UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 19-cv-23965-JEM

JOSÉ RAMÓN LÓPEZ REGUEIRO,

Plaintiff,

v.

AMERICAN AIRLINES, INC., *et al.*,

Defendants.

DEFENDANT AMERICAN AIRLINES, INC'S MOTION TO STAY PROCEEDINGS

Defendant American Airlines, Inc. ("American") respectfully moves this Court for a sixty-day stay of all proceedings in this case given that the COVID-19 pandemic has caused an unprecedented disruption to the airline industry and the lives and working conditions of these companies' employees, even beyond the massive impact on the general public. American's resources to respond to the demands of this case have been diverted to responding to the critical needs of the airline, its passengers and its employees in combating COVID-19.

A sixty-day stay is necessary to give American a brief reprieve to cope with the financial and personal difficulties imposed by the COVID-19 "war," as it is frequently called, and its economic impact, which has had a disproportionate impact on the airline industry. Indeed, it remains unclear (but one hopes) that the country will be out of COVID-19's warpath within the next 60-days, although its impact on the airline industry is assured of lasting far longer. Nonetheless, American anticipates that the immediate and increased allocation of resources to address the current, unprecedented issues the airline faces in terms of travel safety, employment and corporate operations will have subsided within 60 days, at least enough to allow the parties to reengage in this litigation. This stay will not cause any prejudice to Plaintiff José Ramón López

Regueiro ("Plaintiff"), who is not immune to COVID-19's devastating impact and has obtained similar relief in another case because of the ongoing pandemic. As good cause for this motion, American states as follows:[1]

BACKGROUND

A. COVID-19 Pandemic

1. President Trump declared a national emergency on March 23, 2020, in response to the global COVID-19 pandemic that continues to spread across the United States in exponential fashion. On March 10, 2020, Florida Governor Ron DeSantis declared a state of emergency in Florida. Similarly, on March 13, 2020, Texas Governor Greg Abbott declared a state of disaster for all counties in Texas due to the "imminent threat of disaster" posed by COVID-19.[2]

2. Many counties have also issued "stay at home" orders. This includes Tarrant and Dallas counties, home of American's headquarters, and where American's employees and in-house counsel who are necessary to this case are located. Miami-Dade County, where some of Defendants' employees, Plaintiff, Plaintiff's counsel, and Defendants' counsel are based issued a similar order. These orders have required members of the public who do not perform "essential" duties to stay at home for the coming weeks to "flatten the curve" (*i.e.*, reduce the spread) of the virus to avoid overwhelming the nation's hospital system.

3. All non-essential activities have been shut down in response to the COVID-19 pandemic. The vast majority of people in the shut-down areas, including Tarrant, Dallas, and Miami-Dade counties, are required to stay at home as much as possible and avoid as much personal

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[1] This motion is also supported by the Declaration of Jana K. Friedman dated April 2, 2020, American's Managing Director and Senior Attorney, attached as Exhibit "A."

[2] American's corporate offices and employees are located in Fort Worth, Texas.

contact with others as possible. Schools and businesses are either effectively or totally closed. Public transportation has been discouraged and significantly curtailed if it is still in service.

4. In the past week, the declarations of emergencies and "stay at home" orders have been extended, not lifted.[3] On April 1, 2020, Governor DeSantis of Florida issued a state-wide "stay at home" order effective until at least May 1, 2020. President Trump also extended federal social distancing guidelines until April 30, 2020. Overall, four out of five Americans are under "stay at home" orders and advised not to travel.[4]

5. The "stay at home" orders, while necessary, have created novel, unprecedented challenges with workers who are now home-bound, caring for children who cannot go to school, and straining the resources of companies' technological bandwidth to operate remotely.

B. Impact on the Airline Industry and American

6. The airline industry has been one of the most severely and immediately impacted industries as a result of the COVID-19 pandemic. Given the rapid global spread of the virus, airline business has been decimated due to governmental travel restrictions and a crippling fall in demand. Globally, commercial flights have dropped by 55% as compared to 2019 due to travel

[3] For example, on March 31, 2020, the City of Miami extended the state of local emergency order for the third time within a month, and the Miami-Dade County Schools Superintendent announced that schools would remain closed throughout April. The Governor of Texas also announced that schools in Texas would remained closed at least until May 4, 2020.

[4] *See* https://www.businessinsider.com/us-map-stay-at-home-orders-lockdowns-2020-3 (last accessed Apr. 2, 2020).

restrictions and flight cuts.[5] Nearly one-third of all passenger planes have been grounded worldwide, and that "number is growing rapidly."[6]

7. American has faced extensive complications and a devastating impact due to COVID-19. Friedman Decl. ¶ 3. American's stock price has fallen as much as 70% from its recent highs.[7] By March, 19, 2020, American had cancelled 55,000 flights and grounded almost half its fleet due to COVID-19.[8] More recently, American is "canceling 40% of its flights each day" and it "expects more cutbacks in the days ahead."[9] The lack of demand and government restrictions straining the airline industry is forcing American to suspend 70% of its domestic flights in April and anticipates that percentage to rise to 80% in May. Friedman Decl. ¶ 3. The impact is even more severe for international flights: American anticipates cutting 90% of its international capacity in May. *Id.*

8. As such, American's current priority and focus is passenger, crew and employee safety and compliance with emerging guidelines from the Centers for Disease Control ("CDC"), which has drastically altered operations to address safety, potential exposures, sick passengers and crew, and decontamination of aircrafts. *Id.* ¶ 5.

9. American's employees are facing unprecedented challenges working from home due to government mandated "stay at home" requirements limiting full access to resources at their

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[5] *See* https://www.fastcompany.com/90485284/air-traffic-data-shows-much-less-crowded-skies-since-the-coronavirus-spread (last accessed Apr. 2, 2020).

[6] *See* https://www.cnn.com/2020/03/28/politics/coronavirus-impact-airlines/index.html (last accessed Apr. 2, 2020).

[7] *See* https://investorplace.com/2020/03/aal-stock-is-a-bargain-buy-that-will-fly-again/ (last accessed Apr. 2, 2020).

[8] *See* https://dfw.cbslocal.com/2020/03/19/in-the-fight-of-our-lives-american-airlines-ceo-cancels-55000-flights-grounds-almost-1-2-fleet/ (last accessed Apr. 2, 2020).

[9] *See* https://www.nytimes.com/2020/03/25/business/coronavirus-american-airlines.html (last accessed Apr. 2, 2020).

workplace and causing technology resources, including online network capabilities, to be strained beyond anything American has previously faced. *See id.* ¶¶ 6-7.

10. American's strained operations and limited time and resources are now focused on protecting its business, employees, and passengers in these very challenging times. A stay of the instant proceedings will allow American to focus on the safety of the general public and the survival of the airline industry through, and after, the COVID-19 pandemic.

LEGAL STANDARD

11. This "Court 'has broad discretion to stay proceedings as an incident to its power to control its own docket.'" *Goode v. Celebrity Cruises, Inc.*, No. 16-24131-CIV, 2017 WL 4347133, at *2 (S.D. Fla. Sept. 29, 2017) (*quoting Clinton v. Jones*, 520 U.S. 681, 706 (1997)); *Johnson v. Bd. of Regents of Univ. of Georgia*, 263 F.3d 1234, 1269 (11th Cir. 2001) ("[W]e accord district courts broad discretion over the management of pre-trial activities, including discovery and scheduling."). Such discretion in favor of a stay should be exercised when a party "demonstrate[s] reasonableness and good cause." *Goode*, 2017 WL 4347133, at * 2; *see, e.g.*, *Garbett*, 2020 WL 1476159, at *2 (finding COVID-19 impact reasonable grounds to stay discovery for over 60 days).

A SIXTY-DAY STAY IS WARRANTED

12. No harm or prejudice will result from a stay of discovery and all related proceedings in this case. In fact, requiring the parties to continue litigating in these unknown waters is treacherous, risky and outweighed by the public interests of safety and caution at all levels. The exigent circumstances posed by COVID-19 on American (and the general public) warrant a brief stay.

13. Plaintiff seeks monetary compensation related to a civil claim under the Helms-Burton Act. No emergency, injunctive or other time-sensitive relief is sought. There is no pending

urgency that prevents a brief stay in the case or that weighs in favor of requiring all of the parties and counsel to conduct business-as-usual in this litigation in the face of the national emergency. Indeed, the opposite is quite true as proactive measures being taken to combat COVID-19 pose incredible hardships on the parties by imposing stay-at-home orders, lock downs and travel restrictions, which evolve daily. These hardships are magnified as they relate to the airline industry because its lifeblood is connecting people through travel, which has practically ground to a halt. While certainly necessary, the unprecedented order and restrictions call for a pause in this case to permit the parties and employees to overcome the pandemic and return to their normal lives, including providing the requisite attention and resources this case merits.

14. Plaintiff and its counsel have recognized the devastating effects of COVID-19 and the limitations on parties to perform routine pre-trial activities. Indeed, two weeks ago, they sought to adjourn discovery deadlines for ***sixty (60) days*** due to the "unforeseen circumstances" caused by COVID-19 in another Helms Burton case. *Mata v. Expedia, Inc.*, No. 19-22529-CIV-ALTONAGA (S.D. Fla. Mar. 13, 2020), *Agreed Joint Motion of All Parties for the Adjournment of the Jurisdictional Discovery Deadlines*, D.E. 119 at 1, attached as Exhibit "B." Judge Altonaga granted relief by closing the case for the time being "[g]iven [that] it is impossible to proceed with the orderly progress of the case due to the uncertainty regarding the duration of travel restrictions, and to conserve the parties' and judicial resources" due to COVID-19's impact. *Id.*, *Administrative Order Closing Case*, D.E. 122, attached as Exhibit "C." Since Plaintiff obtained such relief, conditions have worsened. This country has been thrust into even more uncertainty and faces more restrictions hindering American's ability to devote resources to the present litigation that are justifiably needed for other purposes at this time. Similar relief here is reasonable in light of the unprecedented and unforeseen circumstances.

15. Other courts have recognized that the unique and unprecedented nature of COVID-19's impact on the country warrants stays of civil litigation. For example, Judge Barber in the Middle District of Florida extended all dates and deadlines specified in any civil case management or scheduling order for sixty (60) days. *See* Order, *In re: Civil Cases Assigned to Judge Barber of the M.D. Fla.*, March 23, 2020, attached as Exhibit "D." Similarly, the Northern District of Illinois has extended all civil deadlines twice, for a total of seven weeks. *See* N. D. Ill., *Second Amended General Order 20-0012, In re: CORONAVIRUS COVID-19 Public Emergency*, entered March 30, 2020, attached as Exhibit "E."

16. Other courts have likewise stayed discovery and suspended deadlines due to the pandemic and its negative effect on the parties. *See, e.g.*, *Garbutt v. Ocwen Loan Servicing, LLC,* No. 8:20-CV-136-T-36JSS, 2020 WL 1476159, at *2 (M.D. Fla. Mar. 26, 2020) ("[G]ood cause exists [for a stay] based on the disruption to business caused by the spread of COVID-19."); *Kleiman v. Wright*, No. 18-CV-80176, 2020 WL 1472087, at *2 (S.D. Fla. Mar. 26, 2020) ("The Court recognizes the present difficulties of working remotely with limited staff and resources against the COVID-19 backdrop.").

17. Simply stated, a sixty-day pause in the proceedings here is reasonable and warranted. American has shown good cause in light of its inability to dedicate adequate resources and attention to this case due to COVID-19 because of the demanding challenges it is facing in an industry disproportionately impacted by COVID-19. Plaintiff, who has sought and received similar relief, will not be prejudiced.

WHEREFORE, for the foregoing reasons, American respectfully requests that this Court enter a sixty (60) day stay of all proceedings in this action.

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)

Undersigned counsel conferred with counsel for Plaintiff and Defendant LATAM Airlines Group, S.A. ("LATAM") in good faith regarding the relief sought herein and is authorized to represent that LATAM agrees to the 60-day stay but Plaintiff opposes the requested relief.

Dated: April 3, 2020

Respectfully submitted,

/s/ Ricardo H. Puente
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Attorneys for Defendant, American Airlines, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 3, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ Ricardo H. Puente
Ricardo H. Puente