

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

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UNITED STATES OF AMERICA,	)	
	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 99-1180-JTM
v.	)	
	)	
AMR CORPORATION,	)	
AMERICAN AIRLINES, INC, and	)	
AMERICAN EAGLE HOLDING	)	
CORPORATION,	)	
	)	
Defendants.	)	

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**DECLARATION OF A. DOUGLAS MELAMED IN SUPPORT  
OF PLAINTIFF’S OPPOSITION TO DEFENDANTS’ MOTION  
TO COMPEL DOCUMENTS RESPONSIVE TO AMERICAN’S  
FIRST AND SECOND REQUESTS FOR DOCUMENTS**

I, A. Douglas Melamed, hereby declare the following to be true and correct, based on my personal knowledge, unless otherwise indicated:

1. I am the Principal Deputy Assistant Attorney General for the Antitrust Division of the United States Department of Justice under Assistant Attorney General Joel I. Klein. I assumed this position in October of 1996. As Principal Deputy Assistant Attorney General, I hold the position of Acting Assistant Attorney General when Mr. Klein is not present. I am currently Acting Assistant

Attorney General.

2. Mr. Klein was nominated for the position of Assistant Attorney General for the Antitrust Division of the United States Department of Justice by President Clinton and has held that appointment since July 17, 1997, when his nomination was confirmed by the United States Senate. Prior to that time, Mr. Klein was Principal Deputy Assistant Attorney General under Anne K. Bingaman and became Acting Assistant Attorney General in October 1996.

3. As Assistant Attorney General for the Antitrust Division, Mr. Klein oversees and directs the Antitrust Division. The Antitrust Division is responsible for enforcement of the antitrust laws and serves as the Federal Government's principal analyst of, and advocate for, competition policy. The antitrust laws prohibit a variety of practices that restrain trade, such as price-fixing conspiracies, corporate mergers that may substantially reduce competition in particular markets, and exclusionary conduct designed to achieve or maintain monopoly power. Antitrust enforcement involves investigating possible antitrust violations through appropriate civil or criminal process, preparing and trying antitrust cases, prosecuting appeals, and obtaining and enforcing final judgments.

4. Mr. Klein is assisted in the performance of his responsibilities by five Deputy Assistant Attorneys General, to each of whom a number of sections, task forces, and offices in the Division report. Three Directors of Enforcement in the Office of Operations have direct supervisory authority over the activities of the various sections, task forces, and offices, and work closely with the Deputy Assistant Attorneys General with respect to Division activities. Each section is headed by a Chief and one or two Assistant Chiefs and includes a number of staff attorneys.

5. Civil investigations are assigned to sections, generally on the basis of section expertise with various industries. Civil investigations of air passenger service are generally assigned to the Transportation, Energy and Agriculture Section (“TEA”), which reports to Deputy Assistant Attorney General John M. Nannes. Prior to the appointment of Mr. Nannes, TEA reported to me.

6. The Assistant Attorney General for Antitrust has been delegated the responsibility by the Attorney General to determine whether to bring antitrust actions on behalf of the United States of America, *see* 28 C.F.R. § 0.40. Moreover, the Assistant Attorney General has been specifically delegated authority to assert applicable privileges in antitrust litigation by the Deputy Attorney General, who is authorized pursuant to Department of Justice regulations, *see* 28 C.F.R. §§ 16.21 *et seq.*, to determine whether Department of Justice information will be withheld in response to subpoenas and other demands. The delegation provides that any assertion of privilege be in accordance with the guidelines established in 28 C.F.R. § 16.26. When necessary, I perform these delegated functions in my position as Acting Assistant Attorney General.

7. Through the exercise of my official duties, I have become familiar with American’s Motion to Compel various categories of materials from the Department of Justice in connection with the above-captioned case. I have read the declaration of Deputy Assistant Attorney General John M. Nannes concerning this motion and the impact that disclosure of documents relating to the Division’s ongoing investigation would have on that investigation and on future investigations in the air passenger service industry.

8. Based on my knowledge of these investigations and my review of Mr. Nannes’

declaration, I am convinced that disclosure of the information requested by defendants, particularly while the Division is still considering whether to bring an enforcement action, could have an adverse effect on the progress of the ongoing investigation of other carriers and on any future attempts by the Division to prosecute the airlines under investigation. I therefore assert the law enforcement investigatory files privilege with regard to the documents at issue.

I declare under the penalty of perjury that the foregoing is true and correct. Executed on March 14, 2000, in the District of Columbia.

“/s/”

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A. Douglas Melamed  
Acting Assistant Attorney General  
Antitrust Division  
United States Department of Justice