# UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD OFFICE OF ADMINISTRATIVE LAW JUDGES

THE AERONAUTICAL

**REPAIR STATION** MOTION OF **ASSOCIATION FOR** 

LEAVE TO INTERVENE

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DOCKETS CD 30003 AND 30004

**NOT ASSIGNED** 

JUDGE **NOT ASSIGNED** 

FOR REVIEW OF DENIAL BY THE ADMINISTRATOR OF THE FEDERAL

AVIATION ADMINISTRATION OF THE ISSUANCE OF AIRMEN REPAIRMEN CERTIFICATES—IN RE: BENJAMIN

JACOB TURNER AND DEREK PATRICK MESSNER-HENNING

LOCATION

**NOT ASSIGNED** OF

**HEARING** 

DATE OF

HEARING

## MOTION FOR LEAVE TO INTERVENE

Pursuant to 49 C.F.R. § 821.9(a) of the National Transportation Safety Board's (NTSB's) Rules of Practice, the Aeronautical Repair Station Association (ARSA) files this Motion for Leave to Intervene and become a party in the above-referenced matters.

In support of its motion, ARSA states:

- It represents the interests of 14 C.F.R.<sup>1</sup> part 119 and 145 certificate holders and (1) applicants.
- The interests of those entities are intrinsically linked to the requirements for, and (2) the recommendation for and use of repairmen certificates.
- (3) ARSA's interests are not adequately represented by the pro se individuals that appealed the denial of their repairmen certificates.
- (4) The granting of this Motion for Leave to Intervene will not unduly broaden, delay or impede the proceedings.

<sup>&</sup>lt;sup>1</sup> All citations are to Title 14 Code of Federal Regulations unless otherwise noted.

## (A) Interests Represented

For the last 35 years, the Aeronautical Repair Station Association (ARSA) has represented the worldwide civil aviation maintenance industry—from its global corporations to the small, independent businesses before international governments and their agencies. The membership includes persons and individuals that have applied for and/or hold air agency certificates under part 145, as well as air carrier certificates issued under part 119.

# (B) Interests are Intrinsically Linked

The eligibility requirements for repairmen applicants are intrinsically tied to part 145<sup>2</sup> air agencies and part 119 air carriers.<sup>3</sup> These certificate holders are required to ensure an individual holds the proper qualifications to be assigned certain jobs and/or duties. In addition to technical skills and knowledge, these specific jobs and duties require the individual to hold an appropriate certificate issued under part 65, subpart D or E. The air agency or air carrier and individual may choose to meet those requirements by the certificate holder recommending the qualified individual. Properly recommended individuals become immediately eligible to apply for and be issued a repairman certificate under part 65, subpart E.

Since the petitioners would not qualify to apply for the repairmen certificates without the recommendation of the part 145 employer,<sup>4</sup> the regulations provide ARSA with an abiding and legitimate interest in the matters before the Board.

#### (C) ARSA's Interests Not Adequately Represented by Petitioners

The repairmen applicants that petitioned the Board to review the Federal Aviation Administration's denial of the requested certificates are highly competent and fully qualified individuals in the required technical skills and regulatory compliance matters for the position they hold for the air agency employer.

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<sup>&</sup>lt;sup>2</sup> See, 14 C.F.R. §§ 145.153, 145.157 and 145.159.

<sup>&</sup>lt;sup>3</sup> See, 14 C.F.R. §§ 121.378 and 121.709; see, also, 14 C.F.R. §§ 135.435 and 135.443.

<sup>&</sup>lt;sup>4</sup> See, 14 C.F.R. § <u>65.101(a)(4)</u>.

These individuals are not experts in or even familiar with the legal proceedings into which they have entered. ARSA submits that its knowledge of the regulations at issue and the legal proceedings are not adequately represented by the pro se petitioners.

# (D) Granting the Motion Will not Expand or Impede the Proceedings

By granting this motion, the regulations that ensure the repairmen applicants were properly qualified to be issued the certificates will not be broadened, nor will the facts that must be reviewed.

ARSA submits that its knowledge of the pertinent regulations, guidance and legal proceedings will ensure that the proceedings are not impeded; rather, granting this motion will ensure that the appeals fully consider the appropriate roles of regulations and guidance, and which takes precedence in the event of a conflict.

Respectfully submitted, Marshall S. Filler Counsel for the Aeronautical Repair Station Association

By:

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# UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD OFFICE OF ADMINISTRATIVE LAW JUDGES

#### CERTIFICATE OF SERVICE

I certify that on the 27th day of August 2020, I provided a copy of THE AERONAUTICAL REPAIR STATION ASSOCIATION'S MOTION FOR LEAVE TO INTERVENE IN RE: BENJAMIN JACOB TURNER AND DEREK PATRICK MESSNER-HENNING; DOCKETS CD-30003 AND 30004 by electronic mail, delivery and read receipt requested to:

Office of Administrative Law Judges National Transportation Safety Board 490 L'Enfant Plaza East, S.W. Washington, D.C. 20594

aljappeals@ntsb.gov

Benjamin J. Turner b.turner@bridgeraerospace.com

Dated August 27, 2020

Printed name Marshall S. Filler

Marshall S. Felh

Signature

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