

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO.: 3:14-CV-577-RJC-DCK**

EDDIE BOLLMEIER, BILL TRACEY )  
and, SIMON PARROTT, )

Plaintiffs, )

v. )

ROBERT FREAR, COURTNEY )  
BORMAN, RONALD NELSON, PAUL )  
DIORIO and PAUL MUSIC, )

Defendants. )

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COURTNEY BORMAN, )

Third-Party Plaintiff, )

v. )

US AIRLINE PILOTS ASSOCIATION, )

Third-Party Defendant. )

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GARY HUMMEL, STEPHEN )  
BRADFORD, ROB STREBLE, STEVE )  
SMYSER, JOHN TAYLOR, JOE )  
STEIN, PETE DUGSTAD, JAY )  
MILKEY and STEPHEN NATHAN )

Third-Party Plaintiffs )

v. )

US AIRLINE PILOTS ASSOCIATION, )

Third-Party Defendant.     )

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**RULE 12(b)(6) MOTIONS TO DISMISS THIRD-PARTY  
COMPLAINTS [DOCS. 100 & 101]**

Plaintiffs Eddie Bollmeier, Bill Tracy, and Simon Parrott (Collectively LMRDA Plaintiffs), in derivative capacity on behalf of US Airline Pilots Association (USAPA), by and through their attorneys, submit their Rule 12(b)(6) Motions to Dismiss the Third-Party Complaint filed by Defendant Courtney Borman's [Doc. 100] and the Third-Party Complaint filed by Defendants Gary Hummel, Stephen Bradford, Rob Streble, Steve Smyser, John Taylor, Joe Stein, Pete Dugstad, Jay Milkey and Stephen Nathan [Doc. 101]. This Motion is supported by the separate Memorandum in Support, and proposed Order, filed contemporaneously herewith.

Defendants, former and current USAPA officers and current and former members of the Board of Pilot Representatives (BPR), filed Third-Party claims seeking contract indemnity from USAPA for the LMRDA § 501(b) claims brought by Plaintiffs in a derivative capacity on behalf of USAPA. As explained in the Memorandum filed contemporaneously herewith, such claims must fail as matters of law because: (1) LMRDA claims such as this are handled in a manner analogous to shareholder derivative lawsuits; and (2) in such matters, the corporate entity cannot indemnify its officers for liability to the entity. The Court, therefore, should dismiss the Third-Party Complaints [Docs. 100 & 101] with prejudice and without leave to amend.

Dated this 20<sup>th</sup> day of January, 2016.

Respectfully submitted,

*/s/ Kelly J. Flood*

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Marty Harper, admitted *pro hac vice*

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing Rule 12(b)(6) Motions to Dismiss Third-Party Complaints [Docs. 100 & 101] with the Clerk of the court using the CM/ECF system and that notification will be sent via that system to:

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This 20<sup>th</sup> day of January, 2016.

/s/ Kelly J. Flood