

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DISTRICT COURT SDNY
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PLAINTIFFS' SECOND AMENDED FLIGHT 77 MASTER LIABILITY COMPLAINT

(THE PENTAGON CRASH)

Plaintiffs¹, by their respective attorneys complaining of the defendants herein, upon information and belief, respectfully state as and for their common liability allegations as follows:

BACKGROUND

These actions seek damages on behalf of plaintiffs, the heirs and next of kin of decedents, and the Estates of decedents for the wrongful deaths of the individuals who were killed in the hijacking and crash of American Airlines Flight 77 (hereinafter "Flight 77") into the Pentagon in Arlington, Virginia on September 11, 2001 as well as on behalf of those who were in the Pentagon or in the vicinity thereof who were killed or injured as a result of the Flight 77 crash and its aftermath. Flight 77 originated at Dulles International Airport, Virginia (hereinafter "Dulles Airport") and was bound for Los Angeles International Airport.

In sum, these actions allege that for several years prior to September 11, 2001, AMERICAN, THE OTHER AIRLINE DEFENDANTS and THE SECURITY COMPANY DEFENDANTS named herein, BOEING, and the METROPOLITAN WASHINGTON

¹ For ease of reference, a chart summarizing the litigants is attached as Appendix A.

AIRPORTS AUTHORITY had actual knowledge of the fact that terrorist groups and individuals associated with them had publicly proclaimed a pathological hatred of the United States, its citizens and those who resided or traveled within or to its borders and vowed to kill Americans and to destroy American institutions and that airlines and airports were a likely target of their violence. The risk of harm to airline passengers and persons on the ground or in buildings who might suffer injury or death as a result of improper or unauthorized operation of an aircraft was heightened by the fact that these defendants had knowledge of dangerous long-standing flaws in airline and airport security, that commercial passenger aircraft were demonstrated to be vulnerable to attacks by persons intent upon causing death and injury in furtherance of their ideologies, and yet the defendants failed to take reasonable action to protect passengers and others from harm in light of that knowledge and the risk presented. These defendants also knew or should have recognized what numerous evaluations disclosed; namely, that the airline and airport security systems who implemented, operated and maintained them routinely failed to detect dangerous and deadly weapons capable of causing injury and death passing through so-called security checkpoints. These defendants are jointly and severally liable for the wrongful deaths, injuries and damages resulting from the September 11 attacks because they were negligent, careless, wanton and reckless in failing to develop, implement, and maintain adequate airline and airport security systems at Dulles Airport, failed to implement reasonable and effective security measures prior to September 11, 2001 to deter and to prevent hijackers from carrying dangerous and deadly weapons aboard Flight 77 capable of causing injury and death to passengers on the aircraft, and failed to take the

necessary measures to protect and secure the cockpit of Flight 77 from intrusion by terrorists who sought to gain control of the aircraft and cause it to crash.

Defendant BOEING, which is in the business of designing and manufacturing commercial air transport aircraft, was equally aware of the terrorist risks to civil aviation and failed to incorporate in its aircraft design structures and systems to prevent unauthorized and unlawful access to the cockpit of its aircraft.

Where appropriate, individuals (or the Personal Representative in the death cases) who were occupants of the Pentagon or were in the immediate vicinity on and subsequent to September 11, 2001 are referred to collectively as “the Pentagon Plaintiffs.”

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over all defendants pursuant to the “Air Transportation Safety And Systems Stabilization Act,” Pub.L. 107-42, 115 Stat. 230 (the “Act”), Sections 408(b)(1) and (3), which establishes that “[t]he United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001.”²

2. Jurisdiction with respect to AMERICAN with respect to some plaintiffs whose individual actions are brought on account of the deaths of passengers engaged

² Some actions are also based upon diversity jurisdiction, 28 U.S.C. § 1332, in that there is complete diversity of citizenship and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

in international transportation is also founded on 28 U.S.C. §1331 and the Convention for the Unification of Certain Rules Relating to International Transportation by Air, 49 Stat. 3000 (hereinafter “Warsaw Convention”).³

3. Jurisdiction is also based upon supplemental jurisdiction, pursuant to 28 U.S.C. Section 1367, with respect to any claims forming part of the same case or controversy.

THE PARTIES

4. On September 11, 2001, each Flight 77 decedent was a fare-paying passenger aboard Flight 77.

5. The Pentagon Plaintiffs or their decedents were occupants of the Pentagon or were in the vicinity of the structure on September 11, 2001 when Flight 77 crashed into it or thereafter while the risk of injury or death was still present.

AMERICAN AIRLINES

6. Defendant AMR CORPORATION (hereinafter “AMR”) is a corporation organized and existing under the laws of Delaware and maintains its principal place of business in Texas.

7. Defendant AMR is engaged in the business of air transportation of passengers for hire.

8. Defendant AMERICAN AIRLINES, INC. is a corporation organized and existing under the laws of Delaware and maintains its principal place of business in Texas.

³ Upon information and belief, plaintiffs Edwards, Kennedy, Zheng, Teague and Whittington allege the Warsaw Convention as an additional basis for jurisdiction.

9. Defendant AMERICAN AIRLINES, INC. is a common carrier engaged in the business of transporting passengers by air and operates regularly scheduled flights from Dulles Airport and is responsible for the airline and airport security system at Dulles Airport.

10. Defendant AMR is the parent corporation of and exercised control over its wholly-owned subsidiary, defendant AMERICAN AIRLINES, INC.

11. Defendant AMR, as the parent corporation of its wholly-owned subsidiary AMERICAN, is liable for the negligent, reckless and wanton acts of AMERICAN AIRLINES, INC. (AMR and AMERICAN AIRLINES, INC. are referred to collectively hereinafter as "AMERICAN").

12. On September 11, 2001, AMERICAN operated a Boeing 757-200 aircraft, registration no. N644AA ("the subject aircraft"), designated as Flight 77 which departed from Dulles International Airport, Virginia (hereinafter "Dulles Airport") with an intended destination of Los Angeles International Airport.

OTHER AIRLINE DEFENDANTS

13. Defendant AIRTRAN AIRWAYS, INC. (hereinafter "AIRTRAN") is a corporation duly organized and existing under the laws of Delaware and maintains its principal place of business in Florida. At all times pertinent to the Complaint, AIRTRAN was a common carrier engaged in the business of transporting passengers by air and operated regularly scheduled flights from Dulles Airport. AIRTRAN was jointly, severally and contractually liable by and through its agents, employees and contractors for maintaining the airline and airport security system at Dulles Airport.

14. Defendant ATLANTIC COAST AIRLINES, INC. (hereinafter “ACA”) is a corporation duly organized and existing under the laws of California and maintains its principal place of business in Virginia. At all times pertinent to the Complaint, ACA was a common carrier engaged in the business of transporting passengers by air and operated regularly scheduled flights from Dulles Airport. ACA was jointly, severally and contractually liable by and through its agents, employees and contractors for maintaining the airline and airport security system at Dulles Airport.

15. Defendant CONTINENTAL AIRLINES, INC. (hereinafter “CONTINENTAL”) is a corporation duly organized and existing under the laws of Delaware and maintains its principal place of business in Texas. At all times pertinent to the Complaint, CONTINENTAL was a common carrier engaged in the business of transporting passengers by air and operated regularly scheduled flights from Dulles Airport. CONTINENTAL was jointly, severally and contractually liable by and through its agents, employees and contractors for maintaining the airline and airport security system at Dulles Airport.

16. Defendant DELTA AIR LINES, INC. (hereinafter “DELTA”) is a corporation duly organized and existing under the laws of Delaware and maintains its principal place of business in Georgia. At all times pertinent to the Complaint, DELTA was a common carrier engaged in the business of transporting passengers by air and operated regularly scheduled flights from Dulles Airport. DELTA was jointly, severally and contractually liable by and through its agents, employees and contractors for maintaining the airline and airport security system at Dulles Airport.

17. Defendant NATIONAL AIRLINES, INC. (hereinafter "NATIONAL") is a corporation duly organized and existing under the laws of Delaware and maintains its principal place of business in Nevada. At all times pertinent to the Complaint, NATIONAL was a common carrier engaged in the business of transporting passengers by air and operated regularly scheduled flights from Dulles Airport. NATIONAL was jointly, severally and contractually liable by and through its agents, employees and contractors for maintaining the airline and airport security system at Dulles Airport.

18. Defendant NORTHWEST AIRLINES CORPORATION (hereinafter "NORTHWEST") is a corporation duly organized and existing under the laws of Delaware and maintains its principal place of business in Minnesota. At all times pertinent to the Complaint, NORTHWEST was a common carrier engaged in the business of transporting passengers by air and operated regularly scheduled flights from Dulles Airport. NORTHWEST was jointly, severally and contractually liable by and through its agents, employees and contractors for maintaining the airline and airport security system at Dulles Airport.

19. Defendant UNITED AIR LINES, INC. (hereinafter "UNITED") is a corporation duly organized and existing under the laws of Delaware and maintains its principal place of business in Texas. At all times pertinent to the Complaint, UNITED was a common carrier engaged in the business of transporting passengers by air and operated regularly scheduled flights from Dulles Airport. UNITED was jointly, severally and contractually liable by and through its agents, employees and contractors for maintaining the airline and airport security system at Dulles Airport.

20. Defendant U.S. AIRWAYS, INC. (hereinafter “U.S. AIRWAYS”) is a corporation duly organized and existing under the laws of Delaware and maintains its principal place of business in Virginia. At all times pertinent to the Complaint, U.S. AIRWAYS was a common carrier engaged in the business of transporting passengers by air and operated regularly scheduled flights from Dulles Airport. U.S. AIRWAYS was jointly, severally and contractually liable by and through its agents, employees and contractors for maintaining the airline and airport security system at Dulles Airport.

21. Defendants AIRTRAN, ATLANTIC COAST, CONTINENTAL, DELTA, NATIONAL, NORTHWEST, UNITED and U.S. AIRWAYS are collectively referred to hereinafter as “THE OTHER AIRLINE DEFENDANTS.”

THE SECURITY COMPANY DEFENDANTS

22. Defendant ARGENBRIGHT SECURITY, INC.(hereinafter “ARGENBRIGHT”) is a corporation organized and existing under the laws of Georgia and maintains its principal place of business in Georgia.

23. Defendant SECURICOR PLC hereinafter (hereinafter “SECURICOR”) is a foreign corporation organized and existing under the laws of the United Kingdom.

24. Defendant SECURICOR is the parent corporation of and exercised control over its wholly-owned subsidiary, defendant ARGENBRIGHT.

25. Defendant SECURICOR, as the parent corporation of its wholly-owned subsidiary ARGENBRIGHT, is liable for the negligent, reckless and wanton acts of ARGENBRIGHT.

26. ARGENBRIGHT and SECURICOR (hereinafter “THE SECURITY COMPANY DEFENDANTS”) were corporations engaged in the business of, and

separately and collectively assumed responsibility for, implementing, developing, owning, operating, managing, maintaining and supervising airline and airport security for AMERICAN for their flights departing from Dulles Airport, including Flight 77.

MWAA

27. Defendant METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (hereinafter "MWAA") is a corporation organized and existing under the laws of Virginia and the District of Columbia and maintains its principal place of business in Virginia.

28. On and prior to September 11, 2001, MWAA owned, operated, controlled, managed and maintained Dulles Airport and was responsible for airline and airport security for all flights departing from Dulles Airport.

THE BOEING DEFENDANT

29. Defendant THE BOEING COMPANY (hereinafter "BOEING") was and is a corporation duly organized and existing under the laws of Delaware and maintains its principal place of business in Washington.

30. Defendant BOEING is engaged in the business of designing and manufacturing aircraft to be used to transport passengers by common carriers such as United and others throughout the world.

31. Defendant BOEING designed and manufactured the subject aircraft, including the subject cockpit environment, including the cockpit door and locking mechanisms.

GENERAL ALLEGATIONS

32. On and prior to September 11, 2001, AMERICAN, by its officers, agents, employees, servants or representatives operated, controlled and supervised the airline and airport security system at the subject airport and the ticketing check-in and boarding processes, including identification and document checks for the subject aircraft and flight.

33. On September 11, 2001, AMERICAN, by its officers, agents, employees, servants or representatives owed the highest duty of care to safeguard its airplanes and passengers to prevent hijackers from breaching the airline and airport security system and carrying dangerous weapons aboard the subject aircraft to threaten its safety and/or injure or kill passengers aboard it; ensure the subject aircraft was safe and secure from unreasonable dangers, including injury or death to passengers aboard; and, operate the subject aircraft so as not to cause injury or death.

34. On and prior to September 11, 2001, defendant MWWA, by its officers, agents, employees, servants or representatives operated, controlled and supervised the airline and airport security system at the subject airport, including passenger screening, security checkpoint operations, and controlling access to secure areas of the airport.

35. On September 11, 2001, defendant MWWA, by its officers, agents, employees, servants or representatives owed a duty of care to safeguard the subject aircraft and passengers to prevent hijackers or others from breaching the airline and airport security system and carrying dangerous weapons aboard the subject aircraft to threaten its safety and/or injure or kill passengers aboard it.

36. On and prior to September 11, 2001, THE OTHER AIRLINE DEFENDANTS, by their officers, agents, employees, servants or representatives operated, controlled, supervised and maintained the airline and airport security system at the subject airport, including but not limited to passenger screening and security checkpoint operations.

37. On September 11, 2001, THE OTHER AIRLINE DEFENDANTS, by their officers, agents, employees, servants or representatives owed a duty of care to safeguard the subject aircraft and passengers to prevent hijackers or others from breaching the airline and airport security system and carrying dangerous weapons aboard the subject aircraft to threaten its safety and/or injure or kill passengers aboard it.

38. On and prior to September 11, 2001, THE SECURITY COMPANY DEFENDANTS were corporations or entities engaged in the business of owning, operating, managing, maintaining and supervising airline and airport security for various airlines at numerous airports, including defendant AMERICAN for its flights departing from Dulles International Airport and for the subject flight.

39. On and prior to September 11, 2001, THE SECURITY COMPANY DEFENDANTS, by their respective officers, agents, employees, servants and/or representatives were required and undertook to select, hire, train, instruct, and supervise the security checkpoint screeners, metal detector and x-ray machine monitors and others who operated, maintained and controlled the subject airport's security checkpoints for defendant AMERICAN'S flights, including the subject flight, regarding passenger screening, ticket and identification documents detection,

confiscation of dangerous weapons, passenger risk evaluations and other security measures to prevent hijackers from boarding the subject aircraft.

40. On and prior to September 11, 2001, THE SECURITY COMPANY DEFENDANTS, by their respective officers, agents, servants, employees and/or representatives developed, operated, maintained, controlled and supervised the airline and airport security for defendant AMERICAN'S flights, including the subject flight.

41. On September 11, 2001, THE SECURITY COMPANY DEFENDANTS, by their respective officers, agents, employees, servants or representatives owed a duty of care to safeguard the subject aircraft and its passengers and to prevent hijackers from breaching the airline and airport security system and carrying dangerous objects aboard the subject aircraft to threaten its safety and/or injure or kill passengers aboard it.

_____42. Prior to September 11, 2001, the Department of Transportation through its Federal Aviation Administration licensed AMERICAN and THE OTHER AIRLINE DEFENDANTS as commercial air carriers authorized to transport passengers for hire, pursuant to which AMERICAN and THE OTHER AIRLINE DEFENDANTS had an obligation to comply with all federal statutes, rules, regulations, and environmental directives to achieve the highest level of airline and airport security to ensure that passengers and persons on the ground or in buildings who might suffer injury or death as a result of improper or unauthorized operation of an aircraft were protected from harm as a result of a terrorist action.

43. On and prior to September 11, 2001, AMERICAN, THE OTHER AIRLINE DEFENDANTS, MWAA, and THE SECURITY COMPANY DEFENDANTS, through their agents, servants, officers, employees, designees and/or contractors jointly and

severally undertook and were required to develop, implement, own, operate, manage, supervise, staff, equip, maintain, control and/or oversee the airline and airport security system at Dulles Airport (including, but not limited to passenger screening, security checkpoint operations, pre-boarding passenger and luggage inspections, controlling access to secure areas and other security activities, ticketing purchase and check-in procedures and passenger identification and document checks for the subject aircraft and flight), to ensure the safety of persons traveling in air transportation and persons on the ground and in buildings who might suffer death or injury as a result of improper or unauthorized operation of an aircraft by persons engaged in acts of criminal violence, air piracy or terrorist activity.

44. Prior to September 11, 2001, AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAA entered into contractual relationships with THE SECURITY COMPANY DEFENDANTS to provide security screening services at Dulles Airport.

45. On and prior to September 11, 2001, AMERICAN, THE OTHER AIRLINE DEFENDANTS, THE SECURITY COMPANY DEFENDANTS and MWAA, by their respective officers, agents, employees, servants and/or representatives, separately and collectively, selected, hired, trained, instructed and supervised the security checkpoint screeners, metal detector and x-ray machine monitors and others who operated, maintained and controlled the security checkpoints at Dulles Airport.

46. Prior to September 11, 2001, regular meetings were held among AMERICAN, THE OTHER AIRLINE DEFENDANTS, THE SECURITY COMPANY DEFENDANTS and MWAA during which airport security was discussed, and details about terrorist threats and potential security breaches were reviewed and discussed.

47. On and prior to September 11, 2001, all defendants, their agents, associates, and partners, and each of them, were the agent, servant, employee, assignee, successor in interest, or joint venturer of each other and were acting within the purpose or scope of such agency or employment; and all acts or omissions alleged herein of each defendant were authorized, adopted, approved, or ratified by each of the other defendants.

48. All defendants, and each of them, were fully informed of the actions of their agents and employees, and no officer, director, or managing agent of defendants repudiated those actions, which failure to repudiate constituted adoption and approval of said actions and then all defendants, and each of them, thereby ratified those actions.

49. Prior to September 11, 2001, AMERICAN, THE OTHER AIRLINE DEFENDANTS, THE SECURITY COMPANY DEFENDANTS and MWAA knew or should have known of the grave risk of attacks upon civil aviation generally, and commercial aircraft and airports. The Department of Transportation Inspector General, Federal Aviation Administration, Government Accounting Office and other independent and industry auditors repeatedly published information concerning terrorist threats to civil aviation. For example, in its 1999 annual report, *Criminal Acts Against Civil Aviation* (hereinafter "The 1999 Report"), the FAA's Office of Civil Aviation Security advised of potential dangers, including the identification of Osama Bin Laden as a specific threat to hijack an airliner and target the United States:

"Another threat to civil aviation is from Saudi terrorist financier Usama Bin Ladin....In a May, 1998 interview, Bin Ladin implied that he could use a shoulder-fired surface-to-air missile to shoot down a military passenger

aircraft transporting U.S. military personnel. He reiterated that his attacks would not distinguish between U.S. civilians and military personnel. Moreover, an exiled Islamic leader in the United Kingdom proclaimed in August 1998 that Bin Ladin would 'bring down an airliner, or hijack an airliner to humiliate the United States.'"

The 1999 Report at 59.

The report also points to the 1994 Ramzi Yousef conspiracy to place explosive devices on as many as 12 U.S. airliners flying out of the Far East as further evidence of the desire and intent to attack U.S. commercial aircraft. Id.

In addition, threats that aircraft would be used as missiles and crashed into American institutions were passed on to the FAA and AMERICAN, THE OTHER AIRLINE DEFENDANTS, THE SECURITY COMPANY DEFENDANTS and MWA and other commercial carriers:

In January, 1995, a Philippine National Police raid turned up materials in a Manila apartment indicating that three individuals - Ramzi Yousef, Abdul Murad and Khalid Shaykh Mohammed - planned, among other things, to crash an airplane into CIA headquarters....Information on the threat was passed to the FAA, which briefed U.S. and major foreign carriers.

Joint Inquiry Staff Statement, Part I, Eleanor Hill, Staff Director, Joint Inquiry Staff, September 18, 2002, at p.26.

In the 1999 Report, the FAA issued the following warning:

"There is every reason to believe that civil aviation will continue to be an attractive target for terrorist groups...Increased awareness and vigilance are necessary to deter future incidents – be they from terrorists like Ramzi Yousef or non-terrorists bent on suicide, as occurred in Brazil in 1997. It is important to do the utmost to prevent such acts rather than to lower security measures by interpreting the statistics [which showed a decrease in incidents between 1993 and 1998] as an indication of a decreased threat."

The 1999 Report at p. 59-60.

50. Prior to September 11, 2001, the defendants knew or should have known about documented and reported numerous security breaches involving unauthorized access to secure areas (including ramps and aircraft) and warnings that security was at risk and that passenger and carry-on baggage screening system was vulnerable; those reports detailed dangerous, long-standing flaws and deficiencies in airport security and warned the defendants that their airline and airport security systems were unsafe and needed significant improvements in staffing, training and equipment in order to ensure the safety of persons traveling in air transportation and persons on the ground or in buildings who might suffer injury or death as a result of improper or unauthorized operation of an aircraft by persons engaged in acts of criminal violence, hijacking, terrorist activity, and air piracy.

51. On and prior to September 11, 2001, AMERICAN, THE OTHER AIRLINE DEFENDANTS, and MWAAs knew or should have known that evaluations of the airline and airport security systems as they existed on September 11, 2001 revealed that said systems constituted a grave security risk; that THE SECURITY COMPANY DEFENDANTS provided screening services which were inadequate and that such inadequacies posed severe dangers to its passengers and the public; that THE SECURITY COMPANY DEFENDANTS failed to adequately train its employees, hired illegal aliens, failed to conduct required criminal background checks, and routinely failed in undercover security evaluations.

52. On September 11, 2001, five hijackers passed through the airline and airport security system at Dulles Airport, boarded Flight 77 and carried or obtained dangerous weapons capable of causing injury or death.

53. On September 11, 2001 at approximately 8:20 a.m., Flight 77 departed Dulles Airport with 58 passengers and 6 crew members.

54. At some time after take-off and upon information and belief, five terrorists on board hijacked and commandeered the subject aircraft with the aid of dangerous and deadly weapons capable of causing injury or death, including, but not limited to, box cutters, knives, razors and/or disabling gas.

55. Upon information and belief, certain passengers were injured or killed during the hijacking.

56. Upon information and belief, the five individuals who hijacked Flight 77 have been identified as Khalid Al-Midhar, Majed Moqed, Nawaq Alhamzi, Salem Alhamzi, and Hani Hanjour (collectively referred to as the "hijackers") and were associated with or members of the Al Qaeda terror network led by Osama Bin Laden.

57. At approximately 9:40 a.m., after the hijackers gained control, the subject aircraft crashed into the Pentagon killing all persons on board the subject aircraft and injuring and killing persons within or in the immediate vicinity of the Pentagon.

58. As a result of the actions of the hijackers, the passengers of Flight 77 were subjected to unusual G-forces, causing physical personal injuries, as well as pre-death pain and suffering, extreme emotional distress, extreme terror, and unremitting fear of impending death based on the knowledge that the hijackers had killed or attempted to kill passengers or crew aboard Flight 77 and that other aircraft had been hijacked and crashed into the World Trade Center, and damage to their personal property.

59. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by each plaintiff and each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

COUNT ONE

CLAIMS FOR PERSONAL INJURIES, WRONGFUL DEATH AND SURVIVAL DAMAGES AGAINST AMERICAN, THE SECURITY COMPANY DEFENDANTS AND MWAA, BASED ON NEGLIGENCE, NEGLIGENCE PER SE, RECKLESS CONDUCT AND CONSCIOUS DISREGARD FOR RIGHTS AND SAFETY

60. Plaintiffs incorporate by reference all prior allegations in this Complaint.

61. On and prior to September 11, 2001, AMERICAN, THE SECURITY COMPANY DEFENDANTS and MWAA, by their officers, agents, employees, servants or representatives, had an independent, joint and several, non-delegable duty to exercise and provide the passengers of Flight 77 as well as persons on the ground or in buildings who might suffer death or injury as a result of improper or unauthorized operation of an aircraft with the highest level of security and care to safeguard Flight 77 and all other aircraft that operated at Dulles Airport to prevent hijackers from carrying dangerous and deadly weapons capable of causing injury or death aboard aircraft or otherwise threaten the safety of passengers and crew and/or injure or kill passengers and crew or those on the ground.

62. The defendants were jointly and severally required to secure Flight 77 from unreasonable dangers such as terrorist action aboard the aircraft, including hijacking, and to operate the subject aircraft in a manner which would not result in injury or death to its passengers or others on the ground.

63. On and prior to September 11, 2001, AMERICAN and MWAAs entered into contracts with THE SECURITY COMPANY DEFENDANTS for security services for all flights departing from Dulles Airport. These defendants had a duty to exercise the highest degree of care for the safety and security of all passengers passing through security checkpoints at Dulles Airport and prior to boarding aircraft there, and in recognition of that duty, voluntarily entered into contracts with THE SECURITY COMPANY DEFENDANTS to provide various airline and airport security services so as to secure from harm all passengers and crew and those persons on the ground or in buildings who might suffer injury or death from improper or unauthorized operation of an aircraft.

64. By virtue of their negligence, AMERICAN, MWAAs and THE SECURITY COMPANY DEFENDANTS breached their contracts to provide effective security at Dulles Airport and to prevent security breaches which could cause injury or death to passengers and persons on the ground or in buildings who might suffer injury or death from improper or unauthorized operation of an aircraft.

65. On and prior to September 11, 2001, AMERICAN, THE SECURITY COMPANY DEFENDANTS and MWAAs, by their respective officers, agents, employees, servants and/or representatives, breached their duty to decedents and engaged in conduct which was reckless, negligent, negligent per se, wrongful, unlawful, careless, and willful and wanton in conscious disregard of the rights and safety of the passengers and others on the ground or in buildings who might suffer injury or death as a result of improper or unauthorized operation of an aircraft by violating applicable rules and regulations, including Federal Aviation Regulations; and further by creating

unreasonable dangers to Flight 77 passengers and the Pentagon Plaintiffs in that AMERICAN, THE SECURITY COMPANY DEFENDANTS and MWWA:

- failed to implement, operate, maintain, supervise and control an adequate airline and airport security system that ensured the safety of and protected passengers and persons on the ground or in buildings who might suffer injury or death upon improper or unauthorized operation of an aircraft against acts of criminal violence, air piracy and terrorist activity;
- failed to adequately train, staff and equip Dulles Airport's airline and airport security system;
- failed to improve airline and airport security despite knowledge and prior warnings of numerous security breaches and lapses and terrorist threats to airline security;
- failed to properly screen the hijackers and allowed them aboard the subject aircraft with dangerous and deadly weapons capable of causing injury or death;
- violated proper security procedures, including FAA and internal airline/security guidelines and other security directives;
- failed to properly scrutinize the hijackers' tickets and identification documents;
- failed to properly monitor security checkpoints, x-ray machines and metal detectors;
- failed to install state of the art security equipment and systems to prevent hijacking and routinely failed to detect dangerous and deadly weapons capable of causing injury or death in undercover investigations;
- failed to adequately protect the subject aircraft's cockpit from unauthorized entry;
- failed to prevent the hijackers from entering the unprotected cockpit;
- failed to implement adequate safety and security measures to prevent hijacking;

- failed to equip the subject aircraft with a secure cockpit door and adequate locking mechanisms; and
- defendants were otherwise negligent, engaged in conduct that was negligent per se, reckless, wrongful, unlawful, careless, and/or willful in conscious disregard for rights and safety.

66. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by each plaintiff and each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

COUNT TWO

CLAIMS FOR WRONGFUL DEATH AND SURVIVAL DAMAGES AGAINST THE OTHER AIRLINE DEFENDANTS BASED ON NEGLIGENCE

67. Plaintiffs incorporate by reference all prior allegations in this Complaint.

68. On and prior to September 11, 2001, THE OTHER AIRLINE DEFENDANTS had an independent and non-delegable duty to maintain the security of their aircraft and Dulles Airport. In recognition of that duty, THE OTHER AIRLINE DEFENDANTS subcontracted for security services to protect all flights departing from Dulles Airport.

69. THE OTHER AIRLINE DEFENDANTS each had a duty or voluntarily undertook a duty through its contract with THE SECURITY COMPANY DEFENDANTS to exercise the highest degree of care for the safety and security of all passengers passing through security at Dulles Airport and for persons on the ground or in buildings who might suffer injury or death as a result of improper or unauthorized operation of an aircraft.

70. THE OTHER AIRLINE DEFENDANTS each knew or should have known that the security screening systems and services at Dulles Airport provided by THE SECURITY COMPANY DEFENDANTS were grossly inadequate and posed a severe danger to its passengers and the public. THE OTHER AIRLINE DEFENDANTS knew or should have known that the security systems at Dulles Airport had been demonstrated to be like a sieve, frequently unable to detect dangerous and deadly weapons capable of causing injury or death in numerous evaluations.

71. Each of THE OTHER AIRLINE DEFENDANTS knew or should have known that THE SECURITY COMPANY DEFENDANTS failed to adequately train its employees, hired illegal aliens, failed to conduct required criminal background checks, and routinely failed in undercover security evaluations to detect even the most obvious of dangerous and deadly weapons capable of causing injury or death.

72. THE OTHER AIRLINE DEFENDANTS failure to remedy these known security lapses was a reckless, negligent and willful and wanton breach of their respective duties of care to all passengers passing through Dulles Airport and boarding aircraft there as well as to persons on the ground or in buildings who might suffer injury or death as a result of improper or unauthorized operation of an aircraft.

73. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by each plaintiff and each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

COUNT THREE

CLAIMS FOR PERSONAL INJURIES, WRONGFUL DEATH AND SURVIVAL DAMAGES AGAINST AMERICAN, THE OTHER AIRLINE DEFENDANTS AND MWAAs BASED ON NEGLIGENT SELECTION

74. Plaintiffs incorporate by reference all prior allegations in this Complaint.

75. AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAAs had a non-delegable duty to the traveling public and persons on the ground or in buildings who might suffer injury or death as a result of improper or unauthorized operation of an aircraft, including decedents, to provide competent and careful security of their terminal operations area and aircraft. In recognition of that duty, AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAAs subcontracted for security services to protect all flights departing from Dulles Airport.

76. AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAAs failed to exercise reasonable care in the selection of a competent and careful security system contractor by employing THE SECURITY COMPANY DEFENDANTS.

77. AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAAs each knew or should have known that the security screening systems and services at Dulles Airport provided by THE SECURITY COMPANY DEFENDANTS were grossly inadequate and posed a severe danger to its aircraft, passengers and the public. AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAAs knew or should have known that the security systems at Dulles Airport had been demonstrated to be like a sieve, frequently unable to detect dangerous and deadly weapons capable of causing injury or death in numerous evaluations.

78. AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAA knew or should have known that THE SECURITY COMPANY DEFENDANTS failed to adequately train their employees, hired illegal aliens, failed to conduct required criminal background checks, and routinely failed in undercover security evaluations to detect even the most obvious of dangerous and deadly weapons capable of causing injury or death.

79. THE SECURITY COMPANY DEFENDANTS' work as security system contractors at Dulles Airport presents a risk of physical harm and death unless skillfully and carefully performed commensurate with the threat of terrorist action.

80. THE SECURITY COMPANY DEFENDANTS had a record of incompetent and careless operation and maintenance of their contracted security service obligations over many years according to FAA "Red Team" audits and other independent checks on the effectiveness of their security systems.

81. AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAA's failure to remedy these known security lapses was a reckless, negligent and willful and wanton breach of their respective duties of care to all passengers passing through Dulles Airport and boarding aircraft there.

82. AMERICAN, THE OTHER AIRLINE DEFENDANTS and MWAA's failure to exercise reasonable care in the selection, continued retention and supervision of competent and careful security systems and contractors were proximate contributing factors to the causes of each decedents' and plaintiffs' injuries and damages.

83. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by each plaintiff and

each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

COUNT FOUR

CLAIMS FOR PERSONAL INJURIES, WRONGFUL DEATH AND SURVIVAL DAMAGES BASED ON RES IPSA LOQUITUR AGAINST ALL DEFENDANTS

84. Plaintiffs incorporate by reference all prior allegations in this Complaint.

85. Defendants, and each of them, had exclusive management and control of the aircraft and airport security systems, through which the hijackers penetrated, and whose actions resulted in damages and death to each plaintiffs' decedents. The penetration of the security system and plaintiffs' decedents' deaths as set forth above are such that in the ordinary course of events would not have occurred if defendants had exercised ordinary care in the maintenance and operation of the security systems. Because of the defendants' exclusive control and management of the systems, defendants are possessed of superior, if not exclusive, access to information concerning the precise cause of the incident, and each plaintiff relies on the negligence of the defendants, as inferred from the general circumstances alleged herein. The penetration of the security system was not due to any action or contribution on the part of any plaintiffs' decedents.

86. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by each plaintiff and each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

COUNT FIVE

CLAIM FOR WRONGFUL DEATH DAMAGES AGAINST AMERICAN BASED ON ABSOLUTE LIABILITY UNDER THE WARSAW CONVENTION AND THE IATA AGREEMENT⁴

87. Plaintiffs incorporate by reference all prior allegations in this Complaint.

88. The hijacking and subsequent crash of the subject aircraft constituted an accident or unexpected unusual event external to decedents Kennedy, Edwards, Teague, Zheng and Whittington, under the applicable provisions of the Warsaw Convention.

89. AMERICAN is liable to pay full, fair, and reasonable wrongful death and survival damages to plaintiffs for the deaths of Kennedy and Zheng under the Warsaw Convention, together with the International Air Transport Association Intercarrier Agreement on Passenger Liability and Provisions Implementing the Agreement which AMERICAN signed and embodied in their tariffs prior to and on September 11, 2001, because AMERICAN cannot meet their burden of proving that they took all necessary measures to avoid the hijacking and subsequent crash or that it was impossible for AMERICAN to take such measures.

90. As a direct and proximate result of the conduct of AMERICAN, these defendants are jointly and severally liable for damages sustained by each plaintiff and each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

⁴ Upon information and belief, plaintiffs Edwards, Kennedy, Teague, Zheng and Whittington allege a cause of action under the Warsaw Convention.

COUNT SIX

CLAIMS FOR WRONGFUL DEATH AND SURVIVAL DAMAGES AGAINST DEFENDANT BOEING BASED ON STRICT TORT LIABILITY

91. Plaintiffs incorporate by reference all prior allegations in this Complaint.

92. The aforementioned aircraft was being used in an intended and foreseeable manner on the morning of September 11, 2001.

93. Defendant BOEING defectively designed the cockpit or flight deck environment, including its door and accompanying locks of the subject aircraft. The design in use on September 11, 2001 in the subject aircraft was unreasonably dangerous in that it could easily be penetrated by a determined passenger. The cockpit door was not secure and the accompanying locks were insufficient to deter or prevent unauthorized or unlawful entry to thwart a hijacking attack. Alternative and safer designs were available for a nominal increase in cost which would have prevented these terrorists from gaining access to the cockpit on Flight 77.

94. This defective design permitted the terrorists to gain access to the cockpit of Flight 77 and hijack the aircraft. BOEING's defective design was a proximate cause of the deaths of each plaintiff's decedent.

95. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by each plaintiff and each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

COUNT SEVEN

CLAIMS FOR WRONGFUL DEATH AND SURVIVAL DAMAGES AGAINST DEFENDANT BOEING BASED ON NEGLIGENT DESIGN

96. Plaintiffs incorporate by reference all prior allegations in this Complaint.

97. Defendant BOEING owed all passengers who fly on their aircraft and those persons on the ground or in buildings who might suffer injury or death as a result of improper or unauthorized operation of a BOEING aircraft, including decedents, a duty of care in safely designing the aircraft including a secure cockpit door and accompanying locks.

98. Defendant BOEING recklessly and negligently breached this duty of care by failing to design the cockpit doors and accompanying locks to the subject aircraft in a manner which would prevent hijackers and/or other passengers from accessing the cockpit. The cockpit door on Flight 77 was not secure and the accompanying locks were insufficient to deter or prevent a hijacking.

99. Defendant BOEING knew or should have known that the design of its cockpit door was defective. Defendant BOEING failed to remedy this defect. Defendant BOEING knew or should have known that alternative and safer designs were available for a nominal increase in cost which would have prevented these terrorists from entering the cockpit on Flight 77.

100. This defective design permitted the terrorists to easily gain access to the Flight 77 cockpit on September 11, 2001 and was a proximate cause of the deaths of decedents.

101. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by each plaintiff and each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

COUNT EIGHT

CLAIMS FOR WRONGFUL DEATH AND SURVIVAL DAMAGES AGAINST DEFENDANT BOEING BASED ON BREACH OF WARRANTY

102. Plaintiffs incorporate by reference all prior allegations in this Complaint.

103. Prior to September 11, 2001, defendant BOEING expressly and/or impliedly warranted and represented that the subject aircraft and its component parts and systems, including, but not limited to, the subject aircraft's structure and airframe, including the subject aircraft's cockpit door, were airworthy, of merchantable quality, and/or fit and safe for the purposes for which they were designed, manufactured, assembled, inspected, tested, distributed, sold, serviced, maintained, and/or repaired, intended and used, and defendant BOEING further warranted that the subject aircraft and its component parts and systems, including, but not limited to the subject aircraft's structure and airframe, including the subject aircraft's cockpit door, were free from all defects.

104. Defendant BOEING breached said warranties in that the subject aircraft and its component parts and systems, including, but not limited to, the subject aircraft's structure and airframe, including the subject aircraft's cockpit door, were not airworthy, of merchantable quality, and/or fit and safe for the purposes for which they were designed, manufactured, assembled, inspected, tested, distributed, sold, serviced,

maintained, and/or repaired, intended and used and further were not free from all defects and said breach of warranties proximately caused the terrorist hijacking, crash, injuries and deaths of the decedents.

COUNT NINE

CLAIM FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST ALL DEFENDANTS

105. Plaintiffs incorporate by reference all prior allegations in this Complaint.

106. Defendants owe a duty to the public and to the Plaintiffs to adequately safeguard air travel. Defendants undertook this duty freely.

107. Defendants knew or should have known that their conduct and actions in failing to implement adequate security systems would lead to increased danger, risk of catastrophic injury, and severe, debilitating emotional distress to its passengers and to those on the ground, and to the Plaintiffs. The Defendants knew or should have known that the failure to implement adequate safety and security measures placed the public in extreme danger, increasing the risk of injury and the resulting emotional distress.

108. The conduct and actions of the Defendants were done in breach of their duties and in negligent disregard for the rights and lives of the general public and of those killed and injured at the Pentagon.

109. The course of conduct undertaken by the Defendants in failing to safeguard airports and aircraft was such that it was reasonably foreseeable to result in the death, injury and suffering of innocent people, both in the air and on the ground. The repeated failure to implement adequate security culminated in injury of and damage to plaintiffs' decedents resulting in severe, continuing, permanent mental,

physical and emotional distress and suffering, and resulting loss of consortium and services to Plaintiffs.

110. As a direct and proximate cause of Defendants' negligent, grossly negligent and/or reckless misconduct and disregard for public and aviation safety in breach of their duty, Plaintiffs have suffered severe emotional distress and ongoing psychiatric injuries and damages.

111. Defendants, by reason of their negligent breach of duty and/or recklessness, inflicted emotional distress upon the Plaintiffs.

112. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by each plaintiff and each plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

COUNT TEN

CLAIM FOR PUNITIVE DAMAGES AGAINST ALL DEFENDANTS

113. Plaintiff incorporates by reference all prior allegations in this Complaint.

114. The failure of the airline and airport security system at Dulles and the failure to secure the aircraft cockpit, which resulted in the hijacking of the subject aircraft and injuries and death to the decedent, were caused by the wanton, gross, reckless and wilful misconduct of defendants, including their officers, agents, servants and/or employees as set forth herein, whose actions and omissions were outrageous, willful, wanton and gross and said defendants acted with reckless disregard for public and aviation safety.

115. As a direct and proximate result of the conduct of all defendants, the defendants are jointly and severally liable for damages sustained by plaintiff and plaintiff is entitled to recover such damages to the extent allowed under applicable state law.

WHEREFORE, the plaintiffs demand judgment against AMERICAN, THE OTHER AIRLINE DEFENDANTS, THE SECURITY COMPANY DEFENDANTS, BOEING, and MWWA for all damages to the extent allowed under applicable law.

Dated: New York, New York
March 31, 2004

PLAINTIFFS' EXECUTIVE COMMITTEE

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APPENDIX A

Flight 77 Second Amended Master Complaint

PLAINTIFFS:

Plaintiff(s)	Decedent	Case No(s).
Jacques Debeuneure Jalin Debeuneure	James Debeuneure	02-Civ-0452
Bernard Curtis Brown	Bernard Curtis Brown, II	02-Civ-6378
Clifton Cottom Michelle Cottom	Asia Cottom	02-Civ-6379
Donald F. Kennedy	Yvonne E. Kennedy	02-Civ-7048
Ruth Falkenberg	Leslie Whittington	02-Civ-7145
Jungmi Lee	Dong Lee	02-Civ-7146
Ana Raley	Ian Gray	02-Civ-7147
Kimberly Jacoby	Steven Jacoby	02-Civ-7148
Frank Jensen	Suzanne Calley	02-Civ-7149
Sharon Ambrose	Paul Ambrose	02-Civ-7150
Elizabeth Keller	Chandler Keller	02-Civ-7223
Earl Dorsey	Dora Menchaca	02-Civ-7920
Rui Zheng	Shuyin Yang YuGuang Zheng	02-Civ-8919
Mike Edwards	Barbara Edwards	02-Civ-9234
Catherine Powell	Scott Alan Powell	02-Civ-10160
Lashawn Dickens	Rodney Dickens	03-Civ-0029
April D. Gallop	[Personal Injury]	03-Civ-1016
Jean M. Hunt William F. Hunt, Jr.	[Personal Injury]	03-Civ-6183
Barbara Rachko	Bryan Jack	03-Civ-6310
Elaine Teague	Sandra Teague	03-Civ-6800
Marcus Flagg Michael Flagg	Darlene Flagg	03-Civ-6808
Marcus Flagg	Wilson Flagg	03-Civ-6810

APPENDIX A

Flight 77 Second Amended Master Complaint

PLAINTIFFS (continued):

Sheila Marie G. Ornedo	Rubin S. Ornedo	03-Civ-6930
George O. Taylor	Hilda Taylor	03-Civ-6944
Christine K. Fisher	Gerald P. Fisher	03-Civ-6966
Irene M. Golinski	Ronald F. Golinski	03-Civ-6966
Julia P. Shontere	Angela M. Houtz	03-Civ-6966
Shirley N. Willcher	Ernest M. Willcher	03-Civ-6966
Rena G. Speisman	Robert S. Speisman	03-Civ-6996
Rosemary Dillard	Eddie Dillard	03-Civ-7018
Cynthia M. Droz	Charles A. Droz	03-Civ-7018
Goeffrey J. Judge	Ann Judge	03-Civ-7018
Amy Newton	Christopher Newton	03-Civ-7018
Eduardo E. Bruno	[Personal Injury]	04-Civ-0365

DEFENDANTS:

AMR Corporation
American Airlines, Inc.
Air Tran Airways, Inc.
Atlantic Coast Airlines
Continental Airlines, Inc.
Delta Air Lines
National Airlines, Inc.
Northwest Airlines Corporation
UAL Corporation
United Air Lines, Inc.
US Airways, Inc.
The Boeing Company
Metropolitan Washington Airports Authority
Argenbright Security
Securicor PLC

