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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

WESTWAYS WORLD TRAVEL, INC.,	) Case No.:
individually, and on behalf of)
all others similarly situated.	) <u>CLASS ACTION</u>
)
Plaintiff,	) COMPLAINT UNDER THE RACKETEER
	) INFLUENCED AND CORRUPT
vs.	) ORGANIZATIONS ACT OF 1970, 18
	) U.S.C. §1961, ET SEQ. FOR
AMR CORPORATION; AMERICAN	) DAMAGES; FEDERAL DECLARATORY
AIRLINES INC.; AMR EAGLE HOLDING	) RELIEF PURSUANT TO 28 U.S.C.
CORPORATION; AIRLINES REPORTING	) §§ 2201-2202 & RULE 65 OF THE
CORPORATION; and THE SABRE GROUP	) FEDERAL RULES OF CIVIL
HOLDINGS, INC.	) PROCEDURE; AND INJUNCTIVE
	) RELIEF
Defendants.)
	) <u>JURY TRIAL DEMANDED</u>

Plaintiff, by its undersigned attorneys, for its
complaint against defendants, alleges, upon knowledge as to itself,
and upon information and belief as to all other matters, as
follows:

1 I. INTRODUCTION

2 1. This is a class action brought pursuant to the provisions
3 of the Racketeer Influenced and Corrupt Organizations Act of 1970
4 ("RICO"), 18 U.S.C. §§ 1961 et seq., by plaintiff, individually,
5 and on behalf of all persons similarly situated, against defendants
6 AMR Corporation ("AMR"), its two wholly owned airline subsidiaries
7 American Airlines, Inc. ("American Airlines"), and AMR Eagle
8 Holding Corporation ("American Eagle") (AMR, American Airlines and
9 American Eagle are collectively referred to herein as "American");
10 Airlines Reporting Corporation ("ARC"); and The Sabre Holding
11 Group, Inc. ("Sabre") for damages and to obtain injunctive and
12 declaratory relief for defendants' violations of RICO as alleged
13 more fully below. Throughout the Class Period, as defined below,
14 the defendants conspired, through a scheme too defraud using
15 various misrepresentations, omissions, and nondisclosures to extort
16 monies from plaintiff and the members of the Class.

17 2. American, on an ongoing basis, forces plaintiff and other
18 travel agency Class members to pay exorbitant "Debit Memos" (demands
19 for money) for purported violations of American's pricing rules, by
20 customers of the plaintiff and other Class member, that allegedly
21 prohibit the use of back-to-back supersaver tickets, hidden city
22 tickets, and round trip tickets only partially used, as defined
23 below. These Debit Memos demand up to 100 times the travel
24 agency's commission earned for the issuance of a single ticket.
25 American continues this practice, knowing that plaintiff and other
26 members of the Class have no control over the conduct of their
27 customers. American demands payment of these Debit Memos within a
28 prescribed period of time or threatens to terminate the travel

1 agencies' ticketing ability on American. These extortive and
2 coercive threats have substantially impeded the plaintiff and other
3 Class members from pursuing their lawful business, and the
4 termination of their ticketing ability on American would,
5 effectively, force them out of business. Confronted with these
6 threats of economic harm, plaintiff and members of the Class have
7 no real choice but to pay these Debit Memos. In abusing the
8 inequitable bargaining power defendants enjoy by virtue of the
9 commercial relationship with plaintiff and members of the Class,
10 defendants pose a vital threat to the continued existence of the
11 travel agency industry.

12 **I. FEDERAL RICO JURISDICTION AND VENUE**

13 3. This Court has jurisdiction over this action pursuant to
14 28 U.S.C. §1331, 18 U.S.C. § 1964, and under 28 U.S.C §§ 2201-2202.

15 4. At all times material herein, the activities, conduct,
16 omissions, nondisclosures and/or misrepresentations committed
17 and/or engaged in by the defendants herein give rise to this action
18 being instituted with this federal District court inasmuch as the
19 plaintiff is a citizen and resident of the County of Los Angeles,
20 city of Santa Monica, California. Further, the events that give
21 rise to the violations of RICO, 18 U.S.C. §§ 1961, 1965(a), (b),
22 and (d) are predicated under the RICO co-conspiracy theory of venue
23 and co-conspiracy theory of personal jurisdiction, by and through
24 employment of federal instrumentalities of interstate commerce,
25 including federal mails, wires, and traveling in connection with
26 the commission of racketeering activity across federal interstate
27 lines.

1 Plaintiff is unable to control the manner, degree, and actual usage
2 of these tickets by its customers.

3 8. Plaintiff is a small business with only three employees
4 and realized that in order to pay for these Debit Memos, it would
5 have to issue in excess of 3,000 tickets representing almost
6 \$750,000 in ticket sales to generate sufficient commissions to pay
7 the demanded \$34,000. This is more business than plaintiff
8 generated on American during the prior year.

9 9. Despite detailed documentation, plaintiff ultimately was
10 forced to pay over \$17,000 to American in order to retain its
11 ability to issue airline tickets on American.

12 10. American regularly assesses and exacts as payment from
13 plaintiff and other members of the Class exorbitant amounts of
14 money as payment for Debit Memos in amounts up to nine times the
15 amount of the actual ticket price and up to one hundred times the
16 commission the travel agency actually receives for the issuance of
17 these tickets. Accordingly, the amounts charged are
18 disproportionate to any and all alleged or actual damages, if any,
19 suffered by American.

20 11. American routinely and consistently demands payment of
21 these Debit Memos within a prescribed period of time or threatens
22 to remove plaintiff's and other Class member's "plates" (this is an
23 industry term of art that indicates that a travel agency may issue
24 airline tickets on a particular carrier). The termination of
25 plaintiff's ticketing ability on American would effectively deprive
26 plaintiff of its right to engage in a lawful business, resulting in
27 financial loss, diminution of business value, and eventual closure
28 of said business. Plaintiff paid American's unlawful Debit Memos

1 as exacted by and through extortionate and coercive means alleged
2 more fully below.

3 12. Such activities engaged in by American, by and through
4 its corporate affiliates, subsidiaries, agents, representatives,
5 servants, employees, officers, and/or directors constitute
6 actionable extortion and coercion. Further, American employed
7 federal mails and federal interstate wires in connection with
8 perpetrating and perpetuating this scheme to defraud plaintiff and
9 other members of the Class.

10 13. Plaintiff has standing to institute this action under the
11 federal Racketeered Influenced and Corrupt Organizations Act of
12 1970 ["RICO"] [Title U.S.C. §1964(c)], as plaintiff has been injured
13 in its interest in business or property.

14 **RICO DEFENDANTS**

15 14. Defendant AMR is a Delaware corporation with its
16 principal place of business located in the city of Fort Worth,
17 Texas. AMR owns 100 percent of the common stock of American
18 Airlines and American Eagle which are wholly owned and controlled
19 subsidiaries of AMR.

20 15. Defendant, American Airlines is a Delaware corporation
21 with its principal place of business located in the city of Fort
22 Worth, Texas. American Airlines engages in activities that affect
23 federal interstate and/or foreign commerce. American Airlines is
24 the second largest passenger airline in the United States. In 1998,
25 American Airlines operated approximately 668 aircraft, with
26 passenger ticket sales of over \$14 billion. Combined with American
27 Eagle, American Airlines earned over \$1.7 billion in 1998.
28 American Airlines is a "person" as defined by 18 U.S.C. § 1961(3).

1 16. Defendant, American Eagle is a Delaware corporation with
2 its principal place of business located in the city of Fort Worth,
3 Texas. American Eagle is American Airlines' regional affiliate and
4 carries passengers from smaller cities to American Airlines' hubs.
5 In 1998, it operated approximately 217 aircraft and had total
6 revenues of over \$1 billion. American Eagle is a "person" as
7 defined by 18 U.S.C. § 1961(3).

8 17. Defendant ARC is a Delaware corporation with its
9 principal place of business in the city of Arlington, Virginia, and
10 engages in activities that affect federal interstate and/or foreign
11 commerce. ARC is a "person" as defined by 18 U.S.C. § 1961(3).

12 (a) In or around 1984, the major U.S. passenger air
13 carriers created ARC to operate an area bank that acts as a
14 clearinghouse, collecting money from individual travel
15 agencies, determining how much money is due each airline, and
16 forwarding such amounts to the individual carriers. ARC also
17 operates a central collection service to monitor and collect
18 money allegedly owed to individual carriers, including
19 American, due to financial and/or reporting irregularities
20 including but not limited to Debit Memos.

21 (b) ARC's Articles of Incorporation allow ARC's stock to
22 be held by as many as 30 airlines. At the time of its
23 formation in 1984, 18 airlines, including American, had
24 executed stock subscription agreements to become ARC
25 shareholders. None of ARC's shareholders are permitted to own
26 more than one share of ARC stock and no shareholder is
27 permitted to have more than one representative on ARC's Board
28 of Directors. Plaintiff is informed and believes that American

owns one share of ARC's outstanding stock and has one representative on ARC's Board of Directors. ARC has approximately 140 airline members who subscribe to its programs through an ARC Carrier Services Agreement. As of 1995, the airlines that ARC represents were responsible for 93% of the enplanements in the United States and 96% of the airline revenues.

18. Defendant Sabre is a Delaware corporation with its principal place of business in the city of Fort Worth, Texas. Sabre engages in activities that affect federal interstate and/or foreign commerce. Sabre is a "person," as defined by 18 U.S.C. § 1961(3).

(a) In 1993, AMR combined the information technology units of American Airlines under the umbrella of "The Sabre Group." In 1996 it became a separate legal entity and 18% of the equity was sold in an initial public offering while the remaining 82% remained under the control of AMR. It is the largest airline computer reservation system in the world. Plaintiff and thousands of other travel agencies in North America have contractual relationships with Sabre in order to access airline schedules and issue airline tickets.

(b) In 1996, Sabre introduced Travelocity.com, which is one of the largest Internet travel providers. Sabre through Travelocity.com competes directly with travel agencies by providing air, car, hotel and vacation reservation capability for its more than 5 million registered members.

III. CLASS ACTION ALLEGATIONS

19. Plaintiff brings this suit as a class action pursuant to rules 23(a) and 23(b) of the Federal Rules of Civil Procedure on

1 its own behalf and on behalf of all travel agencies who have or
2 will be required to pay monies to American for Debit Memos relating
3 to alleged tariff violations purportedly committed by their
4 customers involving hidden city, back-to-back supersaver, and round
5 trip tickets only partially used (the "Class") from the period
6 commencing July 26, 1995 to the present (the "Class Period").

7 20. The members of the Class are so numerous that joinder of
8 all members is impracticable. There are approximately 30,000 ARC
9 approved (those eligible to sell airline tickets) travel agency
10 locations in the United States. Of these, it is estimated that
11 almost one third have received Debit Memos of this nature from
12 American. Additional Class members accrue each day as American
13 continues to require payment of these unlawful Debit Memos upon the
14 threat of termination of the travel agency's ticketing ability.

15 21. Plaintiff's claims are typical of the claims of the
16 members of the Class of which it is a member.

17 22. Plaintiff will fairly and adequately protect the
18 interests of the member of the Class; it has retained competent
19 counsel experienced in this type of litigation and does not have
20 interests antagonistic to or in conflict with those it represents
21 as Class representative.

22 23. A class action is far superior to other available methods
23 for the fair and efficient adjudication of this controversy because
24 of the size of the class, the varying amounts including some
25 relatively small amounts of monetary damage suffered by any
26 particular class member, the predominance of legal issues over
27 issues of fact, and the need for the dispositive resolution of this
28 controversy in a single forum so that the rights of the Class

1 members are secured and so that the defendants can know and comply
2 with their legal responsibilities.

3 24. There are common questions of law and fact shared by all
4 parties. Indeed, all of the issues pertinent to liability are
5 identical as to all Class members, and all Class members seek as
6 their remedy declaratory and injunctive relief, along with
7 reimbursement of past Debit Memos that were unlawfully charged and
8 collected by American through violations of RICO.

9 25. Among the questions of law and fact involved herein which
10 are common to the Class and which predominate over questions
11 affecting individual members of the Class are:

12 (a) Whether travel agents may be held liable and responsible
13 to American for the acts and decisions of third parties, their
14 customers, when the customers independently choose to change,
15 reroute, or not use a portion of his or her tickets.

16 (b) Whether American has suffered damages by the sale through
17 plaintiff and the members of the Class of back-to-back
18 supersaver tickets, hidden city tickets, and round trip
19 tickets only partially flown.

20 (c) Whether American has been unjustly enriched by reselling
21 seats not flown but paid for by the consumer for the purchase
22 of back-to-back supersaver tickets, hidden city tickets, and
23 round trip tickets which are only partially flown, when it
24 resells the unused seat and often collects additional monies
25 as penalties from the consumer and then sends a Debit Memo to
26 the travel agency for the same ticket.

27 (d) Whether American can hold travel agents to a different
28 standard than its own reservation agents who sell, on a

1 continuing and regular basis, back-to-back supersaver tickets,
2 hidden city tickets, and round trip tickets which are
3 subsequently only partially used.

4 (e) Whether American's policy of charging the travel agent
5 the difference between the actual fare paid and an
6 artificially inflated fare based on what the consumer
7 allegedly "would have paid for the ticket" (in most cases, the
8 consumer would not have paid that for the ticket and would
9 have chosen not to go on their trip or to go on another "low
10 fare" airline), which is generally the highest, unrestricted
11 fare available for that itinerary, including the collection of
12 various government taxes and travel agency commission (often
13 more than nine times the price of the original ticket and up
14 to one hundred times the amount of commission received by the
15 travel agent for the issuance of the ticket), is an actual
16 approximation of damages or instead, a penalty designed to put
17 travel agents out of business.

18 (f) Whether by issuing Debit Memos for artificial damages
19 with threats to remove a travel agency's "plates" and
20 effectively put them out of business if they do not pay, and
21 whether by imposing unilateral, oppressive restrictions on
22 travel agencies thereby impeding their ability to pursue a
23 lawful business, constitutes extortion under the Hobbs Act, 18
24 U.S.C. § 1951.

25 (g) Whether demands and certain nondisclosures, omissions,
26 and misrepresentations, in furtherance of this illegal scheme,
27 through the use of Federal interstate mail and wires,
28 constitute mail and wire fraud under 18 U.S.C. § 1341.

1 (h) Whether defendants, each of them, was a member of, or
2 participant in the conspiracy alleged herein.

3 (i) Whether the defendants violated RICO, as alleged herein.

4 (j) The extent of the damages sustained by members of the
5 Class and the appropriate measure of damages.

6 (k) Whether Plaintiff and the members of the Class are
7 entitled to declaratory and/or injunctive relief.

8 26. Prosecution of multiple actions in different state and
9 Federal courts by individual class members creates an unnecessary
10 risk of inconsistent or varying adjudications, which could impose
11 incompatible standards of conduct on the defendants.

12 27. In addition, defendants, by forcing plaintiff and the
13 other Class members to pay Debit Memos for alleged tariff
14 violations of Class members' customers have acted in a manner
15 generally applicable to all members of the Class, and it is
16 appropriate that the declaratory and injunctive relief requested in
17 this litigation be for the benefit of the Class as a whole.

18 **IV. BACKGROUND**

19 **A. Airline Ticket Pricing Anomalies**

20 28. Since deregulation of the airline industry in 1978,
21 airlines have been free to price tickets based on a multitude of,
22 often inconsistent factors including supply and demand,
23 competition, etc. This departure from what formerly was a three-
24 tiered price tariff per market consisting of first class, full fare
25 coach, and discounted coach, rapidly evolved into as many as
26 several hundred published fares per market on a dozen different
27 airlines, all with very intricate and detailed restrictions
28

1 including date, time, days of week, advance purchase requirements,
2 etc., and all subject to change on a daily basis.

3 29. A driving force in these pricing policies is the concept
4 of "yield management" which each airline employs in an effort to
5 mix the amount of expensive unrestrictive tickets with low fare,
6 highly restrictive tickets to come up with an acceptable yield per
7 flight and market in order to maximize its profits.

8 30. American recognized that business travelers needed to buy
9 tickets with little advanced purchase and a high degree of
10 flexibility and hence, could charge these travelers premium prices
11 on most flights.

12 31. Knowing that it could not fill its planes at these high
13 fares, American sought to entice leisure travelers with
14 inexpensive, restrictive tickets based on advance purchases and
15 generally, a requirement that the traveler stay over a Saturday
16 night.

17 32. The result was that two people sitting next to each other
18 on any given plane could have paid as little as \$200.00 or as much
19 as \$2000.00 for the identical trip.

20 33. It was not long before consumers, particularly the more
21 sophisticated business travelers, recognized this inequity and
22 identified three particular pricing anomalies:

- 23 (a) The "Hidden City" Ticket. This ticket involves charging
24 consumers more for a one-flight ticket than for a two-
25 flight ticket even though the consumer actually flies on
26 the one-flight ticket and the additional ticket. For
27 example, to fly to Austin, Texas from Los Angeles, on
28 American, you must purchase a two-flight ticket that goes

1 through Dallas. The one way Austin fare will usually be
2 about \$241.00. You must exit the plane in Dallas and
3 board another flight to Austin. Yet, if you simply want
4 to buy a one way Dallas ticket, the fare would be
5 approximately \$866.00 or more than three times higher
6 even if you are on the identical flight as the Austin
7 passenger.

8 (b) The "Back-to-Back Supersaver" Ticket. As a rule, airline
9 tickets requiring a Saturday night stay are cheaper than
10 those that do not. Consumers understood that a round trip
11 ticket with an advance purchase and a Saturday night stay
12 from Los Angeles to Chicago would be approximately
13 \$248.00, but with no Saturday night stay and even with an
14 advance purchase, the fare would be approximately
15 \$2000.00. Even the least sophisticated traveler soon
16 realized that he/she could save \$1500.00 by purchasing
17 two round trip tickets, one originating in Los Angeles
18 with a Saturday night stay and one originating in Chicago
19 with a Saturday night stay for a total of \$500.00. The
20 consumer understood that he/she was giving up flexibility
21 as the outbound portion of both tickets could not be
22 changed, but chose to do so based on the cost savings.

23 (c) The Round Trip Ticket Only Partially Used. A typical
24 round trip fare with an advance purchase and a Saturday
25 night stay requirement from Los Angeles to New York is
26 approximately \$300.00. The one way fare on the identical
27 outbound flight is \$948.00. Again, consumers understand
28 that a one way ticket generally costs over three times as

1 much as a round trip ticket even though only half as many
2 airline services are being used. While some consumers
3 plan to travel one way on these tickets, many consumers
4 intend to return as ticketed, but due to various personal
5 and/or professional circumstances find that they must
6 change their plans causing them to buy additional tickets
7 on American or other airlines.

8 34. These tariffs are addressed in American's domestic
9 general rules tariff and are an alleged contract between American
10 and the passenger under American's condition of carriage.

11 **B. The Travel Agency Distribution System**

12 35. After deregulation, as airlines, fares, and routes began
13 proliferating, it became increasingly difficult for consumers to
14 obtain unbiased, comprehensive information by going directly to an
15 individual airline. Travel agents offered this information in a
16 "one stop shopping" format, working on behalf of and seeking to
17 offer the consumer the best fare and routing by searching their
18 airline computer reservation systems which displayed flights,
19 fares, and tariffs for all of the major airlines.

20 36. As a result, by 1995, travel agents sold over 80% of all
21 airline tickets in the United States. For this, the airlines paid
22 travel agents 10% of the base price of the airline ticket, which
23 represented approximately 9% of the face value of the ticket.

24 37. In early 1995, Delta Airlines, in a move to cut costs,
25 "capped" travel agent's commission to the maximum of \$50.00 for all
26 domestic tickets no matter what the price. Within hours, all major
27 airlines had followed, which effectively reduced travel agents'
28 already meager commissions by over 20%.

1 38. Because the majority of travel agencies are small, "mom
2 and pop" businesses, it became clear to these powerful airlines
3 that they could unilaterally impose almost anything on travel
4 agents who often lacked the financial ability or business savvy to
5 challenge the policies or procedures of these airlines, and feared
6 being put out of business, in retaliation, should they determine to
7 challenge or object to any of the restrictions imposed by the
8 various carriers.

9 39. Subsequently, the airlines, since 1995, have reduced
10 commissions two additional times and stepped up the issuance of
11 Debit Memos forcing an unprecedented amount of travel agencies to
12 close their doors.

13 40. Those travel agencies that remain have been urged by the
14 airlines to charge service fees to their clients, making tickets
15 more costly to purchase from a travel agent than directly from the
16 airline, and effectively shifting the airlines' distribution cost
17 to the consumer as the airline industry continues to reap
18 unprecedented profits.

19 41. American believes that travel agents are one of its most
20 costly distribution systems and that it would generate more profits
21 if its tickets were sold directly to the passenger through the
22 Internet or American's telephone reservation system. By doing
23 this, American can reduce the commissions paid to travel agencies.
24 Additionally, industry surveys have shown that by buying tickets
25 directly from the airline, in general, the consumer will pay more
26 than if they purchased a ticket through a travel agency. Travel
27 agents work for their customers, and have the ability to check
28 fares for all airlines ensuring that the customer is offered the

1 lowest fare available on any airline. Obviously, an airline will
2 not volunteer that its competitor has a lower fare. Further,
3 travel agents often know that a certain routing to a destination
4 will yield a lower ticket price.

5 42. As a result American has engaged in a concerted campaign
6 to make travel agents less attractive to consumers as compared with
7 direct ticket purchases from American in order to reduce
8 commissions and increase its "yield" per ticket thereby increasing
9 its profits. As such, American has engaged in and continues to
10 engage in an aggressive campaign to collect penalties from travel
11 agencies by the issuance of Debit Memos.

12 43. The purpose of this campaign has been to: (i) discourage
13 travel agencies from remaining in business by making their
14 businesses even less profitable; (ii) collecting illegal windfall
15 profits; and (iii) discouraging travel agencies from issuing
16 certain types of tickets, and forcing them to charge service fees
17 thereby prompting passengers to stop purchasing tickets through
18 travel agents and purchasing directly from American. By forcing
19 travel agents to refuse to issue certain tickets which American
20 itself routinely issues, and which consumers can purchase via the
21 Internet, American hopes to break the commercial link between the
22 customer and the travel agent, thereby increasing its own profits
23 in the future as more and more passengers purchase their tickets
24 directly from American.

25 44. As a result, the air carriers, particularly American, a
26 traditional and influential leader in airline policy, have stepped
27 up the issuance and aggressive collection of Debit Memos for the
28

1 express purpose of extorting money and/or putting travel agencies
2 out of business.

3 C. ARC's Relationship to American and to the Travel Agency
4 Distribution System

5 45. American's relationship to ARC besides one as shareholder
6 and director is contractually governed by the ARC Carrier Services
7 Agreement. This agreement provides, inter alia: (1) that each
8 ARC's airline member participate in the ARC program, (2) the
9 authority for ARC to act on behalf of all its airline members
10 collectively concerning who is qualified to act as a travel agency
11 for ARC's airline members; (3) the authority to sign contracts with
12 travel agencies on behalf of the member airlines; (4) that each of
13 ARC's airline members subscribe to the rules and regulations
14 promulgated by ARC.

15 46. ARC was created, in part, to establish a common
16 accreditation program for travel agencies, and an "Area Settlement
17 Plan" to act as a central clearinghouse for travel agencies to
18 report, settle and account for airline ticket sales on behalf of
19 the air carriers ARC represents.

20 47. In order for a travel agency to receive accreditation,
21 they must sign an ARC Agent Reporting Agreement. This is a
22 powerful, unilateral agreement that gives ARC almost unfettered
23 discretion in stripping a travel agency of identification plates
24 and traffic documents if it unilaterally determines that a travel
25 agent has breached this agreement. Thus, if it is determined that
26 a travel agency violated the rules of even one airline, regardless
27 of whether that rule is improper or illegal, the travel agency is
28 at risk of being excluded from selling tickets on any or all of the

1 ARC carriers, effectively precluding them from pursuing their
2 lawful business.

3 48. Pursuant to the terms of the ARC Agent Reporting
4 Agreement which every travel agency must sign prior to being
5 allowed to sell tickets for any of ARC's 140 airline members, all
6 travel agencies must agree to comply, in advance, with all
7 instructions, terms, and conditions of each ARC airline. Thus if a
8 travel agency does not agree, in advance, to abide by all of the
9 member air carriers' rules, no matter how imperious, ARC will use
10 its concentrated power of all the member airlines to exclude a
11 travel agency from selling tickets for any of ARC's 140 members.

12 **D. Sabre's Relationship to American and the Travel Agency**
13 **Distribution System**

14 49. Sabre is the largest airline computer reservation system
15 in the world, and the information technology unit of American
16 Airlines. AMR owns 82% of Sabre. Sabre is used by over 45% of the
17 travel agencies in North America, and an estimated \$40 billion in
18 travel services and products are purchased through the Sabre system
19 each year.

20 50. Sabre receives income from several sources. It receives
21 booking fees from airlines, car rental agencies, hotels, and other
22 entities whose services are booked through Sabre. Each reservation
23 represents a "segment", and each particular service provider pays
24 Sabre a segment booking fee which is approximately \$3.00 per
25 segment. In addition, Sabre receives income from contractual
26 arrangements with travel agencies whereby the travel agencies
27 "guarantee" Sabre a certain number of "segments" per month and pay
28 for any shortfall that may occur.

1 51. Because of American's concerted efforts to stop travel
2 agents from issuing hidden city, back-to-back supersaver, and
3 roundtrip tickets only partially used through the issuance of Debit
4 Memos, many travel agencies with long term contracts with Sabre
5 have been experiencing segment shortfalls resulting in large
6 monthly charges to the travel agency and windfall profits to Sabre.

7 52. When a consumer calls a travel agency, the agent
8 determines where, when and what time that consumer desires flights.
9 The airline computer reservation system, directed by the agent,
10 searches for all possible combinations on all airlines and
11 determines the best routing and price for that itinerary. When a
12 consumer finalizes his/her itinerary, the travel agent generates
13 the ticket. The computer automatically validates the ticket to
14 ensure that there have been no purported violations of American's
15 alleged tariffs. In effect, a travel agent cannot violate any
16 alleged tariff without a manually override. If this occurs, the
17 ticket is "flagged" with a special code indicating that it was not
18 automatically generated. Upon the issuance of this automatically
19 generated ticket through Sabre and the other three airline computer
20 reservations systems, American authorizes that the ticket is a
21 validly issued ticket in full compliance with all rules, tariffs,
22 and regulations.

23 53. Because Sabre is American's technology unit, American has
24 full access to all passenger name records created by all travel
25 agencies using Sabre computers. American has more limited access
26 to records generated by the other three airline computer
27 reservation systems. As a result, American has the ability to
28 audit Sabre travel agency records to determine if the passenger has

1 deviated from his or her original ticketed itinerary. When
2 American determines through its audit procedures that a passenger
3 has deviated from the ticketed itinerary, American issues a Debit
4 Memo to the travel agency who issued the ticket and charges that
5 travel agency for the passenger's purported tariff violation.

6 54. American does not look at the actual tickets for alleged
7 violation of hidden city, back-to-back supersaver, or roundtrip
8 tickets partially used, as they have been validated by its own
9 system and other authorized airline computer reservations systems,
10 and represent no alleged tariff violations. American, instead,
11 looks at how the passenger used the ticket, after the fact, and if
12 he or she did not follow the original itinerary, for whatever the
13 reason, American will issue a Debit Memo to the travel agency who
14 issued the ticket.

15 55. It is believed that the majority of Debit Memos issued by
16 American for alleged tariff violations are to travel agencies that
17 are equipped with Sabre computers, and to a lesser degree to travel
18 agencies that are equipped with other airline computer reservation
19 systems.

20 **IV. DEFENDANT'S ILLEGAL ACTS AND UNLAWFUL SCHEMES IN**
21 **FURTHERANCE OF A RICO PATTERN OF RACKETEERING ACTIVITY**

22 56. Throughout the Class Period, American, with the advise,
23 consent, and full cooperation of Sabre and ARC issued Debit Memos
24 to plaintiff and the members of the Class for alleged tariff
25 violations of the third party, consumer, fully knowing that
26 plaintiff and the other members of the Class had no control over
27 the independent acts of these passengers.
28

1 57. The Debit Memos issued by American are for amounts
2 exceeding 9 times the value of the original ticket or up to 100
3 times the actual commission paid to the travel agency and have no
4 relationship to any actual damages incurred by American, but rather
5 represent a penalty designed, in part, to force plaintiff and the
6 other members of the Class out of business.

7 58. An example of this is shown referencing a simple round
8 trip ticket from Los Angeles to Chicago. The round trip fare is
9 generally \$248.00 (airline fares change daily). The travel agency
10 receives only \$18.37 in commission from American to issue this
11 ticket. Yet, if a passenger purportedly violates an alleged
12 tariff, American will issue a Debit Memo to the travel agency for
13 the difference between the full fare of \$2,016.00 and the reduced
14 fare of \$248.00. The travel agency therefore receives a Debit Memo
15 for \$1,768.00 or almost 100 times the amount of commission the
16 agency received and 9 times the price of the actual ticket.

17 59. Theoretically, it would be possible for American to issue
18 a few Debit Memos to any given travel agency and recoup the total
19 amount that American paid in commissions to that agency over a set
20 period of time.

21 60. Additionally, American does not disclose to travel
22 agencies that it has, in some cases, previously collected penalties
23 and/or other additional monies from the consumer. Rather, American
24 will charge the travel agency the same amount as if no monies had
25 been collected with reference to that specific ticket.

26 61. Further, American does not disclose to the travel
27 agencies that the amounts charged for the Debit Memos include
28 government taxes and travel agency commissions that upon reason and

1 belief are not paid by American to any governmental entity or to
2 any travel agency.

3 62. American knows that (i) travel agencies have no control
4 over the independent acts of the consumer; (ii) its own employees
5 issue tickets to consumers that purport to violate American's
6 alleged tariffs; and (iii) the consumer, with American's
7 encouragement, is able to purchase tickets that also purport to
8 violate American's alleged tariffs through American's website on
9 the Internet. However, American continues to exact money from
10 travel agencies by these illegal Debit Memos, and threatens to
11 terminate plaintiff's and other Class member's ability to issue
12 tickets on American, thereby depriving them of their property
13 interest to pursue a lawful business.

14 63. Further, by utilizing Sabre's computer system, American's
15 airport personnel know when a passenger has deviated from his or
16 her original itinerary and thus is allegedly violating American's
17 tariffs. However, American's airport personnel often choose to
18 waive assessing any penalty against the passenger knowing that
19 American can collect these monies, and more, from the travel
20 agency.

21 64. American Airlines, issued Debit Memos on behalf of
22 American Eagle with its full cooperation and consent, for tickets,
23 particularly for alleged hidden city ticket violation, which
24 generally include a smaller city serviced by American Eagle.

25 65. American, further, relied on and worked in concert with
26 ARC, using the tremendous power of the 140 airlines which it
27 represents, to reinforce its extortionate demands for money by
28 threatening travel agencies with the total loss of their

1 accreditation which would result in a total closure of their
2 business.

3 66. At all times materially relevant herein, each and every
4 one of the defendants intended to and did deprive plaintiff and the
5 Class members of their interest in business and/or property, by
6 reason of violation of 18 U.S.C. § 1962, and that said defendants
7 are RICO co-conspirators, as that term is defined pursuant to 18
8 U.S.C. § 371.

9 67. At all times materially relevant herein, defendants acted
10 on behalf of each other as agents, representatives, designees,
11 deputies, servants, and/or employees thereof, and therefore are
12 "principals" as that term is defined pursuant to 18 U.S.C. § 2(a).

13 68. Plaintiff alleges that defendants, and each and every one
14 of them, at all times materially relevant herein, conspired with
15 one another, to commit the aforementioned activities that
16 constitute a pattern of racketeering activity, as the term is
17 defined in 18 U.S.C. § 1961(5), for purposes of violating 18 U.S.C.
18 § 1962.

19 **VI. RICO PATTERN OF RACKETEERING ACTIVITY**

20 **[18 U.S.C. §1961(1) (B)]**

21 69. The following conduct constitutes a pattern of
22 racketeering activity, as that term is defined in 18 U.S.C.
23 §1961(5):

24 A. Federal Extortion [Title 18 U.S.C. §1951]

25 70. Defendants knowingly engaged in extortionate and coercive
26 conduct in connection with Debit Memo financial transactions
27 alleged herein by plaintiff, deriving proceeds therefrom, which is
28 evidence of having engaged in an unlawful activity, in violation of

1 18 U.S.C. §§1956(a)(1)(A)(i) and (B)(i). Defendants traveled in
2 federal interstate and foreign commerce, including employing the
3 federal mails, with intent to distribute plaintiff's and other
4 Class member's monies that had been obtained through unlawful
5 activity, as alleged above, including acts that are indictable
6 under 18 U.S.C. §§1956 and 1957, and as identified within
7 §1952(a)(3).

8 B. Federal Mail and Wire Fraud [Title 18 U.S.C. §§ 1341 and 1343]

9 71. Defendants employed the federal mails and federal wires,
10 between July 26, 1995, and up through and including the date of the
11 initiation of these proceedings to actively solicit, encourage, and
12 obtain from plaintiff and other Class members, monies and/or
13 properties, based on the non-disclosures, omissions and
14 misrepresentations of material fact by defendants as aforesaid.

15 72. Defendants employed the federal mails and federal wires,
16 between July 26, 1995, and up through and including the date of the
17 initiation of these proceedings, to facilitate the receipt of
18 monies by defendants.

19 73. Defendants employed the federal mails and federal wires,
20 between July 26, 1995, and up through and including the date of the
21 initiation of these proceedings, to conceal, secrete, and/or
22 otherwise facilitate a false impression that plaintiff's and other
23 Class member's monies entitled plaintiff and the members of the
24 Class to represented privileges and rights in connection with
25 accreditation, when, in fact, it was untrue or false.

26 C. Federal Interstate Transportation of Monies and Properties
27 Exceeding \$5,000 Obtained by False Pretenses and Fraud and Receipt

1 of Monies and Properties Exceeding \$5,000 Obtained by Federal
2 Interstate Transportation [18 U.S.C. §§2314 and 2315]

3 74. Defendants, by and through employing instrumentalities of
4 federal interstate and/or foreign commerce, including the
5 employment of federal mails, effected the solicitation and receipt
6 of monies exceeding \$5,000 from the plaintiff and other Class
7 members in connection with alleged fraudulent and extortionate
8 conduct engaged herein.

9 75. Defendants obtained said monies from plaintiff and the
10 members of the Class by and through the false representations
11 previously alleged herein, as well as failing to disclose material
12 facts relative to the operation of the defendants.

13 **FIRST CLAIM FOR RELIEF**

14 **FEDERAL DECLARATORY and INJUNCTIVE RELIEF**

15 **[28 U.S.C §§ 2201-2202 and Fed.R.Civ.P. 65]**

16 **(AGAINST ALL DEFENDANTS)**

17 76. Plaintiff repeats and realleges paragraphs 1 through 75,
18 as if fully set forth herein.

19 77. American has been wrongfully holding plaintiff and other
20 Class members responsible and liable for the independent acts of
21 third parties, their customers and asserting that said travel
22 agencies are purportedly violating American's alleged tariffs,
23 when, in fact, the act of printing a ticket in accordance with a
24 customer's request represents no such violation.

25 78. Further, American has been exacting exorbitant amounts of
26 money from plaintiff and other Class members unrelated to any
27 actual damages incurred by American through extortion, coercive,
28 and otherwise fraudulent methods in violation of 18 U.S.C. § 1961.

1 79. In wrongfully exacting exorbitant amounts of money from
2 plaintiff and the other members of the Class as alleged herein,
3 defendants have impeded travel agencies' ability to pursue a lawful
4 business, thereby further enhancing defendants' superior and
5 inequitable bargaining power over the travel agency industry.

6 80. Defendants will continue to hold plaintiff and other
7 Class members liable and responsible for the acts of the third
8 party consumer and will continue to exact certain amounts of money
9 due to the acts of these third parties unless and until this Court
10 declares that such actions and charges are unlawful and enjoins
11 defendants from continuing to pursue this course of action.

12 81. The wrongful acts and practices of the defendants, as
13 alleged herein, are suitable for injunctive relief in that the
14 plaintiff and the members of the Class have no wholly adequate
15 legal remedy. Defendants are likely to continue their behavior
16 resulting in irreparable injury. Absent injunctive relief
17 plaintiff and the members of the Class will be required to bring a
18 new lawsuit each time defendants engage in such behavior in the
19 future.

20 82. As a result of defendants' unlawful acts, plaintiff and
21 the members of the Class, have retained the undersigned attorneys,
22 and are obligated to pay them a fee for their services upon the
23 successful resolution of this claim, and are entitled to payment of
24 such fees and costs of this suit from defendants pursuant to
25 18 U.S.C. §1964(c).

26 83. Plaintiff seeks judgment against defendants: (i)
27 declaring that it is unlawful for defendants to hold a travel
28 agency responsible and liable for the acts of a third party, the

1 consumer, and that it is unlawful to extract amounts of money via
2 Debit Memos for alleged tariff violations in amounts unrelated to
3 actual damages incurred; and (ii) enjoining defendants from these
4 activities and actions in the future; and (iii) awarding attorneys'
5 fees and costs incurred in connection with this litigation.

6 **SECOND CLAIM FOR RELIEF**

7 **VIOLATION OF RICO 18 U.S.C. § 1962(a)**

8 **(AGAINST ALL DEFENDANTS)**

9 84. Plaintiff repeats and realleges paragraphs 1 through 75,
10 as if fully set forth herein.

11 85. In conducting the business and affairs of the RICO
12 enterprises described herein, and committing the acts, omissions,
13 misrepresentation, and breaches referred to herein between July 26,
14 1995, up through and including these proceedings, the defendants
15 engaged in a pattern of racketeering activity, in violation of 18
16 U.S.C. § 1962(a), in that defendants received income derived,
17 directly and/or indirectly, from the alleged pattern of
18 racketeering activity, for use and/or investment in the
19 acquisition, establishment, and/or operation of said RICO
20 enterprises that were engaged in activities that affected federal
21 interstate and/or foreign commerce.

22 **A. RICO Enterprise No. 1: American [18 U.S.C. § 1962(a)]**

23 86. American, by and through its corporate affiliates and
24 their respective agents, employees, representatives, servants,
25 supervisors, managers, directors, officers, deputies, and/or
26 nominees obtained monies from plaintiff, and other members of the
27 Class, by and through the RICO pattern of racketeering activity
28 alleged herein, and invested proceeds in American, its affiliates,

1 and subsidiaries, thereby depriving plaintiff and other members of
2 the Class of their right, title, and interest in said monies and
3 properties.

4 **B. RICO Enterprise No. 2: Sabre [18 U.S.C. § 1962(a)]**

5 87. American, by and through its corporate affiliates,
6 subsidiaries, and their respective agents, employees, servants,
7 representatives, supervisors, managers, directors, officers,
8 deputies, and/or nominees obtained monies from plaintiff, and other
9 members of the Class, by and through the RICO pattern of
10 racketeering activity alleged herein, and invested proceeds in
11 Sabre and its affiliates and subsidiaries, thereby depriving
12 plaintiff and other members of the Class of their right, title, and
13 interest in said monies and properties.

14 **C. RICO Enterprise No. 3: ARC [18 U.S.C. § 1962(a)]**

15 88. American by and through its corporate affiliates,
16 subsidiaries and their respective agents, employees, servants,
17 representatives, supervisors, managers, directors, officers,
18 deputies, and/or nominees obtained monies from plaintiff, and other
19 members of the Class, by and through the RICO pattern of
20 racketeering activity alleged herein, and invested proceeds in ARC,
21 thereby depriving plaintiff and other Class member of their right,
22 title, and interest in said monies and properties.

23 **D. RICO Enterprise No. 4: American Eagle [18 U.S.C. § 1962(a)]**

24 89. American by and through its corporate affiliates,
25 subsidiaries and their respective agents, employees, servants,
26 representatives, supervisors, managers, directors, officers,
27 deputies, and/or nominees obtained monies from plaintiff, and other
28 members of the Class, by and through the RICO pattern of

1 racketeering activity alleged herein, and invested proceeds in
2 American Eagle, thereby depriving plaintiff and other Class members
3 of their right, title, and interest in said monies and properties.

4 90. Defendants effected an investment in whole or in part of
5 undisclosed amounts between July 26, 1995 and up to the time of
6 this action to acquire, establish, operate, and maintain said RICO
7 enterprises, and that such RICO enterprises are engaged in
8 activities that affect federal interstate and/or foreign commerce.

9 91. The aforementioned activities constitute actionable
10 attempts to obtain monies and/or properties by extortion, false
11 pretenses and by commission of federal mail fraud, federal wire
12 fraud, federal interstate transportation of monies obtained and
13 received through false pretenses, and are therefore indictable
14 under 18 U.S.C. § 1961(1)(B) and as "racketeering activity." The
15 continuity and relatedness of this racketeering activity
16 constitutes a "pattern of racketeering activity" pursuant to
17 18 U.S.C. § 1961(5).

18 **E. [RICO 18 U.S.C. § 1962(a) Racketeering Enterprise Investment**
19 **Injuries]**

20 92. Plaintiff and the other members of the Class have
21 sustained, and continue to sustain, the following injuries to
22 interests in its business and/or property by reason of defendants'
23 violation of RICO 18 U.S.C. § 1962(a):

24 (a) Loss of business by being unable to adequately service
25 clients.

26 (b) Increased attorney's fees and costs incurred in
27 connection with instituting this RICO action against
28 defendants in order to recover monies wrongfully paid to

1 defendants and to protect their property interests, as
2 alleged.

- 3 (c) Reduced bargaining power within the travel industry
4 thereby impeding their ability to dispute Debit Memos.
5 (d) Time and expense incurred in dealing with American and
6 others with respect to the issuance of these Debit Memos.
7 (e) Increases fees for segment shortfalls from Sabre and
8 other airline computer reservation system vendors.

9 93. The aforementioned injuries sustained by plaintiff and
10 the members of the Class constitute RICO 18 U.S.C. § 1962(a)
11 racketeering enterprise investment injuries inasmuch as these
12 injuries are separate and distinct from the injuries that are the
13 natural consequence of the underlying predicate offenses committed
14 by defendants.

15 94. Plaintiff and the members of the Class are entitled to
16 recover pursuant to 18 U.S.C. § 1964(c), treble damages in the
17 amount to be determined at the time of trial. Plaintiff and the
18 members of the Class are also entitled to recover attorney's fees
19 and costs of this litigation, as well as reimbursement for any and
20 all damages arising from the activities of these defendants
21 committed in furtherance of violation of RICO.

22 **THIRD CLAIM FOR RELIEF**

23 **VIOLATIONS OF RICO 18 U.S.C. § 1962(c)**

24 **PRIMARY RICO LIABILITY**

25 **(AGAINST ALL DEFENDANTS)**

26 95. Plaintiff repeats and realleges paragraphs 1 through 75,
27 as if fully set forth herein.
28

1 96. By committing the acts as described above, defendants
2 have violated the following statutes that constitute predicate
3 offenses in violation of 18 U.S.C. § 1961(1):

4 (a) Title 18 U.S.C. § 1341: Federal Mail Fraud

5 (b) Title 18 U.S.C. § 1342: Federal Wire Fraud

6 (c) Title 18 U.S.C. § 1951: Federal Extortion

7 (d) Title 18 U.S.C. § 2314: Federal Interstate Transportation
8 of Properties Obtained by Conversion, Fraud, and/or False
9 Pretenses.

10 (e) Title 18 U.S.C. § 2315: Federal Interstate Transportation
11 and Receipt of Monies Obtained by Conversion, Fraud, and/or
12 False Pretenses.

13 (f) Title 18 U.S.C. § 1346: Deprivation of Intangible Right
14 to Honest Services re: Federal Mail and Wire Fraud.

15 97. Defendants, each and everyone of them, have and continue
16 to engage in the aforementioned activities, with the intent to harm
17 plaintiff and other members of the Class in their business and/or
18 property. The extortionate and fraudulent activity engaged in by
19 said defendants affected the business or property of plaintiff and
20 the members of the Class in connection with its business activities
21 that affect federal commerce, resulting in loss of tangible
22 personal property, business opportunities, the inability to recover
23 said properties, as well as injury to property. Such fraudulent
24 activities were practiced by said defendants, on two or more
25 occasions, through a pattern of racketeering activity, commencing
26 on or about July 26, 1995 and continuing up through and including
27 the date of the initiation of these proceedings.
28

1 **A. RICO 18 U.S.C. § 1961(5) Pattern of Racketeering Activity**

2 98. The aforementioned activities constitute actionable
3 attempts to obtain monies and/or properties by false pretenses and
4 by commission of federal mail fraud, federal wire fraud, federal
5 extortion, federal interstate transportation of properties obtained
6 by false pretenses, and federal interstate transportation of
7 properties received through false pretenses, and are therefor
8 indictable under 18 U.S.C. § 1961(1)(B) and as "racketeering
9 activity." The course of conduct engaged in by said defendants
10 constitutes both continuity and relatedness of the racketeering
11 activity, thereby constituting a "pattern of racketeering activity"
12 pursuant to 18 U.S.C. § 1961(5).

13 99. The aforementioned pattern of racketeering activity
14 committed by the defendants is both related and continuous inasmuch
15 as it is designed and/or intended to cause damage and/or injury to
16 the interest in business and/or property of plaintiff and the Class
17 members, and plaintiff and members of the Class reasonably believe
18 that such conduct will continue.

19 **B. RICO Enterprise**

20 100. Defendants were employed by, or in the alternative, were
21 associated with the following association-in-fact RICO enterprises:

22 (a) RICO Enterprise No. 1: American. The managerial and
23 consensual hierarchy of American consists of managing
24 directors, and key executive officers. These individuals
25 exercise managerial conduct and direction over the activities
26 of subordinate employees, and are responsible for policies and
27 procedures of American in connection with the commission of
28 the racketeering activity alleged herein.

1 (b) RICO Enterprise No. 2: RICO Association in Fact
2 Enterprise of American, and Sabre. Managing directors and key
3 executive officers were employed by or associated with the
4 RICO association-in-fact enterprise of American, and Sabre, an
5 enterprise engaged in the activities alleged herein, and that
6 such activities affected federal interstate and/or foreign
7 commerce. These individuals exercise managerial conduct and
8 direction over the activities of subordinate employees of
9 American, and Sabre in connection with the commission of the
10 racketeering activity alleged herein.

11 (c) RICO Enterprise No. 3: ARC. The managerial and
12 consensual hierarchy of ARC consists of key executive officers
13 and other managerial positions. These individuals exercise
14 managerial conduct and direction over the activities of
15 subordinate employees of ARC in connection with the commission
16 of the racketeering activity alleged herein.

17 (d) RICO Enterprise No. 4: RICO Association in Fact
18 Enterprise of American, and American Eagle. Managing
19 directors and key executive officers were employed by or
20 associated with the RICO association-in-fact enterprise of
21 American, and American Eagle, an enterprise engaged in the
22 activities alleged herein, and that such activities affected
23 federal interstate and/or foreign commerce. These individuals
24 exercise managerial conduct and direction over the activities
25 of subordinate employees of American, and American Eagle in
26 connection with the commission of the racketeering activity
27 alleged herein.
28

1 101. In conducting the business and affairs of the alternative
2 RICO enterprises described herein, and in committing acts,
3 omissions, misrepresentations, and breaches referred to herein
4 between approximately July 26, 1995 and up through and including
5 the initiation of these proceedings, these defendants engaged in a
6 pattern of racketeering activity, in violation of 18 U.S.C.
7 §1962(c), inasmuch as said defendants were employed by, or
8 associated with said defendants and were employed by, or associated
9 with said alternative association-in-fact RICO enterprises that
10 were engaged in activities that affected federal interstate and/or
11 foreign commerce, and conducted such respective alternative
12 association-in-fact RICO enterprise affairs through a pattern of
13 racketeering activity.

14 102. As a direct and proximate result of the unlawful conduct
15 of the defendants during the Class period, plaintiff and the
16 members of the Class have been injured in their business and
17 property in that they have been forced to pay monies to American
18 for the illegal Debit Memos issued by American, and are unable to
19 pursue their lawful business.

20 103. Plaintiff and the members of the Class are entitled to
21 recover pursuant to 18 U.S.C. § 1964(c), treble damages in the
22 amount to be determined at the time of trial. Plaintiff and the
23 members of the Class are also entitled to recover attorney's fees
24 and costs of this litigation, as well as reimbursement for any and
25 all damages arising from the activities of these defendants
26 committed in furtherance of violation of RICO.

1 FOURTH CLAIM FOR RELIEF
2 VIOLATION OF RICO 18 U.S.C. §§ 2 AND 1962(a) & (c)
3 [AIDING AND ABETTING LIABILITY]
4 (AGAINST ALL DEFENDANTS)

5 104. Plaintiff repeats and realleges paragraphs 1 through 75
6 and 84 through 103 as if fully set forth herein.

7 105. Defendants facilitated, encouraged, and/or otherwise
8 promoted the execution and perpetuation of the racketeering
9 activities alleged herein by engaging in the following activities:

10 (a) Functioning as repositories for monies and/or properties
11 obtained by extortion, fraud, and/or false pretenses for the
12 purpose of secreting and concealing said monies and/or
13 properties.

14 (b) Managerial hierarchy of defendant's failure and/or
15 refusal to initiate immediate action to formally institute
16 corporate policies against the continuation of the fraudulent
17 activities, as alleged herein.

18 (c) Managerial hierarchy of defendant's failure and/or
19 refusal to initiate immediate action to terminate and/or
20 remove those officers and/or managers who continued to engage
21 in the fraudulent activities, as alleged herein.

22 106. Defendants were aware of the commission of the primary
23 RICO violations, that these defendants committed such violations,
24 and that these defendants substantially assisted in the commission
25 of the primary RICO violations, deriving a benefit thereby.

26 107. As a direct and proximate result of the unlawful conduct
27 of the defendants during the Class period, plaintiff and the
28 members of the Class have been injured in their business and

1 property in that they have been forced to pay monies to American
2 for the illegal Debit Memos issued by American and are unable to
3 pursue their lawful business.

4 108. Plaintiff and the members of the Class are entitled to
5 recover pursuant to 18 U.S.C. § 1964(c), treble damages in the
6 amount to be determined at the time of trial. Plaintiff and the
7 members of the Class are also entitled to recover attorney's fees
8 and costs of this litigation, as well as reimbursement for any and
9 all damages arising from the activities of these defendants
10 committed in furtherance of violation of RICO.

11 **FIFTH CLAIM FOR RELIEF**

12 **VIOLATION OF RICO, 18 U.S.C. §1962(a) & (c)**

13 **[RESPONDEAT SUPERIOR/DERIVATIVE LIABILITY]**

14 **[AGAINST AMERICAN ONLY]**

15 109. Plaintiff repeats and realleges paragraphs 1 through 75
16 and 84 through 103, as if fully set forth herein.

17 **A. RICO Respondeat Superior/Derivative Liability Contentions**

18 110. At all times material herein, Sabre and ARC acted as the
19 agents, servants, and/or representatives of American and engaged in
20 the fraudulent conduct in such representative capacity, and that
21 said defendants derived a benefit thereby.

22 111. American exercised control and/or direction over Sabre
23 and ARC relative to the complained of fraudulent and coercive
24 activities in such representative capacity, and defendants derived
25 a benefit thereby.

26 112. American exercised control and/or direction over Sabre
27 and ARC relative to the complained of fraudulent and coercive
28 activities, with the intent to harm plaintiff and the members of

1 the Class in their respective businesses and/or properties. The
2 fraudulent and coercive activities affected the business and/or
3 property of plaintiff and the members of the Class in connection
4 with their business activities that affect federal interstate
5 commerce, resulting in loss of properties and/or monies. Such
6 fraudulent conduct was practiced by American, on two or more
7 occasions, through a pattern of racketeering activity, commencing
8 on or about July 26, 1995 and continuing up through and including
9 the date of the initiation of these proceedings.

10 113. Sabre and ARC acted as agents for American in connection
11 with the perpetration of the fraudulent activities alleged herein,
12 and therefore are derivatively liable for American's violations of
13 18 U.S.C. § 1962(a) and (c).

14 114. As a direct and proximate result of the unlawful conduct
15 of the defendants during the Class period, plaintiff and the
16 members of the Class have been injured in their business and
17 property in that they have been forced to pay monies to American
18 for the illegal Debit Memos issued by American, and are unable to
19 pursue their lawful business.

20 115. Plaintiff and the members of the Class are entitled to
21 recover pursuant to 18 U.S.C. § 1964(c), treble damages in the
22 amount to be determined at the time of trial. Plaintiff and the
23 members of the Class are also entitled to recover attorney's fees
24 and costs of this litigation, as well as reimbursement for any and
25 all damages arising from the activities of these defendants
26 committed in furtherance of violation of RICO.

SIXTH CLAIM FOR RELIEF
VIOLATION OF RICO 1962 (d)
[CONSPIRACY TO VIOLATE 18 U.S.C. §1962(a) & (c)
RICO CONSPIRATORIAL PINKERTON-SALINAS LIABILITY]
[AGAINST ALL DEFENDANTS]

116. Plaintiff repeats and realleges paragraphs 1 through 75 and 84 through 103, as if fully set forth herein.

117. At all times material herein, American, American Eagle, Sabre and ARC knew of and mutually agreed, throughout the Class period, to engage in the aforementioned racketeering activities in giving rise to RICO §1962(a) and (c) violations, and that such agreement constitutes a violations of RICO §1962(d). American Airlines could not, without the cooperation of American Eagle and its feeder airline network, without the full cooperation of Sabre and its vast computer network, and without the full cooperation and enforcing power of ARC and the 140 airlines it represents, successfully engage in the aforementioned activities. By and through the commission of the fraudulent, coercive and extortionate conduct by said agents, servants, and/or representatives, as aforementioned alleged, said primary defendants derived a benefit thereby.

118. Sabre and ARC acted as agents for American, in connection with the perpetration of the fraudulent activities alleged herein, and therefore are derivatively liable for American's violations RICO 18 U.S.C. § 1962(d).

119. Defendants are named in the substantive RICO 18 U.S.C. §1962(a) and (c) claims. Said defendants were and are constituent members of the RICO 18 U.S.C. § 1962(d) conspiracy claim; said

1 defendants were each "persons" engaged in conduct in furtherance of
2 the RICO 18 U.S.C. § 1962(d) conspiracy; and, each of the
3 defendants were constituent members of the RICO 18 U.S.C. § 1962(d)
4 conspiracy at the time of the commission of the substantive RICO 18
5 U.S.C. § 1962(a) and (c) violations.

6 120. Defendants in this claim for relief are derivatively
7 liable under application of the Pinkerton-Salinas Doctrine for the
8 substantive RICO 18 U.S.C. § 1962(a) and (c) violations committed
9 by the principal defendants herein inasmuch as:

10 (a) Defendants engaged in the fraudulent activities that
11 constitute the RICO pattern of racketeering activity.

12 (b) Defendants are members of the RICO conspiracy designed
13 and intended to violate §1962(a) and (c).

14 (c) Defendants engaged in activities in furtherance of
15 advancing and promoting the RICO conspiracy designed and
16 intended to violate §1962(a) and (c).

17 (d) Defendants were members of the RICO conspiracy at and
18 during the time frame the fraudulent activities that
19 constitute the RICO pattern of racketeering activity were
20 committed.

21 (e) The offense fell within the scope of the unlawful
22 agreement and could reasonably have been foreseen to be a
23 necessary or natural consequence of the unlawful agreement.

24 121. As a direct and proximate result of the unlawful conduct
25 of the defendants during the Class period, plaintiff and the
26 members of the Class have been injured in their business and
27 property in that they have been forced to pay monies to American
28

1 for the illegal Debit Memos issued by American, and have been
2 unable to pursue their lawful business.

3 122. Plaintiff and the members of the Class are entitled to
4 recover pursuant to 18 U.S.C. § 1964(c), treble damages in the
5 amount to be determined at the time of trial. Plaintiff and the
6 members of the Class are also entitled to recover attorney's fees
7 and costs of this litigation, as well as reimbursement for any and
8 all damages arising from the activities of these defendants
9 committed in furtherance of violation of RICO.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, plaintiff demands judgment on behalf of itself and
12 all of the other members of the Class as follows:

13 (a) Determining that this action is a proper class action
14 under Rule 23 of the Federal Rules of Civil Procedure, and
15 that this action be so maintained on behalf of the plaintiff
16 Class defined above;

17 (b) Awarding plaintiff and the Class compensatory damages
18 for defendants' multiple violations of 18 U.S.C. § 1962(a),
19 (c), and (d), which damages shall be trebled pursuant to 18
20 U.S.C § 1964(c);

21 (c) Awarding plaintiff and the Class attorneys' fees,
22 costs, and prejudgment interest;

23 (d) Granting plaintiff and the Class federal injunctive
24 and declaratory relief, pursuant to 28 U.S.C. §§ 2201-2202 and
25 Fed.R.Civ.P. 65;

26 \\
27 \\
28 \\
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1 (e) Granting such other and further relief as the Court
2 deems just and proper.
3

4 Dated: July 26, 1999,

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