

CAUSE NO. 2009-33036

ALL ACTIONS

IN RE: § IN THE DISTRICT COURT
CONTINENTAL § OF HARRIS COUNTY, TEXAS
AIRLINES FLIGHT 1404 § 11TH JUDICIAL DISTRICT

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**CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER
PERTAINING TO PASSENGER LIST**

The parties to the above-captioned action (the "Litigation"), acting by and through their respective undersigned attorneys, and their respective attorneys, agree to be bound by the terms of this Confidentiality Agreement and Protective Order (the "Order"), and further, jointly move the Court to enter this Order to govern the court-ordered disclosure by Defendant Continental Airlines, Inc. ("Continental") of the names, addresses and phone numbers (if known to Continental) of all passengers on Continental Flight 1404 (hereinafter, the "Passenger List"), disclosed in the course of discovery, and the Court, having reviewed this Agreement and Order, and finding it to be well-founded, hereby orders as follows:

1. Continental designates the Passenger List as "Confidential" because it is non-public and contains personal information of individuals who are not parties to this action and have not consented to have their personal information released by Continental in this manner. The Passenger List shall not be filed with the Court without Continental's consent, except as allowed by the Court, ~~or unless filed under seal~~. The Passenger List shall be used solely for the purpose of this Litigation and shall not be used for any other purpose, including any business or commercial purpose. The parties agree that the Passenger List is "Confidential," as contemplated by this Order.

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2. Continental's designation of the Passenger List as "Confidential" shall be made by stamping each page of the Passenger List with the legend "Confidential" prior to its production. The Passenger List shall be kept confidential by the receiving parties and shall not be disclosed in any manner to any person, except as provided in this Order.

3. Except as otherwise required by law, and until further order of the Court, the Passenger List shall be disseminated or disclosed only to the following persons:

- a. Any party to this Litigation;
- b. Attorneys employed or retained by a party to this Litigation and the attorneys' staff;
- c. Officers, directors, representatives and employees of a party (including in-house counsel) who are directly involved in this Litigation;
- d. Jurors and officers of the Court, including court reporters or others associated with the Court through the trial of this Litigation; ~~but, if the Passenger List is filed with the court, it must be filed under seal, and-~~ MDM
- e. Experts and/or non-testifying consultants working on this Litigation; however, all such persons must, prior to reviewing the Passenger List, execute the confidentiality statement set forth in Exhibit A. The receiving party has the duty to produce all confidentiality statements signed by persons to whom the Passenger List was disclosed, within five business days of such disclosure.

It is expressly understood and agreed that no party will provide the Passenger List to any other person besides those listed above. Every person given access to the Passenger List shall be advised that the Passenger List is being disclosed pursuant and subject to the terms of this Order and may not be disclosed other than pursuant to the terms of this Order.

~~4. The Passenger List, which is "Confidential," which is authorized by this Court under Rule 76a of the Texas Rules of Civil Procedure to be filed under seal, shall be filed in sealed envelopes marked with the caption of the Litigation and the words "Confidential - Filed Under Seal." The Passenger List so filed shall be released from confidential treatment only upon further order of the Court or upon written agreement by all parties. If the Passenger List is~~ MOI

attached as an exhibit to any briefs, memoranda, motions, letters, or other filings, only the Passenger List shall be filed under seal. The filing itself need not be filed under seal unless it quotes the Passenger List verbatim or paraphrases it in such a way as to reveal the specific identifies of those named in the Passenger List. M D M

5. This Order shall, absent written permission of Continental, or further order of the Court, continue to be binding throughout and after the conclusion of the Litigation, including without limitation any appeals. At the conclusion of this Litigation, each receiving party shall return to (or dispose of as may be directed by) counsel for Continental, all copies of the Passenger List in its possession or the possession of persons to whom the receiving party disclosed the Passenger List pursuant to Paragraph 3.

6. Nothing contained in this Order, nor any action taken in compliance with it, shall: (1) operate as an admission by Continental that testimony from, and the identity of, passengers on Flight 1404 that are not parties to this case is admissible in evidence or at trial; or (2) prevent Continental from using or disclosing the Passenger List.

7. The party obtaining a copy of the Passenger List marked "Confidential" and produced by another party shall not be obligated to defend against subpoenas or other legal actions by other persons attempting to obtain such confidential documents or information. Continental shall be solely responsible for defending against subpoenas or other such actions. Upon receiving a subpoena or other demand, the receiving party shall, within two (2) business days of the receipt of any such subpoena or demand, notify Continental in writing of the subpoena or other demand. Within two (2) business days of receipt of such written notification, Continental shall notify the receiving party in writing whether or not Continental will defend against the subpoena or demand.

8. In the event additional parties join or are joined in this Litigation, they shall not have access to the Passenger List until the newly-joined party by its counsel has executed and filed with the Court its agreement to be fully bound by this Order.

IT IS SO ORDERED this 24 day of July, 2009.

A handwritten signature in cursive script, appearing to read "M. D. DeLoach", is written above a horizontal line.

JUDGE OF THE DISTRICT COURT

APPROVED AND AGREED TO:

<p>THOMPSON & KNIGHT LLP</p> <hr/> <p><i>John H. Martin</i> John H. Martin State Bar No. 13086500 Jennifer P. Henry State Bar No. 15859500 David C. Schulte State Bar No. 24037456 1722 Routh St., Suite 1500 Dallas, Texas 75201 (214) 969-1700 Fax: (214) 969-1751</p> <p>Juan Garcia State Bar No. 24045914 Morgan L. Gaskin State Bar No. 24055534 333 Clay Street, Suite 3300 Houston, Texas 77002 (713) 654-8111 Fax: (713) 654-1871</p> <p>ATTORNEYS FOR DEFENDANT CONTINENTAL AIRLINES, INC.</p>	<p>BYRD DAVIS FURMAN</p> <hr/> <p><i>James H. Furman</i> James H. Furman State Bar No. 07556600 707 W. 34th Street Austin, Texas 78705 (512) 454-3751 Fax: (512) 451-5857</p> <p>SCHADEN, KATZMAN, LAMPERT & MCCLUNE</p> <hr/> <p>Casey F. Schaden (Pro Hac Vice) 9596 Metro Airport Ave., 2nd Floor Broomfield, Colorado 80021 (303) 465-3663 Fax: (303) 465-3884</p> <p>LAW OFFICES OF FRANK L. BRANSON, P.C.</p> <hr/> <p>Frank L. Branson State Bar No. 02899000 Quentin Brogdon State Bar No. 03054200 Highland Park Place 4514 Cole Avenue, 18th Floor Dallas, Texas 75205 (214) 522-0200 Fax: (214) 521-5485</p> <p>ATTORNEYS FOR PLAINTIFFS</p>
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APPROVED AND AGREED TO:


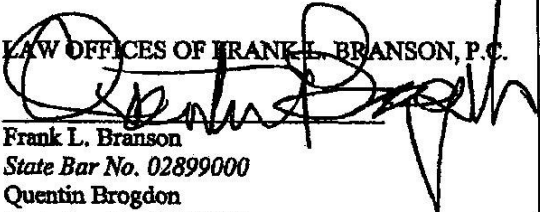
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<p>John H. Martin <i>State Bar No. 13086500</i> Jennifer P. Heary <i>State Bar No. 15859500</i> David C. Schulte <i>State Bar No. 24037456</i> 1722 Routh St., Suite 1500 Dallas, Texas 75201 (214) 969-1700 Fax: (214) 969-1751</p> <p>Juan Garcia <i>State Bar No. 24045914</i> Morgan L. Gaskin <i>State Bar No. 24055534</i> 333 Clay Street, Suite 3300 Houston, Texas 77002 (713) 654-8111 Fax: (713) 654-1871</p> <p>ATTORNEYS FOR DEFENDANT CONTINENTAL AIRLINES, INC.</p>	<p>James H. Furman <i>State Bar No. 07556600</i> 707 W. 34th Street Austin, Texas 78705 (512) 454-3751 Fax: (512) 451-5857</p> <p>SCHADEN, KATZMAN, LAMPERT & MCCLUNE  Casey F. Schaden <i>(Pro Hac Vice)</i> 9596 Metro Airport Ave., 2nd Floor Broomfield, Colorado 80021 (303) 465-3663 Fax: (303) 465-3884</p> <p>LAW OFFICES OF FRANK L. BRANSON, P.C.  Frank L. Branson <i>State Bar No. 02899000</i> Quentin Brogdon <i>State Bar No. 03054200</i> Highland Park Place 4514 Cole Avenue, 18th Floor Dallas, Texas 75205 (214) 522-0200 Fax: (214) 521-5485</p> <p>ATTORNEYS FOR PLAINTIFFS</p>

EXHIBIT A

[Name and Address of
Proposed Recipient of
Confidential Material]

[Name and Address of Counsel
Proposing to Show Confidential
Material to a Third Party]

Re: In re: Continental Airlines Flight 1404 Litigation, Case No. 2009-33036

Dear Counsel:

You have proposed to disclose to me the Passenger List, which has been designated as "Confidential" in the above-referenced litigation. This will acknowledge:

I have reviewed a copy of the Confidentiality Agreement and Protective Order (the "Order") in the above-referenced action.

I agree to comply with the Order in all respects.

I hereby submit to the jurisdiction of the District Court of Harris County, 11th Judicial District Court, for adjudication of any dispute about whether I have complied with the Order.

[Signature of Proposed Recipient of Passenger List]