

10/06

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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**SHERRY COOPER, CYNTHIA JONES,
PAMELA JACKSON, PAIGE VERDUCCI,
WILSON AVILES, KRISTINE
WOLANSKE, CATHY WHITTINGTON, on
behalf of themselves and all others similarly
situated, and William O’Driscoll as
representative of THE INTERNATIONAL
ASSOCIATION OF MACHINISTS AND
AEROSPACE WORKERS,**

**ORDER
02-CV-3477 (NG) (KAM)**

Plaintiffs,

-against-

**TWA AIRLINES, LLC, AMERICAN
AIRLINES, INC., and THE ASSOCIATION
OF PROFESSIONAL FLIGHT
ATTENDANTS, John Ward as
Representative,**

Defendants.

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GERSHON, United States District Judge:

Counsel for the plaintiff class, James P. Allen, Sr., has filed a one-page motion, unsupported by an affidavit and not served on the named plaintiffs, who include the class representatives, seeking to be relieved as counsel based upon his ill health. Mr. Allen makes the conclusory statement that there is no attorney at his firm, which is counsel of record, who is “qualified to assume his duties.”

The motion to withdraw as counsel must be accompanied by an affidavit and must be served on plaintiffs, with notice that they have 30 days to respond. Of course, if plaintiffs agree to a substitution of counsel, they may submit a stipulation to that effect, accompanied by papers from proposed new counsel establishing their ability and competence to represent the class. In addition to serving the motion on plaintiffs, counsel is also directed to serve a copy of this order on each

named plaintiff.

Although I sympathize with Mr. Allen's circumstances, there is no apparent reason why another attorney at his firm cannot effectuate this order. In light of the significance of allowing withdrawal of counsel for a certified class, the court must be scrupulous in assuring that plaintiffs are aware of the application and its implications. Counsel must advise plaintiffs that they cannot proceed as a class without counsel.

In sum, the motion to withdraw as attorney for the plaintiff class is denied without prejudice to renewal within three weeks upon filing an affidavit and a showing that service has been made on the plaintiffs.

SO ORDERED.

/s/ Nina Gershon
NINA GERSHON
United States District Judge

Dated: October 5, 2006
Brooklyn, New York