electronically transmitting the document to that party at the party's email address. Service in such a manner is known as "Electronic service," and is permissible in the circumstances set out in paragraph (b) below.

(b) Documents may be electronically served upon a party only where that party has agreed, in writing to receive electronic service in that case. The clerk shall adopt a standard form of agreement which provides that the party has agreed to electronically accept service, sets out the e-mail address where service should be sent, and informs the party of the right to rescind the agreement by subsequent notice to the court. The agreement must be filed with the court and the form must be served on all other parties.

(c) By virtue of electronically filing a document or serving a document or by agreeing to accept service, a filer additionally agrees to provide information regarding any change in his or her e-mail address to TexasOnline, the district clerk, and all parties in the case.

(d) A party who electronically files a document is not required to electronically serve documents upon other parties. Electronic service of documents is an optional method of service.

(e) A filer may electronically serve a document in instances where the document is traditionally filed as well as in instances where the document is electronically filed.

Rule 5.2 Completion of Service and Date of Service

- (a) Electronic service shall be complete upon transmission of the document by the filer to the party at the party's e-mail address.
- (b) Except as provided by subsection (c) below, the date of service shall be the date the electronic service is complete.
- (c) When electronic service is complete after 5:00 p.m. (recipient's time), then the date of service shall be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

Rule 5.3 Time for Action After Service

Whenever a party has the right or is required to do some act within a prescribed period of time after service of a document upon the party and that document is electronically served, then three days shall be added to the prescribed period of time.

Rule 5.4 Certification of Service

- (a) Documents to be electronically served upon another party shall be sent before the time or at the same time that the document is filed.
- (b) A filer who electronically serves a document upon another party shall make a written certification of such service that shall accompany the document when that document is filed. The written certification shall include, in addition to any other requirements imposed by the Texas Rules of Civil Procedure, the following:
 - (i) the filer's e-mail address or telecopier (facsimile machine) number;
 - (ii) the recipient's e-mail address;
 - (iii) the date and time of electronic service; and
 - (iv) a statement that the document was electronically served and that the electronic transmission was reported as complete.

PART 6. ELECTRONIC ORDERS AND VIEWING OF ELECTRONICALLY-FILED DOCUMENTS

Rule 6.1 Courts Not Authorized to make Electronic Orders

- (a) Judges shall continue to sign paper copies of court orders, judgments, rulings, notices and other court-produced documents ("court orders").

(b) The district clerk may electronically scan a court order. The scanned court order may then serve as the official copy of the court order. The district clerk is not required to electronically scan court orders in order to create official **electronic** court orders. Electronic scanning of court orders is at the option of the district clerk.

Rule 6.2 Viewing of Electronically-filed Documents

(a) The district clerk shall ensure that all the records of the court, except those made confidential or privileged by law or statute, may be viewed in some format by all persons for free.

(b) Independent of the **TexasOnline** system and the requirement of viewing access described in subsection (a), the district clerk may choose to provide for both filers and the general public to electronically view documents or court orders that have been electronically filed or **scanned**. Where such provision has been made, persons may electronically view documents or court orders that have been electronically filed or scanned.

(c) Nothing in this rule allows for the viewing of documents or court orders, in any form, that are legally confidential (e.g., papers in mental health proceedings).

PART 7. MISCELLANEOUS PROVISIONS

Rule 7.1 Assigned Court to Resolve Disputes

In the event a dispute should arise involving the application of these rules or various electronic filing issues, a district court assigned in accordance with local assignment procedures shall decide any dispute.

These rules shall become effective upon their approval by the Supreme Court of Texas.

EXHIBIT B

EXHIBIT "B"

PLAINTIFFS' ANTICIPATED CORE WITNESSES

- 1) First Responders:
 - a. Firefighters
 - b. Paramedics
 - c. Medical technicians
 - d. Police officers

- 2) Airport Personnel:
 - a. Airport security personnel who investigated the crash
 - b. Shuttle driver(s) who ferried passengers to the terminal
 - c. Employees who interacted with the passengers as they attempted to reunite with relatives and friends

- 3) Continental Employees:
 - a. Pilots
 - i. David Butler
 - ii. Chad Levang
 - b. The pilots' supervisors/training personnel
 - i. Loyd Robeson (Assistant Chief Pilot)
 - ii. Andy Jost (Chief Pilot)
 - iii. David Lynn (Senior Director, Flight Standards and Training)
 - iv. Toby Carroll (Director Flight Safety)
 - c. Flight attendants
 - i. Al Felipe
 - ii. Regina Ressler
 - iii. Pamela Howard
 - d. Deadheading pilots
 - i. Richard Lowe
 - ii. Todd Greene
 - e. Baggage personnel
 - i. Mark Rocco
 - ii. Randy Ducote
 - f. Gate agents who worked Flight 1404
 - i. Catherin Miller
 - ii. Cheri Jackson
 - g. Boarding agents who worked Flight 1404
 - i. Mary McCarthy
 - ii. Karen Keogh
 - h. Continental employees who interacted with passengers in the terminal and/or Continental lounge
 - i. Continental dispatch employees who handled Flight 1404
 - j. Continental Liaison personnel who maintained contact with injured passengers after the crash

- k. Continental's NTSB party representative(s)
- l. Continental employees referenced in Continental's 14 C.F.R. 121.135 manual
- m. Maintenance employees who worked on the subject aircraft within six months of the crash
- n. Each person listed in Continental's organization chart or description of organization of Continental's maintenance personnel as required by 14 C.F.R. 121.369(a)
- o. Continental's Chief Mechanic
- p. Continental's Chief Pilot
 - i. Andy Jost
- q. Continental's Assistant Chief Pilot
 - i. Loyd Robeson
- r. Director, Chairman, and CEO, Continental Airlines, Inc.
 - i. Larry Kellner
- s. Director, President, and COO, Continental Airlines, Inc.
 - i. Jeffrey Smisek
- t. Executive Vice President Marketing, Continental Airlines, Inc.
 - i. Jim Compton
- u. Executive Vice President Operations, Continental Airlines, Inc.
 - i. Mark Moran
- v. Executive Vice President and CFO, Continental Airlines, Inc.
 - i. Jeffrey Misner
- w. Senior Vice President and CIO, Continental Airlines, Inc.
 - i. Ron Anderson-Lehman
- x. Senior Vice President Marketing Programs and Distribution, Continental Airlines, Inc.
 - i. Mark Bergsrud
- y. Senior Vice President Human Resources and Labor Relations, Continental Airlines, Inc.
 - i. Mike Bonds
- z. Senior Vice President Airport Services, Continental Airlines, Inc.
 - i. Bill Meechan
- aa. Staff Vice President, Corporate Purchasing and Business, Continental Airlines, Inc.
 - i. Katrina Mannin
- bb. Staff Vice President, Systems Operations, Continental Airlines, Inc.
 - i. Robert Edwards
- cc. Staff Vice President, Maintenance, Continental Airlines, Inc.
 - i. Joseph Ferreira
- dd. Staff Vice President, Airport Services, Continental Airlines, Inc.
 - i. Fernie Lopez
- ee. Vice President, Inflight, Continental Airlines, Inc.
 - i. Sam Risoli
- ff. The Senior Vice President of Corporate Development, Continental Airlines, Inc.

- gg. The Senior Vice President of Scheduling, Continental Airlines, Inc.
- hh. The Senior Vice President of Technical Operations, Continental Airlines, Inc.
- ii. The Senior Vice President of Flight Operations, Continental Airlines, Inc.
- jj. The Senior Vice President of Sales and Distribution, Continental Airlines, Inc.
- kk. The Senior Vice President of Corporate Communications, Continental Airlines, Inc.
- ll. The Senior Vice President of Pricing and Inventory Management., Continental Airlines, Inc.

4) NTSB Personnel/Persons Who Participated in the NTSB Investigation:

- a. Investigator In Charge
 - i. Bill English
- b. NTSB Powerplant Team Lead
 - i. Pierre Scarfo
- c. Flight Safety
 - i. Toby Carroll
- d. Ground Safety
 - i. Guy Schroeder
- e. Systems Engineering
 - i. Paul Bowman
- f. Engineering
 - i. Mark Eldred
- g. Systems Operations
 - i. Kris Kimmons
- h. Maintenance
 - i. Kevin Spooner
- i. Interiors Engineering
 - i. Chris Hartman
- j. Propulsion Engineering
 - i. Roger Cooper
- k. Flight Standards & Training
 - i. John Bauer
- l. Assistant Chief Pilot
 - i. Loyd Robeson
- m. Inflight
 - i. Kathryn Reneau
- n. ATC Systems
 - i. Les Parson
- o. Technical Flight Data Systems
 - i. Doug Wood
- p. Aircraft Records
 - i. Don Rhodes
- q. Structures Engineering
 - i. Jack Abi-Habib

- r. Avionics Engineering
 - i. Chris Allen
- s. Performance Engineering
 - i. Ravine Agarwal

5) FAA Personnel:

- a. Investigator
 - i. Kevin E. Miller
- b. FAA Control Tower Personnel present in the tower at the time of the crash.

Plaintiffs will supplement this list as the identity of additional core witnesses is made known through discovery.

EXHIBIT C

EXHIBIT "C"

DEFENDANTS' LIST OF CORE WITNESSES

- 1) First Responders:
 - a. Firefighters
 - b. Paramedics
 - c. Medical Technicians
 - d. Police officers

- 2) FAA Air Traffic Control Personnel on duty at time of accident:
 - a. Cynthia Russell
 - b. Thomas Hedeem
 - c. Patrick Thornley
 - d. Rick Herring

- 3) Continental Employees:
 - a. Flight Crew
 - i. Captain David Butler
 - ii. First Officer Chad Levang

 - b. The Pilots' Supervisors/Training personnel
 - i. Loyd Robeson (Assistant Chief Pilot)
 - ii. David Lynn (Senior Director, Flight Standards and Training)

 - c. Flight Attendants
 - i. Al Felipe
 - ii. Regina Ressler
 - iii. Pamela Howard

 - d. Deadheading Pilots
 - i. First Officer Richard Lowe
 - ii. Captain Todd Green

 - e. Continental's NTSB party representative - Toby Carroll (Director Flight Safety)

- 4) National Weather Service personnel on duty at time of accident

- 5) Custodian of LLWAS and other meteorological data from the date of the accident.

Defendants will supplement this list as the identity of additional core witnesses is made known through discovery.

II. Case Identification, Filing, and Service

A. Master Docket and Record

The Clerk of the Pretrial Court or the Pretrial Court shall create and maintain a master docket number MDL 2009-33036 under the style, "In Re Continental Airlines Flight 1404."

B. Master Filings

If a document or order that is filed or e-filed in this proceeding is generally applicable to all consolidated actions, the caption shall include the MDL docket number and style along with the notation, "ALL ACTIONS."

C. Individual Filings

If a document or order that is filed or e-filed in this proceeding is applicable to one or more, but not all, of the consolidated actions, the caption shall include the MDL docket number and style along with a notation, "NOT APPLICABLE TO ALL ACTIONS." Directly underneath the MDL document number and style, the caption shall include the style of each individual case(s) to which it applies.

D. Filing

Filing procedures shall be controlled by this Order. All filings in this case shall be made electronically, unless to do so would be impractical due to the dimensions or volume of the documents or things to be filed. In such situations, a document describing the document(s) or thing(s) shall be e-filed in its place, and the originals shall be filed with the Court and provided to opposing counsel. Electronic filing procedures shall be followed according to the Harris County Local Rules of the District Courts Concerning