

**KELLY B. KIVILAAN,**  
Individually and on behalf of all  
others similarly situated,

**Magistrate Judge Bryant**

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the Settlement, the scheduling of a hearing on the fairness and adequacy of the Settlement, and related matters. (A copy of the Form of Notice is attached as Exhibit 2 to the Stipulation of Settlement). If granted final approval by the Court, the proposed Final Judgment would resolve all claims made by Plaintiff and the Settlement Class in this litigation. (A copy of the proposed Final Judgment is attached as Exhibit 3 to the Stipulation of Settlement and Release).

**WHEREFORE**, Plaintiff moves the Court to enter an Order granting preliminary approval of the Settlement, certifying the proposed Settlement Class, approving the form and manner of class notice, and setting a hearing on the fairness of the Settlement.

Respectfully submitted, this 7th day of July, 2009.

/s/W. Gordon Ball

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*Counsel for Plaintiff and the Settlement Class*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 7, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Waverly D. Crenshaw, Esquire  
Waller, Lansden, Dortch & Davis  
511 Union Street, Suite 27000  
Nashville, TN 37219-8966  
615-244-6380 (tel)  
615-244-6804 (fax)

Ronald E. Manthey, Esquire  
Melissa M. Hensley, Esquire  
MORGAN, LEWIS & BOCKIUS LLP  
1717 Main Street, Suite 3200  
Dallas, TX 75201  
214-466-4000 (tel)  
214-466-4001 (fax)

/s/W. Gordon Ball

W. Gordon Ball



**WHEREAS**, the Defendant, despite its belief that good and meritorious defenses are advanced against the claims alleged and despite its specific and categorical denial of liability and any wrongdoing related to the claims asserted by Plaintiff on behalf of herself and the Settlement Class, wishes to avoid the expense and uncertainty of further litigation in this matter and to buy its peace; and

**WHEREAS**, Plaintiff agrees that neither the negotiation of nor completion of the settlement of this Litigation constitutes or should be construed as an admission of any liability or wrongdoing on the part of the Defendant, nor may the negotiation of or completion of this settlement be admissible under federal or state rules of evidence in any legal proceeding; and

**WHEREAS**, Plaintiff has conducted an investigation into the facts and the law regarding this Litigation and has concluded that a settlement with the Defendant according to the terms set forth below is in the best interest of Plaintiff and the Settlement Class; and

**WHEREAS**, nothing in this Stipulation shall be used against the Defendant other than to effectuate this Settlement or enforce its terms; and

**WHEREAS**, the Parties intend to seek the entry of the Preliminary Approval Order approving this Stipulation. (A copy of the proposed Preliminary Approval Order is attached hereto as Exhibit 1). The Parties' agreement is based on the representations, mutual promises, obligations, and good and valuable consideration set forth in this Stipulation.

**NOW, THEREFORE**, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned that this Litigation fully and forever be settled, compromised and dismissed on the merits with prejudice as to the Defendant, subject to the approval of the Court, on the following terms and conditions.

## ARTICLE I

### A. Definitions

As used in the Stipulation, the following terms have the meanings specified below.

- 1.1 **“Plaintiff’s Counsel” or “Class Counsel”** shall refer collectively to Gordon Ball of the law firm of Ball & Scott, 550 Main Street, Suite 601, Bank of America Center, Knoxville, Tennessee 37902; Michael D. Hausfeld of the law firm of Hausfeld LLP, 1146 – 19<sup>th</sup> Street, N.W., Fifth Floor, Washington, DC 20036; Steven Toll of the law firm of Cohen, Milstein, Sellers & Toll PLLC, 1100 New York Avenue, N.W., Suite 500, West Tower, Washington, D.C. 20005; and Robert Potter of the law firm of Mann, Cowan & Potter, P.C., 2000B Southbridge Parkway, Suite 601, Birmingham, Alabama 35209. Class Counsel have heretofore designated Gordon Ball as their Authorized Representative to negotiate the terms of this Stipulation and each of the foregoing law firms have heretofore agreed to be bound by the terms of this conditional Stipulation as entered into by the Authorized Representative, and Gordon Ball represents that he has been so designated by each Class Counsel, and that he has authority to act on behalf of Class Counsel.
- 1.2 **“Settlement Class Member”** means Class Representative Kelly Kivilaan and any current female employees of American Airlines, Inc. nationwide who is or was eligible for benefits under American Airlines, Inc.’s health insurance plans, or who is covered, or has been covered, by Defendant’s health insurance plans, at any time between February 18, 2003 and the date of the final approval of the settlement.
- 1.3 **“Class Representative” or “Plaintiff”** means Plaintiff, Kelly B. Kivilaan.
- 1.4 **“Class Period”** means the time period from February 18, 2003 and the date of the final settlement of this Litigation.

- 1.5 **“Counsel for Defendant,” “Defendant’s Counsel” or “American Airlines’ Counsel”** means Ronald E. Manthey and Melissa M. Hensley of the law firm of Morgan, Lewis & Bockius LLP, 1717 Main Street, Suite 3200, Dallas, Texas, 75201-7347.
- 1.6 **“Complaint”** means the Complaint filed in this Litigation and includes any and all amendments thereto.
- 1.7 **“Court”** means the United States District Court for the Middle District of Tennessee.
- 1.8 **“Defendant”** means American Airlines, Inc.
- 1.9 **“Authorized Representative”** of Class Counsel shall refer to Gordon Ball, Esq.
- 1.10 **“Final”** means with respect to the Judgment: (a) the Court has entered the Judgment in the form attached hereto as Exhibit 2, or other form mutually agreed by the parties to be “Final,” dismissing with prejudice this Litigation; and (b) the later of (i) the date as of which the time to seek review or appeal of the Judgment has expired without any review or appeal having been sought or taken (including the time for service by mail); or (ii) the date of final affirmation on appeal, if any, of the Judgment, the expiration of the time for a petition for or a denial of a writ of certiorari to review the Judgment and, if certiorari (or such other writ or similar relief) is granted, the date of final affirmation of the Judgment following review pursuant to that grant; or (iii) the date as of which the time to file a motion to alter or amend the Judgment dismissing with prejudice this Litigation as against the Defendant has expired (including the time for service by mail) without any such motion having been filed; or (iv) if such motion to alter or amend is filed, or if review or appeal of any decision on such motion is sought or taken, the date as of which such motion, review or appeal shall have been finally determined in such a manner as to permit the implementation of the Settlement in substantial accordance with the terms set

out in this Stipulation. For purposes of this Stipulation, an “appeal” shall include any petition for a writ of certiorari or other writ that may be filed in connection with approval or disapproval of this Settlement, but shall not include any appeal which concerns only the issue of attorneys’ fees and reimbursement of costs and disbursements awarded to Class Counsel. Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any plan of allocation and/or application for attorneys’ fees, costs or expenses, shall not in any way delay or preclude the Judgment from becoming Final.

- 1.11 **“Judgment”** means the judgment to be rendered by the Court, substantially in the form attached hereto as Exhibit 2.
- 1.12 **“Person”** means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, and any business or legal entity, and with respect to corporate entities, each of their parents, subsidiaries, affiliates, assignees, predecessors, successors, officers, directors, employees, agents, and attorneys.
- 1.13 **“Released Claims”** means the release and discharge of the Released Persons, individually and collectively, from any and all manner of claims, demands, actions, suits, liabilities, damages (whether compensatory, punitive or otherwise), and rights and causes of action, known or unknown, suspected or unsuspected whether in law or equity, that Releasors, or any one of them, collectively or individually, now has or has ever had prior to the execution of this Stipulation relating in any way to the matters or claims arising out of or related to or in connection with the institution or prosecution of this case or alleged (or which could have been alleged) in the Complaint in this Litigation. Each Releasor hereby is deemed to covenant and agree that she shall not hereafter seek, and each hereby is enjoined from seeking, to establish liability against any Released Person based, in



whole or in part, upon any of the claims released by this Stipulation.

- 1.14 **“Released Persons” or “Releasees”** shall refer jointly and severally, individually and collectively to the Defendant, and to Defendant’s past and present officers, directors, employees, agents stockholders, attorneys, servants, representatives, parents, subsidiaries, affiliates and partners and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.
- 1.15 **“Releasers”** shall refer jointly and severally and individually and collectively to the Class Representative and the Settlement Class Members.
- 1.16 **“Settlement”** means the settlement set forth in this Stipulation.
- 1.17 **“Settlement Class”** means:

All current female employees of American Airlines, Inc. nationwide who are or were eligible for benefits under American Airlines, Inc.’s health insurance plans, or who are covered, or have been covered, by Defendant’s health insurance plans at any time between February 18, 2003 and the date of the final approval of the settlement.

#### **B. Class Certification**

- 1.18 For the sole purpose of effectuating a class settlement of this Litigation, without any prejudice to Defendant’s current positions in this Litigation, and only subject to a judicially approved settlement of this Litigation consistent with the terms set forth herein, Defendant agrees not to oppose conditional class certification under Federal Rule of Civil Procedure 23.01 and 23.02(2), and, subject to Court approval, Plaintiff proposes that the following class be certified conditionally for settlement purposes only:

All current female employees of American Airlines, Inc. nationwide who are or were eligible for benefits under American Airlines, Inc.’s health insurance plans, or who are covered, or have been covered, by Defendant’s health insurance plans at any time between February 18, 2003 and the date of the final approval of the settlement.

- 1.19 Due to the nature of the conditional settlement of this Litigation in which only injunctive relief for the class is being provided, class certification is only appropriate under Federal Rule of Civil Procedure 23(b)(2).

## **ARTICLE II**

### **Non-Disparagement**

- 2.1 The Parties and their respective counsel agree to refrain from disparaging each other publicly or in the media regarding any issue related to this Litigation. The Parties and their respective counsel agree to refrain from taking any action designed to harm the public perception of Defendant, the Class Representative, or Class Counsel regarding any issue related to this Litigation, except the Parties may provide sworn testimony if required by compulsory process initiated by an independent third party.

## **ARTICLE III**

### **Denial of Liability**

- 3.1. Defendant denies any wrongdoing or legal liability arising from any of the facts or conduct alleged by Plaintiff in this Litigation. Neither this Stipulation nor any other settlement-related document is an admission by Defendant that any claim which was brought or could have been brought against Defendant has any merit whatsoever. There has been no determination by any court as to the factual allegations made against the Defendant. Entering into this Stipulation and performance of any of the settlement terms identified herein, shall not be construed as, or deemed to be evidence of, an Admission by either party hereto, and shall not be offered or received in evidence in any action or proceeding against any party hereto in any court, administrative agency or other tribunal or forum for any purpose whatsoever other than to enforce the provisions of this Stipulation or to obtain or seek approval of this Stipulation in accordance with Rule 23 of

the Federal Rules of Civil Procedure.

- 3.2. While Defendant continues to deny any fault, wrongdoing, or liability, and relies on the provisions of this Stipulation embodied herein, this Stipulation shall in no event be construed as, or deemed to be evidence of, an admission or a concession on the part of Defendant of any fault, wrongdoing or liability whatsoever, or that any of the allegations of this Litigation are true, and without conceding any infirmity in its defenses or the validity of any claims or class assertions, Defendant, in order to avoid the cost and distraction of burdensome, protracted, and uncertain litigation, has agreed, by and through its counsel, to enter into this Stipulation in order to settle the Released Claims and to dismiss this Litigation with prejudice as set forth in this Stipulation.

#### **ARTICLE IV**

##### **Settlement Consideration**

- 4.1 Defendant agrees, subject to future plan design, effective January 1, 2011, to offer coverage under its Point of Service company sponsored and company administered health insurance plan (POS Plan) for pharmacy-filled prescription contraceptives, such as oral contraceptive pills and transdermal patches, and for intrauterine devices (IUDs), but will exclude all other contraceptives not specifically identified and authorized herein that require or contemplate medical intervention, such as injectables. The above-described coverage will remain in place for a period of not less than three years, but will remain subject to periodic plan changes and revisions throughout this period.
- 4.2 This Consideration, in the form of an injunction only, along with a proposed \$10,000 incentive award to Kelly B. Kivilaan, the named Class Representative, constitutes the entire consideration for which the Defendant is responsible, and the Defendant shall not be liable for any other or additional consideration, except the costs of notice and Class

Counsel's attorney's fees as expressly provided for herein.

## **ARTICLE V**

### **Release of Claims**

- 5.1 The Class Representative, individually and on behalf of the Settlement Class, consents to the dismissal of this Litigation with prejudice.
- 5.2 Upon the date on which the Judgment becomes Final, as defined herein, each of the Releasors shall be deemed to have, and by operation of the Judgment shall have, fully, finally and forever released, relinquished and discharged any and all Released Claims against the Releasees. Upon the date on which the Judgment becomes Final, as defined herein, each of the Releasors shall be deemed to have covenanted not to sue the Releasees with respect to the Released Claims and to have covenanted and agreed that it shall not thereafter seek, and shall be enjoined from seeking, to establish liability against the Releasees based upon any of the Released Claims only. Nothing herein shall affect the rights, if any, of any person who is a former employee of American Airlines, Inc. at the date of the final approval of the Settlement and who is not a Settlement Class Member (as defined herein), related to claims, if any, against Releasees.
- 5.3 Upon the date on which the Judgment becomes Final, as defined herein, Defendant shall be deemed to have, and by operation of the Judgment shall have, fully, finally and forever released, relinquished and discharged Plaintiff, each Settlement Class Member, and Class Counsel from all claims arising out of, relating to or in connection with the institution, prosecution, assertion, settlement or resolution of this Litigation or the Released Claims.

## **ARTICLE VI**

### **Termination of Settlement**

- 6.1 In the event that the settlement does not become final in accordance with the terms

hereof, then this Stipulation shall be of no force or effect. In any event, the parties hereto agree that the Stipulation, including its exhibits, whether or not it shall become final, and any and all negotiations, documents and discussions associated with it shall be without prejudice to the rights of any party, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by the Defendant or of the validity or truth of any of the claims or allegations contained in the Complaint, or any allegations or assertions related to class certification, or any other pleading, and evidence thereof shall not be discoverable or offered or used directly or indirectly in any way, whether in the Class Action or in any other action or proceeding. Defendant expressly reserves all of its rights if the settlement does not become final in accordance with the terms of the Stipulation. In the event the Stipulation is terminated, the Stipulation and all matters, including any communications in whatever form, leading up to or related to the settlement are confidential settlement communications inadmissible under federal law or any other applicable law.

## ARTICLE VII

### Attorneys' Fees and Expenses

- 7.1 (a) Class Counsel intend to request approval of attorneys' fees and costs in an amount not to exceed an aggregate amount of One Million Dollars (\$1,000,000). Class Counsel may submit an application or applications (the "Fee and Expense Application") for the following: (i) an award of attorneys' fees; (ii) reimbursement of expenses, including the fees and expenses of any Plaintiff's experts or consultants, incurred in connection with prosecuting the claims in this Litigation against the Defendant; and (iii) an incentive payment to the named Plaintiff (*see* 7.1(h), *infra*), but in no event shall the total aggregate

amount exceed One Million, Ten Thousand Dollars (\$1,010,000).

(b) Defendant agrees not to challenge, contest, or otherwise oppose a request by Class Counsel up to a combined total of One Million Dollars (\$1,000,000) to cover all attorneys' fees and all other costs and fees collectively incurred by Class Counsel. Class Counsel agree not to request attorneys' fees and other fees and costs in excess of a combined total of One Million Dollars (\$1,000,000) related to this Litigation.

(c) The amount of attorneys' fees and costs to which Class Counsel may be entitled shall be subject to approval of the Court, at the Court's discretion as guided by law.

(d) Defendant shall have no obligation under a Final Judgment or Consent Decree to pay any attorneys' fees and costs to Class Counsel except as expressly set forth herein, and pursuant to the limits set forth herein. Except as otherwise set forth herein, Defendant shall not be liable for any of the named Plaintiff's costs or attorneys' fees, statutory or otherwise, incurred in this Litigation under the Final Judgment or during the term of any Consent Decree, and should these costs and fees be recoverable, all such costs and fees are deemed to be included in the costs and fees to be requested by Class Counsel under the parameters set forth herein.

(e) The attorneys' fees and expenses shall be payable to Class Counsel within thirty (30) days after the date on which the Judgment becomes Final, as defined herein.

(f) Defendant shall have no responsibility for, and no liability whatsoever with respect to, the allocation among Class Counsel and/or any other Person who may assert some claim thereto, of any award of fees, expenses, or costs, that the Court may make in this Litigation.

(g) Class Counsel and Defendant agree that neither the Settlement Class nor any

Settlement Class Member shall be liable for any attorneys' fee or costs; and that neither the fact nor the amount of any award of attorneys' fees, expenses, or costs by the Court, nor any payment of such fees, expenses, or costs shall have any effect on the validity of the Settlement or the benefits made available to the Settlement Class. The Parties agree that if the Court does not grant preliminary and final approval of the proposed settlement, this Stipulation shall be null and void, returning the Parties, class counsel, and the litigation to their pre-settlement status.

(h) Within thirty (30) days after the date on which the Judgment becomes Final, as defined herein, Defendant has agreed to pay and will pay to the named Plaintiff, Kelly B. Kivilaan, the sum of Ten Thousand Dollars (\$10,000) as a reasonable incentive fee for serving as Class Representative. Defendant's agreement to make this payment shall in no way be construed as an admission by Defendant that the Class Representative Plaintiff suffered any monetary or other damages nor that Plaintiff was a prevailing party in any sense.

## **ARTICLE VIII**

### **Dismissal of Litigation**

8.1 Promptly after execution of this Stipulation, the Parties will submit this Stipulation to the Court for approval and apply to the Court for entry of a Preliminary Approval Order. In connection with that submission, Defendant, the Class Representative, and Settlement Class Members stipulate to entry of the following orders:

(a) **Order Preliminarily Approving Settlement.** Entry of the Order Granting Preliminary Approval of Proposed Settlement, in the form attached as Exhibit 1, granting preliminary approval of this Stipulation and setting a fairness hearing for

final approval, with provisions for notice by First Class United States mail. (A copy of the proposed form of such Notice of Proposed Class Action Settlement (“Notice”) is attached hereto as Exhibit 2). Defendant will bear the burden and cost on necessary and required class notice and the administration thereof. However, Defendant, at its sole discretion, may contract with any party of its choice to facilitate this notification process and the administration thereof. The language of any class settlement Notice as to be sent to the proposed Settlement Class Members shall be subject to the agreement by Plaintiff and Defendant, and the approval of the Court prior to distribution.

(b) **Notice.** The parties agree that Notice to Settlement Class Members by First Class United States mail as specified in this Stipulation and as proposed in the proposed form of Notice attached hereto as Exhibit 2 is the best notice practicable and is reasonably calculated to apprise the Settlement Class of the pendency of this Litigation, the certification of the Settlement Class, and this Settlement, and their rights thereunder.

(c) **Order of Final Approval of Settlement (“Final Judgment”).** Entry of the Final Judgment granting final approval of the Stipulation without substantive modification and dismissal of this Litigation with prejudice, in the form set forth in Exhibit 3 (Final Judgment Granting Final Approval of Settlement).

8.2 The Parties agree that if the Court does not grant preliminary and final approval of the proposed settlement, this Stipulation shall be null and void and of no effect.

## **ARTICLE IX**

### **Right to Object and Appear**

9.1 Any Settlement Class Member shall have the right to appear at the Fairness Hearing to



show cause why the proposed Settlement should or should not be approved as fair, reasonable, adequate, and in good faith and/or why the Class Counsel's application for attorneys' fees and costs should or should not be approved as fair and reasonable; provided, however, that no person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement or the fees or costs requested by Class Counsel, unless that person has (a) sent or delivered a written objection and copies of any supporting papers and briefs, which objection shall state all of the reasons for the objections (*e.g.*, a mere statement that "I object" shall not be deemed to be sufficient) so that they are received no later than \_\_\_\_\_, 2009 upon counsel below:

Gordon Ball  
BALL & SCOTT LAW OFFICES  
550 Main Street, Suite 601  
Bank of America Center  
Knoxville, Tennessee 37902  
Fax: 865-525-4679  
*Class Counsel*

- and -

Ronald E. Manthey  
Melissa M. Hensley  
MORGAN, LEWIS & BOCKIUS LLP  
1717 Main Street, Suite 3200  
Dallas, Texas, 75201-7347

and (b) has filed said objections, papers, and briefs, showing due proof of service upon said counsel with the Clerk of the United States District Court for the Middle District of Tennessee, on or before the same date listed above. Any Settlement Class Member who does not submit an objection in the manner provided above shall be deemed to have waived any objection to the Settlement and shall forever be foreclosed from making any objection to class certification, to the fairness, adequacy or reasonableness of the Settlement, and to any attorneys' fees and costs approved.

## ARTICLE X

### **Conditions of Settlement, Effect of Disapproval, Cancellation or Termination**

10.1 The finality of the Stipulation shall be conditioned on the occurrence of all of the following events:

(a) Execution of the Stipulation has been timely made;

(b) The Court has entered the Preliminary Approval Order, substantially in the form annexed hereto;

(c) The Court has entered the Final Judgment, or a judgment substantially in the form annexed hereto as Exhibit 3; and

(d) The Judgment has become Final, as defined herein.

10.2 In the event any court, without the consent of all parties hereto, on appeal or otherwise, disapproves, vacates, purports to modify, or sets aside this Stipulation or any part hereof for any reason, or holds that it will not enter or give effect to the Final Judgment in the form described herein or the Releases set forth herein, or holds that the entry of the Final Judgment or any part thereof should be overturned or modified in any way (an "Event of Disapproval"), then if all parties hereto do not agree jointly to appeal such ruling, or if Defendant in its sole and absolute discretion does not agree within thirty (30) days of such ruling to such or other attendant modifications of the Stipulation and/or the Final Judgment, this Stipulation shall become null and void; this Litigation may continue; this Stipulation and all negotiations and papers submitted or exchanged in connection with it shall not be offered, submitted or accepted in evidence or otherwise offered, used or accepted by any person or Court in this or any action to the prejudice of any party hereto; and any and all orders entered pursuant to this Stipulation shall be vacated and deemed null and void, including, without limitation, any order certifying or approving

certification of a Settlement Class, except for such provisions thereof that, as set forth herein, all parties agree, in writing after disapproval or modification of the Settlement and/or Final Judgment, shall survive; or if all parties hereto do agree jointly to appeal such ruling, and if the Final Judgment or its equivalent in all material respects is not in effect after the termination of all proceedings arising out of such appeal, and if Defendant in its sole and absolute discretion does not agree within thirty (30) days after termination to any such modifications of this Stipulation and/or Final Judgment, this Stipulation shall become null and void; this Litigation may continue; and this Stipulation and all negotiations and papers submitted or exchanged in connection with it shall not be offered, submitted or accepted in evidence or otherwise offered, used or accepted by any person or Court in this or any action in any manner or for any purpose except as stated herein; and any and all orders entered pursuant to this Stipulation shall be vacated and deemed null and void, including, without limitation, any order certifying or approving certification of a Settlement Class, except for such provisions thereof that, as set forth herein, the parties agree, in writing after disapproval or modification of the Settlement and/or Final Judgment, shall survive.

10.3 At the Fairness Hearing, the Plaintiff shall petition the Court for an Order of Final Approval (Final Judgment), which the Defendant shall not oppose, in the form annexed hereto as Exhibit 3, which will, for purposes of this Settlement and Litigation only:

- (a) determine that this action may be maintained as a class action on behalf of the Settlement Class as defined herein;
- (b) find that Plaintiff, as the class representative, fairly and adequately represents the interests of the Settlement Class Members;

- (c) find that Class Counsel is adequate, qualified, experienced and competent to conduct this Litigation and to protect the interests of the Settlement Class, and in fact has adequately represented the interests of the Settlement Class;
- (d) find that the notice to the Settlement Class in this action satisfies the requirements of due process and other applicable law;
- (e) find that the Settlement embodied in this Stipulation is fair, reasonable, and adequate to the Settlement Class, and that each Settlement Class Member is bound by this Stipulation, including the Releases referred to herein, and conclude that the Settlement should be, and is, approved;
- (f) order the dismissal, on the merits and with prejudice, of all claims in this Litigation and forever discharge Releasees with respect to the Released Claims;
- (g) permanently enjoin each and every Releasor (as defined herein) from bringing, joining and/or continuing to prosecute against Releasees any Released Claim; order that any party violating the Court's injunction shall pay costs and attorneys' fees incurred by any Releasee as a result of a violation of the Court's injunction;
- (h) enter Final Judgment thereon; and
- (i) retain jurisdiction of all matters relating to the Settlement and all other matters relating to the implementation and enforcement of the Stipulation.

## **ARTICLE XI**

### **Indemnity Provisions Re: Class Counsel**

- 11.1 Class Counsel understands that Defendant will not negotiate attorneys' fees and costs with each of the several law firms that has represented, or currently represents, Plaintiff and the Settlement Class. By prior stipulation as secured by Gordon Ball from all

members of Class Counsel, Class Counsel has designated Gordon Ball as the Authorized Representative to negotiate settlement terms on behalf of the Settlement Class and Class Counsel. Therein, Class Counsel has agreed that the Authorized Representative has authority to negotiate the conditional settlement of this Litigation, and that all Class Counsel will be bound by the terms thereof, including the limitations on the collective request for attorneys' fees and costs that may be made or awarded in favor of Class Counsel related to this Litigation. Gordon Ball represents that he has secured such agreement from all Class Counsel.

- 11.2 Any payment of attorneys' fees or costs that may be awarded by the Court pursuant to requests by Class Counsel shall be made by Defendant to the designated Authorized Representative, whereupon Class Counsel will settle division of these attorneys' fees and costs amongst themselves, if at all.
- 11.3 The Authorized Representative agrees to indemnify and hold harmless Releasees against any claims that Class Counsel might, in the future, assert against Defendant and/or its attorneys related to the settlement of this Litigation and the payment of attorneys' fees related thereto. The Authorized Representative further agrees to reimburse Releasees for all legal fees incurred by Releasees or their counsel, and for any award against Releasees and/or their counsel, related in any manner to any settlement of this Litigation and payment by Defendant of attorneys' fee to Authorized Representative related thereto.

## **ARTICLE XII**

### **Miscellaneous Provisions**

- 12.1 The Parties agree that the terms of the Stipulation reflect a good faith settlement of disputed claims. Class Counsel considers the settlement terms fair and reasonable. The Parties also (a) acknowledge that it is their intent to consummate this Stipulation; and (b)

agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

- 12.2 The Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to this Litigation. The Settlement compromises claims which are contested and shall not be deemed an admission by Defendant as to the merits of any claim or defense. The Parties agree that the terms of the Settlement were negotiated in good faith, and reflect a Settlement that was reached voluntarily after consultation with competent legal counsel.
- 12.3 Releasees may file the Stipulation and/or the Judgment in any action that may be brought against any one of them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.
- 12.4 Pending Court approval of the Settlement contained in this Stipulation, the Parties agree to stay any discovery and to stay any and all other proceedings other than those incident to the settlement process, and agree to extensions of time with respect to any court filings necessary to effectuate such stays.
- 12.5 Defendant may seek from the Court, and Class Counsel will not oppose, a temporary injunction, to remain in effect pending final approval by the Court of this Settlement, prohibiting each Settlement Class Member from filing, commencing, initiating, asserting, continuing to prosecute, maintaining, intervening in or participating in any other action or proceeding, aside from this Litigation, in any jurisdiction based on, relating to or arising

from the subject matter of the Released Claims.

- 12.6 Neither Party, nor their counsel, will make any public statement or comment to the press, either directly or indirectly, regarding this Litigation or the Stipulation without the consent of the other Party.
- 12.7 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.
- 12.8 This Stipulation shall not be amended or modified orally. It may not be amended or modified except with the consent or approval of all signatories by a writing signed by all signatories hereto.
- 12.9 The time periods and/or dates described in this Stipulation with respect to the giving of notice and hearings are subject to approval and change by the Court or by agreement of the settling parties.
- 12.10 This Stipulation may not be relied upon for any purpose by, or create any rights in, any person who is not a Settlement Class Member or a Releasee. Further, no individual rights of enforcement are created by this Stipulation.
- 12.11 As their Authorized Agent for the receipt of notices, court filings or other communications between the parties or Settlement Class Members relating to this Stipulation, Plaintiff and the Settlement Class appoint Gordon Ball, Esq., of Ball & Scott Law Offices, Suite 601, Bank of America Center, 550 Main Street, Knoxville, Tennessee 37902. Defendant appoints Ronald E. Manthey and Melissa M. Hensley, of Morgan, Lewis & Bockius LLP, 1717 Main Street, Suite 3200, Dallas, Texas, 75201-7347. Any communication made in connection with this Stipulation shall be deemed to have been made when sent, if sent by overnight delivery or registered or certified or first-class mail

(postage pre-paid), or when delivered in person or by (confirmed receipt) facsimile, to Mr. Ball and Mr. Manthey and Ms. Hensley at the addresses designated for them herein. The persons designated in this paragraph as agents and their addresses may be changed by the represented parties by written notice to the other signatories hereto in accordance with this paragraph.

12.12 This Stipulation (including the Exhibits hereto) constitutes the full and entire agreement among the parties with regard to the subject hereof, and supersedes any prior promises, representations, or warranties (oral or otherwise) made by any party. No party shall be liable or bound to any other party for any prior or contemporaneous representation, promise or warranty (oral or otherwise) except for those expressly set forth herein.

12.13 The undersigned Class Counsel expressly acknowledge that the following conduct would constitute a conflict of interest with the interests of the Settlement Class which they purport to represent herein and with the positions taken herein as to the fairness and reasonableness of this Class Action Settlement: the representation of any individual who is a potential Settlement Class Member (a) who challenges in any way the Settlement described in this Stipulation; or (b) who may claim at some later date that she was not bound by the terms of this Stipulation for any reason.

12.14 The failure of any party hereto to enforce at any time any provision of this Stipulation shall not be construed to be a waiver of such or any other provision or breach by the breaching person or anyone else, nor in any way to affect the validity of this Stipulation or any part hereof or the right of any party thereafter to enforce each and every such provision.

12.15 The headings herein are for convenience only and shall not affect the interpretation or



construction of this Stipulation.

- 12.16 For the purpose of construing or interpreting this Settlement, the Stipulation is deemed to have been drafted equally by all parties hereto, and shall not be construed strictly for or against any party.
- 12.17 Except as otherwise provided herein, each party shall bear its own costs relating to this settlement.
- 12.18 The undersigned Class Counsel represent that he has been fully authorized by the Plaintiff and the other Class Counsel to take all appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms and also are expressly authorized to enter into any modifications or amendments to the Stipulation which they deem appropriate. The undersigned Counsel for Defendant represents that they have been fully authorized by the Defendant to take all appropriate action required or permitted to be taken by the Defendant pursuant to the Stipulation to effectuate its terms and also are expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Defendant which they deem appropriate.
- 12.19 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so.
- 12.20 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court.
- 12.21 The Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.
- 12.22 The Court shall retain jurisdiction with respect to implementation and enforcement of the

terms of the Stipulation, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

12.23 The Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Tennessee, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Tennessee, without giving effect to that State's choice of law principles.

12.24 Each Party and respective Counsel agree to abide by any confidentiality agreement and/or protective order in this Litigation up until the Settlement becomes Final, and thereafter. Within 30 days of the judgment becoming Final, as defined herein, all documents, exhibits, testimony, and other items subject to confidentiality shall be returned to the producing party under the terms of the existing prior agreements, with no copies, identical or otherwise, being retained.

**IN WITNESS WHEREOF**, the parties hereto have caused this Stipulation to be executed by the Plaintiff, Class Counsel, and Defendant's Counsel, dated as of July 6, 2009.

*Plaintiff and Class Representative:*

  
Plaintiff Kelly B. Kivilaan

*Authorized Representative On Behalf of  
Class Counsel, Plaintiff and the Settlement  
Class:*

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Gordon Ball  
Ball & Scott Law Offices  
Suite 601, Bank of America Center  
550 Main Street  
Knoxville, TN 37902  
Tel: 865.525.7028

*On Behalf of the Defendant:*

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Ronald E. Manthey  
Melissa M. Hensley  
MORGAN, LEWIS & BOCKIUS LLP  
1717 Main Street, Suite 3200  
Dallas, Texas, 75201-7347  
Tel: 214.466.4000

*Plaintiff and Class Representative:*

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Plaintiff Kelly B. Kivilaan

*Authorized Representative On Behalf of  
Class Counsel, Plaintiff and the Settlement  
Class:*



Gordon Ball  
Ball & Scott Law Offices  
Suite 601, Bank of America Center  
550 Main Street  
Knoxville, TN 37902  
Tel: 865.525.7028

*On Behalf of the Defendant:*

---

Ronald E. Manthey  
Melissa M. Hensley  
MORGAN, LEWIS & BOCKIUS LLP  
1717 Main Street, Suite 3200  
Dallas, Texas, 75201-7347  
Tel: 214.466.4000

*Plaintiff and Class Representative:*

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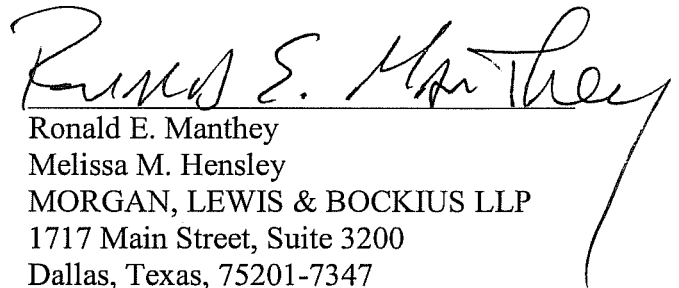
Plaintiff Kelly B. Kivilaan

*Authorized Representative On Behalf of  
Class Counsel, Plaintiff and the Settlement  
Class:*

---

Gordon Ball  
Ball & Scott Law Offices  
Suite 601, Bank of America Center  
550 Main Street  
Knoxville, TN 37902  
Tel: 865.525.7028

*On Behalf of the Defendant:*



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Ronald E. Manthey  
Melissa M. Hensley  
MORGAN, LEWIS & BOCKIUS LLP  
1717 Main Street, Suite 3200  
Dallas, Texas, 75201-7347  
Tel: 214.466.4000

**KELLY B. KIVILAAN,**  
Individually and on behalf of all  
others similarly situated,

**V.**

**Defendant.**

**Magistrate Judge Bryant**

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**WHEREAS**, the Court has reviewed the Stipulation and has heard argument in favor of the proposed Settlement; and

**WHEREAS**, the Court has determined that inquiry should be made as to the fairness and adequacy of the proposed Settlement; and

**WHEREAS**, the Court has considered the reasonableness of proceeding with the proposed Settlement, and good cause appearing,

**NOW THEREFORE**, it is hereby **ORDERED** as follows:

1. This Order incorporates by reference the definitions contained in the Stipulation.
2. The Court finds that the proposed Settlement, as set forth in the Stipulation, is sufficiently fair, reasonable and adequate to authorize dissemination of the Form of Notice (“Notice”), as proposed.
3. For purposes of the proposed Settlement only, the Court conditionally certifies the following Settlement Class, pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure:

All current female employees of American Airlines, Inc. nationwide who are or were eligible for benefits under American Airlines, Inc.’s health insurance plans, or who are covered, or have been covered, by Defendant’s health insurance plans at any time between February 18, 2003 and the date of the final approval of the settlement in this litigation.

4. For purposes of this Order only, the Court preliminarily finds and concludes that certification of the proposed Settlement Class is appropriate. Specifically, the Court finds and concludes that: (a) the Settlement Class Members are so numerous that joinder of all members thereof would be impractical; (b) there are questions of law and fact that are common to the

Settlement Class; (c) the Plaintiff's claims are typical of the claims of the Settlement Class Members; (d) the Plaintiff and Class Counsel will fairly and adequately represent the interests of the Settlement Class Members; and (e) pursuant to Federal Rule of Civil Procedure 23(b)(2), the Defendant has acted or refused to act on grounds generally applicable to the class.

5. The Court finds that Gordon Ball of the law firm of Ball & Scott, 550 Main Street, Suite 601, Bank of America Center, Knoxville, Tennessee 37902; Michael D. Hausfeld of the law firm of Hausfeld LLP, 1146 – 19<sup>th</sup> Street, N.W., Fifth Floor, Washington, DC 20036; Steven Toll of the law firm of Cohen, Milstein, Sellers & Toll PLLC, 1100 New York Avenue, N.W., Suite 500, West Tower, Washington, DC 20005; and Robert Potter of the law firm of Mann, Cowan & Potter, P.C., 2000B Southbridge Parkway, Suite 601, Birmingham, Alabama 35209 are adequate counsel for the Settlement Class and are thus appointed Class Counsel to represent the interests of the Settlement Class.

6. The proposed form and manner of Notice satisfies the notice requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process and is hereby approved. As provided by the terms of the Stipulation preliminarily approved, the cost and administration of Class Notice shall be the burden of the Defendant, who shall direct Notice to Settlement Class Members *via* First Class United States mail.

7. Defendant shall cause to be filed with the Clerk of the Court affidavits or declarations of the person under whose general direction the publication of the approved Notice was made, showing that Notice was given in accordance with this Order, which affidavits or declarations shall be filed no later than 5 days before the date of the hearing on final approval of the Settlement (the "Fairness Hearing Date").



8. Plaintiff and Defendant shall serve and file papers in support of the Settlement on or before 10 days before the date of the Fairness Hearing Date. No later than 5 days prior to the Fairness Hearing Date, Plaintiff's Class Counsel shall submit to the Court a complete list of all Settlement Class Members who have filed objections to the Settlement.

9. Objections, if any, to the proposed Settlement shall be filed with the Clerk of the Court, and served upon Plaintiff's Class Counsel and Defendant's counsel, no later than 30 days after the Notice date. Any interested person may appear at the Fairness Hearing to show cause why the proposed Settlement should or should not be approved as fair, reasonable, adequate, and in good faith and/or why the request of Class Counsel for approval of attorneys' fees and costs and an incentive award to the Class Representative should or should not be approved as fair and reasonable; provided, however, that no person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement or the fees, costs, or incentive award unless that person has (a) sent or delivered written objections and copies of any supporting papers and briefs so that they are received no later than \_\_\_\_\_, 2009, upon counsel below:

Gordon Ball  
BALL & SCOTT LAW OFFICES  
550 Main Street, Suite 601  
Bank of America Center  
Knoxville, Tennessee 37902  
Fax: 865-525-4679  
*Class Counsel*

- and -

Ronald E. Manthey  
Melissa M. Hensley  
MORGAN, LEWIS & BOCKIUS LLP  
1717 Main Street, Suite 3200  
Dallas, Texas, 75201-7347

and (b) filed said objections, papers, and briefs, showing due proof of service upon said counsel with the Clerk of the United States District Court for the Middle District of Tennessee, on or before the same date. Any Settlement Class Member who does not submit an objection in the manner provided above shall be deemed to have waived any objection to the Settlement and shall forever be foreclosed from making any objection to class certification, to the fairness, adequacy or reasonableness of the Settlement, and to any attorneys' fees and costs approved.

10. The parties may serve and file reply papers in further support of the Settlements and in response to objections, if any, no later than five (5) days before the Fairness Hearing Date.

11. The Court will hold a hearing on \_\_\_\_\_, 2009, at 9:00 a.m., in the United States District Court for the Middle District of Tennessee to determine the fairness, reasonableness and adequacy of the proposed Settlement, and whether the proposed Settlement should be approved by the Court and Final Judgment entered thereon (the "Fairness Hearing"). During this hearing, the Court shall consider all evidence and arguments necessary to evaluate the proposed Settlement, and shall also consider any application by Plaintiff's Class Counsel for an award of attorney's fees and cost reimbursement, and incentive payments, if any, to the named Plaintiff. The hearing may be continued without further notice to the Settlement Class.

12. During the pendency of this Order the Class Representative and Settlement Class Members are barred and enjoined from bringing or continuing to prosecute any claim, action or cause of action against the Defendant relating to the matters that will be released under the

Stipulation and proposed Settlement.

13. This Order shall not be construed or deemed to be a finding by this Court or evidence of a presumption, implication, concession, or admission by the Defendant concerning: (a) any liability, fault, or wrongdoing by American Airlines, Inc.; or (b) the appropriateness of any measure of alleged loss or damages. If the proposed Settlement is not finally approved or consummated for any reason whatsoever, the proposed Settlement and all proceedings had thereon shall be without prejudice to the *status quo ante* rights of the Parties to this Litigation. In that event, this Order shall be vacated, and all of the *status quo ante* rights of the Parties shall be restored, including, but not limited to, Defendant's right to continue to object to certification of a class and/or the merits of Plaintiff's claims on any available grounds.

**IT IS SO ORDERED** this \_\_\_\_ day of July , 2009.

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John Nixon  
Senior District Judge

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

**Case No. 3:04-0814 – Kivilaan v. American Airlines, Inc.  
Notice of Proposed Class Action Settlement**

**TO: ALL CURRENT FEMALE EMPLOYEES OF AMERICAN AIRLINES, INC.** nationwide who are or were eligible for benefits under American Airlines, Inc.'s health insurance plans, or who are covered, or have been covered, by Defendant's health insurance plans at any time between February 18, 2003 and the date of the final approval of the settlement in this litigation.

**Why is this Notice Important?** If you are currently a female employee of American Airlines, Inc. and satisfy all of the above requirements for eligibility, you may be a member of a certified class action lawsuit in which a proposed Settlement has been reached. The lawsuit, entitled *Kivilaan v. American Airlines, Inc.*, was brought by class action counsel and alleges that American Airlines, Inc. violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended by the Pregnancy Discrimination Act, 42 U.S.C. §2000e(k) ("PDA"), for discrimination on the basis of sex by failing to provide certain coverage for prescription contraceptives and related services as part of some of its employee benefit plans. American Airlines, Inc. believes that it has good and meritorious defenses against the claims alleged, and denies all liability and any wrongdoing related to the claims asserted in this lawsuit by Plaintiff. American Airlines, Inc. has agreed to settle the Litigation as a compromise to avoid the time, expense, and uncertainty associated with further litigation in this matter and to buy its peace. Class Counsel have conducted an investigation into the facts and the law regarding the Litigation and have concluded that this settlement is in the best interest of Plaintiff and the Settlement Class.

**This Is Only A Summary Notice.** You can log onto [www.fda.gov](http://www.fda.gov) to review a copy of the Stipulation of Settlement and Release and all documents submitted to the Court in connection with preliminary approval, which contain further information about the Settlement.

**What Are the Terms of the Settlement?**

If the Settlement is approved by the Court and becomes effective, American Airlines has agreed, subject to future plan design, effective January 1, 2011, to offer coverage under its Point of Service company-sponsored and company-administered health insurance plan (POS Plan) for pharmacy-filled prescription contraceptives, such as oral contraceptive pills and transdermal patches, and for intrauterine devices (IUDs), but will exclude all other contraceptives that require or contemplate medical intervention, such as injectables, as will be more fully described in the POS Plan for 2011. The above-described coverage will remain in place for a period of not less than three years, but will remain subject to periodic plan changes and revisions throughout this period.

This settlement resolves a claim for injunctive relief only. You will be releasing all claims for damages, and all claims for other relief that have been made, or could have been made, in this Litigation arising out of the allegations made by Plaintiff in this Litigation.

Under the Settlement, Class Counsel are entitled to an award of attorneys' fees and costs. Class Counsel intend to apply for an award of attorneys' fees and costs and for an incentive award for the named Class Representative for bringing this action and prosecuting it on behalf of the Settlement Class. As part of the Settlement, American Airlines, Inc. will not oppose these requests.

### **What Are My Legal Rights?**

If you are a member of the Settlement Class and the Court approves the proposed Settlement and the Settlement becomes effective, you will be bound by all orders and judgments of the Court, and any claims you may have against the Defendant for the conduct alleged in this action will be resolved and released.

### *How to Object to the Settlement*

If you wish to object to the Settlement or to Class Counsel's request for attorneys' fees, costs and an incentive fee for the named Class Representative, you or your counsel have the right to appear before the Court and object to the Settlement. To do so, however, you must do two things: (1) you must file with the Clerk of the United States District Court for the Middle District of Tennessee, 801 Broadway, Nashville, Tennessee 37203 on or before \_\_\_\_\_ a Notice of Intention to Appear and Object, stating your name, address and telephone number and describing the general nature of your objection(s); and (2) by that same date, you must also serve a copy of such notice, objection, and other supporting papers on both of the following counsel:

Gordon Ball  
BALL & SCOTT LAW OFFICES  
550 Main Street, Suite 601  
Bank of America Center  
Knoxville, Tennessee 37902  
Fax: 865-525-4679  
*Class Counsel*

- and -

Ronald E. Manthey  
Melissa M. Hensley  
MORGAN, LEWIS & BOCKIUS LLP  
1717 Main Street, Suite 3200  
Dallas, Texas, 75201-7347  
*Counsel for American Airlines, Inc.*

Any Settlement Class Member who does not submit an objection in the manner provided above shall be deemed to have waived any objection to the Settlement and shall forever be foreclosed from making any objection to class certification, to the fairness, adequacy or reasonableness of the Settlement, and to any attorneys' fees, costs, or incentive award approved.

**Fairness Hearing:** A hearing will be held before the Honorable John Nixon in Courtroom \_\_\_\_ at the United States District Court for the Middle District of Tennessee, 801 Broadway, Nashville, Tennessee 37203 on \_\_\_\_\_, 2009, at \_\_\_\_\_.m. (the "Fairness Hearing") to determine whether the proposed Settlement is fair, reasonable, and adequate and should be approved; whether an award of attorneys' fees and/or costs should be made to Class Counsel; and whether an incentive fee should be awarded to the named Class Representative. **You may, but are not required to, attend the Fairness Hearing.**

For More Information, or to obtain a copy of the proposed Settlement as described above, you can contact the lawyers representing the Settlement Class: Gordon Ball, Suite 601, Bank of America Center, 550 Main Street, Knoxville, Tennessee 37902, Telephone: 865.525.7028, Fax: 865.525-4679, or Email: [gball@ballandscott.com](mailto:gball@ballandscott.com).

**Please Do Not Contact the Court Or the Clerk of the Court Concerning This Notice**

**Dated:** \_\_\_\_\_, 2009

**By Order of the Court**

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JOHN NIXON  
UNITED STATES DISTRICT JUDGE  
FOR THE MIDDLE DISTRICT OF TENNESSEE

**KELLY B. KIVILAAN,**  
**Individually and on behalf of all**  
**others similarly situated,**

**V.**

**Defendant.**

## Judge Nixon

**Magistrate Judge Bryant**

Plaintiff, Kelly B. Kivilaan (“Plaintiff”), and Defendant, American Airlines, Inc. (“Defendant”) having executed and filed the “Stipulation of Settlement and Release” (“Stipulation”) (the recitals and definitions of which are incorporated by reference herein); the Court having heretofore entered an Order granting preliminary approval of the proposed Settlement, which conditionally certified the Settlement Class, preliminarily approved the proposed Settlement, directed the dissemination of notice of the proposed Settlement to the Settlement Class, and scheduled a hearing to determine whether the proposed Settlement should be approved as fair, reasonable, and adequate; class notice having been given; a hearing having been held on \_\_\_\_\_, 2009 at which all interested and qualified persons were given an opportunity to be heard; the Court having read and considered all submissions filed in connection with the proposed Settlement, and the Court having reviewed and considered the

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record herein;

**IT IS HEREBY ADJUDGED, ORDERED AND DECREED** that:

1. This Court has jurisdiction over the subject matter of this lawsuit and all parties to the lawsuit.

2. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby finds and concludes that certification of the proposed Settlement Class is appropriate under Rule 23(a) and Rule 23(b)(2). Specifically, the Court finds and concludes that the Settlement Class is defined as:

All current female employees of American Airlines, Inc. nationwide who are or were eligible for benefits under American Airlines, Inc.'s health insurance plans, or who are covered, or have been covered, by Defendant's health insurance plans at any time between February 18, 2003 and the date of the final approval of the settlement in this litigation.

The Court further finds that (a) these Settlement Class members are so numerous that joinder of all members thereof would be impractical; (b) there is a commonality of interests between the named Plaintiff and Settlement Class members; (c) there are questions of law and fact which are common to the Settlement Class, including the fact that Plaintiff and the Settlement Class rely upon the same alleged course of conduct and theories of liability; (d) the Plaintiff's claims are typical of the claims of other Settlement Class members; (e) the Plaintiff and Class Counsel, who are experienced in class actions, have demonstrated that they will fairly and adequately represent the interests of the Settlement Class members and that Class Counsel are adequate, qualified, experienced and competent to conduct this litigation and to protect the interests of the Settlement Class; and (f) the Defendant has acted or refused to act on grounds generally applicable to the



Settlement Class.

3. As demonstrated by the affidavit(s) or declaration(s) filed in support of class notice, First Class United States mail notice given to the Settlement Class was reasonably calculated under the circumstances to inform the Settlement Class of (a) the pendency of the class action, (b) all material elements of the proposed Settlement, and (c) the opportunity to object to, or comment, on the Settlement and to appear at the settlement hearing; was due, adequate, and sufficient notice to all Settlement Class members; and complied fully with due process and any other applicable rules of the Court. A full opportunity has been afforded to Settlement Class members to participate in the Fairness Hearing, and all Settlement Class members and any other persons qualified per the terms of the Notice wishing to be heard have been heard.

4. All Settlement Class members are bound by this Final Judgment and by the Court-approved terms of the Stipulation of Settlement, including the release of claims below and in the Stipulation of Settlement and Release.

5. The Stipulation of Settlement and Release and the fact of settlement are not an admission by the Defendant, nor is this Final Judgment a finding of the validity of any claims in this lawsuit or of any wrongdoing by the Defendant. Furthermore, neither this Final Judgment, the Stipulation of Settlement and Release, nor any document referred to herein nor any action taken to implement the Settlement is, may be construed as, or may be used as, an admission by or against the Defendant or any Settlement Class member of any fault, wrongdoing or liability whatsoever. Entering into or implementing the Settlement and any negotiations or proceedings relating thereto shall not in any event be construed as, or deemed to be evidence of an admission or concession with regard to the denials or defenses by the Defendant, and shall not be offered or

received in evidence in any action or proceeding in any court, administrative agency, or other tribunal for any purpose whatsoever other than to (a) enforce the provisions of this Final Judgment, the Stipulation of Settlement and Release, or any related agreement or release; or (b) to support a related defense of *res judicata*, collateral estoppel, release or other theory of issue preclusion or similar defense.

6. The Settlement embodied in the Stipulation of Settlement and Release is fair, reasonable, and adequate and is hereby finally approved in all respects, and the Plaintiff and Defendant are hereby directed to consummate and perform its terms. Any objections are not well taken and are therefore overruled for the reasons stated by the Court at the Fairness Hearing.

7. The case is dismissed with prejudice and without costs with respect to the Defendant. The approval of the Settlement given by the Court and entry of this Final Judgment fully and without reservation releases and forever discharges the Defendant from any and all manner of claims, actions, suits, liabilities, damages (whether compensatory, punitive or otherwise), and rights and causes of action, known or unknown, whether in law or equity, that any Plaintiff or any Settlement Class member now has or has ever had based upon the matters alleged (or which could have been alleged) in the Complaint in this lawsuit. Each Settlement Class member hereby covenants and agrees that she shall not hereafter seek, and each hereby is enjoined from seeking, to establish liability against the Defendant based, in whole or in part, upon any of the Released Claims.

8. Without affecting the finality of this Final Judgment, the Court reserves exclusive jurisdiction over: (a) the Notice; (b) the Settlement; and (c) all other matters relating to the implementation and enforcement of the Settlement Agreement and Release.

The Transcript of these Proceedings, which shall be late-filed when prepared, shall be and is hereby incorporated herein by reference.

**IT IS SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2009.

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John Nixon  
Senior District Judge