

1 EDGAR N. JAMES\*  
STEVEN K. HOFFMAN\*  
2 DANIEL M. ROSENTHAL\*  
James & Hoffman, P.C.  
3 1130 Connecticut Avenue, N.W., Suite 950  
Washington, D.C. 20036  
4 Telephone: (202) 496-0500  
Facsimile: (202) 496-0555  
5 ejames@jamhoff.com  
skhoffman@jamhoff.com  
6 dmrosenthal@jamhoff.com

7 JEFFREY B. DEMAIN (SBN 126715)  
JONATHAN WEISSGLASS (SBN 185008)  
8 Altshuler Berzon LLP  
177 Post Street, Suite 300  
9 San Francisco, California 94108  
Telephone: (415) 421-7151  
10 Facsimile: (415) 362-8064  
jdemain@altshulerberzon.com  
11 jweissglass@altshulerberzon.com

12 Attorneys for Defendant  
Allied Pilots Association

13 \*Admitted pro hac vice  
14

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN FRANCISCO DIVISION

18 AMERICAN AIRLINES FLOW-THRU ) No. 3:15-cv-03125-RS  
19 PILOTS COALITION, *et al.*, )  
) **CLASS ACTION**  
20 Plaintiffs, )  
) **ANSWER OF THE ALLIED PILOTS**  
21 v. ) **ASSOCIATION TO PLAINTIFFS' SECOND**  
) **AMENDED COMPLAINT**  
22 ALLIED PILOTS ASSOCIATION, *et al.*, )  
) **Courtroom: B, 15th Floor**  
23 Defendants. ) **Judge: Hon. Richard Seeborg**  
24

25 **ALLIED PILOTS ASSOCIATION'S ANSWER**  
26 **TO PLAINTIFFS' SECOND AMENDED COMPLAINT**

27 Defendant Allied Pilots Association ("APA"), through counsel, answers Plaintiffs' Second  
28 Amended Complaint ("Complaint") as follows:

1           1.       Paragraph 1 of the Complaint sets forth a legal conclusion, which does not require a  
2 response. APA does not contest this Court’s jurisdiction over this case.

3           2.       APA admits the allegations of Paragraph 2 of the Complaint

4           3.       Paragraph 3 of the Complaint cites to Local Rule 3-2(b) of this Court, which does not  
5 require a response, and APA admits that it represents pilots at the San Francisco Airport.

6           4.       APA is without sufficient knowledge or information to form a belief as the truth of the  
7 allegations of Paragraph 4 of the Complaint and, on that basis, denies them. APA specifically denies  
8 that “All the Flow-Thru Pilots . . . have suffered discrimination and arbitrary treatment because they  
9 are Flow-Thru Pilots . . . .”

10          5.       APA is without sufficient knowledge or information to form a belief as the truth of the  
11 allegation of Paragraph 5 of the Complaint that “[t]he individual representative plaintiffs are members  
12 of AAFTPC” and, on that basis, denies that allegation. APA admits the remaining allegations of  
13 Paragraph 5.

14          6.       APA admits the allegations of the first three sentences of Paragraph 6 of the Complaint,  
15 but is without sufficient knowledge or information to form a belief about the allegations of the fourth  
16 sentence and, on that basis, denies them. APA admits that the Flow-Through Agreement expired by its  
17 terms on May 1, 2008.

18          7.       APA admits the allegations of Paragraph 7 of the Complaint.

19          8.       APA admits the allegations of Paragraph 8 of the Complaint, except that it is without  
20 sufficient knowledge or information to form a belief as the truth of the allegation of the second  
21 sentence of Paragraph 8 regarding Plaintiffs’ reasons for joining American as a defendant, and, on that  
22 basis, denies that allegation.

23          9.       In response to Paragraph 9 of the Complaint, APA admits that Plaintiffs are attempting  
24 to bring their Complaint as a class action pursuant to Fed. R. Civ. P. 23. APA denies that the  
25 Complaint is properly brought as a class action.

26          10.       APA is without sufficient knowledge or information to form a belief as the truth of the  
27 allegations of Paragraph 10 of the Complaint and, on that basis, denies them. APA believes that this  
28 class definition is overly broad and creates conflicts within the proposed class.

1           11.     In response to Paragraph 11 of the Complaint, APA admits that there are in excess of  
2 400 pilots who are members of the Proposed Class as defined by the Complaint, but denies that the  
3 class is appropriate and avers that there are conflicts within the Proposed Class that preclude  
4 certification. APA denies the remaining allegations of Paragraph 11.

5           12.     APA denies the allegations of the sole sentence of Paragraph 12 of the Complaint. APA  
6 admits that the allegation in Paragraph 12(a) that the class proposed in Paragraph 10 of the Complaint  
7 is composed of certain American pilots represented by APA pursuant to an NMB certification. APA  
8 admits the allegations of the first sentence of subpart (b), but denies the allegations of the second  
9 sentence thereof.

10          13.     APA is without sufficient knowledge or information to form a belief as the truth of the  
11 allegations of Paragraph 13 of the Complaint and, on that basis, denies them.

12          14.     APA is without sufficient knowledge or information to form a belief as the truth of the  
13 allegations of Paragraph 14 of the Complaint and, on that basis, denies them.

14          15.     APA is without sufficient knowledge or information to form a belief as the truth of the  
15 allegations of Paragraph 15, including subparts (a), (b) and (c), of the Complaint and, on that basis,  
16 denies them.

17          16.     APA denies the allegations of the first sentence of Paragraph 16 of the Complaint, and  
18 admits the allegations of the remaining two sentences of Paragraph 16.

19          17.     Paragraph 17 of the Complaint, including subparts (a), (b), and (c) thereof, characterizes  
20 the content of written collective bargaining agreements. APA responds that those agreements speak  
21 for themselves and that it is not required to respond to Plaintiffs' characterization thereof. To the  
22 extent that Paragraph 17 contains any allegations to which a response is required, APA denies those  
23 allegations.

24          18.     Paragraph 18 of the Complaint characterizes the content of written collective bargaining  
25 agreements. APA responds that those agreements speak for themselves and that it is not required to  
26 respond to Plaintiffs' characterization thereof. To the extent that Paragraph 18 contains any allegations  
27 to which a response is required, APA denies those allegations.

28

1           19. Paragraph 19 of the Complaint characterizes the content of written collective bargaining  
2 agreements. APA responds that those agreements speak for themselves and that it is not required to  
3 respond to Plaintiffs' characterization thereof. To the extent that Paragraph 19 contains any allegations  
4 to which a response is required, APA denies those allegations.

5           20. Paragraph 20 of the Complaint characterizes the content of written collective bargaining  
6 agreements. APA responds that those agreements speak for themselves and that it is not required to  
7 respond to Plaintiffs' characterization thereof. To the extent that Paragraph 20 contains any allegations  
8 to which a response is required, APA denies those allegations.

9           21. APA admits the allegation of Paragraph 21 of the Complaint that the "Flow-Through  
10 Agreement arose from disputes between AAL and APA over the use of commuter jets" at American  
11 Eagle carriers, but denies the remaining allegations of Paragraph 21.

12           22. APA denies the allegations of Paragraph 22 of the Complaint on the ground that they  
13 are incomprehensible.

14           23. APA admits the allegations of Paragraph 23 of the Complaint, except that it denies that  
15 "APA sought to be the American Eagle pilots' representative in that election."

16           24. APA admits the allegations of Paragraph 24 of the Complaint.

17           25. APA admits the allegations of Paragraph 25 of the Complaint.

18           26. APA admits the allegations of Paragraph 26 of the Complaint.

19           27. APA admits the allegation of the first sentence of Paragraph 27 of the Complaint that  
20 the Presidential Emergency Board ("PEB") issued its report on March 19, 1997. The remainder of the  
21 first sentence of Paragraph 27, and the second sentence of Paragraph 27, characterize the content of the  
22 written decision of the PEB. APA responds that the PEB's decision speaks for itself and that it is not  
23 required to respond to Plaintiffs' characterization thereof. APA specifically denies the implication in  
24 the second sentence of Paragraph 27 that furlough protection or the "ability of AAL pilots to take jobs  
25 at American Eagle in the event of a furlough" were issues before the PEB. In response to the  
26 allegations of the third sentence of Paragraph 27, APA responds that while the Flow-Through  
27 Agreement was finally signed by all parties on May 19, 1997, its terms were negotiated largely on  
28

1 March 20-21, 1997 between APA and ALPA. To the extent that Paragraph 27 contains any additional  
2 allegations to which a response is required, APA denies them.

3 28. APA admits the allegations of Paragraph 28 of the Complaint.

4 29. Paragraph 29 of the Complaint characterizes the content of a written collective  
5 bargaining agreement. APA responds that that agreement speaks for itself and that it is not required to  
6 respond to Plaintiffs' characterization thereof. To the extent that Paragraph 29 contains any allegations  
7 to which a response is required, APA denies those allegations.

8 30. APA admits the allegations of Paragraph 30 of the Complaint.

9 31. Paragraph 31 of the Complaint characterizes the content of a written collective  
10 bargaining agreement. APA responds that that agreement speaks for itself and that it is not required to  
11 respond to Plaintiffs' characterization thereof. To the extent that Paragraph 31 contains any allegations  
12 to which a response is required, APA denies those allegations, except that it admits that those Eagle CJ  
13 Captains who obtained seniority numbers on the American pilot seniority list under the Flow-Through  
14 Agreement and subsequently worked as American pilots are members of the putative class in this case.

15 32. Paragraph 32 of the Complaint characterizes the content of a written collective  
16 bargaining agreement. APA responds that that agreement speaks for itself and that it is not required to  
17 respond to Plaintiffs' characterization thereof. To the extent that Paragraph 32 contains any allegations  
18 to which a response is required, APA denies those allegations.

19 33. Paragraph 33 of the Complaint characterizes the content of a written collective  
20 bargaining agreement. APA responds that that agreement speaks for itself and that it is not required to  
21 respond to Plaintiffs' characterization thereof. To the extent that Paragraph 33 contains any allegations  
22 to which a response is required, APA denies those allegations

23 34. Paragraph 34 of the Complaint characterizes the content of a written collective  
24 bargaining agreement. APA responds that that agreement speaks for itself and that it is not required to  
25 respond to Plaintiffs' characterization thereof. To the extent that Paragraph 34 contains any allegations  
26 to which a response is required, APA denies those allegations

27 35. Paragraph 35 of the Complaint characterizes the content and legal effect of written  
28 collective bargaining agreements. APA responds that those agreements speak for themselves, and that

1 their legal effect is a legal conclusion, and that it is not required to respond to Plaintiffs’  
2 characterization thereof. To the extent that Paragraph 35 contains any allegations to which a response  
3 is required, APA denies those allegations.

4 36. APA is without sufficient knowledge or information to form a belief as the truth of the  
5 allegations of Paragraph 36 of the Complaint and, on that basis, denies them.

6 37. APA is without sufficient knowledge or information to form a belief as the truth of the  
7 allegations of Paragraph 37 of the Complaint and, on that basis, denies them.

8 38. APA is without sufficient knowledge or information to form a belief as the truth of the  
9 allegations of Paragraph 38 of the Complaint and, on that basis, denies them.

10 39. In response to Paragraph 39 of the Complaint, APA denies that AAL acquired the assets  
11 of TransWorld Airlines in 2001, and avers that AMR acquired those assets. APA admits that a new  
12 holding company was formed that was known as TWA-LLC, was placed as a subsidiary under  
13 American, and operated under its own certification as an airline carrier, but APA denies that TWA-  
14 LLC was established “to operate TWA’s routes.” APA admits that the “Pilots employed by TWA  
15 became employees of TWA-LLC.”

16 40. In response to Paragraph 40 of the Complaint, APA admits that “[a]t some point after  
17 April 3, 2002, the TWA-LLC pilots were integrated into the” Pilot System Seniority List, but denies  
18 the remaining allegations of Paragraph 40.

19 41. APA admits the allegation of the first sentence of Paragraph 41 of the Complaint that  
20 American was in the process of furloughing pilot at the time of seniority list integration. APA is  
21 without sufficient knowledge or information to form a belief as to the truth of the remaining allegations  
22 of Paragraph 41 and, on that basis, denies them.

23 42. APA is without sufficient knowledge or information to form a belief as to the truth of  
24 the allegations of the first sentence of Paragraph 42 of the Complaint and, on that basis, denies them.  
25 APA denies the allegations of the second sentence of Paragraph 42.

26 43. APA admits the allegation of the first sentence of Paragraph 43 of the Complaint that  
27 APA became the NMB-certified representative of the pilots at TWA-LLC on April 3, 2002. APA  
28 denies the remaining allegations of Paragraph 43.

1 44. APA admits the allegations of the first sentence of Paragraph 44 of the Complaint. The  
2 second sentence Paragraph 44 characterizes the content of a written collective bargaining agreement.  
3 APA responds that that agreement speaks for itself and that it is not required to respond to Plaintiffs'  
4 characterization thereof.

5 45. APA is without sufficient knowledge or information to form a belief as to the truth of  
6 the allegations of Paragraph 45 of the Complaint, including the allegations of subparts (a) and (b)  
7 thereof, and, on that basis, denies them.

8 46. APA admits the allegations of Paragraph 46 of the Complaint.

9 47. APA denies the allegations of the first and second sentences of Paragraph 47 of the  
10 Complaint, including all of the subparts thereof. APA is without sufficient knowledge or information  
11 to form a belief as to the truth of the allegations of the third sentence of Paragraph 47 and, on that  
12 basis, denies them, but in any event APA avers that neither the pilots at American Eagle nor ALPA had  
13 any right to approve the agreement that is the subject of Paragraph 47 because that agreement was  
14 between American Airlines and APA.

15 48. APA is without sufficient knowledge or information to form a belief as to the truth of  
16 the allegations of Paragraph 48 of the Complaint and, on that basis, denies them.

17 49. APA admits the allegations of Paragraph 49 of the Complaint.

18 50. Without a date, APA is without sufficient knowledge or information to form a belief as  
19 to the truth of the allegations of Paragraph 50 of the Complaint and, on that basis, denies them.

20 51. APA denies the allegations of Paragraph 51 of the Complaint.

21 52. Portions of Paragraph 52 of the Complaint characterize the content of written arbitration  
22 decisions. APA responds that those decisions speak for themselves and that it is not required to  
23 respond to Plaintiffs' characterization thereof. APA denies each and every other allegation in  
24 Paragraph 52, including subparts (a)-(e), and avers that all actions it took were taken pursuant to its  
25 duties as the exclusive bargaining representative of the pilots it represented at the times corresponding  
26 to the allegations.

27 53. Paragraph 53 of the Complaint characterizes the content of written arbitration decisions.  
28 APA responds that those decisions speak for themselves and that it is not required to respond to

1 Plaintiffs' characterization thereof. To the extent that Paragraph 53 contains any allegations to which  
2 APA may be required to respond, it denies them.

3 54. APA admits the allegation of Paragraph 54 of the Complaint that Arbitrator Nicolau did  
4 go off the record with the parties, but APA denies the remaining allegation of Paragraph 54. APA  
5 further states that its remedial proposals were set forth repeatedly in that proceeding on the record.

6 55. APA denies the allegations of Paragraph 55 of the Complaint.

7 56. APA denies the allegations of Paragraph 56 of the Complaint.

8 57. As to the first sentence of Paragraph 57 of the Complaint, APA denies the  
9 characterization of Flow Through Pilots' terms and conditions of employment as reflecting  
10 "disparities," but admits that certain Flow Through Pilots "requested that APA take action to seek to  
11 rectify or remedy" terms and conditions of employment that the Flow Through Pilots perceived as  
12 disparities. APA denies the allegations of the second and third sentences of Paragraph 57.

13 58. APA denies the allegations of the first and second sentences of Paragraph 58 of the  
14 Complaint, but admits the allegations of the third and fourth sentences of Paragraph 58. As to the fifth  
15 sentence of Paragraph 58, APA admits that "AAL will be bound by and will use the resulting  
16 integrated seniority list" for purposes of "furlough" and in allowing pilots to bid for positions, but  
17 denies that the seniority list directly governs hiring, pay, benefits, or "employment opportunities."

18 59. In response to Paragraph 59 of the Complaint, APA admits that it has recognized three  
19 Merger Committees to represent the three separate pilot groups: the American pilot group, the  
20 America West pilot group, and the US Airways pilot group. The America West and US Airways pilot  
21 system seniority lists remain separate. The Eagle Flow Through pilots have long been integrated on  
22 the legacy American Pilots System Seniority List. APA admits that it will not permit the Eagle Flow  
23 Through pilots to participate as a separate committee in the McCaskill-Bond negotiations and  
24 arbitration, as they are represented by the American Airlines Pilot Seniority Integration Committee  
25 ("AAPSIC"). To the extent that Paragraph 59 sets forth any additional allegations, APA denies them.

26 60. In response to Paragraph 60 of the Complaint, APA admits the allegation that longevity  
27 of employment may be a factor in the integration of seniority lists, but denies the allegation that it "is a  
28 significant factor."

1           61. Paragraph 61 of the Complaint characterizes the content of a written stipulation. APA  
2 denies the allegations in Paragraph 61 of the Complaint. APA avers that a stipulation was entered into  
3 by AAPSIC, not APA, that the stipulation speaks for itself, and that the stipulation was subsequently  
4 withdrawn and is no longer in effect.

5           62. APA denies the allegations in Paragraph 62 of the Complaint. Moreover, Plaintiffs  
6 have had access to the stipulation cited in Paragraph 62 since it was entered into by the Merger  
7 Committees and American by virtue of a website available to all American pilots. Plaintiffs were  
8 advised (through their counsel) how to obtain the Stipulation months before this Complaint was filed,  
9 and the Stipulation has been continuously available to them. Moreover, as a result of the USAPA-  
10 sponsored Merger Committee's withdrawal from the McCaskill-Bond process, the Stipulation and the  
11 various seniority proposals by the Merger Committees have been withdrawn.

12           63. Paragraph 63 of the Complaint characterizes the content of a written proposal made by  
13 AAPSIC, not APA, in the SLI process and APA denies those allegations, including those set forth in  
14 subparts (a)-(c) of Paragraph 63. APA avers that the proposal speaks for itself, and that it was  
15 subsequently withdrawn and is no longer in effect.

16           64. APA is without sufficient knowledge or information to form a belief as the truth of the  
17 allegations of Paragraph 64 of the Complaint, and, on that basis, denies them.

18           65. APA denies the allegations of Paragraph 65 of the Complaint.

19           66. APA denies the allegations of Paragraph 66 of the Complaint, including subparts (a),  
20 (c), and (d), except that it admits the allegations of subpart (b).

21           67. In response to Paragraph 67 of the Complaint, APA admits that on June 25, 2015,  
22 Plaintiffs' counsel, Christopher Katzenbach, wrote to Wesley Kennedy, counsel for AAPSIC,  
23 requesting certain information regarding the position AAPSIC had taken in the SLI arbitration process,  
24 and that in Mr. Kennedy's written response to Mr. Katzenbach on July 9, 2015, he explained that  
25 AAPSIC's previously-submitted proposal, position statement, and exhibits in support thereof in the  
26 SLI arbitration had been withdrawn. APA denies the remaining allegations of Paragraph 67.

27           68. APA denies the allegations of Paragraph 68 of the Complaint.

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1           69.     As to the first sentence of Paragraph 69 of the Complaint, APA admits that the pilot  
2 committees (not APA) submitted new position statements on or about September 2015 regarding how  
3 the seniority lists should be integrated, but denies the remaining allegations of the sentence. APA  
4 admits the second and third sentences, except that the position attributed to APA was taken by  
5 AAPSIC.

6           70.     In response to Paragraph 70 of the Complaint, APA admits that on October 9, 2015,  
7 Plaintiffs' counsel, Christopher Katzenbach, wrote to Mr. Kennedy requesting additional information  
8 as to the position AAPSIC had taken in the SLI arbitration. The remainder of Paragraph 70 consists of  
9 Plaintiffs' characterization of that letter, a written document, to which no response is required.

10          71.     APA denies the allegations of the first sentence of Paragraph 71 of the Complaint, and  
11 avers that Plaintiffs' counsel's letter of October 9, 2015 was indeed responded to via an October 15,  
12 2015 letter from APA's counsel, Edgar N. James, to Mr. Katzenbach, which informed Plaintiffs that  
13 virtually all of the information relevant to Mr. Katzenbach's questions was available to them on APA's  
14 website. Plaintiffs also admit that Mr. Katzenbach sent another letter to Mr. Kennedy on December  
15 21, 2015, again asking for much of the same information he had previously requested, and that Mr.  
16 James responded to that letter on January 7, 2016. APA admits that the evidentiary portion of the SLI  
17 arbitration was concluded on January 15, 2016. The remainder of Paragraph 71 consists of Plaintiffs'  
18 characterization of that letter, a written document, to which no response is required.

19          72.     In response to Paragraph 72 of the Complaint, APA realleges and incorporates its  
20 responses to Paragraphs 1-71 of the Complaint as if fully set forth in this Paragraph 72 of its Answer.

21          73.     In response to Paragraph 73 of the Complaint APA admits only that it owes a duty of  
22 fair representation pursuant to the RLA to any particular Eagle Flow Through Pilot commencing when  
23 that pilot actually becomes an employee of American, not when (or because) that pilot merely obtains  
24 a seniority number on the American Pilots System Seniority List. To the extent that Paragraph 73  
25 contains any additional allegations, APA denies them.

26          74.     Paragraph 74 of the Complaint sets forth a legal conclusion, which does not require a  
27 response.

1           75.     APA denies each and every allegation of Paragraph 75 of the Complaint, including the  
2 assertions in subparts (a)-(c).

3           76.     APA denies each and every allegation of Paragraph 76 of the Complaint, including  
4 subparts (a)-(c).

5           77.     APA denies the allegation of Paragraph 77 of the Complaint.

6           78.     APA denies the allegations of Paragraph 78 of the Complaint that it discriminated  
7 against the FTPs, that American Airlines joined with it in such discrimination, that APA was hostile to  
8 the interest of FTPs, and that it favored other pilot groups, including the TWA-LLC pilots. To the  
9 extent that Paragraph 78 contains any additional allegations, APA is without sufficient knowledge or  
10 information to form a belief as their truth and, on that basis, denies them.

11           79.     APA denies the allegations of Paragraph 79 of the Complaint that it has discriminated  
12 against the FTPs and that it has colluded with American Airlines, or with any other person or entity, to  
13 do so. APA is without sufficient knowledge or information to form a belief as the truth of the other  
14 allegations set forth in Paragraph 79 and, on that basis, denies them.

15           80.     APA denies the allegations of Paragraph 80 of the Complaint, including those of  
16 subparts (a) and (b) thereof.

17           81.     APA denies the allegations of Paragraph 81 of the Complaint, including those of  
18 subparts (a) and (b) thereof.

19           82.     APA denies the allegations of Paragraph 82 of the Complaint, including those of  
20 subparts (a) and (b) thereof.

21           83.     In response to Paragraph 83 of the Complaint, APA realleges and incorporates its  
22 responses to Paragraphs 1-71 of the Complaint as if fully set forth in this Paragraph 83 of its Answer.

23           84.     In response to Paragraph 84 of the Complaint APA admits only that it owes a duty of  
24 fair representation pursuant to the RLA to any particular Eagle Flow Through Pilot commencing when  
25 that pilot actually becomes an employee of American, not when (or because) that pilot merely obtains  
26 a seniority number on the American Pilots System Seniority List. To the extent that Paragraph 84  
27 contains any additional allegations, APA denies them.

1 85. Paragraph 85 of the Complaint sets forth a legal conclusion, which does not require a  
2 response.

3 86. APA denies the allegations of Paragraph 86 of the Complaint, including subparts (a)-  
4 (e) thereof.

5 87. APA denies the allegations of Paragraph 87 of the Complaint.

6 88. APA denies the allegations of Paragraph 88 of the Complaint, including those of  
7 subparts (a)-(c) thereof.

8 89. APA denies the allegations of Paragraph 89 of the Complaint, including those of  
9 subparts (a)-(c) thereof.

10 90. In response to Plaintiffs' prayer for relief, APA denies that Plaintiffs are entitled to any  
11 relief whatsoever.

12 91. To the extent that APA has not admitted or denied an allegation in the Complaint, the  
13 allegation is denied.

14 **Affirmative Defenses**

15 **First Affirmative Defense**

16 Plaintiffs fail to state a claim upon which relief can be granted.

17 **Second Affirmative Defense**

18 Plaintiffs' claims are barred by the doctrine of accord and satisfaction.

19 **Third Affirmative Defense**

20 Plaintiffs' claims are barred by the doctrine of arbitration and award.

21 **Fourth Affirmative Defense**

22 Plaintiffs' claims are subject to the doctrine of waiver.

23 **Fifth Affirmative Defense**

24 Plaintiffs' claims are barred by the statute of limitations.

25 **Sixth Affirmative Defense**

26 Plaintiffs' claims about the McCaskill-Bond arbitration process and the positions taken by the  
27 various merger committees either fail to state a claim upon which relief can be granted, are moot, or  
28 are not ripe.

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**Prayer for Relief**

WHEREFORE, APA prays that Plaintiffs’ Complaint be dismissed with prejudice, that Plaintiffs take nothing by it, and the Court order Plaintiffs to pay APA’s attorneys’ fees, litigation expenses and statutory costs in this action.

Dated: February 5, 2016.

EDGAR N. JAMES\*  
STEVEN K. HOFFMAN\*  
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James & Hoffman, P.C.

JEFFREY B. DEMAINE  
JONATHAN WEISSGLASS  
Altshuler Berzon LLP

By: /s/ Jeffrey B. Demain  
Jeffrey B. Demain

Attorneys for Defendant  
Allied Pilots Association

*\*Admitted pro hac vice*