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STANLEY J. SILVERSTONE, Esq. *pro hac vice*
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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 Don ADDINGTON; John BOSTIC; Mark
BURMAN; Afshin IRANPOUR; Roger
12 VELEZ; and Steve WARGOCKI,

13 Plaintiffs,

14 vs.

15 US AIRLINE PILOTS ASSOCIATION,
US AIRWAYS, INC.,
16 Defendants,

Case No. 2:08-cv-1633-PHX-NVW
(Consolidated)

DECLARATION OF
NICHOLAS P. GRANATH, ESQ.

17 Don ADDINGTON; John BOSTIC; Mark
BURMAN; Afshin IRANPOUR; Roger
18 VELEZ; and Steve WARGOCKI,

19 Plaintiffs,

20 vs.

21 Steven H. BRADFORD, Paul J. DIORIO,
Robert., A. FREAR, Mark. W. KING,
22 Douglas L. MOWERY, and John A.
STEPHAN,
23

Defendants.

Case No. 2:08-cv-1728-PHX-NVW

1 I, Nicholas Paul Granath, Esq., declare as follows:

2 1. I am attorney of record for defendant USAPA in this matter as well as for
3 all named defendants in the matter of Addington *et al* v. Bradford *et al*, Case No. 2:08-
4 cv-01728-NVW. I make this Declaration of my own free will and based on my personal,
5 first-hand knowledge, unless otherwise specifically indicated.

6 2. This Declaration is submitted in support of USAPA's motion for summary
7 judgment on Plaintiffs' damage claims.

8 3. Attached, and marked and labeled **Exhibit A**, is a true and correct copy of
9 correspondence by Plaintiffs' attorney Kelly Flood to the company dated December 2,
10 2008.

11 4. Attached, and marked and labeled **Exhibit B**, is a true and correct copy of a
12 chain of email with Plaintiffs' attorney, the company, Defendant's attorney, and
13 Arbitrator Bloch scheduling Plaintiffs' Count I and II grievance for a hearing before the
14 System Adjustment Board in late May, 2009.

15 5. Attached, and marked and labeled **Exhibit C**, are true and correct copies of
16 extracts from the deposition of Hemenway.

17 6. Attached, and marked and labeled **Exhibit D**, are true and correct copies of
18 from the deposition of Addington.

19 7. Attached, and marked and labeled **Exhibit E**, are true and correct copies of
20 from the deposition of Bostic.

21 8. Attached, and marked and labeled **Exhibit F**, are true and correct copies of
22 from the deposition of Burman.
23

1 9. Attached, and marked and labeled **Exhibit G**, are true and correct copies of
2 from the deposition of Iranpour.

3 10. Attached, and marked and labeled **Exhibit H**, are true and correct copies of
4 from the deposition of Wargocki.

5 11. Attached, and marked and labeled **Exhibit I**, are true and correct copies of
6 from the deposition of Velez.

7 Further your Declarant sayeth not.

8 Pursuant to 29 USC § 1746, I declare under penalty of perjury that the foregoing is
9 true and correct.
10

11 Executed on: May 22, 2009

/s/ NICHOLAS PAUL GRANATH

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23

The Law Firm Of



A Professional Corporation

Kelly J. Flood

kflood@stklaw.com

Direct Dial (602) 650-2043

Direct Fax (602) 926-8552

Fax (602) 264-7033

December 2, 2008

**VIA FACSIMILE, EMAIL AND
US MAIL**

Sarah Asta
Karen Gillen
US Airways, Inc.
111 W. Rio Salado Parkway
Tempe, AZ 85281

Robert A. Siegel
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071-2899

Rachel S. Janger
1625 Eye Street, NW
Washington, DC 20006

Re: *Addington, et al. v. USAPA and US Airways, Inc.*

Dear Counsel,

Consistent with the Company's representations to the Court, and the Court's ruling dated November 20, 2008 (page 22, lines 9-11), Plaintiffs hereby submit their grievance as articulated in Counts One and Two of their complaint. Please confirm that the Company will agree to process this grievance with expedited consideration, consistent with representations made to the Court. Additionally, please confirm that Plaintiffs and the Company can agree to select together the single neutral to preside over the arbitration of this grievance. Finally, please confirm the Company's position on these issues prior to meet-and-confer deadline of December 10, 2008, so that the parties can inform the Court of the status of the grievance as part of the Joint Case Management Report.

Plaintiffs hereby submit the following as their grievance:

COUNT ONE

Breach of CBA: Furlough Out Of Order

1. As and for background, Plaintiffs re-allege each and every allegation set forth in their complaint as if fully set forth herein.

December 2, 2008

Page 2

2. According to West CBA terms found in the Transition Agreement, Defendant US Airways must place all pilots newly hired since the effective date of the Transition Agreement on a third seniority list entitled "New Hire Seniority List."

3. According to West CBA terms found in the Transition Agreement, Defendant US Airways must furlough all pilots on the New Hire Seniority List before it can furlough any West Pilot.

4. Since the effective date of the Transition Agreement, Defendant US Airways has hired approximately 100 new pilots to work as East Pilots.

5. Since the effective date of the Transition Agreement, the active roster of West pilots has decreased by 118 pilots, from 1894 to 1776.

6. Since the effective date of the Transition Agreement, the active roster of East pilots has increased by 239 pilots, from 3407 to 3646.

7. On or about June 12, 2008, Defendant US Airways announced plans to furlough approximately 300 pilots by April 2009.

8. Upon information and belief, Defendant US Airways plans, as part of the 300, to furlough 175 West Pilots.

9. Upon information and belief, Defendant US Airways has scheduled 57 West Pilots to be furloughed on October 1, 2008.

10. Upon information and belief, Defendant US Airways has scheduled an additional 54 West Pilots to be furloughed on November 1, 2008.

11. Upon information and belief, Defendant US Airways is in direct breach of West CBA terms found in the Transition Agreement because it:

a) Does not plan to furlough all pilots on the New Hire Seniority List before it furloughs West Pilots on October 1, 2008;
and

b) Does not plan to furlough all pilots on the New Hire Seniority List before it furloughs West Pilots on November 1, 2008.

12. Defendant US Airways has scheduled one or more Plaintiffs to be furloughed on October 1, 2008.

December 2, 2008

Page 3

13. Defendant US Airways has scheduled one or more Plaintiffs to be furloughed on November 1, 2008.

14. One or more Plaintiffs, and other West Pilots similarly situated, would likely have been promoted were it not for the West Pilot furloughs planned by Defendant US Airways.

15. One or more Plaintiffs, and other West Pilots similarly situated, will likely suffer a demotion and/or loss of wages, benefits and favorable working conditions because of the West Pilot furloughs planned by Defendant US Airways.

COUNT TWO

Breach of CBA: Failure To Negotiate In Good Faith

1. As and for background, Plaintiffs re-allege each and every allegation set forth in their complaint as if fully set forth herein.

2. In November 2007, Defendant US Airways accepted the Nicolau List, as required by the Transition Agreement.

3. According to West CBA terms found in the Transition Agreement, after Defendant US Airways accepted the Nicolau List, it was obliged to negotiate with USAPA in good faith to institute Integrated Operations by adopting a single collective bargaining agreement that would implement the Nicolau List.

4. Since April 18, 2008, Plaintiffs are informed and, therefore, allege that Defendant US Airways has been in breach of the West CBA terms found in the Transition Agreement because it has not been negotiating with USAPA in good faith to institute Integrated Operations by adopting a single collective bargaining agreement that would implement the Nicolau List.

5. One or more Plaintiffs, and other West Pilots similarly situated, have not been promoted because Defendant US Airways has not been negotiating with USAPA in good faith to institute Integrated Operations by adopting a single collective bargaining agreement that would implement the Nicolau List.

6. One or more Plaintiffs, and other West Pilots similarly situated, will likely suffer a demotion and/or loss of wages, benefits and favorable working conditions because Defendant US Airways has not been negotiating with USAPA in good faith to institute Integrated Operations by adopting a single collective bargaining agreement that would implement the Nicolau List.

December 2, 2008

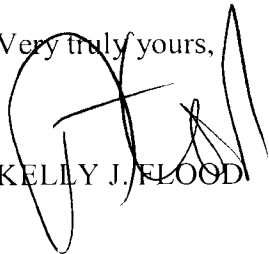
Page 4

7. One or more Plaintiffs, and other West Pilots similarly situated, will be furloughed because Defendant US Airways has not been negotiating with USAPA in good faith to institute Integrated Operations by adopting a single collective bargaining agreement that would implement the Nicolau List.

Requested Relief:

- A. An order that:
- (1) Defendant US Airways shall not furlough any West Pilot before it has furloughed all pilots on the New Hire Seniority List;
 - (2) Defendant US Airways shall not furlough any West Pilot before it has furloughed all East Pilots junior to them on the Nicolau List;
 - (3) Defendant US Airways shall not amend the West CBA unless such amendment is ratified by a majority of the West Pilots.
- B. An order that Defendant US Airways shall negotiate and implement a single collective bargaining agreement that fully implements the Nicolau List;
- C. That Defendant US Airways compensate Plaintiffs for the value of lost wages and benefits caused by the injuries alleged herein;
- D. That Plaintiffs be awarded their reasonable attorneys' fees and costs in pursuing these claims against US Airways pursuant to A.R.S. § 12-341.01
- E. That Plaintiffs be granted such other relief that the neutral deems necessary and proper.

Very truly yours,



KELLY J. FLOOD

KJF:kah

December 2, 2008
Page 5

c: Lee Seham
Nicholas Paul Granath
Stanley Lubin

From: "Kelly Flood" <kflood@stklaw.com>
Subject: **Re: US Airways: Transition Agreement Dispute**
Date: January 8, 2009 10:53:41 PM CST
To: <RJanger@OMM.com>, <RSiegel@OMM.com>, <ngranath@ssmplaw.com>
Cc: <bloch@aol.com>, "Don Stevens" <dstevens@stklaw.com>, "Marty Harper" <mharper@stklaw.com>, <SSMPLS@aol.com>, <lmiddlebrook@ssmplaw.com>, <al.hemenway@usairways.com>, <beth.holdren@usairways.com>, <paul.jones@usairways.com>

I think this should be fine.

Sent from my BlackBerry Wireless Device

-----Original Message-----

From: Janger, Rachel <RJanger@OMM.com>
To: Kelly Flood; Siegel, Robert <RSiegel@OMM.com>; Nicholas Granath <ngranath@ssmplaw.com>
CC: bloch@aol.com <bloch@aol.com>; Don Stevens; Marty Harper; SSMPLS@aol.com <SSMPLS@aol.com>; lmiddlebrook@ssmplaw.com <lmiddlebrook@ssmplaw.com>; al.hemenway@usairways.com <al.hemenway@usairways.com>; beth.holdren@usairways.com <beth.holdren@usairways.com>; Jones, Paul (Law Dept) <paul.jones@usairways.com>
Sent: Thu Jan 08 20:55:08 2009
Subject: RE: US Airways: Transition Agreement Dispute

All:

Given that May 26 is the day following Memorial Day, Mr. Bloch has indicated that he is available to hold the hearing on May 27-29 to avoid having folks travel on Memorial Day to attend the hearing.

Please let us know if the May 27-29 dates work for you.

Rachel

From: Kelly Flood [<mailto:kflood@stklaw.com>]
Sent: Tuesday, January 06, 2009 5:35 PM
To: Siegel, Robert; Nicholas Granath
Cc: bloch@aol.com; Janger, Rachel; Don Stevens; Marty Harper; SSMPLS@aol.com; lmiddlebrook@ssmplaw.com; al.hemenway@usairways.com; beth.holdren@usairways.com; Jones, Paul (Law Dept)
Subject: RE: US Airways: Transition Agreement Dispute

Plaintiffs agree to reserve the May dates and to consider earlier dates if they become available.

From: Siegel, Robert [<mailto:RSiegel@OMM.com>]
Sent: Tuesday, January 06, 2009 3:33 PM
To: Nicholas Granath

Cc: Kelly Flood; bloch@aol.com; Janger, Rachel; Don Stevens; Marty Harper; SSMPLS@aol.com; lmiddlebrook@ssmplaw.com; al.hemenway@usairways.com; beth.holdren@usairways.com; Jones, Paul (Law Dept)
Subject: RE: US Airways: Transition Agreement Dispute

All --

To clarify, I did not say we will "take" earlier dates that become available. I said that we will "consider" them. Obviously, all required participants need to be available for any alternatives.

-- Bob Siegel

From: Nicholas Granath [<mailto:ngranath@ssmplaw.com>]
Sent: Tuesday, January 06, 2009 5:27 PM
To: Siegel, Robert
Cc: Kelly Flood; bloch@aol.com; Janger, Rachel; Don Stevens; Marty Harper; SSMPLS@aol.com; lmiddlebrook@ssmplaw.com; al.hemenway@usairways.com; beth.holdren@usairways.com; Jones, Paul (Law Dept)
Subject: Re: US Airways: Transition Agreement Dispute

Mr. Bloch, cc Counsels

USAPA agrees with the company (below) that we should confirm now as suggested, and that we take any earlier date that becomes available.

Thanks,

Nick Granath

Nicholas P. Granath, Esq.

Seham, Seham, Meltz & Petersen, LLP
2915 Wayzata Blvd.
Minneapolis, MN 55405
Tel. (612) 341-9080
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On Jan 6, 2009, at 4:17 PM, Siegel, Robert wrote:

All --

I don't think we have confirmed the date for this hearing. Mr. Bloch offered the two sets of dates indicated below. The Company indicated that either set of dates was acceptable, but that it preferred May 26-28. I suggest that we confirm these dates now. If there are earlier dates that become available due to cancellations on Mr. Bloch's calendar, we can consider those at that time.

-- Bob Siegel

From: Kelly Flood [<mailto:kflood@stklaw.com>]
Sent: Saturday, December 20, 2008 7:55 AM
To: bloch@aol.com; Siegel, Robert; Janger, Rachel
Cc: Don Stevens; Marty Harper; SSMPLS@aol.com; lmiddlebrook@ssmplaw.com; ngranath@ssmplaw.com; al.hemenway@usairways.com; beth.holdren@usairways.com
Subject: Re: US Airways: Transition Agreement Dispute

Thank you Mr. Bloch - we'll discuss and get back to you.

Sent from my BlackBerry Wireless Device

<ATT155731.jpg>

Kelly J. Flood
Attorney At Law

Shughart Thomson & Kilroy
3636 North Central Avenue
Suite 1200
Phoenix, AZ 85012

<http://www.stklaw.com> <<http://www.stklaw.com>>

tel: 602-650-2043
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<<mailto:kflood@stklaw.com>>

-----Original Message-----

From: Rich Bloch <bloch@aol.com>
To: RSiegel@OMM.com <RSiegel@OMM.com>; RJanger@OMM.com <RJanger@OMM.com>
CC: Kelly Flood; Don Stevens; Marty Harper; SSMPLS@aol.com <SSMPLS@aol.com>;
lmiddlebrook@ssmplaw.com <lmiddlebrook@ssmplaw.com>; ngranath@ssmplaw.com <ngranath@ssmplaw.com>;
al.hemenway@usairways.com <al.hemenway@usairways.com>; beth.holdren@usairways.com
<beth.holdren@usairways.com>

Sent: Sat Dec 20 06:38:22 2008

Subject: Re: US Airways: Transition Agreement Dispute

I would propose two sets of dates I could be available for in DC:
May 26-28

June 2-4

I'm showing the June dates as already having been offered to these parties, but I'm not certain on that; in any event both sets are available. I'll look forward to hearing from you at your earliest convenience.

Rich Bloch

RICHARD I. BLOCH
4335 CATHEDRAL AVE. N.W.
WASHINGTON, D.C. 20016
PHONE: 202-686-1140, CELL: 202-641-5811, FAX: 202-966-0871

-----Original Message-----

From: Siegel, Robert <RSiegel@OMM.com>
To: Janger, Rachel <RJanger@OMM.com>; bloch <bloch@aol.com>
Cc: Kelly Flood <kflood@stklaw.com>; Don Stevens <dstevens@stklaw.com>; Marty Harper <mharper@stklaw.com>; Seham Lee <SSMPLS@aol.com>; Middlebrook Lucas <lmiddlebrook@ssmplaw.com>; ngranath@ssmplaw.com; al.hemenway@usairways.com; beth.holdren@usairways.com
Sent: Thu, 18 Dec 2008 4:42 pm
Subject: RE: US Airways: Transition Agreement Dispute

Mr. Bloch --

I will be handling this case for US Airways, along with Rachel Janger. Once you have a chance to review your calendar for available hearing dates, please let us know what is convenient for you, and we will do our best to make that work.

Thanks in advance.

-- Bob Siegel

From: Janger, Rachel
Sent: Thursday, December 11, 2008 11:11 AM
To: bloch
Cc: Kelly Flood; Don Stevens; Marty Harper; Seham Lee; Middlebrook Lucas; ngranat h@ssmplaw.com <<mailto:ngranath@ssmplaw.com>> ; 'al.hemenway@usairways.com'; beth.holdren@usairways.com; Siegel, Robert
Subject: US Airways: Transition Agreement Dispute

Mr. Bloch:

We have a new Transition Agreement dispute that has been filed by pilot Don Addington and five other pilots. The pilot grievants are represented by the law firm of Shughart Thomson & Kilroy, including attorneys Kelly Flood, Don Stevens, and Marty Harper, each of whom is cc'd on this email. I have also cc'd counsel for USAPA.

We have agreed that this Transition Agreement dispute will be submitted to you sitting as the sole member of the Board of Adjustment. Can you please send us your earliest available dates to hear this dispute? US Airways estimates that the hearing should last 2-3 days.

Please respond to all when you reply so that we can coordinate our schedules appropriately.

Thank you very much,
Rachel Janger

Rachel S. Janger
O'Melveny & Myers LLP
1625 Eye Street, NW

DONN ADDINGTON v. US AIRLINE PILOTS ASSOCIATION

DEPO OF: E. ALLEN HEWENWAY
ARS NO. 20090667

1 one's been signed. He just gave you back the same one.

2 MR. SEHAM: Off the record.

3 (Discussion off the record.)

4 MR. SEHAM: We'll go back on the record.

5 MR. HARPER: You're going to have to get it
6 marked as an exhibit, or you can do it however you want.
7 I just thought it would be better to use the signed
8 document.

9 MR. SEHAM: Okay.

10 Q. Well, I'm going to refer to this as Trial Exhibit
11 21, and having, you know, looked at an executed copy, does
12 that refresh your recollection as to whether you signed
13 this document?

14 A. It does, and I did.

15 Q. Are you aware that in the Complaint filed in this
16 action there was a Count 1 and Count 2 which alleged
17 certain claims against the Company?

18 A. Yes.

19 Q. And are those claims now pending before a System
20 Board of Adjustment?

21 A. Yes, they are.

22 Q. Are you aware of allegations by the plaintiffs
23 that the Company is not bargaining in good faith toward a
24 single collective bargaining agreement?

25 MR. HARPER: Form.

1 described and all these meetings, what's the purpose
2 of --

3 A. To reach a single agreement that would cover all
4 of the pilots at the merged carrier. That would then
5 cover them under a single labor agreement, which would
6 then allow for the integration of the pilots to be fully
7 integrated in a single seniority list in a single
8 agreement.

9 Q. To the best of your knowledge --

10 MR. HARPER: I'm sorry, can I just have the
11 question back? I'm sorry, it had too many "singles" in
12 there for me to follow. Can I just have the answer back?

13 (Record read.)

14 Q. BY MR. SEHAM: Mr. Hemenway, to the best of your
15 knowledge, is the objective of reaching a single
16 collective bargaining agreement a shared goal of US
17 Airways and USAPA?

18 MR. HARPER: Form.

19 THE WITNESS: Yes, it is.

20 Q. BY MR. SEHAM: Have the USAPA negotiators ever
21 given any indication at the negotiating table that their
22 goal was anything other than achieving a single collective
23 bargaining agreement?

24 MR. HARPER: Form; foundation.

25 THE WITNESS: No.

1 correct? The minimum -- if you go back to the Transition
2 Agreement here. It's on page 2621.

3 A. It depends on which part of the paragraph you're
4 referring me to on 25.

5 Q. Well, if you start with paragraph 25, line 12,
6 "Under those terms, furloughs are permitted during the
7 period of Separate Operations so long as US Airways
8 maintains a sufficient number of pilots in each of its
9 East and West operations to fly at least the minimum
10 number of aircraft at their minimum utilization rate for
11 that fleet."

12 A. Yes, I was looking at the top part talking about
13 no furloughs.

14 Q. Right. But if you go down to where I was talking
15 to you about --

16 A. Then yes.

17 Q. -- the minimum number of aircraft at their
18 minimum utilization rate are the points that we have been
19 discussing in connection with paragraph (c) and (d) of the
20 Transition Agreement?

21 A. Yes.

22 Q. Now if US Airways fell below those minimums
23 either on the East or on the West, would it -- would it be
24 able to furlough?

25 MR. SIEGEL: Form.

1 you mean by that. I mean, that is a phrase that's used
2 under the Railway Labor Act.

3 MR. HARPER: Can I have my question back? I
4 didn't think I used "bad faith," I thought I used "good
5 faith."

6 MR. SIEGEL: Maybe you did. I'll trust that you
7 remember it better than I, but same point.

8 MR. HARPER: I just want the mirror question to
9 the one that Mr. Hemenway answered this morning, if it was
10 launched vis-a-vis whether the Company was negotiating in
11 good faith.

12 MR. SIEGEL: I understand. I'm not directing him
13 not to answer. I'm just making an objection that I've
14 made, so...

15 THE WITNESS: I don't define good faith based on
16 who's proposing what, I define good faith as whether the
17 parties are honestly working hard to make an agreement. I
18 think that the Company is honestly working hard to make an
19 agreement. I don't see any evidence that USAPA is not
20 working hard to make an agreement. We just simply have a
21 very wide gap between us.

22 MR. HARPER: Okay. What's this? Trial Exhibit
23 what, Katie? We stopped our confidentiality when I
24 switched and started talking about the board; right?

25 MR. SIEGEL: Correct.

1 dues and agency fee-related aspect of the current lawsuit
2 is, what you are trying to achieve?

3 MS. FLOOD: Form.

4 THE WITNESS: Well, we've not really been
5 adequately represented, so the idea would be to waive
6 those dues up until the time that we are; go forward from
7 there.

8 Q. BY MR. SEHAM: Have you calculated what your
9 damages -- have you calculated what your damages as an
10 individual would be with respect to the dues and agency
11 fee related aspect of the litigation?

12 MS. FLOOD: Form.

13 THE WITNESS: No, I have not.

14 Q. BY MR. SEHAM: Do you understand the difference
15 between the concept of dues on the one hand and agency
16 fees on the other?

17 A. Well, agency fees would be paid if you are not a
18 member, I believe.

19 Q. And dues are paid by members?

20 A. Yes.

21 Q. That's your understanding?

22 A. Uh-huh.

23 Q. Okay. Do you know whether under -- are you aware
24 that it's Section 29 of the Collective Bargaining
25 Agreement that creates an obligation to make a financial

1 THE WITNESS: I've heard both things mentioned.

2 Q. BY MR. SEHAM: Both things mentioned by whom?

3 A. By people in the East, the updates they put out.

4 Q. Can you identify any of these individuals?

5 A. No, just a general understanding of what they
6 want from their updates and what I've heard talked about.
7 No specific East person has told me this is what I want.

8 Q. So you have no understanding one way or the other
9 as to whether USAPA is pursuing permanent separate
10 operations or single contract with a date-of-hire list?

11 MS. FLOOD: Form.

12 THE WITNESS: Well, initially I thought they
13 wanted permanent separate operations. Later on, it seems
14 like they are after the conditions and restrictions.

15 Q. BY MR. SEHAM: So your current understanding of
16 USAPA policy is that they are pursuing a single contract
17 with an integrated seniority list consistent with their
18 current proposal?

19 MS. FLOOD: Form.

20 THE WITNESS: That's my current understanding.

21 Q. BY MR. SEHAM: Do you have any evidence that
22 would support the contention that USAPA has deliberately
23 delayed negotiations toward a single Collective Bargaining
24 Agreement?

25 MS. FLOOD: Form.

1 THE WITNESS: That USAPA has?

2 I don't know that I have any specific
3 evidence that they have.

4 Q. BY MR. SEHAM: Well, the reason I ask the
5 question, you've testified that it's your current
6 understanding that USAPA is negotiating toward a single
7 Collective Bargaining Agreement with seniority integration
8 on USAPA's terms. That's your current understanding?

9 MS. FLOOD: Form.

10 THE WITNESS: Yes.

11 Q. BY MR. SEHAM: So, do you have any basis, then,
12 for believing that USAPA is trying to delay those
13 negotiations?

14 MS. FLOOD: Form.

15 THE WITNESS: No.

16 Q. BY MR. SEHAM: Are you familiar with the Rice
17 committee?

18 A. I've heard of it, yes.

19 Q. Do you know why it was composed?

20 A. To try to compromise the arbitrated award.

21 Q. And who decided to compose the Rice committee?
22 Who established it?

23 MS. FLOOD: Form.

24 THE WITNESS: ALPA National to my knowledge.

25 Q. BY MR. SEHAM: Were the activities of the Rice

DONN ADDINGTON v. US AIRLINE PILOTS ASSOCIATION

DEPO OF: JOHN W. BOSTIC
ARS NO. 20090166

28

1 as a panelist?

2 MS. FLOOD: Form.

3 THE WITNESS: I do not.

4 Q. BY MR. SEHAM: If you were to prevail on count
5 one in an arbitration, what would be your damages?

6 MS. FLOOD: Form.

7 THE WITNESS: I haven't sat down and calculated
8 them as of today.

9 Q. BY MR. SEHAM: How would junior West Pilots
10 benefit from your prevailing in the count one grievance
11 arbitration?

12 MS. FLOOD: Form.

13 THE WITNESS: First, what should have been done
14 properly will be done properly.

15 Second, they would potentially be looking at
16 working again versus not working, thus earning an income,
17 thus having medical benefits, thus having 401(k), thus
18 having a vested 401(k).

19 Q. BY MR. SEHAM: How would senior West Pilots
20 benefit from your prevailing in count one?

21 MS. FLOOD: Form.

22 Q. BY MR. SEHAM: You understand what I mean when I
23 say "the count one grievance"?

24 A. Yes.

25 Q. That doesn't confuse you?

1 class (b) (2).

2 MR. SEHAM: Let me have the question again.

3 (The record was read as follows:

4 "Q. Your action in this matter, or with
5 respect to your action in this matter, would you
6 agree that aside from dues or agency fees or
7 attorneys' fees or costs of litigation, that you
8 are no longer seeking any monetary relief either
9 for the class or for yourself individually?")

10 Q. BY MR. SEHAM: And with respect to class, the
11 class that you are currently seeking to represent?

12 MS. FLOOD: Form.

13 THE WITNESS: Currently with our latest
14 amendment, I would say that's accurate.

15 Q. BY MR. SEHAM: So you are not, again, with the
16 exceptions referenced, attorneys' fees, costs, agency
17 fees, dues -- if I'm leaving something out, chime in.

18 A. Back dues.

19 Q. Back dues, okay.

20 Other than that, you are not seeking any
21 monetary relief through this current action?

22 MS. FLOOD: Form.

23 THE WITNESS: Not through this current action.

24 Q. BY MR. SEHAM: Now, is it your position that you
25 have suffered money damages as a result of USAPA's alleged

1 A. I am.

2 Q. Have you taken any steps to mitigate any backpay
3 or other damages relating to your furlough?

4 MS. FLOOD: Form.

5 THE WITNESS: Repeat the question.

6 (The record was read as follows:

7 "Q. Have you taken any steps to
8 mitigate any backpay or other damages relating
9 to your furlough?")

10 MS. FLOOD: Same objection.

11 Q. BY MR. SEHAM: You don't know?

12 THE WITNESS: The damages are what the damages
13 are due to furlough.

14 Q. BY MR. SEHAM: So is the answer is no, you
15 haven't taken any steps to mitigate that?

16 MS. FLOOD: Do you know what he means by
17 "mitigate"?

18 THE WITNESS: I completely understand. I just
19 don't know that I like the framework of the question.

20 Have I been job hunting? Absolutely.

21 Does it mitigate the damages that have
22 happened to me? No, the damages are the same either way.

23 Q. BY MR. SEHAM: Have you applied to other
24 airlines?

25 A. No.

1 pilots," but my understanding is that they are trying to
2 negotiate towards a single CBA with their DOH and CNRs.
3 Date of hire, sorry.

4 Q. BY MR. SEHAM: Are you aware of any evidence that
5 would support the contention that USAPA has deliberately
6 delayed negotiations toward a single Collective Bargaining
7 Agreement?

8 MS. FLOOD: Form.

9 THE WITNESS: I don't know of any deliberately
10 delayed attempts on USAPA's part.

11 Q. BY MR. SEHAM: Are you familiar with the Rice
12 Committee? Have you heard of that name before?

13 A. Paul.

14 Q. Pardon?

15 A. Paul.

16 Q. But there was -- aside from a guy named Paul,
17 there was a whole committee named "the Rice Committee?"

18 A. Sure.

19 Q. Do you know who was on the Rice Committee?

20 A. Not off the top of my head, but I know I've seen
21 all of the names before.

22 Q. Do you have an understanding as to who decided
23 to -- not promulgate -- but compose the Rice Committee?

24 MS. FLOOD: Form.

25 MR. SEHAM: Or "form," that's another way of

Exhibit F

DONALD ADDINGTON v. US AIRLINE PILOTS ASSOCIATION

DEPO OF: MARK BURMAN
ARS NO. 20090175

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1 you have suffered -- allegedly suffered as a result of
2 USAPA's alleged breach of its duty of fair representation
3 obligation?

4 MS. FLOOD: Form.

5 THE WITNESS: No specific calculations, other
6 than just, you know, looking back and saying what would
7 have been, or what should be.

8 Q. BY MR. SEHAM: Okay. And as we go forward, just
9 to save time and keystrokes, when I use the term "DFR,"
10 you're comfortable with that being referred to as a duty
11 of fair representation?

12 A. Sure.

13 Q. Okay. Would you agree that your -- the injuries
14 that you have accrued to date can be remedied with money
15 damages?

16 MS. FLOOD: Form.

17 THE WITNESS: Would I agree that the remedy --
18 I'm sorry, say that once again, just so that I understand.

19 Q. BY MR. SEHAM: That any injuries that you have
20 accrued to date can be remedied with money damages.

21 MS. FLOOD: Form.

22 THE WITNESS: Not entirely.

23 Q. BY MR. SEHAM: Now I'm going to hand you an
24 exhibit that has been identified as Defendant Exhibit 2.

25 Can I ask you to hand that back to me for a

1 THE WITNESS: There's two parts there. I think
2 the first -- just to kind of rephrase, I think the first
3 part of your question was whether or not USAPA was trying
4 to perpetuate --

5 Q. BY MR. SEHAM: Separate operations.

6 A. -- separate operations?

7 You know, again, I couldn't speak to what
8 USAPA's goals are, and whether they're intending to do
9 that or not. As to the other question, it would appear on
10 the surface that they are -- that USAPA is trying to
11 negotiate a single CBA that implements the USAPA date of
12 hire seniority scheme, or whatever the conditions and
13 restrictions is called.

14 Q. BY MR. SEHAM: Do you have any evidence that
15 USAPA is trying to perpetuate separate operations by not
16 negotiating in good faith toward a single contract?

17 MS. FLOOD: Form.

18 THE WITNESS: Do I personally have any physical
19 evidence or personal evidence that leads me to that? No,
20 I do not.

21 Q. BY MR. SEHAM: Now USAPA was certified on April
22 18th, 2008.

23 A. Yes.

24 Q. And did USAPA do anything prior to that date that
25 violated your rights?

1 Q. Okay. In terms of the federal court litigation
2 as it stands today, what damages, if any, are you seeking
3 on behalf of the class that you seek to represent?

4 MS. FLOOD: Form.

5 THE WITNESS: What damages -- are you asking what
6 damages am I seeking?

7 Q. BY MR. SEHAM: Yes.

8 MS. FLOOD: Form.

9 THE WITNESS: Directly, none.

10 Q. BY MR. SEHAM: Okay. When you say "directly,"
11 what do you mean by that? Are you indirectly seeking
12 damages for the class?

13 MS. FLOOD: Form.

14 THE WITNESS: I think as I stated earlier, I
15 think that the potential exists at some point that damages
16 would come into play, but that's not what -- that's not
17 what the suit is -- that's not what the intent of the suit
18 is. That's not what it's directly seeking.

19 Q. BY MR. SEHAM: Okay. And when you say "at some
20 point damages could come into play," what types of damages
21 would those be?

22 MS. FLOOD: Form.

23 THE WITNESS: Monetary.

24 Q. BY MR. SEHAM: Okay. And is that -- is that
25 based -- monetary based on furloughs, demotions and

Exhibit G

DONN ADDINGTON v. US AIRLINE PILOTS ASSOCIATION

DEPO OF: AFSHIN IRANPOUR-MASHAK

ARS NO. 20090554

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1 Q. Okay. And how would you have seen it? I mean,
2 how would it have gotten to you?

3 A. I can't recall. They may have left them in our
4 folders in the crew room or maybe on the Compass website.
5 I really can't recall.

6 Q. There is a Q and A -- a question-and-answer
7 section to it --

8 A. Okay.

9 Q. -- I believe.

10 Let's see if this has got one in it.

11 How many pages is that? Is that like four
12 pages? Some of them do, some of them don't.

13 A. Yeah, this one was four pages.

14 I'm going to grab some water while you look
15 for that.

16 Q. Certainly, feel free.

17 Let me give you one that's got some Q and
18 A's in it.

19 (Exhibit Number 80 marked.)

20 Q. BY MR. BRENGLE: I've shown you another issue of
21 the "Plane Deal."

22 For the record, will you identify the date
23 on that issue?

24 A. June 10th, 2005.

25 Q. And right up there in little teeny-weeny print

1 Q. BY MR. BRENGLE: But you agree that the Nicolau
2 award cannot be implemented without a joint ratification
3 of a joint CBA; correct?

4 MR. STEVENS: Form, foundation.

5 THE WITNESS: I don't necessarily agree with
6 that.

7 Q. BY MR. BRENGLE: Okay.

8 Why not?

9 A. I believe that the company can use the Nicolau
10 award if they want to.

11 Q. Without a ratification?

12 A. Personal opinion.

13 Q. Without it being ratified by the pilots?

14 A. Just the Nicolau award itself being ratified by
15 the pilots?

16 Q. Well, the CBA, they can't use the CBA without
17 pilot ratification, and if the CBA includes the Nicolau
18 award, then, no, they can't use the Nicolau award; is
19 that --

20 A. Well, I agree that they can't use a new CBA
21 without pilot ratification, but I also believe that the
22 company can, if they are willing, can use the Nicolau
23 award in the absence of a new CBA.

24 Q. How can they do that? What's the mechanism, as
25 you understand it, that allows them to do that?

DONALD ADDINGTON v. US AIRLINE PILOTS ASSOCIATION

DEPO OF: STEVEN P. WARGOCKI
ARS NO. 20090184

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1 THE WITNESS: Say that question again?

2 (Whereupon the requested portion of the record
3 was read as follows:

4 "Q So having reviewed now paragraphs 112 and 119
5 of your complaint, can you answer the question, is it no
6 longer part of this case that USAPA has caused the
7 company to breach contractual obligations owed to you as
8 described in Counts 1 and Count 2 of the First Amended
9 Complaint?")

10 MS. FLOOD: Same objection.

11 THE WITNESS: It's part of the case. It's in
12 Count 3.

13 BY MR. SEHAM:

14 Q. Are you --

15 A. Count 3's still active.

16 Q. Are you currently seeking any monetary
17 compensation from USAPA for yourself pursuant to this
18 lawsuit, other than compensation related to dues, agency
19 fees, and attorney's fees?

20 MS. FLOOD: Form.

21 THE WITNESS: No.

22 BY MR. SEHAM:

23 Q. You are aware that your First Amended Complaint
24 sought from USAPA sufficient damages to compensate you for
25 the value of lost wages and benefits?

1 strategic objective.

2 BY MR. SEHAM:

3 Q. Okay. Now, is it your understanding that USAPA
4 is continuing the East objective -- the East MEC's objective
5 of permanent separate operations? Or is it your
6 understanding that USAPA is seeking to negotiate a single
7 Collective Bargaining Agreement with a Date-of-Hire-based
8 Seniority List?

9 MS. FLOOD: Form.

10 THE WITNESS: The latter.

11 BY MR. SEHAM:

12 Q. And just to clarify, because that was a long
13 question, so it's your understanding that USAPA's objective
14 is to negotiate a single Collective Bargaining Agreement with
15 a Date-of-Hire-based Seniority List?

16 MS. FLOOD: Form.

17 THE WITNESS: Yes, I believe that that is their
18 objective.

19 BY MR. SEHAM:

20 Q. Are you familiar with the Rice Committee?

21 A. I am.

22 Q. Who is on the Rice Committee?

23 A. Paul Rice, who is -- you guys might be able to
24 answer it better. He was a -- an ALPA National officer, and
25 also a U.S. Airways pilot; and various other people appointed

Exhibit I

DONALD ADDINGTON v. US AIRLINE PILOTS ASSOCIATION

DEPO OF: ROGER VELEZ
ARS NO. 20090192

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1 A. I think basically, again, the first was, again,
2 against the Company and USAPA. The Company was no longer
3 a party to the dual class. Now we were just concerned
4 with USAPA.

5 Q. All right. So if I understand correctly, it was
6 the fact that the Court dismissed Counts One and Two that
7 triggered the decision to convert the federal action to a
8 class action?

9 MS. FLOOD: Form.

10 THE WITNESS: Correct.

11 Q. BY MR. SEHAM: Okay. Thank you.

12 Now, have you suffered any monetary damages
13 to date by the DFR breach that you allege against USAPA?

14 MS. FLOOD: Form.

15 THE WITNESS: Yes.

16 Q. BY MR. SEHAM: And of those -- well, would you
17 agree that those monetary damages that you've suffered --
18 I'm sorry.

19 Would you agree that the injuries that you
20 have accrued to date can be remedied with money damages?

21 MS. FLOOD: Form.

22 THE WITNESS: Yes.

23 Q. BY MR. SEHAM: What are the damages, monetary
24 damages that you've suffered to date?

25 A. Estimate, \$15,000.

1 THE WITNESS: Say that one more time.

2 Q. BY MR. SEHAM: As of the date -- do you recall
3 the date that your law firm filed this litigation?

4 A. It was -- yes, in September. September 4th, yes.

5 Q. September 4th. Had USAPA presented a bargaining
6 proposal to the Company as of that date with regard to
7 seniority integration?

8 MS. FLOOD: Form.

9 THE WITNESS: I can't recall if it was before or
10 right after. I think it was after.

11 Q. BY MR. SEHAM: So I fail to understand your prior
12 response that the reason you didn't file a lawsuit back in
13 April was that you were waiting to see what -- to see what
14 USAPA would do.

15 MS. FLOOD: Form.

16 THE WITNESS: Again, would they, you know
17 state -- are they still going to pursue a date-of-hire
18 ideology versus the Nicolau list, and it seemed and
19 appeared and continued that they were.

20 Q. BY MR. SEHAM: Well, what do you understand to be
21 USAPA's bargaining objective? Do you understand their
22 bargaining objective to be to perpetuate separate
23 operations, or do you understand their bargaining
24 objective to be to obtain a single Collective Bargaining
25 Agreement with a date-of-hire-based seniority integration

1 list?

2 MS. FLOOD: Form.

3 THE WITNESS: Their objective to, yeah, obtain a
4 date of hire -- a CBA with a date of hire.

5 Q. BY MR. SEHAM: Okay. A single CBA with a date of
6 hire?

7 A. Yes.

8 Q. Now, do I understand correctly that you did not
9 select Shughart, that Shughart had already been selected
10 by Eric Ferguson?

11 MS. FLOOD: Form.

12 THE WITNESS: Yes.

13 Q. BY MR. SEHAM: And do you have any -- some pro
14 forma questions here -- do you have any family
15 relationships with any attorney at Shughart?

16 A. No.

17 Q. Have you had any prior business dealings with any
18 attorney at Shughart?

19 A. No.

20 Q. And how did you know the other five Plaintiffs
21 prior to the commencement of the litigation?

22 A. I knew one through flying together.

23 Q. Which one?

24 A. John Bostic.

25 Q. Okay.