

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES--GENERAL

2'01-ML-1394

Case No. MDL 1394 -GAF(RCx) ✓ Date: October 11, 2001
ALL RELATED CASES

Title: In Re Air Crash at Taipei, Taiwan on October 31, 2000

===== DOCKET ENTRY =====

===== PRESENT: HON. ROSALYN M. CHAPMAN, UNITED STATES MAGISTRATE JUDGE =====

Debra Taylor-Spears
Deputy Clerk

None _____
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:
None

ATTORNEYS PRESENT FOR DEFENDANTS:
None

PROCEEDINGS: (CHAMBERS) GENERAL DISCOVERY ORDER

1. The Plaintiffs' Steering Committee ("PSC") and each defendant shall identify one "lead" discovery attorney who will be primarily responsible for discovery, and that attorney must make himself or herself available at all times to review discovery decisions by the other attorneys representing plaintiffs or the particular defendant. All references herein to "attorney" or "counsel" generally refer to such lead discovery attorneys.

2. Commencing November 5, 2001, and continuing on the first Monday of each month thereafter until discovery is completed, the parties shall submit to Judge Chapman by facsimile ((213) 894-4949), but need not file with the Clerk of Court, a discovery status report, signed by the lead discovery attorneys, that briefly describes all discovery instigated or responded to during the previous month, whether that discovery is complete or a dispute exists as to the completeness of the discovery, and how the parties are attempting to resolve any disputes. Counsel for the parties shall rotate the responsibility for preparing the monthly discovery status reports.

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3. The Court expects strict compliance by counsel with Local Rule 37-2 except as modified herein. If counsel desire an expedited decision on a discovery dispute, they must file a Joint Stipulation under Local Rule 37-2 **and** agree in writing to waive filing supplemental memoranda and review by District Judge Feess; then Judge Chapman will rule on the dispute in Chambers, pursuant to Local Rule 7-15, within five days of the filing of the Joint Stipulation. (If counsel do not desire an expedited ruling, they should follow the regular procedures under Local Rule 37-2 and herein.)

4. All **correspondence** from and between counsel shall be by facsimile, and all dates shall run from the date on which the correspondence is faxed.

5. Counsel shall use the following procedures in identifying and resolving discovery disputes: Counsel shall send a letter to opposing counsel identifying the discovery problem or dispute; opposing counsel shall respond within five (5) work days; if the problem or dispute is not resolved, counsel shall meet **in-person** within 72 hours (excluding weekends and holidays). (Prior to personally meeting, counsel should, of course, attempt to resolve the problem or dispute by a telephonic conference; however, this option is solely at counsels' discretion and does not absolve counsel of the requirement to meet in-person within 72 hours of exchanging correspondence.) The movant will schedule the in-person meet and confer. If the in-person meet and confer is unsuccessful, and the problem or dispute remains unresolved, counsel shall file a Joint Stipulation under Local Rule 37-2.

Depositions:

6. Counsel should consider using, in appropriate instances, depositions upon written questions under Fed. R. Civ. P. 31.

7. An attorney seeking to depose a party, or a party's known agents or employees, shall send a letter to opposing counsel identifying the proposed deponent and requesting dates and locations for the deposition. The opposing counsel shall respond within seven (7) calendar days, either objecting to producing the agent or employee and stating the reasons therefore or providing at least five (5) available dates and locations for

the deposition, which shall take place within twenty (20) to forty-five (45) days from the date of request. The initiating attorney will then serve a formal notice of deposition within seven (7) calendar days thereafter. The parties shall make a witness available for deposition **no later** than sixty (60) days after the initial request for the deposition.

8. When the deposition of a nonparty is proposed, and the nonparty has a close business relationship to a party, counsel for the party with whom that relationship exists should cooperate in having the nonparty appear voluntarily for the deposition and in scheduling the nonparty's deposition pursuant to paragraph 7 above.

9. When plaintiffs seek to depose a defendant corporation under Fed. R. Civ. P. 30(b)(6), they shall send a letter to the defendant's counsel identifying with reasonable particularity the area(s) on which examination is requested. The defendant's counsel shall respond within seven (7) calendar days, designating the person(s) and providing at least five (5) available dates and locations for the deposition(s), which shall take place within twenty (20) to forty-five (45) days from the date of plaintiffs' counsel's request. Plaintiffs will then serve a formal notice of deposition within seven (7) calendar days thereafter. The defendant corporation shall make a witness available for deposition **no later** than sixty (60) days of the initial request for the deposition.

10. Any attorney who issues a subpoena duces tecum to a nonparty shall give reasonable notice to opposing counsel of the date on which the documents will be produced and reviewed, and shall provide opposing counsel an opportunity, within 72 hours after receipt of the documents, to review the documents. Counsel for the subpoenaing party shall arrange and pay for the reproduction of the subpoenaed documents on CD-ROM, and each party must pay the cost of its CD-ROM. The non-subpoenaing party shall receive, free of a per page charge, duplicate CD-ROM(s) of all the documents selected for reproduction by the subpoenaing party; however, if the non-subpoenaing party wants additional documents reproduced on CD-ROM(s), the non-subpoenaing party shall reimburse the subpoenaing party the actual per page cost

for the additional pages billed to the subpoenaing party.

11. When a document that previously has been assigned a Bates number is identified at a deposition, it should be identified by the preexisting Bates number. When a document that previously has not been assigned a Bates number is identified at a deposition, it should be assigned a new Bates number mutually agreed to by counsel in advance of the deposition. At all times, counsel should avoid using an identification number on a document that is duplicative of a Bates number assigned to another document.

12. Any corrections to a deposition, as provided for in Fed. R. Civ. P. 30(e), may be made by letter from the attorney representing the deponent to the court reporter, with a copy to other counsel. When a deponent is not represented by an attorney, the deponent may make corrections in the same manner. The court reporter shall then append to the certificate prescribed by Fed. R. Civ. P. 30(f)(1), a copy of the letter setting forth the corrections.

13. When the attorney representing a proposed deponent reasonably foresees that questions to be asked of the deponent may be objectionable under the attorney-client privilege or work product doctrine, the attorney shall advise Judge Chapman of the deposition date and time, at least ten (10) days before the deposition, and Judge Chapman will then attempt to be available by telephone in the event counsel choose to obtain instantaneous rulings on such objections; however, when an objection is ruled on telephonically by the Court, counsel may not later bring a discovery motion regarding that objection.

Documents:

14. Counsel should immediately meet and confer regarding the development of both a general index, describing by topic and subtopic the information in documents that have been, or will be, produced, as well as a locator index. If counsel cannot reach an agreement on the development of either, or both, of these indices, they shall prepare a Joint Stipulation under Local Rule 37-2.

15. All privilege logs must conform to Model Form 11:A, Rutter Group Practice Guide, Federal Civil Procedure Before Trial. Any privilege log produced prior to the date of this Order must be amended to conform to Model Form 11:A within thirty days. Any privilege logs for ongoing document productions shall be produced within thirty (30) days after the documents are produced.

16. When the job title of the author and/or the recipient of a document listed on a privilege log is not apparent on the face of the document, the counsel preparing the log must make reasonable efforts to obtain that information from all available sources. Counsel need not identify on the privilege log the job titles of persons who are listed as receiving copies of the document unless that person is the basis for the attorney-client privilege or work product doctrine claim.

If the parties or their counsel believe this Order needs modification or amendment, they should present their objections or requests to the Court on an expedited basis, as described in paragraph 3 herein, no later than October 31, 2001.

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Initials of Deputy Clerk

