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December 2, 2021

VIA ECF

The Honorable Alison J. Nathan
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007
NathanNYSDChambers@nysd.uscourts.gov

Re: *In re Avianca Holdings S.A. et al.*, Case Nos. 1:21-cv-10004, 1:21-cv-10118

Dear Judge Nathan:

We write on behalf of Appellees in the above-captioned proceedings (the “Confirmation Order Appeals”) to request that the Court deem the Confirmation Order Appeals related, consolidate the Confirmation Order Appeals, and set a single briefing schedule for them.

On November 2, 2021, the Honorable Martin Glenn of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) entered the *Order (I) Confirming Further Modified Joint Chapter 11 Plan of Avianca Holdings S.A. and its Affiliated Debtors and (II) Granting Related Relief* [Bankruptcy ECF No. 2300], in Case No. 20-11133 (MG) (the “Confirmation Order”). Yesterday, Appellees consummated the confirmed plan of reorganization by, among other things, issuing equity in a newly formed holding company to certain creditors and entering into new and amended credit facilities. Accordingly, the plan of

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reorganization has gone effective, and the Appellees intend to file a motion to dismiss the Confirmation Order Appeals on equitable mootness grounds.

Two appeals of the Confirmation Order have been filed. On November 11, 2021, Burlingame Investment Partners, LP and certain affiliated IRAs¹ (collectively, the “Burlingame Appellants”) filed a notice of appeal of the Confirmation Order in the Bankruptcy Court [Bankruptcy ECF No. 2334] (the “Burlingame Appeal”), and on November 16, 2021, Udi Baruch Guindi, David Baruch, Soshana Baruch, Habib Mann, Golan LP, and Isaak Baruch (collectively, the “Baruch Appellants”) filed a notice of appeal of the Confirmation Order in the Bankruptcy Court [Bankruptcy ECF No. 2349] (the “Baruch Appeal”). Each of the Baruch and Burlingame appellants was a holder of the 9% senior secured notes (the “2023 Notes”) issued by Appellees’ predecessors in interest, and each objected to the Confirmation Order on similar bases.

On November 29, 2021 the Baruch Appeal was referred to Your Honor as “possibly related” to the Burlingame Appeal. The next day, the Baruch Appellants filed a Related Case Statement acknowledging that the Baruch Appeal and the Burlingame Appeal arise from the same order entered by the Bankruptcy Court [ECF No. 3, Case No. 1:21-cv-10118].² On November 29, 2021, Your Honor set a briefing schedule concerning the Burlingame Appeal.

¹ The IRA appellants include Blake W. Kim Rollover IRA, William B. Meier IRA, David M. Kang SEP IRA, and Im Jo Degerman Rollover IRA. The Burlingame Appellants’ designation of the record [Bankruptcy ECF No. 2368] indicates that Mr. Kim brings his appeal *pro se*, while the other Burlingame Appellants are appearing through counsel.

² Both the Burlingame Appellants and the Baruch Appellants have submitted designations of the record and statements of issues on appeal. [Bankruptcy ECF Nos. 2368, 2373].

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Although no briefing has yet been set on the Baruch Appeal, the Baruch Appellants filed their opening brief [ECF No. 4, Case No. 1:21-cv-10118] on November 30, 2021. This filing comes before any record on appeal has been transmitted to the Court, and, indeed, before Appellees have had an opportunity to counter-designate the record. It also comes before the Court has been given the opportunity to consider whether to consolidate the Confirmation Order Appeals.

Appellees respectfully request that the Court deem the Confirmation Order Appeals related as they have been filed by similarly-situated creditors objecting on closely related grounds to the same Bankruptcy Court order. Appellees further respectfully request that Your Honor consolidate the Confirmation Order Appeals and set a unified briefing schedule for them. We thank Your Honor for your time and attention to this matter.

Sincerely,

/s/ Evan R. Fleck

Evan R. Fleck