

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**IN RE: CESSNA 208 SERIES AIRCRAFT
PRODUCTS LIABILITY LITIGATION**

(This Document Relates Only To

Mikhail Konovalova, et al.

v. Cessna Aircraft Company, et al.,

D. Kan. No. 07-1363-KHV

Emma Konstantinova P'yanina, et al.

v. Cessna Aircraft Company, et al.,

D. Kan. No. 07-1367-KHV

Emma Konstantinova P'yanina, et al.

v. Cessna Aircraft Company, et al.,

S.D.N.Y. No. 07-10403-PAC

D. Kan. No. 08-2304-KHV

Mikhail Konovalova, et al.

v. Cessna Aircraft Company, et al.,

S.D.N.Y. No. 07-10388-SAS

MDL No: 1721

Case No: 05-md-1721-KHV

MEMORANDUM AND ORDER

This matter is before the Court on Defendant Cessna Aircraft Company's Motion To Dismiss Duplicative Cases Konovalova And P'yanina (Doc. #454 in MDL No. 1721) filed June 13, 2008; Plaintiffs' Motion To Voluntarily Dismiss Pursuant To Federal Rule Of Civil Procedure Rule 41(a)(2) Without Prejudice (Doc. #499 in MDL No. 1721) filed July 7, 2008; Plaintiffs' Notice Of Motion And Motion For Voluntary Dismissal Of Complaint Without Prejudice (Doc. #30 in D. Kan. No. 07-1367-KHV). For reasons set forth below, the Court overrules all three motions.

The present motions involve four cases which arise out of the crash of a Cessna Model 208B airplane near Moscow, Russia on November 19, 2005. On November 16, 2007, Emma Konstantinova P'yanina and others filed two identical cases – one in the District of Kansas and one

in the Southern District of New York. Also on November 16, 2007, Mikhail Konovalova and others filed two identical cases – one in the District of Kansas and one in the Southern District of New York. Both sets of plaintiffs ask the Court to dismiss the Kansas cases, but they have not shown that it is necessary to do so. Likewise, Cessna has not shown that it is necessary to dismiss the New York cases. The New York and Kansas cases present virtually identical issues, but the Court cannot ascertain at this point which set of cases should be dismissed. All four cases are now part of the MDL and the parties have not shown that keeping all four cases in the MDL would cause any prejudice or burden to the parties.

Plaintiffs ordinarily are entitled to determine which one of several actions to pursue, but plaintiffs here have not sufficiently explained their reasons for seeking dismissal of the Kansas cases. See Ohlander v. Larson, 114 F.3d 1531, 1537 (10th Cir. 2005) (in considering Rule 41(a)(2) motion, court should consider whether plaintiffs have sufficiently explained need for dismissal). Plaintiffs assert that because the MDL Panel has transferred the New York cases to Kansas as part of the MDL, the continued prosecution of the Kansas cases is unnecessary. See Plaintiffs’ Memorandum In Support Of Plaintiffs’ Motion To Voluntarily Dismiss Pursuant To Federal Rule Of Civil Procedure Rule 41(a)(2) Without Prejudice (Doc. #501 in MDL No. 1721) filed July 7, 2008 at 6; Memorandum Of Law In Support Of Plaintiffs’ Motion For Voluntary Dismissal Of Action Without Prejudice (Doc. #31) filed June 20, 2008 at 8. Plaintiffs do not explain why it was ever necessary to maintain “identical” actions in Kansas, however, or – since the Kansas cases are pending – why prosecution of the New York cases is necessary. Plaintiffs’ Memorandum In Support Of Plaintiffs’ Motion To Voluntarily Dismiss Pursuant To Federal Rule Of Civil Procedure Rule 41(a)(2) Without Prejudice (Doc. #501 in MDL No. 1721) filed July 7, 2008 at 6;

Memorandum Of Law In Support Of Plaintiffs' Motion For Voluntary Dismissal Of Action Without Prejudice (Doc. #31) filed June 20, 2008 at 1, 8. Plaintiffs correctly note that the Court can consider any other relevant factors, see Ohlander, 114 F.3d at 1537, but they do not address the judicial efficiency in having a single court handle both pretrial and trial matters. The Court can more thoroughly address this factor and others at the point when any cases in the MDL are to be remanded to the transferor courts. The Court therefore overrules the present motions to dismiss without prejudice.

IT IS THEREFORE ORDERED that Defendant Cessna Aircraft Company's Motion To Dismiss Duplicative Cases Konovalova And P'yanina (Doc. #454 in MDL No. 1721) filed June 13, 2008 be and hereby is **OVERRULED**.

IT IS FURTHER ORDERED that Plaintiffs' Motion To Voluntarily Dismiss Pursuant To Federal Rule Of Civil Procedure Rule 41(a)(2) Without Prejudice (Doc. #499 in MDL No. 1721) filed July 7, 2008 be and hereby is **OVERRULED**.

IT IS FURTHER ORDERED that Plaintiffs' Notice Of Motion And Motion For Voluntary Dismissal Of Complaint Without Prejudice (Doc. #30 in D. Kan. No. 07-1367) filed June 20, 2008 be and hereby is **OVERRULED**.

Dated this 17th day of July, 2008 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge