

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 10-60556-CIV-MORENO

MASCARO AVIATION, LLC, et al.,

Plaintiffs,

vs.

DIAMOND AIRCRAFT INDUSTRIES, INC.,

Defendant.

ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION;
ORDER ON DEFENDANT'S MOTION TO DISMISS

THE MATTER was referred to the Honorable Edwin G. Torres, United States Magistrate Judge for a Report and Recommendation on Defendant's Motion to Dismiss or, in the alternative, Motion to Drop Parties and Motion to Strike Request for Attorneys' Fees (**D.E. 31**), filed on **July 22, 2010**. The Magistrate Judge filed a Report and Recommendation (**D.E. 39**) on **March 8, 2011**. No objections to the Report and Recommendation have been filed; instead Plaintiffs filed an Amended Complaint (**D.E. 40**) on **March 22, 2011** in compliance with the Report and Recommendation. Therefore, the Court having reviewed the entire file and record, and being otherwise fully advised in the premises, it is

ADJUDGED that United States Magistrate Judge Edwin G. Torres's Report and Recommendation (**D.E. 39**) on **March 8, 2011** is **AFFIRMED** and **ADOPTED**. Accordingly, it is

ADJUDGED that:

- (1) Defendant's Motion to Dismiss on *Forum Non Conveniens* grounds or, in the alternative, to transfer venue, is **DENIED**.

- (2) Defendant's Motion to Dismiss Counts I-II of the Complaint is GRANTED.
- (3) Defendant's Motion to Dismiss Count III of the Complaint is DENIED AS MOOT.
- (4) The remainder of Defendant's Motion to Dismiss is DENIED WITHOUT PREJUDICE. Defendant may reassert these arguments, if appropriate, in response to Plaintiff's Amended Complaint.
- (5) Defendant's Motion to Strike Plaintiffs' Request for Attorneys' Fees is DENIED AS MOOT.
- (6) Defendant shall file its response to Plaintiff's Amended Complaint no later than **April 14, 2011**.

DONE AND ORDERED in Chambers at Miami, Florida, this 23rd day of March, 2011.



FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

Copies provided to:

United States Magistrate Judge Edwin G. Torres

Counsel of Record