

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

EILEEN MARALLO, *individually and as Executrix of the Estate of Walter James Giveans a/k/a Walter J. Giveans, Deceased,*

Plaintiffs,

- v -

JEAN MARC PETITCLERC, TRANSPORT LFL, INC.,
FLEXI-VAN LEASING, INC.,

Defendants.

Civ. No. 8:06-CV-197
(DNH/RFT)
LEAD CASE

AVRIL ADAMS, *as Administrator of the Estate of Nathalie Nicole Adams, Deceased,* DEXTER DOTTIN AND AVRIL ADAMS, *as Co-Administrators of the Estate of Jonelle Averi Adams, Deceased,* DEXTER DOTTIN, EURIS N. ADAMS and GURNEY G. ADAMS, *individually,*

Plaintiffs,

- v -

JEAN MARC PETITCLERC, *individually,* TRANSPORT LFL, INC., *a Canadian Corporation,* and FLEXI-VAN LEASING, INC.,

Defendants.

Civ. No. 1:06-CV-1052
(DNH/RFT)
RELATED CASE

KAREN HARRY, *as Administratrix of the Estate of Sherylann John, Deceased,*

Plaintiff,

- v -

JEAN MARC PETITCLERC, *individually,* TRANSPORT LFL, INC., *a Canadian Corporation,* EURIS ADAMS, AVRIL A. ADAMS, *as Administratrix of the Estate of Nathalie Adams a/k/a Nathalie N. Adams a/k/a Natalie Adams, Deceased,* and ESTATE OF NATHALIE N. ADAMS *a/k/a Natalie Adams, Deceased,*

Defendants.

Civ. No. 8:07-CV-0063
(DNH/RFT)
RELATED CASE

APPEARANCES:

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LAURENCE JEFFREY WEINGARD
LAW FIRM
Attorney for Harry Plaintiffs
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RANDOLPH F. TREECE
United States Magistrate Judge

OF COUNSEL:

ELEANOR L. POLIMENI, ESQ.

PAUL J. HEDLUND, ESQ.
CARA J. LUTHER, ESQ.

JEFFREY A. SEGAL, ESQ.

LAURENCE J. WEINGARD, ESQ.

CONSOLIDATION ORDER

Previously, this Court issued an Order consolidating case docket numbers 06-CV-197 (Marallo), 06-CV-1052 (Adams), and all other subsequent related cases for purposes of discovery and liability. Dkt. No 15, Order, dated Nov. 1, 2006. The Marallo case, 06-CV-197, was designated as the lead case. *Id.* This Consolidation Order anticipated the removal of a related New York State Supreme Court case to this District. *Id.* at n.1. In fact while the parties had commenced settlement discussions, and in order to facilitate a global settlement within these related cases, the Plaintiffs along with the Harry Plaintiffs agreed to enter into a stipulation removing the Harry case from

Nassau County Supreme Court to the Northern District of New York. *See* Dkt. Nos. 18, Text Order, dated Dec. 21, 2006, Text Order, dated Dec. 27, 2006, 19, Stipulation, & Order, dated Jan. 18, 2007.

The Harry action was removed to the Northern District of New York on January 18, 2007. Case docket No. 07-CV-63, Dkt. No. 1, Not. of Removal. Notwithstanding previous orders, the Harry action, 07-CV-63, was never officially designated as a related case.

On February 27, 2007, Defendants advised this Court that all Plaintiffs have entered into a settlement with them. Because the Plaintiffs are estates, each estate needs to receive approval from a Surrogate Court on the settlement-compromise, pursuant to New York Estate Powers and Trust Law § 5-4.6. Based upon those representations and allowing sufficient time to secure approvals from the respective New York Surrogate Courts, this Court stayed this consolidated law suit for ninety days and further directed each party to file a Status Report by June 8, 2007. Dkt. No. 24, Text Order, dated Mar. 8, 2007.

On May 14, 2007, Adams Plaintiffs, 06-CV-1052, filed a Sealed Petition for approval of their settlement with Defendants, Dkt. Nos. 25 & 27, which was approved by the District Judge. Dkt. Nos. 26 & 28. Immediately thereafter, the lead case, 06-CV-197 (Marallo) and related case 06-CV-1052 (Adams) were terminated and closed, even though the Marallo settlement approval remains outstanding. Oral Order, dated May 15, 2007. The closing of the lead case may have been premature inasmuch as the Marallo Plaintiffs have encountered some difficulty in having the compromise of their case approved by a Surrogate Court. Dkt. No. 29, Marallo Status Report, dated June 6, 2007. Similarly, the Harry Plaintiffs have met some obstacles in processing their compromise before a Surrogate Court. Dkt. No. 30, Status Report, dated June 11, 2007. Both the Marallo and Harry Plaintiffs seek the Court's further indulgence, which we will readily grant.

Accordingly, in order to clarify the various case dockets, it is hereby

ORDERED, that the Clerk of the Court remove the Closed Flag on case docket no. 06-CV-197 and reopen it until such time all parties have submitted a petition seeking approval of any settlement; and it is further

ORDERED, that the Clerk of the Court designate 07-CV-63(Harry) as a consolidated case and note 06-CV-197(Marallo) as the lead case. Further filings shall be placed on the lead case, 06-CV-197; and it is further

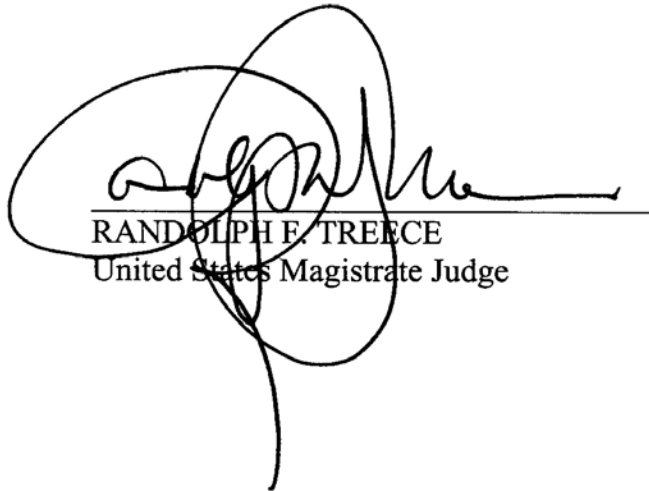
ORDERED, that all proceedings in these consolidated cases are **STAYED** until **August 31, 2007**; and it is further

ORDERED, that the Marallo and Harry Plaintiffs shall file a Status Report with this Court by **August 31, 2007**, in the event they had not already filed their petition for approval of settlement. Because of the confidential nature of the settlement, said petitions shall be filed under seal; and it is further

ORDERED, that the Clerk of the Court mail a copy of this Order to the parties and Laurence Jeffrey Weingard, Esq., 250 West 57th Street, Suite 401, New York, New York, 10107.

IT IS SO ORDERED.

June 14, 2007
Albany, New York



RANDOLPH F. TREECE
United States Magistrate Judge

Date: May 4, 2005

Albany, New York