

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

Plaintiff,

v.

NATIONAL MEDIATION BOARD,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 4:12-CV-00276-Y

**ORDER GRANTING MOTION FOR TEMPORARY RESTRAINING ORDER**

Pending before the Court is the Motion for Temporary Restraining Order (doc. 26) filed by plaintiff American Airlines, Inc. (“American”). After review of the motion, the Court concludes that it should be and hereby is GRANTED.

American’s motion requests that defendant National Mediation Board (“NMB” or “the Board”) be restrained from holding a union representation election (the “Representation Election”) regarding American’s passenger-service employees commencing on June 14, 2012. In a letter dated June 6, the NMB scheduled the Representation Election process to commence on June 14.

American's Motion for a Temporary Restraining Order, brief, and the evidence in support thereof have shown that a temporary restraining order should be issued. American appears likely to succeed on the merits of its claims, and thus immediate, substantial and irreparable damage, injury and loss will result to American before a hearing on its request for a preliminary or permanent injunction can be had. The Court makes the following findings in support of this order:

**A. Substantial Likelihood of Success on the Merits**

The Court holds that there is a substantial likelihood that American will prevail on its position--that the Board's action in ordering the Representation Election without a showing of interest from at least fifty percent of the eligible employees--is in violation of section 1003 of the Federal Aviation Administration Modernization and Reform Act of 2012, Pub. L. No. 112-95, § 1003, 126 Stat. 11, 147 (2012) (to be codified at 45 U.S.C. § 152 (12)).

**B. Substantial Threat of Injury to American if Relief Denied**

The Court concludes that because American alleges the NMB directed an election in violation of the RLA's statutory requirements, irreparable injury is presumed. In any event, the Court finds that American has suffered irreparable injury because of the NMB's directing an election for American's passenger-service employees without first determining that the fifty-percent showing-of-interest requirement had been met. The following events are scheduled to occur as part of the Representation Election: notice and sample instructions on voting will be distributed to the passenger-service employees on June 14; American will be required by the NMB to post a notice of the election on its "bulletin boards and at all locations where other notices to employees usually are posted" (American's App. [doc. 28] 25); balloting will commence June 21, and end August 2; and voting will be tallied at 2:00 p.m. Eastern Time on August 2 at the NMB's office. American will be irreparably injured by damage to its reputation among its employees and loss of marketplace goodwill likely to result from a contentious election campaign if the Representation Election is not stayed and enjoined.

**C. Threatened Injury to American Outweighs any Harm if Injunction Granted.**

The Court concludes that the injury to American if the requested order is not issued outweighs any harm that might occur to the NMB as a result of restraining the election until the Court can determine the issues raised by American's motion for preliminary injunction. The temporary restraining

order will merely preserve the status quo until the Court can determine whether the NMB exceeded its authority in ordering the election.

**D. Granting Injunction Will Not Disserve the Public Interest.**

Additionally, the Court concludes that the granting a temporary restraining order will not disserve the public interest; indeed, ensuring that the NMB acted within its delegated authority will serve the public interest.

It is, therefore, ORDERED, that defendant NMB, its agents, members, representatives, and employees, and all persons acting in concert with the NMB, or by and through its orders are hereby TEMPORARILY RESTRAINED, pending a hearing on American's request for preliminary injunction, as follows:

1) All proceedings related to the Representation Election of American's passenger-service employees ordered by the NMB in its June 6, 2012 determination, (American's App. [doc. 28] 21-25), are ENJOINED pending a ruling on American's request for preliminary injunction. Thus, the following events and requirements are enjoined:

- a). the distribution of the notice and sample instructions;
- b). the requirement for American to post notice of the Representation Election on its employee bulletin boards and at all locations where other notices to employees are usually posted;
- c). the mailing of voting instructions;
- d). the opening of the voting period on June 21, 2012;
- e). any act of conducting the election;
- f). the August 2, 2012 tally of any votes; and

g). any other action related to conducting the Representation Election, including without limitation, requiring American to produce or turnover any mailing labels or other information related to the passenger-service employees.

2) Service of this order shall be made under the provisions of Federal Rule of Civil Procedure 5.

3) That the parties shall appear before this Court on Thursday, June 21, 2012, at 9:45 a.m., for a hearing on American's Motion for a Preliminary Injunction.

4) The Court further finds that American shall post security for this order in the amount of \$10,000 within forty-eight hours of notice of this order or the order will be lifted.

SIGNED June 13, 2012, at 2:15 p.m.

  
\_\_\_\_\_  
TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE