

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X 21 MC 97 (AKH)  
: This Document Relates to: All Cases  
IN RE SEPTEMBER 11 LITIGATION :  
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**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY'S  
RESPONSES TO JOINT INTERROGATORIES**

Defendant The Port Authority of New York and New Jersey ("Port Authority"), as operator Newark International Airport, by its attorneys Gallagher Gosseen Faller & Crowley, in all actions arising out of United Air Lines, Inc. Flight 93, pursuant to the agreement among liaison counsel during a meet and confer held on October 6, 2006, and in accordance with the Federal Rules of Civil Procedure, the Local Rules of this Court and the prior Orders of this Court, hereby responds to the Joint Interrogatories dated October 16, 2006 as follows:

**PORT AUTHORITY'S GENERAL OBJECTIONS**

1. The Port Authority objects to the Airport Operator Discovery on the grounds that it exceeds the scope of limited discovery authorized by the Court against the Airport Operators. When the Court denied the Airport Operators' motion to dismiss without prejudice, it authorized discovery on the discrete issue of whether the security programs in effect on September 11, 2001 at Logan, Newark and Dulles airports somehow altered the controlling federal regulations, which assigned passenger screening responsibility solely to air carriers. The Court's October 24, 2003 and September 25, 2005 Supplemental Case Management Orders specifically exempted the

Airport Operators from the broader discovery process because the Airport Operators were engaged in, and then had completed, limited discovery. The Airport Operators submitted their Airport Security Plans (“ASP”) to the Transportation Security Administration (“TSA”) and the TSA authorized the release of ASPs redacted by the TSA. The Airport Operators produced the ASPs redacted by the TSA.

2. The Port Authority objects to the Joint Interrogatories to the extent that they call for the disclosure of information and/or production of documents that were prepared or acquired for, or in anticipation of, litigation, constitute attorney work product, are protected from disclosure under the self-critical analysis privilege, disclose the mental impressions, conclusions, opinions or legal theories of the Port Authority’s attorneys, contain privileged attorney-client communications, or are otherwise protected from disclosure.

3. The Port Authority objects to the Joint Interrogatories to the extent that they seek information and encompass documents that are a matter of public record and are equally available to plaintiffs and which plaintiffs can obtain themselves through their own searches.

4. The Port Authority objects to the Joint Interrogatories to the extent that they call for production of documents not within its possession, custody or control.

5. The Port Authority objects to the Joint Interrogatories to the extent that they are more appropriately directed to other parties.

6. The Port Authority objects to the Joint Interrogatories to the extent that they seek documentation and/or information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence and therefore purport to impose upon The Port Authority discovery obligations exceeding those set forth in the Federal Rules of Civil Procedure and the Local Civil Rules.

7. The Port Authority also joins in, adopts, and incorporates herein any applicable objections set forth in the separate objections stated by every other defendant in this action.

**PORT AUTHORITY'S RESPONSES  
TO JOINT INTERROGATORIES**

**INTERROGATORY NO. 1:** For each telephone call, radio call, voice mail, answering machine message, email, text message or other communication made or received by a person on board the hijacked aircraft at any time after that person had boarded the aircraft, identify each communication as follows:

- a. Identify the person(s) who made the communication and the person(s) who received the communication;
- b. Identify any other person(s) with knowledge or information concerning the communication, excluding counsel in this litigation, any testifying or non-testifying experts or consultants, and their employees or agents;
- c. State the approximate time and duration of the communication;
- d. State the method of communication (for example, telephone conversation, voice and message, email, radio, etc.);

- e. State whether the communication was copied, recorded or transcribed;
- f. State whether there are any documents that relate to the communication and identify any such documents, excluding the 9/11 commission report, hearings, staff statements, and press accounts;
- g. If the communication has been preserved, recorded, or transcribed in any way, state whether you have either the original or a copy of the communication or a transcript or recording thereof and identify same; and
- h. Describe the substance of the communication.

**RESPONSE:** The Port Authority is not in possession of communications requested in this Interrogatory by persons on board Flight 93.

**INTERROGATORY NO. 2:** State the name, and if known, the address of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information, within Fed. R. Civ. P. 26(a)(1)(A), excluding counsel in this litigation, any testifying or non-testifying experts or consultants, and their employees or agents.

**RESPONSE:** The Port Authority objects to this Interrogatory on the grounds that to date plaintiffs have not identified the specific claims alleged in the Plaintiffs' Amended Flight 93 Master Liability Complaint as to the Port Authority. Plaintiffs have not identified any duties it is claimed the Port breached relevant to this litigation. Plaintiffs have not to date provided meaningful responses to discovery served to identify the specific claims alleged against the Port Authority. Because plaintiffs have not identified specific claims as to the Port Authority, it is unable to identify persons with discoverable information it may use to support its defenses. As a result, the Port Authority is unable to respond to this Interrogatory. The Port

Authority reserves the right to supplement its response upon receipt from plaintiffs of specific allegations as to the Port Authority.

Dated: Garden City, New York  
November 3, 2006

**GALLAGHER GOSSEEN  
FALLER & CROWLEY**

By 

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