

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

KELLY B. KIVILAAN,)	
Individually and on behalf of all)	
others similarly situated,)	
)	
Plaintiff,)	
)	Case No. 3:04-0814
v.)	
)	Judge Nixon
AMERICAN AIRLINES, INC.,)	Magistrate Judge Bryant
)	
Defendant.)	

PLAINTIFF’S MOTION FOR CLASS CERTIFICATION

Plaintiff Kelly B. Kivilaan, on behalf of herself and all others similarly situated, moves this Court for an order certifying this action as a class action under Rule 23 of the Federal Rules of Civil Procedure and Local Civil Rule 23.01 of this Court. Plaintiff incorporates, by reference, their Memorandum of Law in Support of Plaintiffs' Motion for Class Certification as if fully set forth herein. As grounds in support of this motion, Plaintiff states:

1. The class that the Plaintiff seeks to represent in this action is defined as:

All female employees nationwide who were covered, or have been covered, by Defendant’s health insurance plans at any time between February 18, 2003 and the date of trial in this Action who used or sought coverage for prescription contraceptives not covered by the plans.

2. Fed. R. Civ. P. 23(c)(1) provides that a court should determine, as soon as practicable after the commencement of an action, whether the action is to be maintained as a class action.

3. Plaintiff’s Complaint alleges all of the prerequisites of Rule 23(a). The proposed Class is sufficiently numerous that joinder of all putative members is impracticable. Numerous questions of law and fact common to the Class members exist. Plaintiff’s claims are typical of

those of the Class members as all claims arise from the same wrongful conduct by the same Defendants. Further, Plaintiff does not have any interests adverse to those of the class and have retained competent counsel experienced in complex litigation.

4. Plaintiff has satisfied the requirements for Rule 23(b)(2), seeking injunctive and other equitable relief against Defendant, as American Airlines has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the class as a whole.

WHEREFORE, Plaintiff hereby requests that this Court issue an order: certifying a class (as defined above) under Rule 23(b)(2) seeking injunctive and other equitable relief against Defendant American Airlines; designating Kelly B. Kivilaan as class representative, and; appointing Plaintiff's counsel as class counsel. A proposed Order is attached.

Date: November 16, 2006

Respectfully submitted,

/s/ Victoria S. Nugent

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Counsel for Plaintiff

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Case No. 3:04-0814
Judge Nixon
Magistrate Judge Bryant

ORDER

Upon consideration of Plaintiff's Motion for Class Certification and Memorandum in Support thereof, it is hereby

ORDERED that the following class is certified under Fed. R. Civ. P. 23(b)(2) for purposes of this Action:

All female employees nationwide who were covered, or have been covered, by Defendant's health insurance plans at any time between February 18, 2003 and the date of trial in this Action who used or sought coverage for prescription contraceptives not covered by the plans.

ORDERED that Plaintiff Kelly B. Kivilaan shall serve as Class Representative.

ORDERED that Plaintiff's counsel shall serve as Class Counsel.

Date: _____

By: _____
John T. Nixon, United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2006, I served the foregoing Motion for Class Certification through the Court's CMECF system upon:

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/s/ Victoria S. Nugent
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Dated: November 16, 2006