

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA, )

*Plaintiff,* )

v. )

AMR CORPORATION, )  
AMERICAN AIRLINES, INC., and )  
AMR EAGLE HOLDING )  
CORPORATION, )

*Defendants.* )

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Civil Action No.: 99-1180-JTM

**DECLARATION OF MAX R. HUFFMAN IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO AMERICAN'S MOTION IN LIMINE TO EXCLUDE CERTAIN  
EVIDENCE RELATED TO LEGEND AIRLINES, INC.**

I, Max R. Huffman, hereby declare as follows:

1. I am an attorney in the Antitrust Division (“Division”) of the United States Department of Justice and am a member of the trial staff working on the United States’ case against American. I make this declaration in support of Plaintiff’s Opposition to American’s Motion in Limine. Except as otherwise stated, I have personal knowledge of the matters set forth herein and can and will testify thereto if called upon to do so.

2. In a November 6-7, 2000, deposition of Thomas G. Plaskett of Legend, American caused to be labeled as Defendants’ deposition exhibit 6051 a seven-page document, bates numbered TBP/DOJ-AA 0001-0007, which is a series of Mr. Plaskett’s résumés. A true and correct copy of Defendant’s deposition exhibit 6051 is attached hereto as Exhibit 1.

3. On April 26, 2000, the Dallas Morning News reported that American had plans to fly from Dallas Love Field to Chicago-O’Hare and Los Angeles on 56-seat, all first class configuration Fokker 100 aircraft. In the same article, the Dallas Morning News noted that American’s new Love Field service would compete with Legend’s all-first class service, begun in early April, to Las Vegas, Los Angeles, and Washington D.C. A true and correct copy of the Dallas Morning News article, as found on the Westlaw electronic database, is attached hereto as Exhibit 2.

4. On June 12, 2000, Aviation Week & Space Technology reported that Legend planned four daily non-stop flights from Love Field to LaGuardia Airport in New York City, beginning September 6, 2000, and planned to begin service to Chicago-O’Hare sometime in the future. A true and correct copy of the Aviation Week & Space Technology article, as found in the Westlaw electronic database, is attached hereto as Exhibit 3.

5. On September 8, 2000, Aviation Daily reported that American had begun daily non-stop service from LaGuardia Airport to Love Field to compete with Legend. A true and correct copy of the Aviation Daily article, as found in the Westlaw electronic database, is attached hereto as Exhibit 4.

6. On February 22, 2000, the United States responded to American's Interrogatory No. 2, in part with an explanation of information gathered from a 1998 interview that the Division undertook with two Legend executives and board members. A true and correct copy of the United States' response to American's Interrogatory No. 2 is attached hereto as Exhibit 5.

7. On May 2, 2000, the United States responded to American's Interrogatory No. 41, in part with a discussion of Legend's concerns regarding American's reaction should Legend begin service from DFW Airport. A true and correct copy of the United States response to American's Interrogatory No. 41 is attached hereto as Exhibit 6.

8. On July 31, 2000, the United States served on American a Second Preliminary List Of Non-Expert Witnesses, which included Thomas G. Plaskett of Legend. A true and correct copy of the Second Preliminary List is attached hereto as Exhibit 7.

9. On August 23, 2000, Renata B. Hesse, counsel for the United States, wrote and sent a letter to Mark Weber, counsel for American, stating the subjects regarding which the United States expects Mr. Plaskett to testify at trial. A true and correct copy of the Hesse letter is attached hereto as Exhibit 8.

10. On June 6, 2000, American issued a subpoena to Legend Airlines, Inc. ("Legend"), including fifteen requests for the production of documents. A true and correct copy of American's subpoena is attached hereto as Exhibit 9.

11. On July 10, 2000, Joseph C. Edwards, counsel for Legend, sent by telefacsimile a letter to Gayle E. Rosenstein, counsel for American, regarding the subpoena American had served on Legend. Karl Knutsen, counsel for the United States, subsequently received a copy of the 7/10/00 Edwards letter. A true and correct copy of the letter as received by the United States is attached hereto as Exhibit 10.

12. On July 31, 2000, Mr. Edwards sent by telefacsimile a letter to Ms. Rosenstein, regarding American's subpoena and the parties' subsequent discussions about American's sought-for discovery. Karl Knutsen subsequently received a copy of the 7/31/00 Edwards letter. A true and correct copy of the letter as received by the United States is attached hereto as Exhibit 11.

13. On August 8, 2000, Ms. Rosenstein sent by hand delivery a letter to Mr. Edwards, accompanying American's Motion to Compel filed with the District Court for the Northern District of Texas. Karl Knutsen, counsel for the United States, subsequently received a copy of the 8/8/00 Rosenstein letter. A true and correct copy of the letter as received by the United States is attached hereto as Exhibit 12.

14. On August 8, 2000, American filed a Motion To Compel Production Of Documents From Third Party Legend Airlines, Inc., in the District Court for the Northern District of Texas. The United States subsequently received a copy of American's motion. A true and correct copy of the motion as received by the United States is attached hereto as Exhibit 13.

15. On August 28, 2000, Legend filed its Response to American's motion. The United States subsequently received a copy of Legend's response. A true and correct copy of the response as received by the United States is attached hereto as Exhibit 14.

16. On September 12, 2000, American filed its Reply in support of its August 8

motion. The United States subsequently received a copy of American's reply. A true and correct copy of American's reply as received by the United States is attached hereto as Exhibit 15.

17. On September 18, 2000, Magistrate Judge Sanderson of the United States District Court for the Northern District of Texas held a hearing on American's motion to compel, and on September 19, 2000, Judge Sanderson issued an Order denying American's motion without prejudice. The United States subsequently received copies of the hearing transcript and Judge Sanderson's Order. A true and correct copy of Judge Sanderson's Order and the hearing transcript, as received by the United States, is attached hereto as Exhibit 16.

18. On May 1, 2000, Mr. Plaskett sent by telefacsimile a letter to Michael W. Gunn of American regarding Legend's discovery that an American employee had gained unauthorized access to proprietary Legend information in the Sabre database. This letter was used as Defendants' deposition exhibit 6067 in the November 6-7 deposition of Mr. Plaskett and carries bates numbers TGP/DOJ-AA 0012-0014. A true and correct copy of Defendants' deposition exhibit 6067 is attached hereto as Exhibit 17.

19. On December 22, 1999, this Court entered its first Scheduling Order. A true and correct copy of the Scheduling Order is attached hereto as Exhibit 18.

20. A true and correct copy of the Complaint filed by the United States on May 13, 1999, in this litigation is attached hereto as Exhibit 19.

21. A true and correct copy of the 5/4/00 Memorandum Of The United States filed with the Court pursuant to the 4/13/00 Scheduling Order is attached hereto as Exhibit 20.

22. On September 27, 1999, the United States responded to American's Interrogatory No. 3. A true and correct copy of the United States response to American's Interrogatory No. 3

is attached hereto as Exhibit 21.

23. On November 6-7, 2000, American took the deposition of Mr. Plaskett. A true and correct copy of select pages from the November 6-7 deposition of Mr. Plaskett is attached hereto as Exhibit 22.

24. On October 30, 2000, Karl Knutsen sent a letter to Ms. Rosenstein regarding American's efforts to receive discovery from Legend. A true and correct copy of the 10/30/00 Knutsen letter is attached hereto as Exhibit 23.

25. In the November 6-7 deposition of Mr. Plaskett, American caused to be labeled as Defendants' deposition exhibit 6062 a document entitled "It's About Time!", bearing bates numbers Legend 0499-0580. A true and correct copy of Defendants' deposition exhibit 6062 is attached hereto as Exhibit 24.

26. In a February 20, 2001, article, Aviation Daily reported that Legend planned to close its offices by the end of February. A true and correct copy of the article, as found on the Westlaw electronic database, is attached hereto as Exhibit 25.

27. A true and correct copy of the Court's January 29, 2001, Pre-Trial Order is attached hereto as Exhibit 26.

28. In a December 3, 2000, article, the Washington Post reported that Legend had suspended service. A true and correct copy of the article, as found on the Westlaw electronic database, is attached hereto as Exhibit 27.

I declare that the foregoing is true under the penalty of perjury. Executed March 15, 2001, in the District of Columbia.

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Max R. Huffman