

## BANKRUPTCY ALERT

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### **AMERICAN AIRLINES FILES FOR BANKRUPTCY PROTECTION**

American Airlines and American Airlines Express recently filed for bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York. The Debtors' bankruptcy cases are being jointly administered at docket number 11-15463-SHL. If you do business with either of these entities, you should be aware of certain matters relating to the bankruptcy cases.

The Debtors filed several motions at the commencement of these bankruptcy cases, and the Court has since entered interim orders regarding these motions. The relevant interim orders and related motions are discussed below.

- The Court entered an interim order granting the Debtors authority to assume certain agreements with various parties, including other airlines. These agreements include the Interline Agreements, the Clearinghouse Agreements, the Billing and Settlement Plan Contracts, the **oneworld** Agreements and the Alliance Agreements. In order to assume any of these agreements, the Debtors must cure any defaults under such agreement. The Order also granted the Debtors authority to honor certain prepetition obligations, and to continue honoring, performing and exercising the Debtors' respective rights and obligations in accordance with the Connection Carrier Agreement, the Carrier Services Agreements, the GDS Participation Carrier Agreements, the Travel Agency Agreements, the Booking and Online Fulfillment Agreements, the Cargo Agency Agreements, the ATPCO Agreement, the Deeds of Undertaking, and other related agreements. The Court also modified the automatic stay to allow counterparties to these agreements to participate in routine billings and settlements. This order, and a list of all relevant agreements, can be found at number 69 of the docket.
- The Court entered an interim order granting the Debtors authority to pay prepetition obligations of critical vendors. These are entities that the Debtors deem to be essential to maintaining the going concern value of the Debtors' enterprise. Pursuant to this interim order, the Debtors are permitted to pay the prepetition claims of these critical vendors in exchange for those vendors agreeing to continue to do business with the Debtors. The categories of critical vendors that the Debtors identify include providers of flight crew accommodations, such as hotels. The Debtors included a form agreement in its motion. However, the Debtors also obtained authority through the Interim Order to pay critical vendors in exchange for continued supply of critical goods and supplies, even if not on the customary trade terms.
- The Court entered an interim order granting the Debtors authority to, among other things, (i) continue using its existing cash management system; and (ii) honor certain prepetition obligations relating to the use thereof. In doing so, the Court granted the Debtors authority to, among other things, settle with other participants of the Universal Air Travel Plan, including other airlines, for goods and services provided by and to the Debtors.
- The Court entered an interim order granting the Debtors authority to pay and honor prepetition obligations to customers and to otherwise continue customer programs and practices. In doing so, the Court granted the Debtors authority to, among other things, honor all unused tickets for airline travel that were purchased prepetition, and continue their relationship with those third parties who package the Debtors' air transportation with other travel components, including hotel accommodations. In addition, the Court granted the Debtors authority to honor all obligations due under the American Airlines Vacations agreements that the Debtors have with various parties, including hotels.

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In addition, on November 30, 2011, the Court entered an order granting the Debtors an extension until January 27, 2012 to file certain documents, including a schedule of executory contracts and unexpired leases. Any party that believes it has an unexpired lease or executory contract with any of the Debtors should review the schedules once filed to ensure that the lease or executory contract at issue is included on the Debtors' schedule.

Should you be a party to an executory contract or unexpired lease with a Debtor, you should be aware that, pursuant to Section 365 of the Bankruptcy Code, a debtor may assume or reject any executory contract or unexpired lease within a specified time frame.

Section 365(d)(2) states that the debtor must assume or reject an executory contract at any time prior to the confirmation of a plan. However, any party to such contract may move the Court to compel the debtor to assume or reject the contract within a specified period of time.

Section 365(d)(4)(A) states that a debtor must assume or reject an unexpired lease of nonresidential real property by the earlier of (i) 120 days after the date that the Debtors filed their bankruptcy petition or (ii) the date that an order confirming a plan is entered. The Court may extend this deadline for 90 days, provided that the debtor's request to extend the deadline is made prior to the expiration of the 120-day period.

As of today's date, the Debtors have not made a request to extend this deadline. If a debtor has not assumed or rejected an unexpired lease of nonresidential real property by the deadline, then the lease is deemed rejected and the debtor must immediately surrender the property to the lessor.

If the Debtors ultimately wish to assume a certain executory contract or unexpired lease, it must first cure, or provide adequate assurance that it will promptly cure, any default.

*The Bankruptcy Alert is intended to keep readers current on matters affecting bankruptcy and is not intended to be legal advice. If you have any questions or would like a copy of any of the above pleadings, please contact or Kitt Turner at 215.851.8431 or kturner@eckertseamans.com, Ron Gellert at 215.851.8506 or rgellert@eckertseamans.com, Brya Keilson at 215.851.8430 or bkeilson@eckertseamans, or any other Eckert attorneys with whom you have been working.*

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