

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

DAVID SAMBRANO, et al., individually,	§	
and on behalf of all others similarly situated,	§	
	§	
Plaintiffs,	§	Civil Action No.
	§	
v.	§	4:21-CV-01074-P
	§	
UNITED AIRLINES, INC.,	§	
	§	
Defendant.	§	

JOINT MOTION TO STAY PROCEEDINGS PENDING APPEAL

Plaintiffs and Defendant United Airlines, Inc. respectfully move this Court for an order staying all proceedings pending appellate review of the Court’s order granting in part and denying in part Plaintiffs’ motion for class certification. The parties agree that until the question of class certification is fully and finally resolved, pressing ahead with litigation of the merits phase of this case would risk wasting time and resources, both for the parties and this Court.

ARGUMENT

This Court has the power to stay proceedings pending appeal as “the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *see also* Fed.R.Civ.P 23(f) (allowing for a stay of proceedings if “the district judge or the court of appeals so orders). In determining whether a stay is proper, courts consider the interests of the parties and potential conservation of judicial resources. *Landis*, 299 U.S. at 254–55. Specifically, the Court should consider: (1) the movant’s likelihood of success on the merits; (2) the irreparable harm to the movant if the stay is not granted;

(3) the substantial harm to other parties if the stay is granted; and (4) the public interests implicated in granting or denying the stay. *See In re First S. Sav. Ass'n*, 820 F.2d 700, 709 (5th Cir. 1987).

Those factors support a stay in this case. On June 21, 2024, the Court issued its order granting in part and denying in part Plaintiffs' motion for class certification. Dkt. 263. On July 5, 2024, Plaintiffs and Defendant filed cross-petitions under Rule 23(f), asking the Fifth Circuit Court of Appeals to review the Court's Order. The parties do not, of course, agree on the proper outcome of such a review, but they do agree that appellate review is warranted for the reasons outlined in their respective petitions.

The outcome of that appeal will significantly impact future proceedings in this matter and its ultimate resolution. That is true regardless of which side prevails (in whole or in part). And given that both sides are seeking review, there is at least a reasonable chance that the Fifth Circuit will – assuming it accepts the cross-petitions – modify the scope of the certified class or otherwise issue a ruling that determines the direction of this case.

As a result, both sides would risk wasting resources and incurring related harms if required to press ahead with the merits phase prior to an appellate decision. The scope of discovery could be drastically different depending on the details of the Fifth Circuit's ruling. It would be more efficient for the parties to proceed with discovery only after there is a final answer on whether a class is proper and if so, the scope of such a class. Otherwise, they very well may incur significant expenses and burdens associated with discovery and motions practice that ultimately prove to be unnecessary. *See, e.g., Earl v. Boeing Co.*, 21 F.4th 895, 899 (5th Cir. 2021). Likewise – and perhaps more importantly – any further settlement efforts are unlikely to be fruitful given the parties' continued divergent views of the class question. Mediation is much more likely to be productive once that issue is fully resolved.

Finally, the public interest – and in particular conservation of judicial resources – will be served by a stay. Further litigation in this forum while the appeal is pending could be a substantial burden on this Court’s limited resources. That burden may be avoided, depending on the outcome of the appeal.

For these reasons, Plaintiffs and Defendant jointly and respectfully request that the Court stay proceedings in this case until the Rule 23(f) appellate process is complete.

Dated: July 8, 2024

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Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

On July 8, 2024, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Russell D. Cawyer

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