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Attorneys for Plaintiffs, American Airlines Flow-Thru
Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
Doug Poulton, Stephan Robson and Philip Valente III

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN AIRLINES FLOW-
THRU PILOTS COALITION,
GREGORY R. CORDES, DRU
MARQUARDT, DOUG POULTON,
STEPHAN ROBSON and PHILIP
VALENTE III, on behalf of
themselves and all others similarly
situated

Plaintiff,

v.

ALLIED PILOTS ASSOCIATION
and AMERICAN AIRLINES, INC.
Defendants.

Case No.: 3:15-cv-03125 RS
[Assigned to Judge Richard Seeborg]

PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR A STAY AND
FOR AN OSC RE ADEQUACY OF
CLASS COUNSEL;
MEMORANDUM OF POINTS AND
AUTHORITIES

DATE: February 21, 2019
TIME: 1:30 p.m.
CTRM: 3. 17th Floor

1 TO ALL PARTIES AND THEIR ATTORNEY(S) OF RECORD:

2 PLEASE TAKE NOTICE THAT at 1:30 p.m. on February 21, 2019, or as
3
4 soon thereafter as the matter may be heard, in Courtroom 3 on the 17th floor of
5 the United States District Court for the Northern District of California at 450
6 Golden Gate Avenue, San Francisco, California, 94102, Plaintiffs, American
7 Airlines Flow-Thru Pilots Coalition, Gregory R. Cordes, Dru Marquardt, Doug
8 Poulton, Stephan Robson and Philip Valente III will and hereby do move this
9 Court for an order (1) staying the case; (2) issuing an Order to Show Cause to
10 class counsel re adequacy of representation; and (3) vacating all existing dates
11 and deadlines *nunc pro tunc*. This motion is made under the Court's inherent
12 authority to supervise class counsel and on the grounds that such action is
13 required in order to protect the interests of the class following class counsel's
14 effective abandonment of the case, pursuant to Northern District of California
15 Civil Local Rules 7-2 and 7-4, and pursuant to a stipulated Order shortening time
16 and setting a briefing schedule (Docket No. 151).

17 This Motion is based on this Notice of Motion and Motion, the
18 accompanying Memorandum of Points and Authorities; the supporting evidence
19 cited in the Memorandum (including but not limited to the Declarations of
20 Gregory Cordes, Gavin Mackenzie, Artemas Keitt ("Kit") Darby, Timothy
21 McGonigle, George Braunstein and John L. Gavello), any reply papers that the
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1 Plaintiffs may file; all of the Court's pleadings and papers on file in this matter;
2 and upon such further evidence and argument as may be presented at or before
3 the hearing of this motion.
4

5 Dated: February 4, 2019

6 TIMOTHY D. MCGONIGLE PROF. CORP.
7

8 By: /s/ Timothy D. McGonigle
9 Timothy D. McGonigle
10

11 BRAUNSTEIN & BRAUNSTEIN, P.C.
12

13 By: /s/ George Braunstein
14 George Braunstein
15

16 Attorneys for Plaintiffs, American Airlines Flow-Thru
17 Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
18 Doug Poulton, Stephan Robson and Philip Valente II
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND PROCEDURAL BACKGROUND

The named plaintiffs in this class action are five individual pilots and an association of more than 150 similarly-situated pilots who were employed by an airline named “American Eagle”—a collective name for several affiliates of American Airlines (“AA”). In 1997, American Eagle pilots became eligible to become pilots at AA by virtue of a so-called “Flow-Thru Agreement.” Plaintiffs contend that defendant Allied Pilots Association discriminated against them.

On June 16, 2016 this Court issued an Order granting summary judgment as to certain claims with respect to the named plaintiffs (only), but also granting class certification as to the remaining claim arising from the negotiation of so-called “Letter G” as part of a collective bargaining agreement made in 2015. See Docket No. 67. From the outset of this case, the named plaintiffs (and upon certification, the class) have been represented by attorney Christopher W. Katzenbach, Esq. (“Katzenbach”). On November 3, 2016, this Court issued a Case Management Scheduling Order (Docket No. 85) setting various deadlines, including the following expert deadlines:

- a. On or before January 30, 2018, parties will designate experts in accordance with Federal Rule of Civil Procedure 26(a)(2).
- b. On or before March 1, 2018, parties will designate their supplemental and rebuttal experts in accordance with Federal Rule of Civil Procedure 26(a)(2).

1 c. On or before April 15, 2018, all discovery of expert witnesses
 2 pursuant to Federal Rule of Civil Procedure 26(b)(4) shall be
 3 completed.

4 **II. THE ATTORNEY-CLIENT RELATIONSHIP HAS ENTIRELY**
 5 **BROKEN DOWN**

6 In part because Katzenbach ceased regularly communicating with them,
 7 and in part because it became apparent that he may have missed some court
 8 deadlines, Plaintiff Gregory Cordes (“Cordes”) and Gavin Mackenzie¹
 9 (“Mackenzie”) became concerned about Katzenbach’s ongoing ability to handle
 10 the case in 2018. Cordes Dec. at ¶14. (Cordes has been consistently one of the
 11 most active and involved of the named plaintiffs -- including submitting a twenty
 12 page declaration in opposition to Defendant’s Motion for Summary Judgment in
 13 2016 - see Docket No. 56.)

14 One of the earliest trouble signs occurred on June 14, 2018, when
 15 Defendant Allied Pilots Association had to file a **unilateral** Case Management
 16 Statement (Docket No. 133) -- in lieu of a joint statement -- after Katzenbach
 17 failed to respond to “multiple voicemails” and “multiple emails” from defense
 18 counsel for a prolonged period. See Docket No. 133.

19 On August 2, 2018, this Court held a telephonic Case Management

20 ¹ Mackenzie is a former American Eagle pilot and president of named plaintiff,
 21 American Airlines Flow-Thru Pilots Coalition. Mackenzie Dec. at ¶¶2-3.

1 Conference, and set trial for April 29, 2019. See Docket No. 145. That day
2 (August 2, 2018) was also the last time that Cordes (or, to his knowledge, any of
3 the other named plaintiffs) managed to have *any* substantive communication with
4 Katzenbach. Cordes Dec. at ¶12. Subsequent to that time both Cordes and
5 Mackenzie have repeatedly tried to reach Katzenbach both by telephone and
6 email to discuss the case but have not been successful at having any substantive
7 communication with him. Cordes Decl. at ¶16; Mackenzie Decl. at ¶¶7-9. On the
8 few occasions when plaintiffs managed to get through to Katzenbach on the
9 telephone in late 2018, Katzenbach was either unable or unwilling to
10 communicate any substantive information about the case. Mackenzie Dec. at ¶¶
11 7-8. There has been a complete breakdown of the attorney-client relationship
12 with the named plaintiffs. Cordes Decl. at ¶18; Mackenzie Decl. at ¶9.

13 In late December 2018, the named plaintiffs, starting with Cordes and
14 Mackenzie, engaged new counsel to attempt to communicate with Katzenbach:
15 George Braunstein, Clark Braunstein, and Timothy McGonigle. Mackenzie Decl.
16 at ¶10. Mssrs. Braunstein and McGonigle also attempted to communicate with
17 Katzenbach without any response. McGonigle Decl. at ¶¶3-5.

18 Finally, on January 15, 2019, McGonigle reported Katzenbach's failure to
19 communicate to the State Bar of California and requested its assistance in
20 obtaining the client file. McGonigle Decl. at Ex. A. But Katzenbach persisted in
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1 avoiding any and all attempts to communicate. McGonigle Decl. at ¶5.

2 In fact, Mr. Katzenbach is known to still be alive only because Plaintiff's
3 investigator located him at his office on January 22, 2019. Gavello Decl. at ¶¶2-
4 3. At that time, Katzenbach verbally promised that he would telephone Cordes
5 "later today," admitted to devoting much of his time to personal issues, and
6 appeared visibly fatigued. *Id.* But, even thereafter, Katzenbach has *still* not
7 communicated with Cordes, or Plaintiffs' new counsel. Cordes Decl. at ¶18;
8 Braunstein Decl. at ¶3 & ¶6; McGonigle Decl. at ¶5.

9 The named plaintiffs are now informed and believe that Katzenbach failed
10 to retain designate an expert on their behalf (or on behalf of the class), though
11 they had expected him to do so. Cordes Decl. at ¶18; Darby Decl. at ¶¶13-17.
12 In short, this case is nowhere near trial-ready, but trial is set for April 2019.

13 14 15 16 17 18 **III. PLAINTIFFS' ASSOCIATION OF NEW COUNSEL AND NEW** 19 **COUNSEL'S TELECONFERENCE WITH THE MEDIATOR AND** 20 **DEFENSE COUNSEL**

21 Because of the breakdown of the attorney-client relationship between the
22 named plaintiffs and Katzenbach, and the apparent need for relief from the Court
23 to protect *both* the named plaintiffs and the absent class members, the named
24 plaintiffs brought on attorneys Braunstein and McGonigle as their new counsel
25 who, in turn, reached out to defense counsel, and then filed a Notice of
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1 Association of Counsel on January 23, 2019, without the assistance or
 2 involvement of Katzenbach, who has steadfastly continued to “play possum.”
 3

4 On January 23, 2019, George Braunstein participated in a conference call
 5 with counsel for defendants (Mssrs. Hoffman and Demain), and Judith Keyes,
 6 Esq. (the judicially-appointed mediator) to apprise them of the situation with
 7 Katzenbach. Braunstein Decl. at ¶5. Mr. Katzenbach did not participate. *Id.*
 8 Ms. Keyes indicated that the mediation would not proceed until the issue of
 9 Katzenbach’s representation is addressed with the Court, and that she would
 10 apprise the Court. *Id.* The parties thereafter agreed to a briefing schedule for
 11 the present motion, which was formalized in a stipulation filed with this Court on
 12 January 30, 2019. (Docket No. 151).
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16 **IV. ARGUMENT**

17 **A. Katzenbach’s Apparent Abandonment Of The Case Has Raised A** 18 **Serious Question As To The Adequacy Of Class Counsel** 19

20
 21 F.R.C.P. Rule 23(g) (4) provides that “[c]lass counsel must fairly and
 22 adequately represent the interests of the class.” Once the class is certified (as it
 23 was here), “an attorney acting as class counsel represents all class members
 24 (including unnamed members).” Vapnek & Weiner, *California Practice Guide:*
 25 *Professional Responsibility* (The Rutter Group 2018) Ch. 3-C ¶3:131.20 (citing
 26
 27
 28

1 *In re Agent Orange Prod. Liab. Litig.* (2nd Cir. 1986) 800 F.2d 14, 18—class
2 attorney is guardian of the class and owes fiduciary duty to each member.
3

4 At an absolute minimum, because of the breakdown of the attorney-client
5 relationship and complete lack of substantive communications since the summer
6 of 2018, Katzenbach is not currently adequately representing the class. Of
7 course, attorneys are ethically required to communicate significant developments
8 to their clients and to reasonably consult with clients about the means by which to
9 accomplish the clients' objectives. *See* Cal. Rules of Prof. Resp. Rule 1.4. "A
10 lawyer's failure to adequately communicate with a client may constitute
11 incompetent representation resulting in State Bar discipline and malpractice
12 liability." Vapnek & Weiner, *California Practice Guide: Professional*
13 *Responsibility* (The Rutter Group 2018) Ch. 3-E ¶3:195 (citing *Calvert v. State*
14 *Bar* (1991) 54 Cal. 3d 765, 782, 1 Cal. Rptr. 2d 684, 693 (adequate
15 communication with client is integral part of attorney's job). Here, Katzenbach
16 has failed in those ethical obligations, at the very least.
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21 "[W]hen 'class counsel have demonstrated a lack of integrity' through
22 misconduct and unethical action, 'a court can have no confidence that they will
23 act as conscientious fiduciaries of the class.'" *Reliable Money Order, Inc. v.*
24 *McKnight Sales Co.* (7th Cir. 2013) 704 F.3d 489, 495 (citation omitted).
25
26

27 A lawyer representing a class clearly owes class
28

1 members the competence and diligence ordinarily due
 2 to clients. He or she must not neglect the action,
 3 proceed without competence or preparation, fail to seek
 4 the class' lawful objectives through reasonably
 5 available and lawful means, or prejudice or damage
 6 class members.²

7 It has become only too apparent that, at a minimum, other counsel should
 8 be permitted to associate with Katzenbach as co-counsel in order to ensure the
 9 class is adequately represented and to protect the rights of all class members,
 10 subject to approval of the Court.

11 The district court has a continuing supervisory duty
 12 over class counsel while the class is still open.
 13 (Citation) **Thus, the district court must constantly**
 14 **scrutinize class counsel to determine if counsel is**
 15 **adequately protecting the interests of the class.** *North*
 16 *Am. Acceptance Corp. Sec. Cases v. Arnall, Golden &*
 17 *Gregory*, 593 F.2d 642, 645 (5th Cir.), cert. denied, 444
 18 U.S. 956, 62 L. Ed. 2d 328, 100 S. Ct. 436 (1979).
 19 Accordingly, the district court has the duty and
 20 authority to enter appropriate orders governing the
 21 conduct of class counsel and the parties. *Gulf Oil Co. v.*
 22 *Bernard*, 452 U.S. 89, 100, 68 L. Ed. 2d 693, 101 S. Ct.
 23 2193 (1981).

24 *McNeil v. Guthrie* (10th Cir. 1991) 945 F.2d 1163, 1166-1167 (emphasis added).

25 This case is still open and it is respectfully submitted that this Court should

26 ² "Lawyers in Class Actions," Formal Opinion, New York City Bar 2004-01,
 27 downloaded on January 25, 2019 from <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/formal-opinion-2004-01-lawyers-in-class-actions>.

1 exercise its continuing supervisory duty over Mr. Katzenbach as class counsel by
2 issuing an OSC re whether he is adequately protecting the interests of the class.
3
4 Perhaps Mr. Katzenbach *has* been diligently working, has met every deadline,
5 and has only failed to communicate with the named plaintiffs -- while the lack of
6 communication would itself be problematic, it is also possible that his lapses have
7
8 been far more serious and involve missing important deadlines and then failing to
9 seek relief thereafter and concealing critical information from his clients. In
10 either case, Mr. Katzenbach should be called upon to appear before this Court to
11 provide an explanation for his lack of communication and a status report on the
12 current status of his case preparation and trial readiness.
13

14 **B. A Temporary Stay Should Issue**

15 As a general matter, this Court “has broad discretion to stay proceedings as
16 an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S.
17 681, 706 (1997). “[A] stay operates upon the judicial proceeding . . . either by
18 halting or postponing some portion of the proceeding, or by temporarily divesting
19 an order of enforceability.” *Nken v. Holder* (2009) 556 U.S. 418, 428, 129 S.Ct.
20 1749, 1758, 173 L.Ed.2d 550, 562. The power of a court to stay proceedings is a
21 “customary” one which is “an exercise of judicial discretion.” *Id.*, 556 U.S. 418,
22 433, 129 S.Ct. 1749, 1760, 173 L.Ed.2d 550, 565. (citation omitted). Normally
23 four factors are considered in whether to grant a stay:
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(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

Id., 556 U.S. 418, 433-434, 129 S.Ct. 1749, 1760-1761, 173 L.Ed.2d 550, 565-566 (citations and internal quotation marks omitted).

Here, all four factors support issuance of a stay order:

(1) Plaintiffs' remaining claim has already withstood summary judgment and there is therefore a strong possibility that they are likely to succeed.

(2) Plaintiffs will be irreparably injured absent a stay as they are currently inadequately represented by a lawyer who refuses all communication with them, as a consequence, both their interests, and the interests of the absent class members, are at grave risk.³

(3) There appears to be no prejudice to defendants to issuance of a stay, besides that prejudice that is inherent to any stay.

³ In the criminal context, such a breakdown in communication between defendant and his counsel constituted a "serious conflict" giving rise to a presumption of prejudice (*Daniels v. Woodford* (9th Cir. 2005) 428 F.3d 1181, 1199-1200), and there is no reason to think the current context would require a different result where it was *the lawyer* who refused to communicate with the client.

1 (4) The public interest plainly supports the issuance of a stay, where only
2 such relief can possibly protect the interests of all of the class members, named
3 and absent.
4

5
6 **C. Absent Class Members Must Be Protected Under Any Scenario**

7 Because of the Court's continuing obligation to supervise class counsel and
8 to protect absent class members (due process *requires* that the interests of absent
9 class members are adequately represented -- *Phillips Petroleum Co. v. Shutts*
10 (1985) 472 U.S. 797, 812 , 105 S.Ct. 2965, 2974, 86 L.Ed.2d 628, 642), should it
11 be determined that Katzenbach missed any important deadlines (such as the
12 deadline to designate an expert), it is respectfully submitted that an order should
13 also issue vacating any such deadlines *nunc pro tunc* so that this matter can be
14 fairly heard on the merits in accordance with due process. In addition, it is
15 apparent that the trial date should be vacated.
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20 **V. CONCLUSION**

21 For all of the above-stated reasons, it is respectfully submitted that this
22 Court (1) stay these proceedings; (2) issue an OSC to class counsel regarding the
23 adequacy of representation issues raised in this Motion; and (3) vacate all dates
24 and deadlines *nunc pro tunc*.
25

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//

DATED: January 28, 2019

TIMOTHY D. MCGONIGLE PROF. CORP.

By: /s/ Timothy D. McGonigle
Timothy D. McGonigle

BRAUNSTEIN & BRAUNSTEIN, P.C.

By: /s/ George Braunstein
George Braunstein

Attorneys for Plaintiffs, American Airlines Flow-Thru
Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
Doug Poulton, Stephan Robson and Philip Valente III

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Attorneys for Plaintiffs, American Airlines Flow-Thru
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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN AIRLINES FLOW-
 THRU PILOTS COALITION,
 GREGORY R. CORDES, DRU
 MARQUARDT, DOUG POULTON,
 STEPHAN ROBSON and PHILIP
 VALENTE III, on behalf of themselves
 and all others similarly situated
 Plaintiff,

v.

ALLIED PILOTS ASSOCIATION and
 AMERICAN AIRLINES, INC.
 Defendants.

Case No.: 3:15-cv-03125 RS
 [Assigned to Judge Richard Seeborg]

DECLARATION OF TIMOTHY
 MCGONIGLE IN SUPPORT OF
 MOTION TO STAY ETC.

DATE: February 21, 2019
 TIME: 1:30 p.m.
 CTRM: 3. 17th Floor

DECLARATION OF TIMOTHY MCGONIGLE

I, TIMOTHY MCGONIGLE, declare under penalty of perjury:

1. I am an attorney for Plaintiffs American Airlines Flow-Thru Pilots Coalition, Gregory R. Cordes, Dru Marquardt, Doug Poulton, Stephan Robson and Philip Valente III in this action. I am an attorney at law duly licensed to practice before this Court and all of the courts of the State of California. I am submitting this declaration in support of plaintiffs' Motion to Stay and for the issuance of an Order to Show Cause re adequacy of Class Counsel. The following facts are known personally to me. If called as a witness, I could and would competently testify to the truth thereof under oath.

2. I have learned facts that have caused me to seriously question the adequacy of Christopher W. Katzenbach, Esq. ("Katzenbach") to continue to serve as sole Class Counsel in this action and believe that Katzenbach should be required to respond to an Order to Show Cause regarding his current adequacy to represent the class by himself.

3. In particular, Katzenbach has been incommunicado for an extended period of time. He has failed to respond to multiple inquiries from named plaintiff Gregory R. Cordes ("Cordes") and from Gavin MacKenzie ("MacKenzie") the president of plaintiff unincorporated association American

1 Airlines Flow-Thru Pilots Coalition, and he has failed to respond to multiple
2 telephonic and written inquiries that I have made on behalf of Cordes and
3 MacKenzie.
4

5 4. Because he refused to respond to any of our repeated inquiries, I
6 caused a letter to be sent to the State Bar of California on or about January 15,
7 2019. A true and correct copy of that letter is attached hereto as Exhibit "A"
8 (without exhibits which contain privileged material).
9

10 5. Mr. Katzenbach was copied on the letter I sent to the State Bar but
11 has utterly failed to respond to my office and, to the best of my information and
12 belief, has not responded to anyone with respect to the state bar inquiry or with
13 respect to the case.
14
15

16 6. The only exception occurred when Cordes dispatched a private
17 investigator to Katzenbach's office on January 22, 2019. At that time,
18 Katzenbach promises the investigator that he would telephone Cordes following
19 the private investigator's visit, but Katzenbach thereafter failed to do so.
20

21 7. On January 14, 2019, I spoke with Mr. Kit Darby, the aviation
22 industry damages expert who the clients believed would be retained for purposes
23 of providing expert testimony in this action. Mr. Darby had not been retained by
24 Mr. Katzenbach as of that point, and in fact, was not retained on behalf of
25 plaintiffs until I caused a check to be sent to him retaining his services. I am
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informed and believe that Mr. Katzenbach failed to designate any expert prior to the court-ordered deadline for expert designation and has thereby damaged the interests of the class.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct to the best of my knowledge and belief.

Dated this February 4, 2019 at Los Angeles, California.

A handwritten signature in black ink, appearing to read "Tim. McGonigle".

By: _____
Timothy D. McGonigle

EXHIBIT A

LAW OFFICES

Timothy D. McGonigle

A Professional Corporation

1880 Century Park East, Suite 516
Los Angeles, CA 90067
Telephone (310) 478-7110
Facsimile (888) 266-9410

January 15, 2019

Via Federal Express

Assistance with obtaining client file
State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: Assistance with obtaining client file and communication with Attorney, Chris Katzenbach:

Attorney Name and Information:
Chris Katzenbach, Esq. (State Bar No. 108006)
Katzenbach Law Offices
912 Lootens Place, #2
San Rafael, CA 94901-3110
Telephone No. 415-834-1778

Case Name: *American Airlines Flow-Through Pilots Coalition v. Allied Pilots Association, et al.*; Case No. 15-cv-03125, et al.

To Whom It May Concern:

I have been retained by Class Representatives Greg Cordes and Gavin MacKenzie, to assist them in connection with the above matter.

The clients have advised me that they have been unable to reach their counsel for an extended period of time in the above referenced case, Chris Katzenbach, except for a short telephone call in early December where he could only be described as incoherent. I have followed up with Mr. Katzenbach and attempted to contact him on various occasions to request that he contact his clients and advise them of the status of the cases. I attach my correspondence with Mr. Katzenbach.

Mr. Katzenbach has not responded to me or the clients.

LAW OFFICES
Timothy D. McGonigle APC

State Bar of California
January 15, 2019

The Clients understand that a trial date of April 29, 2019, has been set with the court. Some months ago the Clients spoke to Mr. Katzenbach regarding retaining an expert on damages, Mr. Kit Darby.

The Clients and I spoke to Mr. Darby yesterday and he advised us that he had some preliminary discussions with Mr. Katzenbach early on in the cases but he did not hear from Mr. Katzenbach since that time. Mr. Darby confirmed that he has not been retained as an expert. Unless the court ordered otherwise, an expert report will be due on January 29, 2019.

The Clients are very concerned that Mr. Katzenbach has abandoned the cases and prejudiced the Clients. I sent him the attached fax and requested that Mr. Katzenbach respond to us and make his file available to us in order to determine what work has been done on the cases and what work needs to be done.

We have received no response from Mr. Katzenbach.

I respectfully ask for the State Bar's assistance in permitting the Clients to obtain their file from Mr. Katzenbach as well as communicating with Mr. Katzenbach.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tim McGonigle", with a stylized, cursive script.

Timothy McGonigle

TDM:si

Enclosures

cc: Greg Cordes, Gavin MacKenzie
Chris Katzenbach, Esq.
George Braunstein, Esq.

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Attorneys for Plaintiffs, American Airlines Flow-Thru
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**UNITED STATES DISTRICT COURT
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 THRU PILOTS COALITION,
 GREGORY R. CORDES, DRU
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DECLARATION OF GEORGE G.
 BRAUNSTEIN IN SUPPORT OF
 PLAINTIFF'S MOTION TO STAY
 ETC.

DATE: February 21, 2019
 TIME: 1:30 p.m.
 CTRM: 3. 17th Floor

DECLARATION OF GEORGE G. BRAUNSTEIN

I, GEORGE G. BRAUNSTEIN, declare under penalty of perjury:

1. I am an attorney for Plaintiffs American Airlines Flow-Thru Pilots Coalition, Gregory R. Cordes, Dru Marquardt, Doug Poulton, Stephan Robson and Philip Valente III in this action. I am an attorney at law duly licensed to practice before this Court and all of the courts of the State of California. I am submitting this declaration in support of Plaintiffs' Motion to Stay and for the issuance of an Order to Show Cause regarding the adequacy of Class Counsel. The following facts are known personally to me. If called as a witness, I could and would competently testify to the truth thereof under oath.

2. I have learned facts that have caused me to confirm the abandonment of Plaintiffs by their attorney Christopher W. Katzenbach, Esq. ("Katzenbach"). I believe that Mr. Katzenbach should be required to respond to an Order to Show Cause regarding his current adequacy to represent the class by himself as it appears from everything that I have reviewed that he has abandoned the Plaintiffs.

3. In particular, Mr. Katzenbach has been incommunicado for an extended period of time. He has failed to respond to multiple inquiries from named plaintiff Gregory R. Cordes ("Cordes") and from Gavin MacKenzie ("MacKenzie") the president of plaintiff American Airlines Flow-Thru Pilots Coalition, and he has failed to respond to multiple telephonic and written

1 inquiries that I have made with Timothy McGonigle on behalf of Cordes and
2 MacKenzie.

3
4 4. Because he refused to respond to any of Timothy McGonigle's and
5 my repeated inquiries, I, with Timothy McGonigle, caused a letter to be sent to
6 the State Bar of California regarding his apparent abandonment of the case on or
7 about January 15, 2019.

8
9 5. On January 23, 2019 a Court Ordered conference call took place
10 with Judith Keyes, Esq. I participated on that conference call, along with Jeffrey
11 Demain, Esq., and Steven Hoffman, Esq., counsel for defendant. Although Mr.
12 Katzenbach was also given notice of the court ordered mediation conference call,
13 he failed to join or participate in the conference call. I advised the mediator, Ms.
14 Keyes, Mr. Demain, and Mr. Hoffman of our numerous attempts to contact Mr.
15 Katzenbach without any success. At that time, Ms. Keyes indicated that it would
16 not be productive to continue with mediation until the issue of Mr. Katzenbach's
17 representation was addressed by the Court, and she indicated that she would so
18 inform this Court.

19
20 6. I advised all on the conference call that Plaintiff Cordes had retained
21 a private investigator who went to Mr. Katzenbach's office in San Rafael on
22 January 22, 2019, and interviewed him there. At that time, Mr. Katzenbach
23 promised the investigator that he would telephone Mr. Cordes following the
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1 private investigator's visit, but Mr. Katzenbach thereafter failed to do so and, as
2 of the time this declaration was executed, has still failed to contact either Mr.
3 Cordes, Mr. McGonigle, or myself.

4
5 7. On January 14, 2019, I spoke with Mr. Kit Darby, the aviation
6 industry damages expert whom the Plaintiffs believed would be retained for
7 purposes of providing expert testimony in this action. I am informed and believe
8 that Mr. Darby was never retained by Mr. Katzenbach. However, after realizing
9 that Mr. Katzenbach had apparently abandoned the case, Mr. Darby was, in
10 January 2019, retained directly by Plaintiffs (without Mr. Katzenbach's
11 assistance). (However, on information and belief, Mr. Darby will be unable to
12 analyze the plaintiffs' claims without obtaining certain necessary information that
13 has not been forthcoming from Mr. Katzenbach.) I am informed and believe that
14 Mr. Katzenbach failed to designate any expert prior to the court-ordered deadline
15 for expert designation and has thereby damaged the interests of the class.

16
17 I declare under penalty of perjury under the laws of the United States and
18 the State of California that the foregoing is true and correct to the best of my
19 knowledge and belief.

20
21 Dated this February 4, 2019 at Los Angeles, California.

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27 By: 
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George G. Braunstein

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 Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
 Doug Poulton, Stephan Robson and Philip Valente III

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN AIRLINES FLOW-
 THRU PILOTS COALITION,
 GREGORY R. CORDES, DRU
 MARQUARDT, DOUG POULTON,
 STEPHAN ROBSON and PHILIP
 VALENTE III, on behalf of themselves
 and all others similarly situated
 Plaintiff,

v.

ALLIED PILOTS ASSOCIATION and
 AMERICAN AIRLINES, INC.
 Defendants.

Case No.: 3:15-cv-03125 RS
 [Assigned to Judge Richard Seeborg]

DECLARATION OF GREGORY
 CORDES IN SUPPORT OF MOTION
 TO STAY ETC.

DATE: February 21, 2019
 TIME: 1:30 p.m.
 CTRM: 3. 17th Floor

DECLARATION OF GREGORY R. CORDES

I, GREGORY CORDES, hereby declare:

1. I am a Plaintiff in this action, and a representative for the Class. I am familiar with the facts and pleadings in this Matter. The following facts are known personally to me. If called as a witness, I could and would competently testify to the truth thereof under oath. I submit this declaration in support of Plaintiffs' Motion.
2. I am a pilot for American Airlines ("American"). Presently I am serving as a First Officer on a Boeing 777 aircraft. I am the Secretary of the American Airlines Flow-Thru Pilots Coalition ("AAFTPC"), and a Plaintiff in this action.
3. I first met Christopher W. Katzenbach, Esq. ("Katzenbach") in January of 2002, as he helped Gavin and I form the American Eagle Pilots Association ("AEPA") and drafted the bylaws for the organization.
4. From 2003 through 2014, we had various conversations regarding AEPA matters.
5. In September of 2014, we contacted Katzenbach to help represent the Flow Through Pilots (the "FTP"s) as it became apparent that the Allied Pilots Association (the "APA"), in keeping with past practice was preparing to give away the FTP'S American Eagle seniority rights in the Seniority List Integration (the "SLI") negotiations.
6. After over a year of the AAFTPC pleading with the APA Board of Directors to treat the American Eagle FTPs fairly with respect to the Length of Service (the "LOS") for the FTPs for service at American Eagle, in the same way the APA negotiated LOS Credits for other pilots who have transferred to American from other airlines it became clear that the APA was going to push

1 for LOS language that would clearly discriminate against the FTPs, causing
2 them to be the lowest paid pilots on the AA property. It also became clear that
3 despite the FTPs protests, that the APA had intentionally given away the FTPs
4 AA Seniority rights in the SLI proceedings, causing great harm to the
5 American Eagle FTPs.

6 7. Katzenbach then filed the initial complaint that included both LOS and SLI
7 issues. He was initially attentive to the case but we did come to realize that
8 most of his motions and filings would be completed and produced only shortly
9 before any deadline. When he did finally submit the filing, his work was
10 always excellent and well backed-up with pertinent case law citations. We
11 therefore became accustomed to him getting things done at the last minute, but
12 in the end, they would get done.

13 8. At the end of June 2016, Katzenbach confirmed to us that he had spoken with
14 Kit Darby, an airline pilot financial expert. He advised me that he had
15 discussed having Mr. Darby prepare damage calculations and about being an
16 expert witness. We agreed for Mr. Katzenbach to retain Kit Darby as our
17 expert witness at that time.

18 9. Katzenbach remained engaged and conversational through 2017, preparing
19 declarations, motions and responses, discussing the other SLI cases with us,
20 and helping us draft our Updates to the class members.

21 10. We met with Katzenbach on 10/23/2017 in San Francisco. We talked for
22 hours about the case and he assured us that all was on track, but that he had
23 been busy on other matters. After that through November and December he
24 was actively involved in all of the depositions and all of the work that
25 entailed.

26 11. In March 2018, Katzenbach did work on the APA Motion in Limine and sent
27 us a copy of it. Once again, it appeared that everything was "on track".
28

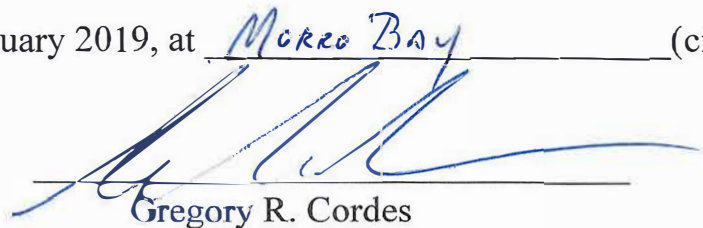
- 1 12. On August 2, 2018, I received an email from Katzenbach where he informed
2 us of the April 29, 2019 trial date. This was the last substantive
3 communication and email I received from Katzenbach.
- 4 13. During September and October of 2018, it became increasingly difficult to
5 reach him. He would not return our telephone calls or respond to our emails.
6 If we would get him on the phone, he would say that he was very busy, could
7 not speak with us, and that things were on track. We did not want to bother
8 him because he had mentioned to us and to the court that he had another trial
9 during that period. From our past experience with him it was also not unusual
10 for him to be tied up and difficult to reach at times.
- 11 14. We were growing very concerned by November 2018, as we could not get in
12 touch with him. On November 12, 2018, we reached Katzenbach on his cell
13 phone and he said he was too busy to speak then but agreed to a conference
14 call at a later date which he never would schedule.
- 15 15. In December it became apparent that something was horribly wrong as the
16 one time he did answer the phone on December 20, Gavin described him as
17 being incoherent and unable to answer basic questions about the case.
- 18 16. Since that time, despite multiple attempts, there has been no contact with
19 Katzenbach. We have been working on doing what is required legally to
20 salvage the cases in light of Katzenbach's disappearance.
- 21 17. I did not know that there was an expert damage report due prior to trial, and I
22 thought that damages would be calculated in the final stages of the case, if
23 and after we prevailed. We were relying on Katzenbach to keep us apprised
24 as to what needed to be done. The expert witness issue was never discussed
25 again, nor was the expert issue something that Mr. Katzenbach advised us
26 that needed to be dealt with or funded. On January 14, 2019, I spoke to Kit
27 Darby and learned that he had discussed the case with Katzenbach early on
28 but was never retained. This came as a surprise to me as I thought he had

1 been retained and was working on the case. Through Timothy McGonigle, I
 2 then requested that Mr. Katzenbach provide us with a copy of our file to
 3 determine what information had been obtained in discovery regarding the
 4 damage issues. Mr. Katzenbach did not respond to our request for the file.
 5 We have requested that the California State Bar assist us to obtain the file. In
 6 the meantime, I have retained Mr. Darby and have paid him his retainer.
 7 However, I do not have access to all of the information that he has requested
 8 and will need to review the file to determine if Katzenbach obtained that
 9 information. I have been unable to get the file.

10 18. I am concerned that Katzenbach has abandoned our case. We cannot reach
 11 him to have a substantive discussion about the case. It is my primary desire
 12 to protect the members of the class involved in this case and make sure that
 13 everything is being done to prosecute this case. Unfortunately, Mr.
 14 Katzenbach is now unresponsive to us and I am concerned about this case and
 15 need the court's help in getting the necessary information that we need to
 16 move the case forward.

17 I declare under the penalty of perjury under the laws of the State of
 18 California and the Laws of United States of America that the foregoing is
 19 true and correct.

20 Executed this 22 Day January 2019, at Mckee Bay (city),
 21 California.

22 
 23 Gregory R. Cordes

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN AIRLINES FLOW-
THRU PILOTS COALITION,
GREGORY R. CORDES, DRU
MARQUARDT, DOUG POULTON,
STEPHAN ROBSON and PHILIP
VALENTE III, on behalf of themselves
and all others similarly situated
Plaintiff,

v.

ALLIED PILOTS ASSOCIATION and
AMERICAN AIRLINES, INC.
Defendants.

Case No.: 3:15-cv-03125 RS
[Assigned to Judge Richard Seeborg]

DECLARATION OF GAVIN
MACKENZIE IN SUPPORT OF
MOTION TO STAY ETC.

DATE: February 21, 2019
TIME: 1:30 p.m.
CTRM: 3. 17th Floor

DECLARATION OF GAVIN MACKENZIE

I, GAVIN MACKENZIE, declare under penalty of perjury:

1. I submit this declaration in support of plaintiffs' Motion to Stay and for the issuance of an Order to Show Cause re adequacy of Class Counsel. The following facts are known personally to me, except to the extent otherwise indicated. If called as a witness, I could and would competently testify to the truth thereof under oath.

2. I am a former "American Eagle" pilot, now retired, who from the year 2000 until 2010 was a named pilot on the American Airlines Pilot System Seniority List until American Airlines and the Allied Pilots Association capriciously and arbitrarily removed my name from the Pilot System Seniority List without just cause.

3. I first met Christopher W. Katzenbach, Esq. ("Katzenbach") in January of 2002, as he helped Gregory Cordes ("Cordes") and I form the American Eagle Pilots Association ("AEPA") and drafted the bylaws for the organization. I am currently President of the AEPA. American Airlines Flow-Thru Pilots Coalition ("AAFTPC"), is a DBA of the AEPA, is an association of similarly situated pilots, and one of the named Plaintiffs in this action.

1 4. In September of 2014, Cordes and I contacted Katzenbach to
2 represent the AAFTPC as it became apparent that the Allied Pilots Association, in
3 keeping with its past practice of discrimination and prejudice against the former
4 American Eagle pilots, known as Flow-Through pilots, was preparing to diminish
5 the contractual and seniority rights and interests of the Flow-Through pilots who
6 had transferred to American Airlines from American Eagle Airlines, the
7 subsidiary of American Airlines in the upcoming Seniority List Integration
8 negotiations.
9

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12 5. Katzenbach prepared and filed the complaint in this action and I am
13 informed that he became class counsel when the Court issued its Order re
14 Motions for Summary Judgment and Class Certification dated June 16, 2016
15 (Docket No. 67).
16

17 6. I have learned facts that have caused me to seriously question the
18 adequacy of Katzenbach to continue to serve as sole Class Counsel in this action
19 and believe that Katzenbach should be required to respond to an Order to Show
20 Cause regarding his current adequacy to represent the class by himself.
21

22 7. First, Katzenbach has been incommunicado for an extended period
23 of time. Greg Cordes and I spoke to Katzenbach in mid-November 2018
24 regarding a list of questions we had about the case and he assured us he would get
25 back to us the following week. He never did. Later in November, we again
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1 managed to reach him on the telephone, but he was again either unable or
2 unwilling to answer any of our substantive questions about this case and again
3 assured us that he would get back to us the following week. Again, he never did.
4

5 8. Katzenbach stopped responding to my telephone calls and emails,
6 and, I am informed that he similarly failed to respond to Cordes's repeated efforts
7 to reach him. The last conversation I had with Katzenbach was in December
8 2018 after the December 20, 2018 Case Management Conference, but at that time
9 he was once again either unable or unwilling to answer any of my substantive
10 questions about this case, and he hung up on me.
11
12

13 9. Since August 2018, despite many attempts, I have not managed to
14 have any substantive communications with Katzenbach, despite having repeatedly
15 tried to reach him both by telephone and email to discuss the case, and actually
16 speaking with him on the phone on several occasions. Nor to my knowledge,
17 have any other plaintiffs gotten any substantive information regarding the case
18 from Katzenbach since August 2018. Since August 2018, the total lack of
19 substantive communication from Katzenbach has caused a complete breakdown
20 of the attorney-client relationship.
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24 10. Second, I am informed and believed that he failed to respond to
25 multiple inquiries from new counsel (Messrs. McGonigle and Braunstein) retained
26 in an effort to get answers to plaintiffs' questions regarding the case.
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1 11. Third, I am informed and believe that Katzenbach may have
2 permitted critical litigation deadlines to expire in this matter. In particular, I was
3 expecting him to retain the services of an expert witness, Mr. Kit Darby, an
4 aviation industry expert for purposes of providing expert testimony on behalf of
5 the class prior to the expiration of the deadline for designation of expert
6 witnesses, and I am informed and believe that he failed to do so.
7

8
9 12. It appears that Katzenbach has abandoned our case. I still cannot
10 reach him to have a substantive discussion about the case. It is my primary desire
11 to protect the members of the class involved in this case and make sure that
12 everything is being done to diligently prosecute this case. Unfortunately Mr.
13 Katzenbach has remained completely unresponsive and it has become apparent
14 that judicial assistance will be required to protect the interests of the class.
15
16

17 I declare under penalty of perjury under the laws of the United States and
18 the State of California that the foregoing is true and correct.
19

20 Dated this February 4, 2019 at Mansfield, Texas.

21
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23 By: 
24 Gavin MacKenzie
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 Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
 Doug Poulton, Stephan Robson and Philip Valente III

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN AIRLINES FLOW-
 THRU PILOTS COALITION,
 GREGORY R. CORDES, DRU
 MARQUARDT, DOUG POULTON,
 STEPHAN ROBSON and PHILIP
 VALENTE III, on behalf of themselves
 and all others similarly situated
 Plaintiff,

v.

ALLIED PILOTS ASSOCIATION and
 AMERICAN AIRLINES, INC.
 Defendants.

Case No.: 3:15-cv-03125 RS
 [Assigned to Judge Richard Seeborg]

DECLARATION OF ARTEMAS
 KEITT DARBY III IN SUPPORT OF
 MOTION TO STAY ETC.

DATE: February 21, 2019
 TIME: 1:30 p.m.
 CTRM: 3. 17th Floor

DECLARATION OF ARTEMAS KEITT DARBY III

I, ARTEMAS KEITT (“KIT”) DARBY III, declare under penalty of perjury:

1. I am submitting this declaration in support of Plaintiffs’ Motion to Stay and for the issuance of an Order to Show Cause re adequacy of Class Counsel. The following facts are known personally to me. If called as a witness, I could and would competently testify to the truth thereof under oath.

2. I am the President of Aviation Consulting, LLC located at 1029 Peachtree Parkway, N. S-352, Peachtree City, GA 30269 and frequently serve as an expert witness in cases involving employment issues in the aviation industry.

3. Although class counsel Christopher Katzenbach, Esq. and I had some initial communications about my potential retention as an expert for the Plaintiffs in this action, Mr. Katzenbach thereafter stopped communicating with me entirely and stopped responding to my inquiries. Instead, I was retained on or about January 22, 2019, directly by Plaintiffs in this action (not through Mr. Katzenbach) to serve as an expert witness on Plaintiffs’ behalf.

4. I was an active airline pilot for 29 years retiring in 2007 at the FAA mandatory retirement age of 60, and as such, I have personal experience with airline hiring, promotion, qualifications, experience, compensation, fringe benefits, furloughs, rehires, cross-hiring with other airlines and the cyclical nature

1 of airline employment. I worked for three major airlines and a national airline as
2 Second Officer, First Officer and Captain. I have flown over 20,000 hours as a
3 pilot while flying DC-9, DC-8, B-727, B-737, B-757, B-767 aircraft and 3,000
4 hours as a Flight Engineer in airline service.
5

6 5. While I was an airline pilot, I was also employed as a professional
7 aviation employment and career consultant for 28 years. I was the owner and
8 founder of Aviation Information Resources. Inc. (AIR, Inc.), the largest
9 nationwide aviation career information and counseling organization that
10 successfully provided aviation career information and assistance to over 200,000
11 aspiring airline pilots, flight attendants, and aviation mechanics.
12

13 6. In my current business, Aviation Consulting, LLC (KDAC), and my
14 previous businesses AIR, Inc. and its predecessor, Future Aviation Professionals
15 of America (FAPA), I have been required to familiarize myself with the hiring
16 practices of all U.S. airlines, including their requirements (flight qualifications,
17 flight experience, educational requirements, and physical requirements), their
18 compensation schemes (both salary, benefits, and retirement as described in union
19 contracts), their furlough, and rehire policies.
20

21 7. My data compilations and evaluations of industry employment
22 prospects are used by the airline industry (pilot unions, investment firms, the U.S.
23 Government – GAO, FAA, Department of Justice, major consulting firms like
24

1 AeroStrategy, Bain & Co, and The Rand Corporation, and domestic and foreign
2 airline managements) and the major news media, as well as by those employed in
3 the airline industry and those who seek to be employed there.
4

5 8. I am aware by personal experience, data compilation, and interviews
6 with airline applicants and airline recruiting personnel of the history, salaries,
7 benefits, and retirement packages, of individuals, similar to the plaintiffs' in this
8 case.
9

10 9. My work is peer reviewed in the sense that it is accepted by all of my
11 peers in the aviation industry, including airlines, pilots, aviation mechanics, their
12 unions, the U.S. Government, and airline management.
13

14 10. My work on airline pilot wages and benefits has been published
15 annually since 1984 in our annual Airline Pilot Salary Survey.
16

17 11. My professional work has never once been successfully challenged
18 as to its accuracy, legitimacy in preparation, honesty or integrity in analysis. In
19 every instance in litigation where other experts on the opposing side have
20 challenged my opinions, history has proved both my analysis of the industry and
21 my opinions to be accurate and those of other purported experts to be incorrect.
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24 12. A true and correct copy of my CV is attached hereto.
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1 13. On or about June 22, 2016, I received an email from Chris
2 Katzenbach with a rough summary of the case and a request for my estimate and
3 calculations regarding Plaintiff pilot's future loss of earnings.
4

5 14. On or about June 22, 2016, I replied to Mr. Katzenbach's email
6 asking when he wanted to meet on the case. I did not hear back from Mr.
7 Katzenbach and have not heard from him since.
8

9 15. On or about January 8, 2018, I sent an email to Mr. Katzenbach
10 inquiring as to the status of the case. I again did not hear back from Mr.
11 Katzenbach. I have had no communications at all with Mr. Katzenbach besides
12 those described herein.
13

14 16. On or about January 14, 2019, I spoke with Plaintiffs' new counsel
15 (Mr. McGonigle) and told him I had not been retained by Mr. Katzenbach as of
16 that point, and in fact, was not yet retained on behalf of Plaintiffs.
17

18 17. Thereafter, still not having heard back from Mr. Katzenbach, I was
19 directly retained by Plaintiff Greg Cordes as an expert witness on or about
20 January 26 2019. However, I am still lacking the critical data I would need in
21 order to perform a credible expert analysis of the class members' claims and Mr.
22 Katzenbach has continued to remain incommunicado.
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1 I declare under penalty of perjury under the laws of the United States and
2 the State of California that the foregoing is true and correct to the best of my
3 knowledge and belief.
4

5 Dated this February 2, 2019 at Reedwood, Georgia.
6 City

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8 By: Artemas Keitt Darby III
9 ARTEMAS KEITT ("KIT") DARBY III
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ARTEMAS KEITT DARBY, III

**1029 Peachtree Pkwy N
Peachtree City, GA 30290
Cell: 678 776-5633**

**Keitt (Kit) Darby
Pres., KitDarby.com
Business Qualifications**

OBJECTIVE:

A contemporary business leadership position combining my extensive aviation industry technical and information business expertise within a flight training and/or career development environment.

SKILLS:

- Seasoned business executive with established interpersonal and public speaking presentation skills.
- Thirty years of bottom-line oriented business management results concentrated in the areas of flight training, pilot hiring, and aviation career consulting.
- Direct sales, marketing, and product development with a demonstrated ability to conceive, develop and deliver profitable products and services to professional pilots.
- Effectively integrating business technologies to publish print and Internet-based pilot career information.
- Apply industry analysis of airline crewing to pilot and simulator supply and demand forecasting.
- Design and deliver effective marketing campaigns and promotional solutions for professional pilots.
- Evaluate business processes and rules to identify and implement potential improvements.
- Customer relationship management and applications ensuring quality execution of customer operations.
- Lead and mentor staff members to completed projects on time and under budget.
- Successfully negotiate with trade and national media to deliver requested data in support of company goals.
- Guide pilots in pursuit of their career goals while overseeing career counselors and editorial staff to provide the best products and services for pilots in the pursuit of their professional goals.

BUSINESS EXPERIENCE:**Business Owner and Manager**

JAN 09 - Present	KitDarby.com Aviation Consulting, LLC Peachtree City, GA	President: Litigation support – Pilot Career Earnings, Pilot hiring and selection, supply and demand forecasting Media advisor, CNN, FOX News, Bloomberg, Wall Street Journal
JAN 89 – FEB 09	AIR, Inc. - Aviation Information Resources, Inc. Atlanta, GA	President and CEO: Leadership responsibility for P&L, marketing operations and product development. Increased sales from start-up to \$3.3M. Expanded products and services by adding online application system, consulting services, and production of new seminar workshops. Served over 200,000 pilot members from 1989 to 2009.
NOV 83 - DEC 89	FAPA - Future Aviation Professionals Of America Atlanta, GA	Executive Vice President: Sales, marketing and product development. Increased sales from \$300,000 to \$3.6M. Expanded products and services by adding resume service, career seminars, monthly magazine, and annual pilot salary survey.
APR 80 - NOV 83	Coast Magazine Myrtle Beach, SC	Business Manager: Computerized typesetting, bookkeeping, and ad sales. Introduced full year color printing cutting cost by 60%. Brought shipping and delivery in-house at a 50% savings.
AUG 78 - SEP 80	InterFlite, Inc. Miami, FL	President and Chief Instructor: Purchased and re-certified a dormant FAA 141 school certificate. Re-established VA funding. Developed an FAA/VA approved B-727 FE course as chief instr.

JAN 78 - SEP 78	Flight Int'l, Inc. Atlanta, GA	Simulator and Ground Instructor: FAA and VA approved B-727 FE course. Taught full B-727 ground school, CPT and simulator. Written course instructor for the ATP and FE written exams
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1969 to 1993	Military Flight Training and Standardization Manager Captain US Army. Standardization Instructor Pilot and Instrument Examiner - eight years. Commanded the Aircraft Qualification & IP Course for all F/W aircraft. Army-wide Flight Standards Division - two years. Established flight training programs, wrote flight training manuals and trained pilots and IP's in all Army fixed-wing aircraft. Georgia Army Nat'l Guard OV-1 SIP/Flight Examiner - total of 23 years.
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CONSULTING: Aviation Marketing/Pilot and Simulator Supply and Demand

APR 15	PRIA audit of 2013 and 2014 pilot records for PSA Airlines , Dayton, OH
FEB 15	US Airline Pilot Demand 2015 to 2030 2 nd Edition with Audries Aircraft
MAR 14	Pilot Career workshops and Delta Air Lines interview prep for ALPA National
FEB 14	US Airline Pilot Demand Video for Eagle Jet International, Miami, FL
AUG 14	US Major Airline Pilot Salary Survey, FedEx, Memphis, TN
MAR 14	US Airline Pilot Salary and Benefit Benchmark Study, Bain & Co., Dallas, TX
OCT 14	US Airline Pilot Retirement Forecast, USB Investment Bank. New York, NY
FEB 12	US Regional Pilot F/A, and Maintenance Labor Force Analysis, Bain & Co., Dallas, TX
JUL 12	US Airline Pilot Job Markey Video, Eagle Jet, Miami, FL
MAR 11	Legacy Airline Pilot Staffing Analysis, All Nippon Airways, Tokyo, Japan
OCT 10	Pilot Hiring Analysis and Data Base Project, FAA, APO -300, Washington, DC
JUN 10	Pilot Seniority Integration Arbitration Analysis, Frontier Pilot Association, Denver, CO
NOV 09	Airline Pilot Supply, Earnings and Qualification Study, GAO Washington, DC
AUG 06	Airline Bid Pack Analysis and Career Value Study, Boeing, Seattle, WA
DEC 05	Airline/Corporate Bid Pack Analysis and Career Value Study, Netjets, Columbus, OH
2003/04/05	Simulator Rental Rate & Utilization Study, Raymond James, Vancouver, BC
FEB 01	Worldwide Pilot Supply and Demand Study, AeroStrategy for Oxford Aviation, England
2000/01/02	US Pilot Supply Study, Rand Corporation for the US Air Force, Washington, DC
1998/00	Major Airline Career Value and Work Rule Study, Teamsters (ABX), Wilmington, OH
OCT 98	Major Airline Career Value Study, FedEx, Memphis, TN
JUN 94	Furloughed pilot outplacement services, Allied Pilots Association, Dallas, TX
JUL 93	Maintenance Training Facility Location Study, Dalfort, Dallas, TX
JUN 92	Furloughed pilot outplacement services, Pan American Airways, New York, NY
SEP 91	Replacement Simulator study for Dalfort (Braniff Education Systems), Dallas, TX
MAR 90	Flight Training Marketing Study, UND Spectrum Program, Grand Forks, ND
DEC 89	Worldwide Pilot Supply and Demand Study, Japan Airlines, Japan
NOV 89 to Present	Furloughed/displaced pilot outplacement services, ALPA (Frontier, EAL, plus 15 more)

EXPERT WITNESS:

Pilot hiring and Career Value Models

JAN 83 - Present Provided litigation support in approximately 300 cases with written reports and excel workbooks detailing the job market and the average career value for the US Major airlines, National Airlines, Regional Airlines, Military, Corporate, and Fractional operators pilot careers. Additional models have been developed for Maintenance Technicians, Flight Attendants, Simulator Instructors, and Ground School Instructors. Supplied written reports, depositions, and trail testimony services to pilots attorneys and their estates, pilot unions, airlines, insurance companies, the FAA, the Government Accountability Office, and the US Department of Justice in the US and Canada.

EDUCATION:

B.S. Degree - Aeronautical Studies

AUG 77 Embry-Riddle AU, Daytona Beach, FL: Concentration on Flight Technology. Dean's List. Education concurrent with military duty as a flight commander and instructor pilot.

JAN 69 NC State University, Raleigh, NC. School of Design – Major Product Design. Minor Psychology. Freshman and varsity basketball and track on scholarship. Sigma Nu Fraternity. Air Force ROTC. Qualified first in class for pilot training. Education concurrent with work to pay general expenses. Intern family publishing business.

ASSOCIATIONS:

- Atlanta Aero Club: Board member since 2010
- Air Line Pilots Association: Member, outplacement services to furloughed/displaced pilots since 1983
- International Air & Transportation Safety Bar Association. (NTSB Bar Association) since 2010.
- Aircraft Pilots and Owners Association: Member, conducting pilot career workshops from 1983 to 2001.
- National Business Aircraft Association: Corporate member since 1983.
- Organization of Black Airline Pilots: Corporate member, conducting pilot career workshops since 1983.
- Women in Aviation: Corporate member, pilot career workshops at annual meetings since 1983.
- Experimental Aircraft Association: Corporate member, pilot career forums at Oshkosh, WI since 1983.
- Experimental Aircraft Association: Corporate member, pilot career forums at Lakeland, FL since 2010.

KIT DARBY
ATTACHMENT – A: PROFESSIONAL PUBLICATIONS

Mr. Darby is an aviation career consultant and was president of Aviation Information Resources, Inc. (AIR, Inc.) in Atlanta, Georgia through February of 2009. AIR, Inc. provided a wide array of aviation related services including out-placement pilot services and career seminars, pilot and technician career counseling, aviation marketing and product development, employability studies and career earnings models. He has authored:

The Airline Pilot Application Handbook,
Worldwide Simulator Supply Study
Civil Simulator Database
Airline Pilot Career Decision Guide
US Airline Salary Survey
Major Airline Career Earnings Comparison
Airline Pilot Test Kit
Questions-Questions-Airline Interview Guide
Airline Pilot and Technician Seminar Workbooks.

Mr. Darby served as the Publisher and Executive Editor of:

The Airline Pilot Job Monthly Newsletter
The Flight Attendant Job Monthly Newsletter
The Maintenance Technician Job Monthly Newsletter
Airline Pilot Careers Magazine

His technology launch endeavors include:

An online application system (AIRApps) for airlines and pilots featuring automated application scoring. The www.Jet-Jobs.com pilot career information web site contained a 5,000 page on-line archive peaking at 15,000 visits and 130,000 hits per day.

He has lead and produced over 100 Airline Pilot Career Development Seminars, Forums, and Job Fairs nationwide since 1985. These were both commercial events and that supported outplacement activities for union sponsors (Airline Pilots Association, Teamsters, and Allied Pilots Association) and air carriers. Mr. Darby designed the content and audiovisual presentations as well as hosted these events for the past twenty years. The venues drew typical crowds ranging in size from 250 to 700 pilots/technicians and 100 representatives from twenty-five to thirty-five airlines and pilot training and services vendors.

Additionally, his efforts lead to the production of seven three-hour career workshop programs for:

Furloughed Pilot's and Technicians
Civilian-to-Airline Pilot Transition
CRM in the Pilot Interview
Pilot and Technicians Resumes and Applications
Airline Pilot Interview Survival
Pilot Testing and Simulator Evaluations
Military-to-Airline Pilot Transition.

Worldwide, Mr. Darby is recognized as an expert in US pilot hiring, pilot selection, pilot supply and demand forecasting, and interview preparation including: testing, simulator evaluations, medical exams and personnel interviews. He is regularly quoted in the national media - newspapers, magazines, and on television, including *The Wall Street Journal*, *Atlanta Journal & Constitution*, *New York Times*, *Flying Magazine*, *AOPA Pilot*, *Airline Pilot Magazine*, *Time Magazine*, *Business Week*, *CNN*, *ABC*, *CBS*, *NBC* and many more.

He has provided labor contract negotiation support to FedEx (company and union), UPS, Airborne Express, Continental, Netjets, Teamsters, and ALPA. Furthermore he has adapted AIR, Inc.'s annual Pilot Salary survey to compare the pay, benefits, work rules, and retirement among the Major, National, Regional airlines and corporate fractional operators.

Additionally, Mr. Darby and AIR, Inc. has provided consulting services to a wide range of airlines, training organizations, aviation consulting firms, airline unions, and aircraft and simulator manufactures. Past projects include: worldwide pilot supply and demand studies for Japan Airlines, AeroStrategy for Oxford Aviation Training, CAE, and the Rand Corporation for the Air Force: pilot wage, benefit, retirement, and work rule analysis for Boeing, ALPA, APA, Teamsters, Netjets, UPS, FedEx, Airborne Express and the General Accounting Office; Simulator supply, demand and rental rate studies for Raymond James, FlightSaftey, and Bombardier.

From 1983 through 1989, Mr. Darby was the Executive Vice President and 1/3 owner of Future Aviation Professionals of America (FAPA), the largest US aviation career information service at the time. Responsible for product development, sales, and marketing, Mr. Darby conceived the Airline Pilot/Maintenance Technician/Flight Attendant Career Day seminars, the annual *Pilot Salary Survey* and the *Ultimate Career Pilot Starter Kit*. While with FAPA, he also co-authored the self-prep *Resume Kit*, *Simulator Flying Guide*, *Beginners Guide to Becoming a Career Pilot* and *World Wide Pilot Supply Report*. Under Mr. Darby's direction, FAPA's sales grew from approximately \$300,000 in 1983 to over \$3.6 million in 1989. Personnel increased from three to forty- two full and part-time staff.

Since his career in commercial aviation began in 1978, Mr. Darby has interviewed twenty-one times with seventeen different airlines. Currently, Mr. Darby is a retired captain at United Airlines, he held positions as a flight engineer, first officer, captain, and instructor pilot while flying B-717/727/737/757/767, DC-8 and DC-9 aircraft. Mr. Darby has also worked for Braniff International, Capital Air Republic Airlines, and Delta Air Lines. Mr. Darby received his BS in Aeronautical Studies from Embry-Riddle Aeronautical University. Prior to Embry-Riddle he spent four-years at NC State University School of Design majoring in Product Design.

Mr. Darby was the chief executive officer of InterFite, Inc. in Homestead, FL, a complete FBO that included a FAR 141 and VA-approved flight school plus a Cessna aircraft dealership. He was the Chief Instructor for a B-727 flight engineer school that was part of this school while working at Braniff as a DC-8 flight engineer and first officer from 1978 to 1980.

As a captain in the US Army, Mr. Darby established training programs, wrote flight training manuals and trained instructor pilots in all Army fixed-wing aircraft (T-41, T-42, U-8, U-21, and

OV-1). Mr. Darby co-authored the initial Army Aircrew Training Manuals for each Army fixed-wing aircraft. He was standardization Instructor Pilot and Instrument Examiner in all active Army fixed-wing aircraft and a rotary-wing Instrument Examiner. Mr. Darby held the Flight Commander position for each Army fixed-wing aircraft graduate flight training courses and the instructor pilot course. He was the fixed-wing branch chief at the Department of Army-wide Flight Standards for two years. In this position he and his teams traveled to large Army aviation bases throughout the US and overseas conducting training audits and giving spot check rides to local pilots, examiners, and instructors. For twenty-three years, he was active in the Army and the Georgia National Guard flying the OV-1 Mohawk as an instrument flight examiner and standardization instructor pilot. In the National Guard he conducted CRM, ground and flight training for his unit and other units throughout Georgia. He achieved more than 4,000 hours of military flight experience and 2,500 hours as an instructor pilot and instrument examiner conducting basic single and multi-engine, instrument, aerobatic, simulator, and tactical instruction and evaluations.

He is employed by Delta Global Services (A division of Delta Air Lines) as a ATP – Certification Training Program instructor and previously as a B-717 flight and ground instructor pilot at the Boeing/Delta Flight Training campus in Atlanta, GA from 2013 to 2014. He is also the lead ATP – CTP instructor for Airline Transport Professional Flight School in Atlanta, GA. He was a B-717 and B-737 flight and ground instructor pilot at Boeing Flight Training Center from 2007 until 2014. He is also the president of KitDarby.com Aviation Consulting, LLC in Peachtree City, GA. KitDarby.com provides pilot career consulting to individual pilots, flight schools, government agencies, investment firms, and both domestic and international airlines. The company also provides litigation support for pilots that are delay, injured, or have been involved in a fatal accident to determine potential career values and earnings capacity.

His pilot qualifications include: 24,513 hours total time, 16,221 hours jet time, ATP with B-717/727/737/757/767 and DC-8/9 type ratings, flight instrument and engineer instructor, commercial instrument helicopter pilot, CFI/II/MEI 15 years, plus military instructor and instrument examiner ratings in 2 helicopters and 5 fixed-wing multiengine aircraft over 23 years.

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clark@braunsteinpc.com

Attorneys for Plaintiffs, American Airlines Flow-Thru
Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
Doug Poulton, Stephan Robson and Philip Valente III

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN AIRLINES FLOW-
THRU PILOTS COALITION,
GREGORY R. CORDES, DRU
MARQUARDT, DOUG POULTON,
STEPHAN ROBSON and PHILIP
VALENTE III, on behalf of themselves
and all others similarly situated
Plaintiffs,

v.

ALLIED PILOTS ASSOCIATION and
AMERICAN AIRLINES, INC.
Defendants.

Case No.: 3:15-cv-03125 RS
[Assigned to Judge Richard Seeborg]

DECLARATION OF JOHN L.
GAVELLO IN SUPPORT OF
PLAINTIFF'S MOTION TO STAY
ETC.

DATE: February 21, 2019
TIME: 1:30 p.m.
CTRM: 3. 17th Floor

DECLARATION OF JOHN L. GAVELLO

I, John L. Gavello, declare under penalty of perjury:

1. I am a Principal for the Legal Process Group, a licensed California private investigator (License No. 25348), and was retained by Plaintiff Gregory R. Cordes (“Cordes”) in order to investigate the whereabouts of, and to attempt to communicate with Class Counsel Christopher W. Katzenbach, Esq. I am submitting this declaration in support of plaintiffs’ Motion to Stay and for the issuance of an Order to Show Cause re adequacy of Class Counsel etc. The following facts are known personally to me. If called as a witness, I could and would competently testify to the truth thereof under oath.

2. On January 22, 2019, I located and visited Mr. Katzenbach at his office located at 912 Lootens Place, San Rafael, California.

3. At that time, Mr. Katzenbach verbally promised that he would telephone Cordes “later today,” informed me that he had recently sold his home and was in the process of moving, stated that he had been devoting much of his time to personal issues involving his family, and appeared visibly fatigued.

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1 I declare under penalty of perjury under the laws of the United States and
2 the State of California that the foregoing is true and correct.

3
4 Dated this February 1, 2019 at Santa Rosa, California.

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6 By: 
7 John L. Gavello
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Attorneys for Plaintiffs, American Airlines Flow-Thru
 Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
 Doug Poulton, Stephan Robson and Philip Valente III
 On behalf of themselves and all others similarly situated

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN AIRLINES FLOW-
 THRU PILOTS COALITION,
 GREGORY R. CORDES, DRU
 MARQUARDT, DOUG POULTON,
 STEPHAN ROBSON and PHILIP
 VALENTE III, on behalf of
 themselves and all others similarly
 situated

Plaintiff,

v.

ALLIED PILOTS ASSOCIATION
 and AMERICAN AIRLINES, INC.

Defendants.

Case No.: 3:15-cv-03125 RS
 [Assigned to Judge Richard Seeborg]

[PROPOSED] ORDER FOR
 PLAINTIFFS' MOTION FOR A
 STAY AND FOR AN OSC RE
 ADEQUACY OF CLASS COUNSEL

DATE: February 21, 2019
 TIME: 1:30 p.m.
 CTRM: 3. 17th Floor

The Court:

(2) issues an OSC to class counsel regarding the adequacy of representation; and

Dated:

[Proposed] Order for Plaintiffs' Motion For A Stay and OSC re Adequacy Of Class Counsel

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clark@braunsteinpc.com

Co-Counsel Attorneys for Plaintiffs, American Airlines Flow-Thru
Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
Doug Poulton, Stephan Robson and Philip Valente III

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AMERICAN AIRLINES FLOW-
THRU PILOTS COALITION,
GREGORY R. CORDES, DRU
MARQUARDT, DOUG POULTON,
STEPHAN ROBSON and PHILIP
VALENTE III, on behalf of
themselves and all others similarly
situated

Plaintiff,

v.

ALLIED PILOTS ASSOCIATION
and AMERICAN AIRLINES, INC.
Defendants.

Case No.: 3:15-cv-03125 RS
[Assigned to Judge Richard Seeborg]

STIPULATION AND ORDER
SHORTENING TIME ON
PLAINTIFFS' MOTION FOR A
STAY AND FOR AN OSC RE
ADEQUACY OF CLASS COUNSEL

JOINT STIPULATION

COME NOW, Plaintiffs American Airlines Flow-Thru Pilots Coalition, Gregory R. Cordes, Dru Marquardt, Doug Poulton, Stephan Robson and Philip Valente III (collectively, "Plaintiffs") and Defendant Allied Pilots Association ("Defendant"), and file this Joint Stipulation Shortening time on Plaintiff's Motion for a Stay and for an Order to Show Cause re Adequacy of Class Counsel, and in support thereof show as follows:

WHEREAS, this Court granted class certification with respect to one of Plaintiffs' claims pursuant to the Order dated June 16, 2016 (Docket No. 67); and Attorney Christopher W. Katzenbach thereby became Class Counsel for the certified class;

WHEREAS Plaintiffs have informed Defendant that Plaintiffs have been unable to substantively communicate with Class Counsel (Christopher Katzenbach, Esq.) since August-2018 and that they harbor grave doubts about Mr. Katzenbach's present adequacy to serve as sole Class Counsel; and,

1 WHEREAS trial is currently set on April 29, 2019 pursuant to a Case
2 Management Conference that took place on August 2, 2018 (Docket No. 145);
3 and,
4

5
6 WHEREAS Plaintiffs intend to Move this Court for (1) a stay of all
7 proceedings; (2) that an Order to Show Cause should issue regarding the
8 adequacy of Mr. Katzenbach to continue serving as sole Class Counsel; and
9 (3) for an order vacating all dates and deadlines in this action (the "Motion"); and
10 Defendant may wish to oppose the Motion,
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14 WHEREAS all parties wish to have the Motion heard and resolved as
15 quickly as possible; and,
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18 WHEREAS, good cause exists to shorten notice on the Plaintiffs Motion;
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21 IT IS HEREBY STIPULATED:
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24 Plaintiffs' Motion shall be filed not later than **February 4, 2019**;

25 Any Opposition shall be filed not later than **February 12, 2019**;

26 Plaintiffs Reply Brief be filed not later than **February 15, 2019**; and
27

1 The hearing on Plaintiff's Motion shall be held on February 21, 2019 at 1:30
2 p.m. in Courtroom 3.

3
4 AGREED.

5 DATED: January 30, 2019
6

7 TIMOTHY D. MCGONIGLE PROF. CORP.

8
9 By: Is/ Timothy D. McGonigle
10 Timothy D. McGonigle

11
12 BRAUNSTEIN & BRAUNSTEIN, P.C.

13 By: Is/ George Braunstein
14 George Braunstein

15 Attorneys for Plaintiffs, American Airlines Flow-Thru
16 Pilots Coalition, Gregory R. Cordes, Dru Marquardt,
17 Doug Poulton, Stephan Robson and Philip Valente III

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2 DATED: January 30, 2019 JAMES & HOFFMAN, P.C.

3
4 By: /s/ Steven K. Hoffman
5 Steven K. Hoffman

6 DATED: January 30, 2019 ALTSHULER BERZON LLP

7
8 By: /s/ Jeffrey B. Demain
9 Jeffrey B. Demain

10 Attorneys for Defendant Allied Pilots Association

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12 [PROPOSED] ORDER

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14 PURSUANT TO STIPULATION, IT IS SO ORDERED.

15 Dated: 1/30 2019

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18 HON. RICHARD SEEBORG
19 UNITED STATES DISTRICT JUDGE