

Declaration of Michael J. Cleary

1 MICHAEL J. CLEARY declares as follows under penalty of perjury pursuant to
2 28 U.S.C. § 1746:

3 1. I am currently a Captain and have been employed by US Airways as a Pilot
4 since February 3, 1986.

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6 2. I am the President of the US Airways Pilots Association (hereinafter
7 referred to as “USAPA” or “the Union”) and have been since April 18, 2009 through to
8 date. From April 18, 2008 until April 18, 2009, I served as Vice President of USAPA.
9 My duties and responsibilities in these capacities include but are not limited to: managing
10 the internal USAPA Committees including the Negotiating Advisory Committee, Merger
11 Committee, Grievance Committee and others.

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13 3. I am a former member of the Air Line Pilots Association (“ALPA”). When
14 ALPA was the certified bargaining representative of the US Airways Pilots, I served in
15 the following positions within the US Airways ALPA Master Executive Council
16 (“MEC”): Grievance Committee Vice Chairman; Chairman of the System Board of
17 Adjustment; Member of the System Board of Adjustment; Committee Member on the
18 Merger Committee; Committee Member on the Strategic Planning Committee;
19 Committee Member on the Scope Clause Review Committee; and First Officer and
20 Captain Representative.

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23 4. USAPA Exhibit 1 is a true and accurate copy of the certification of USAPA
24 as the new bargaining representative of the merged pilot craft at US Airways issued by
25 the National Mediation Board on April 18, 2008.

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27 5. USAPA Exhibit 2 is a true and accurate copy of the USAPA Constitution
28 and Bylaws.

1 6. USAPA Exhibit 3 is a true and accurate copy of the Transition Agreement
2 between the Airline Parties and ALPA that was effective September 23, 2005.

3 7. USAPA Exhibit 12 is a true and accurate copy of a letter from the National
4 Mediation Board dated November 16, 2009, noting that USAPA had requested the
5 services of the NMB concerning bargaining over the consolidated collective bargaining
6 agreement covering the merged pilot craft at US Airways.

7 8. USAPA Exhibits 16, 17 and 19 are true and accurate copies of a grievance
8 filed by the West pilots following dismissal of their claims against US Airways in the
9 *Addington* case and related correspondence including the letter withdrawing the
10 grievance.

11 9. USAPA Exhibit 18 is true and accurate copy of the decision issued by
12 Arbitrator Richard Bloch with respect to grievance TA-9 which claimed that US Airways
13 violated the Transition Agreement by failing to place newly hired pilots on a separate
14 seniority list.

15 10. USAPA Exhibit 20 is a letter from the NMB invoking its mediatory
16 services with respect to the negotiation of the consolidated collective bargaining
17 agreement between USAPA and US Airways.

18 11. USAPA Exhibit 21 is a true and accurate copy of my letter which was sent
19 to all pilots urging mediation of the seniority dispute involving East and West pilots.

20 12. USAPA Exhibit 22 is a comparison of wage rates for East and West pilots
21 with the industry standard which was prepared for and presented in collective bargaining
22 negotiations with US Airways.

23 13. US Airways traces its roots back to All American Aviation, Inc., which was
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1 established in Pittsburgh, Pennsylvania, in 1939. It grew into its pre-merger
2 configuration through a series of mergers, including Lake Central Airlines, Mohawk
3 Airlines, Pacific Southwest Airlines, Piedmont Airlines and the Trump Shuttle. As of
4 May 19, 2005, US Airways maintained “domiciles” or bases in Boston, Charlotte, New
5 York (LaGuardia), Philadelphia, Pittsburgh and Washington, D.C., and operated 270
6 passenger jet aircraft including 19 so-called “wide-body” aircraft (9 A330s and 10
7 B767s). US Airways operated these aircraft on flights between points within the United
8 States and from points east of the Mississippi River to Europe and the Caribbean.
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11 14. America West began service in 1983. As of May 19, 2005, America West
12 maintained “domiciles” or bases in Las Vegas and Phoenix and operated 144 passenger
13 jet aircraft none of them “wide-bodied” aircraft. America West operated these aircraft on
14 flights between points within the United States, including from points west of the
15 Mississippi River to the State of Hawaii.
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17 15. At the time of the merger, the pilots employed by US Airways were
18 represented for the purpose of collective bargaining under the Railway Labor Act
19 (“RLA”) by ALPA through a subordinate body known as the US Airways Master
20 Executive Council (“US Airways MEC”).
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22 16. At the time of the merger, the pilots employed by America West were
23 represented for the purpose of collective bargaining under the RLA by ALPA through a
24 subordinate body known as the America West Master Executive Council (“America West
25 MEC”).
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27 17. At the time of the merger, both US Airways and America West had existing
28 collective bargaining agreements covering their pilots. US Airways and ALPA executed

1 the underlying collective bargaining agreement covering the US Airways pilots in 1997
2 with an “amendable date” of January 2, 2003. The September 11, 2001, terrorist attacks
3 seriously affected the Airline Industry and had a particularly serious effect on US
4 Airways which was heavily concentrated on East coast operations including Boston, New
5 York, Washington, DC, and international destinations.
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7 18. In early 2002, US Airways sought concessions from its unions, including
8 ALPA, as the result of two successive years of heavy operating losses. On August 8,
9 2002, US Airways pilots ratified a restructuring proposal (“Restructuring I”) that reduced
10 US Airways obligations to the pilots by \$465 million annually for 6-1/2 years.
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12 19. On August 11, 2002, US Airways filed for bankruptcy protection claiming
13 that the concessions granted by its unions prior to the bankruptcy were not adequate. On
14 December 13, 2002, US Airways pilots ratified a second restructuring proposal
15 (“Restructuring II”) that granted US Airways additional productivity and wage
16 concessions valued at \$101 million annually and additional pension concessions valued at
17 \$78 million annually.
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19 20. On March 31, 2003, US Airways emerged from bankruptcy. On October
20 21, 2004, US Airways pilots ratified a third concessionary agreement (“Transformation
21 Plan”) that cut US Airway’s costs by an average of \$367.4 million annually over 5 years.
22 As a result of these and other interim agreements, the collective agreement in effect
23 between US Airways and ALPA on the date of the merger consisted of the 1997
24 agreement plus a series of supplementary “Letters of Agreement (LOAs)” and had an
25 amendable date of December 31, 2009.
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28 21. America West and ALPA entered into a written collective bargaining

1 agreement setting the wages and other terms and conditions of employment for the pilots
2 employed by America West in December 2003 with an amendable date of December 31,
3 2006.

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5 22. As a result of these concessionary agreements and the continued delay in
6 collective bargaining, East pilots have not had any increase in wages since 2002, almost
7 ten years. West pilots have not had any increase in wages since January 2007.

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9 23. As a result of concessions granted to US Airways in August and December
10 2002 and in October 2004, East pilots earn substantially less than the industry average
11 and have had no cost of living or other upward adjustment in their reduced wage rates
12 since early 2002. For example, as of August 1, 2011, East pilots flying 737 aircraft earn
13 only 77% of the industry average for pilots flying 737s at other airlines. The
14 comparisons for other aircraft are similar as shown in USAPA Exhibit 22 which was
15 prepared for use in bargaining with US Airways. West pilots have had no increase since
16 2006. As of August 1, 2011, West pilots flying 737 aircraft earn only 83% of the
17 industry average for pilots flying 737s at other airlines. Again, the comparisons for other
18 aircraft are similar. These substandard wages are continuing and cumulative.

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21 24. In mid-2007, several pilots formed a new organization known as the US
22 Airline Pilots Association (USAPA).

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24 25. USAPA's Constitution and Bylaws states that one of USAPA's objectives
25 is "To maintain uniform principles of seniority based on date of hire and the perpetuation
26 thereof, with reasonable conditions and restrictions to preserve each pilot's un-merged
27 career expectations." USAPA Exhibit 2.

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26. The merger between America West Holdings Corporation and US Airways

1 became effective on September 27, 2005. US Airways Group reported financial data
2 separately for America West Airlines and US Airways on its 10-K (annual) and 10-Q
3 (quarterly) filings with the United States Securities and Exchange Commission through
4 June 30, 2007. On the 2006 10-K filing, US Airways Group reported that for calendar
5 year 2006 America West Airlines incurred an operating loss of \$35 million and US
6 Airways realized net income of \$345 million. On the 10-Q filing for the second quarter
7 of 2007, US Airways Group reported that for the first six months of 2007 America West
8 Airlines realized operating income of \$22 million and US Airways realized net income of
9 \$211 million. For the 18 month period from January 1, 2006, through June 30, 2007, this
10 amounts to an operating loss for America West of \$13 million and net income for US
11 Airways of \$556 million.

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15 27. On October 20, 2010, USAPA held a well-publicized informational
16 meeting in a conference room at the Phoenix airport to explain to the West pilots the
17 details of the USAPA seniority proposal and promote discussion. Representatives from
18 USAPA including all of USAPA's then current officers, members of the negotiating,
19 merger and communications committee, legal counsel and member of the USAPA
20 executive board were present. Only four or five West pilots attended. The Merger
21 Committee distributed copies of the proposal along with a set of Frequently Asked
22 Questions and presented a PowerPoint explaining the USAPA proposal. The USAPA
23 officers and members of the Merger Committee made it clear to those in attendance that
24 the proposal was subject to amendment, negotiation and ratification. Copies of a
25 pamphlet describing and explaining the Conditions and Restrictions Proposal, Frequently
26 Asked Questions and the contract provision embodying the Proposal were distributed at
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1 the meeting and made available to all the pilots through the USAPA website. USAPA
2 Exhibits 13-15.

3 28. USAPA attempted to persuade Mark Burdick, a West pilot, to become a
4 member of the Merger Committee which is primarily responsible for seniority, seniority
5 integration and related matters and which formulated USAPAs current seniority proposal.
6 Captain Burdick in fact subsequently served on the Negotiating Advisory Committee
7 which assists the professional negotiator representing USAPA in bargaining with US
8 Airways. Captain Burdick ultimately declined to become a member of the Merger
9 Committee. USAPA also attempted to persuade another West pilot, Ken Stravers, who
10 had been on the America West Merger Committee to serve on the USAPA Merger
11 Committee. Captain Stravers declined after the Court of Appeals overturned the District
12 Court decision in *Addington*.
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16 29. In October 2011, I traveled to Dallas, Texas, to meet with Phoenix
17 Domicile Representative Eric Ferguson who was a member of the USAPA Board of Pilot
18 Representatives and an active member of the Army of Leonidas. I explained to First
19 Officer Ferguson my view that the East pilots and the West pilots should attempt to
20 resolve their differences over seniority and the Nicolau Award by entering into direct
21 discussions with the assistance of a nationally recognized mediator. I explained that in
22 my opinion continued litigation would only delay matters further, would not resolve the
23 underlying seniority issue and would not produce a seniority proposal or a collective
24 bargaining agreement that could be ratified by the merged pilot craft. First Officer
25 Ferguson subsequently told me that he could not agree to the proposal, that the West
26 Pilots wanted the Nicolau Award, and they would continue to litigate the matter before
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1 the United States District Court in Arizona.

2 30. On November 17, 2010, I sent a letter to all US Airways pilots urging
3 mediation of the dispute. USAPA Exhibit 21.

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5 31. USAPA again argued that the East and West pilots should enter into direct
6 discussion with the assistance of a nationally recognized mediator in submitting its
7 position in the proposed Case Management Plan. The West Pilot Class rejected the
8 proposal.

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10 32. USAPA continues to solicit input from the West pilots concerning the
11 seniority proposal and is open to amending the proposal to accommodate additional
12 suggestions to protect the interests of the West pilots.

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14 33. USAPA has never threatened to strike. We hope to reach a legitimate and
15 fair collective bargaining agreement with US Airways, one that includes a fair and
16 equitable seniority system that respects the legitimate interests of all the pilots we
17 represent and one that guarantees our pilots industry standard wages and benefits.

18 I declare under penalty of perjury that the foregoing is true and correct. Executed
19 on January 27, 2012.

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21 Dated: January 27, 2012
New Hampshire

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MICHAEL J. CLEARY