UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Case No. 1:18-cv-06149 (RA)

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In re

AMR CORPORATION, *et al.*,

Debtors.

Chapter 11 Case No.

11-15463 (SHL)
(Jointly Administered)

----------x

LAWRENCE M. MEADOWS,

Appellant,

v.

AMR CORPORATION, *et al.*

Appellees.

----------x

APPELLANTS' OPENING BRIEF

Dated: March 2nd, 2020

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ORAL ARGUMENT REQUESTED

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STATEMENT OF BASIS OF APPELLATE JURISDICTION

This is an appeal of two Orders of the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"), as entered on May 16, 2018, Approving Settlement Agreement Resolving Certain Pending EEOC Litigation. (Related Doc # [12681]). (Addendum A, DOC. 12898); and, entered on 6/1/2018, Denying Response And Objection To Consent Decree (related document(s) [12895], [12904]. (Addendum B, Doc 12905).[1]

The Bankruptcy Court had jurisdiction to enter its final orders, pursuant to 28 U.S.C. § 157 (b)(1), and §1334. The Appellant filed a timely Notice of Appeal of those Orders to the SDNY District Court on June 15, 2018, (Doc 12912), and in turn timely filed his brief in accordance with this honorable Court's Order dated December 13, 2019. (Document 9).

This Court now has jurisdiction to hear this appeal *de novo* pursuant to 28 U.S.C. §158(a)(1) and Federal Rules of Bankruptcy Procedure 8001, *et seq.*

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[1] All References in Appellant's Brief are shown as "**Doc 12xxx**", are to the official document numbers as recorded in the docket of the underlying case, *In re AMR Corporation, et. al.,* Case No. 11-15463 (SHL). During the past few days while preparing this Brief, the public amrcaseinfo.com website, which houses all of the documents related to the bankruptcy proceedings of AMR Corp. Inc, and its subsidiary. American Airlines, Inc., has had a "Internal Server Error" which prevented access to ANY of the documents in those proceedings and specifically those previously designated as relevant to this appeal; which in turn prevented Appellant from preparing an Appendix. (See explanation and supporting exhibits in Appendix page 52).

STATEMENT OF ISSUES PRESENTED

1. Did the Court err by entering its 5/16/2018 Order Approving Settlement Agreement Resolving Certain Pending EEOC [Equal Employment Opportunity Commission] Litigation, even though the Appellant Debtors', AMR Corp. Inc. failed to properly serve and provide notice of the proposed order to known objector Meadows and American's 942 other Similarly-Situated Potentially Aggrieved Disabled Pilots, who were all in danger of losing their rights?

The Bankruptcy Court's action of entering an order without proper notice exceeds the scope of its authority and jurisdiction is an abuse of its discretion, and also amounts to plain error and should be reviewed de novo.

2. Did the Bankruptcy Court err by depriving Appellee Meadows and American's 942 other similarly situated potentially aggrieved disabled pilots of their constitutional right to due process and notice under the 4th and 15th Amendments?

The Bankruptcy Court's action of entering an order without proper notice exceeds the scope of its authority and jurisdiction is an abuse of its discretion, and also amounts to plain error and should be reviewed de novo.

3. Did the Bankruptcy Court err by entering the 5/16/18 Order to approve the original Consent Decree which the Debtor's previously admitted was flawed, because it explicitly excluded Meadows and ALL of American's other 942 other similarly-situated Disabled Pilots from formal notice of the settlement, and that

they are in danger of losing their rights which violates the **Bankruptcy Code's principal of equality within a class of creditors?**

The Bankruptcy Court's action of ignoring legal precedent amounts to plain error, and its refusal to take notice of the applicable case law is also an abuse of its discretion which should be reviewed de novo.

4. Did the Bankruptcy Court err by abusing its authority by entering and Order directing the Parties to unilaterally modify the original Consent Decree and its supporting documents, despite such modifications otherwise having been denied and the original Consent Decree ruled to be Final by the court of original jurisdiction the U.S. District Court of Arizona?

The Bankruptcy Court's action to exceed the scope of its authority and jurisdiction is an abuse of its discretion, and also amounts to plain error and should be reviewed de novo.

5. Did the Bankruptcy Court err by granting the original Consent Decree, which IS NOT fair and equitable, because it uses the Debtor's Bankruptcy Estate assets to Settle and pay post-petition (11/29/11) and post-effective claims for conduct that occurred through August 2015?

The correctness of the Bankruptcy Court's legal determination to use bankruptcy estate assets to settle and pay post-petition claims based solely on post-petition conduct is legal error and should be reviewed de novo.

6. Did the Bankruptcy Court err by approving the original Consent Decree which dismisses the EEOC General POC No. 9676, and as a result extinguishes preservation of Meadows' all other *potentially aggrieved individuals'* ADA

Discrimination Claims and forecloses them from pursuing related ADA Lawsuits?

7. Did the Bankruptcy Court err in treating the distribution of EEOC settlement differently without the same protections afforded all other distributions in accordance with the True-up Orders?

The Bankruptcy Court's unfair and uneven application of its prior Ture-Up Order should be reviewed as an abuse of discretion and should be reviewed de novo.

STANDARD OF APPELLATE REVIEW

This Court reviews the legal conclusions of the Bankruptcy Court *de novo,* and may reverse the findings of fact of the Bankruptcy Court when they are clearly erroneous. *See In re Motors Liquidation Company*, 428 B.R. 43, 51 (S.D.N.Y. 2010), *citing Bay Harbour Mgmt., L.C. v. Lehman Bros. Holdings, Inc.*, 415 B.R. 77, 83 (S.D.N.Y. 2009); *Applied Theory Corp. v. Halifax Fund, L.P.*, 493 F.3d 82, 85 (2d Cir. 2007). Mixed questions of law and fact are reviewed "either *de novo* or under the clearly erroneous standard depending on whether the question is predominantly legal or factual." *Id. (citing Italian Colors Rest. v. Am. Express Travel Related Servs. Co. (In re Am. Express Merchants' Litig.)*, 554 F.3d 300, 316. Issues that are committed to the bankruptcy judge's discretion are reviewed for abuse of discretion. *See Delcarpio v. Ticconic*, 124 Fed. Appx. 71, 72 (2d Cir. 2005) (citing *Transaero, Inc. v. La Fuerza Aerea Boliviana*, 162 F.3d 724, 729 (2d

Cir. 1998)). A court "'necessarily abuse[s] its discretion if it based its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence.'" *Transaero*, 162 F.3d at 729 (quoting *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 405 (1990).

STATEMENT OF THE CASE

Appellees Bankruptcy History

On November 29, 2011, the Appellee, Debtors AMR Corp, Inc, and ist subsidiary American Airlines, Inc. filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, and also entered an Order authorizing payment of prepetition employee wages and benefits. *See* Doc. 1 and 52. On April 15, 2013, the Debtors filed their disclosure statement, which was approved on June 7, 2013. *See* Doc. 8614. On October 21, 2013, the Bankruptcy Court entered an order (the "Confirmation Order") confirming the Debtors' Fourth Amended Joint Chapter 11 Plan (the "Plan"). *See* Doc. 10361. The effective date of the Debtors' Plan was December 9, 2013.

Appellant's Background And Prior Bankruptcy Procedural History

The Appellant, Lawrence M. Meadows (**"Meadows"**), was former military pilot with the United States Air Force. After honorably serving his country for six years, he was hired in 1991 as an airline pilot for American Airlines, Inc. (**"American"**). American is a subsidiary of Debtor, AMR Corp., who is the

Appellee in these proceedings. Appellant was and is subject to the same pattern practice of disability discrimination for which the EEEOC had sued Appellants subsidiary and Appellants employer American Airlines, Inc, Starting with American's improper no-notice termination denial of disability benefits on December 26, 2007. Meadows has consistently argued that American's denial of disability benefits was part of a fraudulent scheme[2], and that American retaliated to those allegations by "purportedly" terminating Meadows' employment on October 24, 2011, and removing him from the Pilot System Seniority List (the "Seniority List"). Although, it did so without providing Meadows the due process of an investigation and hearing, and written notice from a Chief Pilot superior, as otherwise required under the terms of the collective bargaining agreement ("CBA"). As a result, Meadows commenced various actions seeking contractual claims under the CBA and statutory employment claims under Railway Labor Act ("RLA") 45 U.S.C. § 151 *et. seq*., Employee Retirement Income Security Program

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[2] The American Airline's Medical Department used *"Pilot Disability Nurse Case Management Cost Savings"* reports based on highly structured actuarial calculations, to improperly deny and/or terminate rightful pilot disability benefits based on cost saving alone. This scheme was done in an effort to aide with grossly underfunded pilot Pension/Disability Plans, which annual SEC 10-K reports showed to be underfunded by as much as $3.2B. During discovery in his ERISA benefits litigation, Meadows discovered his benefits were terminated under the pilot disability cost savings scheme, and also learned that the scheme was further facilitated through the use of a fraudulent third-party claims reviewer. Thus, he reasonably believed American Airlines was intentionally underfunding rightful pilot disability funding obligations, which thereby artificially inflated its reported corporate earnings, giving rise to Securities Fraud under the Sarbanes-Oxley (SOX) Act. Based on which he filed a SOX Whistleblower Complaint.

("ERISA") 29U.S.C. ¶ 1001 *et. seq.*, the Americans with Disabilities Act ("ADA') 42 U.S.C. § 12101 *et. seq.*, and the Sarbanes-Oxley Act of 2002 (" SOX") 18 U.S.C. § 1414A *et seq.*

However, Appellees succeeded in Obtaining a Bankruptcy Court Order disallowing Appellant's statutory claims which were related Debtor American Airlines' termination of Meadows' original pilot long term disability ("LTD") benefits claim. While that order disallowed Meadows' other pre-petition claims it explicitly allowed arbitration of Meadows Grievance #12-011[3] which contained pre-petition contractual and statutory claims related to his purported termination and removal from American Airlines' pilot system seniority list, and plainly stated in relevant part;

> "ORDERED that, notwithstanding the foregoing, Meadows shall be permitted to arbitrate Grievance 12-011 before the System Board to the extent ***permitted by applicable law***;" (*Id.* at 2).

The Court should note that the newly enjoined claims related to Bankruptcy Courts recent Orders in this instant appeal stem from Debtors engaging in new but closely related discriminatory and retaliatory conduct post-petition, which acts

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3 Meadows company termination Grievance #12-011, was filed in accordance with the RLA, and specifically protested his improper discharge and removal from American Airlines' pilot system seniority list in violation of the collective bargaining agreement, and also cited contributing factors of retaliation and discrimination in violation of both the SOX and ADA acts. Grievance #12-011 was preserved by Meadows' pilots union, on the Allied Pilots Association Proof of claim, and was excluded from the bankruptcy settlement, and to date is currently incorporated by reference into the LOA 12-01 in the new Joint CBA ("JCBA").

constituted new contractual and statutory claims related Meadows second (post-petition) award of collectively bargained pilot long term disability benefits and employment as an active line pilot American Airlines, as provided under the pilot's new collective bargaining agreement ("CBA") Specifically, post-Effective date, American Airlines has engaged in new acts of retaliation and discrimination; and suspended payment of Meadows post-petition pilot long term disability benefits[4] without notice, and refused to approve his requests to return to work from disability leave of absence to active line pilot status (based on his newly issued FAA Airman's medical certification.

Meadows realized the Debtors were engaged in ongoing and new frequently disability practices, which threatened the continued receipt of his rightful LTD benefits, and his nine years of forward pay benefits as a now medically qualified line pilot. Accordingly, based on Debtors new post-petition/post-effective discriminatory and retaliatory actions, Meadows filed a civil lawsuit *Meadows v. American Airlines*, (NDI Case. No.1:15-cv-03899, Apr. 30, 15), along with an new

[4] Post-petition Debtors' Pension Benefits Administration Committee award Meadows full restoration of pension credited service (as if he'd never been terminated), restored his Active pilot employee medical benefits, and reimbursed him almost $350,000.00 for retroactive disability payments and medical benefits. Additionally, after the post-petition date, on 12/11/11, Debtors approved Meadows for a new second claim for Company paid pilot long term disability benefits paid as W-2 employee wages, along with Active Pilot Employee Medical, Dental, Vision, Life Insurance, and Pension benefits.

EEOC Charge of Retaliation and Discrimination under the Americans with Disabilities Act, ("ADA"), 42 U.S.C. § 12101 *et. seq*.

Currently, since November 2018, Appellant illness has been treated into full remission, and he has obtained the FAA Airman's First Class Medical Certificate otherwise required to perform his duties as a pilot in the service of American Airlines; he is also current and qualified and working as B-777 Captain and Instructor Pilot For The Boeing Company. Thus, he meets all the essential job functions as for his former position as an American Airlines B-777 pilot.

Yet American continues to retaliate and engage in disability benefits discrimination and retaliation and treats Meadows disparately by refusing to return him from an authorized leave of absence of collectively bargained disability benefits back to active line pilot status. Which is exactly the same sort of unlawful conduct for which the EEOC sued American in 2017, and which the EEOC Consent Decree has excluded Meadows and others similarly situated disabled and formerly disabled pilots.

The EEOC Systemic Investigation Of Appellees

On July 14, 2012, the U.S. Equal Employment Opportunity Commission, filed Proof of Claim No. 9676 (the "EEOC Proof of Claim (POC)") in the unsecured amount unliquidated against American, which listed the basis of the

claim as, ***"Charge of discrimination No. 540-2009-01250 and other aggrieved individuals."*** (See Doc. 12861, Exhibit D).

On August 23, 2012, within one month of the EEOC's general POC No. 9676, Appellant Meadows filed an intake questionnaire with the EEOC's Phoenix office; and on September 12, 2012, he filed EEOC Charge of Disability Discrimination No. 540-2012-03194, for the exact same discriminatory conduct during the exact same discriminatory period which the EEOC's Phoenix office ultimately sued American for, as described in further detail below, as he was an *"aggrieved individual."*

On November 3, 2017, a lawsuit styled as *Equal Employment Opportunity Commission v. American Airlines, Inc. and Envoy Air Inc.* (D. Ariz., No. 2:17-cv-04059-SPL, Nov 3, 2017) in the United States District Court for the District of Arizona ("Arizona District Court" was filed by the Equal Employment Opportunity Commission ("EEOC" or "Plaintiff") asserting claims against Appellee AMR Corp. Inc.'s subsidiaries, American Airlines, Inc. ("American") and Envoy Air Inc. ("Envoy") (collectively, "Defendants," and together with the Plaintiffs, the "Parties") for systemic discrimination and retaliation on basis of medical disability in violation of the Americans with Disabilities Act of 1009 ("ADA") and Title I of the Civil Rights Act of 1991 (the "Arizona Litigation").

In the Litigation, the EEOC asserted that Appellant Debtors' subsidiaries, American and Envoy during the period of **January 1, 2009 through August 3, 2015 (hereinafter "Discriminatory Period")**, (*Id.* Doc 4-1 ¶14), had engaged in various nationwide unlawful patterns and practices that violated the ADA, including refusing to accommodate employees with disabilities, terminating employees with disabilities, and failing to rehire employees. Defendants' actions followed from a 100% return-to-work policy that requires employees to return to work without restrictions. The Litigation was filed on behalf of 13 current and former employees of American and Envoy who filed charges with the EEOC, **as well as a *"nationwide group of potential aggrieved individuals",*** all of whom were current or former American and Envoy employees who suffered disability discrimination or retaliation. American and Envoy estimate that the nationwide group of potential claimants as set forth in the Consent Decree includes approximately 1,500 individuals.

On November 3, 2017, the Parties entered into a Consent Decree (Doc 12861, Exhibit F). which, among other things, provides the EEOC with settlement consideration in the form of an American Airlines Unsecured Allowed Claim of $9.8 million (the "Allowed Claim") to be distributed to the 13 Charging Parties and the approximately 1,500 potential claimants.

On November 16, 2017, the Arizona District Court entered an order granting the Joint Motion for Entry of Consent Decree and adopted and entered as the Consent Decree as the final judgment in the Litigation pursuant to Rule 54 of the Federal Rules of Civil Procedure, and closed the "Arizona Litigation"

On December 15, 2017, Appellee, Debtor AMR Corp. Inc. filed their, *"Motion to Approve Compromise: Motion of Debtors for Entry of Order Pursuant to Fed. R. Bnkr. P. 9019(a) Approving Settlement Agreement and Resolving Certain Pending EEOC Litigation."* (Doc 12861, Exhibits A and F).

On January 15, 2018, disabled American pilot, creditor, and shareholder, Kathy Emery filed her; *"Objection And Response To Motion of Debtors for Entry of Order Pursuant to Fed. R. Bnkr. P. 9019(a) Approving Settlement Agreement and Resolving Certain Pending EEOC Litigation."* (Doc 12869).

On January 31, 2018, disabled American pilot, creditor, and shareholder, Appellee Lawrence M. Meadows filed his; *"Objection And Response To Motion of Debtors for Entry of Order Pursuant to Fed. R. Bnkr. P. 9019(a) Approving Settlement Agreement and Resolving Certain Pending EEOC Litigation."* (Doc 12872).

On February 1, 2018, this Court held a hearing into Debtors 9019 Motion, and disabled American pilots Meadows and Emery orally argued their respective

Objections to Entering the Order to approve the EEOC Consent Decree. (Hrg. Trans., Doc 12876).

On February 15, 2018, yet another disabled American pilot, Susan A. Twitchell, also filed an Objection; "*Motion of Debtors for Entry of Order Pursuant to Fed. R. Bnkr. P. 9019(a) Approving Settlement Agreement and Resolving Certain Pending EEOC Litigation.*" (Doc 12877).

On March 15, 2018, unbeknownst to Meadows, and without noticing him, the Debtors' subsidiaries, Defendants American Airlines and Envoy Airlines, along with Plaintiff EEEOC, collectively the Parties, filed in the Arizona Litigation their; *"Joint MOTION for Entry of Amended Consent Decree by American Airlines Incorporated, Envoy Air Incorporated."* (See D. Ariz., Case No. 2:17-cv-04059-SPL, Doc 10).

On March 20, 2018, Debtors' filed its, "Letter" Motion with the Honorable Sean H. Lane Regarding *"Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Doc 12861)."* ("Letter") (See Doc 12879). More, specifically, the Debtors' in their 3/20/18 "Letter" Motion, identified the major flaws in the original Consent Decree and proposed to following revisions, to include; 1) ***"The parties propose a change to address the inclusion of pilots…",*** and 2) ***"The parties also agreed that Mr. Meadows and***

Ms. Emery should be included on the Employee Lists to ensure they receive formal notice given the Objections they raised" (Doc 12879 at 1).

Accordingly, on March 29, 2018, Meadows intervened in the "Arizona Litigation" and filed his; *"Motion To Intervene And Objection To Joint Motion For Entry Of Amended Consent Decree By Plaintiff EEOC and Defendants American Airlines and Envoy Air, And Request For Hearing",* and subsequently, on April 2, 2018 filed an Amended version of that Motion. (Exhibit A attached herewith).

On April 24, 2018, the U.S. District Court of Arizona entered an Order denying approval of the Parties' original Consent Decree, and also denied the Motions to Intervene of Meadows and certain other disabled American Airlines pilots. (Doc 12895, Ex. 2). Meadows has also put the Bankruptcy Court on Judicial Notice of his Amended Motion to Intervene in a separate filing, and has since filed a post-judgment motion for reconsideration of the denial of that Motion, which is pending in the Arizona Court. *Id.*

On May 3, 2018, Debtors' filed, yet another Letter to the Honorable Sean H. Lane Regarding *"Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Doc 12861.*" ("Letter"), this time seeking to approve the original flawed Consent Decree (See Doc 12895). That Letter also

showed that it "cc'd" Meadows, yet he never was properly noticed of said Letter/Proposed Order.

Moreover, despite the Arizona Court's 4/24/2018 Order, refusing to modify and Amend the terms of the original Consent Decree it has originally approved on 11/16/2017, and declaring it to be a final judgement; the Parties/Debtors' have sought to have this Bankruptcy Court to fundamentally modify the Consent Decree and in its supporting exhibits.

On May 4, 2018, Debtors filed its *"Affidavit of Service re Letter to the Honorable Sean H. Lane Regarding Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Docket No. 12861)"*, (Doc 12895); **However, Meadows name was not included in Debtors' Affidavit, and thus he was never properly Noticed of Debtors' 53/16 "Letter" Motion and Proposed Order, despite him being on the Record as an known Objector to the original Consent Decree. Meadows only learned about it the week of May 14th, when another Creditor informed him of it.**

On May 3, 2018, Debtors' filed, yet another "Letter" Motion to the Honorable Sean H. Lane Regarding *"Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Doc 12861.*" ("Letter"),

this time seeking to approve the original flawed Consent Decree (See Doc 12895). But despite this Court's 4/24/2018 Order, the Parties sought to have the Bankruptcy Court to fundamentally modify the Consent Decree and in its supporting exhibits.

On May 4, 2018, the Parties by and through Defendants' bankruptcy counsel filed an *"Affidavit of Service re Letter to the Honorable Sean H. Lane Regarding Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Docket No. 12861)"*, (Doc 12895); **but the Defendant's Debtors'/Parties never properly Noticed Meadows of It's "Letter" Motion and Proposed Order, despite him being on the Record as an known Objector to the original Consent Decree.**

Despite not being properly served, *delivery confirmation*), Meadows timely filed a Response in the U.S Bankruptcy Court on May 18, 2018 (*confirmed by signed Fedex*), objecting to the Parties'/Debtors'' 4/4/2108 "Letter" Motion, seeking entry of Joint Proposed Order, which despite this Court's 4/24/2018 Order, the Parties improperly sought to have the Bankruptcy Court to fundamentally modify the Consent Decree and in its supporting exhibits.

Regardless, on May 16, 2018, before Meadows above referenced Objection was docketed, the U.S. Bankruptcy Court pre-maturely entered an, *"Agreed Order*

Signed On 5/16/2018, Approving Settlement Agreement Resolving Certain Pending EEOC Litigation." Which orders modification of the original Consent Decree, despite this Court's 4/24/2018 Order, denying any modification thereto. (See amrcaseinfo.com Doc 12898).

On May 22, 2018, Appellant Meadows filed the "*Objection Of Creditor Lawrence M. Meadows Objection And Response To Debtors Letter Motion Seeking Entry Of Joint Proposed Order Pursuant To Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving* Certain Pending EEOC Litigation (Doc 12861), *And Request Stay Proceedings Pending Hearing On This Matter, And Resolution Of Any/And All Post-Judgement Motions And/Or Appeals In The Parties' Arizona Litigation filed by Lawrence M Meadows"* (Doc 12899).

On June 1, 2018, The Bankruptcy Court entered *an Order Denying Response And Objection To Consent Decree.* (Doc 12905).

Finally, on June 15, 2018, Appellant Meadows timely filed his Notice of Appeal of the Bankruptcy Court's prior Orders [Doc 12898 and 12905]. (Doc 12912).

SUMMARY OF THE ARGUMENT

Here the Bankruptcy Court committed both plain error and abused its discretion by exceeding its jurisdiction and scope of authority by improperly entering its Order Approving *Settlement Agreement Resolving Certain Pending*

EEOC Litigation, by; 1) depriving Appellant Meadows of proper Notice of its Order, 2) violating the Bankruptcy Code Principle of Equality within a class of creditors, 3) violating the doctrine of collateral estopple by modifying an EEOC Consent Decree that was already subject to the exclusive jurisdiction of the U.S. District Court of Arizona, 4) approving an EEOC Consent Decree which IS NOT fair and equitable, because it uses bankruptcy estate assets to pay claims for post-petition conduct outside the protection period, 5) Ordering expungement of the EEOC's blanket Proof of Claim which otherwise covered the ADA discrimination and retaliation claims of Meadows and other similarly situated pilots who were excluded from notice of settlement in the Consent Decree, and 6) for treating distribution of bankruptcy estate assets used to pay the EEOC Consent Decree differently and less favorably than ALL other bankruptcy estate asset distributions.

ARGUMENT

1. **Did the Court err by entering its 5/16/2018 Order Approving Settlement Agreement Resolving Certain Pending EEOC Litigation, even though the Debtors' failed to properly serve and provide notice of the proposed order to known objector Meadows and American's 942 other Similarly-Situated Potentially Aggrieved Disabled Pilots, who were all in danger of losing their rights?**

Appellant Meadows and American's 942 other similarly-situated potentially aggrieved disabled pilots were NEVER provided any notice by the Appellant's Debtors AMR Corp, Inc, and its subsidiaries American Airlines, Inc and Envoy Air Inc. (Hereinafter the "Parties'), regarding filing of neither their original EEOC

complaint, and its associated settlement consideration and Consent Decree, nor the Joint Motion to Amend the Consent Decrees in the Litigations. Nor did the Parties, ever give Meadows or other similarly situated that the Consent Decree explicitly excluded them from notice of the EEOC settlement consideration. Worse, as it relates to this Bankruptcy Court's Order entered on 5/16/2018, the Appellant Debtors'/Parties mislead this Court to believe that they allegedly "CC'd" Meadows in its recent 5/3/2018 "Letter" Motion seeking entry of its Proposed Order. However, Appellee Debtors AMR Corp. Inc.'s 5/4/2018 Affidavit of Service plainly excluded Meadows and others similarly-situated from Notice of the 5/3/2018 "Letter" Motion/Proposed Order.

This is particularly egregious, considering that Appellee Debtors' knew at all times that Appellant Meadows was record Creditor and known Objector to the Consent Decree, and is plan on its face that Debtors' have willfully deprived Meadows and others similarly-situated of their right to notice. indeed, not only was Meadows never noticed, but the Parties also failed to notice Defendant American's other 246 similarly-situated absolutely aggrieved disabled pilots, all of whom were purportedly terminated and removed from the Pilots' Seniority List also without notice, solely on the basis of their medical disability. Meadows and these other 246 aggrieved disabled pilot were the most vocal employees during the EEOC's systemic investigation during the discriminatory period of 2009-2015. Meadows

and these other similarly situated disabled pilots were most highly compensated potentially aggrieved employees at American, and hence their claim would be the costliest to settle. Regardless, that is not a reasonable basis to fail to notice these aggrieved disabled pilots, much less explicitly exclude them from settlement consideration and Consent Decree's Employee Lists and Notice of Settlement.

Here the record evidence shows that the Appellees Debtors/Parties appear to have colluded, and deliberately fail to provide notice to Appellant Meadows and others similarly-situated throughout the Parties' EEOC related proceedings in both this U.S. District Court of Arizona and the U.S. Bankruptcy Court; in what amounts to a bad faith effort to deprive them of notice, due process, and explicit exclusion from the Consent Decree's Employee Lists and Notice of Settlement, and ultimately deprive them of their substantial and valuable claims and rights under the ADA, that would otherwise protect their property rights of employment and seniority under the collective bargain agreement. The Appellee Debtors'/Parties' continual and willful lack of notice is outrageous and akin to foreclosing on someone's home without lawful constitutional notice or due process, except in this case instead of a home the parties are taking Meadows and other aggrieved disabled pilots job and seniority. Nobody, should ever be denied their federal protected constitutional and statutory rights (ADA), without notice and a full and fair opportunity to be heard.

In the Bankruptcy Court proceedings without proper notice, it was more difficult or impossible for Appellant Meadows and others similarly-situated aggrieved disabled pilots to realize that the Consent Decree and associate Order Approving the 9019 Settlement agreement is threatening and/or stripping away their statutory rights (*i.e.; constitutional notice, due process, and ADA protections*), it is inequitable to punish him by finding his intervention to be untimely.

Therefore, given the Appellee Debtors/Parties deliberate multiple failures to provide ANY sort of notice to Appellant Meadows, this Court find that the Bankruptcy Court abused its discretion and committed plain error and should reverse and strike its 5/16/208 Order in its entirety.

2. **Did the Bankruptcy Court err by depriving Appellee Meadows and American's 942 other similarly-situated potentially aggrieved disabled pilots' of their constitutional right to due process and notice under the 4th and 15th Amendments?**

The U.S. Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall *be "deprived of life, liberty or property without due process of law."* The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures. Most of this essay concerns that promise.

We should briefly note, however, three other uses that these words have had in American constitutional law.

The Fifth Amendment's reference to "due process" is only one of many promises of protection the Bill of Rights gives citizens against the federal government. In the the middle of the Twentieth Century, a series of Supreme Court decisions found that the Due Process Clause "incorporated" most of the important elements of the Bill of Rights. If a Bill of Rights guarantee is "incorporated" in the "due process" requirement of the Fourteenth Amendment, state and federal obligations are exactly the same. The words "due process" suggest a concern with procedure rather than substance, and that is how many--such as Justice Clarence Thomas, who wrote "the Fourteenth Amendment's Due Process Clause is not a secret repository of substantive guarantees against unfairness"--understand the Due Process Clause.

In its early decisions, the Supreme Court seemed to indicate that when only property rights were at stake (and particularly if there was some demonstrable urgency for public action) necessary hearings could be postponed to follow provisional, even irreversible, government action. This presumption changed in 1970 with the decision in *Goldberg v. Kelly,* 397 U.S. 254 (1970), case arising out of a state-administered welfare program. The Court found that before a state terminates a welfare recipient's benefits, the state must provide a full hearing

before a hearing officer, finding that the Due Process Clause required such a hearing. The *Goldberg* Court answered this question by holding that the state must provide a hearing before an impartial judicial officer, the right to an attorney's help, the right to present evidence and argument orally, the chance to examine all materials that would be relied on or to confront and cross-examine adverse witnesses, or a decision limited to the record thus made and explained in an opinion. Many argued that the *Goldberg* standards were too broad, and in subsequent years, the Supreme Court adopted a more discriminating approach.

A successor case to Goldberg, *Mathews v. Eldridge*, 425 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), tried instead to define a method by which due process questions could be successfully presented by lawyers and answered by courts. The approach it defined has remained the Court's preferred method for resolving questions over what process is due. *Mathews* attempted to define how judges should ask about constitutionally required procedures.

While there is no definitive list of the "required procedures" that due process requires, Judge Henry Friendly generated a list that remains highly influential, as to both content and relative priority; 1) An unbiased tribunal, 2) **notice of the proposed action and the grounds asserted for it, 3) the right to present evidence, including the right to call witnesses,** 4) the right to know opposing evidence, 5) the right to cross-examine adverse witnesses, 6) a decision based

exclusively on the evidence presented, 7) **opportunity to be represented by counsel**, 8) requirement that the tribunal prepare a record of the evidence presented. This is not a list of procedures which are required to prove due process, but rather a list of the kinds of procedures that might be claimed in a "due process" argument, roughly in order of their priority, in which notice is one of the most essential requirements.

As one can see the foregoing facts and list above, the Parties never gave Meadows or American's 942 other similarly-situated potentially aggrieved disable pilots notice of the original EEOC Complaint, their Consent Decree, their Motion to Amend the Consent Decree, and most recently the Debtor's/Parties Proposed Order in the Bankruptcy Court. This is particularly egregious, considering that Debtors' knew Meadows was record Creditor and known Objector to the Consent Decree, and ha allegedly "cc'd" in Debtors' 5/3/2018 "Letter" Motion. It is plan on its face that Debtors' have willfully deprived Meadows and others similarly situated of their constitutional right to due process (*see items #2,3,4 and 8 in list above*).

Therefore, the Bankruptcy Court's 5/16/2018 Order should be stricken in its entirety, as it and its associated Letter Motion/Proposed Order have been devoid of notice; and as such have deprived Meadows and others of due process, and specifically of their opportunity to present reasons why the proposed action should

not be taken, and the right to present evidence and witnesses during a formal hearing/trial. Such deprivation of constitutional due process has stripped Meadows and others, of their substantial and valuable disability discrimination claims related to their rights of employment and seniority.

3. **Did the Bankruptcy Court err by entering the 5/16/18 Order to approve the original Consent Decree which the Appellee Debtor's previously admitted was flawed, because it explicitly excluded Appellant Meadows and ALL of American's other 942 other similarly-situated Disabled Pilots from formal notice of the settlement, and that they are in danger of losing their rights which violates the Bankruptcy Code's principal of equality within a class of creditors?**

Throughout these proceedings the Equal Employment Opportunity Commission ("EEOC") prosecuted charges of discrimination on behalf of ALL disabled employees of American, to include Meadows, by filing in Defendant's bankruptcy proceedings a general EEOC Proof of Claim No. 9676 in an unliquidated amount on behalf of all ***"other aggrieved individuals"***, a class-action lawsuit on behalf of a ***"nationwide group of potential aggrieved individuals"***, and finally it boasted in a press release that ***"The settlement applies to all American and Envoy employees throughout the country."*** (See SOF 2-12). Thus, it was arbitrary, discriminatory, and in bad-faith for the Appellees Debtors/Parties, in their original Consent Decree to suddenly and explicitly exclude only Unionized Pilots and Corporate Officers without notice, but to otherwise include all other employees, including unionized flights attendants and mechanics, and even

management employees. Wherein the Decree explicitly stated, ***"The Employee List shall exclude pilots of American and Envoy, corporate officers of American and Envoy…"*** (Doc 4-1, ¶ 22. c.).

This is simply outrageous, for it was the Appellee Debtors' subsidiaries, American Airline's and Envoy's Corporate Officers who were responsible for implementing and allowing the unlawful policies and practices, which systemically discriminated and retaliated against ALL of Defendants' disabled employees, including ALL disabled pilots. The very same policies and practices to which rank and file disabled pilot employees were subjected, just like every other disabled employee was. Yet, American's and Envoy's pilots were somehow being excluded from Notice, and lumped in with American's Corporate Officers who were responsible for the unlawful acts.

After Appellant Meadows and several other disabled pilots objected to this unlawful exclusion of disabled pilots during Defendants' bankruptcy hearing on 2/1/18; the Parties admitted the Consent Decree needed to be revised to include and provide formal notice to Meadows and American's 942 other similarly-situated disabled pilots. In response, on March 20, 2018, the Appellee Debtors/Parties, filed their newly minted "Amended Consent Decree" (Doc 1279, Ex. 2), which seemingly included American's 942 similarly-situated disabled pilots; by striking the language that now reads as follows, ***"The Employee List***

shall exclude ~~pilots of American and Envoy...~~" (*Id.*, ¶22. c. at 9). But, the Arizona Court, entered an Order denying that Amended Consent Decree. But, Appellees Debtors/Parties returned to the Bankruptcy Court with the very same flawed, unmodified original Consent Decree, in a bad-faith effort to resuscitate a self-admitted flawed agreement and to seek and unlawful order approving it, despite the fact that the Original Consent Decree explicitly excludes Meadows and Americans 942 other similar situated pilots, from the settlement Employee Lists, and formal notice thereof.

Moreover, Debtors' 5/4/2018 "Affidavit of Service", plainly failed to provide proper notice of its 5/3/2018 "Letter" Motion, to Meadows and Americans 942 other similar situated pilots who as creditors and "potentially aggrieved individuals" are interested parties. For this reason alone, this honorable Court should find the Bankruptcy Court abused its discretion and committed plain error and should reverse and strike its 5/16/208 Order in its entirety.

4. **Did the Bankruptcy Court err by abusing its authority by entering and Order directing the Parties to unilaterally modify the original Consent Decree and its supporting documents, despite such modifications otherwise having been denied and the original Consent Decree ruled to be Final by the court of original jurisdiction the U.S. District Court of Arizona?**

Collateral Estoppel, known in modern terminology as issue preclusion, is a common law estoppel doctrine that prevents a person from relitigating an issue. One summary is that, *"once a court has decided an issue of fact or law necessary*

to its judgment, that decision ... preclude[s] relitigating of the issue in a suit on a different cause of action involving a party to the first case". See *San Remo Hotel, L.P. v. City and County of San Francisco, Cal., 545 U.S. 323 (2005).* The rationale behind issue preclusion is the prevention of legal harassment and the prevention of overuse or abuse of judicial resources. See *Larson, Aaron (3 November 2017). "Issue Preclusion and Claim Preclusion: How Prior Litigation Can Block Your Claim."* The Appellee Debtors/Parties original Consent Decree originated in and was first adjudicated in the U.S. District Court, District of Arizona, ending with a final judgment approving it on 11/16/17 (Doc 12861, Ex. 2). Regardless, all matters as to the merits of the original Consent Decree, were only litigated in the Arizona Court, and were never relitigated om the merits in the Bankruptcy Court, nor could they have been because the Parties/Debtors were collaterally estopped from doing so.

Then on 12/15/17, the Appellee Debtors/Parties subsequently filed Motion to Approve Compromise: Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation, in the U.S. Bankruptcy Court Southern District of New York, before Judge Sean Lane. Indeed, on 2/1/18, that Judge Lane heard the Objections of Meadows and another similarly situated disabled American pilot with respect to the 9019 Motion and payment of the original Consent Decree using bankruptcy

estate assets. During that hearing Judge Lane plainly stated; *"I'm not approving the Consent Decree. I'm approving the 9019 Settlement that is in front of me that settles the claims of the EEOC and the specifically identified parties."* (Doc 12876 at 41:6-10). Thus, the Bankruptcy Court's hearing was never related to the merits of the original Consent Decree itself, but only as to approving the Rule 9019 settlement Compromise and allowing it to be paid with bankruptcy estate assets.

On March 15, 2018, due to the Objections of certain disabled pilots, the Appellee Debtors/Parties, surreptitiously attempted to modify and effectuate an "Amended Consent Decree", and proceeded to reopen the Arizona Litigation, filing their Joint Motion to seek an Order to approve their unilaterally "Amended Consent Decree", which sought to strike language which explicitly excluded all disabled pilots, as potentially aggrieved individuals. But once again Debtors' and the Parties failed to properly notice Meadows nor any other disable pilots, despite their recent objections and notice to the Bankruptcy Court, that they are all in danger of losing substantial rights. See *EEOC v. American Airlines, Inc.*, (D. Ariz., Case No. 2:17-cv-04059, Mar. 15, 2018, ECF 10). Thereafter, on April 24, 2018, the District of Arizona issued an order denying approval of the Amended Consent Decree. (Doc 12895, Ex. 2). The District of Arizona, treating the motion as one to alter or amend a judgment under Federal Rule of Civil Procedure 60(b), held that;

> *"In this instance, the parties fail to present grounds that justify disregarding the final judgment in this case under Rule 60(b). See Rodgers v. Watt, 722 F.2d 456,*

> *459 (9th Cir. 1983) (there is "a compelling interest in the finality of judgments which should not lightly be disregarded")",* and further, *"The parties do not point to any 'extraordinary circumstance' that calls for the proposed revision to the list of Employees entitled to notice in the consent decree." Id.* Ex. 2 at 2.

Thus, the Arizona Court plainly ruled once again, and reaffirmed that the original Consent Decree final and not to be disregarded, which necessarily includes all of its supporting Exhibits. However, by way of background on 2/1/18, the Judge Lane of the U.S. Bankruptcy Court improperly directed Appellee Debtors/Parties to modify and amend the Consent Decree, stating;

> "I've asked the debtors to work with the EEOC and anybody else to make clear what's put on the Website and Notice and anything else that makes clear that what's told here in open court, that is the pilots have not – are not – part of the agreement who are settling, they've determined that the pilots, given the subject of the EEOC investigation, spoke of the investigation. The parties made a determination about who appropriately received direct notice. But pilots are not included in that, but they are nonetheless bit excluded from the settlement. And So I think that needs to be very clear in – any documents associated with the settlement and Frequently Asked Questions that provided as Exhibit C. So the Notice of Settlement and frequently asked questions I understand is going to be amended to make that clear." Emphasis Added. (Doc 12876, 43:22- 44:13).

Moreover, Appellee Debtors/Parties in their 5/13//18 Letter (Doc 12895) stated that;

> "American, Envoy and the EEOC agreed to revise the Notice of Settlement and settlement language pursuant to the [Bankruptcy] Court's Request. Further, they agreed to take the additional step of amending the Consent Decree to require American and Envoy to include pilots on the list of Employees who would receive notice of settlement subject to the same conditions of all other employees." (Doc 12895 at 1).

Furthermore, Appellee Debtors/Parties in their 5/3/12018 "Letter" Motion and Joint Proposed Order, they improperly requested the Bankruptcy Court to enter and order which stated in part;

> "ORDERED that, the Parties to the Consent Decree shall clarify in the Notice of Settlement and on the website contemplated by section 22(a) of the Consent Decree that the Consent Decree does not exclude pilots from the settlement (by revising the frequently asked questions about the claims process to be distributed and/or posted); and it is further…" (Doc. 12895, Ex. 1).

Regardless, the Arizona Court's 4/24/15 Order (Doc 12895, Ex. 2), had already declared the Consent Decreed to be final and not to be disregarded, yet the Bankruptcy Court has directed the Appellee Debtors/Parties to improperly modify and amend it and its supporting exhibits; despite being collaterally estopped from doing so.

The end result is the Appellee Debtors/Parties in defiance of the Arizona Court's Orders requested revisions and amendments and in its Proposed Order (Doc 12895, Ex. 1) regarding changing the Consent Decree's Notice of Settlement, website procedures in ¶ 22(a), and Frequently Asked Questions, are barred by the Arizona Court's Order which held the Consent Decree to be final. Moreover, the U.S. Bankruptcy Court has exceed its jurisdiction by improperly entering an Order which modifies the Consent Decree which was already ruled to be final by the Article III Judge in the Arizona Court.

Thus, the Bankruptcy Courts' 5/16/2018 Order is improper, in that it granted relief to which Appellee Debtors/Parties were otherwise collaterally estopped. Specifically, based on the Arizona Courts original ruling/Order and subsequent 4/24/2018 Order reaffirming the original Consent Decree and declaring

it a final judgment; the Appellee Debtors/Parties were collaterally estopped from relitigating or modifying the finally approved original Consent Decree and its attached supporting exhibits; which naturally would bad any changes to ¶ 22 (a), the Notice of Settlement, or settlement website language, all of which fall within the four corners of the original Consent Decree. See *Staehr v. Hartford Fin. Servs. Grp.*, 547 F.3d 406, 425 (2d Cir. 2008) ("a district court must confine itself to the four corners of the complaint when deciding a motion to dismiss").

Therefore, either way, this honorable Court should find the Bankruptcy Court abused its discretion and committed plain error and should reverse and strike that Court's 5/16/208 Order in its entirety.

5. **Did the Bankruptcy Court err by granting the original Consent Decree, which IS NOT fair and equitable, because it uses the Appellee Debtor's Bankruptcy Estate assets to Settle and pay post-petition (11/29/11) and post-effective claims for conduct that occurred through August 2015?**

Regardless, the Bankruptcy Courts 5/16/2016 Agreed Order adopting the original Consent Decree in its present form, unlawfully and explicitly excluded Meadows and American's 942 other similarly- situated potentially aggrieved disabled pilots from the Consent Decree' Employee lists and formal notice of the settlement, in violation of the Bankruptcy Code's Principal of Equality Within a Class of Creditors.

By way of background, on December 23, 2016, U.S. Bankruptcy Court Judge Lane in a prior Memorandum of Decision, (Doc 12825, at 18 – 20),

acknowledged the principal of equal treatment of claims within a class under the Bankruptcy Code. According to Judge Lane, the Bankruptcy Code explicitly requires that a plan ***"provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to less favorable treatment."*** [Emphasis Added].11 U.S.C. § 1123(a)(4).

While disparate treatment within a class is permitted if the holder of a claim or interest agrees to less favorable treatment, a plan in such circumstances must explicitly provide that "particular creditors" are being treated in this manner so as to put such creditors on notice. *See, e.g., Forklift LP Corp. v iS3C, Inc. (in re Forklift LP Corp.),* 363 B.R. 388, 398 (Bankr. D. Del. 2007) ("[I]t would be unfair to deprive creditors of their statutory rights to full payment under the Bankruptcy Code, where plan provisions do not explicitly take those rights away. If a plan explicitly puts a creditor on notice that it is in danger of losing its rights and the creditor fails to act to protect its rights, then rigid application of the plan seems justified. However, where it is more difficult or impossible for the creditor to realize that the Plan threatens its statutory rights, it is inequitable to punish the creditor for failing to object.") *Terex Corp v. Metro Life Ins. Co. (In re Terex Corp.)* 984 F.2d 170, 175 (6th Cir. 1993) ("[T]he plan itself could have been more specific by explicitly excluding, rather than simply stating that secured claims would be paid in full-100%.

Here, while the EEOC Consent Decree explicitly excludes American Airlines pilots from the notice of the settlement, the EEOC Charge of Discrimination No. 540-2009-01250 dated July 14, 2012 (Doc 12861, Exhibit D), specifically includes ALL ***"other aggrieved individuals."*** Which would necessarily include all *"covered employees"*, which here would mean all disabled employees (to include all disabled pilots) who suffered retaliation or discrimination in violation of the ADA; at the hands their *"covered entity" (employers American and Envoy).* Additionally, the Bankruptcy Code requires that all creditors under the claim are explicitly put on notice that they are in danger of losing their rights. **However, here many of potential "aggrieved individuals", or in this case American's disabled pilot claimants have never been put on notice that they are in danger of losing their rights neither in the Consent Decree and it supporting exhibits, nor been put on notice of Appellee Debtor's 5/3/18 "Letter" Motion and Proposed Order, to approve the original Consent Decree which explicitly excludes them from notice of the settlement.**

This is absolutely inconsistent with the principal of equal treatment of claims within a class under the Bankruptcy Code and is inconsistent with Judge Lane's prior Memorandum Decision. *Id.* In the instant case it would be grossly unfair to deprive "pilot" creditors, who are also ***"aggrieved individuals"***, of their right of notice of the EEOC discrimination settlement. **Especially, where plan**

provisions do not explicitly take those rights away, and where the potential pilot claimants have not received formal notice that they are in danger of losing their rights. While the Consent Decree, provides an elaborate plan to create an **"Employee List"** for the purpose of providing notice to potential claimants to exert those claims and file new proof of claims, no explicit notice has been provided, nor will be sent to potential pilot claimants by the EEOC or the Debtors.

Based on this issue alone, the Bankruptcy Court erred by not striking Appellee Debtors 5/3/2018 "Letter" Motion seeking a *"Joint Proposed Order to Motion of Debtor for Entry of Order a Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Docket 12861)"*, and this honorable Court should find it abused its discretion and committed plain error, because by it allowed a Motion/Proposed Order which not only excluded Meadows and American's 942 other disabled pilot creditors from formal notice that they are in danger of losing their claims, but also ignored Appellee Debtor/Parties failure to notice them of the pending "Letter" Motion and Proposed Order.

6. **Did the Bankruptcy Court err by approving the original Consent Decree which dismisses the EEOC General POC No. 9676, and as a result extinguishes preservation of Meadows' all other *potentially aggrieved individuals'* ADA Discrimination Claims and forecloses them from pursuing related ADA Lawsuits?**

The Appellee Debtors filed for Chapter 11 bankruptcy protection under the Code, on November 29, 2011 ("petition date"), the Plan was confirmed on October 23, 2103, and emerged from bankruptcy on December, 9, 2013 ("effective date"). The EEOC settlement consideration and Consent Decree, involves claims related to Appellee Debtors/Parties retaliation and discrimination on the basis of medical disability against its aggrieved employees that violated the ADA, and which occurred during the **"Discriminatory Period"** from January 1, 2009 through August 3, 2015. That **"Discriminatory Period"** covers unlawful acts that took place not only in *pre-petition* phase, but also the *post-petition* through *pre-effective* administrative phase, as well as for acts that occurred two years after the plan confirmation and *effective* date[5].

The EEOC is deemed to hold an Allowed American General Unsecured Claim (as defined in the Debtors' Fourth Amended Joint Chapter 11 Plan ("Plan") in the amount of $9,800,000.00 (The EEOC Allowed Claim). Thereafter, in accordance with the Decree, the EEOC claim will be satisfied through a distribution of AAL stock from the Disputed Claims Reserve ("DCR"). See Doc

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5 ***For, post-petition but pre-effective date what I'm hearing is an agreement that yes, it can be an administrative expense claim,*** *the question is where to litigate it, here or somewhere else."* [Emphasis Added]. *See* Doc.12012, Judge Lane Hrg. Tr., Apr. 14, 2014, pg 22:4-20.

And, "that really **basically once the confirmation happened this sort of claim, it's sort of business as usual, sue and be sued --."** [Emphasis Added]. *See* Doc.12012, Judge Lane Hrg. Tr., Apr. 14, 2014, pg 10:18-25.

12861, Exhibit F, ¶ 17. The applicable authorities direct a court to determine whether the settlement such as this EEOC Consent Decree, is "fair and equitable" and "in the best interests of the estate." *TMT Trailer Ferry,* 390 U.S. at 424; *In re Ionosphere Clubs, Inc.*, 156 B.R. 414, 426 (S.D.N.Y. 1993), aff'd, 17 F.3d 600 (2d Cir. 1994) (a court need only find that the settlement is fair and equitable, reasonable and in the best interests of the debtors' estate).

However, here the DCR is being used to not only settle the EEOC Proof of Claim for *pre-petition* conduct, but also improperly being used to settle and pay claims for conduct during the administrative phase and for *post-petition* conduct which otherwise occurred in the *"ordinary course of business"*[6].

Essentially the decree allows for payment of claims, using the bankruptcy estate assets contained in DCR, as a sort of Corporate piggy-bank to also pay for conduct and claims that occurred well outside the bankruptcy, and which should otherwise be paid in the in the ordinary course of business out of American Airlines and Envoy corporate operating accounts. Thus, it is improper use of DCR bankruptcy estate assets as a Corporate piggy bank, to pay claims for conduct that that fall well outside the bankruptcy protection period, IS NOT *"fair and*

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[6] *"As a debtor in possession post-petition the automatic stay does not prevent a claimant from filing a lawsuit in an appropriate court for a post-petition act, and* ***after a plan has gone effective, that is a reorganized debtor, it is back in -- to borrow your phrase -- the world of can sue and be sued in the ordinary course of business.***
[Emphasis Added]. *See* Doc. 12012, Judge Lane Hrg. Tr., Apr. 14, 2014, pg 15:1-6.

equitable" and is prejudicial to ALL other Creditors and ALL Shareholders; and not "*in the best interest of the estate"* as a whole.

Therefore, this honorable Court should rule that the Bankruptcy Court abused its discretion and committed plain error, when it violated the Bankruptcy code by granting the Original Consent Decree and allowing Bankruptcy Estate assets to pay claims for post-petition conduct outside of the protection period.

7. **Did the Bankruptcy Court err in treating the distribution of EEOC settlement differently without the same protections afforded all other distributions in accordance with the True-up Orders?**
Particularly troubling, is the fact that the Appellee Debtors'/Parties' Amended Consent Decree (Doc 10-1, ¶21 at 6), requires Dismissal of the EEOC general Proof of Claim No. 9676 with prejudice (Exhibit 1 *Id.*). Such dismissal with prejudice, would permanently and prejudicially deprive Appellant Meadows and all of American's 942 similarly-situated disabled pilots who are all potential *"aggrieved individuals"*, of their ability to piggyback on the original EEOC general POC; for the purposes of either participating in a future settlement, or from pursuing their currently pending ADA claims/charges/lawsuits based on American's pattern and practice of discrimination from 2009-2015, in an unlawful violation of the ADA.

By way of background, Appellant Meadows filed his individual EEOC Charge of Discrimination, No. 540-2012-03194, with the Phoenix office in August 2012; primarily for being denied several requests for a reasonable accommodation,

then being purportedly *"administratively terminated"* and removed from the pilots' seniority list without notice in late 2011. That was just one month after the EEOC' Phoenix office had filed the EEOC's blanket Proof of Claim No. 9676 in American's bankruptcy proceedings, which asserted a claim on behalf of all *"other aggrieved individuals"* (*including Meadows' subsequently filed EEOC charge*) in an unlimited *"unliquidated"* amount. Indeed, the EEOC's Phoenix office also investigated Meadows charge as part of the very same systemic investigation that resulted in the Parties' recent settlement and the Consent Decree.

However, in April 2014, despite being one the *"aggrieved individuals"* covered under the EEOC blanket Proof of Claim No. 9676, Appellee Debtors filed an Objection in its bankruptcy proceedings seeking to disallow Appellee Meadows' otherwise meritorious ADA charges, and obtained an ill-gotten Order to that effect. Regardless, in Jan. 2015, the EEOC's Phoenix Office provided Appellant Meadows a right to sue letter, based on which he timely filed an ADA lawsuit against Defendant American in federal court. Subsequently, American then sought and obtained another order from the bankruptcy court to enjoin Meadows ADA lawsuit on the basis that it was timely reserved (*when in American in fact knew it otherwise preserved by EEOC POC No. 9676*).

Shockingly, Appellant Meadows was never notified nor aware of the EEOC POC, as it was hidden and not publicly searchable in American's bankruptcy

claims register, as described in detail in Meadows Objection to the original Consent Decree filed on January 23, 2018, in the U.S. Bankruptcy Court. (See amrcaseinfo.com Doc 12872 ¶¶ 37-43 at 13). Regardless, Defendant American and its parent Debtor AMR Corporation knowingly withheld that information, and in so doing wrongfully deprived Meadows' statutory ADA rights, which were otherwise timely preserved by the EEOC POC. Thereby, they improperly used the bankruptcy court as a sword, instead of a shield, in a bad faith effort to otherwise strip away and deprive Meadows of his meritorious ADA charge/lawsuit, and never properly disclose to the Bankruptcy Court that he was in fact one of the "aggrieved individuals" who was covered by the EEOC's timely filed proof of claim. Furthermore, the Parties had not only outrageously excluded Appellant Meadows from formal settlement notice in their Consent Decree, but also all of American's 942 similarly situated disabled pilots.

Therefore, given that Appellant Meadows, as an aggrieved individual is in fact explicitly excluded from the Consent Decree's Employee List, he is deprived of formal notice of settlement in the Consent Decree, and by operation of that document the EEOC POC will be dismissed with prejudice, then Meadows and all of American's similarly-situated 942 disabled pilot employees, will not be provided formal notice, and may be forever foreclosed from pursing any

discrimination remedies against Defendant American. Which would be a manifest injustice.

Accordingly, this honorable Court should rule that the Bankruptcy Court abused its discretion and committed plain error, when it knowingly excluded Appellant Meadows from formal notice of settlement I the Consent Decree.

CONCLUSION AND PRECISE RELIEF SOUGHT

Based on all the foregoing, the Bankruptcy Court committed both plain error and abused its discretion by exceeding its jurisdiction and scope of authority by improperly entering its Order Approving *Settlement Agreement Resolving Certain Pending EEOC Litigation*, by; 1) allowing the Appellee Debtors' failure to properly notice Meadows and American's 942 other similarly-situated disabled pilots of its "Letter" Motion and proposed Order, 2) violating the Bankruptcy Code Principle of Equality within a class of creditors, by failing to provide Appellant Meadows and other similarly situated disabled notice that they are in danger of losing their claims, 3) violating the doctrine of collateral estopple by modifying an EEOC Consent Decree that was already subject to the exclusive jurisdiction of the U.S. District Court of Arizona, 4) approving the Appellee Debtors 'self-admittedly flawed EEOC Consent Decree which IS NOT fair and equitable, because it uses bankruptcy estate assets to pay claims for post-petition conduct outside the protection period, 5) Ordering expungement of the EEOC's

blanket Proof of Claim which otherwise covered the ADA discrimination and retaliation claims of Meadows and other similarly situated pilots who were excluded from notice of settlement in the Consent Decree, and 6) for treating distribution of bankruptcy estate assets used to pay the EEOC Consent Decree differently and less favorably than ALL other bankruptcy estate asset distributions. Here as the result of the Bankruptcy Court's error's and abuse of its discretion, the Meadows has been improperly deprived of discrimination and retaliation claims.

Accordingly, Appellant Meadows respectfully requests that this Honorable Court, issue an Order Reversing the Bankruptcy Court's Order, entered on May 16, 2018, *Approving Settlement Agreement Resolving Certain Pending EEOC Litigation.* In so doing this Court, will restore Meadows' substantial rights, and allow him to proceed with his discrimination statutory claims, instead of being subject to a no-notice settlement agreement (EEOC Consent Decree) which Appellee's admitted was flawed to the bankruptcy court was flawed, and excluded pilotd, but which the Bankruptcy Court subsequently approved in spite of that fact. Alternatively, Appellant would request this Court's Reverse Bankruptcy Court's Order, and Remand this matter to the Bankruptcy Court for further proceedings, to include a new round of full motion practice and evidentiary hearing into the admittedly flawed original "Consent Decree", which improperly excluded Meadows and 942 disabled pilots from formal notice of settlement.

Otherwise, Pro se Creditor, AAL shareholder, and aggrieved disabled American pilot Appellant Meadows, along with all the other similarly situated 942 disabled American pilots will be severely prejudiced and irreparably harmed. Leaving them without notice and remediless, without any settlement or a forum in which to resolve their valuable ADA claims; is contrary to intent of Congress when it drafted the RLA, which was to ensure RLA employees are not left remediless and without a forum to present their grievances. See. *Vaca v. Sipes*, 386 U.S. 171, 185-86, 87 S.Ct. 903, 914, 17 L.Ed.2d 842 (1967).

Therefore, Meadows respectfully prays that this Honorable Court correct this manifest injustice and allow him to be made whole for the disability discrimination and retaliation he has and others similarly situated suffered, and ultimately resume his life-long airline piloting career with Debtor American Airlines.

CERTFICATE OF COMPLIANCE PURSUSANT TO 22 NYCRR §670.10.3(f)

The foregoing brief was prepared on a computer. A proportionally spaced typeface was used, as follows:

Name of typeface: Times New Roman

Point size: 14

Line Spacing: Double

The total number of words in the brief inclusive of point headings and footnotes, but excluding pages to include the table of contents, table of citations, proof of service, certificate of compliance, or any authorized addendums, totals 10,673, which is well within compliance of the Fed. R. Bnkr. P Rule 8015(a)(7)(B)(i) limit of 13,000 words.

Dated: this 2nd Day of March, 2020

Respectfully submitted,

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lawrencemeadows@yahoo.com

CERTIFICATE OF SERVICE

I Appellee, Lawrence M. Meadows, hereby certify, that a true and correct copy of the foregoing was filed via hand delivery to U.S. District Court, SDNY on March 2, 2018, to be filed via ECF, and in turn served also served upon Appellee's counsel (listed below), in accordance with new ECF Rules 9.1 and 9.2 Regarding Service of Documents by Filing on the Electronic Case Filing (ECF) System.

Signature of Filer

SERVICE LIST

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ADDENDUM:
ORDERS ON APPEAL

A. Bankruptcy Court's Agreed Order Signed On 5/16/2018, Approving Settlement Agreement Resolving Certain Pending EEOC Litigation. (Related Doc # [12681]). (DOC. 12898).

B. Bankruptcy Court's Order Signed On 6/1/2018, Denying Response And Objection To Consent Decree (related document(s) [12895], [12904]. (Doc 12905).

While preparing this Brief, the public amrcaseinfo.com website, which houses all of the documents related to the bankruptcy pleadings of AMR Corp. Inc, and its subsidiary has had a "Internal Server Error" which prevented access to any of the documents in those proceedings and specifically those previously designated as relevant to this appeal, to include these Orders.

At this juncture Appellant was left with no choice but to reference relevant citations to the record using The Bankruptcy Court Docket Number, referenced as **"Doc No. 12xxx."**

APPENDIX: Designation of Record
And
Inability To Submit Appendix Documents Due To Docket Server Error

Appellant, Lawrence M. Meadows, designated the following items for inclusion in the appellate record. (see list below in-line text). Unless otherwise noted, all references are to docket entry numbers of electronically filed documents in this Chapter 11 proceeding, as listed below.

However, while preparing this Brief, the public amrcaseinfo.com website, which houses all of the documents related to the bankruptcy pleadings of AMR Corp. Inc, and its subsidiary has had a "Internal Server Error" which prevented access to any of the documents in those proceedings and specifically those previously designated as relevant to this appeal. At this juncture Appellant was left with no choice but to reference relevant citations to the record using The Bankruptcy Court Docket Number, referenced as **"Doc No. 12xxx".**

DESIGNATION OF RECORD

Court Docket
United States Bankruptcy Court Southern District of New York
AMR Corporation, *et al.*
Case No. 11-15463 (SHL)

Date	Doc. No.	Description
12/15/2017	12861	Motion to Approve Compromise: Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation filed by Stephen A. Youngman on behalf of AMR Corporation with hearing to be held on 2/1/2018 at 11:00 AM at Courtroom 701 (SHL) Responses due by 1/25/2018,. (Youngman, Stephen)
12/18/2017	12862	Affidavit of Service re Notice of Hearing on Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (related document(s)[12861]) Filed by Angela Ferrante on behalf of GCG, Inc. (Ferrante, Angela)
01/25/2018	12869	Objection And Response To Motion Of Debtors For Entry Of Order Pursuant to FED.R Bank.P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation filed by Kathy E Emery. (Rodriguez, Maria)
01/25/2018	12870	Objection And Response To Motion Of Debtors For Entry Of Order Pursuant to FED.R Bank.P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation filed by Lawrence M. Meadows. (Rodriguez, Maria)
01/30/2018	12871	Notice of Agenda : Notice of Matters Scheduled for February 1, 2018 at 11:00 a.m. (Eastern Time) filed by Stephen A. Youngman on behalf of AMR Corporation. with hearing to be held on 2/1/2018 at 11:00 AM at Courtroom 701 (SHL) (Youngman, Stephen)
01/31/2018	12872	Objection And Response To Motion Of Debtors For Entry Of Order Pursuant to FED.R Bank.P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation Amended (related document(s)[12870]) filed by Lawrence M Meadows. (Rodriguez, Maria)
01/31/2018	12873	Affidavit of Service re Notice of Matters Scheduled for February 1, 2018 at 11:00 a.m. (Eastern Time) (Sixty-Sixth Omnibus Hearing) (related document(s)[12871]) Filed by Angela Ferrante on behalf of GCG, Inc. (Ferrante, Angela)
02/08/2018	12876	Transcript regarding Hearing Held on 02/01/18 at 11:05 AM RE: Doc. #12861 Motion to Approve Compromise: Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation. Remote electronic

		access to the transcript is restricted until 5/3/2018. The transcript may be viewed at the Bankruptcy Court Clerks Office. [Transcription Service Agency: Veritext Legal Solutions.]. (See the Courts Website for contact information for the Transcription Service Agency.) (RE: related document(s) [12861]). Notice of Intent to Request Redaction Deadline Due By 2/9/2018. Statement of Redaction Request Due By 2/23/2018. Redacted Transcript Submission Due By 3/5/2018. Transcript access will be restricted through 5/3/2018. (Cales, Humberto)
02/15/2018	12877	Objection /Response to motion Of Debtors for Entry of Order Pursuant to FED.R.BANKR.P 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation filed by Andrea Twitchell. (Rodriguez, Maria)
03/20/2018	12879	Letter to the Honorable Sean H. Lane Regarding Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (related document(s)[12861]) Filed by Stephen A. Youngman on behalf of AMR Corporation. (Youngman, Stephen)
03/21/2018	12880	Affidavit of Service re Letter to the Honorable Sean H. Lane Regarding Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Docket No. 12861) (related document(s)[12879]) Filed by Angela Ferrante on behalf of GCG, Inc. (Ferrante, Angela)
04/05/2018	12882	Notice Of Creditor Lawrence M. Meadows Request For Judicial Notice Filed By Lawrence M. Meadows. (Rodriguez, Maria).
04/05/2018	12883	Amended Notice Notice Of Creditor Lawrence M. Meadows Request For Judicial Notice . (II) Amended Motion to Intervene, And Objection to Joint Motion For Entry Of Amended Consent Decree By Plaintiff EEOC And Defendants American Airlines Envoy Air And Request for Hearing Filed By Lawrence M. Meadows. (related document(s)[12882]) (Rodriguez, Maria).
04/05/2018	12884	Notice Of: Creditor Lawrence M. Meadows Objection and Response to Motion of Debtors Letter Seeking Entry Of Joint Proposed Order Pursuant to FED.R.BANKR.P.9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Doc 12861), And Request Stay Proceedings Pending Hearing On this Matter. (related document(s)[12882], [12883]) (Rodriguez, Maria).
04/11/2018	12885	Objection And Response To Debtors Letter Of Request For Entry Of Order Pursuant to FED. R.BANKR. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation filed by Kathy E Emery. (Rodriguez, Maria)
04/12/2018	12886	Opposition To Debtors Letter Seeking Entry Of Joint Proposed Order Approving Settlement Agreement Resolving EEOC Litigation. (related document(s)[12879], [12877]) filed by Andrea Twitchell. (Ebanks, Liza)

04/12/2018	12887	Response : Reply to Creditor Lawrence M. Meadows Objection and Response to Motion of Debtors Letter Seeking Entry of Joint Proposed Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (related document(s)[12879], [12870], [12872], [12861]) filed by Stephen A. Youngman on behalf of AMR Corporation. (Youngman, Stephen)
04/18/2018	12888	Letter To Judge Lane Regarding EEOC Settlement With American Airlines Filed by Wallace T. Preitz II. (Ebanks, Liza)
04/23/2018	12889	Notice of Withdrawal Of Objection And Response to Debtors Letter or Request for Entry Of Order Approving Settlement Agreement Resolving Certain Pending EEOC Litigation filed by Kathy E. Emery. (Rodriguez, Maria)
04/25/2018	12891	Letter Re: EEOC Settlement Filed by Captain Herman Straub Jr.. (Rodriguez, Maria)
04/25/2018	12892	Affidavit of Service re Reply to Creditor Lawrence M. Meadows Objection and Response to Motion of Debtors Letter Seeking Entry of Joint Proposed Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (related document(s)[12887]) Filed by Angela Ferrante on behalf of GCG, Inc. (Ferrante, Angela)
05/03/2018	12895	Letter to The Honorable Sean H. Lane Regarding Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Docket No. 12861) (related document(s)[12861]) Filed by Stephen A. Youngman on behalf of AMR Corporation. (Youngman, Stephen)
05/04/2018	12896	Affidavit of Service re Letter to the Honorable Sean H. Lane Regarding Joint Proposed Order to Motion of Debtors for Entry of Order Pursuant to Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Docket No. 12861) (related document(s)[12895]) Filed by Angela Ferrante on behalf of GCG, Inc. (Ferrante, Angela)
05/16/2018	12898	Agreed Order Signed On 5/16/2018, Approving Settlement Agreement Resolving Certain Pending EEOC Litigation. (Related Doc # [12861]) (Ebanks, Liza)
05/22/2018	12899	Objection /Notice Of: Creditor Lawrence M. Meadows Objection And Response To Debtors Letter Motion Seeking Entry Of Joint Proposed Order Pursuant To Fed. R. Bankr. P. 9019(a) Approving Settlement Agreement Resolving Certain Pending EEOC Litigation (Doc 12861), And Request Stay Proceedings Pending Hearing On This Matter, And Resolution Of Any/And All Post-Judgement Motions And/Or Appeals In The Parties' Arizona Litigation filed by Lawrence M Meadows. (Ebanks, Liza)
05/30/2018	12904	Notice Of: Creditor Lawrence M. Meadows Motion To Strike, and Motion to Request Stay of Proceedings Pending Resolution Of All Post-Judgment

		Motions And/Or Appeals In the Parties' Arizona Litigation, and Motion Pursuant to FED.R.BNKR.P Rule 9023, Seeking a New Trial Or to Amend Judgment of Court's Order Entered 5/16/2016 Approving Settlement Agreement Resolving Certain Pending EEOC Litigation Filed by Lawrence M. Meadows. (Rodriguez, Maria).
06/01/2018	12905	Order Signed On 6/1/2018, Denying Response And Objection To Consent Decree. (related document(s)[12895], [12904]) (Ebanks, Liza)
06/01/2018	12906	Notice Re: Order Denying Response And Objection To Consent Decree (Ebanks, Liza).
06/04/2018	12908	Certificate of Mailing (related document(s) (Related Doc [12906])) . Notice Date 06/03/2018. (Admin.)
06/15/2018	12912	Notice of Appeal (related document(s)[12898], [12905]) filed by Lawrence M. Meadows. Filing fee collected, receipt #202142.(Rouzeau, Anatin)

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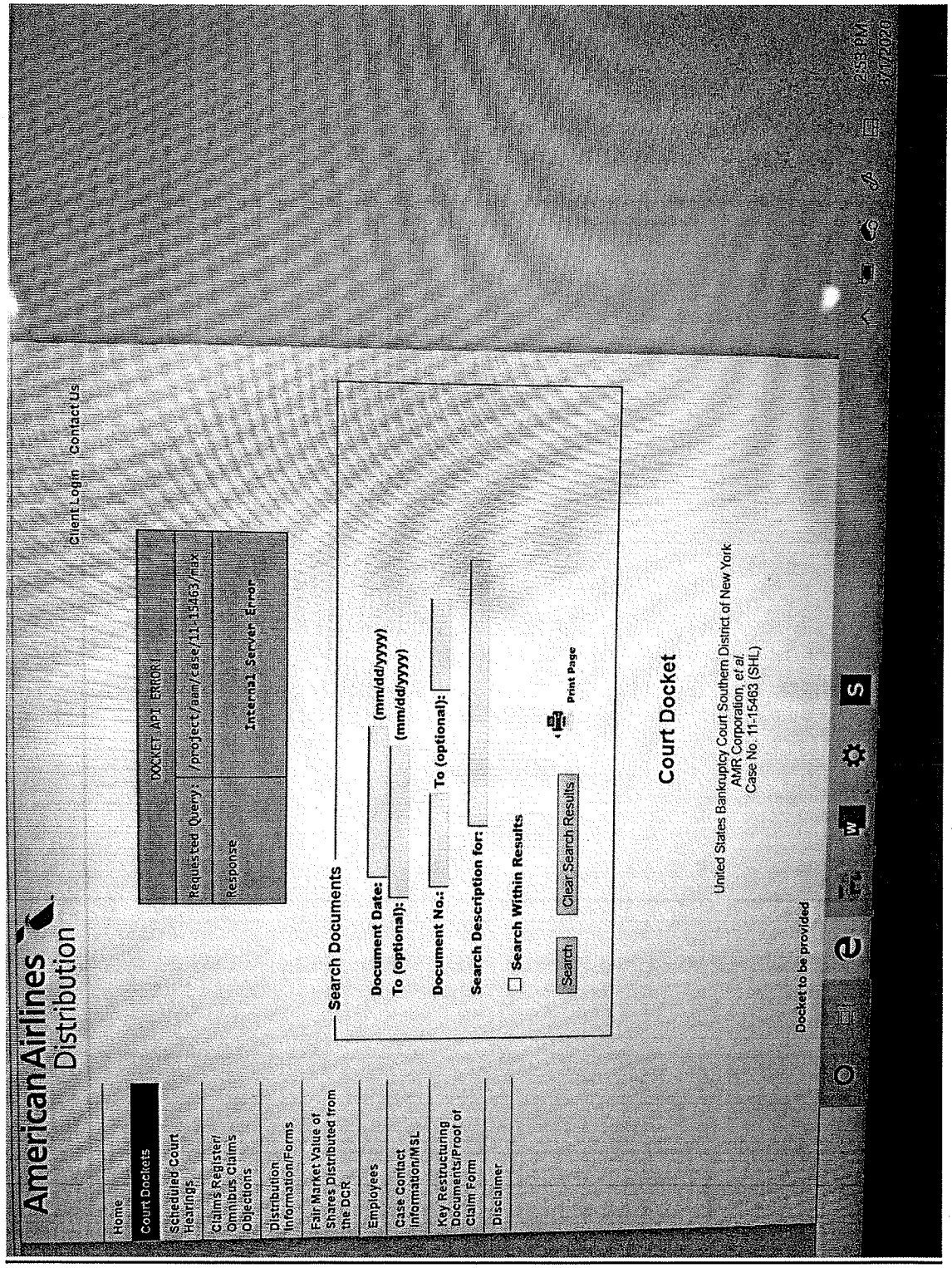

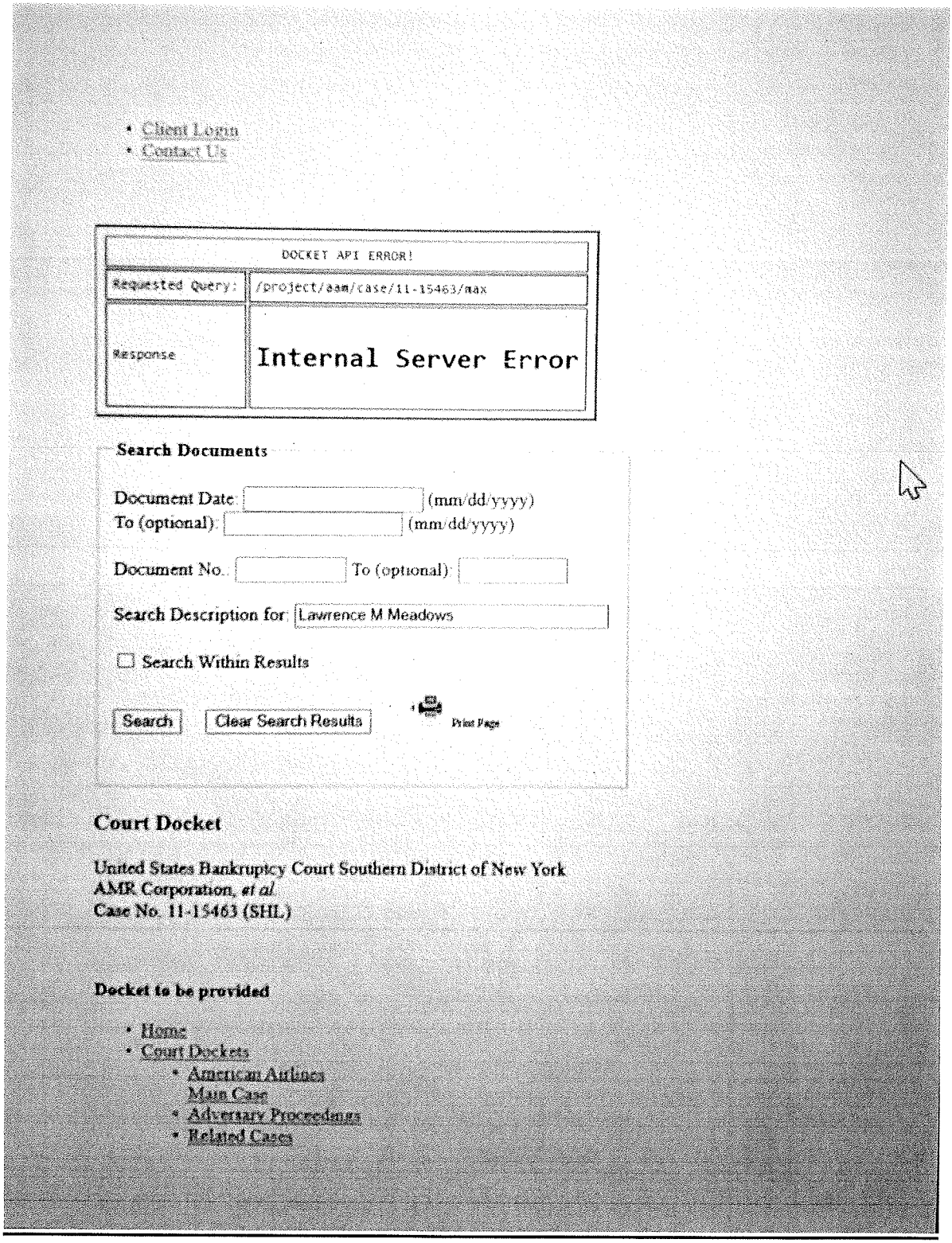

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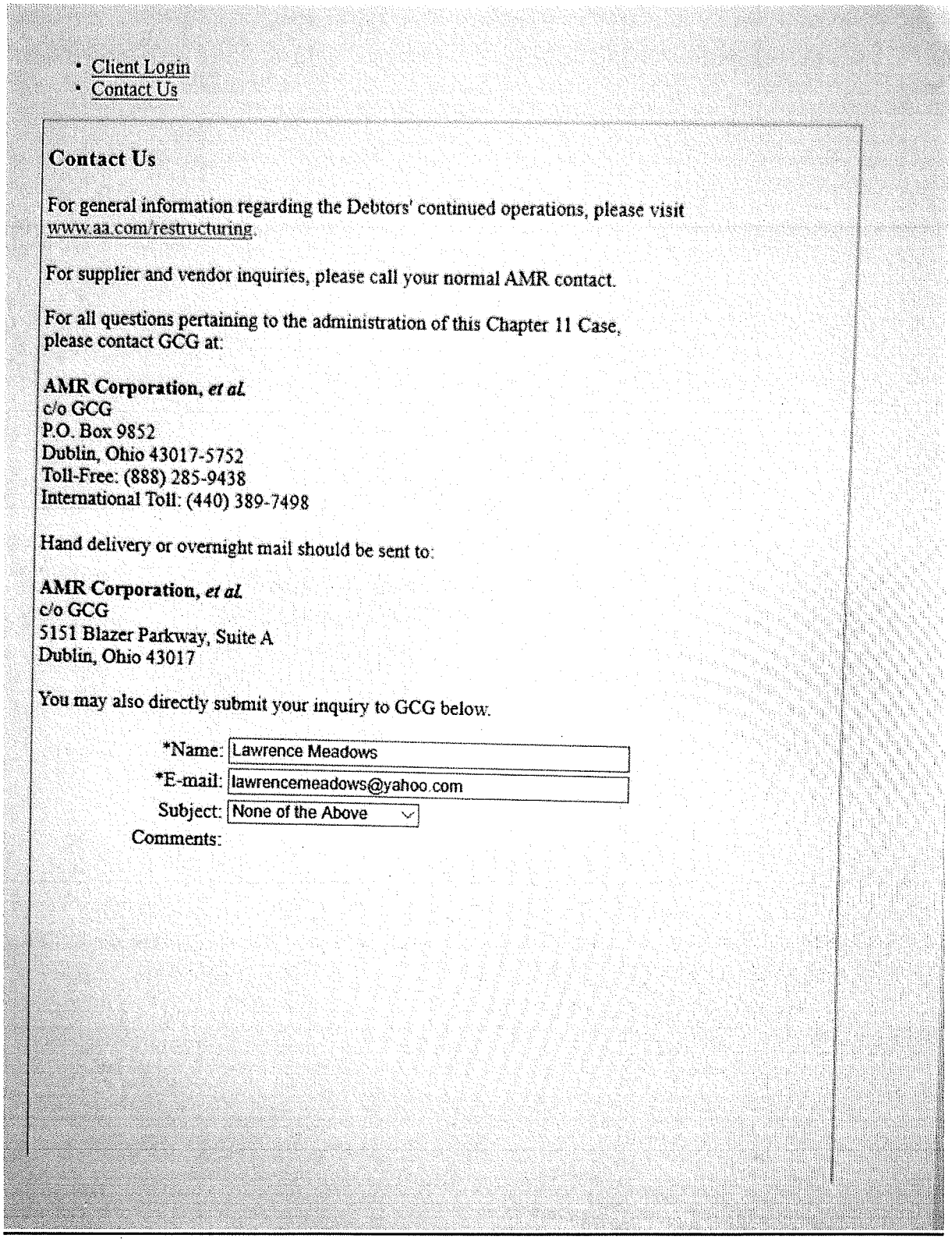

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Contact Us

For general information regarding the Debtors' continued operations, please visit www.aa.com/restructuring.

For supplier and vendor inquiries, please call your normal AMR contact.

For all questions pertaining to the administration of this Chapter 11 Case, please contact GCG at:

AMR Corporation, *et al.*
c/o GCG
P.O. Box 9852
Dublin, Ohio 43017-5752
Toll-Free: (888) 285-9438
International Toll: (440) 389-7498

Hand delivery or overnight mail should be sent to:

AMR Corporation, *et al.*
c/o GCG
5151 Blazer Parkway, Suite A
Dublin, Ohio 43017

You may also directly submit your inquiry to GCG below.

*Name: Lawrence Meadows
*E-mail: lawrencemeadows@yahoo.com
Subject: None of the Above
Comments:

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on the public amrcaseinfo.com website.

When I "Court Dockets" tab, then the "American Airlines Main Case" tab, I get a pink "DOCKET AP ERROR!" and "Internal Sever Error"; this message has been appearing all weekend.

This is a major issue for me as a Creditor, who has an Appellate Briefing related to two of Judge Lanes Orders in Case No. 11-15463, that is due tomorrow, I am unable to access any documents necessary to file my Brief and any required Appendix.

Please contact me asap when this is rectified, in meantime I would appreciate it if you could provide documentation showing this server error, so I can present it to the Appellate Court.

Sincerely,
Lawrence Meadows
516-982-7718

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  - Omnibus Claim Objections
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Sincerely,

Lawrence Meadows 516-982-7718

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