

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE: SEPTEMBER 11, 2001 LITIGATION

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**PLAINTIFFS' AND DEFENDANTS'  
JOINT STATUS REPORT REGARDING FORMATION  
OF COMMITTEES AND SUBCOMMITTEES**

Pursuant to the Order of the Court at the "9/11 Litigation Conference" held on September 20, 2002, the plaintiffs who commenced wrongful death or personal injury actions or who seek damages on account of loss of property in this Court arising out of the September 11, 2001 terrorist-related attacks, (but excluding actions against terrorists, co-conspirators or others, including nations that aided, abetted or facilitated the terrorist attacks), and the defendants named in those lawsuits, file this report to inform the Court of the Committees and Subcommittees they have provisionally established at the Court's request.

**Part I - Plaintiffs' Committees and Subcommittees and Liaison Counsel**

The plaintiffs have formed the following Committees and Subcommittees whose duties and responsibilities are set forth below:

1. The following law firms will constitute the "September 11, 2001 Tort Litigation Plaintiffs' Executive Committee":

Kreindler & Kreindler  
100 Park Avenue  
New York, New York 10017

Ness, Motley, P.A.  
28 Bridgeside Boulevard  
Mount Pleasant, South Carolina 29465

Baumeister & Samuels, P.C.  
  
One Exchange Plaza  
New York, New York 10006

Baum, Hedlund, Aristei, Guilford &  
Schiavo  
12100 Wilshire Boulevard, #950  
Los Angeles, California 90025

Speiser, Krause, Nolan & Granito, P.C.  
Two Grand Central Tower, 34th Floor  
140 East 45th Street  
New York, New York 10017

Hanly & Conroy, LLP  
415 Madison Avenue  
New York, New York 10017

Warden Triplett Grier  
Building 40 Corporate Woods  
9401 Indian Creek Parkway, Suite 1100  
Overland Park, Kansas 66210

Warden Triplett Grier  
25 Old Broad Street, Level 7  
London EC2N 1HN  
England

The Plaintiffs' Executive Committee shall be responsible for the overall management and conduct of the litigation. It shall conduct all liability pre-trial proceedings including:

- a. prepare, serve and file liability interrogatories, requests for admissions, document requests and other necessary liability discovery;
- b. prepare, serve and file answers and responses to defendants' liability discovery;
- c. prepare, serve, file and argue liability motions, and when necessary, oppose liability motions initiated by any of the defendants;
- d. prepare for and conduct liability depositions;
- e. enter into liability fact stipulations with the defendants;
- f. consult and hire expert consultants and witnesses;
- g. act as spokespersons at liability pretrial conferences;

h. otherwise coordinate the work of all plaintiffs' counsel and perform such other liability functions as necessary and appropriate and as may be authorized by the Court; and

i. if a trial of liability issues is necessary the Plaintiffs' Executive Committee will handle the trial and designate trial counsel.

To enable it to discharge its responsibilities, the Plaintiffs' Executive Committee has established the following Subcommittees. Assignment of responsibilities to the members of each Subcommittee will be made by the Plaintiffs' Executive Committee.

(a) **American Airlines Subcommittee**

This Subcommittee will conduct discovery and otherwise focus upon the issues that relate directly or indirectly to the liability of American Airlines, its employees, agents or independent contractors and all other persons, firms or entities for the deaths, injuries and property losses caused by the terrorist-related crashes of Flights 11 and 77 on September 11, 2001.

The members of the Subcommittee (in alphabetical order) are:

Brian J. Alexander (Kreindler & Kreindler)  
Jodi Flowers (Ness, Motley, P.A.)  
Frank H. Granito, Jr. (Speiser, Krause, Nolan & Granito)  
John A. Greaves (Baum, Hedlund, Aristei, Guilford & Schiavo)  
Paul J. Hanly, Jr. (Hanly Conroy LLP)  
Michael J. Kuckelman (Warden Triplett Grier)  
Douglas A. Latto (Baumeister & Samuels, P.C.)  
Marc S. Moller (Kreindler & Kreindler)

(b) **United Airlines Subcommittee**

This Subcommittee will conduct discovery and otherwise focus upon the issues that relate directly or indirectly to the liability of United Airlines, its employees, agents or independent contractors and all other persons, firms or entities for the deaths, injuries and property losses caused by the terrorist-related crashes of Flights 175 and 93 on September 11, 2001.

The members of the Subcommittee (in alphabetical order) are:

Michel F. Baumeister (Baumeister & Samuels, P.C.)

Jane Conroy (Hanly & Conroy LLP)  
Frank H. Granito, III (Speiser, Krause, Nolan & Granito)  
James P. Kreindler (Kreindler & Kreindler)  
Noah H. Kushlefsky (Kreindler & Kreindler)  
Ronald L. Motley (Ness, Motley, P.A.)  
Mary F. Schiavo (Baum, Hedlund, Aristei, Guilford & Schiavo)  
Timothy W. Triplett (Warden Triplett Grier)

(c) **World Trade Center Towers Subcommittee**

This Subcommittee will conduct discovery and otherwise focus upon issues directly related to the collapses of the World Trade Center Towers, including alleged negligence in the construction of the building, alleged design defects and engineering issues, negligence in facilitating evacuation of the buildings in the immediate aftermath of the terrorist attacks as more particularly alleged in the pleadings.

The members of the Subcommittee (in alphabetical order) are:

Dorothea M. Capone (Baumeister & Samuels, P.C.)  
David C. Cook (Kreindler & Kreindler)  
Paul J. Hedlund (Baum, Hedlund, Aristei, Guilford & Schiavo)  
Donald Migliori (Ness, Motley, P.A.)  
Kenneth P. Nolan (Speiser, Krause, Nolan & Granito)

(d) **United States Liability Subcommittee**

This Subcommittee will focus upon the issues relating to the legal liability of the United States, if any, and the issue of whether but for the negligence of the United States and its agencies, the terrorist attacks on September 11, 2001 could have been prevented as well as upon issues related to disclosure of “sensitive security information” (SSI).

The members of this Subcommittee (in alphabetical order) are:

Dorothea M. Capone (Baumeister & Samuels, P.C.)  
Michael Elsner (Ness, Motley, P.A.)  
Justin T. Green (Kreindler & Kreindler)  
Jeanne M. O’Grady (Speiser, Krause, Nolan Granito)  
Mary F. Schiavo (Baum, Hedlund, Aristei, Guilford & Schiavo)

The Plaintiffs' Executive Committee may from time to time expand or alter the scope of responsibility of each Subcommittee or alter the composition of each Subcommittee as circumstances warrant.

(e) **Plaintiffs' Liaison Counsel**

Marc S. Moller, a member of the firm of Kreindler & Kreindler, will serve as Liaison Counsel and Noah H. Kushlefsky and Brian J. Alexander will be Co-Liaison Counsel.

The responsibilities of Liaison Counsel will include:

1. To serve as a Liaison between the Court and the plaintiffs;
2. To convene meetings of the Plaintiffs' Executive Committee;
3. To coordinate work assignments in such a manner as to promote the orderly and efficient conduct of this litigation, and to avoid unnecessary duplication and unproductive effort;
4. Receive on behalf of and promptly distribute to the attorneys for all plaintiffs notice of all Court Orders and notices of Pretrial Conferences; serve, on behalf of the Plaintiffs' Executive Committee, the defendants' attorneys with all liability papers;
5. Coordinate scheduling of depositions with defendants and Plaintiffs' Executive Committee;
6. Send to all plaintiffs' attorneys periodic progress reports of the Plaintiffs' Executive Committee regarding pretrial liability proceedings and, upon receipt of comments and suggestions, promptly distribute them to the Plaintiffs' Executive Committee;
7. Maintain all liability files and make them available for inspection and copying to any plaintiff's attorney; maintain a current service list of all plaintiffs' and defendants' attorneys;
8. Maintain financial records and accounts of receipts and disbursements for liability expenses which shall be available to the Plaintiffs' Executive Committee;

9. To account to all plaintiffs' attorneys and the Court for all receipts and payments, and perform other functions as requested by the Plaintiffs' Executive Committee; and

10. The Plaintiffs' Liaison Counsel and the Plaintiffs' Executive Committee may establish a website and use e-mail to communicate with and furnish documents to plaintiffs' counsel as set forth in this Order. Each plaintiffs' counsel shall provide the Plaintiffs' Liaison Counsel with an e-mail address for the receipt of such communications and documents.

2. Subject to an Order of the Court, the plaintiff in each action filed in or transferred to this Court on account of the death or injury of any individual killed or injured as a result of the September 11, 2001 terrorist-related air crashes shall within thirty (30) days of this Order, or within thirty (30) days of filing a lawsuit or transfer of that lawsuit to this district, whichever date is later, advance to the Plaintiffs' Liaison Counsel the sum of \$2,000 payable to the "Plaintiffs September 11, 2001 Tort Liability Expense Fund" for each case in which the victim on whose account the action was brought was a passenger aboard American Airlines Flights 11 or 77 or United Airlines Flights 175 or 93, and with respect to all other persons killed or injured the sum of \$4,000, which sum shall be deposited in the said Fund account to be maintained by Liaison Counsel. Said deposits shall be an initial assessment for liability expenses, subject to subsequent requests by the Plaintiffs' Executive Committee on notice to all plaintiffs' attorneys and the approval of the Court. The adequacy and fairness of the assessment will be periodically reviewed by the Plaintiffs' Executive Committee. Plaintiffs who have or may hereafter commence actions to recover damages for loss of property or subrogation claims shall make a deposit to the expense account fund appropriate in light of the magnitude of their individual claims. If the Plaintiffs'

Executive Committee, Liaison Counsel and a property damage plaintiff cannot agree on an appropriate deposit, the matter shall be submitted to the Court for resolution.

3. Liaison Counsel, shall deposit and invest all assessments for the “Plaintiffs’ September 11, 2001 Liability Expense Fund” in an interest bearing insured money market bank account or United States Treasury Bills, and shall pay reasonable liability expenses subject to final accounting and approval by this Court. Until final accounting and approval and subject to further Order of the Court, no payment may be made either for travel or for any lodging and related expenses in connection with this litigation, except travel and lodging for those persons retained to render services as an expert.

4. The Plaintiffs’ Executive Committee agrees to an abatement of Committee fees for Plaintiffs’ Committee work performed during the period of time one year from the date of this Order. The fees, if any, of the Plaintiffs’ Committee for work performed after said date will be considered at a later date. A reasonable fee for the services of Plaintiffs’ Liaison Counsel and related expenses shall be deemed a litigation expense payable out of the Liability Expense Fund, subject to the approval of the Court.

5. All communications, including e-mail communications among the Plaintiffs’ Executive Committee members or Subcommittees or between the Plaintiffs’ Executive Committee members or Liaison Counsel and any attorney for a plaintiff or claimant and all communications among defense counsel shall be deemed to be embraced by the attorney-client privilege and/or work product doctrine, if the privilege or doctrine is

otherwise applicable, and all of said persons shall maintain the confidentiality of said communications.

5. All communications, including e-mail communications among the Plaintiffs' Executive Committee members or Subcommittees or between the Plaintiffs' Executive Committee members or Liaison Counsel and any attorney for a plaintiff or claimant and all communications among defense counsel shall be deemed to be embraced by the attorney-client privilege and/or work product doctrine, if the privilege or doctrine is otherwise applicable, and all of said persons shall maintain the confidentiality of said communications.

**Part II - Defendants' Executive Committee and Proposed Subcommittees and Liaison Counsel Designation**

1. Pursuant to the Court's direction, the defendants have formed a Defendants' Executive Committee ("DEC") comprised of the following defendants, each of which shall be represented on the DEC by the following representatives (and alternate representatives):

Defendant	Representative	Alternate Representative
United Airlines	Michael R. Feagley (Mayer, Brown, Rowe & Maw)	Jeffrey J. Ellis (Quirk & Bakalor P.C.)
American Airlines	Roger E. Podesta (Debevoise & Plimpton)	Mark P. Goodman (Debevoise & Plimpton)
Argenbright Security	Charles E. Koob (Simpson Thatcher & Bartlett)	Joseph F. Wayland (Simpson Thatcher & Bartlett)



Defendant	Representative	Alternate Representative
Globe Aviation Serv. Corp.	James P. Connors (Jones Hirsch Connors & Bull P.C.)	Gary W. Westerberg (Lord Bissell Brook)
Huntleigh USA Corp.	H. Lee Godfrey (Susman Godfrey L.L.P.)	Edward J. McMurrer (Mendes & Mount)
Port Authority of NY and NJ	Keith E. Harris (Port Authority of NY and NJ)	Gerald S. Crowley (Port Authority of NY and NJ)
MassPort	Mark Wood (O'Melveny & Myers LLP)	John L. Altieri, Jr. (O'Melveny & Myers LLP)
World Trade Center Properties LLC	Richard A. Williamson (Flemming, Zulack & Williamson, LLP)	M. Bradford Stein (Flemming, Zulack & Williamson, LLP)
Washington Metropolitan Airports Authority and the City of Portland	Mark A. Dombroff (Dombroff & Gilmore, P.C.)	Karen M. Berberich (Dombroff & Gilmore, P.C.)
The "Non-Carrier" Airlines Group	Richard P. Campell (Campell, Campell and Edwards)	Michael J. Crowley (Gallagher Gosseen Faller & Crowley)
Defendants' Liaison Counsel ( <u>ex officio</u> )	Desmond T. Barry, Jr. (Condon & Forsyth)	Christopher R. Christensen (Condon & Forsyth)

The function of the DEC, in consultation with the defendants' subcommittees described below, shall be to provide for communication and coordination among the defendants (with the exception of the United States and the terrorist defendants and alleged co-conspirators) with respect to, and, to the extent practicable, the overall management of all procedural, non-substantive aspects of the litigation. Because different categories of defendants (e.g., airline defendants, premises defendants, airport authorities, etc.) have divergent interests and are likely to take different positions with respect to various substantive issues, the defendants have established two subcommittees – an Aviation

Defendants' Subcommittee and a Premises Defendants' Subcommittee – that are expected to be responsible for much of the substantive work that will be done by their members. The Aviation Defendants' Subcommittee shall be comprised of defendants such as the airlines, the airport security companies and the airport authorities; the Premises Defendants' Subcommittee shall be comprised of defendants such as the persons with a property interest in the World Trade Center, and the architects and engineers involved in the design and construction of the World Trade Center. Each defendant, except the terrorist defendants and alleged coconspirators, shall be represented on one of the two subcommittees (except the Port Authority of NY and NJ, which shall be represented on each subcommittee). The defendants anticipate that, as the litigation evolves, there may be a need to include additional defendants in the group of defendants represented by the DEC and the Defendants' Subcommittees, to alter the membership of the DEC and/or to establish additional defendant subcommittees to deal with specific issues or interests as they arise.

2. Notwithstanding the creation of the DEC and the provision for Defendants' Liaison Counsel, all defendants shall be entitled to notice and an opportunity to be heard through their counsel on all matters affecting them in the litigation. Additionally, defendants' agreement to serve on the DEC or to participate on a Defendants' Subcommittee does not constitute a waiver of any defendants' right to bring any claims of any kind.

### **Part III - Miscellaneous**

1. The Defendants' Liaison Counsel shall periodically notify the Plaintiffs' Liaison Counsel of the names, addresses and telephone numbers of all plaintiffs' counsel who have filed additional actions hereafter commenced in or transferred to this Court after receipt of service of the complaint or transfer order, except for actions filed by law firms having members on the Plaintiffs' Executive Committee.

2. Service by defendants on plaintiffs of any papers shall be deemed to be complete for all purposes when such papers are served on Plaintiffs' Liaison Counsel, and courtesy copies shall be sent by mail to Plaintiffs' Executive Committee members, with one service per law firm being sufficient; or, if the papers are intended to apply only to a particular case or cases, then service by defendants shall be deemed to be effective and complete for all purposes when such papers are served on counsel of record for plaintiffs in said particular case or cases.

3. Service on the defendants of all liability and consolidated pleadings, papers and documents shall be effected by service upon Defendants' Liaison Counsel, except when an Order to Show Cause is being served or some expedited action or relief is being sought, counsel for all defendants in the actions shall be served.

4. Plaintiffs shall conduct consolidated liability discovery, and file consolidated motions, consolidated responses to motions, and consolidated replies, except when a

motion applies only to a particular case or cases and does not raise issues common to other cases, the resolution of which would affect other cases.

5. To the extent possible, defendants likewise shall conduct consolidated liability discovery, and file consolidated motions (including but not limited to consolidated motions to dismiss), consolidated responses to motions, and consolidated replies, to the extent that the positions or interests of the various defendants do not diverge.

Dated: New York, New York  
October 7, 2002

Respectfully submitted,

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Marc S. Moller (MM-0143)  
Plaintiffs' Liaison Counsel  
KREINDLER & KREINDLER  
100 Park Avenue  
New York, New York 10017  
(212) 687-8181

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Desmond T. Barry, Jr. (DB-8066)  
Defendants' Liaison Counsel  
CONDON & FORSYTH LLP  
685 Third Avenue  
New York, New York 10017  
(212) 490-9100

Approved and So Ordered. The Joint Status Report shall be posted on the Court's Website.

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Alvin K. Hellerstein  
10/8/02