

Malaysia Air Hit With Lawsuit By Family Of US Victim

By Bryan Koenig

Law360, Washington (January 14, 2016, 12:54 PM ET) -- The family of one of the American victims onboard missing Malaysia Air Flight MH370 hit the airline with a lawsuit in D.C. federal court Tuesday blaming the carrier for his death.

Thomas Wood sued both for himself and as a representative of his brother Phillip Talmadge Wood's estate, blaming Malaysia Airlines for the March 8, 2014, disappearance of flight 370, which vanished en route from Kuala Lumpur, Malaysia, to Beijing, China, with 239 people onboard.

“On Jan. 29, 2015, the defendants, through a representative of the government of Malaysia, declared that Flight MH370 resulted in an 'accident' that killed all 239 people onboard, including the decedent,” Wood said in the complaint, which is relatively short on details of the allegations.

An attorney for Wood, along with 38 other families, most of them of Chinese and Malaysian passengers on the flight, suspects that the Boeing Co. 777 suffered some kind of catastrophic failure. The lawsuit is one of the first over the disappearance, according to the attorney, and is in large part to find out what really happened to the plane, a piece of which the airline says was positively identified on French-controlled Reunion Island in the Indian Ocean over the summer.

“I hope we can get some quick discovery,” and with it answers, Steven C. Marks of Podhurst Orseck PA told Law360 Thursday.

If and when more of the plane's wreckage is found, namely the flight data recorder, Marks said he would be bringing more claims. The discovery of a defect in the plane could create manufacturer liability, according to Marks, although those claims have a three-year statute of limitations.

Marks expects to be filing lawsuits for other clients soon. However, only a few of them have the kind of connection to the United States, such as having purchased their tickets in or through the country, to warrant U.S. federal court jurisdiction as Wood has under the Montreal Convention—to which the U.S., China and Malaysia are all signatories, according to the complaint.

Phillip Wood was an IBM employee assigned to the company's Malaysia branch at the time of the flight's disappearance, according to the complaint. He was declared dead at the end of December, according to the complaint.

For most of Marks' remaining clients, he said he will likely be filing suit in Malaysia or China. However, Marks argued that only in the United States are the rules of discovery strong enough to get real answers.

The complaint follows more than a year of trying to resolve claims out of court, Marks told Law360, but in all that time, with the exception of a single client, no offer of compensation was ever made, despite promises from the airline otherwise. The one exception, Marks said, was wholly inadequate, estimating that many hundreds of millions of dollars could be at stake in the legal fallout.

Timing was important with this case, with a legal deadline of the two-year anniversary after the disappearance, Marks said.

The airline, which is owned by the Malaysian government, did not immediately respond Thursday to a request for comment.

Wood is represented by Steven C. Marks and Roy K. Altman of Podhurst Orseck PA and Gary A. Orseck of Robbins Russell Englert Orseck Untereiner & Sauber LLP.

Attorney information for the airline was not available Thursday.

The case is Wood v. Malaysia Airlines Berhad et al., case number 1:16-cv-00053 in the U.S. District Court for the District of Columbia.

--Editing by Rebecca Flanagan.