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American Airlines, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

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 persons similarly situated,

Plaintiffs,

v.

ALLIED PILOTS ASSOCIATION; and AMERICAN AIRLINES, INC.,

Defendants.

Case No. 3:15-cv-03125-RS

DEFENDANT AMERICAN AIRLINES, INC.'S RESPONSE TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Hearing Date:	April 21, 2016
Time:	1:30 P.M.
Place:	Courtroom 3, 17th Fl.
Judge:	Hon. Richard Seeborg

ARGUMENT

On March 17, 2016, Plaintiffs filed a Motion for Class Certification (ECF No. 50). Defendant American Airlines, Inc. ("American") hereby joins and supports Defendant Allied Pilots Association's Response to Plaintiffs' Motion for Class Certification ("APA's Response") (ECF No. 51). And in particular, with respect to Count One in the Second Amended Complaint (the only claim which Plaintiffs have asserted against American as a defendant), American agrees that the Court should certify a class as described in APA's Opposition and for the purposes of liability and equitable relief only. (*See* APA's Response at 8-9; 18-20.)

As the Court is aware, American's Motion to Dismiss Count One of the Second Amended Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) ("American's Motion to Dismiss") (ECF No. 40) has been fully briefed and the previously-scheduled oral argument was taken off-calendar by the Court. If American's Motion to Dismiss has not been granted at the time the Court rules on the APA's motion for summary judgment (ECF No. 44) – and if the Court grants APA's motion with respect to Count One – American respectfully submits that the Court should enter summary judgment in favor of American on Count One pursuant to Rule 56(f) of the Federal Rules of Civil Procedure. As a matter of law, an employer cannot be liable for "collusion" in a union's breach of the duty of fair representation if the union itself has not breached its DFR. *See Bishop v. Air Line Pilots Ass'n, Int'l*, No. C-98-359 MMC, 1998 WL 474076, at *18 (N.D. Cal. Aug. 4, 1998), *aff'd Bishop v. Air Line Pilots Ass'n. Int'l*, 211 F.3d 1272 (9th Cir. 2000) (unpublished) ("In order for an employer to be found liable, however, it is essential that the union be found to have violated its duty.") (citing *United Indep. Flight Officers v. United Air Lines, Inc.*, 756 F.2d 1274, 1283 (7th Cir.1985) ("If the RLA-based [duty of

fair representation] claim against the union is dismissed, the claim against the employer must also be dismissed.")).

Dated: March 31, 2016.

Respectfully submitted,

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By: /s/ Chris A. Hollinger
CHRIS A. HOLLINGER

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