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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**

9 Don ADDINGTON, *et al.*,
10 Plaintiffs,
11 vs.
12 US AIRLINE PILOTS ASSN., *et al.*,
13 Defendants.

CASE NOS.
2:08-CV-1633-PHX-NVW
2:08-CV-1728-PHX-NVW
(Consolidated)
**PLAINTIFFS MOTION IN LIMINE RE
CAPTAIN RANDALL MOWREY
TESTIMONY**

14 Don ADDINGTON, *et al.*,
15 Plaintiffs,
16 vs.
17 Steven H. BRADFORD, *et al.*,
18 Defendants.

19
20 Plaintiffs file this separate Motion in Limine to preclude Captain Randall
21 Mowery, USAPA Vice-President and Merger Chairman, from testifying about any
22 analysis or opinion that relies in any way on the analysis or opinions of USAPA's
23 improperly disclosed experts Rikk Salamat, Bob Davison or any other person.
24 Plaintiff's Motion in Limine No. 7 and supplements have described the type of
25 information and analysis that USAPA first disclosed on April 1, 2009. The Court has
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1 precluded the use of such statistical evidence and analysis, and further precluded
2 testimony from late-disclosed experts.

3 The foundational basis for the objection is the testimony of Captain Mowery,
4 in his deposition taken March 18, 2009 in Charlotte, NC. USAPA will offer Captain
5 Mowrey to testify about the history and creation of the USAPA Seniority List.
6 Plaintiffs have no objection to that general testimony.

7
8 However, USAPA will offer testimony from Captain Mowery about the
9 validity and impact of the Conditions and Restrictions. As the following deposition
10 excerpts demonstrate, Captain Mowrey's testimony will be in the form of
11 inadmissible opinions, by a lay person, without adequate foundation, about the
12 analysis of the Conditions and Restrictions that are attached to and made a part of the
13 Seniority List. This testimony demonstrates that Captain Mowery has little or no
14 direct and firsthand knowledge about the analysis done on the Conditions and
15 Restrictions and clearly relied upon the untimely disclosed expert opinions of Bob
16 Davison and Rikk Salamat for the analysis. The following are the relevant parts of
17 Captain Mowrey's sworn testimony:

- 21 • He prepared for his deposition with Bob Davison (Depo. p. 6, lines 10-14)
- 22 • The conditions and restrictions were intended to offer "protection" to
23 West Pilots otherwise adversely affected by applying a strict date-of-hire
(DOH) list. (Id. p.65, lines 8-19)
- 24 • He was asked about CM-14, USAPPA Document 6777, an email from
25 Gordon Favis, a East First Officer, and Captain Mowrey's response about
26 "fences" to protect West Pilots. The testimony is that Bob Davison
27 provided the draft answer. Captain Mowrey could not say whether the
28 letter was his or Mr. Davison's. (Id. pp. 67.20-69..5)

- 1 • The text of the letter is read into the record and describes the
2 “...demographics of the two premerger airlines, ten years of attrition to
3 place the two lists where they operate entirely based on date of hire
4 seniority without having distortions that advantage one segment of the
5 other...” (Id. p.70, line 16-25).
- 6 • Asked if he had done studies to verify the statement, Captain. Mowrey
7 testified that “We did. We constructed the list from two pre-merger
8 certified lists and “...then we aged them and looked for different
9 distributions of hiring.” (Id. p. 71.7-10).
- 10 • When asked whether they used a particular type program to help them,
11 Captain Mowrey testified “...We actually used a professional
12 consultant...Rikk Salamat, and a lot of work was done with Excel, as well
13 as his—he’s got some proprietary programs.” (Id. p. 71.11-16)
- 14 • Mr. Mowrey produced Mr Salamat’s work product as well as additional
15 work done by Bob Davison. (Id. p.71.20-25)
- 16 • He was shown Exhibit CM 15, a multi-page document USAPA number
17 3206, and asked to identify Mr. Salamat’s work. He testified “It would be
18 hard to go through this and tell you which of this...reflects Salamat’s
19 work, and which of it reflects Bob Davison’s work because the display is
20 very similar. (Id. p. 72.16-23)
- 21 • He was asked if he had the underlying data of proprietary information that
22 Mr. Salamat used in order to prepare the work product that Mr. Mowrey
23 had on his computer. He testified “ I don’t have the proprietary
24 information that he [Salamat] uses. It’s his modeling. I have his output.”
25 (Id. p. 73.19-23).
- 26 • He further testified that the analysis was obtained when “...we would
27 provide him with requests for data and he would run his modeling and
28 produce results for us.” (Id. p.74.7-10).
- He was asked “How do you check his work to make sure its accurate if
you don’t have access to his [Salamat’s] underlying data?” His response
was “I have relied on his previous certifications by ALPA National...and
I used Bob Davison to compare...run parallel analysis to verify his
conclusions and the matched up.” (Id. p. 75.11-19)
- He asked Mr. Salamat to validate additional analysis that was done
independently by Bob Davison. (Id. p. 76.10-12).

- 1 • Mr. Salamat’s “...assignment was to be able to address a statistical
2 analysis of the seniority list.” (Id. p. 78.20-22)
- 3 • The Merger Committee consulted with Mr. Salamat in connection with
4 the Conditions and Restrictions that have been proposed by the Merger
5 Committee. (Id. p. 80.13-17).
- 6 • The Merger Committee engaged Mr. Salamat to do work for the
7 Committee before June 10, 2008 (when the first seniority proposal was
8 presented to the Board of Pilot Representatives. (Id. p.100.18-23).
- 9 • He reviewed seniority analysis done by “Mike” and “Mike” “...talked me
10 through charts and graphs that he had produced for the previous merger
11 committee that Kevin Barry had provided to me.” (Id. p. 101.2-23).

12 In summary, Captain Mowrey does not appear to have done any independent
13 study and research, nor does he appear to have the professional qualifications or
14 experience to do any statistical analysis of the future effect of the seniority list.
15 Regardless of his training or experience, he does not appear to have actually done
16 any of the analysis himself.

17 USAPA’s singular theme is that the short term and undeniable losses
18 sustained by West Pilots by a DOH list is far outweighed by their younger age and
19 longevity before retirement. Captain Theuer has already testified to the inequities in
20 allowing a younger West Pilot to displace an older East Pilot because it was unfair to
21 deny the East Pilot the “...attrition that east brought to the merger”, (or words to that
22 effect).

23 As the documents attached to Plaintiffs’ Supplement to MIL #7 clearly
24 demonstrate, the analysis of the future effects of career advancement and attrition are
25 not summaries of voluminous documents, but rather complex analyses of many
26 variables used to predict future, straight-line career progression. They include
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1 “aging” studies that purport to show how an East Pilot progresses through his or her
2 career, based on certain assumptions about anticipated attrition, economic conditions
3 and the financial condition of the employer airline—assumptions that have not been
4 disclosed or tested. How could such assumptions be reasonably relied on when no
5 one is able to predict the future, especially in an industry as volatile and fragile as the
6 airline industry.
7

8 Mr. Salamat, the architect of these complex and proprietary analysis studies
9 has apparently been under the employ of the ALPA East MEC before this litigation
10 because he did work for ALPA. Captain Mowrey no doubt relied on those credentials
11 in accepting Mr. Salamat’s work as valid. Mr. Salamat’s work was presented, at
12 least in part, in the Nicolau Arbitration and in subsequent presentations by the East
13 MEC to ALPA Master Executive Council and ALPA National, perhaps Wye River
14 and other events relevant to this case. Although the real analysis has never been
15 subject to full disclosure and careful evaluation by an independent expert, it does
16 appear that the same data used by the ALPA East MEC is now being used to support
17 USAPA’s date of hire seniority list. Captain Stephan’s testimony about the identify
18 of interest and method of ALPA East MEC and USAPA is hauntingly accurate.
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22 The information cannot be neatly segmented or separated. As previously
23 described in the Motion in Limine directly challenging the late disclosure of Mr.
24 Davison, even Mr. Davison has lost any way of segregating the work of Mr. Salamat
25 from what was done independently by Mr. Davison. This is not the type of
26 information that can be supplied by lay opinion testimony. It is not the type of
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1 writing used to summarize voluminous objective data otherwise permitted under Rule
2 1006, FRE. It is not the type of information that USAPA's counsel avowed to the
3 Court that it would be.

4
5 Mr. Mowrey was not disclosed as an expert so he may only testify about his
6 personal knowledge and observation. Rules 601, 602, 701, FRE. He can testify about
7 what he personally did. He may not, however, simply parrot the complex analytical
8 results of other experts or quasi-experts. His entire testimony is suspect because he is
9 relying on the very same expert Rikk Salamat who was used by the East MEC in the
10 Nicolau Arbitration. If there is clearer proof of USAPA's bad faith in defending this
11 lawsuit, and the identity of interest between the East Pilots represented by the ALPA
12 East MEC and those same pilots now represented by USAPA, it would be hard to
13 imagine what it might be.
14

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16 USAPA's Seniority List with Conditions and Restrictions are the cornerstone
17 of its defense. USAPA is required to establish the foundation and admissibility of the
18 analysis used to support its predictions of the future effects of the date of hire
19 proposal, and how the adverse effects on West Pilots is mitigated or removed by
20 seniority and attrition over time. USAPA had the legal duty under the Federal Rules
21 of Civil Procedure to properly disclose this information in a timely fashion so that
22 Plaintiffs had a fair opportunity to analyze the data with their own experts, and
23 challenge the underlying assumptions and analysis. Instead, USAPA's lawyers
24 decided to make this a trial by ambush. They waited until the last possible moment to
25 disclose both the experts and data in the most obscure way possible. When Plaintiffs
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1 challenged the late disclosure in MIL #7, Mr. Brengle avowed that Mr. Davison was
2 the main witness to validate the analytical work and he would provide fact testimony,
3 not expert opinion, about “factual data”. On that avowal, the Court denied MIL #7 in
4 part and allowed Mr. Davison to testify about factual matters relating to objective
5 data that he would summarize. USAPA then produced the same late-disclosed
6 analysis that Mr. Davison and Mr. Salamat prepared, including charts and
7 spreadsheets. USAPA intended to use this analysis to support USAPA’s position that
8 the Conditions and Restrictions were valid protections for West Pilots, in the same
9 way they had supported the almost identical position taken by the ALPA East Pilot
10 MEC.
11

12
13 Then, when Plaintiffs had the opportunity on Saturday May 2, 2009, to depose
14 Mr. Davison, during the middle of trial, and make an effort to expose the flaws in the
15 analysis and the inadmissibility of his opinions, Mr. Davison was suddenly
16 withdrawn by USAPA as a witness, and the deposition was “cancelled” by USAPA
17 without Plaintiffs’ consent.
18

19 Since USAPA disclosed experts on April 1, 2009 to testify about the Seniority
20 List and Conditions and Restrictions, USAPA obviously recognized that the subject
21 matter had to be properly authenticated by a properly qualified expert, not by a lay
22 witness. Those untimely disclosed experts have properly been excluded. USAPA
23 should not be allowed to introduce this same testimony from the mouth of Captain
24 Mowrey under the guise of the rehearsed “direct” examination Mr. Seham has
25 practiced thus far. Voir dire examination by the Court would likely demonstrate
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1 that Captain Mowrey relied on the work performed by others, and did not prepare
2 any analysis himself, as clearly indicated in the testimony quoted above. In the
3 deposition, when he was asked what he did, his answer was always we did
4 something. When asked who did the work, Captain Mowrey named Bob Davison and
5 Rikk Salamat.
6

7 USAPA intends to offer this evidence to demonstrate its “good faith” in
8 constructing Conditions and Restrictions for the new seniority list when it is nothing
9 more than the same numerical junk science that Mr. Salamat has apparently been
10 selling to ALPA and others for years. In fact, Captain Mowrey testified that Mr.
11 Salamat was working on the seniority analysis in June 2008, almost nine (9) months
12 before they disclosed the underlying data.
13

14 To date, USAPA has never produced the underlying formulas or assumptions
15 for the analysis, nor provided a properly qualified expert to validate both the data, the
16 methodology used to manipulate the data. Plaintiffs were intentionally denied the
17 opportunity to depose and challenge the experts and the statistical analysis of the
18 Conditions and Restrictions it used in the USAPA Seniority List. USAPA should be
19 completely barred from offering testimony from Mr. Mowrey or anyone else on this
20 topic.
21

22
23 Plaintiffs should not be required to be hyper-vigilant for every effort Mr.
24 Seham will make to ask a question on direct examination that just happens to elicit a
25 long rambling and non-responsive answer from Captain Mowrey, that also just so
26 happens to present this inadmissible expert opinion evidence to the jury. As the
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1 Court has seen, Captain Mowrey is an impressive witness. he is undoubtedly a man
2 of integrity. The jury would be likely to give undue weight to his opinions and
3 testimony that cannot be refuted even with stellar cross-examination.

4
5 In addition, First Officer Bob Davison has been present during the trial, and it
6 is not unreasonable to suspect that he has spent some preparation time with Captain
7 Mowrey, as he did before Captain Mowrey's deposition, in order to make the
8 presentation of the expert analysis as seamless and invisible as possible. USAPA
9 should not be permitted to use Captain Mowrey as the mere spokesperson for
10 inadmissible expert opinions of others, nor allowed to summarize those opinions in
11 support of his personal opinion that the Conditions and Restrictions are fair.

12
13 Captain Mowrey no doubt honestly believes in his opinion because he relied
14 on the accuracy and integrity of the data he received from Mr. Salamat who had been
15 used by ALPA before. Captain Mowrey is likely not at fault here because he is
16 relying on USAPA's counsel for guidance. The prejudice to Plaintiffs is substantial
17 and will be irreparable. USAPA's counsel seem to press the limits of admissibility in
18 every question, no doubt hoping to force Plaintiffs to look like they are afraid of the
19 "truth" of these inadmissible opinions. Such game-playing should not be condoned.
20
21 There is more than enough evidence in this record to demonstrate that USAPA's
22 counsel will use any method to get the USAPA message to the jury.

23
24 For the foregoing reasons, Captain Mowrey should be very strictly limited to
25 those matters about which he has personal knowledge, under Rule 602, FRE. He
26 cannot be used as an expert witness under Rule 703 FRE because he likely does not
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1 have the necessary qualifications or experience, and he was never disclosed as an
2 expert. He cannot express opinions about the impact on West Pilots of USAPA's
3 C&Rs because he relied almost completely on non-testifying experts. USAPA knew
4 this issue required expert testimony, which is why they disclosed experts Salamat and
5 Davison. USAPA cannot avoid this obvious requirement by substituting Captain
6 Mowrey late in the trial.
7

8 Plaintiffs respectfully submit that Captain Mowrey can only provide
9 cumulative testimony about the nature of the Merger Committee he chairs, and the
10 fact that a Seniority List with Conditions and Restrictions was prepared. After those
11 few facts, he should not be permitted to testify to the Conditions and Restrictions at
12 all. Having intentionally denied Plaintiffs the opportunity to challenge this
13 information, USAPA counsel should not be permitted any opportunity at all to invite
14 a mistrial by sponsoring inadmissible expert testimony on the last day of trial and
15 daring Plaintiffs to try to challenge Captain Mowrey.
16
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18 Conclusion: The deposition testimony of Captain Mowrey quoted above
19 creates at least a prima facie question about the quality and admissibility of Captain
20 Mowrey's testimony. To overcome these doubts, the Court could conduct a voir dire
21 examination of Captain Mowrey, out of the presence of the jury, to determine
22 whether there is any reasonable basis to allow Captain Mowrey to testify in this case
23 about the Conditions and Restrictions. USAPA's counsel has demonstrated little
24 regard for proper courtroom decorum, or for the Rules of Evidence and discovery
25 obligations. The cumulative, irrelevant and well-rehearsed testimony by several
26
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1 USAPA witnesses casts grave doubt on the credibility to be given to any evidence
2 proffered by USAPA, especially on an issue of critical importance like the
3 Conditions and Restrictions.

4
5 Plaintiffs therefore request that the most appropriate remedy is to conduct a
6 voir dire examination of Captain Mowrey, with cross-examination if needed, and
7 then strictly limit Captain Mowrey's trial testimony to only those matters he is
8 permitted to testify about under Rule 602, and not otherwise excluded by Rule 702.

9
10 Respectfully submitted this 6th day of May, 2009.

11 POLSINELLI SHUGHART PC

12
13 By: /s/

14 *Don Stevens*

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16 3636 N. Central Ave., Suite 1200
17 Phoenix, AZ 85012

18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on May 6, 2009, I electronically transmitted the
20 foregoing document to the U.S. District Court Clerk's Office by using the
21 CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

22 *s/ Don Stevens*

Randall Mowrey

Vol. 1

03/18/2009

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ARIZONA

3 DON ADDINGTON; JOHN BOSTIC; MARK
4 BURMAN; AFSHIN IRANPOUR; ROGER
5 VELEZ; and STEVE WARGOCKI,
6 Plaintiffs,
7 vs.
8 US AIRLINE PILOTS ASSOCIATION,
9 US AIRWAYS, INC.,
10 Defendants.

11
12
13 Nexsen Pruet
14 201 South Tryon Street
15 Suite 1201
16 Charlotte, NC 28204
17 Wednesday, March 18, 2009
18 8:37 a.m. - 5:07 p.m.

19 DEPOSITION
20 OF
21 RANDALL MOWREY

22
23
24 Reported by: April Reid, RPR, CRR, CLR
25 Notary Public

Page 2

1 A P P E A R A N C E S

2

3 Appearing on behalf of the Plaintiffs:

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25

18 Also Present:

19 JOHN BOSTIC
20 STEPHEN BRADFORD
21 ROBERT DAVISON

Page 3

1 I N D E X

2

3 RANDALL MOWREY
4 Examination by Mr. Harper. 4

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7 E X H I B I T S

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9 Exhibit CM-11. 35
10 Exhibit CM-12. 58
11 Exhibit CM-13. 60
12 Exhibit CM-14. 67
13 Exhibit CM-15. 72
14 Exhibit CM-16. 91
15 Exhibit CM-17. 96
16 Exhibit CM-18. 117
17 Exhibit CM-19. 121
18 Exhibit CM-20. 129
19 Exhibit CM-21. 191
20 Exhibit CM-22. 254

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Page 4

1 THEREUPON:

2 RANDALL MOWREY

3 was called as a witness by the Plaintiffs and, after
4 having been first duly sworn, was examined and
5 testified upon his oath as follows:

6 DIRECT EXAMINATION

7 BY MR. HARPER:

8 Q. Captain Mowrey, can you state your name
9 for the record, please?

10 A. Randall Everett Mowrey.

11 Q. And where do you currently reside?

12 A. Daytona Beach, Florida.

13 Q. Do you have an address there?

14 A. 435 Basin Street 32114.

15 Q. By whom are you presently employed?

16 A. U.S. Airways.

17 Q. In what position?

18 A. I'm an Airbus captain.

19 Q. And how long have you held that position?

20 A. I believe I've been on the Airbus since
21 2002. It was when they parked the MD-88, left the
22 MD-88, with the end of the MD-80s on the property.

23 Q. Okay. And how long have you been
24 employed by U.S. Airways?

25 A. Since May 9th, 1985.

<p>Page 5</p> <p>1 Q. Between May 9th, 1985 and the present</p> <p>2 have you ever been furloughed while employed at U.S.</p> <p>3 Airways?</p> <p>4 A. No, sir.</p> <p>5 Q. Have you ever had your deposition taken</p> <p>6 before?</p> <p>7 A. Yes, sir, I have.</p> <p>8 Q. So you know the process we're going to go</p> <p>9 through today?</p> <p>10 A. I do.</p> <p>11 Q. And you sat through yesterday and you</p> <p>12 observed the process for Captain King, correct?</p> <p>13 A. I did.</p> <p>14 Q. Okay. So do I need to remind you of</p> <p>15 anything in how we're going to run this deposition</p> <p>16 today?</p> <p>17 A. Not from my perspective.</p> <p>18 Q. Okay. But let's make sure, if you don't</p> <p>19 understand a question I would appreciate it if you</p> <p>20 would let me know and I'll try to rephrase it. Is</p> <p>21 that okay?</p> <p>22 A. Yes.</p> <p>23 Q. And while I'll try to get some background</p> <p>24 information here, the first part of the deposition,</p> <p>25 the primary objective of the deposition today from</p>	<p>Page 7</p> <p>1 Q. June of 2008?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Is that when the Merger Committee for</p> <p>4 USAPA was first formed?</p> <p>5 A. Yes.</p> <p>6 Q. Has there ever been another chairman of</p> <p>7 the USAPA Merger Committee other than yourself?</p> <p>8 A. No, sir.</p> <p>9 Q. I want to just take a little bit of time</p> <p>10 and talk about the period before June of 2008.</p> <p>11 When did you first become a member of</p> <p>12 USAPA?</p> <p>13 A. When it was certified as the bargaining</p> <p>14 agent April 18th, 2008.</p> <p>15 Q. And have you been a dues-paying member of</p> <p>16 USAPA ever since?</p> <p>17 A. Yes.</p> <p>18 Q. Prior to April 18th, 2008 were you</p> <p>19 involved with USAPA in any way, shape or form?</p> <p>20 A. No.</p> <p>21 Q. So, you heard Captain King yesterday talk</p> <p>22 about the individuals who got together in the summer</p> <p>23 of 2007 and started to form together the pilots to</p> <p>24 eventually develop into USAPA, you were not involved</p> <p>25 in any of those activities during that time period?</p>
<p>Page 6</p> <p>1 my point of view is to see if I can understand as</p> <p>2 best as you can inform me about the proposal that</p> <p>3 the Merger Committee submitted to U.S. Airways on or</p> <p>4 about September 30th, 2008. Okay?</p> <p>5 A. I under.</p> <p>6 Q. So it's really educational and</p> <p>7 informative, and hopefully not confrontational.</p> <p>8 Okay?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. What did you do to get prepared</p> <p>11 for your deposition today?</p> <p>12 A. I spent several hours with Lee Seham and</p> <p>13 Bob Davison discussing the areas of my</p> <p>14 responsibility.</p> <p>15 Q. And when did that happen?</p> <p>16 A. It was last week, I believe.</p> <p>17 Q. And when you say "areas of your</p> <p>18 responsibility," what do you mean by that?</p> <p>19 A. Well, I'm currently the Merger Committee</p> <p>20 chairman for USAPA so areas that are appropriate to</p> <p>21 discharge of my union responsibilities.</p> <p>22 Q. How long have you been the Merger</p> <p>23 Committee chairman for USAPA?</p> <p>24 A. I've been the Merger Committee chairman</p> <p>25 for USAPA since last June, I believe it was.</p>	<p>Page 8</p> <p>1 A. No, I wasn't.</p> <p>2 MR. SEHAM: Objection to form.</p> <p>3 THE WITNESS: Sorry.</p> <p>4 MR. SEHAM: Object to form.</p> <p>5 BY MR. HARPER:</p> <p>6 Q. No?</p> <p>7 A. No.</p> <p>8 Q. Okay. What are the duties of the Merger</p> <p>9 Committee for USAPA?</p> <p>10 A. We are responsible for the development</p> <p>11 and implementation of seniority policy going</p> <p>12 forward.</p> <p>13 Q. How did you come to be the chairman of</p> <p>14 the Merger Committee for USAPA?</p> <p>15 A. I interviewed for the position with the</p> <p>16 Board of Pilot Representatives and was elected to it</p> <p>17 by the Board of Pilot Representatives.</p> <p>18 Q. Why were you interested in interviewing</p> <p>19 for that position?</p> <p>20 A. A couple of reasons, actually.</p> <p>21 The larger reason for me was that I was</p> <p>22 pleasantly surprised by the U.S. Airways pilots</p> <p>23 willingness to make the level of commitment that</p> <p>24 they made to establish and go forward with an</p> <p>25 independent union.</p>

<p>Page 65</p> <p>1 straight date of hire?</p> <p>2 A. Because I wanted to do more.</p> <p>3 Q. How?</p> <p>4 A. I wanted to provide them additional</p> <p>5 protections beyond what was required --</p> <p>6 Q. Required?</p> <p>7 A. -- as a bare minimum.</p> <p>8 Q. Where is it required as a bare minimum?</p> <p>9 A. Well, if you operate under the premise</p> <p>10 that date of hire in and of itself is an equitable</p> <p>11 way to recognize an employee's service to his</p> <p>12 company then you can go there and stop and be done;</p> <p>13 however, in an effort to address what had been</p> <p>14 articulated as concerns by former America West</p> <p>15 pilots this Merger Committee thought the best way to</p> <p>16 proceed was to go beyond that and provide additional</p> <p>17 protections as a means to reach out to what</p> <p>18 ultimately will be one pilot group and so we made</p> <p>19 the decision to go further.</p> <p>20 Q. But you stick with the -- the statement</p> <p>21 you made that a strict date of hire would provide no</p> <p>22 protections -- zero protections to the America West</p> <p>23 pilots?</p> <p>24 MR. SEHAM: Objection, misstates the</p> <p>25 document.</p>	<p>Page 67</p> <p>1 A. This --</p> <p>2 MR. SEHAM: Objection. Objection; form,</p> <p>3 argumentative.</p> <p>4 THE WITNESS: This particular pilot is a</p> <p>5 pilot that has been expressing his concerns to</p> <p>6 the Merger Committee about the construction of</p> <p>7 conditions and restrictions for the benefit of</p> <p>8 the America -- former America West pilots and</p> <p>9 this response is intended to discuss those</p> <p>10 conditions and restrictions, it is not intended</p> <p>11 as some sort of a position paper on the</p> <p>12 validity or otherwise of date of hire as a</p> <p>13 principle for integration of seniority lists,</p> <p>14 it's geared towards discussing the specifics of</p> <p>15 the conditions and restrictions as brought up</p> <p>16 by this Kirk Habib.</p> <p>17 (THEREUPON, Exhibit CM-14 was marked for</p> <p>18 identification).</p> <p>19 BY MR. HARPER:</p> <p>20 Q. I'm going to show you what we have marked</p> <p>21 as CM-14, USAPA 6777.</p> <p>22 Do you have that?</p> <p>23 A. Yes.</p> <p>24 Q. Can you identify that, please?</p> <p>25 A. It appears to be another pilots e-mail to</p>
<p>Page 66</p> <p>1 BY MR. HARPER:</p> <p>2 Q. In terms --</p> <p>3 MR. SEHAM: Objection to form.</p> <p>4 BY MR. HARPER:</p> <p>5 Q. Do you stand by the statement -- do you</p> <p>6 stick by the statement found on CM-13 Bates 20568</p> <p>7 that a date of hire list with all vacancies filled</p> <p>8 by pure date of hire seniority would offer zero</p> <p>9 protection to the west pilots in terms of pre-merger</p> <p>10 expectations?</p> <p>11 A. It is out of context.</p> <p>12 The context of this e-mail is discussing</p> <p>13 how are we dealing -- how are we going to deal with</p> <p>14 the issues that we believe need to be addressed to</p> <p>15 address the former America West pilots' specific</p> <p>16 concerns, this e-mail was not intended as a</p> <p>17 discussion of whether or not date of hire is an</p> <p>18 appropriate operating philosophy in a macro sense.</p> <p>19 It was intended as a discussion to</p> <p>20 discuss the conditions and restrictions that we were</p> <p>21 in the process of creating at this point.</p> <p>22 Q. How did I take that statement out of</p> <p>23 context when I took it out of what you wanted to</p> <p>24 include in a letter to a pilot from the Merger</p> <p>25 Committee on or about October 8th, 2008?</p>	<p>Page 68</p> <p>1 the Merger Committee and it appears that he's</p> <p>2 concerned about the term of fences and it also</p> <p>3 appears that this is a proposed draft response to</p> <p>4 him.</p> <p>5 Q. And is -- the pilot is identified as</p> <p>6 Gordon Davis?</p> <p>7 A. Yes.</p> <p>8 Q. And that's an east pilot?</p> <p>9 A. Yes, it appears so.</p> <p>10 I mean, if, you know, what he signs is</p> <p>11 true.</p> <p>12 Q. It says Philadelphia first officer?</p> <p>13 A. Well, it looks like he says he is a</p> <p>14 Philadelphia first officer.</p> <p>15 Q. Assuming that's true, he is an east</p> <p>16 officer?</p> <p>17 A. I wouldn't assume. That's not true</p> <p>18 necessarily. I have to tell you that I am getting</p> <p>19 e-mails from lots of people with assumed names</p> <p>20 and...</p> <p>21 Q. Okay. When you get down to "Bob proposed</p> <p>22 answer" are you writing that or who's writing that?</p> <p>23 You see, "Gordon, the decision to</p> <p>24 place..."?</p> <p>25 Are you authoring that?</p>

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1 A. You know, I can't say with certainty.
2 I mean, the truth is, you know, we would
3 work on a proposed answer, send it back and forth,
4 it's conceivable that was authored by Bob and sent
5 to me to revise and vice versa.
6 Q. But you are involved in the --
7 A. Yes.
8 Q. -- in constructing the answer back to the
9 pilot?
10 A. Yes.
11 Q. Is that a fair statement?
12 A. That is correct.
13 Q. Okay. I wanted to take you down to the
14 third line from the bottom where it's written, "Any
15 time you combine two different work groups there
16 will be distortions of seniority unless the hiring
17 and growth patterns of the two pre-merger groups are
18 identical."
19 Do you see that?
20 A. Yes.
21 Q. Did I read that right?
22 A. Yes.
23 Q. What does that mean?
24 A. Well, I think it's self-evident. Unless
25 the two airlines start at the same moment in time,

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1 have exactly the same hiring curves there are
2 necessarily different distributions of seniority.
3 Q. You say -- you said distributions, but
4 you use here distortions. Is there a difference?
5 A. Not -- no, there isn't really.
6 In trying to communicate to a layman
7 pilot, if you will, someone who hasn't worked on
8 seniority, distortion may help them get a visual
9 that there's a pure tracking of line of the
10 distribution of the hiring of a company, that there
11 may be a bump here either up or down that does not
12 necessarily align with another company.
13 So that was the purpose of using the term
14 distortion. I think distribution or distortion
15 would work.
16 Q. Okay. The first sentence in that
17 response to Gordon Davis reads, "Gordon, the
18 decision to place a ten-year fence in place was not
19 an arbitrary one. If you compare the demographics
20 of the two pre-merger airlines you find that it
21 requires just about ten years of attrition to place
22 the two lists where they can operate entirely based
23 upon date of hire seniority without having
24 distortions that advantage one segment or another of
25 the pre-merger airline seniority lists."

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1 Do you see that?
2 A. Yes.
3 Q. How do you know that's true?
4 Did you do some studies in order to
5 verify that statement?
6 A. We did.
7 Q. What type of studies did you do?
8 A. We constructed the list from the two
9 pre-merger certified lists and then we aged them and
10 looked for different distributions of hiring.
11 Q. Did you use a particular program to help
12 you on that?
13 A. We actually used a professional
14 consultant, his name is Rick Salamat, and a lot of
15 the work was done with Excel as well as his -- he's
16 got some proprietary programs.
17 Q. Have you produced any of those studies as
18 part of this litigation?
19 A. You -- I believe you have all of them.
20 Q. Just the results; is that right?
21 I mean, what -- what have you produced,
22 in your own words?
23 A. His work product as well as additional
24 work that was done by Bob Davison that follows the
25 same general outline.

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1 Q. We have it. I just want to...
2 A. Okay.
3 (THEREUPON, Exhibit CM-15 was marked for
4 identification).
5 BY MR. HARPER:
6 Q. I want to show you what we've had marked
7 as CM-15?
8 THE COURT REPORTER: Yes.
9 BY MR. HARPER:
10 Q. CM-15.
11 A. Okay.
12 Q. It's a multi-paged exhibit beginning with
13 Bates number USAPA 3206, but it's not consecutive,
14 Captain Mowrey, as we go through. I want to alert
15 you to that fact.
16 But can you just look at that Exhibit
17 CM-15 and see if it's reflective of the items that
18 you have just described to us that you have produced
19 as the work product of Rick Salamat?
20 A. It would be hard to go through this and
21 tell you which of this is -- reflects Salamat's work
22 and which of it reflects Bob Davison's work because
23 the display is very similar.
24 Q. Okay. So it's possible that what we have
25 in the form of CM-15 is reflective both of

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1 Davidson's work and Salamat's work?
2 A. Yes. Yes. Sure.
3 Q. Okay. Now, you said he used an Excel
4 spreadsheet to do some of this work; is that right?
5 A. Bob Davison did and Rick Salamat. As I
6 said, I think he used his own proprietary software
7 as well.
8 Q. Where is the -- presently do you know
9 where Mr. Davidson's (sic) Excel spreadsheet
10 materials are?
11 A. I would -- I would ask you to ask Bob
12 Davison that question.
13 Q. Are they on your computer?
14 A. The -- I don't necessarily have -- no. I
15 would say that -- that for a complete catalog of his
16 work you'd have to get to his computer. I don't
17 think that I have all of -- everything that he
18 worked on.
19 Q. Do you have the underlying data of
20 proprietary information that Mr. Salamat used in
21 order to prepare his work product on your computer?
22 A. I don't have the proprietary information
23 that he uses, it's his modeling, I have his output.
24 Q. But he -- pardon me.
25 A. I have his -- his conclusions. I don't

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1 have the actual software that he uses.
2 Q. Did you have access to that software
3 during the course --
4 A. No.
5 Q. -- of his work?
6 A. I did not, no.
7 We would -- we would provide him with
8 requests for data and he would run his modeling and
9 produce results for us. He never actually said
10 here's the software, you can use this and --
11 Q. Did you make those requests in writing?
12 A. Not always, no.
13 Q. Sometimes?
14 A. I want to say that there probably were
15 some specific requests in writing, but I can't
16 honestly say that -- that that's absolute because
17 Kevin Barry talked to him a number of times when I
18 wasn't involved and I honestly can't tell you if he
19 gave him written instructions or over the telephone.
20 Q. Well, you said Barry was on the committee
21 for a very short period of time?
22 A. Yes, that's true.
23 Q. Over what period of time?
24 A. The spool-up period when we were
25 establishing a relationship with Salamat.

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1 Q. Salamat testified on behalf of the east
2 pilots in front of Nicolau, didn't he?
3 A. I don't know, I wasn't involved in that.
4 Q. Okay. When's the first time you met
5 Salamat?
6 A. I never met him.
7 Q. When's the first time you talked to him?
8 A. June, I would say, of last year.
9 Q. Where does he reside?
10 A. Toronto, Canada, I believe.
11 Q. Okay. How do you check his work to make
12 sure it's accurate if you don't have access to his
13 underlying data?
14 A. I have relied on his previous
15 certifications and expert by -- ALPA National used
16 him, I spoke with Kevin Barry and I spoke with Bob
17 Kirch who had both interfaced with him and I used
18 Bob Davison to compare -- run parallel analysis to
19 verify his conclusions and they matched up.
20 Q. Looking at CM-15, did there come a point
21 in time when Mr. Salamat's work in your opinion was
22 done with the Merger Committee or is it still
23 ongoing?
24 A. It's not done, and I would say that I
25 would like to keep a continuing relationship with

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1 him and -- because there's always the potential of
2 follow-on transaction. I want to keep him my guy.
3 Q. Well, I'm not going to interfere with
4 that. I just wanted to know --
5 A. So the answer is he's got an ongoing
6 relationship with us.
7 Q. Does he presently have any assignments
8 from the Merger Committee?
9 A. Yes.
10 Q. What are they/those?
11 A. I've asked him to validate additional
12 analysis that Bob Davison has done independently.
13 Q. When did you ask him to do that?
14 Recently?
15 A. Yes. Yes.
16 Q. And does he have a deadline for that?
17 A. Not a hard deadline. I would like him to
18 have it done yesterday.
19 Q. Okay. So he's got some ongoing
20 assignments for the Merger Committee, correct?
21 A. Yes.
22 Q. But these analyses that we have here in
23 the form of CM-15 and referred to generally in
24 CM-14, did there come a point in time when he was
25 done with that work?

<p>Page 77</p> <p>1 A. As I said, it's not done, it's ongoing.</p> <p>2 I mean, we have a --</p> <p>3 Q. The bulk of this material here, when was</p> <p>4 this -- in CM-15, approximately when was that</p> <p>5 produced to the Merger Committee?</p> <p>6 A. As I said, this has been an ongoing</p> <p>7 evolution. I can't tell you that it was done by a</p> <p>8 summer or that it was done at Christmas or -- you</p> <p>9 know, I mean, we've been doing this.</p> <p>10 Q. Are there -- were there drafts of these</p> <p>11 materials in the form of CM-15 that were looked at</p> <p>12 and then modified either by Mr. Davidson (sic) or by</p> <p>13 you or by Salamat?</p> <p>14 A. Not necessarily modified. It was</p> <p>15 additional -- sometimes analysis would create</p> <p>16 additional questions.</p> <p>17 For example, hypothetically we may have</p> <p>18 started off saying can you take a look at the two</p> <p>19 lists in age of five years and tell us what it looks</p> <p>20 like and we would look at that and -- well, I can</p> <p>21 just tell you that from looking at five years you</p> <p>22 can see that there still are different hiring</p> <p>23 bubbles representative of both pilot groups so we</p> <p>24 said, well, that doesn't take us to a place where</p> <p>25 the distortions have been addressed so take it to</p>	<p>Page 79</p> <p>1 A. Yes.</p> <p>2 Q. How much -- how soon before that,</p> <p>3 approximately?</p> <p>4 A. I would want to say weeks before that.</p> <p>5 Not months, but weeks.</p> <p>6 Q. Early September?</p> <p>7 A. Sure.</p> <p>8 Q. Okay. Has Mr. Salamat been retained as</p> <p>9 an expert in this litigation?</p> <p>10 A. He has.</p> <p>11 Q. He has?</p> <p>12 A. Yes.</p> <p>13 Q. And is he expected to testify?</p> <p>14 A. I would defer to my lawyer on that.</p> <p>15 Q. As far as you understand?</p> <p>16 A. I don't believe that -- that</p> <p>17 determination has been made.</p> <p>18 Q. What -- what is his task as an expert in</p> <p>19 this case?</p> <p>20 What's his assignment?</p> <p>21 A. His assignment is to be able to address</p> <p>22 statistical analysis of the seniority list.</p> <p>23 Q. Okay. Who's working with him in order to</p> <p>24 -- if you know, to get him prepared to testify?</p> <p>25 MR. SEHAM: Objection to form.</p>
<p>Page 78</p> <p>1 seven years and we'd get another work product, and</p> <p>2 so forth.</p> <p>3 Q. Did you keep those various work products,</p> <p>4 five years, seven years, ten years, 20 years,</p> <p>5 whatever the case may be?</p> <p>6 A. I can't say with certainty.</p> <p>7 I think that there may have been early</p> <p>8 pieces of work from him where we looked at it and</p> <p>9 said it -- it's not complete, we need something more</p> <p>10 and we just discarded it all before we were involved</p> <p>11 in any of this.</p> <p>12 Q. Discarded it?</p> <p>13 A. Yeah.</p> <p>14 I don't know if it was deleted or -- I</p> <p>15 can't tell you that. I just don't know.</p> <p>16 Q. You made a proposal to the company on or</p> <p>17 about September -- the merger company -- the Merger</p> <p>18 Committee made a proposal to the committee on or</p> <p>19 about September 30th, 2008?</p> <p>20 A. Yes.</p> <p>21 Q. Correct?</p> <p>22 A. Yes.</p> <p>23 Q. Was most of Salamat's work and Davison's</p> <p>24 work in connection with that proposal done before</p> <p>25 September 30th?</p>	<p>Page 80</p> <p>1 THE WITNESS: I don't know.</p> <p>2 BY MR. HARPER:</p> <p>3 Q. Is he going to make a report in</p> <p>4 connection with this litigation, if you know?</p> <p>5 A. I don't know.</p> <p>6 Q. Okay. Is the Merger Committee continuing</p> <p>7 to make changes in the analysis that is reflective</p> <p>8 in CM-15 as you move forward towards the trial date?</p> <p>9 MR. SEHAM: Objection to form.</p> <p>10 THE WITNESS: No, we're not making</p> <p>11 changes.</p> <p>12 BY MR. HARPER:</p> <p>13 Q. Is the Merger Committee consulting with</p> <p>14 Mr. Salamat in connection with the conditions and</p> <p>15 restrictions that have been proposed by the Merger</p> <p>16 Committee?</p> <p>17 A. Yes.</p> <p>18 Q. And is he continuing to work on potential</p> <p>19 changes or modifications to the conditions and</p> <p>20 restrictive -- restrictions that are currently set</p> <p>21 forth in USAPA's proposal to the company?</p> <p>22 A. No.</p> <p>23 Q. He's not?</p> <p>24 A. He's not at this time, no.</p> <p>25 Q. Has he, between September 30th and to</p>

<p>Page 97</p> <p>1 please.</p> <p>2 A. Yes. This looks like a PowerPoint</p> <p>3 presentation that we gave to the board.</p> <p>4 Q. Who's "we"?</p> <p>5 A. The Merger Committee.</p> <p>6 Q. And at that point in time who was on the</p> <p>7 Merger Committee?</p> <p>8 And that point in time I'm -- was this</p> <p>9 present -- strike that.</p> <p>10 Let's go back. CM-17, Bates 3159 has a</p> <p>11 date of June 10th, 2008 on it, correct?</p> <p>12 A. Yes. I see that.</p> <p>13 Q. Does that reflect the date, as best you</p> <p>14 recall, of when this presentation for CM-17 would</p> <p>15 have made it to the Board of Pilot Representatives?</p> <p>16 A. I think so. I'm assuming that's why we</p> <p>17 put that date on it.</p> <p>18 Q. All right. Then who is a member of the</p> <p>19 Merger Committee at that point in time?</p> <p>20 A. I believe at that point it was Mike</p> <p>21 Turpen, Kevin Barry and myself.</p> <p>22 Q. And Bob Davidson (sic) was not on the</p> <p>23 committee?</p> <p>24 A. Davison.</p> <p>25 Q. Davison. I keep putting the second D in</p>	<p>Page 99</p> <p>1 A. It was all accomplished quickly.</p> <p>2 Q. -- in time, you became chair to this</p> <p>3 presentation?</p> <p>4 A. I don't know what else you would expect</p> <p>5 me to say. That's -- yes, that's -- that's exactly</p> <p>6 correct.</p> <p>7 Q. Well, how much underlying data did the</p> <p>8 Merger Committee have at the time of this first</p> <p>9 proposal in order to make the proposal?</p> <p>10 A. At the time that this was completed we</p> <p>11 did not have the benefit of complete analysis. This</p> <p>12 does not represent the final product. This</p> <p>13 represents a conceptual product that we wanted to --</p> <p>14 we wanted the board to know what we were thinking</p> <p>15 and the direction we were headed and if it was their</p> <p>16 interpretation that we were significantly off track</p> <p>17 we wanted them to provide us a course correction at</p> <p>18 that point, and that was the intent of this, not to</p> <p>19 have a definitive document.</p> <p>20 Q. Okay. So I think we're getting there.</p> <p>21 We have the conceptual presentation by</p> <p>22 the Merger Committee to the Board of Pilot</p> <p>23 Representatives on or about June 10th, 2008,</p> <p>24 correct?</p> <p>25 A. Sure.</p>
<p>Page 98</p> <p>1 there.</p> <p>2 A. He was not on the committee, no.</p> <p>3 Q. When did he become a member of the</p> <p>4 committee?</p> <p>5 A. After that time.</p> <p>6 Q. Okay. Earlier today you told me you</p> <p>7 became chair of the Merger Committee in June of</p> <p>8 2008, approximately?</p> <p>9 A. Yeah, approximately.</p> <p>10 Q. Just tell me how -- how is it possible,</p> <p>11 then, for the Merger Committee -- strike that.</p> <p>12 Were you the primary person making the</p> <p>13 presentation to the Board of Pilot Representatives</p> <p>14 as chair of the Merger Committee?</p> <p>15 A. Typically when the Merger Committee makes</p> <p>16 a presentation to the board we -- you know, we share</p> <p>17 it so, you know, no, not necessarily --</p> <p>18 Q. Okay.</p> <p>19 A. -- but I think -- well, I guess so.</p> <p>20 Q. From the time that you became chair of</p> <p>21 the Merger Committee, whether it was early June or</p> <p>22 late May of 2008, and the presentation, CM-17, on</p> <p>23 June 10th, 2008, that's a pretty short period of</p> <p>24 time to do this work, can you explain how all of</p> <p>25 that was accomplished that quickly --</p>	<p>Page 100</p> <p>1 Q. With not a lot of underlying supporting</p> <p>2 analysis, correct?</p> <p>3 A. Those are your words, not mine.</p> <p>4 Q. Well, did you have some analysis or</p> <p>5 supporting documentation or data in order to put</p> <p>6 this together?</p> <p>7 A. Yeah. We had a -- I had been on two</p> <p>8 Merger Committees previous to that, Kevin Barry had</p> <p>9 been on the previous Merger Committee, there had --</p> <p>10 it wasn't like we went down to the airport and we</p> <p>11 were trying to learn to fly by next Tuesday, we've</p> <p>12 been doing this.</p> <p>13 Q. Okay. So a lot of it is just the</p> <p>14 experience of the members of the Merger Committee?</p> <p>15 A. Sure.</p> <p>16 Q. Okay. I'll take that.</p> <p>17 Had you -- had you -- strike that.</p> <p>18 Had the Merger Committee engaged Mr.</p> <p>19 Salamat to do any work for the Merger Committee</p> <p>20 before June 10th, 2008?</p> <p>21 A. I want to say yes. I believe so. We hit</p> <p>22 the ground running with it. Mike, he was one of the</p> <p>23 first people that I contacted.</p> <p>24 Q. After becoming a member of the Merger</p> <p>25 Committee?</p>

<p>Page 101</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And what was -- what were his</p> <p>3 initial tasks?</p> <p>4 A. His initial task -- first off, for me</p> <p>5 personally he had done some previous analysis and</p> <p>6 work for ALPA's Merger Committee and I had not seen</p> <p>7 it and so I had him show me what he had done and</p> <p>8 explain to me how he did his work, how he arrived at</p> <p>9 his conclusions, and it was an opportunity for me to</p> <p>10 get up-to-speed on him because when I had been on</p> <p>11 previous merger committees we hadn't used him, we</p> <p>12 had used different people and so I --</p> <p>13 Q. Who had you used?</p> <p>14 A. The previous merger committee I believe</p> <p>15 that we used the firm of SH&E which is a airline</p> <p>16 specialized consulting firm in New York.</p> <p>17 Q. Okay. When you say you had him show you</p> <p>18 what he had done, did you actually meet with him?</p> <p>19 A. No.</p> <p>20 I had him on the phone and he talked me</p> <p>21 through charts and graphs that he had produced for</p> <p>22 the previous merger committee that Kevin Barry had</p> <p>23 provided to me.</p> <p>24 Q. So you actually had some charts and</p> <p>25 graphs that had been prepared by Salamat for the</p>	<p>Page 103</p> <p>1 dissenting opinions.</p> <p>2 Q. Were they shared with the Merger</p> <p>3 Committee verbally?</p> <p>4 A. Yes.</p> <p>5 Q. Any of the positive or the dissenting</p> <p>6 opinions reduced to writing at any point in time in</p> <p>7 or around this initial presentation of June 10th,</p> <p>8 2008?</p> <p>9 A. No, I don't believe so. No.</p> <p>10 Q. Recall for me as best you can the</p> <p>11 dissenting opinions. What were they?</p> <p>12 A. There was some question about our intent</p> <p>13 to provide protections --</p> <p>14 MR. SEHAM: You know, Counsel, I would</p> <p>15 ask you to listen to the question (sic) instead</p> <p>16 of talking during the testimony. It is</p> <p>17 distracting to me, it is distracting to the</p> <p>18 deponent and if you're not going to listen to</p> <p>19 the answer I don't know why you're asking the</p> <p>20 question.</p> <p>21 I ask that the court reporter read back</p> <p>22 the question so that the witness has --</p> <p>23 MR. HARPER: It is my deposition. Will</p> <p>24 you be quiet, please --</p> <p>25 MR. SEHAM: I --</p>
<p>Page 102</p> <p>1 purpose of this initial introductory communication?</p> <p>2 A. Actually, Kevin Barry had --</p> <p>3 specifically, Kevin Barry had those charts and</p> <p>4 graphs. I didn't have possession of them.</p> <p>5 Q. But he shared them with you?</p> <p>6 A. It was his -- yeah. I guess it was the</p> <p>7 previous merger committee's work product.</p> <p>8 Q. And tell me again, Kevin Barry is still a</p> <p>9 pilot at U.S. Airway?</p> <p>10 A. Correct.</p> <p>11 Q. Do you know what base -- I'm sorry if I</p> <p>12 asked you.</p> <p>13 A. I don't. I'm sorry.</p> <p>14 He might be in Boston, but I'm not sure</p> <p>15 of that.</p> <p>16 Q. Okay. So the Merger Committee makes a</p> <p>17 presentation to the Board of Pilot Representatives</p> <p>18 on or about June 10th, 2008 in the form of this</p> <p>19 PowerPoint presentation; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. What feedback or what reaction did</p> <p>22 the Merger Committee at that time or afterwards</p> <p>23 receive from the Board of Pilot Representatives?</p> <p>24 A. I would say -- well, largely it was</p> <p>25 positive, they supported us. There were some</p>	<p>Page 104</p> <p>1 MR. HARPER: -- Mr. Seham.</p> <p>2 MR. SEHAM: No, I will not be quiet. I</p> <p>3 will not be quiet if you are talking as the</p> <p>4 witness is trying to testify to a question that</p> <p>5 you pose. I will not be quiet under those</p> <p>6 circumstances, when you're interfering with the</p> <p>7 witness' testimony.</p> <p>8 And I'm going to ask that the court</p> <p>9 reporter read back the question and I'm also</p> <p>10 going to ask if -- if counsel can refrain from</p> <p>11 talking while the witness is testifying in</p> <p>12 response to counsel's question.</p> <p>13 MR. HARPER: Hey, I'll tell you what, you</p> <p>14 do it that way when you do the depositions and</p> <p>15 I'll follow your lead. You didn't do that in</p> <p>16 the Phoenix deposition that I sat through.</p> <p>17 MR. SEHAM: I --</p> <p>18 MR. HARPER: You were all over the room</p> <p>19 during the time that the witness was responding</p> <p>20 to your questions.</p> <p>21 MR. SEHAM: That -- that is -- is not the</p> <p>22 case and I didn't -- I didn't interrupt the</p> <p>23 witness.</p> <p>24 I'm going to ask that you not raise your</p> <p>25 voice to me, that you not jab your finger at</p>