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E-FILED 08/23/2010

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Michael C. Malaney, et al.,

Plaintiffs,

vs.

UAL CORPORATION, UNITED AIR
LINES, INC., and CONTINENTAL
AIRLINES, INC.,

Defendants.

CASE NO. 3:10-CV-02858-RS

DISCOVERY ORDER

The Court has received letter briefs from plaintiffs and defendants regarding an ongoing discovery dispute. On August 11, 2010, the Court ordered plaintiffs to produce information relating to the settlement of other airline lawsuits brought by plaintiffs, including a lawsuit in which some of the same plaintiffs present here attempted to enjoin the Delta/Northwest merger. According to the letter briefs, the parties have met and conferred, and plaintiffs have produced a number of documents, including the settlement agreements, the dates of settlement, and the consideration received in those settlements. Defendants now seek production of two sets of documents, which

1 plaintiffs have listed on their Privilege Log, Revised and Updated, August 17, 2010: (1) retainer
2 agreements between the Alioto Law Firm and plaintiffs in two of the Relevant Actions (as defined in
3 the Court's August 11, 2010 order) that are referenced in certain settlement materials produced by
4 plaintiffs; and (2) copies of checks or disbursements between plaintiffs and the Alioto Law Firm.

5 Although the definition of "relevant" under the Federal Rules of Evidence is broad, retainer
6 agreements or copies of disbursements executed between attorneys and their clients are widely
7 attenuated from the issue of irreparable harm in an anti-trust litigation. Moreover, the documents
8 requested seem to be duplicative of those already produced insofar as they would support an
9 argument that monetary damages would be an adequate remedy here. Therefore, defendants' request
10 to compel production of the documents as described in the first, second, fourth, fifth, seventh and
11 eighth entries on plaintiffs' Privilege Log, Revised and Updated, August 17, 2010 is denied.

12
13 IT SO ORDERED.

14
15 Dated: August 23, 2010

16 
Richard Seeborg
United States District Judge