

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

EMG TECHNOLOGY, LLC  
*PLAINTIFF*

vs.

APPLE, INC., *ET AL.*  
*DEFENDANTS*

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Civil Action No. 6:08cv447

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**DEFENDANT AMERICAN AIRLINES, INC.’S UNOPPOSED MOTION FOR  
WITHDRAWAL OF COUNSEL AND SUBSTITUTION OF LEAD COUNSEL**

COMES NOW Defendant American Airlines, Inc., (“American”) and files this Unopposed Motion to for Withdrawal of Counsel and Substitution of Lead Counsel seeking the withdrawal of Mike McKool Jr. and his firm, McKool Smith, P.C., as attorney of record in this case and the substitution of S. Calvin Capshaw as lead counsel, and would respectfully show the Court as follows:

1. American is represented by Capshaw DeRieux, LLP and Nixon Peabody, LLP.
2. Mike McKool Jr. is listed on the Court’s docket as counsel for American and, perhaps by default, identified as lead counsel for American. Before the Capshaw DeRieux and Nixon Peabody firms were retained and appeared in this case to represent American, McKool Smith (who represents American in other matters) filed two unopposed applications for extension of time to answer on behalf of American. (*See* Docket Nos. 24 and 35.) This resulted in Mr. McKool being docketed as counsel for American, even though Mr. McKool and his firm have not participated in American’s defense. Accordingly, American requests that the Court’s listing of counsel be updated to remove Mr. McKool and his firm in this case. The Capshaw DeRieux and Nixon Peabody firms that have represented American are unaffected.

3. The withdrawal sought herein is not opposed by Plaintiff EMG Technology, LLC.
4. American also requests that S. Calvin Capshaw be identified as its lead counsel.

Dated: January 14, 2010

Respectfully submitted,

/s/ S. Calvin Capshaw  
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**Attorneys for Defendant-Counterclaim  
Plaintiff American Airlines, Inc.**

**CERTIFICATE OF CONFERENCE**

I hereby certify that counsel for American Airlines has conferred with counsel for Plaintiff and Plaintiff is not opposed to this Motion.

/s/ S. Calvin Capshaw

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 14<sup>th</sup> day of January, 2010 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ S. Calvin Capshaw