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FEDERAL AVIATION ADMINISTRATION

In the Matter of:) Docket No.
CHARLESTON FLIGHT) FAA-2020-0962
SERVICES, LLC,) Case No.
 Respondent.) 2020SO950014

- - - - -

Via AT&T teleconference
Tuesday, August 3, 2021
11:00 a.m.

BEFORE: THE HONORABLE DOUGLAS M. RAWALD

Deborah Wehr, RPR, Reporter

Prehearing Conference

Charleston Flight Services

8/3/2021

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A P P E A R A N C E S

ON BEHALF OF THE FEDERAL AVIATION
ADMINISTRATION:

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1 P R O C E E D I N G S

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3 THE COURT: This is the prehearing
4 conference in the case of Charleston Flight
5 Services, LLC, docket number FAA-2020-0962,
6 Administrative Law Judge Doug Rawald, August 3,
7 2021. I'm joined on the call by Government
8 counsel, Ms. Villiers. Also, the Respondent is
9 representing itself, and so we have on the call
10 with us Robin Bowers from the Company. Also on
11 the call is my attorney advisor, Jackie Booker
12 and my administrative assistant, Kelly Ort.

13 Okay. Folks, you have helpfully
14 submitted a joint status report that lined up
15 what your thoughts were on how to proceed next,
16 which is good. I just want to go through some
17 of the issues on it and make sure we are all on
18 the same page. Just so you know, I will be
19 typing as we talk, and I will have a report that
20 goes out to everyone this afternoon that will
21 explain all the dates. So if you take notes,
22 you'll see it today, but if you don't, you'll
23 see this in writing shortly this afternoon.

24 So I see that both parties waived any
25 objection to the possibility of having a hearing

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1 virtually. Just so you know, because of COVID,
2 obviously, it's been difficult to fly around the
3 country and have a hearing space. So we have
4 been using online tools to have virtual hearings
5 when we can, so I will consider that here in
6 this case. It is my preference to have it in
7 person because it's easier to control the
8 hearing in person, but I want keep my options
9 open due to how the world is progressing. So I
10 want to make sure, Mr. Bowers, you are
11 comfortable with waiving any objection to having
12 the hearing online, correct?

13 MR. BOWERS: Yes, Your Honor.

14 THE COURT: And Ms. Villiers?

15 MS. VILLIERS: Yes, Your Honor.

16 THE COURT: And Ms. Villiers, it looked
17 like if we had it in person, you wanted to have
18 it in Miramar, which I guess is where your
19 office is; is that right?

20 MS. VILLIERS: That's correct, Your
21 Honor.

22 THE COURT: How many witnesses do you
23 think you have from the Miramar area, just so I
24 have a sense of what we are looking at there?

25 MS. VILLIERS: The max right now is

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1 two, Your Honor. One to two.

2 THE COURT: Okay. One to two folks
3 would be from there?

4 MS. VILLIERS: Yes.

5 THE COURT: And then yourself would be
6 also local to that?

7 MS. VILLIERS: I'm actually based in
8 Washington, D.C., Your Honor.

9 THE COURT: So you would be traveling
10 where the hearing is. So this is so the
11 witnesses will be local to Miramar?

12 MS. VILLIERS: Yes, that's correct,
13 Your Honor.

14 THE COURT: And Mr. Bowers, I
15 understand that your company is based in
16 Charleston and that's where you live; is that
17 right?

18 MR. BOWERS: Yes, and the incident
19 occurred there. And when I spoke with
20 Ms. Villiers not too long ago, she said she
21 didn't care where it was. So we do care where
22 it was. The incident was in Charleston. We
23 want it to be in Charleston, if there is a
24 hearing. Since she expressed that she doesn't
25 care either way, it seems that Charleston would

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1 be good.

2 THE COURT: So Ms. Villiers, is it your
3 preference still to have it in Miramar or are
4 you comfortable having it in Charleston if
5 that's the Respondent's preference?

6 MS. VILLIERS: Your Honor, the Agency's
7 preference is to have it in Miramar, Florida,
8 but of course, you know, it's what you decide,
9 Your Honor.

10 THE COURT: I understand. And
11 Mr. Bowers, you understand, I mean, I think from
12 Ms. Villiers' personal point of view, it doesn't
13 matter if she travels either way, but the
14 Agency, of course, is worried about spending
15 money. So she has identified that the
16 government would rather not spend money flying
17 around. So I understand --

18 MR. BOWERS: We don't want to spend
19 money flying either.

20 THE COURT: I understand. Don't worry.
21 You don't need to respond. I understand your
22 preference. I understand her preference. I
23 will tell you that it's still likely we may have
24 this online, so it won't be an issue, but either
25 way, I'll consider all these options and I'll

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1 decide where to have it. But I definitely
2 understand that for you, especially without a
3 lawyer representing yourself, it would be a
4 great cost saving to have it local to where you
5 live. Is that what you want to say, sir?

6 MR. BOWERS: Where the incident
7 occurred, yes.

8 THE COURT: How many witnesses do you
9 think you'll be calling, sir, that will be local
10 to Charleston?

11 MR. BOWERS: Probably about six.

12 THE COURT: Okay. And they would be
13 all folks that would not be traveling if the
14 hearing was held in Charleston?

15 MR. BOWERS: They would be traveling
16 about 40 miles. The mechanic and the rest would
17 be local.

18 THE COURT: Okay. I understand. So I
19 will take this under advisement. The way it
20 works, Mr. Bowers, so you understand, I have
21 to -- if we do indeed have a hearing in person,
22 I have to find a place that will let me have the
23 hearing there. So I will have my staff call the
24 courthouses in various locations and see what
25 they can do for us. So I will take all this

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1 under advisement. I will say that it seems most
2 likely to me that I would have the hearing in
3 Charleston. It certainly seems to be a better
4 reason to have it there than at Miramar, but I
5 don't want to make a final decision because I'm
6 looking at that and thinking about it. Does
7 everyone understand?

8 MR. BOWERS: Yes, sir.

9 MS. VILLIERS: Understood, Your Honor.

10 THE COURT: Let's talk about the
11 litigation schedule. It looks like the parties
12 agreed to have all discovery exchanged and
13 completed by October 12th of this year. Is that
14 still good for you, Ms. Villiers?

15 MS. VILLIERS: It is, Your Honor.

16 THE COURT: Mr. Bowers, how about for
17 yourself?

18 MR. BOWERS: Yes, sir.

19 THE COURT: And then once discovery
20 ends, Mr. Bowers, I'd like to have the parties
21 have a time where they can exchange any motions
22 that would get rid of the case rather than
23 having to go to trial. Those are simply things
24 where you say, hey, the Government has no case;
25 and the Government says, hey, the Respondent has

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1 no case, and Judge, go ahead and find in our
2 favor. I would want those to be filed, based
3 upon what you folks said, by December 3, 2021.
4 That gives you basically almost two months from
5 the time discovery closes to look at all the
6 evidence you have at hand and then make any
7 motions you want. Does that still work for you,
8 Ms. Villiers?

9 MS. VILLIERS: It does, Your Honor.
10 Thank you.

11 THE COURT: And Mr. Bowers?

12 MR. BOWERS: Yes, sir.

13 THE COURT: Now, in your joint status
14 report you did not have a date for providing
15 responses to motions. I do want to hear from
16 the other side in response to the motion because
17 I think it's important. Due to the fact that's
18 the holiday season, I think it is a little bit
19 tight, so what I would propose is January 7th.
20 That gives you a full month plus a couple of
21 days in light of the fact of the Christmas and
22 New Year's holiday to file any responses to the
23 motions. Is that okay by you, Ms. Villiers?

24 MS. VILLIERS: That's okay. Thank you,
25 Your Honor.

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1 THE COURT: And Mr. Bowers?

2 MR. BOWERS: Yes, that's fine.

3 THE COURT: And then with that being
4 said, you folks have proposed a date for a
5 prehearing conference for an argument where we
6 get on the phone together, and if anybody wanted
7 to argue the motions, we can talk about them on
8 the phone. I want to move that date a little
9 bit further back than the one you proposed
10 simply because of the fact that we have
11 responses and because there's a holiday in
12 there. I want to make it January 20, 2022. Is
13 that date open on your calendar, Ms. Villiers?

14 MS. VILLIERS: It is, Your Honor. That
15 date is good with me.

16 THE COURT: Okay. And Mr. Bowers, how
17 about you, January 20, 2022, are you available
18 that day if we need to have a one-hour or so
19 phone call to argue these motions?

20 MR. BOWERS: Yes, sir, that's fine.

21 THE COURT: So we'll have that date. I
22 won't set a time for it, and if it's not
23 necessary, we'll decide in December when the
24 motions are filed. I just want to make sure we
25 have that date.

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1 Now, these next issues are things that
2 I do on every case, Mr. Bowers. And
3 Ms. Villiers might know this because she may
4 have talked to her colleagues, but every case I
5 have has a standard set of deadlines I set for
6 all cases. And just so what they will be is
7 that all witness and evidence lists should be
8 exchanged by the parties and given to me 30 days
9 before the hearing so we know what witnesses and
10 what evidence will be at the hearing. Any
11 subpoena requests, so if we were to have a live
12 and in-person hearing, or even if we had one
13 online, you might want a subpoena in which you
14 get a request -- or an order from me saying this
15 person will appear at the hearing. You must ask
16 before that subpoena at least 45 days before the
17 hearing so I can make sure I can get it and get
18 it to you so you can serve it.

19 The parties shall provide each other
20 and me a copy of all the evidence they want me
21 to consider in the hearing 30 days before the
22 hearing. That way we can get to the hearing and
23 be very smart about what's going to be happening
24 at the hearing. Does that all make sense,
25 Ms. Villiers?

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1 MS. VILLIERS: It does.

2 THE COURT: Mr. Bowers, any questions
3 about those things I just mentioned?

4 MR. BOWERS: No, sir.

5 THE COURT: The last issue that I
6 always go with when parties are starting to
7 schedule is that there is an opportunity in the
8 rules for FAA proceedings to allow parties after
9 the hearing is over to write a brief, a document
10 to me explaining why they think I should find in
11 a certain way. I only ask for those in cases
12 where the law is fairly complicated or the facts
13 are very complicated and I need some help
14 figuring that out. What I typically do is at
15 the hearing I'll ask the parties if they want to
16 have time for that. The reason why it's
17 important is because it does delay the
18 resolution of the case. So if we have a
19 hearing, I then, within 30 days, have to decide
20 the case. But if we have post-hearing briefs,
21 the parties can provide that additional draft
22 explaining what they want me to do. That delays
23 the result of the case because I want to wait to
24 hear those. So we'll talk about the hearing,
25 but just to give you a heads up, Mr. Bowers, I

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1 will be asking you at the hearing, if we do have
2 one, about that issue. Okay?

3 MR. BOWERS: Okay. Thank you.

4 THE COURT: And the last issue I do
5 want to go over as far as the schedule is the
6 hearing date. Based upon my schedule, the first
7 available date I have is May 16th through 20th.
8 What I do is put aside an entire week. That way
9 if it's in person, I travel and I'm there in
10 person for the few days that we have the
11 hearing. If we have it online, then what we'll
12 do is we'll have a Monday session where
13 Ms. Booker and Ms. Ort can get online with you
14 folks, make sure it works for a few minutes, and
15 then we'll actually have the hearing on Tuesday.
16 No matter, the hearing won't start until the
17 17th, but I do want to set aside the week of the
18 16th to the 20th, if that's open on your
19 calendars. Ms. Villiers, is that open for you?

20 MS. VILLIERS: That is open for me,
21 Your Honor. Thank you.

22 THE COURT: And Mr. Bowers, how about
23 yourself?

24 MR. BOWERS: I'll find a way to make it
25 open.

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1 THE COURT: I understand you have a
2 business you are running. So I'm sure it's
3 disruptive no matter what you are doing, but I
4 appreciate your flexibility. That's the date
5 that we will have the hearing if there is one.

6 Now, the reason why I keep saying "if
7 there is one" is because, Mr. Bowers, as you may
8 be aware, the parties do have the ability to
9 settle their cases. I always encourage parties
10 to at least keep an open mind with one another
11 to talk about the possibility of settlement.
12 The main reason why I encourage them is because
13 cases that are settled are done. Cases that are
14 not settled can go on.

15 So once again, as I explained, if I
16 have a hearing, then I have 30 days to decide
17 it. Once I decide it, a party can appeal it to
18 the administrator. From the administrator, it
19 can be appealed to Federal Court. So there will
20 be some time after the case is decided even by
21 me that it will still go on. Settlement allows
22 the parties to come to an agreement that ends
23 the case sooner. Once again, I have no problem
24 adjudicating cases. I enjoy my job. But I want
25 to make sure you're aware that I do encourage

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1 parties to at least discuss with one another the
2 possibility of settlement and see if there's any
3 way you can come to an accord that you both can
4 be comfortable with. Does that make sense,
5 Ms. Villiers?

6 MS. VILLIERS: It does, Your Honor.

7 THE COURT: Mr. Bowers?

8 MR. BOWERS: It does. We've already
9 given an offer that she has not responded to.
10 So we have been doing that all along.

11 THE COURT: Okay. Ms. Villiers, what
12 is the status of that offer? Are you still
13 considering it or are you working it up the
14 chain of your command?

15 MS. VILLIERS: Your Honor, I'm not sure
16 which offer Mr. Bowers is referring to. I have
17 not received an offer.

18 MR. BOWERS: If you look in the
19 writings, we have given you one that was 2,500,
20 which was from your manual for the lighter, for
21 the fences and stuff. So we followed your
22 manual which states the operandus, the ones
23 where it's just a careless mistake, and that one
24 was not answered. We could resubmit that to you
25 if you want to see it.

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1 THE COURT: Mr. Bowers, just the amount
2 of the offer doesn't matter to me. That's not
3 something that can really affect my thought
4 process. I think it is good that -- and I want
5 you and Ms. Villiers to be cordial to one
6 another. Once again, she is not personally
7 animus to you. You both are just working to
8 resolve this case to the Government and your
9 satisfaction. So if she does not have the
10 offer, please go ahead and resubmit it, and I'm
11 sure you folks can work on it some more.

12 If you find that you need someone to
13 help mediate some discussions, let my office
14 know and we can help you have somebody sit down
15 and talk with both sides to work your way
16 through any sort of disagreements. But it
17 sounds like Ms. Villiers wasn't sure which
18 agreement you are talking about. Now she may
19 know because you articulated it here. But what
20 might be good is after this call to just send
21 her an e-mail or to pick up the phone and go
22 over the parameters of the offer you would like
23 her to consider and the Government to consider.
24 Is that okay, Mr. Bowers?

25 MR. BOWERS: Yes, sir. We sent that

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1 letter with the same date on it that was
2 postdated.

3 THE COURT: That's okay. Once again,
4 Mr. Bowers, that's okay. We know we are not
5 going to have a hearing until May. So you folks
6 can take your time to work with these issues.
7 It's good for you to know that she was not
8 really certain of an offer that you have been
9 offering. So now you can work with her on
10 trying to make sure it is clear that this is
11 what you are offering and see if they are
12 willing to take it.

13 MR. BOWERS: Yes, sir.

14 THE COURT: Ms. Villiers, does that
15 work for you, you can talk to Mr. Bowers some
16 more about the offer he would like to make you?

17 MS. VILLIERS: Yes. I will keep an eye
18 out for an offer from Mr. Bowers, and then we
19 can discuss it further between us.

20 THE COURT: Okay. That is great. Any
21 other questions for me while we are on the phone
22 together, Ms. Villiers?

23 MS. VILLIERS: I have no further
24 questions, Judge Rawald. Thank you so much.

25 THE COURT: Mr. Bowers, any questions

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1 from your side?

2 MR. BOWERS: No, sir. Thank you as
3 well.

4 THE COURT: So once again, this will go
5 out in a report to folks this afternoon. You
6 will see it by e-mail. Once, if you have any
7 issues, please feel free to contact Jackie
8 Booker and Kelly Ort, my administrative
9 assistant and my attorney advisor. They will
10 walk you through anything you need help with.
11 Otherwise, good luck in your discovery process,
12 and I'll look forward to seeing you in the
13 future if we need to.

14 (Whereupon, the proceedings at 11:17
15 a.m., were concluded.)

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CERTIFICATE OF REPORTER

I, Deborah Wehr, do hereby certify that the foregoing proceedings were taken by me in stenotype and thereafter reduced to typewriting under my supervision; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.



Deborah Wehr, RPR
Notary Public