

Exhibit B

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Don Addington; John Bostic; Mark  
Burman; Afshin Iranpour; Roger Velez;  
Steve Wargoeki,

Plaintiffs,

vs.

US Airline Pilots Association; US  
Airways, Inc.,

Defendants.

No. CV 08-1633-PHX-NVW  
(consolidated)

**ORDER**

Don Addington; John Bostic; Mark  
Burman; Afshin Iranpour; Roger Velez;  
Steve Wargoeki, et al.,

Plaintiffs,

vs.

Steven Bradford; Paul Diorio; Robert  
Frear; Mark King; Douglas Mowery; John  
Stephan, et al.,

Defendants.

CV08-1728-PHX-NVW

**A. TRIAL COUNSEL FOR THE PARTIES**

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14 **B. STATEMENT OF JURISDICTION.**

15 1. Plaintiffs contend that the First Amended Complaint raises a federal question  
16 claim. 45 U.S.C. § 151, *et seq.* There is jurisdiction under Title 28 U.S.C. §1331. *See Air*  
17 *Line Pilots Assn, Intl. v. Transamerica Airlines, Inc.*, 817 F.2d 510, 515 n.3 (9th Cir. 1987)  
18 (noting that NMB jurisdiction is limited to determine “who is the employees’  
19 representative”)

20 2. Defendants dispute subject matter jurisdiction on four grounds: i) the case is  
21 not ripe for adjudication; ii) plaintiffs fail to state a legally cognizable claim; iii) this dispute  
22 is within the exclusive jurisdiction of the System Board of Adjustment and/or will pre-judge  
23 factual and contractual interpretation issues that are pending before the System Board of  
24 Adjustment per order of this Court; iv) the National Mediation Board has exclusive  
25 jurisdiction over all election related disputes.

26 **C. STIPULATIONS AND UNCONTESTED FACTS AND LAW**

27 1. The following material facts are admitted or stipulated to by the parties and  
28 require no further proof:

- 1 1. Plaintiff Don Addington is a resident of the State of Arizona, who at all times relevant  
2 to this Complaint has been a West Pilot.
- 3 2. Plaintiff John Bostic is a resident of the State of Arizona, who at all times relevant to  
4 this Complaint has been a West Pilot.
- 5 3. Plaintiff Mark Burman is a resident of the State of Arizona, who at all times relevant  
6 to this Complaint has been a West Pilot.
- 7 4. Plaintiff Afshin Iranpour is a resident of the State of Arizona, who at all times  
8 relevant to this Complaint has been a West Pilot.
- 9 5. Plaintiff Roger Velez is a resident of the State of Arizona, who at all times relevant  
10 to this Complaint has been a West Pilot.
- 11 6. Plaintiff Steve Wargoeki is a resident of the State of Arizona, who at all times  
12 relevant to this Complaint has been a West Pilot.
- 13 7. US Airways is a Delaware corporation with its principal place of business in Tempe,  
14 Arizona. At all times relevant to this action, US Airways has engaged in interstate  
15 commerce in the industry of air transportation, and has been an employer in an  
16 industry affecting interstate commerce.
- 17 8. At the time of the merger and at all times until April 18, 2008, the Air Line Pilots  
18 Association (“ALPA”) represented both the US Airways (“East”) and the America  
19 West (“West”) pilots as the sole bargaining representative of the pilots.
- 20 9. In May 2005, two air carriers, America West Airlines, Inc. (“America West”) and the  
21 premerger US Airways, Inc., agreed to merge such that they would combine all or  
22 substantially all of their assets.
- 23 10. The surviving entity is known as “US Airways.” To distinguish it from the pre-  
24 merger entity by the same name, it is referred to hereinafter as the “Airline.”
- 25 11. On September 23, 2005, the two airlines and ALPA entered into the “Transition  
26 Agreement,” which was for the purpose of governing the process of the airlines’  
27 operational merger as it related to the airline pilots.  
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12. Under then-existing ALPA Merger Policy, the Arbitration Board is composed of two non-voting ALPA members chosen from the Master List of Pilot Neutrals. The third member and Chairman of the Board was required to be chosen from a list of Arbitrators approved by ALPA.

13. The Arbitration Board must render a seniority integration decision consistent with the criteria set forth in ALPA Merger Policy.

14. The parties to the Nicolau Arbitration were stated to be “the US Airways Pilot Merger Representatives and the America West Pilot Merger Representatives.”

15. The decision of Arbitrator George Nicolau was issued in May, 2007.

16. The Nicolau Award generated considerable negative reaction among many East pilots. On or about July 25, 2007, the East MEC determined that the East pilots would never ratify a single collective bargaining agreement that incorporated the Nicolau List.

17. A majority of East Pilots strenuously objected to the Nicolau Award and were opposed to its implementation.

18. From August 15, 2007 through the date of loss of ALPA’s representation status on April 18, 2008, there were no further negotiations toward a single collective bargaining agreement.

19. The Transition Agreement states that the parties shall maintain “Separate Operations” until the implementation of a single collective bargaining agreement covering both pilot groups. During Separate Operations, East and West aircraft may only be flown by East and West pilots respectively, unless otherwise permitted or agreed under the Transition Agreement.

20. Both the Transition Agreement and ALPA Merger Policy states that the Airline may not use the single seniority list until an agreement is reached on a single collective bargaining agreement covering both pilot groups, unless otherwise agreed to by all of the parties.

1 21. At this time, the Airline is still conducting separate pilot operations where each pilot  
2 group works under a different pilot collective bargaining agreement that utilizes its  
3 own seniority list.

4 22. Defendant US Airline Pilots Association (“USAPA”) is an unincorporated association  
5 with a principal place of business in Charlotte, North Carolina.

6 23. After an election, the National Mediation Board (“NMB”) certified USAPA as the  
7 collective bargaining representative of the pilots employed in the service of the  
8 Airline on April 18, 2008.

9 24. The USAPA Merger Committee presented its seniority integration proposal to the  
10 Airline on September 30, 2008. The Airline has not yet responded to the USAPA  
11 seniority integration proposal.

12 2. The following facts are subject to further rulings from the Court regarding  
13 relevance, materiality, foundation and completeness. Both Plaintiffs and USAPA have  
14 proposed Statements of Fact that can be resolved after the Motions in Limine are ruled upon  
15 and the issues at trial are narrowed in the pretrial conference.

16 Plaintiffs’ Proposed Undisputed Facts Not Agreed to by USAPA:

17 *(Plaintiff’s trial exhibit number and the source document are identified. If USAPA will*  
18 *agree to the admission of the source documents, then these additional facts would not require*  
19 *any valuable trial time.)*

20 25. Terms : Plaintiff contends that the parties should be able to agree to a single and  
21 consistent set of terms to use during the trial to avoid juror confusion. The parties  
22 have not been able to reach complete agreement on these terms.

23 a) “Merger” to refer to the merger between US Airways and America West  
24 Airlines.

25 b) “US Airways” to refer to the pre-merger air carrier;

26 c) “Airline” will refer to the post-merger air carrier now flying under the US  
27 Airways name;  
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