

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

THOMAS BALLARD, on behalf of himself and)
all others similarly situated,)
)
Plaintiff,)
)
v.)
)
AMERICAN AIRLINES, INC., a Delaware corporation,)
)
Defendant.)

~~XXXXXXXXXXXXXXXXXXXX~~
CALENDAR/ROOM 05
TIME 00:00
~~XXXXXXXXXXXXXXXXXXXX~~

Case No.

**JURY DEMAND
REQUESTED**

CLASS ACTION COMPLAINT

Now comes the Plaintiff, THOMAS BALLARD, (hereinafter “BALLARD”), on behalf of himself and all others similarly situated, by and through his attorneys, Larry D. Drury of Larry D. Drury, Ltd., and complains of the Defendant, AMERICAN AIRLINES, INC., (hereinafter “AA”), a Delaware corporation, as follows:

PROCTER & KENDRICK
2017 FEB 28 AM 10:44
FILED-1

NATURE OF THE CASE

1. Plaintiff brings this class action lawsuit, on behalf of himself and all other similarly situated persons throughout the United States who, from 2014 to the date of judgment herein, were AA mechanic “Flex Employees” who were provided, as a hiring incentive, a two year flex progression of “top of scale” benefits plan.

2. Plaintiff resides in Chicago, Cook County, Illinois, and is a citizen of the State of Illinois.

3. Defendant AA is a Delaware corporation that operates as a commercial airline whose corporate headquarters is located at 4255 Amon Carter Boulevard, Fort Worth, TX 76155.

4. This Court has jurisdiction over this matter pursuant to 735 ILCS 5/2-209, in that

the Defendant transacts business and committed acts relating to the matters complained of herein in the State of Illinois. This Court also has jurisdiction to declare the rights and obligations of the parties under 735 ILCS 5/2-701. Finally, Plaintiff is a citizen of the State of Illinois and submits to the jurisdiction of this State.

5. Venue is proper in this Court pursuant to 735 ILCS 5/2-101, 735 ILCS 5/2-102 and 815 ILCS 505/10a(b), and the Defendant is a Delaware corporation doing business in this county and state.

GENERAL ALLEGATIONS

6. Prior to his employment with AA, Plaintiff was a 24 year experienced Aviation Maintenance Technician employed at an hourly rate in excess of \$30.00 per hour.

7. Plaintiff investigated employment with AA upon learning that they were offering a hiring incentive of a two year flex top-of-scale pay program.

8. On or about March 24, 2015 Plaintiff was interviewed by a manager and lead mechanic of AA for the position of an Aviation Maintenance Technician (mechanic), based upon a hiring incentive of a two year flex top-of-scale pay program which offer was discussed at length during the interview. The two year flex program meant that Plaintiff would begin his employment with AA with credit for three years of employment and would achieve the five year top-of-scale hourly wage of \$48.00 in two years. Plaintiff was advised that he would have to join the labor union representing AA employees, but at no time during the hiring process did he meet with a union representative or was he provided with union documentation. During the interview process, the manager and lead mechanic asked Plaintiff to leave the room and upon being asked to return, Plaintiff was immediately presented with a "...conditional offer of

employment...” with contingencies. Thereafter, Plaintiff received an undated letter by mail setting forth the same “...conditional offer of employment...” with the same contingencies. A copy of the March 24, 2015 letter and the undated, mailed letter are attached hereto as Group Exhibit A.

9. Although Plaintiff, by accepting a position with AA would take a cut in pay from his present position, Plaintiff elected to satisfy the contingencies set forth in Group Exhibit A and accept employment at AA, based on the benefit of the two year flex program aforesaid, which was separate from and independent of the March 24, 2015 letter that would allow him to achieve top-scale-pay in two years’ time.

10. On information and belief, the incentive two year flex program under which Plaintiff was hired had already been in place for approximately one year at the time Plaintiff was hired by AA and there were hundreds of employees hired under the same two year flex incentive program.

11. Plaintiff began his employment with AA in June, 2015, at a starting wage of \$25.70 per hour.

12. In approximately August, 2015, two months after Plaintiff left a secure position and accepted a position at AA, Plaintiff was advised that AA informed the union they wanted to rescind the two year flex pay incentive program under which Plaintiff had just been hired. On information and belief, AA knew, at the time it hired Plaintiff and the Class, that it intended to back out of, and not honor the two year flex pay incentive program to which it agreed when hiring Plaintiff and the Class.

13. At the time AA wanted to back out of the two year flex pay incentive program, it was the Union’s position that since it only affected 5% to 6% of the employees, it was not an

issue it was willing to pursue on behalf of its members. On information and belief, a meeting at AA in approximately August, 2015 between union members and management, became confrontational when one employee in particular, Jason Lapotta, who was affected by AA's breach and was voicing his concerns, was physically attacked by the union president.

14. At this time, the collective bargaining agreement between the Union and AA is in negotiation and no agreement has been reached, however, on or about August 5, 2015, AA entered into a Letter of Agreement with the TWU/IAM Mechanic Association and TWU/IAM Stores Association, attached hereto as Exhibit B, whereby AA has breached its agreement with the Plaintiff and the Class as to the agreed upon two year flex program. See Exhibit B, page 3, paragraph C and "Attachment A" at page 4, "Mechanics".

15. On information and belief, AA's breach of its hiring incentive of a two year flex program left employees who completed their two years prior to August 4, 2015, able to maintain the benefit under which they were hired, and for employees who had not completed their two years prior to August 4, 2015, it would now take 8 years to achieve the top-scale-pay which was promised to Plaintiff and the Class by AA when they were hired.

16. Many AA employees who were hired under the two year flex program left secure previous employment, some sold their homes and relocated their families, and some are living away from their families, in order to take advantage of the two year flex incentive program offered by AA.

17. AA never had any intention of honoring its hiring agreement with Plaintiff and the Class for the two year flex incentive program. AA knew or should have known when hiring the Plaintiff, that they intended to advise the Union that they wanted to rescind the two year flex program. Further, on information and belief, AA's Evita Rodriguez, Managing Director, who

oversees AA employees who were affected by the breach, had a conversation with Union Steward, Brian Friedman which was overheard by other employees, wherein she stated that she had ten applications for every one of the two year flex employees and anyone who didn't like it could quit.

18. It was of no benefit to Plaintiff to accept employment with AA, wherein he left a secure position, took a cut in pay, and where he ultimately sustained a serious injury as a result of his employment, without the benefit of the two year flex incentive program.

CLASS ACTION ALLEGATIONS

19. Pursuant to 735 ILCS 5/2-801, Plaintiff brings this class action lawsuit, on behalf of himself and all others similarly situated persons throughout the United States who, from 2014 to the date of judgment herein, were AA mechanic "Flex Employees" who were provided, as a hiring incentive, a two year flex progression of "top of scale" benefits plan.

20. The Class is comprised of hundreds of class members, making the joinder of such cases impracticable.

21. Disposition of the claims as a class action will provide substantial benefits to the parties and the class.

22. The rights of each member of the Class were violated in a similar fashion based upon the Defendant's uniform actions.

23. Questions of law and fact common to the Class predominate over questions that may affect individual members, including:

(A) Whether Defendant breached the two year flex plan agreement under which it hired Plaintiff and the Class;

(B) Whether Plaintiff and the Class are entitled to relief under Equitable Estoppel due

to Defendant's breach of the two year flex plan agreement under which it hired Plaintiff and the Class;

- (C) Whether Plaintiff and the Class are entitled to relief under Promissory Estoppel due to Defendant's breach of the two year flex plan agreement under which it hired Plaintiff and the Class;
 - (D) Whether the Defendant committed fraud by hiring Plaintiff and the Class under the two year flex incentive plan which Defendant breached;
 - (E) Whether AA was or will be unjustly enriched by their breach of the two year flex program under which it hired Plaintiff and the Class;
 - (F) Whether the Defendant's actions caused Plaintiff and the Class to suffer damages.
24. Plaintiff will fairly and adequately represent and protect the interests of the Class

in that he has no interest that is antagonistic to or that irreconcilably conflicts with those of other members of the Class.

25. Plaintiff has retained counsel competent and experienced in the prosecution of class action litigation.

26. A class action is superior to all other available methods for the fair and efficient adjudication of Plaintiff's and other Class members' claims.

27. Certification of a class action to resolve this matter will reduce the possibility of repetitious litigation involving, potentially, thousands of class members.

28. Based upon the facts and circumstances herein, the class is identifiable, ascertainable and manageable.

COUNT I

BREACH OF ORAL CONTRACT

29. Plaintiff realleges and incorporates paragraphs 1 through 28 above as if fully set forth in this Count I.

30. Plaintiff and the Class and AA entered into uniform oral contracts when they were hired by AA under the two year flex incentive program which would allow them to achieve top-of-scale pay after two years of employment.

31. AA breached their contract with the Plaintiff and the Class by taking away the benefits afforded by the two year flex pay incentive program, after hiring Plaintiff and the Class, all to the Defendant's benefit and profit and the Plaintiff's and the Class' detriment.

32. As a direct result of AA's intentional and wrongful breach of their contracts, Plaintiff and the Class have suffered damages, including but not limited to loss of wages and top-of-scale employment benefits.

COUNT II

EQUITABLE ESTOPPEL

33. Plaintiff realleges and incorporates paragraphs 1 through 28 above as if fully set forth in this Count II.

34. Defendant misrepresented and/or concealed the material fact that it intended to breach the two year flex incentive program under which it hired Plaintiff and the Class.

35. Defendant knew at the time of their representations, that they were untrue.

36. The Plaintiff and the Class did not know that Defendant's representations were untrue at the time they were hired.

37. The Defendant intended or reasonably expected the Plaintiff and the Class to act upon their representations.

38. As a result of Defendant's misrepresentation and/or concealment, Defendant should be estopped from not fulfilling the terms of its agreement with Plaintiff and the Class and eliminating same.

39. Plaintiff and the Class relied on the presentations made by Defendant in good faith and to their detriment.

40. Plaintiff and the Class would be prejudiced by their reliance on Defendant's representations if the Defendant was permitted to deny same.

COUNT III

PROMISSORY ESTOPPEL

41. Plaintiff realleges and incorporates paragraphs 1 through 28 above as if fully set forth in this Count III.

42. AA, at the time of hiring the Plaintiff and the Class knew that they were going to back out of two year flex pay program.

43. There was a promise made by AA through a hiring incentive of a two year flex program under which they hired Plaintiff and the Class.

44. Plaintiff and the Class reasonably and justifiably relied on Defendant's promise of a two year flex pay program which would allow them to reach top-scale-pay within two years of the date of hiring.

45. The promise to be hired as a two year flex employee was made and Defendant should have reasonably expected and foreseen that Plaintiff and the Class would act on said promise. As a result of Defendant's promise Plaintiff left a secure position where he was making more money. Plaintiff cannot now achieve the top-of-scale pay promised after two years.

46. Plaintiff and the Class relied on the promise by the Defendant to their detriment,

damage and injury.

COUNT IV

FRAUD

47. Plaintiff realleges and incorporates paragraphs 1 through 28 above as if fully set forth in this Count IV.

48. Defendants misrepresented that upon their hiring, Plaintiff and the Class were entitled to receive top-of-scale pay within two years under the two year flex pay incentive program, only to have Defendant take away the benefits afforded by the two year flex pay incentive program, after hiring Plaintiff and the Class, all to the Defendant's benefit and profit and the Plaintiff's and the Class' detriment.

49. Defendant knew that it misrepresented the two year flex incentive program under which Plaintiff and the Class accepted employment.

50. Defendant intended to deceive and defraud the Plaintiff and the Class by their acts and conduct alleged herein.

51. Plaintiff and the Class relied upon Defendants' fraud, deception, misrepresentations and omissions to their damage, detriment, loss and injury.

COUNT V

UNJUST ENRICHMENT

52. Plaintiff realleges and incorporates paragraphs 1 through 28 above as if fully set forth in this Count V.

53. Defendant, to the detriment of the Plaintiff and the Class, have benefitted and have been unjustly enriched where they breached the two year flex program under which it hired

Plaintiff and the Class.

54. Defendant has knowledge of these benefits, and has voluntarily accepted, retained and diverted said benefits by breaching the two year flex program under which it hired Plaintiff and the Class.

55. The circumstances described herein are such that it would be inequitable, unconscionable, unfair and unjust for Defendant to accept, retain and/or divert these ill-gotten benefits.

56. As a result of Defendant's unjust enrichment, Plaintiff and the Class have and will suffer damages.

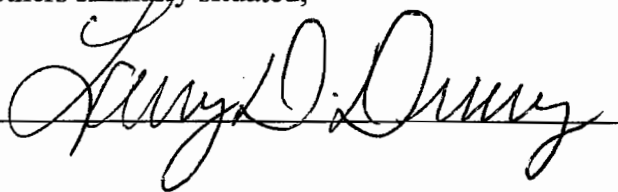
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, prays that the Court enter an Order:

- A. Certifying this matter as a class action with Plaintiff as Class Representative, and designating Larry D. Drury, Ltd. as lead class counsel;
- B. Finding that Defendant breached their contracts with Plaintiff and the Class by breaching the two year flex program under which it hired Plaintiff and the Class;
- C. Finding that the Plaintiff and the Class are entitled to relief under Equitable Estoppel due to Defendant's breach of the two year flex plan agreement under which it hired Plaintiff and the Class;
- D. Finding that the Plaintiff and the Class are entitled to relief under Promissory Estoppel due to Defendant's breach of the two year flex plan agreement under which it hired Plaintiff and the Class;
- E. Finding that the Defendant committed fraud by hiring Plaintiff and the Class under the two year flex incentive plan which it then breached;
- F. Finding that Defendant was unjustly enriched by its unlawful conduct and disgorge their related revenue and profits;

- G. Finding that Plaintiff and the Class incurred damages including, but not limited to loss of wages and top-of-scale employment benefits;
- H. Requiring that Defendant pay actual, compensatory and punitive damages for its conduct as alleged herein;
- I. Awarding reasonable attorney's fees and costs; and
- J. Grant such other relief as this Court deems appropriate.

THOMAS BALLARD, on behalf of himself and all others similarly situated,

By: 

Larry D. Drury
Larry D. Drury, Ltd.
100 North LaSalle Street, Suite 2200
Chicago, Illinois 60602
(312) 346-7950
(312) 346-5777 (fax)
Attorney No. 22873
ldd@larrydrury.com