

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 10-10405-RGS

COLIN BOWER

v.

MIRVAT EL-NADY and EGYPTAIR AIRLINES

MEMORANDUM AND ORDER ON PARTIES CROSS-MOTIONS TO
PRECLUDE THE TESTIMONY OF EXPERT WITNESSES JAMEEL JOSEPH,
FATMA EL-HAMIDI, AND JEFFREY C. PRICE

November 10, 2011

STEARNS, D.J.

Plaintiff Colin Bower brought this action on his own behalf and as the guardian and legal custodian of his two minor children after his ex-wife, defendant Mirvat El-Nady, abducted their children in August of 2009 without his consent and in violation of a court order granting full custody to Bower. Bower claims that EgyptAir, the airline on which El-Nady flew with the children from New York to Egypt, is liable for interference with Bower's custodial relations, negligence, negligent infliction of emotional distress, and loss of filial consortium. *See* Bower's Am. Compl. (Dkt # 5).

The issue in this case is not whether EgyptAir violated a legal duty under federal law to investigate potential terrorist activity or a duty under international law to divert harm away from its passengers, its aircraft, or John F. Kennedy Airport. The issue

rather is whether EgyptAir owed a legal duty to Bower to investigate the possibility that the two children traveling with their mother on an EgyptAir flight to Cairo were the subject of a court order granting custody to Bower. The expert testimony both parties propose might have relevance in a terrorist case, however, it has no bearing on any potential legal duty in this case.

Mr. Joseph, Mr. Price, and Ms. El-Hamidi can offer no assistance in answering this question. *See United States v. Sepulveda*, 15 F.3d 1161, 1183 (1st Cir. 1993) (“Because gauging an expert witness’s usefulness is almost always a case-specific inquiry, the law affords trial judges substantial discretion in connection with the admission or exclusion of opinion evidence.”).

ORDER

For the foregoing reasons, both motions to preclude the experts’ witness testimony are ALLOWED.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE