

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
AMR CORPORATION, AMERICAN)
AIRLINES, INC. and AMR EAGLE)
HOLDING CORPORATION,)
)
 Defendants.)
)
)

Case No. 99-1180-JTM

PROTECTIVE ORDER GOVERNING DEPOSITIONS

In order to: (i) provide public access to depositions in this action consistent with 15 U.S.C. § 30 while seeking to ensure that the depositions proceed in an orderly and expeditious manner without unnecessary disruption; and (ii) ensure the protection of confidential information during and after the taking of oral testimony, the Court hereby orders, pursuant to Fed. R. Civ. P. 26(c)(7), that the following procedures shall apply to the taking of depositions in this action:

1. All terms defined in the Protective Order Governing Confidential Information (“Protective Order”) entered on September 14, 1999, as may be amended by this Court from time to time, shall have herein the same meanings ascribed to them in that document.

NOTICE TO THE PUBLIC OF DEPOSITIONS

2. The party noticing any deposition shall post such notice on its website that contains information relating to this lawsuit (www.usdoj.gov/atr or www.aadoj.com).

Since some depositions may need to be rescheduled for various reasons, those persons intending to attend a scheduled deposition are encouraged to call Edward Soto on behalf of American Airlines at (305) 577-3164 or Debra Williams on behalf of the Department of Justice at (202) 305-4392, depending on which party noticed the deposition, 24-hours prior to the scheduled date and time to verify the date, time and location of the deposition.

SEATING FOR PRESS AND THE PUBLIC

3. All depositions shall be held in locations that allow sufficient seating for at least twenty (20) spectators (members of the press and public), unless counsel for the parties agree that it is reasonable to expect fewer than twenty spectators to attend the deposition.

4. The number of seats allocated to members of the press and the public in the Deposition Room shall be divided equally. In the event that fewer members of the press attend the deposition than there are seats allocated to the press, additional members of the public may fill the vacant press seats. In the event that fewer members of the public attend the deposition than there are seats allocated to the public, additional members of the press may fill the vacant public seats. The press shall decide among themselves how the number of seats allocated to the press shall be distributed among competing press organizations, subject to the resolution of any disputes by a press representative designated by counsel for the press or by further order of the Court.

5. In order to determine whether to hold the deposition at a location accessible to more than twenty (20) spectators, members of the press and public intending to attend a deposition are asked to notify the deposing party eight (8) business days in advance of

the scheduled start of the deposition. The Plaintiff and Defendants shall include an e-mail and regular mail address for receiving such notice on their respective websites that contain information relating to this lawsuit (www.usdoj.gov/atr and www.aadoj.com).

6. On their respective websites that contain information relating to this lawsuit, the plaintiff and defendants shall include an e-mail and regular mail address for receiving such requests.

7. If the deposing party receives notice that more than twenty (20) members of the press and public intend to attend a deposition, the deposing party must notify the deponent, who shall choose one of the options listed below for allowing the press and public to attend the deposition:

a. The deposition shall take place in a courtroom or grand jury room at the United States courthouse that is nearest to the deponent's place of business, and as many members of the press and the public may observe the deposition as there are seats available in the courtroom; or

b. The deposition shall take place at a location provided by the deponent that would allow sufficient seating for a total of 50 members of the press and the public to observe the deposition in person; or

c. The deposition shall take place at a location provided by the deponent that allows sufficient seating for 20 members of the press and the public to observe the deposition in person. The deponent shall also provide a second location (the "CCTV Room") sufficient to allow up to thirty (30)

additional members of the press and the public to watch a simultaneous video feed of the deposition table; (the costs incurred in providing the video feed shall be incurred by the deponent choosing this option).

8. If multiple depositions of witnesses from a single company are scheduled for the same date, the company shall provide facilities that satisfy the requirements set forth in paragraph 7(a) or 7(c) for only one such deposition; for the other depositions(s) scheduled on that date, the company shall provide a location that has sufficient seating to allow at least 10 members of the press and 10 members of the public to observe the deposition in person.

**PROCEDURES RELATING TO THE CONDUCT
OF THE PRESS AND THE PUBLIC DURING DEPOSITION**

9. Members of the press and the public who attend depositions in this action or watch the depositions in the CCTV Room must comport themselves in the same manner as would be tolerated in a courtroom located in the United States District Court for the District of Kansas. They must adhere to the standards of conduct (the “Rules of Conduct”) attached as Appendix A.

10. Failure to comply with any of the Rules of Conduct shall result in that person’s immediate dismissal from the Deposition Room or CCTV Room.

11. Any party may circulate the Rules of Conduct to all members of the press and the public present before each deposition begins. Any Counsel may read the Rules of Conduct aloud, announce to members of the press and the public that they are obligated to

comply with the Rules of Conduct and explain that the failure to abide by any of the Rules of Conduct will result in that person's immediate dismissal from the Deposition Room or CCTV Room.

12. The parties shall display this order and the Rules of Conduct on the websites on which they publish deposition notices as provided at Paragraph 2.

13. Attendance at a deposition does not give members of the press or the public any greater or lesser rights to receive or view exhibits shown to a witness during a deposition than they would have if they were seated in a courtroom in the United States District Court for the District of Kansas.

GENERAL DEPOSITION PROCEDURES

14. If the deposition takes place at a location provided by the deponent pursuant to Paragraph 7, the deponent shall be entitled to require members of the press and the public who attend the deposition or watch the deposition in the CCTV Room to go through reasonable security measures, such as metal detectors and searches of bags and parcels, upon entering the building or the Deposition Room and CCTV Room.

15. If a deposition takes place in a location other than a courtroom at a United States Courthouse, the Deposition Room shall be arranged so that the deposition occurs at a table that is physically separated from any seating area in the room for members of the press and the public.

16. Off-the-record discussions between or among counsel for the parties and counsel for third-party deponents shall be conducted out of the presence of members of the

press and the public and shall not be recorded by the court reporter or videographer.

17. If counsel for a party or third-party deponent places a telephone call to Judge Marten, Magistrate Judge Humphreys, or another judge to resolve a dispute during the deposition, the court reporter shall record such conference call. Members of the press and the public shall be excluded from the Deposition Room during such a call if counsel for a party or third-party deponent requests a sidebar conference with a judge and the judge grants the request; the video feed to the CCTV Room, if any, will be terminated during the sidebar conference.

18. Members of the press and the public attending any deposition may purchase transcripts of the non-confidential portions of the depositions directly from the court reporter. Members of the press and the public may not obtain transcripts of the non-confidential portions of the deposition until twenty-five (25) business days after the transcript has been provided to counsel for the deponent, so that counsel for the deponent can ensure that no Designated Material was inadvertently included in the non-confidential transcript due to transcription or compilation error.

**PROTECTION OF TRADE SECRETS
AND OTHER CONFIDENTIAL INFORMATION**

19. Counsel for the party that noticed the deposition (“Deposing Counsel”) will endeavor in good faith to reserve until the end of the deposition all questions that Deposing Counsel reasonably believes will likely elicit Designated Material from the deponent. When Deposing Counsel has remaining only questions that he or she reasonably believes will likely

elicit Designated Material from the deponent, members of the press and the public shall leave the Deposition Room upon the request placed on the record by Deposing Counsel or counsel for the deponent, and the video feed to the CCTV Room, if any, will be terminated (the “Confidential Session”). During the Confidential Session, the deponent shall answer the Deposing Counsel’s questions that elicit Designated Material, subject to any privilege objections.

20. If, during the public session of the deposition, the Deposing Counsel asks the deponent a question that the deponent or counsel for the deponent reasonably believes will likely elicit Designated Material from the deponent, counsel for the deponent may object to the question on the grounds that it will likely elicit Designated Material. Deposing Counsel may elect to defer that question or line of questions until the Confidential Session of the deposition or to proceed with that question or line of questioning, in which event members of the press and the public shall leave the Deposition Room upon request placed on the record by Deposing Counsel or counsel for the deponent, and the public video feed to the CCTV Room, if any, will be terminated. If Deposing Counsel elects to pursue that question or line of questioning at that time, counsel shall reopen the Deposition Room to the members of the press and the public before proceeding with the next non-confidential question or line of questioning.

21. If Deposing Counsel asks the deponent a question that does not appear to elicit Designated Material, but in answering the question the deponent begins to disclose Designated Material, the deponent or counsel for the deponent may interrupt the answer to interpose an objection on the grounds that the answer would divulge Designated Material. As

discussed more fully in paragraph 20, Deposing Counsel may then elect to defer the question or line of questioning to the Confidential Session or to pursue the question or line of questioning at that time, in which event members of the press and the public shall leave the Deposition Room upon the request placed on the record by Deposing Counsel or counsel for the deponent, and the public video feed to the CCTV Room, if any, will be terminated. If Deposing Counsel elects to pursue that question or line of questions at that time, counsel shall reopen the deposition to the members of the press and the public before proceeding with the next non-confidential question or line of questioning.

22. Nothing in this Order shall be construed to affect the rights of the parties, or any non-party, for good cause shown, to move the Court for further appropriate relief pursuant to 15 U.S.C. § 30 or otherwise.

SO ORDERED this 3rd day of March, 2000.

“/s/”
UNITED STATES DISTRICT JUDGE

APPENDIX A

RULES OF CONDUCT

All members of the press and the public who attend any deposition(s) in this case, either in the Deposition Room or the CCTV Room must adhere to the following standards of conduct that govern their behavior during the proceedings:

(1) All depositions are being taken pursuant to an Order of the United States District Court for the District of Kansas that governs the conduct of all persons who observe depositions in this case.

(2) By remaining in the room after these rules are read, you acknowledge that you understand, and agree to abide by, these Rules of Conduct. In addition, you expressly agree to submit to the jurisdiction of the United States District Court for the District of Kansas for the purposes of enforcement of these Rules of Conduct.

(3) Members of the press and the public who are in the Deposition Room or the CCTV Room shall conduct themselves in a professional and unobtrusive manner during the deposition.

- (4) There shall be no:
- (i) disruptive conduct;
 - (ii) smoking;
 - (iii) talking;
 - (iv) eating, drinking, chewing gum or tobacco; or
 - (v) note passing, whispering or gesturing in an obtrusive or disruptive way.

(5) No one may use any television cameras, camcorders, tape recorders, cameras, radios, radio transmitters, telephones, pagers, computers or other recording or communications devices in the Deposition Room or the CCTV Room. The parties are under no obligation to make provisions for anyone to check these items, or any other property.

(6) If using the Deposition Room, members of the press or public must be seated before the deposition commences and may not leave their seats during the proceedings. They may, if necessary, leave the Deposition Room during an announced break in the deposition and return during the same break, but once questioning has resumed, they will not be permitted to reenter the Deposition Room until the next announced break in the proceedings.

(7) During the course of the deposition (including breaks), members of the press and the public may not approach the deposition table. Even during breaks, members of the press and the public may not approach the deponent.

(8) Members of the press or the public who observe the deposition in the Deposition Room or the CCTV Room may retain their seats for the full day.

(9) During the course of the deposition, there may be occasions where counsel announces that all members of the press and the public must leave the Deposition Room and the video feed to the CCTV Room, if any, will be terminated. All members of the press and the public must leave the Deposition Room quickly and quietly and may not disrupt or interfere with the deposition.

(10) Sketch artists shall be treated as members of the press for purposes of attending the depositions, but no more than two such sketch artists may be in attendance at any one time.

(11) If any member of the press or the public violates any of the Rules of Conduct, counsel in this litigation are expressly authorized to stop the deposition and direct security personnel to remove the violator from the Deposition Room or CCTV Room. Once the violator has been asked to leave the Deposition Room or CCTV Room, he or she will not be allowed to reenter while the deposition is pending. If the violator violates the Rules of Conduct at a subsequent deposition, either party may seek prior to the continuation of a deposition an order barring the violator from future depositions.