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25 **UNITED STATES DISTRICT COURT**
26 **FOR THE DISTRICT OF ARIZONA**

27 Don Addington, *et al.*;

28 Plaintiffs,

v.

US Airline Pilots Association and US
Airways, Inc.,

Defendants.

Case No. 2:08-cv-01633-PHX-NVW

DECLARATION OF E. ALLEN HEMENWAY
IN SUPPORT OF US AIRWAYS'
OPPOSITION TO PLAINTIFFS'
APPLICATION FOR PRELIMINARY
INJUNCTION

I, E. ALLEN HEMENWAY, pursuant to 28 U.S.C. § 1746, declare and state as follows:

1. I am the Vice President, Labor Relations, of US Airways, Inc., with responsibility for US Airways' labor relations with each of its collective bargaining units. In my current

1 position, I participate in negotiations with the pilots' union for a single collective bargaining
2 agreement applicable to all pilots of US Airways. In my previous position as Vice President of
3 Labor Relations for the pre-merger US Airways, I participated in negotiations for the Transition
4 Agreement on behalf of US Airways. Except as otherwise indicated, all facts set forth in this
5 declaration are based upon my personal knowledge, my review of relevant documents, my
6 opinion, my experience and knowledge of US Airways' labor relations and collective bargaining
7 agreements with its pilots, or are based upon knowledge of employees of US Airways reporting to
8 me that are derived in the course of their duties. If called and sworn as a witness, I could and
9 would testify competently thereto.

10 **The Parties**

11 2. In May 2005, the respective holding companies of America West and US Airways
12 announced the merger of America West and US Airways with an effective date of September 27,
13 2005. Under the Merger Agreement, US Airways Group, Inc., which was then operating under
14 Chapter 11 bankruptcy protection, would be reorganized, and the reorganized entity, known as
15 "US Airways" would own and control the former America West and US Airways.

16 3. The Air Line Pilots Association, International ("ALPA") is an unincorporated
17 labor organization that, until April 18, 2008, was the certified collective bargaining representative
18 under the Railway Labor Act, 45 U.S.C. § 151, *et seq.* (the "RLA") of America West's and US
19 Airways' pilots. America West and ALPA, through the America West Master Executive Council
20 ("MEC") (the body authorized by ALPA to conduct the collective bargaining relationship on
21 behalf of America West's pilots), were parties to a collective bargaining agreement with an
22 "amendable date" of December 30, 2006 (the "America West CBA"). The America West CBA
23 provided that the "parties shall commence negotiations pursuant to Section 6 of the Railway
24 Labor Act, as amended, six (6) months prior to December 30, 2006," *i.e.*, June 30, 2006. US
25 Airways and ALPA, through the US Airways MEC, were parties to a collective bargaining
26 agreement with an amendable date of December 31, 2009 (the "US Airways CBA"). Attached
27 hereto as Exhibit 1 is a true and correct copy of Section 30 of the America West CBA.

28 4. Following completion of the merger transaction, the America West and US

1 Airways pilots continue to be governed by the terms of their respective pre-existing collective
2 bargaining agreements with the carriers. Each of these agreements set forth the terms and
3 conditions under which the two pilot workforces operate, including provisions for furloughs.
4 Attached hereto as Exhibits 2 and 3 are true and correct copies of Section 23 of the US Airways
5 CBA, and Section 23 of the America West CBA, respectively.

6 5. USAPA is an independent labor union that was certified on April 18, 2008 as the
7 representative of US Airways' pilots, and is headquartered in Charlotte, North Carolina. USAPA
8 succeeded ALPA as a party to both the US Airways and America West CBAs, as well as to the
9 Transition Agreement.

10 6. The Plaintiffs are six pilots who were hired by America West Airlines prior to the
11 merger with US Airways and continue to work for the Company. Three of these plaintiffs, John
12 Bostic, Steve Wargocki, and Afshin Iranpour have or will be furloughed from the Company
13 effective October 1, 2008, November 1, 2008, and April 1, 2009, respectively (with each
14 receiving full furlough pay and benefits for ten or twelve additional weeks, depending on
15 longevity, beyond their final paycheck in the month following furlough). Two of the plaintiffs,
16 Don Addington and Mark Burman, likely will be subject to displacement as a result of the
17 furloughs, meaning that they will likely become eligible to bid for a lower-paying line of flying.
18 One of the plaintiffs, Roger Velez, is expected to be unaffected by the furlough and displacement
19 process.

20 **The Transition Agreement and Relevant Aspects of Its Bargaining History**

21 7. On September 23, 2005, the parties entered into a negotiated Transition Agreement
22 which supplements and amends the US Airways and America West CBAs and sets forth the
23 parties' obligations prior to the integration of the two pre-merger carriers' pilot workforces, and is
24 designed to govern integration of the two pilot groups. A true and correct copy of the September
25 23, 2005 Transition Agreement is attached hereto as Exhibit 4.

26 8. The Transition Agreement provides for what is known as a "fence" between the
27 pilot workforces of America West and US Airways, which is a well-established practice in airline
28 mergers. The fence means that the workforces shall remain separate and covered by their own

1 pre-merger collective bargaining agreements during the period of “Separate Operations,” and
2 until such time as the events described in paragraph 9 below have occurred. The Company is
3 currently operating under the period of Separate Operations, and therefore maintains separate
4 fleets of aircraft, designated by tail number, and pilot operations. Under these provisions, the
5 Company must maintain a minimum fleet of 202 aircraft in the East fleet, and 120 aircraft in the
6 West fleet. US Airways currently has 206 East aircraft and 125 West aircraft, although both
7 fleets are expected to be subject to further aircraft reductions in 2009 to at or near minimum fleet
8 size.

9 9. Under Section VI.A of the Transition Agreement, before the fence can come down
10 and the two pilot groups merge (known as “Operational Pilot Integration”), three things must
11 occur: (1) “completion of the integrated pilot seniority list,” (2) “negotiation [including
12 ratification] of the Single [Collective Bargaining] Agreement,” and (3) issuance of “a single FAA
13 operating certificate.” America West and US Airways obtained a single US Airways operating
14 certificate on September 26, 2007.

15 10. In a November 17, 2005 letter to me from the Chairmen of the US Airways and
16 America West MEC’s Negotiating Committees, in response to a letter I had provided them two
17 days earlier, the Chairmen articulated the same interpretation of the Transition Agreement: “the
18 Transition Agreement explicitly specifies that the parties are to *negotiate* a single agreement
19 (Transition Agreement, Section V.) and bars operational pilot integration until after *negotiation* of
20 a single agreement (Transition Agreement, Section VI.A).” A true and correct copy of the
21 November 17, 2005 letter from the MEC Chairmen to me is attached hereto as Exhibit 5.

22 11. Nothing in the Transition Agreement requires or permits the Company to proceed
23 with Operational Pilot Integration or implementation of an integrated seniority list in the absence
24 of a ratified single agreement. In fact, Section IV.C of the Transition Agreement specifically
25 prohibits the Company from “us[ing] an integrated pilot seniority list prior to Operational Pilot
26 Integration.” Therefore, until a single collective bargaining agreement has been reached with the
27 lawfully-designated representative of all US Airways pilots, the Transition Agreement prohibits
28 the merger of the two pilot groups under a single seniority list.

1 12. Section V of the Transition Agreement dictates the process for negotiation of a
2 single agreement. Under Section V.G, “[i]n the event such Single Agreement is not reached on or
3 before June 30, 2006, then on June 30, 2006 either the Association or the Airline Parties may
4 decide to suspend negotiations for such Single Agreement depending on the progress at that
5 time.” The “Association” is defined in the Transition Agreement as ALPA (and not as its
6 respective MECs) and the “Airlines Parties” are defined as US Airways, America West and their
7 holding companies. The option to suspend negotiations on June 30, 2006, existed because that
8 was the date on which ALPA could initiate negotiations under the existing America West
9 collective bargaining agreement. This provision allowed ALPA, “depending on the progress at
10 that time” of the negotiations for such Single Agreement, to “suspend” negotiations for a single
11 agreement in order to renegotiate the America West agreement before resuming negotiations for a
12 single agreement. Nothing in this subsection relieved the parties of the basic obligation set out at
13 the beginning of Section V -- i.e., that “[t]he Association and the Airline Parties will negotiate a
14 single collective bargaining agreement applicable to the merged operations of America West and
15 US Airways.”

16 13. The parties also agreed in Section V.G, that if the single agreement negotiations
17 were suspended, the “[Company] will continue to be obligated to complete the Operational Pilot
18 Integration within the specified timeframe outlined in Section VI, below.” This provision means
19 that only after the parties return to bargaining for a single agreement (following the suspension of
20 single agreement negotiations), the provisions of Section VI.A would not be waived -- *i.e.*, the
21 Company would continue to be obligated to abide by the timeframe set forth in Section VI.A for
22 obtaining a single operating certificate and merging pilot operations within 12 months after all
23 conditions, including negotiation and ratification of a single collective bargaining agreement, are
24 met.

25 14. Nothing in Section V.G undermines the express requirements of Section IV.C and
26 VI.A of the Transition Agreement that an integrated seniority list may not be implemented until
27 Operational Pilot Integration, and Operational Pilot Integration cannot be accomplished until the
28 parties have negotiated a single labor agreement. From a practical perspective it is impossible to

1 integrate operations unless there is *both* an integrated seniority list *and* a single labor agreement
2 governing work assignments, training and work rules for all of the pilots. The reasons for this are
3 discussed below.

4 **The Seniority Integration Arbitration**

5 15. The Transition Agreement provides that “[t]he seniority lists of America West
6 pilots and US Airways pilots will be integrated in accordance with ALPA Merger Policy and
7 submitted to [US Airways] for acceptance.” The criteria set forth in the Transition Agreement
8 Section IV.A for Company acceptance of an integrated seniority list were designed to ensure that
9 implementing the list did not result in any cost increases for US Airways. Section IV.C of the
10 Transition Agreement provides that US Airways “may not use an integrated pilot seniority list
11 prior to Operational Pilot Integration as defined in Section VI.A” of the Transition Agreement.

12 16. Pursuant to the ALPA Merger Policy, in October 2006, the US Airways MEC and
13 the America West MEC referred the matter of the integration of seniority lists to mediation and
14 arbitration. US Airways did not participate or play any role in the arbitration proceeding. The
15 decision of Arbitrator George Nicolau, including an integrated seniority list, was issued in May
16 2007 (the “Nicolau Award”).

17 17. On December 19, 2007, I sent a letter to Captain John Prater, President of ALPA,
18 in which I informed him that the Company accepted the Nicolau Award because it satisfied the
19 criteria specified for acceptance of a combined seniority list under the Transition Agreement, but
20 reminded ALPA that “[p]ursuant to the terms of the Transition Agreement, the award will not be
21 implemented by the Company until we have concluded negotiations over the terms of a single
22 labor agreement covering both pilot groups.” A true and correct copy of my December 19, 2007
23 letter to Captain Prater is attached hereto as Exhibit 6.

24 **Ongoing Negotiations for a Single Agreement**

25 18. In accordance with the Transition Agreement, since November 2005, US Airways
26 and the certified representatives of its pilots have been negotiating for a single collective
27 bargaining agreement that will apply to both pilot groups. Beginning in November 2005, ALPA
28 and US Airways met to negotiate over 62 days and exchanged proposals on 29 of 30 sections of a

1 single agreement. After issuance of the Nicolau Award, US Airways and ALPA continued to
2 negotiate for a single collective bargaining agreement, and, on May 8, 2007, US Airways passed a
3 comprehensive proposal to ALPA which contained Company proposals on every section of a new
4 single agreement.

5 19. Although the US Airways MEC passed a resolution withdrawing from
6 negotiations on August 15, 2007, neither the America West MEC nor ALPA withdrew. As I
7 explained above, a suspension of negotiations can only be called for by ALPA or the Airline
8 Parties, and not an individual MEC. The Company and ALPA continued to meet directly as a
9 part of negotiations until September 25, 2007. Thereafter, because ALPA could not pass any
10 proposals without the assent of the US Airways MEC, direct face to face meetings were
11 discontinued, but union efforts to resolve obstacles to a single contract continued. During this
12 time, I am aware that ALPA implemented a number of initiatives in an attempt to find a solution
13 to the seniority issue. An example of such an initiative is described in a letter from Captain Prater
14 to the two MEC Chairmen on October 19, 2007. ALPA's publicly-stated position throughout was
15 that it was committed to negotiating a single agreement and to implementing the Nicolau Award
16 as part of that agreement. A true and correct copy of the October 19, 2007, letter from Captain
17 Prater to the MEC Chairmen that I received from Bruce York of ALPA, is attached hereto as
18 Exhibit 7.

19 20. At no time has ALPA (or its successor USAPA) or the Company formally
20 suspended negotiations for a single agreement per the terms of Section V.G of the Transition
21 Agreement. At all times, the Company remained ready and willing to meet for further
22 negotiations for a single agreement.

23 21. Following USAPA's certification, US Airways and USAPA began meeting
24 regarding a single collective bargaining agreement on June 16, 2008. In the four and one-half
25 months since that time, the parties have since met for a total of 21 days, have passed 79 proposals
26 on 24 of 30 sections of the single collective bargaining agreement, and have reached tentative
27 agreements on four sections. On September 30, 2008, USAPA passed an initial seniority
28 integration proposal to US Airways. To date, the parties have scheduled six additional days of

1 negotiations to take place before December 4, 2008. Despite these efforts with both ALPA and
2 USAPA, to date, the parties have not yet reached agreement on a single labor contract.

3 **Interpretation of the Transition Agreement in Prior Cases**

4 22. The Transition Agreement contains a specific dispute resolution procedure in
5 which there is a single arbitrator designated as part of the existing system board of adjustment to
6 decide all disputes under the agreement. That arbitrator, Richard Bloch, is a nationally renown
7 labor arbitrator with long experience in airline labor disputes; he has already heard four cases, and
8 is familiar with the Transition Agreement, its bargaining history and the relevant industry practice
9 in airline mergers.

10 23. A set of disputes that Arbitrator Bloch has heard, Transition Agreement Disputes
11 No. 4-6, involved the requirements for Operational Pilot Integration under Section VII of the
12 Transition Agreement. In that dispute, ALPA alleged that the Transition Agreement prohibited
13 US Airways from consolidating certain operations, including use of a single designator in the
14 reservations system, until Operational Pilot Integration. Arbitrator Bloch rejected this argument,
15 and in the course of his decision confirmed that under Section VII of the Transition Agreement,
16 Operational Pilot Integration required a “three-legged” stool -- that is, a single operating
17 certificate, an integrated seniority list and a single agreement. A true and correct copy of the
18 arbitrator’s decision is attached hereto as Exhibit 8.

19
20 According to Section VI, the Company would have to achieve the three-legged
21 stool, including a single collective bargaining agreement, an integrated seniority
22 list and a single FAA Operating Certificate. But significant, and ultimately
controlling in the case, is the fact that nothing in the Agreement requires obtaining
the two legs of the stool (the integrated list and the CBA) before securing the
third.

23 Exhibit 8 at 12.

24
25 24. In the course of this decision, Arbitrator Bloch made clear that separation of the
26 pilot workforces during Separate Operations was a “standard fence agreement,” and that each
27 group was governed by their separate collective bargaining agreements, as follows:
28

1 Paragraph II(A) makes it clear enough that, as concerns separation, it was ‘the
2 pilot workforces’ of the East and West groups, as distinguished from the
3 companies themselves, that were to remain segregated. On this point, bargaining
4 history is instructive. That understanding -- keeping the workforces divided -- is
5 fully consistent with a standard fence agreement that seeks to keep the respective
6 pilot groups with ‘their metal.’ Subsection B(1) codifies the understanding that,
7 during separate operations, both America West and US Airways will be operated
8 in a manner consistent not only with the Letter of Agreement, but also with the
9 provisions of each carrier’s respective collective bargaining agreement.

10 Exhibit 8 at 7-8.

11 **Application of the Transition Agreement to Pilot Furloughs**

12 25. Although ALPA proposed a no furlough provision during negotiations for the
13 Transition Agreement that would have been applicable during the period of Separate Operations,
14 US Airways did not agree to such a provision. As a result, the Transition Agreement contains no
15 provisions limiting the Company from engaging in pilot furloughs except for the minimum
16 aircraft and utilization requirements set forth in Section II of the Transition Agreement. Under
17 those terms, furloughs are permitted during the period of Separate Operations so long as US
18 Airways maintains a sufficient number of pilots in each of its East and West operations to fly at
19 least the minimum number of aircraft at their minimum utilization rate for that fleet.

20 26. By providing that each pilot group will be governed by the pre-merger collective
21 bargaining agreement applicable to that group during Separate Operations, the Transition
22 Agreement requires that any furloughs *must* be conducted pursuant to the seniority list and
23 furlough procedures applicable under that collective bargaining agreement. When furloughs
24 become a necessity in Separate Operations, as they currently are, US Airways must furlough
25 according to the fleet that is being affected by reduced flying. It therefore would be impossible to
26 furlough pilots based on an integrated seniority list while in Separate Operations consistent with
27 the Transition Agreement and operational requirements. If that procedure were followed during
28 Separate Operations, US Airways would almost certainly be forced to furlough pilots who are
needed to perform service in one of the Company’s fleets and, conversely, retain pilots who are
not needed to perform service in the other of the Company’s fleets.

1 27. In May 2005, before negotiation of the Transition Agreement, the chief executive
2 officers of US Airways and America West issued a “Joint Statement of Labor Principles” that was
3 designed to let employees of both companies know what the carriers knew -- and what they could
4 not predict -- about what would happen to employees as a result of the merger. At the outset of
5 that document, the CEOs stated that “it will take a long time to complete an operational
6 integration and, as we’ve already seen, there’s always the potential for unexpected changes in our
7 industry.” The document also cautioned that “it’s still hard to say what will happen to anyone’s
8 particular job,” and that “[f]or employees in work groups represented by unions, the question of
9 what will happen to your job is even harder for us to answer because so much of what will happen
10 is outside of management’s control.” Based on this language, I do not believe that any employee
11 could have had a reasonable expectation of any particular outcome in the seniority integration
12 process.

13 28. I understand that the plaintiffs in this action have focused on language in the Joint
14 Statement of Labor Principles in which the two officers stated that in the seniority integration
15 process, “we would expect that no employee who already had been furloughed prior to the merger
16 would be permitted to bump an active employee out of a job.” Similar language was incorporated
17 into Section IV.A of the Transition Agreement, at the carriers’ insistence, stating that the
18 Company will only accept an integrated seniority list that meets several specific criteria,
19 including requirements that there “shall be no ‘system flush’” and “furloughed pilots may not
20 bump/displace active pilots.” These statements refer to the manner in which an integration
21 seniority list would be implemented. Under Section IV.A once seniority integration is
22 implemented, pilots could exercise their seniority on the combined list only in future bidding.
23 Thus, one pilot could not immediately “bump” -- i.e., displace -- another, less senior pilot from
24 his or her position, and a pilot on furlough status could not, by virtue of the new seniority list,
25 displace an active pilot junior to him or her on the integrated seniority list, but would instead
26 remain on furlough until a vacancy occurred, at which point the furloughed pilot most senior on
27 the integrated list would be the first recalled. Allowing a pilot who was on furlough status when
28 the integrated list is implemented to use that seniority to “displace” an active pilot could have cost

1 US Airways a great deal of money because it would have to pay furlough pay to the active pilot
2 and retrain the furloughed pilot, and was perceived to be unfair to the active employees who
3 might lose their jobs purely as the result of implementing an integrated seniority list. None of the
4 language in the Company statement or Section IV.A.2 modified US Airways' obligations under
5 the East and West collective bargaining agreements in the event pilots were recalled to US
6 Airways while the Company remained in Separate Operations with no integrated seniority list.
7 The statement and contract language were wholly inapplicable to the situation at hand -- where
8 furloughed pilots are recalled before implementation of an integrated seniority list. A true and
9 correct copy of the May 2005 Joint Statement of Labor Principles is attached hereto as Exhibit 9.

10 29. Section II.B.7 of the Transition Agreement provides that new pilots hired during
11 Separate Operations will be placed on a New Hire Seniority List by date of hire, and "will be
12 junior to all pilots on the pilot seniority lists of America West and US Airways ... and will
13 continue to be junior to those pilots on the integrated seniority list of America West and US
14 Airways pilots." The intent of this provision was (1) to ensure that each new hire would be junior
15 to all pilots on the pre-merger seniority lists, even those who were on furlough at the time of the
16 merger but who later accepted recall, and (2) to ensure that each new hire pilot would be junior to
17 all pre-merger pilots, West or East, on the integrated seniority list when it was implemented. This
18 provision was included because the integrated seniority list produced under ALPA Merger Policy
19 would include only pilots on the East and West seniority lists as of the merger date. Nothing in
20 Section II.B.7 addresses furloughs of new hire pilots.

21 30. Each pilot that has been hired by US Airways during Separate Operations has been
22 assigned by the Company to fly either East or West aircraft operating under the terms and
23 conditions of the applicable collective bargaining agreement. This is a necessity because, under
24 Section II of the Transition Agreement, during the period of Separate Operations, the Company is
25 obligated to maintain separate aircraft and pilot operations. As a result, a reduction in the fleet
26 size or flying on either East or West affects only those pilots assigned to those aircraft during the
27 period of Separate Operations. While US Airways, in fact, furloughed all of the new hire pilots in
28 the West operation before furloughing any West pilot who was active on the merger date, it has

1 not yet furloughed the new hire pilots on the East seniority list because those pilots are currently
2 needed to operate the East operation (although have been notified that they will be furloughed by
3 April 1, 2009, as US Airways continues to reduce its flight operations). Therefore, the Company
4 has complied with the Separate Operations requirement of the Transition Agreement by selecting
5 pilots for furlough in reverse seniority order (with new hire pilots being furloughed first within
6 East or West operations) based on the reductions occurring in their assigned fleets.

7 **Relative Harm to US Airways and the West Pilots**

8 31. If US Airways were preliminarily enjoined from engaging in the furloughs until all
9 new hire pilots and East pilots who were on furlough at the time of the merger have been
10 furloughed, US Airways would not be able to furlough any West pilots as a result of the reduction
11 in West flying because not all East pilots who were previously furloughed are currently scheduled
12 for furlough. Moreover, all of the active East pilots not scheduled for furlough are needed to
13 operate the East aircraft currently assigned to US Airways' flight schedule, and Section II.B.4 of
14 the Transition Agreement expressly prohibits US Airways from assigning the West pilots to those
15 aircraft. Finally, US Airways cannot transfer aircraft to the West operation because US Airways
16 has already reduced and will continue to reduce the number of East aircraft to at or near the
17 minimum aircraft threshold. Therefore, an injunction would require the Company to carry an
18 additional 140 West pilots for whom it has no work in its workforce indefinitely and at great
19 expense.

20 32. I understand that the plaintiffs in this case have suggested that West pilots need not
21 be furloughed before all previously-furloughed East pilots if US Airways allowed West pilots to
22 crew E190 aircraft that were not in operation at the time of the merger because those aircraft are
23 not subject to the minimum aircraft provisions of the Transition Agreement. This is not accurate.

24 33. Section II.B.5 of the Transition Agreement contains a procedure, culminating in
25 binding arbitration, for allocating the flying of aircraft that were not in the two carriers' fleets at
26 the time of the merger between the two pilot groups. The union parties invoked that procedure in
27 2006 with regard to the EMB 190 aircraft, and in September 2006 Arbitrator Dana Eischen issued
28 a decision holding that the EMB flying should be assigned to East pilots until US Airways

1 implements a complete operational integration pursuant to the terms of the Transition Agreement.
2 A true and correct copy of the September 2006 Eischen Award is attached hereto as Exhibit 10.

3 34. I understand that plaintiffs assert that since US Airways has employed 239
4 additional pilots on the East side of its operations, it must have enough extra flights “to employ
5 the premerger America West pilots that the Company plans to furlough.” This is wrong. First,
6 there is no obligation anywhere in the Transition Agreement requiring US Airways to move
7 flying in the service of East Pilots on East aircraft to West Pilots on West aircraft. Second,
8 currently, US Airways’ East operations are running near the minimum fleet and minimum
9 utilization requirements. Accordingly, if the Company were to move East flying to the West
10 operations, it would likely fall under the minimum fleet and utilization requirements for the East
11 operation, and thus would breach the Transition Agreement. Third, the Eischen Award also
12 requires that E190 flying be performed by East pilots until Operational Pilot Integration. Fourth,
13 the training costs of moving flying between East and West, would be prohibitive and would
14 unnecessarily delay US Airways’ efforts to reduce its flying to meet its need to deal with the
15 current economic environment. As a result, it is impossible to implement the injunction without
16 violating the Transition Agreement and incurring extraordinary costs.

17 35. The cost to the Company of maintaining 140 America West pilots on its books
18 without performing any work is approximately \$800,000 per month. Since US Airways does not
19 currently have any plans to furlough of all East pilots who were on furlough at the time of the
20 merger, if the relief requested by the plaintiffs were granted, US Airways would expect to
21 maintain this additional expense for a significant undefined period of time.

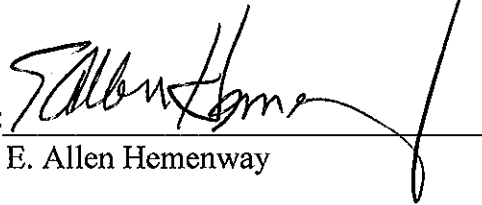
22 36. Under the America West collective bargaining agreement, pilots are entitled to
23 furlough pay and benefits commensurate with their pay and benefits at the time of furlough. The
24 length of furlough pay and benefits is tied to the individual pilots’ longevity with the Company.
25 The West Pilots subject to furlough beginning on October 1, 2008 or thereafter will receive, at a
26 minimum, eight to ten weeks of furlough pay and benefits.

27
28

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3
4 Dated: October 28, 2008

5 Respectfully submitted,

6
7 By: 
8 E. Allen Hemenway

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