

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 1/07/2016 9:24:00 AM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)
File Number: NSD1067/2016
File Title: Cassandra Jane Gibson v Malaysian Airline System Berhad
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Warwick Soden'.

Dated: 5/07/2016 2:36:36 PM AEST

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Statement of claim

No. of 20

Federal Court of Australia
District Registry: New South Wales
Division: General Division

Cassandra Jane Gibson

Applicant

Malaysian Airline System Berhad

Respondent

1. The applicant brings this claim as a representative proceeding

The respondent

2. At all material times the respondent is and was:

- (a) a company registered under the law of Malaysia;
- (b) registered as a foreign company (overseas) under the *Corporations Act, 2001* with Australian Registered Body number 996903;
- (c) a duly constituted entity able to be sued in its corporate name and style;
- (d) was in the business of providing international air carriage to individuals for reward; and
- (e) is subject to the provisions of the *Civil Aviation (Carrier's Liability) Act 1959* (Cth) and the Montreal Convention 1999.

The applicant

- 3. The applicant is the daughter and personal representative of Liliane Delfina Derden (the "deceased").
- 4. At all material times the deceased was a passenger on a Boeing 777-200 owned and operated by the respondent and identified as flight MH17 (MH17).
- 5. At all material times, the deceased was a passenger on MH17 pursuant to a contract entered into between her and the respondent whereby the respondent agreed to carry her on MH17 from Amsterdam to Perth (the contract).

Filed on behalf of	Cassandra Jane Gibson, Lead Applicant		
Prepared by (name of person/lawyer)	Matthew Berenger		
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6. The contract included the respondent's general conditions of carriage and the Montreal Convention 1999.

Group members

7. The group members are :
 - a) residents of Australia who are the legal representatives of a passenger who was killed on MH17; or
 - b) not being resident in Australia, who are the legal representatives of a passenger who was killed on MH17 and express the desire to take the benefit of the action (*Civil Aviation (Carrier's Liability) Act 1959 (Cth)*, Section 9D(6)(b)).

Facts

8. At all material times, there was armed conflict in the eastern part of the Ukraine (warzone).
9. At all material times, the conflict included the airspace over the warzone.
10. On 17 July 2014, MH17 left the Netherlands on a scheduled passenger flight to Kuala Lumpur with flight number MH17.
11. On about 17 July 2014, MH17 followed its planned and chosen route, airway L980 across Ukraine.
12. On about 17 July 2014, MH17 was shot down in the airspace over the warzone (the "incident").
13. The in-flight disintegration of MH17 was the result of the detonation of a warhead.
14. The deceased died while a passenger on MH17.
15. The deceased died as a result of the incident, being an accident within the meaning of Article 17 of the Montreal Convention 1999 (MC99).

The claim

16. The plaintiff and group members claim the full amount of compensation provided for under articles 17(1) and 21(1) of MC99.
17. In addition, the applicant and group members claim compensation for all losses under Article 21(2) of MC99.

Common issues

18. Is the applicant or group member the legal representative of a passenger on MH17?
19. Was the passenger killed in the incident?
20. Is the applicant or group member resident in Australia?

21. Has the group member expressed a wish to be part of the representative proceedings if the group member is not a resident of Australia?
22. Are the applicant and the group members entitled to compensation under the Civil Aviation (Carriers Liability) Act (Cth)?

Date: 1 July 2016



Signed by Matthew Berenger
Solicitor, LHD Lawyers

This pleading was prepared by Matthew Berenger, lawyer

Certificate of lawyer

I Matthew Berenger certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 1 July 2016



Signed by Matthew Berenger
Lawyer for the Applicant