

CAUSE NO. \_\_\_\_\_

ALLIED PILOTS ASSOCIATION, Plaintiff,	§	IN THE DISTRICT COURT
	§	
v.	§	_____ JUDICIAL DISTRICT
	§	
AMERICAN AIRLINES, INC. Defendant.	§	
	§	DALLAS COUNTY, TEXAS

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PLAINTIFF’S ORIGINAL VERIFIED PETITION  
AND APPLICATION FOR INJUNCTIVE RELIEF

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ALLIED PILOTS ASSOCIATION (“Plaintiff”), Plaintiff herein, files this its Original Verified Petition and Application for Injunctive Relief against AMERICAN AIRLINES, INC. (“Defendant”), Defendant herein, and in support thereof would show the Court:

I. DISCOVERY CONTROL PLAN

1. Discovery in this matter is intended to be conducted pursuant to Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II. PARTIES

2. Plaintiff, ALLIED PILOTS ASSOCIATION (“APA”), serves as the certified collective bargaining agent for the approximately 15,000 pilots of Defendant American Airlines, with its principal place of business located at 14600

Trinity Blvd., Suite 500, Fort Worth, Texas 76155.

3. Defendant, AMERICAN AIRLINES, INC., is a Delaware corporation and a United States based air carrier operating throughout the world, with a principal place of business located at 1 Skyview Drive, Fort Worth, Texas 76155.

### III. JURISDICTION AND VENUE

4. Jurisdiction is proper in the district courts of Texas because this matter involves a declaratory judgment action and injunctive relief and both Plaintiff and Defendant maintain their principal places of business in the State of Texas. Venue is proper in Tarrant County pursuant to §15.002 et. seq. of the Texas Civil Practices & Remedies Code because all or a substantial part of the events or omissions giving rise to the claim occurred in Tarrant County, Texas.

### IV. STATEMENT OF THE CASE

5. Safety has always been a shared concern between APA and American Airlines. Recent events relating to the outbreak of the novel coronavirus in China have created a threat to the safety of passengers and flight crew travelling to and from that country. Due to the serious, and in many ways still unknown, health threats posed by the coronavirus, and concerns regarding its continued spread globally, several governmental agencies worldwide, including the United States Centers for Disease Control and Prevention (“CDC”), have issued alerts and warnings

discouraging all “nonessential travel” to China. In response to those alerts, many air carriers have suspended flights to China until further information can be obtained regarding the virus. Given the unique challenges presented by the coronavirus, these carriers have now recognized an industry standard of care exercising the highest of precaution. While American Airlines has recently announced that it intends to suspend some flights to China effective February 9, 2020, it has yet to take any action to cancel/suspend flights prior to that date. Plaintiff contends that Defendant’s failure to immediately cancel all flights to and from China fails to meet the standard of care evidenced by other carriers in the industry. Due to the risks associated with potential exposure to the coronavirus for people travelling to and from China, Plaintiff, on behalf of its respective members, brings the instant action for negligent exposure to a communicable disease, as recognized in *Lancer Ins. Co. v. Garcia Holiday Tours*, 345 S.W.3d 50 (Sup. Ct. Tx. 2011), and injunctive relief to compel Defendant American Airlines to promptly take further action and join the growing list of air carriers who have responded to the threat posed by the coronavirus to their passengers and crew members by cancelling all flights to China until more information is obtained regarding the full extent of the risks and threat posed by travelling to and from China.

6. Accordingly, Plaintiff hereby sues the Defendant American Airlines for

negligently and intentionally exposing its members to the coronavirus, a potentially fatal, communicable disease, through its continued operation of flights to and from China. Plaintiff seeks injunctive relief prohibiting Defendant from continuing to operate flights from airports within the United States (U.S.), including Dallas Fort Worth International (“DFW”) Airport, to and from China during the period of time that the CDC maintains its Level 3 Warning recommending that travelers avoid all nonessential travel to China as a result of the ongoing coronavirus epidemic.

#### V. BACKGROUND FACTS

7. There is currently an outbreak of a potentially fatal respiratory illness caused by a novel coronavirus that first surfaced in Wuhan City, Hubei Province, China.

8. The outbreak has continued to expand since its onset, with the virus reportedly spreading from person-to-person. As of January 29, 2020, according to the World Health Organization, there are approximately 6,000 confirmed cases of the coronavirus and over 130 confirmed fatalities in China alone, with an additional 68 confirmed cases in other parts of the world. Those numbers are expected to rise by the day.

9. On January 30, 2020, it was reported that there were an additional 1,700 new confirmed cases of coronavirus in China, bringing the total number of

confirmed cases to approximately 7,700.

10. By comparison, there were 8,098 confirmed cases of the SARS virus between November 2002 and July 2003. The number of confirmed coronavirus cases has almost equaled that number in less than two months.

11. On January 27, 2020, the CDC issued a Level 3 Health Warning recommending that travelers avoid “all nonessential travel” to China.

12. On January 29, 2020, the United States Department of State issued a Level 4 Travel Advisory (“Do Not Travel”) to the Hubei Province and a Level 3 Advisory (“Reconsider Travel”) for the remainder of China.

13. According to the Department of State, “Chinese health officials have reported thousands of cases of novel coronavirus throughout China, and the outbreak continues to grow. Travelers should be prepared for travel restrictions to be put into effect with little or no advanced notice.”

14. The CDC has characterized the coronavirus outbreak as “a serious public health threat,” noting that it is “likely that person-to-person spread will occur, including in the United States.”

15. According to the CDC, infections from the coronavirus, most of them associated with travel from Wuhan, are being reported in a growing number of international locations, including the United States.

16. According to CDC, the incubation period for the virus is believed to be between 2 and 14 days from exposure. It is believed that individuals exposed to the virus may be able to transmit the virus even before symptoms appear.

17. CDC has further acknowledged that the coronavirus “is an emerging, rapidly evolving situation.”

18. On January 29, 2020, British Airways suspended all flights into and out of China based on the advice of the British Foreign Office against “all but essential travel to mainland China.”

19. On January 29, 2020, Air Canada suspended all flights into and out of China for the period January 30 through February 29, 2020, following a Canadian government advisory cautioning against “non-essential travel.”

20. On January 29, 2020, recognizing that the “safety of its passengers and employees was a top priority,” Lufthansa Group announced that “[a]fter thoroughly evaluating all currently available information on the corona virus, [it] has decided to suspend its Lufthansa, SWISS and Austrian Airlines flights to/from mainland China until 9 February with immediate effect.”

21. Other air carriers worldwide have suspended service into and out of China in response to the risks associated with exposure to, and the spread of, the coronavirus.

22. American Airlines currently operates approximately 56 flights per month between DFW Airport and airports in China. There are currently 26 flights scheduled between DFW and China, including Hong Kong, between January 30 and February 9, 2020.

23. APA represented pilots are scheduled to fly all American Airlines flights between DFW and cities in China.

24. Each crew of pilots and flight attendants flying to cities in China is required to be on the ground in China for approximately 32 hours between flights to comply with federal rest regulations.

25. The required presence of flight crews in China and the transportation of passengers to United States airports from cities in China creates potential exposure for flight crew members to the coronavirus.

26. It is estimated that based on American Airlines' current schedule approximately 300 passengers and crew per flight may travel to DFW Airport alone from cities in China on American Airlines flights.

27. As a result of the potential for spread of the coronavirus to the North Texas region from persons flying from China, the CDC has announced that it will commence screening procedures for passengers arriving at DFW airport.

28. In light of the "serious public health threat" posed by the coronavirus,

APA has requested of Defendant American Airlines that it suspend all of its flights to and from United States and cities in China as long as the CDC has its Level 3 Health Warning in effect.

29. To date, Defendant American Airlines has refused to suspend any flights between U.S. airports and cities in China, though it has announced plans to suspend flights between Los Angeles International Airport (LAX) and China due to decreased passenger volume beginning on February 9, 2020.

30. As a result of Defendant American Airlines' refusal to suspend all flights to and from China, APA members may potentially be exposed to the coronavirus with the risk of further exposing family members, passengers and others.

31. The potential for exposure to the coronavirus is not only an unacceptable risk for flight crew members, but for the general public in North Texas due to the uncertainties relating to the disease, its incubation period, and how the virus is spread.

32. In recognition of the potential risks associated with the coronavirus to the North Texas area, the Tarrant County Public Health Department has already issued a health alert related to the virus.

33. The CDC has announced that older adults are more at risk of



contracting and becoming seriously ill after exposure to coronavirus. The average age of the 193 DFW-based captains on the 777 aircraft, an aircraft which flies between DFW and China, is 61. The average age of the 121 DFW-based captains on the 787 aircraft, which also flies between DFW and China, is also 61. The average age of the 387 DFW-based first officers on the 777 aircraft is 57, and the average age of the 282 DFW-based 787 first officers is 55.

34. Defendant American Airlines has a duty to protect the health, safety and well-being of its employees while they are performing duties on behalf of the Company.

35. Through the warnings issued by the CDC, the Department of State and other governments around the world, including the Chinese government, Defendant American Airlines is aware of the threats of exposure to the coronavirus posed to flight crew members who are required to fly to and from China.

36. Notwithstanding its awareness of the risks to its flight crew members associated with continued operations to and from China while the CDC Level 3 Warning is in effect, Defendant American Airlines has continued to knowingly expose its employees to those risks by refusing to suspend operations to and from China.

37. Defendant American Airlines' decision to continue to operate flights

from the United States to and from cities in China and to compel flight crewmembers to work those flights negligently exposes those flight crewmembers to exposure to, and spread of, the coronavirus.

## VI. CAUSE OF ACTION - NEGLIGENCE

38. Plaintiff realleges and incorporates paragraphs 1-38 of the Verified Petition as if fully set forth herein.

39. Defendant is the employer of the pilots represented by the Plaintiff. Defendant has the duty to use ordinary care in providing a reasonably safe workplace and a duty to use ordinary care in establishing rules and regulations for its employee's safety due to the complexity of the industry. Defendant also has the duty and obligation to undertake policies and procedures to protect its employees and to avoid hazardous conditions for their employees.

40. Defendant has breached the aforementioned duties, among others, by continuing to require Plaintiff's members to fly flights between United States airports and China, where a potentially fatal disease that has been found to transfer from person-to-person, is relentlessly spreading and taking lives. Defendant's breach is the proximate cause of damages to Plaintiff's members, as it is placing them in danger and some are experiencing anxiety, mental anguish, and other stressors related to concerns regarding contracting the deadly virus. Defendant's

breach has resulted in Defendant placing flight crew members and others at risk of exposure to the coronavirus, a potentially fatal communicable virus.

## VII. APPLICATION FOR INJUNCTION RELIEF

41. Plaintiff realleges and incorporates paragraphs 1-41 of the Verified Petition as if fully set forth herein.

42. If Defendant continues flight operations between United States airports and China while the CDC Level 3 Warning (or higher) is in effect, flight crew members will suffer immediate, ongoing and irreparable harm, through the possible exposure to a potentially fatal viral outbreak, for which Plaintiff and its members will have no adequate remedy at law. As such, Plaintiff seeks a temporary restraining order prohibiting Defendant from continuing to operate flights between United States airports and cities in China during the pendency of the CDC Level 3 Warning (or higher) related to travel to China.

43. Plaintiff seeks to have Defendant restrained from doing, or performing or causing to be done or performed, the following acts:

- a. Continuing to operate flights between United States airports and cities in China during the pendency of the CDC Level 3 Warning or any subsequent high warning based upon the coronavirus.
- b. Taking any actions or steps to punish, penalize, replace, demote, intimidate Plaintiff or its members for seeking the relief requested in this application for injunctive relief.

44. Issuing a TRO will protect not only the health and safety of the members of the Plaintiff, but also the public health of the people of North Texas and the greater United States as it will reduce the risk of the spread of the potentially fatal coronavirus.

45. Plaintiff is likely to prevail on their claim for negligent exposure to a potential communicable disease based upon all of the information and warnings published by various governmental agencies identifying known risks associated with travel to China. If the TRO does not issue, Plaintiff and its members, and their families, will be irreparably harmed as the Defendant will compel them to continue to operate flights to China and thereby knowingly increase their risk of exposure to the potentially fatal coronavirus. Such harm greatly outweighs any harm which may come to Defendant from the issuance of the TRO.

46. Plaintiff requests that the TRO be made into a Temporary Injunction, and on final trial hereof that a Permanent Injunction issue against Defendant through the pendency of the CDC Level 3 Warning (or higher).

#### VIII. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Court grant a Temporary Restraining Order as prayed for herein, that citation, notice and

the Temporary Restraining Order issue as required by law, that Defendant be cited to appear and answer herein, that upon notice and hearing the Temporary Restraining Order be made into a Temporary Injunction, that upon final trial hereof the Temporary Injunction be made into a Permanent Injunction and that the Plaintiff be awarded all actual damages, attorney's fees, expenses and costs of Court, with both pre- and post-judgment interest as provided by law, and for such other and further relief, at law or in equity, to which Plaintiff may show itself justly entitled.

Respectfully submitted,

SHEILS WINNUBST  
A Professional Corporation

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ATTORNEYS FOR PLAINTIFF

VERIFICATION

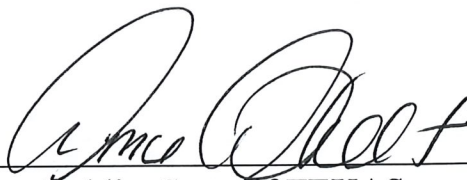
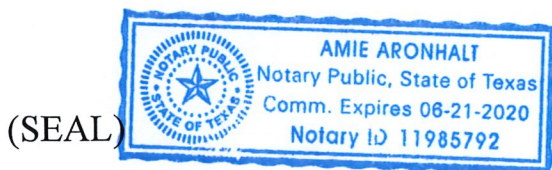
STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

BEFORE ME, the undersigned Notary Public on this day personally appeared Captain Eric Ferguson, the Affiant, known to me to be the person whose signature appears on this verification document. After being duly sworn on his oath, Affiant states he is the President of Allied Pilots Association, is authorized and is entitled to make this Affidavit on behalf of said Plaintiff, has read the above and foregoing Plaintiff' Verified Original Petition and Application for Injunctive Relief, and states that he has personal knowledge of the facts stated therein and that the allegations of fact contained therein are true and correct to the best of his knowledge. Further, that the exhibits attached to the Plaintiff' Verified Original Petition are true and correct copies of documents received and produced in the normal course of business on the date contained thereon.



CAPTAIN ERIC FERGUSON

SWORN AND SUBSCRIBED TO by Captain Eric Ferguson this the 29th day of January, 2020.



Notary Public, State of TEXAS