

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: Honorable, JAMES P. DOLLARD IAS PART 13
Justice

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UNIVERSAL EXPRESS, INC.,

Index No.: 868/04

Plaintiff,

Motion Date: Sept. 8, 2004

-against-

Cal. No.: 53

DAN MCKINNON and
NORTH AMERICAN AIRLINES, INC.,

Defendants.

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The following papers numbered 1 to 9 read on this motion by plaintiff for an Order granting plaintiff leave to amend the verified complaint.

	<u>PAPERS NUMBERED</u>
Notice of Motion-Affidavits-Exhibits.....	1 - 5
Answering Affidavits-Exhibits.....	6 - 7
Replying Affidavits.....	8 - 9

Upon the foregoing papers it is ordered that this motion is granted.

Pursuant to CPLR 3025(b), a party may amend his pleading at any time by leave of Court. "Leave shall be freely given upon such terms as may be just...". In determining whether to grant an application to amend pleadings, courts have considered such factors as the delay in moving, surprise and significant prejudice (see, Rosenthal v. Allstate Ins. Co., 670 NYS2d 862 (2nd Dept. 1998)). The Court finds that plaintiff, through the affidavit of its CEO Richard A. Altomare has sufficiently set forth a cause of action for fraudulent inducement. Defendant has failed to show how it will be prejudiced by said amendment.

Dated: October ,2004

J.S.C.