

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT
3

4 **SUMMARY ORDER**
5

6 **THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL**
7 **REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS**
8 **OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS**
9 **OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A**
10 **RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL**
11 **OR RES JUDICATA.**
12

13 At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the
14 Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the
15 28th day of June, two thousand and five.
16

17 PRESENT:

18
19 HON. ROGER J. MINER,
20 HON. GUIDO CALABRESI,
21 *Circuit Judges,*
22 HON. JOHN F. KEENAN*
23 *District Judge.*
24
25

26
27
28
29 DENICE H. REIN, Individually and as Executrix of the
30 Estate of MARK ALAN REIN, deceased, BARBARA A.
31 AHERN, Individually and as Co-Administrator of the
32 Estate of JOHN M. AHERN, deceased, THOMAS A.
33 AHERN, Individually and as Co-Administrator of the
34 Estate of JOHN M. AHERN, deceased, MARION K.
35 ALDERMAN, Individually and as Co-Administrator of the
36 Estate of PAULA ALDERMAN AND GLENN JOHN
37 BOUCKLEY, deceased, CAROLYN AMMERMAN,
38 Individually and as Administratrix of the Estate of
39 THOMAS J. AMMERMAN, deceased, ARNOLD
40 ASRELSKY, Individually and as Co-Administrator of the

* The Honorable John F. Keenan, United States District Court for the Southern District of New York, sitting by designation.

1 Estate of RACHEL MARIA ASRELSKY, deceased, HOPE
2 ASRELSKY, Individually and as Administrator of the
3 Estate of RACHEL MARIA ASRELSKY, deceased,
4 WILLIAM GARRETSON ATKINSON JR., Individually
5 and as Administrator of the Estate of WILLIAM
6 GARRETSON ATKINSON, III, deceased, DONA
7 BARDELLI BAINBRIDGE, Individually and as
8 Administratrix of the Estate of HARRY M. BAINBRIDGE,
9 deceased, KENNETH STUART BARCLAY, Individually
10 and as a Personal Representative of the Estate of STUART
11 MURRAY BARCLAY, deceased, RAQUEL LOPEZ
12 BENVENUTO, Individually and as a Personal
13 Representative of the Estate of FABIANA BENVENUTO
14 CAFFARONE, deceased, PHILLIP B. BERGSTROM,
15 Individually and as Administrator of the Estate of PHILLIP
16 V. BERGSTROM, deceased, SANDRA BERNSTEIN
17 CLARREN, Individually and as Administratrix of the
18 Estate of JUDITH ELLEN BERNSTEIN, deceased,
19 STEPHANIE LASKIN BERNSTEIN, Individually and as
20 Administratrix of the Estate, FRANCOISE BOYER
21 BARDON, Individually and as Administratrix of the Estate
22 of FRANCIS BOYER, deceased, ELEANOR HOEY
23 BRIGHT, Individually and as Administratrix of the Estate
24 of NICHOLAS BRIGHT, deceased, DIANA BROWNER,
25 Individually and as a Personal Representative of the Estate
26 of DANIELLE BROWNER, deceased, PATRICIA A.
27 BRUNNER, Individually and as Administratrix of the
28 Estate of COLLEEN R. BRUNNER, deceased, JULIANNE
29 BUDWICK, Individually and as Administratrix of the
30 Estate of ERIC JOHN WILLIAMS, deceased, BRIAN D.
31 BUTLER, Individually and as Administratrix of the Estate
32 of ERIC JOHN WILLIAMS, deceased, EDMUNDO LUIS
33 CAFFARONE, Individually and as a Personal
34 Representative of the Estate of HERNAN LUIS
35 CAFFARONE, deceased, GRACIELA CAFFARONE,
36 Individually and as a Personal Representative of the Estate
37 of HERNAN LUIS CAFFARONE, deceased,
38 SALVATORE V. CAPASSO, Individually and as Co-
39 Administrator of the Estate of GREGORY J. CAPASSO,
40 deceased, BETTY-ANN CAPASSO, Individually and as
41 Co-Administrator of the Estate of GREGORY J.
42 CAPASSO, deceased, DANIEL EDWARD COHEN,
43 Individually and as Co-Administrator of the Estate of

1 THEODORA EUGENIA COHEN, deceased, SUSAN
2 HANDLER COHEN, Individually and as Co-
3 Administrative of the Estate ff THEODORA EUGENIA
4 COHEN, deceased, ALFRED CORNER, Individually and
5 as Administrator of the Estate of TRACEY JANE
6 CORNER, deceased, ELIZABETH DELUDE-DIX,
7 Individually, And As Administratrix Of The Estate Of
8 PETER T.S. DIX, deceased, PERRY DORNSTEIN,
9 Individually and as Administrator of the Estate of DAVID
10 SCOTT DORNSTEIN, deceased, JOHN M. FLYNN,
11 Individually and as Administrator of the Estate of JOHN
12 PATRICK FLYNN, deceased, LYNNE R. FRAIDOWITZ-
13 MOSES, Individually and as Administratrix of the Estate of
14 DANIEL P. ROSENTHAL, deceased, LYNN KOENIG
15 GARCZYNSKI, Individually and as a Personal
16 Representative of the Estate of KENNETH R.
17 GARCZYNSKI, deceased, DOMINIQUE GARRETT,
18 INDIVIDUALLY, ERNEST GARRETT, as Administrator
19 of the Estate of PAUL I. GARRETT, deceased, WENDY
20 GIEBLER A. SIFCIK, Individually and as Administratrix
21 of the Estate of WILLIAM D. GEIBLER, JR., deceased,
22 TERRI F. GOULD, Individually and as Executrix of the
23 Estate of DAVID J. GOULD, deceased, ANTHONY B.
24 HALL, Individually and as Executor of the Estate of
25 NICOLA JANE HALL, deceased, PAUL HALSCH,
26 Individually and as Administrator of the Estate of
27 LORRAINE F. HALSCH, deceased, HELEN
28 ENGELHARDT HAWKINS, AS ADMINISTRATRIX OF
29 THE ESTATE OF ANTHONY LACEY HAWKINS,
30 deceased, ANNE L. HUDSON, Individually and as
31 Administratrix of the Estate of SOPHIA HUDSON,
32 deceased, ROBERT R. HUNT, Individually and as
33 Administrator of the Estate of KAREN L. HUNT,
34 deceased, BEVERLY BRANIFF JECK, Individually and as
35 Executrix of the Estate of ROBERT V. JECK, deceased,
36 RAYMOND M. JERMYN SR., Individually and as Co-
37 Administrator of the Estate of KATHLEEN M. JERMYN,
38 deceased, MARGARET M. JERMYN, Individually and as
39 Co-Administrator of the Estate of KATHLEEN M.
40 JERMYN, deceased, GLENN P. JOHNSON, Individually
41 and as Administrator of the Estate of BETH ANN
42 JOHNSON, deceased, RITA F. KELLY, Individually and
43 as Administratrix of the Estate of JULIANNE F. KELLY,

1 deceased, PATRICIA L. KINGHAM, Individually and as
2 Executrix of the Estate of JAY J. KINGHAM, deceased,
3 MARINA M. KULUKUNDIS, Individually and as
4 Administratrix of the Estate of MINAS CHRISTOPHER
5 KULUKUNDIS, deceased, BARBARA ANN LUDLOW,
6 Individually and as Special Administratrix of the Estate of
7 LLOYD DAVID LUDLOW, deceased, PATRICIA
8 AUDREY MARTIN, Individually and as Executrix of the
9 Estate of NOEL G. MARTIN, deceased, MARJORIE G.
10 MCKEE, Individually and as Executrix of the Estate of
11 CHARLES DENNIS MCKEE, deceased, RHODA P.
12 MILLER, Individually and as Executrix of the Estate of
13 JOSEPH K. MILLER, deceased, GREGORY P. MORSON,
14 Individually and as Co-Administrator of the Estate of EVA
15 INGEBORG MORSON, deceased, VANESSA C.
16 MORSON, Individually and as Co-Administrator of the
17 Estate of EVA INGEBORG MORSON, deceased, JUDITH
18 A. PAGNUCCO, Individually and as Executrix of the
19 Estate of ROBERT I. PAGNUCCO, deceased, ERVIN
20 PHILLIPS, Individually and as Administrator of the Estate
21 of SARAH PHILLIPS, deceased, LISA PLATT,
22 Individually and as Administratrix of the Estate of DAVID
23 PLATT, deceased, JACOB POSEN, Individually and as
24 Co-Administrator of the Estate of PAMELA LYNN
25 POSEN, deceased, BONNIE J. GREGGE, Individually and
26 as Co-Administrator of the Estate of PAMELA LYNN
27 POSEN, deceased, FLORENCIO QUIGUYAN,
28 Individually and as Administrator of the Estate of
29 ESTRELLA C. QUIGUYAN, deceased, GLENDON L.
30 RAFFERTY, Individually and as Administrator of the
31 Estate of BONNIE LEIGH WILLIAMS, deceased,
32 YVONNE REEVES, Individually and as a Personal
33 Representative of the Estate of ANITA LYNN REEVES,
34 OREGON ROGERS, Individually and as Administrator of
35 the Estate of LOUISE ANN ROGERS, deceased, JOHN
36 FRICK ROOT, Individually and as Administrator of the
37 Estate of HANNE-MARIA MAIJALA ROOT, deceased,
38 MERYL SHAHUN ROSEN, Individually and as
39 Administrator of the Estate of HANNE-MARIA MAIJALA
40 ROOT, deceased, CHARLES M. ROSENTHAL,
41 Individually and as Administrator of the Estate of
42 ANDREA VICTORIA ROSENTHAL, deceased, EUGENE
43 A. SARACENI, Individually and as Administrator of the

1 Estate of ELYSE J. SARACENI, deceased, FRANZISKA
2 SCHAUBLE, Individually and as a Personal Representative
3 of the Estate of JOHANNES OTTO SCHAUBLE,
4 deceased, INGRID HOSCHLE, Individually and as a
5 Personal Representative of the Estate of JOHANNES
6 OTTO SCHAUBLE, deceased, PETRA SCHOLL,
7 Individually and as a Personal Representative of the Estate
8 of JOHANNES OTTO SCHAUBLE, deceased, JAMES L.
9 SCHLAGETER, Individually and as Administrator of the
10 Estate of ROBERT THOMAS SCHLAGETER, deceased,
11 JOHN J. SCHULTZ, Individually and as Administrator of
12 the Estate of THOMAS BRITTON SCHULTZ, deceased,
13 MADELINE B. SHAPIRO, Individually and as
14 Administrator of the Estate of AMY ELIZABETH
15 SHAPIRO, deceased, GEORGE L. SHEANSHANG,
16 Individually and as Administrator of the Estate of JOAN
17 SHEANSHANG, deceased, CATHERINE SIGAL,
18 Individually and as Administrator of the Estate of IRVING
19 S. SIGAL, deceased, PALMER N. SMITH, Individually
20 and as Administrator of the Estate of JAMES A. SMITH,
21 deceased, ROOSEVELT SMITH, Individually and as
22 Administrator of the Estate of MARY E. SMITH, deceased,
23 HARVEY V. HALL, Individually and as Successor
24 Executor of the Estate of MARY E. SMITH, deceased,
25 JOAN C. SMITH, Individually and as Co- Administrator of
26 the Estate of Cynthia Joan Smith, deceased, EDWARD F.
27 SMITH, Individually and as Administrator of the Estate of
28 CYNTHIA JOAN SMITH, deceased, DONALD R.
29 STINNETT, Individually and as Temporary Administrator
30 of the Estate of MICHAEL GARY STINNETT, deceased,
31 MARILYN I. SWAN, Individually and as Administratrix of
32 the Estate of ANTHONY S. SWAN, deceased, MICHAEL
33 WOOLF TAGER, Individually and as Administrator of the
34 Estate of MARC TAGER, deceased, TADASHI TANAKA,
35 Individually and as Administrator of the Estate of
36 HIDEKAZU TANAKA, deceased, EMI TANAKA,
37 Individually and as Administrator of the Estate of
38 HIDEKAZU TANAKA, deceased, IVY NG TRIMMER-
39 SMITH COBB, Individually and as Administratrix of the
40 Estate of DAVID W. TRIMMER-SMITH, deceased,
41 VERA VAN TIENHOVEN, Individually and as a Personal
42 Representative of the Estate of TOMAS F. VAN
43 TIENHOVEN, deceased, SHIRIN ALAGHBAND

1 VEJDANY, Individually and as Administratrix of the
2 Estate of ASAAD VEJDANY, deceased, MICHAEL
3 WAIDO, Individually and as Administrator of the Estate of
4 JANINE WAIDO, deceased, BARBARA MATTHEWS
5 WEEDON, Individually and as Administratrix of the Estate
6 of KESHA WEEDON, deceased, ROSANNE WESTON,
7 Individually and as Executrix of the Estate of JEROME
8 LEE WESTON, deceased, GEORGE H. WILLIAMS,
9 Individually and as Co-Administrator of the Estate of
10 GEORGE W. WILLIAMS, deceased, JAMES K. WOLFE,
11 INDIVIDUALLY AND AS PERSONAL
12 REPRESENTATIVES OF THE ESTATE OF MIRIAM L.
13 WOLFE, deceased, ROSEMARY MILD, Individually and
14 as a Personal Representative of the Estate of MIRIAM L.
15 WOLFE, deceased, BRENDA WOODS-RUFF,
16 Individually and as Administratrix of the Estate of JOE
17 NATHAN WOODS, SR., AND CHELSEA WOODS,
18 deceased, ELAINE CATHERINE WRIGHT, Individually
19 and as Administratrix of the Estate of ANDREW
20 CHRISTOPHER GILLIES-WRIGHT, deceased, VERA
21 YOUNG, Individually and as Executrix of the Estate of
22 DORA HENRY, deceased, VERONICA PATTIE,
23 DONALD MOFFAT, THOMAS MCGLASSON
24 MOFFAT, ANDREW MOFFAT, DOREEN YOUNG,
25 AND MARGARET MOFFAT, VERONICA PATTIE,
26 DONALD MOFFAT, THOMAS MCGLASSON
27 MOFFAT, ANDREW MOFFAT, DOREEN YOUNG,
28 MARGARET MOFFAT, PAUL G. ZWYNENBURG,
29 Individually and as Administrator of the Estate of MARK J.
30 ZWYNENBURG, deceased, DIANE APFELBAUM,
31 Individually and as Executrix of the Estate of MARTIN
32 APFELBAUM, deceased, JOHN BOLAND, Individually
33 and as Co-Administrator of the Estate of STEPHEN J.
34 BOLAND, deceased, JANE BOLAND, Individually and as
35 Co-Administrator of the Estate of STEPHEN J. BOLAND,
36 deceased, GERALDINE G. BUSER, Individually and as
37 Executrix of the Estate of WARREN M. BUSER AND
38 MICHAEL J. BUSER, deceased, LEONARD
39 COLASANTI, Individually and as Co-Administrator of the
40 Estate of GARY LEONARD COLASANTI, deceased,
41 JOANNE COLASANTI, Individually and as Co-
42 Administrator of the Estate of GARY LEONARD
43 COLASANTI, deceased, MARGARET HUGHSTON,

1 Individually and as Surviving Spouse and as Representative
2 of the Estate of WILLIS LARRY COURSEY, deceased,
3 ROSIE LEE COURSEY, Individually and as Mother of
4 WILLIS LARRY COURSEY, deceased and as Executrix of
5 the Estate of WILLIS WASHINGTON COURSEY, POST-
6 deceased FATHER OF WILLIS LARRY COURSEY,
7 deceased, SUSAN E. WALKER-NAGLE, Individually and
8 as Executrix of the Estate of THOMAS E. WALKER,
9 deceased, TORE CARLSSON, Individually and as
10 Executor of the Estate of BERNT CARLSSON, deceased,
11 EILEEN CARRIER, Individually and as Executrix of the
12 Estate of DANIEL O`CONNOR, deceased, JUDITH
13 PAPADOPOLOS, Individually and as Executrix of the
14 Estate of CHRISTOPHER PAPADOPOLOS, deceased,
15 OLLIE WOODS, Individually, EVERETT WOODS,
16 Individually, HELENA WILLIAMS, Individually and as
17 Co-Administrator of the Estate of GEORGE W.
18 WILLIAMS, deceased, WILLIAM H. JOHNSON,
19 Individually and as Administrator Ad Prosequendum of the
20 Estate of TIMOTHY BARON JOHNSON, deceased,
21 FLORENTINA S. CAMANAG, Individually and as
22 Administratrix and Surviving Sister of LILIBETH
23 MACALOLOOY, deceased, ANDREW R. DIAMOND,
24 LELIA COLEMAN, as Administratrix of the Estate of
25 LAWANNA THOMAS, deceased, EUGENE COLEMAN,
26 as Administrator of the Estate of JONATHAN THOMAS
27 deceased, EDGAR H. EGGLESTON, Individually and as
28 Administrator of the Estate of EDGAR H. EGGLESTON,
29 III, BARBARA W. LIBERMAN, Individually and as
30 Administratrix of the Estate of DANIEL P. ROSENTHAL,
31 deceased, PETER FRANKE, Individually and as
32 Administrator of the Estate of MARIA TERESIA
33 FRANKE, deceased, LARRY GIBSON, Individually and as
34 Administrator of the Estate of KENNETH GIBSON,
35 deceased, JEANNE P. HERRING, Individually and as
36 Administratrix of the Estate of MARY DENICE O`NEILL,
37 deceased, LEONARD T. RENCEVICZ, Individually and as
38 Administrator of the Estate of DIANE M. RENCEVICZ,
39 deceased, JANOS ROLLER, Individually and as a Personal
40 Representative of the Estate of JANOS GABOR ROLLER,
41 ZXUZANNA ROLLER AND EDINA ROLLER, deceased,
42 PATRICIA J.S. SIMPSON, Individually and as Executrix
43 of the Estate of MARTIN B.C. SIMPSON, deceased,

1 KEVIN WILSON, Individually and as a Personal
2 Representative of the Estate of TERESA SAUNDERS,
3 deceased, JOHN C. CAWLEY, Individually and as
4 Administrator of the Estate of RICHARD ANTHONY
5 CAWLEY, deceased, PATRICK FOLEY, Individually and
6 as Administrator of the Estate of WILLIAM J.
7 MACKINNON MACALLISTER, deceased, NICHOLAI
8 KOURILLO, Individually and as Administrator of the
9 Estate of ANDRE GUEVORGUIAN, deceased, JANET E.
10 MACQUARRIE, CURT SVENSSON, Individually and as
11 a Personal Representative of the Estate of INGRID
12 ELISABETH SVENSSON-MULROY, deceased, AND
13 BRITT SVENSSON, Individually and as a Personal
14 Representative of the Estate of INGRID ELISABETH
15 SVENSSON-MULROY, deceased,

16
17 *Plaintiffs,*

18
19 JAMES MULROY, MARY DIAMOND, GWENNTH
20 FORDE, VICTORIA PORTER, OLGA HUSBANDS,
21 VERNON DRUSES and RANDOLPH PORTER,

22
23 *Movants-Appellants,*

24
25 ALAN P. RAMSEY, Court Appointed Receiver for
26 plaintiff BERNADETTE MARY CONCANNON,
27 surviving daughter of BRIDGETT CONCANNON, the
28 person appt'd Personal Rep. of her decedent's Estate and on
29 whose behalf & benefit Receiver acts with Speiser, Krause,
30 Nolan and Granito,

31
32 *Nominal-Plaintiff-Appellant,*

33
34 v.

No. 04-3264, 04-3601, 04-3893,
04-3894, 05-0148

35
36
37 SIOBHAN D. MULROY, individually and as Executrix of
38 the Estate of John Mulroy, deceased, MOLENA A.
39 PORTER, individually and as Administratrix of the Estate
40 of WALTER L. PORTER, deceased and BERNADETTE
41 MARY CONCANNON, Individually and as Personal
42 Representative of the Estate of BRIDGET CONCANNON,
43 deceased, and on behalf of the beneficiaries, survivors and

1 family members of BRIDGET CONCANNON, deceased,

2
3 *Plaintiffs-Appellees,*

4
5 ABDEL BASSET ALI AL-MEGRAHI, also known as
6 Abdel Baset Ali Mohamed, also known as Abdel Baset Ali
7 Mohamed Al Megrahi, also known as Baset,

8
9 *Defendant-Appellee-Cross-Appellant,*

10
11 SOCIALIST PEOPLE’S LIBYAN ARAB JAMAHIRIYA,
12 LIBYAN ARAB AIRLINES, also known as
13 JAMAHIRIYA SECURITY ORGANIZATION, also
14 known as JSO, and LAMEN KHALIFA FHIMA, also
15 known as LAMIN, also known as A AL AMIN KHALIFA
16 FHIMA,

17
18 *Defendants.*

19
20
21
22

23

24 For Movant-Appellants:	RICHARD D. EMERY, Emery Celli Brinckerhoff & Abady LLP, New York, NY (Sarah Netburn and Jonathan S. Abady, <i>on the brief</i>).
---------------------------	--

25 For Nominal-Plaintiff-Appellant:	FRANK H. GRANITO, Jr., Speiser Krause Nolan & Granito, New York, NY (Frank H. Granito III and Jeanne M. O’Grady, <i>on the brief</i>).
-------------------------------------	--

26 For Plaintiffs-Appellees:	STEVEN R. POUNIAN, Kreindler & Kreindler, New York, NY (James P. Kreindler and Brendan S. Maher, <i>on the brief</i>).
------------------------------	--

27

1 For Defendant-Appellee-Cross-Appellant:

FRANCIS X. KELLY, Mattioni,
Ltd., Philadelphia, PA (Dante
Mattioni and Paul A. Kettunen, *on
the brief*).

2
3 Appeal from the United States District Court for the Eastern District of New York (Platt, *J.*).
4

5
6 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND**
7 **DECREED** that the judgment of the District Court be and it hereby is **AFFIRMED**.
8

9
10 James Mulroy, Mary Diamond, Gwennth Forde, Victoria Porter, Olga Husbands, Vernon
11 Druses, and Randolph Porter (“the Objectors”) appeal from the district court’s dismissal of their
12 objections to the distribution of funds to be made pursuant to a settlement of claims that arise
13 from the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland. Bernadette Mary
14 Concannon (“Concannon”), whose receipt of a distribution from the settlement was contested by
15 the Objectors, cross-appeals from an order of the district court which stayed the release of
16 settlement funds to her, pending the Objectors’ appeal. Abdul Basset Ali Al-Megrahi (“Al-
17 Megrahi”) cross-appeals from the district court’s denial of a motion to dismiss the Objectors’
18 claims against himself, other Libyan organizations and individuals, and the state of Libya (“the
19 Libyan defendants”).

20 We assume familiarity with the facts, the procedural history, and the issues on appeal.

21 The Objectors are relatives of persons killed on Pan Am Flight 103 (“Flight 103
22 victims”), but they are not wrongful death beneficiaries under applicable state law. The
23 Objectors had brought claims for damages against the Libyan defendants under, *inter alia*, the

1 Flatow Amendment, 28 U.S.C. § 1605 (note), and their lawsuit was consolidated with other
2 Flight 103 suits and was stayed while the settlement was being negotiated. For substantially the
3 reasons given by the district court, we conclude that the Objectors’ claims are not included in the
4 settlement with the Libyan defendants, and that therefore the Objectors are not entitled to receive
5 a distribution from the settlement funds. That settlement was concluded by personal estate
6 representatives of Flight 103 victims and was, in its terms, for the benefit of the state law
7 wrongful death beneficiaries of those victims. Any possible claims the Objectors might have
8 against the Libyan defendants—whether arising under the Flatow Amendment or in any other
9 way than under a wrongful death statute—must be brought separately.

10 Because our holding means that distribution can be made forthwith, Concannon’s appeal
11 from the stay of distribution is moot and denied as such, and we need not consider whether we
12 have jurisdiction to hear her appeal. She should shortly receive the distribution to which she is
13 entitled.

14 Finally, Al-Megrahi appeals from the denial of a Rule 12(b)(6) motion seeking to dismiss
15 the claims the Objectors brought against him. Because they are not final orders within the
16 meaning of 28 U.S.C. § 1291, denials of Rule 12(b)(6) motions are not appealable. *See*
17 *Kamerling v. Massanari*, 295 F.3d 206, 213 (2d Cir. 2002) (“A judgment is not considered final
18 unless it disposes of all claims against all parties and ends the litigation on the merit[s]”
19 (quoting *Catlin v. United States*, 324 U.S. 229, 233 (1945) (internal quotation mark omitted)).
20 The fact that this 12(b)(6) motion was denied because those who brought it—wrongful death
21 beneficiaries of Flight 103 victims—were not parties to the Objectors’ suit against the Libyan
22 defendants, and thus lacked standing to seek dismissal, does not make the denial any more

1 appealable than if it had been brought by parties with standing. Al-Megrahi may himself bring
2 such a motion in the district court that has jurisdiction over the Objectors' lawsuit. He claims to
3 have brought such a motion in November 2003, but if he did so, the district court has not acted
4 on it. And that matter is not before this Court in any way, shape, or form.

5 Accordingly, the decision of the district court is AFFIRMED as to the Objectors' claim;
6 Concannon's appeal is DISMISSED as moot; and Al-Megrahi's appeal is DISMISSED as
7 impermissibly interlocutory. We grant costs to the appellees and Concannon, not, however,
8 including any alleged damages caused by devaluation of the U.S. dollar.

9

10

11

12

13

14

15

For the Court,
ROSEANN B. MACKECHNIE,
Clerk of the Court

by: _____