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10 **IN THE UNITED STATES DISTRICT COURT**
 11 **FOR THE DISTRICT OF ARIZONA**

12 US AIRWAYS, INC., a Delaware
 13 corporation, *et al.*,

14 *Plaintiff,*

15 vs.

16 Don ADDINGTON; John BOSTIC; Mark
 17 BURMAN; Afshin IRANPOUR; Roger
 18 VELEZ; Steve WARGOCKI; Michael J.
 19 SOHA; Rodney Albert BRACKIN; and
 20 George MALIGA, on behalf of themselves
 21 and the certified WEST PILOT CLASS,

22 and

23 US AIRLINE PILOTS ASS'N, an
 24 unincorporated association,

25 *Defendants.*

CASE NO. 2:10-cv-01570-PHX-ROS

WEST PILOTS'
SUPPLEMENT TO JOINT CASE
MANAGEMENT PLAN

26 Don ADDINGTON, John BOSTIC, Mark BURMAN, Afshin IRANPOUR, Roger
 27 VELEZ, Steve WARGOCKI, Michael J. SOHA, Rodney Albert BRACKIN, and George
 28 MALIGA, on behalf of themselves and the certified WEST PILOT CLASS (collectively,
 the "West Pilots"), hereby provide this supplement to the parties' Joint Case Management

1 Plan. This Supplement is based upon an event that occurred after the parties submitted
2 their joint plan.

3 **1. The American Airlines' bankruptcy creates additional urgency in**
4 **this case.**

5 As this Court may be aware, American Airlines' parent company filed for
6 Chapter 11 bankruptcy protection on November 29, 2011. The likelihood of a
7 merger with US Airways is already the topic of discussion among experts in the
8 industry. (See, e.g., "*American Ch. 11 filing stokes talk of merger. Rumors of US*
9 *Airways deal revived; labor woes are hurdle.*" (A copy of the Arizona Republic
10 article, downloaded from www.azcentral.com/business is attached hereto as
11 Exhibit 1.) Of particular relevance to this action is the impact any such merger
12 would have on the seniority dispute between the West Pilots and the East Pilots
13 of US Airways. (See id., at page 2.)

14 As noted in the West Pilots' portions of the Joint Case Management Plan,
15 US Airways was in bankruptcy in May 2005, when America West and US
16 Airways merged to become a single airline also known as US Airways. The
17 Order confirming US Airways' reorganization plan directed it and the East
18 Pilots to enter into the Transition Agreement, a contract that specified how they
19 would merge with America West and its pilots. (See Order Confirming Plan of
20 Reorganization of US Airways, p. 50, para. 47 (Bankr. E.D. Va. Sep. 16, 2005)
21 (Doc. 3193 in Case No. 04-13819-SSM), a copy of which is attached hereto as
22 Exhibit 2. For purposes of this Supplement, the only exhibit attached to Ex. 2
23 is the Transition Agreement, which is Exhibit E to the *Order*.)

24 As this Court has learned in this action, the "Nicolau Award" is the
25 seniority list that resulted from arbitration under the then-union ALPA's
26 Merger Policy, as mandated by the Transition Agreement. The Nicolau Award
27
28

1 (1) placed about 500 senior East Pilots at the top of the list, (2) placed the
2 approximately 1700 East Pilots who were furloughed at the time of the merger
3 at the bottom of the list, and (3) blended the remainder of the East Pilot list
4 with the West Pilot list according to relative positions on the separate seniority
5 lists.

6 The East Pilots formed USAPA in order to avoid the implementation of the
7 Nicolau Award as the seniority list for the merged pilot groups, which resulted
8 in the *Addington* class action and this action brought by US Airways. Until the
9 pilot groups are merged into a single list, “[t]he pilot workforces of America
10 West and US Airways will remain separate and covered by their respective
11 collective bargaining agreements.” (Ex. 2, at Ex. 5: TA at § II.A.)

12 In the event of a merger with American Airlines, if the West and East Pilots
13 are not already merged into a single list according to the Nicolau Award, the
14 West Pilots will be at a grossly unfair disadvantage. This is so for a number of
15 reasons, including but not limited to fact that the American Airlines pilot force
16 is considerably larger than the total of West and East Pilots combined, it
17 receives materially higher wages than East Pilots, and it currently has
18 approximately 1000 pilots on furlough.

19 In the event of a merger, more pilots will surely be furloughed and their
20 pay and benefits cut. Absent seniority integration at US Airways in accordance
21 with the Nicolau Award, the majority of furloughs and pay cuts would
22 inevitably be suffered by West Pilots. Moreover, because USAPA has, through
23 its breach of the duty of fair representation, shown its overt hostility to the
24 interests of West Pilots, West Pilots effectively have no representation at the
25 bargaining table.

1 **2. USAPA seeks unreasonable delay.**

2 As the parties' different positions in the Joint Case Management Report
3 make clear, the West Pilots are ready, willing and able to move the case forward
4 expeditiously through dispositive motion practice. USAPA, on the other hand,
5 seeks unreasonable delay, and seeks to conduct immaterial discovery in order
6 to protract the litigation through a collateral attack on the Nicolau Award,
7 among other irrelevant issues.

8 Due to the additional urgency created by the American Airlines
9 bankruptcy and the likelihood of a merger with US Airways, the West Pilots
10 respectfully request that this Court order that this case proceed as
11 expeditiously as possible, and that the Court adopt the plan proposed by the
12 West Pilots.

13
14 Dated this 30th day of November, 2011.

15 **POLSINELLI SHUGHART, PC**

16 */s/ Kelly J. Flood*

17 By _____

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21 *Attorneys for Addington Pilots*

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on this 30th day of November 2011, I electronically transmitted the
24 foregoing document to the U.S. District Court Clerk's Office by using the ECF System for filing
25 and transmittal.

26 */s/Kelly J. Flood*

27 By _____

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Exhibit 1

Arizona Business & Money

American Ch. 11 filing stokes talk of merger

Rumors of US Airways deal revived; labor woes are hurdle

by Dawn Gilbertson - Nov. 29, 2011 06:38 PM
The Arizona Republic

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American Airlines' bankruptcy filing will have little immediate impact in Phoenix given the airline's limited roster of flights, but the long-term ripple effects could be huge if the company's exit plan involves a merger.

That's because the early -- and many would say premature -- merger speculation centers on Tempe-based US Airways.

The potential pairing of the country's third- and fourth-largest hub-and-spoke airlines has come up repeatedly in the past few years as their rivals joined forces and toppled American's reign as the largest airline. Delta and Northwest combined in 2008; United and Continental in 2010.

The merger chatter resurfaced most recently when rumors swirled that American was going to have to file for bankruptcy because of a crushing debt load and outsize labor costs.

Within hours of Tuesday's filing, it was back.

Dan McKenzie, airline analyst with [investment](#) banking firm Rodman & Renshaw, said in a report that American parent AMR Corp. "likely comes out of Chapter 11 a merged airline with US Airways (friendly or hostile)."

In another report, UBS airline analyst Kevin Crissey said, "American potentially needs a partner to achieve more scale, and US Airways may provide that avenue."

At the US Airways pilots union, spokesman James Ray fielded calls from pilots and the media about the likelihood of a deal.

US Airways and American are mum, of course, never commenting on rumors or speculation. American officials outlined an 18-month reorganization timeline but did not provide any specifics this early in the case. Unlike many companies that file for Chapter 11 protection, the airline did not seek emergency financing. It has \$4 billion in [cash](#).

US Airways CEO Doug Parker said as recently as April that he saw one more "big deal" in the airline industry and that if it occurred, it would involve US Airways. Parker has been the poster child for industry consolidation since he pulled off a bold bid for then-bankrupt -- and much larger -- US Airways when he was CEO of America West Airlines in 2005. America West and US Airways merged to form the new US Airways.

Barely a year later, US Airways shocked the industry with a hostile bid for even larger Delta, then in bankruptcy. There was stiff opposition from labor and political officials, and the deal died a few months later. US Airways held failed merger talks with United in 2008 and again last year. Parker has repeatedly said the industry needs fewer seats chasing passengers if it is going to be financially stable.

Bill Swelbar, a research engineer at the International Center for Air Transportation at the Massachusetts Institute of Technology, said there's no doubt US Airways will watch the American case "very, very closely." He joked that this week is like the "12 Days of Christmas" for Parker, with [assets](#) dancing in his head. Parker worked at American early in his career.

"It's a lot easier to put pieces together when someone's in bankruptcy," Swelbar said. "This (AA bankruptcy filing) certainly opens up an opportunity that wasn't so clear yesterday."

Mergers are more appealing through Bankruptcy Court because costs can be lowered easily by not renewing existing contracts on everything from aircraft leases to labor. A merged company starts out relatively lean. American brought in \$22 billion in revenue last year, about double the annual revenue of US Airways.

A combined US Airways and American -- that would have brought in \$34 billion in annual revenue last year -- would be better positioned to compete against Delta and United Continental, some analysts say. American would bring international heft to US Airways' primarily U.S. route network.

Swelbar said it's too early in American's bankruptcy to handicap the likelihood of a deal with US Airways or another airline. JetBlue Airways and Alaska also have been mentioned. "I think we're a long way from that discussion," he said.

America West made its formal bid for bankrupt US Airways eight months into its Chapter 11 case, although the talks started much earlier.

One major hurdle facing any American-US Airways deal: the two airlines' well-documented labor woes.

Swelbar said US Airways would likely have to resolve a years-long seniority dispute between the pilots of the old America West and US Airways to win American creditors' approval of any deal.

Betsy Snyder, airline-credit analyst with Standard & Poor's, can't envision a deal because of the labor mess.

"The labor situation is bad enough at US Airways, but to add the American labor (groups) after what they've been through, I don't think it would be a pretty picture."

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