

Gonzalez, Placido R.  
vs.  
Compania Cubana de Aviacion S.A.

Docket 118  
Division JOHN J. KEHOE - L  
Page 60  
CASE NO. 59L 3422 11

**COMMON LAW**  
**IN CIRCUIT COURT**

IN AND FOR  
DADE COUNTY, FLORIDA

Removed U.S. Court  
Index  
AA 136-d

This File Must Not Be Withheld from  
Clerk's Office Without Leave of Court.  
E. B. LEATHERMAN,  
Clerk, Circuit Court

Placido R. Gonzalez

Plaintiff....

vs.  
Compania Cubana de Aviacion  
S.A

Defendant....

Action for Damages \$ 5,000.00

Brygham Wright  
Reard

Attorney.....for Plaintiff....

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT OF FLORIDA, IN AND FOR DADE COUNTY.

THE STATE OF FLORIDA

TO THE DEFENDANT(S):

COMPANIA CUBANA de AVIACION, S.A.,  
a corporation

Serve: David W. Dyer  
RESIDENT AGENT  
1301 duPont Building  
Miami, Florida

RECEIVED  
OCT 20 1959

OCT 20 10 23 AM 1959

THURSDAY  
OCT 20 1959  
DADE COUNTY, FLA

RECEIVED  
OCT 20 1959

OCT 20 11 28 AM 1959

RECEIVED

You are hereby notified that a Common Law action has been filed against you in the  
Circuit Court for Dade County, Florida, by

PLACIDO R. GONZALEZ

You are hereby summoned and required to serve upon: BRIGHAM, WRIGHT & REARICK

Plaintiff's Attorney, whose address is: Brigham Building, 846 Brickell Avenue,  
Miami, Florida

and file with the Clerk of said Court, either before service or immediately thereafter, an answer to  
the Complaint which is herewith served upon you, within 20 days after service of this summons upon  
you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against  
you for the relief demanded in the complaint.

WITNESS my hand and seal of said Court at Miami, Dade County, Florida this 30  
day of October, A.D., 19 59.

E. B. LEATHERMAN  
as Clerk of said Circuit Court

By [Signature]  
Deputy Clerk

(Court Seal)

BRIGHAM, WRIGHT & REARICK  
Brigham Building  
846 Brickell Avenue  
MIAMI 32, FLORIDA

Plaintiff's Attorney

Telephone FR 3-6417

COURT CIR STYLE S.A.R.

ATTORNEY: BRIGHAM, WRIGHT, et al

ADDRESS:

PLAINTIFF: GONZALEZ

DEFENDANT: COMPANIA CUBANA de AVIACION, S.A.

RECEIVED THIS WRIT ON THE 30th DAY OF Oct. A. D. 1959, AND SERVED

THE SAME ON COMPANIA CUBANA de AVIACION S.A.

A CORPORATION, THE WITHIN NAMED DEFENDANT, IN DADE COUNTY, FLORIDA, AT 10:10 a.m. ON THE 5th DAY OF Nov.

A. D. 1959, BY DELIVERING A TRUE COPY OF THE WRIT WITH THE DATE AND HOUR OF SERVICE ENDORSED THEREON BY ME, AND A COPY OF PLAINTIFF'S INITIAL PLEADING AS FURNISHED BY THE PLAINTIFF, TO

DAVID W. DYER, RES. AGENT, IN THE ABSENCE OF THE PRES., V. PRES., CASHIER, TREAS., SECY., GEN. MGR., DIRECTOR.

OF SAID CORPORATION.

WRIT \$ 3.50

EL hw

11-6

THOMAS J. KELLY, METROPOLITAN SHERIFF OF DADE COUNTY, FLA.

BY Edward Lynch METROPOLITAN DEPUTY SHERIFF.

Vertical stamp: RECEIVED... 59 OCT 30 1959... COMPANIA CUBANA de AVIACION

Received this Summons at \_\_\_\_\_ o'clock \_\_\_\_\_ M, on \_\_\_\_\_, 195\_\_\_\_, and served the same thereof with a copy of the Complaint or initial pleading to: \_\_\_\_\_ by delivering a true copy

FILED FOR RECORD

OCT 29 4 22 PM 1959

E.B. LEATHERMAN  
CLK. CT. DADE CO. FLA.

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT IN AND FOR DADE  
COUNTY, FLORIDA AT LAW

No. ~~5913422~~

PLACIDO R. GONZALEZ, :

Plaintiff :

vs. :

COMPANIA CUBANA de AVIACION, :  
S. A., a corporation, :

Defendant :

JOHN J. KEHOE - L

COMPLAINT AND DEMAND  
FOR JURY TRIAL

*Ref  
12 90  
n.s*

PLACIDO R. GONZALEZ, Plaintiff, sues COMPANIA CUBANA de AVIACION, S.A., a corporation for that:

1. The plaintiff, PLACIDO R. GONZALEZ, is a citizen and resident of the State of Illinois, and is the lawful father of, and no person has a precedent right over Plaintiff to sue for the death of HENRIBERTA NANCY GONZALEZ, age 9 years, who died as a result of the airplane crash hereinafter described.

2. The Defendant, COMPANIA CUBANA de AVIACION, S.A., a corporation, is a corporation organized under the laws of Cuba.

3. On November 1, 1958, the Defendant, COMPANIA CUBANA de AVIACION, S.A., a corporation, was a common carrier of passengers for hire by airplane, and in and about such business owned and was operating a certain 4-engined airplane by and through their duly authorized servants and employees, which airplane carried HENRIBERTA NANCY GONZALEZ, as a passenger for hire.

4. On said date, Defendant, COMPANIA CUBANA de AVIACION, S.A., a corporation, wilfully, wantonly, recklessly, negligently and/or carelessly controlled, maintained and/or operated said airplane so as to cause same to crash into the waters of Nipe Bay near Preston Airport in the Province of Oriente, Cuba.

5. As a proximate result of the wilful, wanton, reckless, negligent and/or careless acts of the defendant hereinabove alleged and of the aforementioned crash of said airplane, the lawful minor child of the plaintiff, HENRIBERTA NANCY GONZALEZ, was killed.

6. As a proximate result of the said acts of the defendant hereinabove alleged and of the death of the plaintiff's minor child, the plaintiff suffered the loss of services of his minor child, which had been, prior to the death of his minor child, of great value to him, and plaintiff has been deprived of the affection, society and companionship of his minor child, and plaintiff has been caused great mental pain and suffering, and will be caused mental pain and suffering permanently in the future.

7. As a proximate result of said acts of defendant hereinabove alleged and of the death of plaintiff's minor child, plaintiff has been caused to lay out and expend sums of money for funeral services for his minor child.

WHEREFORE, the plaintiff demands judgment against the defendant for damages, which the plaintiff avers are in excess of FIVE THOUSAND (\$5,000.00) DOLLARS, exclusive of costs; together with the cost of this action, and plaintiff demands a trial by jury of all the issues herein involved.

BRIGHAM, WRIGHT & REARICK  
Attorneys for Plaintiff  
Brigham Building, 846 Brickell Ave.,  
Miami 32, Florida

By: 

Of Counsel

FILED FOR RECORD

NOV 20 10 32 AM 1959  
IN THE CIRCUIT COURT OF THE ELEVENTH  
JUDICIAL CIRCUIT OF FLORIDA, IN AND  
FOR DADE COUNTY. AT LAW

E. S. ...  
CLK. CT. OF ... FLA.

No. 59L 3422

PLACIDO R. GONZALEZ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	COPY OF PETITION FOR
	)	<u>REMOVAL</u>
COMPANIA CUBANA DE AVIACION,	)	
S.A., a corporation,	)	
	)	
Defendant.	)	
<hr/>	)	

In accordance with Title 28, U. S. Code, Section 1446, the Defendant in the above cause files the attached copy of its Petition for Removal which has been filed this day in the District Court of the United States for the Southern District of Florida, Miami Division.

Dated this 20<sup>th</sup> day of November, 1959.

SMATHERS, THOMPSON & DYER

By David W Dyer  
Attorneys for Defendant

I HEREBY CERTIFY that a true copy of the foregoing Copy of Petition for Removal was mailed this 20<sup>th</sup> day of November, 1959, to Brigham, Wright & Rearick, attorneys for plaintiff, 846 Brickell Avenue, Miami, Florida.

David W Dyer  
Of Counsel



FILED FOR RECORD

NOV 20 10 34 AM 1959  
IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

E. B. LEATHERMAN  
CLK. CT. CT. DADE CO. FLA.

No.

PLACIDO R. GONZALEZ, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
COMPANIA CUBANA DE AVIACION, )  
S.A., a corporation, )  
 )  
Defendant. )  
\_\_\_\_\_ )

PETITION FOR REMOVAL

1. The Petitioner, COMPANIA CUBANA DE AVIACION, S.A., a Cuban corporation, by its undersigned attorneys, states that it is the Defendant named in Summons dated October 30th, 1959 and served upon Defendant on November 5, 1959, issued out of the Circuit Court of the Eleventh Judicial Circuit, in and for Dade County, Florida, No. 59L3422, in which PLACIDO R. GONZALEZ is Plaintiff and COMPANIA CUBANA DE AVIACION, S.A. is Defendant.

2. COMPANIA CUBANA DE AVIACION, S.A. is a corporation organized and existing under the laws of the Republic of Cuba with its principal place of business in Havana, Cuba, and not in the State of Florida, and was so organized and existing and had its principal place of business as above stated at the time of the commencement of this cause.

3. Plaintiff is a resident of a state other than the Republic of Cuba and Defendant alleges upon information and belief that he is a citizen and resident of the State of Florida.

A copy of the Summons referred to above is annexed to and made a part of this Petition together with a copy of the Complaint. No other papers or pleadings on behalf of the Plaintiff have been served upon or received by the Defendant.

5. As appears from the annexed Summons and Complaint, Plaintiff demands damages in excess of Five Thousand (\$5,000.00) Dollars and Defendant, upon information and belief, states that the matter in dispute exceeds the sum of Ten Thousand (\$10,000.00) Dollars, exclusive of interest and costs.

6. Petitioner is filing simultaneously with the Petition a Bond with good and sufficient surety conditioned as required by the Act of Congress in that behalf made and provided, in Title 28, United States Code, Section 1446.

WHEREFORE, Petitioner prays this Court that the Bond be accepted as good and sufficient and that this cause be removed to the District Court of the United States for the Southern District of Florida, Miami Division, in which District and Division this action is pending.

SMATHERS, THOMPSON & DYER

By David W. Dyer  
Attorneys for Defendant

STATE OF FLORIDA )  
                          )  
COUNTY OF DADE    )

Personally appeared before me, the undersigned authority, DAVID W. DYER, who being by me first duly sworn, deposes and says:

That he is a member of the law firm of Smathers, Thompson & Dyer, and that he is one of the attorneys of record for the Petitioner above named, and he is authorized to and does make this affidavit for and on behalf of said Petitioner.

That he has read the foregoing Petition and that the same is true and correct.

David W. Dyer

Sworn to and subscribed before me this \_\_\_\_\_ day of November, 1959.

My commission expires:

- 2 -  
SMATHERS, THOMPSON & DYER  
ALFRED I. DUPONT BUILDING  
MIAMI, FLORIDA  
Notary Public, State of Florida at Large



I HEREBY CERTIFY that a true copy of the foregoing  
Petition for Removal was mailed to Brigham, Wright & Rearick,  
846 Brickell Avenue, Miami, Florida, attorneys for plaintiff,  
this 20<sup>th</sup> day of November, 1959.

David W. Dyer

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