

JUN 22 2007

RELEASED FOR PUBLICATION

FILED
CLERK'S OFFICE

DOCKET NO. 1844

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**IN RE AIR CRASH NEAR PEIXOTO DE AZEVEDA, BRAZIL, ON
SEPTEMBER 29, 2006**

Maria Jose Miranda Bermudes Abreu, et al. v. ExcelAire Services, Inc., et al., C.D. California,
C.A. No. 2:07-1296

Suely de Castro Alves Miranda, etc. v. Joseph Lepore, et al., M.D. Florida, C.A. No. 6:07-283

Bianca Pi Hancock, etc. v. ExcelAire Services, Inc., et al., E.D. Missouri, C.A. No. 4:07-372

Patricia Abraham Barbosa Garcia, et al. v. ExcelAire Services, Inc., et al., E.D. New York, C.A.
No. 1:06-5964

Mario De Abreu Lleras, et al. v. ExcelAire Services, Inc., et al., E.D. New York, C.A. No.
2:06-6083

Zita Swensson de Mattos, etc. v. ExcelAire Services, Inc., et al., S.D. New York, C.A. No.
1:07-948

**BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J.
FREDERICK MOTZ, ROBERT L. MILLER, JR.,* KATHRYN H. VRATIL,
DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL**

TRANSFER ORDER

This litigation currently consists of six actions, two actions pending in the Northern District of New York, and one action each pending in the Central District of California, the Middle District of Florida, the Eastern District of Missouri and the Southern District of New York.¹ Before the Panel is

* Judge Miller did not participate in the decision of this matter.

¹ Two additional actions – *Tania De Fatima Salvini, etc. v. Joseph Lepore, et al.*, S.D. Florida, C.A. No. 1:07-20370, and *Renata Almeida Desouza Lemos, etc. v. ExcelAire Services, Inc., et al.*, D. Massachusetts, C.A. No. 1:07-10371 – were included on the initial Section 1407 motion. The Panel has been notified that these actions have been voluntarily dismissed. Accordingly, the question of inclusion of these actions in MDL-1844 proceedings is moot.

The Panel also has been notified of 52 additional actions pending as follows: 50 actions in the Southern District of Florida and one action each in the District of Massachusetts and the Eastern District of New York. These actions and any other related actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

a motion, pursuant to 28 U.S.C. § 1407, brought by plaintiff in the Southern District of New York action for coordinated or consolidated pretrial proceedings of these actions. All responding parties support centralization. Movant and plaintiffs in the Central District of California and the Middle District of Florida actions and one of the Southern District of Florida potentially related actions suggest centralization in the Southern District of Florida. Plaintiffs in the two Eastern District of New York actions and all defendants favor selection of the Eastern District of New York as the transferee forum.

On the basis of the papers filed and hearing session held, the Panel finds that these six actions involve common questions of fact, and that centralization under Section 1407 in the Eastern District of New York will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. All actions concern the cause or causes of a mid-air collision of an aircraft operated by Gol Linhas Aereas Inteligentes, S.A. (Gol) with a business jet and the subsequent crash of the Gol aircraft near Peixoto de Azeveda, Brazil, on September 29, 2006. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

We are persuaded that the Eastern District of New York is an appropriate transferee forum for this docket. The first two filed actions are pending in this district, and they are more procedurally advanced than the actions pending elsewhere.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions pending outside the Eastern District of New York are transferred to the Eastern District of New York and, with the consent of that court, assigned to the Honorable Brian M. Cogan for coordinated or consolidated pretrial proceedings with the actions pending in that district.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman