ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	§	
Plaintiff,	§	
JENNIFER KREAMER MATOS,	§	
Intervenor,	§	
v.	§	CIVIL ACTION NO. 3:98-CV-0763-M
AMR EAGLE, INC., AMERICAN AIRLINES, INC., SIMMONS AIRLINES, INC., AMERICAN EAGLE AIRLINES, INC. AMR EAGLE HOLDING CORPORATION AND AMR CORPORATION,	§	
Defendants.	§	

CONSENT DECREE

This Consent Decree is made and entered into by and between the Equal Employment Opportunity Commission ("EEOC"), and the Defendants AMR Eagle, Inc., American Airlines, Inc., Simmons Airlines, Inc., American Eagle Airlines Inc., AMR Eagle Holding Corporation and AMR Corporation (hereafter the "Defendants") in the United States District Court for the Northern District of Texas, Dallas Division, with regard to the EEOC's Complaint filed on March 24, 1998 (the "Complaint"), and the Amended Complaint filed on July 20, 1999 (the "Amended Complaint"), in Civil Action No. 3-98-CV-0763-M (the "Lawsuit"). The Lawsuit is based on charges of discrimination filed with the EEOC against one or more of the Defendants.

The EEOC's Lawsuit alleges that since at least 1992 to the present, the Defendants have denied hire to flight attendant applicants who come within the protections of the Americans with Disabilities Act ("ADA"). The EEOC alleges that these applicants are persons who have been or are now: disabled, but can perform the essential functions of the job with or without a

reasonable accommodation; are regarded by the Defendants as disabled; or have a record of a disability. The EEOC's position is that the exclusion of otherwise qualified applicants has been caused by the Defendants' reliance on broad categories of disqualifying medical conditions listed in the American Airlines' 1992 Medical Guidelines (the "1992 Guidelines") and the 1994 Medical Guidelines (the "1994 Guidelines") (collectively the "Guidelines"). The EEOC also contends that the implementation of the Guidelines in the Defendants' medical examination process and review results in a lack of an adequate individualized assessment of fitness for duty of applicants to safely perform as flight attendants. The EEOC's Lawsuit alleges that Defendants' use of the sweeping exclusionary categories regarding various medical conditions in the Guidelines has created a pattern and practice of discrimination that tends to preclude the hiring of persons with disabilities in violation of the ADA.

Defendants deny the allegations made by the EEOC. Defendants contend that in 1992, American Airlines' Medical Department (the "Medical Department") implemented the 1992 Guidelines to assist the medical staff in performing individualized medical assessments of flight attendant applicants to ensure that each applicant was able to fulfill the safety-sensitive requirements and the job duties of the flight attendant position, as identified by the Airlines (as defined below). Defendants contend that the medical examination process was designed to ensure that each applicant could perform his or her duties in emergency situations (including evacuating a plane within 90 seconds) and to ensure that the applicant's ability to perform those duties was not affected or compromised by the unique environment in which flight attendants are required to work, e.g., altitude, variable schedules, allergens, pollutants, g-forces. Defendants assert that the Guidelines were not used as blanket exclusions to screen out certain medical conditions, as alleged by the EEOC, but were used as a reference to aid the medical staff in requesting sufficient medical information to evaluate the applicant's ability to perform the job duties of the flight attendant position. In fact, after performing individualized assessments, the Airlines have hired flight attendants with the very conditions that the EEOC contends are subject

to "blanket exclusions." Defendants contend further that the interested individuals identified by the EEOC were not covered by the ADA and/or were rejected for reasons unrelated to the medical examination process.

The EEOC and the Defendants agree to compromise and settle the differences embodied in the Lawsuit, and intend that the terms and conditions of the compromise and settlement be set forth in this Consent Decree. This Consent Decree has been jointly negotiated and drafted by counsel completely familiar with the legal and factual issues in these cases, along with representatives of the parties, after extensive discovery, substantial and extensive discussion regarding claims and defenses by counsel for all the parties, and with the assistance of an independent mediator. Counsel have negotiated at arm's-length and in good faith, with the best interests of their clients in mind. Based upon their knowledge of the cases and extensive negotiations, all counsel believe that this Consent Decree is fair, reasonable, and adequate to resolve this Lawsuit in its entirety, and that settlement at this time on these terms is in the best interests of all the parties. Counsel and the parties have considered, among other things, the expense, inconvenience, and time demands of continuing, burdensome, protracted litigation, the risks inherent in litigation, and the benefits provided by the terms of this Consent Decree. The Consent Decree represents the parties' joint efforts to avoid further litigation, and does not represent any admission of liability by the Defendants on the merits of this lawsuit. Neither party is responsible for or adopts the justification for settlement of the other party.

For purposes of this Consent Decree, the following definitions shall apply:

A. "Defendants"

The term "Defendants" shall mean the named defendants in the Amended Complaint: AMR Eagle, Inc., American Airlines, Inc., Simmons Airlines, Inc., American Eagle Airlines, Inc., AMR Eagle Holding Corporation, and AMR Corporation.

B. "Airlines"

The term "Airlines" shall mean American Airlines, Inc. ("American") and American Eagle Airlines, Inc. ("Eagle"). For purposes of ease of reference in this Consent Decree only, the term "Eagle" shall encompass the following regional carriers: American Eagle Airlines, Inc., Simmons Airlines, Inc., Executive Airlines, Inc., Wings West Airlines, Inc., and Flagship Airlines, Inc.

C. "Interested Individuals"

The "Interested Individuals" referenced in this Consent Decree are those individuals previously identified in writing by the EEOC in connection with this action as aggrieved individuals including, without limitation, those listed in Exhibits D-I and D-II.

D. "Applicants"

The term "Applicants" shall refer to individuals who have applied or will apply for the flight attendant position with American or Eagle and who have received a conditional offer of employment.

E. "Effective Date"

The "Effective Date" of this Consent Decree and the initiation of any requirements, obligations, or duties on the part of Defendants hereunder (including the provisions of paragraph 21) shall mean the later of the 31st day after the date of signing and final approval and entry of this Consent Decree by the Court or (14) fourteen days after the EEOC has notified the Defendants that all contingencies hereunder have been met, including but not limited to, the conditions precedent in paragraph 17 requiring that the EEOC provide to Defendants the mandatory releases from Miller and Sellers and a sufficient number of releases from the interested individuals. The EEOC shall have 30 days from the date that this Consent Decree is approved and entered by the Court to perform the conditions precedent under paragraph 17. If the EEOC fails to meet the conditions precedent of paragraph 17 within 30 days after the approval and entry of the Consent Decree or at any time thereafter, Defendants may, at their sole

option, either (1) void *ab initio* this Consent Decree or (2) meet their obligations as listed in this Consent Decree. If Defendants elect, at their sole option, to meet their obligations under this Consent Decree, the Consent Decree shall become effective.

F. "Effective Term"

The "Effective Term" of this Consent Decree shall be a period of two years beginning with the Effective Date of the Consent Decree.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Consent Decree fully and finally resolves all claims and matters that have been raised or could have been raised by the EEOC in the Lawsuit other than the individual claim of Jennifer Kreamer Matos ("Matos"), should she decide not to resolve her claim. This Consent Decree will cover only Eagle flight attendant applicants from July 26, 1992 to April 1, 1999, and American flight attendant applicants from April 1, 1996 to April 1, 1999 or as otherwise expressly provided in this Consent Decree. It shall only apply to the Airlines' processing of flight attendant applicant physicals and medical evaluations. This Consent Decree resolves all issues raised in EEOC Charge of Discrimination Nos. 172-93-0209 ("Miller charge"), 318-98-0132 ("Kong charge"), 310-93-1990 ("Sellers charge"), 310-99-7222 ("Markoff charge"), and 310-99-7149 ("Sims charge"). In the event that Matos rejects the offer in paragraph 16, this Decree shall not resolve the claims of Matos, the private Intervenor, who is represented privately by Mr. Gillespie and Mr. Moreland of Gillespie, Rosen, & Watsky, under Civil Action No. 3:98-CV-0763-M. The EEOC and Defendants agree to move to sever their issues and claims from that of Matos so that the EEOC's claims will become final pursuant to this Consent Decree. Further, EEOC Charge Nos. 310-99-1957 ("Leonel charge"), 310-A0-1576 ("Poulin charge"), 15CA00069 ("Solorio charge") have been processed by the EEOC and private right to

sue letters have been issued. The EEOC waives and foregoes further processing of all of the above-listed charges and will not pursue any claims and/or litigation of issues raised in the above referenced charges, this Lawsuit, or Matos' complaint (the "Waiver"). The EEOC does not, however, waive processing or litigating future charges of discrimination. This Waiver is not to be construed as limiting the rights of any of the Interested Individuals who do not share in this settlement to pursue privately any and all claims they may have.

2. Defendants, at all times, have denied and continue to deny the material controverted allegations of the Lawsuit. Defendants have alleged numerous affirmative defenses to the allegations of the Lawsuit and do not admit to any discriminatory employment practices or violations of state or federal statutes or regulations, but rather expressly deny any such discriminatory practices or violations. Defendants' voluntary agreement to the entry of this Consent Decree shall not be deemed as an admission of liability, and none of the parties to this Lawsuit shall be deemed a prevailing party. There has been no judicial determination in the Lawsuit that Defendants have violated any law, order, or regulation of the United States or of any state regarding their employment practices or policies. Neither the agreement to entry of this Consent Decree nor anything in this Consent Decree shall be deemed admissible in any forum or proceeding as evidence of an admission by Defendants that they have engaged in any practice, act or omission, in violation of the ADA or any other federal or state law or regulation. This Consent Decree shall not be admissible as evidence in any forum for any reason, other than in an action to enforce its terms.

3. The Airlines agree that the Airlines shall conduct the processing of flight attendant applicant physicals and medical exams in a manner which does not subject any flight attendant applicant for employment to discrimination or retaliation in violation of the ADA.

4. The Airlines agree that in the evaluation and hiring process for the Airlines flight attendant positions they will discontinue use of the 1992 Guidelines and the 1994 Guidelines, as they existed prior to and during the pendency of this lawsuit. A copy of the 1992 and 1994 Guidelines applicable to the Airlines flight attendants referenced in this paragraph are attached hereto as Exhibit A. Nothing in this Consent Decree, however, is intended to prevent the Defendants from continuing to use and publish medical criteria, medical tests, standards and procedures as outlined in paragraphs 5 and 6 of this Consent Decree. Moreover, nothing in this Consent Decree is intended to preclude Defendants from establishing new medical criteria medical tests, standards, and procedures in the future.

5. The Parties agree that this Consent Decree shall not preclude the Airlines from publishing and utilizing medical qualification standards and medical tests in the medical examination and hiring process, including standards that were included in the 1994 Guidelines. Such medical qualification standards may be published by the Medical Review Board ("MRB") of the Medical Department in the issuance of medical guidance and instructions now and in the future. Further, physical and mental duties and requirements for flight attendants listed as essential functions in the flight attendant job descriptions and other job related requirements for flight attendants are not affected by this Consent Decree and may be set by the Airlines and published accordingly. The fact that any particular medical qualification standard, medical test, or physical or mental duties and requirements were contained in the 1994 Guidelines will be not be construed

to mean that their continued existence or publication violates the Consent Decree, or that the standard, medical test, or physical or mental duties or requirements are unlawful or applied in a discriminatory manner. The Airlines agree that none of these medical qualification standards, medical tests, or physical or mental duties and requirements shall be applied to flight attendant applicants as part of the medical exam process in a manner that is in violation of the ADA. Any reference in this Consent Decree to the Airlines' use or reliance on medical standards or testing or physical or mental duties and requirements is not to be construed as an express or implied approval, acceptance or acknowledgement by the EEOC that implementation of any such standard, test, or physical or mental duties and requirements is necessarily consistent with or in compliance with the ADA.

6. The parties agree that the Airlines will continue to use the medical questionnaire as part of a general medical inquiry. The Airlines agree to provide all flight attendant applicants with an American Airlines Medical Department Applicant Non-Disclosure Notice, in the form attached as Exhibit B. The Airlines may administratively change the form but will maintain essentially the same substantive components for the Effective Term of this Consent Decree.

7. Additionally, the Parties agree that the Airlines will continue to use Requests for More Medical Information (MMINs) for the purpose of seeking medical history, medical records or other data for purposes of an individualized medical assessment for flight attendant applicants. An index of MMIN requirements may be published for use by the nurses and medical staff. Moreover, the Medical Department physicians may ask for information that is in addition or supplemental to that requested on the MMIN form. The Airlines agree that when the MMIN and any other medical inquiry is sent to the flight attendant applicant by the Medical Department, such requests for information will be accompanied by a job description identifying the essential functions of the job for the

position of flight attendant. Moreover, in those instances where the Medical Department is seeking information regarding the physical strength or physical limitations related to one's use of their limbs or spine in lifting, moving, or operating either machinery or emergency equipment, a Physician Statement (attached as Exhibit C) or its equivalent will also be sent to the applicant. As part of any medical inquiry made pursuant to this process, the MMIN will request the responding primary or treating physician or health care provider to add any additional information that such doctor or health care provider deems necessary for the Medical Department to determine whether the flight attendant applicant can perform the job's requirements. Notice will also be given to said applicant that failure to provide the requested information within 21 days of the date of the request will result in the application being deemed incomplete and no medical determination will be made. The final authority to place medical restrictions on the applicant for the flight attendant position shall rest with a doctor or doctors in the Medical Department who are Board Certified and who are FAA Certified Aviation Medical Examiners.

8. The Airlines agree that they will impose no lifting restrictions on a flight attendant based on a medical condition or impairment unless such restriction is based on information provided by the applicant, information from the applicant's treating physician or health care provider, or in connection with a functional test, any of which indicates a specific or range of lifting restrictions.

9. After completion of the medical inquiry and MMIN process, the Airlines will notify a flight attendant applicant of any restrictions placed on the individual and will give the applicant an opportunity to obtain the reason for the restrictions or the medical non-qualification for the position. The Airlines will provide notice of a period of twenty-one (21) days for comment and/or submission of additional information, which may include results of functional testing at the applicant's option and cost. If the applicant submits

comments and/or additional information within the 21 day period, the Airlines' physician shall respond to the applicant in writing, within 45 days about whether the restrictions have been changed. If, thereafter, the applicant has an objection to the decision regarding either his/her medical restrictions or medical non-qualification, he/she may request a review of the decision by the MRB within fourteen (14) days of the date of the written notification of the Airlines' physician's decision regarding the restrictions. In order to initiate such a review by the MRB, the applicant must, so that it is received within the fourteen (14) days stated above, provide a written request to the Medical Department. Such a written request shall be addressed to the Director of the American Airlines Medical Department at P.O. Box 619616, MD 5187, DFW Airport, TX 75216. The MRB will respond to the request for review within forty-five (45) days of receipt of the written request. The MRB will document the decision regarding the applicant's restrictions or medical non-qualification, and the Airlines will provide written notice of the final decision to the applicant.

10. The Airlines agree that any medical determination regarding restrictions on a flight attendant will be made by a physician or physicians in the Medical Department who are Board Certified physicians and who are FAA Certified Aviation Medical Examiners or by the MRB which shall be comprised of at least two members so qualified and available to make the decision. Medical determinations as to restrictions or medical non-qualification shall not be made by the reviewing nurse or other nursing staff. All physicians and nurses in the Medical Department shall be instructed that all flight attendant applicants shall be considered on the basis of individualized assessments.

11. Within four (4) months of the effective date of the Consent Decree, the Airlines agree to conduct training for all regular nurses, physicians and other medical personnel who participate in the medical examination and review process of flight attendant applicants on the provisions of the ADA. This training will also focus on the processes identified above for conducting physical examinations, requesting additional medical information, and reviews of applicants for the position of flight attendant, as well as the MRB review process. The training shall be at least four hours in duration and will be conducted at least once annually during the Effective Term of the Consent Decree. Also, during the Effective Term of the Consent Decree, new hires into the Medical Department positions listed above will be trained within three months of their hire.

12. Within sixty (60) days of the initial ADA Training, the Airlines agree that specific written instruction will be given to all physicians and nursing staff, who conduct physical examinations and make decisions regarding medical restrictions on flight attendant applicants about the ADA and the Airlines' implementation of this Consent Decree. The instruction will further communicate that an individualized assessment will be performed on each applicant, which will include the review of medical information from the applicant and his/her treating physicians and health care providers, if any. During the Effective Term of this Consent Decree, these instructions will be provided to any new hires when trained pursuant to paragraph 11.

13. The Airlines also agree to post the memorandum referenced in paragraph No. 12 above on the employee bulletin board in the Medical Department Library at American Airlines' Headquarters within ten (10) days after its distribution to the Medical Department. The Defendants will report to the EEOC that they have complied with this requirement within thirty (30) days after posting the memoranda.

14. The Airlines agree to remove from application and medical files of all interested individuals listed in Exhibits D-I and D-II, all documents and specific references relating to: the filing of a charge of discrimination; the charge itself; or the Complaint filed by the EEOC in federal court based upon the charge. The medical staff will be instructed that prior final dispositions by the Medical Department shall not be determinative of any current medical evaluation after the Effective Date of this Consent Decree. However, medical information relating to the physical or mental conditions of the applicant from prior medical exams and questionnaires may be considered along with updated information in any current evaluation.

15. The Airlines agree to pay $500,000 to resolve all claims for back pay, lost benefits and compensatory and punitive damages to the identified Eagle and American interested individuals listed in Exhibit D, under the following terms:

(a) $269,000 will be paid to the individuals listed in Exhibit D-I (Category I).

(b) $131,000 will be paid to the individuals listed in Exhibit D-II (Category II).

(c) $100,000 will be allocated for distribution by the EEOC to those who signed releases and who are listed in Exhibit D-I subject to a credit against this sum in the amount of $12,500 for each person (up to eight) listed in Exhibit D-III who reapplies with the Airlines for a flight attendant position, clears the medical process, and graduates from the training process. All amounts credited shall revert to Defendants. The interested individuals listed in D-III, as additional consideration for their release of claims against the Defendants, will not be required to participate in the group and one-on-one interviews, but, after confirmation that they have met all qualification standards for the position, shall proceed to a review of their application, the background check, medical

examination, and drug test portion of the application process with the specific Airline listed on Attachment D-III. The EEOC and each interested individual who reapplies pursuant to this modified application process agrees that this reapplication is part of the settlement process and the result of their application shall not constitute an independent employment action for which any charge of employment discrimination, a lawsuit or an enforcement action for breach of the Consent Decree may be asserted or filed. Each interested individual who reapplies shall execute a release that is acceptable to both the EEOC and Defendants stating the same. Except as otherwise agreed in writing by the parties, any interested individual who intends to reapply must do so in writing within sixty (60) days of the execution of said release. The request to reapply is subject to the availability of flight attendant positions and training slots. For Eagle applicants, the request to reapply shall be sent to:

American Eagle Recruitment
Attn: Lesley Barrett
P.O. Box 619415 MD 4147
DFW Airport, TX 75261-9415

For American applicants, the request to reapply shall be sent to:

Julie Bourk-Suchman
Flight Attendant Recruiting
M.D. 912 XLC
4501 Hwy. 360
Fort Worth, Texas 76155

Each interested individual who reapplies and graduates from flight training shall be hired at a pay rate and assigned a base in accordance with the applicable collective bargaining agreement and operational needs. If any portion of the supplemental fund has not been credited to the Defendants, it will be distributed by the EEOC only among the individuals listed in schedules D-I (Category I) pursuant to paragraph 18(b) herein.

16. The Airlines agree to pay $10,740 as a conditional offer to Matos, subject to her acceptance and execution of a release of claims against Defendants within 30 days of the Effective Date of this Consent Decree. If Matos rejects the offer, the money will revert to the Defendants.

17. As a condition of receiving any payment as discussed in paragraphs 15 and 16 above, each interested individual listed in schedule D-I (Category I), schedule D-II (Category II), and including Matos, will be required to execute a release in a form satisfactory to Defendants and the EEOC. Any interested individual who refuses to sign a release will not receive monies hereunder. The parties agree to keep confidential the distribution amounts each individually receives. Defendants will be under no obligation to perform any duty under this Consent Decree and will have the right, at their sole option, to void *ab initio* this Consent Decree if Jamie Miller and a representative authorized to act on behalf of Debbie Sellers do not execute releases hereunder or if 8 or more of the 50 claimants, as listed in Exhibits D-I, D-II, and including Matos, refuse to execute the required release form. The EEOC agrees to provide the Defendants with copies of the releases along with written notification that it has complied with the provisions of paragraph 17 of the Consent Decree within 30 days after the approval and entry of the Consent Decree by the Court. The aggrieved individuals shall be personally responsible for any tax liability arising out of their receipt of proceeds from this settlement. The Airlines will provide the aggrieved individuals with a 1099 tax form for specified amounts at year end.

18. Payment of the settlement monies shall be made as follows:

a. The payments referenced in paragraphs 15(a), (b), and 16 shall be made within 45 days after both the Effective Date of this Consent Decree and the EEOC has provided to the Defendants a final list of the names, social security numbers, telephone numbers, and specific amounts due to each interested individual, along with all the original, signed release agreements in the approved form. Once the final list is provided to the Defendants, no changes may be made by the EEOC to amounts of the payments to the individuals. The EEOC is solely responsible for the allocation of the amounts to be paid, and the Defendants will not be responsible for any errors in the allocation. Any complaints made by the interested individuals or Matos regarding payments made by the Defendants shall be referred to the EEOC.

b. The additional payments referenced in paragraph 15(c) (less applicable credits) shall be made within 45 days from the date the EEOC provides the Defendants a list of the names, social security numbers, telephone numbers, and specific amounts due to each interested individual. The EEOC shall provide this list to Defendants within twenty (20) days after the Airlines inform EEOC in writing that all interested individuals who reapplied with the Airlines have either graduated training or are no longer being considered for a flight attendant position.

c. Payments made under the provisions of this paragraph shall be made by checks made payable directly to the named interested individuals in amounts to be determined by the EEOC. Payments shall be mailed to Suzanne M. Anderson, Supervisory Trial Attorney, EEOC, 207 S. Houston, Dallas, TX 75202 for delivery.

19. If the Airlines fail to tender payment pursuant to the terms above, the Airlines shall:

a. Pay interest at the rate calculated pursuant to 26 U.S.C. Section 6621(b) on any untimely or unpaid amounts; and

b. Bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the Airlines;

This paragraph shall not apply to failures to tender payments caused by any act or omission of the EEOC, provided such failure is not a result of Defendants' act or omission.

20. During the Effective Term of this Consent Decree, the Airlines shall provide the EEOC with semi-annual reports containing the following information:

a. A report on the required training pursuant to paragraph 11 of the Consent Decree of the Medical Department personnel on the ADA and Consent Decree, including but not limited to the following: date of training, identity of the trainers, roster of persons attending the training and a copy of all training materials;

b. A report of any administrative changes to the nondisclosure form and a copy of any modified form pursuant to paragraph 6;

c. A copy of any ADA compliance postings as referenced in paragraph 13;

d. The semi-annual number of flight attendant applicants medically evaluated by the Medical Department on behalf of American and Eagle;

e. The semi-annual number of flight attendant applicants from whom more information is requested by the Medical Department. The semi-annual number of such persons who were then cleared by the Medical Department;

f. The semi-annual number of flight attendant applicants who were given restrictions by the Medical Department and yet were assigned to flight attendant training for either American or Eagle;

g. The semi-annual number of flight attendant applicants who were given restrictions by the Medical Department and were not hired due to medically imposed restrictions; and

h. The semi-annual number of all flight attendant applicants reviewed by the MRB pursuant to the process listed in paragraph 9 above.

i. The semi-annual number of flight attendant applicants reviewed by the MRB pursuant to paragraph 9 above who were given restrictions and not hired due to medically imposed restrictions. The report of the number of applicants so rejected under this subparagraph shall also state the condition(s) identified by the MRB as the basis of the medical restrictions. The EEOC shall be permitted, after written request pursuant to paragraph 21, to review the medical file of the flight attendant applicant who had medical restrictions placed on him/her by the MRB and was not hired due to such medical restrictions. The medical file will be provided on an anonymous basis with no personal identifying data and shall be reviewed only for the purpose of the enforcement of this Consent Decree.

No enforcement action of any type, whether under this Consent Decree or through a commissioner's charge, shall be initiated by the EEOC based on information contained in any of the reports or medical files provided under paragraph 20 except and unless (i) the EEOC uses the notice and cure provisions of paragraph 21 regarding any alleged procedural violations, *e.g.*, failure to give notice of right to object to the medical decision under paragraph 9, or (ii) with respect to all other disagreements or alleged breaches of

the Consent Decree regarding the medical opinions of the MRB, the medical restrictions imposed, or failure to hire because of the medical restrictions, the EEOC has obtained a written opinion by a physician who is Board Certified in Aerospace Medicine that concludes, based on an individualized assessment, that the flight attendant applicant is medically capable of performing the essential functions of the job and presents no unacceptable risk to airline passengers for the Airline to which the applicant applied. Such medical opinion must be presented to the Airline as part of the notice and cure provision of paragraph 21.

All reports to the EEOC required by this Consent Decree shall be sent to Suzanne M. Anderson, Supervisory Trial Attorney, EEOC, 207 S. Houston, Dallas, Texas 75202. The first semi-annual report shall cover the six month period beginning with the first full month after the effective date of this Consent Decree. Each subsequent semi-annual report shall cover the next six month period during the two year term of the Consent Decree. All reports for each six (6) month period shall be due to the EEOC within forty-five (45) days of the end of the six month reporting period.

21. Neither the EEOC nor Defendants shall contest the validity of this Consent Decree nor the jurisdiction of the federal district court to enforce this Consent Decree and its terms or the right of either party to the Consent Decree to bring an enforcement action upon breach of any term of this Consent Decree by either party. Nothing in this Consent Decree shall be construed to preclude the EEOC from enforcing this Consent Decree in the event that Defendants fail to perform the promises and representations contained herein. The EEOC shall be authorized to seek compliance with the Consent Decree through civil action only in the United States District Court in Dallas, Texas. The EEOC also reserves the right to seek contempt sanctions for non-payment and non-compliance with this Consent Decree only in the United States District Court in Dallas, Texas.

Written notice of any alleged violation must be provided to Defendants and a cure period of forty-five (45) days after the receipt of the notice must be provided to Defendants prior to filing any action with the Court to enforce this Consent Decree. EEOC agrees to meet with representatives of Defendants during the notice and cure period to discuss and attempt in good faith to resolve any alleged violations. Failure to exhaust this notice and cure provision shall preclude any filing of enforcement proceedings with the Court. All reports or notice and cure requests to the Defendants shall be sent to Associate General Counsel - Employment, American Airlines, Inc., P.O. Box 619616, M.D. 5675, DFW Airport, Texas 75261.

22. The parties to this Consent Decree agree to bear their own costs and fees associated with this civil action and the underlying investigations which preceded it.

23. This Consent Decree will remain in effect for two (2) years beginning with its Effective Date. This Court shall have continuing jurisdiction over the subject matter of and the parties to this Consent Decree, and that venue is proper. The Court shall retain jurisdiction of this action for the duration of the Consent Decree solely for the purpose of entering all orders, judgments, and decrees authorized hereunder that may be necessary to implement and enforce the relief provided herein. Only the EEOC and the Defendants may bring an action to enforce the terms of this Consent Decree, and nothing in this Consent Decree shall be interpreted to confer standing upon any other person or entity to enforce the Consent Decree's terms. This Consent Decree on its own terms shall expire and shall be without force and effect two (2) years after the Effective Date of this Consent Decree.

24. General Terms:

a. This Consent Decree may be executed in one or more counterparts. Each shall be deemed an original.

b. The Defendants are not required by this Consent Decree to violate any applicable law, ordinance, or regulation as interpreted by federal or state administrative agencies or by controlling judicial authority.

c. In the event that any conflict arises between the terms of this Consent Decree and an applicable Collective Bargaining Agreement, the parties agree to meet and confer pursuant to the process identified in paragraph 21 above. Nothing in this Consent Decree shall require Defendants to breach any applicable provision of the Airlines' collective bargaining agreement.

d. This Consent Decree may not be modified except in writing signed by both the EEOC and the Defendants.

e. This Consent Decree and the Letter Agreement dated July 21, 2000, and signed by Suzanne Anderson and Ronald E. Manthey constitute the entire agreement between the Parties.

SO ORDERED, ADJUDGED AND DECREED this 31 day of July, 2000.

United States District Judge

SO AGREED:

Dated: 7/21, 2000

ROBERT A. CANINO
Regional Attorney
Oklahoma State Bar No. 011782

By: _____
SUZANNE M. ANDERSON
Supervisory Trial Attorney
Texas State Bar No. 14009470
WILLIAM C. BACKHAUS
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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, Texas 75202
Telephone: (214) 655-3337
Facsimile: (214) 655-3331

Dated: 21 July, 2000

_____
SUZANNE H. STENSON
Texas State Bar No. 19143750

ATTORNEY FOR DEFENDANTS
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Facsimile: (817) 963.1489

Dated: 7/21, 2000

By: _____
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