

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:14-CV-577-RJC-DCK**

US AIRLINE PILOTS ASSOCIATION,)
)
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 Plaintiff,)
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 v.)
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 ROGER VELEZ, and LEONIDAS, LLC,)
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 Defendants.)
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NOTICE OF SETTLEMENT AGREEMENT AND FAIRNESS HEARING

A FEDERAL COURT HAS AUTHORIZED THIS NOTICE.

THIS IS NOT A SOLICITATION FROM A LAWYER.

**TO ALL PILOTS EMPLOYED BY AMERICAN AIRLINES AS OF
SEPTEMBER 16, 2014 WHO WERE LISTED ON THE US AIRWAYS
EAST PILOT OR THE US AIRWAYS WEST PILOT SENIORITY LISTS**

PLEASE READ THIS NOTICE CAREFULLY

This Notice relates to a proposed Settlement Agreement and Release of various lawsuits brought by multiple plaintiffs arising out of and relating to claims by and against the US Airline Pilots Association (“USAPA”) and certain individual officers and former officers of USAPA. This Class Notice and the procedures provided for herein have been authorized by a federal court. It contains important information as to your right to be heard with respect to the proposed Settlement Agreement, for the procedures to follow to exercise the right to be heard, and the Court proceedings that will take place as the Court considers and rules upon the fairness of the proposed Settlement Agreement and Release.

You are hereby advised that you must adhere strictly to the procedures and time-frames set forth in this Notice if you wish the Court to consider your comments and/or objections to the proposed Settlement Agreement and Release.

Introduction

The US Airline Pilots Association (“USAPA”) was the certified bargaining agent of the pilots of US Airways from April, 2008 until September 16, 2014, at which time the Allied Pilots Association (“APA”) was certified as the representative of the pilots of the carrier formed by the 2013 merger of US Airways and American Airlines. As of September 16, 2014, USAPA was involved in various matters on behalf of the US Airways pilots, including among other things sponsoring and supporting the USAPA Merger Committee in the McCaskill-Bond seniority list integration (“SLI”) process, and litigation involving USAPA, including *Addington v. USAPA*, 2:13-CV-00471-ROS (“*Addington III*”), which at the time was pending on appeal before the Ninth Circuit.

USAPA’s Constitution and Bylaws provide that decertification is an event that triggers dissolution but that the commencement date of dissolution can be deferred if there is a need for collective legal action on behalf of the pilot group, including but not limited to representation in SLI proceedings. On September 16, 2014, the USAPA National Officers determined to defer the commencement date of the dissolution of USAPA and also decided that no distribution of USAPA assets was appropriate at that time because of ongoing collective legal action and USAPA’s anticipated participation in the McCaskill Bond SLI process. Concurrently, a West Pilot, on behalf of himself and other West Pilots who were similarly situated, objected to USAPA’s financial support of the USAPA Merger Committee, as well as the decision to defer the dissolution commencement date and demanded immediate distribution of USAPA’s assets to its members. Also on September 16, 2014, USAPA commenced a declaratory judgment action in federal court for the Western District of North Carolina against a class of West Pilots and Leonidas, LLC, *USAPA v. Velez, et al.*, 3:14-cv-577-RJC-DCK (“USAPA DJ Action”) seeking declarations as to the validity of the actions taken by the USAPA National Officers to defer dissolution and distribution of assets and related decisions, and to enjoin any litigation challenging those actions. The defendant West Pilot, on behalf of himself and a putative similarly situated class of West Pilots, counterclaimed against USAPA, seeking, among other things, reimbursement of money that USAPA spent to support the USAPA Merger Committee after September 16, 2014 in the approximate sum of \$1.8 million, West Pilots’ allocation of the merger dues increase (in the approximate sum of \$1.4 million), and West Pilots’ share of the \$1.3 million reimbursement from American Airlines (in the approximate amount of \$500,000).

In the fall of 2014, the SLI process was proceeding before a panel of three arbitrators agreed upon in the Protocol Agreement and in compliance with McCaskill-Bond. The West Pilots’ request for a separate merger committee designation went to arbitration in December, 2014 and on January 9, 2015, the Preliminary Arbitration Board issued its award finding that the APA could and should designate a West Pilots Merger Committee to participate in the SLI process. On January 22, 2015, the APA designated the West Pilots Merger Committee as an autonomous committee. As of that time, for SLI purposes, the East Pilots were represented by the USAPA Merger Committee, which was supported financially by USAPA. The West Pilots continued to object to USAPA’s financial support of the USAPA Merger Committee, without equal financial support for the West Pilots Merger Committee.

On February 23, 2015, three members of USAPA commenced an action in federal court for the Western District of North Carolina arising under Title V of the Labor Management Reporting and Disclosure Act (“LMRDA”) against current and former USAPA officers and members of the BPR, in their individual capacities, alleging, *inter alia*, that defendants breached their fiduciary duties by expending USAPA funds after it was decertified on matters that were not collective legal action on behalf of the pilot group, *Bollmeier v. Hummel, et al.*, 3:15-cv-00111-RJC (“LMRDA action I”). On October 12, 2015, the same *Bollmeier* plaintiffs commenced *Bollmeier v. Frear, et al.*, 3:15-cv-00480-RJC (“LMRDA action II”), which is identical to LMRDA action I, and brought against four former USAPA BPR members who had not appeared in LMRDA action I. Eventually, LMRDA action I and LMRDA action II were consolidated with the USAPA DJ Action before the U.S. District Court for the Western District of North Carolina (the “Court”). The individual defendants in LMRDA action I and LMRDA action II asserted claims for indemnification against USAPA under provisions of the USAPA Constitution and Bylaws.

On June 26, 2015, the Ninth Circuit issued its decision in *Addington III*, finding that USAPA breached its duty of fair representation to West Pilots, remanded to the district court with instructions to enjoin USAPA from participating in SLI proceedings unless it advocated for the Nicolau Award, and to consider West Pilots’ claim for attorneys’ fees. On June 29, 2015, USAPA permanently withdrew from the SLI proceedings. On August 27, 2015, the Court issued a preliminary injunction finding there was the likelihood of success on the merits of the LMRDA claim in LMRDA action I and enjoined USAPA from spending any money on seniority-related matters and dissolving without notice and the Court’s consent.

In December 2015, the West Pilots filed their application for attorneys’ fees in the *Addington* cases, seeking the total sum of approximately \$3.7 million.

OVERVIEW OF PROPOSED SETTLEMENT AGREEMENT AND RELEASE

In January, 2016, the parties to the USAPA DJ Action, LMRDA action I and LMRDA action II (collectively “the Litigation Parties”) and their counsel engaged in court-approved mediation over three days in Charlotte, NC, in an effort to resolve all outstanding litigation and any other potential claims pending at that time. Those efforts, which continued with the assistance of the Mediator in the weeks following the mediation sessions, resulted in a Memorandum of Settlement (“MOS”), that sets forth the principles and blueprint for a proposed Settlement Agreement and Release, settling all the litigation and other claims.

The Litigation Parties provided notice to the Court that a settlement had been reached in principle. On April 22, 2016, the Court issued an Order conditionally certifying, for settlement purposes, the following two classes:

An East Pilot Settlement Class defined as:

All pilots who were employed by US Airlines/American Airlines as of September 16, 2014 and who were listed on the US Airways East Pilot Seniority List.

A West Pilot Settlement Class defined as:

All pilots who were employed by US Airlines/American Airlines as of September 16, 2014 and who were listed on the US Airways West Pilot Seniority List.

The Court preliminarily determined East Pilots John Owens, Bob Burdick and Mark King to be adequate representatives for the East Pilot Settlement Class and so appointed them as Class Representatives for the East Pilot Settlement Class.

The Court preliminarily determined West Pilots Eddie Bollmeier, Bill Tracey, and Simon Parrott to be adequate representatives for the West Pilot Settlement Class and so appointed them as Class Representatives for the West Pilot Settlement Class.

The Court appointed Lee Seham and Stanley J. Silverstone as Class Counsel for the East Pilot Settlement Class.

The Court appointed Marty Harper and Kelly J. Flood as Class Counsel for the West Pilot Settlement Class.

The Court also preliminarily approved the proposed Settlement Agreement and Release, the terms of which are discussed below.

Terms of Proposed Settlement Agreement

The proposed Settlement Agreement is as follows:

1. To help effectuate the terms and conditions of this Settlement Agreement, two settlement classes will be created. The "East Pilot Settlement Class" is defined as "All pilots who were employed by US Airlines/American Airlines as of September 16, 2014 and who were listed on the US Airways East Pilot Seniority List." The representatives for the East Pilot Settlement Class will be John Owens, Bob Burdick and Mark King. The West Pilot Settlement Class is defined as "All pilots who were employed by US Airlines/American Airlines as of September 16, 2014 and who were listed on the US Airways West Pilot Seniority List." The representatives for the West Pilot Settlement Class will be Eddie Bollmeier, Bill Tracey and Simon Parrott.

2. Upon entry of the Final Order approving this Settlement Agreement, USAPA shall wire payment of \$5.5 million to the ASU Alumni Law Group trust account, representing full and final consideration in settlement of the USAPA DJ Action, LMRDA action I, LMRDA action II, and the claim for attorneys' fees in *Addington I, II, and III*.

3. Upon entry of the Final Order approving this Settlement Agreement, and after the \$5.5 million payment provided for herein has been made, West Pilot Settlement Class members will no longer be considered members of USAPA for any purpose. In addition, each member of

the West Pilot Settlement Class will be deemed to disclaim any and all interest the member might have in USAPA treasury funds and shall be deemed to waive any and all rights the member might have to the distribution of such funds, including under the dissolution provisions of the USAPA Constitution and Bylaws (Article I, Section 3, subdiv. A) and the merger dues increase provision (Article II, Section 5, subdiv. F).

4. Upon entry of the Final Order approving this Settlement Agreement, and after the \$5.5 million payment provided for herein has been made, (a) the *Addington III* plaintiffs will provide notice to the Arizona District Court of said payment and the West Pilots' application for attorneys' fees for the Arizona Litigation will be dismissed with prejudice, and (b) all Parties in the North Carolina Litigation will dismiss all claims, counterclaims, and third-party claims with prejudice, except that the terms of the preliminary injunction relating to certain activities of USAPA as described in paragraph 8 below shall become permanent by consent of the Parties and will be included in the Final Order the Parties will ask the Court to enter.

5. USAPA represents and warrants that it had and has the legal right and authority under its Constitution and Bylaws to enter into the MOS and this Settlement Agreement.

6. Upon entry of the Final Order approving this Settlement Agreement, USAPA Officers, past and present, and Board of Pilot Representatives ("BPR") members, past and present, agree to waive, relinquish and forego any and all claims and/or potential claims against USAPA for indemnification under the USAPA Constitution and Bylaws, except that this release is not effective and does not apply to the named defendants in LMRDA action I and LMRDA action II until USAPA has fully reimbursed the attorneys' fees and expenses incurred by the named defendants in LMRDA action I and LMRDA action II. As to all other USAPA Officers and BPR members (present and past), the release is effective upon entry of the Final Order.

7. Upon entry of the Final Order approving this Settlement Agreement, and after the payment provided in paragraph 2 above has been made, USAPA will retain exclusive control over all funds remaining in the USAPA treasury and, in its discretion, may use the remaining funds to (1) wind up the business affairs of USAPA, as it sees fit, and for which it has the exclusive obligation to complete; (2) take action against USAPA's insurer (AIG) with respect to any prior denial of insurance coverage and defense of claims against USAPA, including but not limited to *Karas v. Allied Pilots Association, et al.*, 3:16-cv-00168-TJM-DEP; (3) reimburse attorneys' fees and expenses incurred by any USAPA officer or BPR member named as a defendant in LMRDA action I and LMRDA action II; (4) pay any previously incurred expenses, including for USAPA's counsel in the North Carolina Litigation and the Arizona Litigation; and (5) make disbursements to East Pilot Settlement Class members according to the USAPA Constitution and Bylaws. As part of the Settlement Agreement, each member of the East Pilot Settlement Class will be deemed to waive any and all rights the member might have to the \$5.5 million settlement payment provided for in paragraph 2 above.

8. The Parties shall consent to and request the Court make permanent, for a period of three years from the date of entry of the Final Order approving this Settlement Agreement, the portion of the preliminary injunction entered on August 27, 2015 enjoining USAPA and any officers, servants, employees, and attorneys, and anyone in active concert or participation

therewith from causing, permitting, or directing USAPA to spend any USAPA funds for any seniority-related matter or seniority-list-related matter, except as provided in paragraph 7 above.

9. All parties to the North Carolina Litigation and the Arizona Litigation will be responsible for their own costs and expenses, except as provided in paragraph 7 above.

10. The Parties understand and agree that this Settlement Agreement embodies a compromise and settlement of disputed claims, and that nothing in this Settlement Agreement, including the furnishing of consideration for this Settlement Agreement, shall be deemed to constitute any finding of wrongdoing by any of the Released Parties, or give rise to any inference of wrongdoing or admission of wrongdoing or liability in this or any other proceeding. This Settlement Agreement and the payment made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. Moreover, the Released Parties specifically deny any such liability or wrongdoing.

11. The Court shall retain jurisdiction over all Parties to resolve any dispute that may arise regarding this Settlement Agreement, including any dispute regarding the validity, performance, interpretation, administration, enforcement, or enforceability of the Settlement Agreement.

12. This Settlement Agreement may be executed by exchange of emailed or faxed executed hand-written signature pages, and any hand-written signature transmitted by email or facsimile for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. This Settlement Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

13. Upon approval by the Court of the Notice of Settlement Agreement and Fairness Hearing (the "Class Notice"), Class Counsel for the Settlement Classes shall arrange for the delivery of the Class Notice, Settlement Agreement and Release, preliminary Order, and the MOS to all members of the Settlement Classes to their last-known addresses by regular first-class mail. The above documents shall also be delivered by e-mail to those Class Members for whom Class Counsel has or has access to the e-mail addresses, and to the e-mail addresses of Class Members maintained by the Allied Pilots Association. The above documents shall also be posted on the public portion of the USAPA and Leonidas websites.

Terms of the Mutual General Release and Covenant Not to Sue

The proposed terms of the Mutual General Release and Covenant Not to Sue are as follows:

14. The Parties as defined herein, and each and every member of the East Pilot Settlement Class and the West Pilot Settlement Class, individually and as Settlement Classes, for themselves, and their representatives, heirs, successors, and assigns, in consideration of the relief set forth in the Settlement Agreement, hereby fully and finally waive, release, remise, acquit, and forever discharge all of the other Parties and all other members of the East Pilot Settlement Class

and the West Pilot Settlement Class, and the Settlement Classes, with respect to any and all past or present claims, debts, demands, causes of action, losses, obligations, costs, fees, interest, attorneys' fees, expenses, damages, and injuries and liabilities of whatever kind or nature, in law, equity or otherwise, whether known or unknown, suspected or unsuspected, which the Parties or the members of the East Pilot Settlement Class and West Pilot Settlement Class ever had, now have or may have up through the entry of the Final Order approving this Settlement Agreement (collectively, the "Released Claims").

15. The Released Claims include specifically but not exclusively, all of the following known and unknown claims:

a. Any claim that could arise under or be based on common (including civil tort) law and/or state, federal, or local statutes or ordinances or related regulations or doctrines (including any revisions or amendments), including but not limited to, any and all rights or claims under, based on, or related to the Labor Management Reporting and Disclosure Act, the Railway Labor Act, the National Labor Relations Act, the Labor Management Relations Act, and any other federal, state or local law, without limitation or exception;

b. Any tort claim, including but not limited to claims for battery, assault, fraud, conspiracy, breach of the duty of fair representation, intentional or negligent infliction of emotional distress, breach of fiduciary duty, fraud and deceit, negligent misrepresentation, defamation, libel, slander, invasion of privacy, disclosure or misuse of private facts, bad faith denial of contract, and tortious interference with contract, contractual relations and/or prospective business interests;

c. Any and all claims or rights (past, present, future, or executory) arising out of or in any way related to any express, implied, oral, or written contract, union constitution and bylaws, or collective bargaining agreement or any alleged breach thereof, or other tort, contract, or statutory claims of any kind;

d. All claims against USAPA, and/or any past or present officer, BPR member, agent, or employee of USAPA in his/her individual and/or official capacity, in any way related to the McCaskill-Bond seniority list integration ("SLI") process arising from the merger of US Airways with America West Airlines and/or the merger of US Airways with American Airlines;

e. Any claim for disgorgement, penalties (statutory or otherwise), interest, exemplary or punitive damages, or attorneys' fees (including by way of common benefit or other basis for recovery);

f. Any claim arising out of or in any way connected with any past, present, or future loss, damage or injury whatsoever, known or unknown, suspected or unsuspected, resulting from any act, event, condition, or omission occurring or existing at or before the entry of the Final Order approving this Settlement Agreement.

g. All claims, counterclaims, and third-party claims in the North Carolina Litigation and Arizona Litigation.

16. The Released Claims do not include the claims in *Karas v. Allied Pilots Association, et al.*, 3:16-cv-00168-TJM-DEP, pending in the U.S. District Court for the Northern District of New York.

17. The release of claims by the USAPA Officers and BPR members for indemnification by USAPA is subject to paragraph 6 above.

18. The Parties and each and every member of the East Pilot Settlement Class and the West Pilot Settlement Class intend this Release to be broadly interpreted, construed, and enforced as such, and to settle all disputes and matters, without limitation of any kind or nature, and whether known or unknown.

19. The Parties and each and every member of the East Pilot Settlement Class and the West Pilot Settlement Class, and the Settlement Classes, shall be deemed to have promised and agreed that they shall not, at any time, institute, cause to be instituted, assist in instituting, or permit to be instituted on their behalf any proceeding in any state or federal court, in or before any regulatory body or administrative agency, or any other proceeding, or otherwise allege or assert any of the Released Claims against any of the Released Parties.

1. Why Did I Receive this Notice?

You have received this Notice because you were a US Airways pilot (East or West) employed by US Airways/American Airlines as of September 16, 2014 and are affected by the proposed Settlement Agreement and related proceedings and will be bound by entry of a Final Order approving the Settlement Agreement.

2. What is the Composition of the Two Classes and Who are the Class Representatives?

There are two classes involved in this proceeding whose interests will be affected by the proposed Settlement Agreement and the Court's decision: The East Pilot Settlement Class and the West Pilot Settlement Class.

The East Pilot Settlement Class is defined as any pilots employed by US Airlines/American Airlines as of September 16, 2014 who were listed on the US Airways East seniority list. The representatives of the East Pilot Settlement Class are John Owens, Mark King, and Bob Burdick. The West Pilot Settlement Class is defined as any pilot who was employed by US Airlines/American Airlines as of September 16, 2014 who was listed on the US Airways West seniority list. The West Pilot Settlement Class representatives are Eddie Bollmeier, Bill Tracey and Simon Parrott.

3. What is the Purpose and Effect of Defining Two Classes Here?

A class action allows the Court to make an orderly adjudication of claims affecting a large number of individuals whose interests are the same or similar. The members of the two settlement classes (known as Class Members) are the ones who will both benefit from and be bound by the Settlement Agreement. In this case, Class Representatives are asking the Court to approve the Settlement Agreement and make related decisions that will affect the rights of all

members of the two classes, and if approved by the Court, will be binding on all members of the two Settlement Classes.

4. Why is There a Settlement?

This is an application for final approval of a Settlement Agreement that has been negotiated at arms' length by the Litigation Parties with the assistance of their counsel under the auspices of a court-appointed mediator. All of the Litigation Parties have analyzed and evaluated the merits of the claims and defenses in the USAPA DJ Action, LMRDA action I and LMRDA action II, and have considered the likelihood of succeeding based, in part, on prior decisions in these cases, both by the Court in LMRDA action I and the Ninth Circuit and Judge Silver in the *Addington* cases. Consideration has also been given to the substantial risks of continued litigation on the part of all litigants, with the resulting increase in expenses to all parties as well as years of continued litigation. All of the Litigation Parties and their counsel are satisfied that the terms and conditions of the Settlement Agreement are fair and that it is in the best interests of the Litigation Parties and Class Members.

5. Payments to Class Members

A. West Pilot Settlement Class Members: The \$5.5 million payment by USAPA is for the purpose of settling the USAPA DJ Action, LMRDA action I, LMRDA action II, and the West Pilots' motion for attorneys' fees in the *Addington* litigation. As such, the \$5.5 million payment is not a return of dues paid by the West Pilots to USAPA. Approximately \$3.6 million of the \$5.5 million will go to the *Addington III* class representatives to settle the attorneys' fees claim pending in *Addington v. USAPA, et al.*, 2:13-CV-00471-ROS, to be expended or distributed according to agreements between the *Addington III* class representatives and Leonidas, LLC and the operating agreement of Leonidas, LLC. The remainder of the \$5.5 million payment will be initially held in the ASU Alumni Law Group's trust account to be distributed at the direction of Leonidas managers and the class representatives of the West Pilot Settlement Class to cover reasonable expenses incurred by the West Pilot Merger Committee in the ongoing SLI Process. Any funds remaining after the SLI Process is completed will be reserved in the event funds are needed in any subsequent litigation involving the SLI seniority list issued by the SLI arbitration panel. Thereafter, any residual funds will be distributed in a manner left to the sole discretion of the West Pilot Settlement Class representatives and the managers of Leonidas, LLC. As part of the Settlement Agreement, each Class Member of the West Pilot Settlement Class waives any and all rights or interests each individual has or might have in any monies in the USAPA treasury, or to which USAPA may be entitled, over and above the payment to the West Pilot Settlement Class provided for in the Settlement Agreement.

B. East Pilot Settlement Class Members: After the payment of the \$5.5 million provided under the Settlement Agreement has been made, and all USAPA debts, liabilities and future outlays (e.g. for database storage), are satisfied and/or set aside, any remaining money in the USAPA treasury will be distributed to East Pilot Settlement Class Members in connection with the dissolution of USAPA pursuant to the provisions of Article I, Section 3, subdiv. A of the USAPA Constitution and Bylaws. Any distribution to East Pilot Settlement Class Members will be in proportion to the monies paid by each East Pilot in the twelve months immediately preceding September 16, 2014, the date USAPA was decertified as the certified bargaining representative. The pool of money for distribution to the East Pilot Settlement Class may include

money recovered on behalf of USAPA from any insurance policies and an arbitration against US Airways relating to USAPA's right to reimbursement for merger-related expenses.

6. No Extra Payments to Class Representatives

There are no extra payments being made to any of the Class Representatives. They will be entitled to participate in the Settlement Agreement on the same basis as any other Class Member.

7. What Are the Next Steps?

The Court has preliminarily approved the Settlement Agreement. However, before determining whether to enter a Final Order approving the Settlement Agreement, the Court will conduct a Fairness Hearing on **August 30, 2016**, at 9:30 AM in Courtroom 2-1, located at the Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28202.

8. What is a Fairness Hearing?

The purpose of the Fairness Hearing is to assist the Court in determining whether the terms of the proposed Settlement Agreement are fair to the East Pilot Settlement Class and the West Pilot Settlement Class as a whole, and whether it should be approved by the Court. Class representatives and their counsel will appear at the Fairness Hearing to answer any questions concerning the proposed Settlement Agreement that the Court may have. If there are objections to the Settlement Agreement, the Court will consider them. We do not know how long the hearing will take or whether the Court will make its decision on the day of the hearing or sometime later. The Fairness Hearing may be continued without further notice to the Classes.

9. What Can I Do If I Object to the Settlement Agreement or Have Comments?

IF YOU AGREE with the Settlement Agreement, you do not have to do anything at this time. You have the right to attend the Fairness Hearing at your own expense, at the time and place above.

If YOU DISAGREE OR HAVE COMMENTS about the Settlement Agreement, you can submit written comments and/or objections and/or submit a written request to speak at the Fairness Hearing. All submissions and/or requests will be collected by the global tax, audit and advisory firm of Grant Thornton LLP, at:

The following mailing address:

USAPA Global Settlement Responses
c/o Grant Thornton LLP
Agent: Cory Rogers
201 S. College St., Suite 2500
Charlotte, NC 28244

Or the following email address:

USAPA_Global_Settlement_Responses@us.gt.com

Grant Thornton will collect all submissions, and provide copies to the Court and Class Counsel for the East Pilot Settlement Class and Class Counsel for the West Pilot Settlement Class in advance of the August 30, 2016 Fairness Hearing.

Your written objections or comments and/or request to speak at the Fairness Hearing must be postmarked or e-mailed by **July 11, 2016**. Any written objections or comments or requests to speak postmarked or e-mailed after **July 11, 2016** may not be considered by the Court.

Your written objections or comments and/or request to speak at the Fairness Hearing must include your name, address, telephone number, domicile, 6 digit US Airways employee number, and a reference to the lawsuit. Your written objections or comments and/or request to speak should be as detailed as possible, including any and all provisions of the Settlement Agreement that you object to and why. The Court may not allow you to speak at the Fairness Hearing on issues that you did not address in your written objections or comments or request. Non-written, untimely, or otherwise non-compliant objections, comments, and/or requests to speak may not be considered by the Court.

If you submit written objections or comments, you may attend the Fairness Hearing at your own expense at the time and place noted above, but are not obligated to do so. If you submitted a timely written request to speak at the Fairness Hearing, it is possible that you will not be permitted to speak. The Court will decide who gets to speak at the Fairness Hearing.

10. Where Can I Find More Information About the Settlement Agreement?

This Notice, the Settlement Agreement, the MOS, and the Court Order Granting Conditional Certification of Class Action for Settlement Purposes Only, Preliminary Approval of the Settlement, and Approval of the Content and Method of Distribution of Notice to Class Members are posted on public portion of the USAPA and Leonidas websites. This information may be accessed at www.usairlinepilots.org and www.cactuspilot.com.

11. Who Should I Contact if I Have Questions Regarding the Settlement Agreement?

A. West Pilot Settlement Class Members: If you have any questions regarding the Settlement Agreement, you should contact your Class Counsel at:

Marty Harper
ASU Alumni Law Group
2 N. Central Avenue Suite 1600
Phoenix, AZ 85004
Tel.: (602) 251-3620
Fax: (602) 251-8055
Marty.Harper@asualumnilawgroup.org

Kelly J. Flood
ASU Alumni Law Group
2 N. Central Avenue Suite 1600
Phoenix, AZ 85004
Tel.: (602) 251-3620

Fax: (602) 251-8055
Kelly.Flood@asualumniawgroup.org

B. East Pilot Settlement Class Members: If you have any questions regarding the Settlement Agreement, you should contact your Class Counsel at:

Lee Seham
Seham, Seham, Meltz & Petersen, LLP
199 Main Street, 7th Floor
White Plains, NY 10601
Tel. (914) 997-1346
Fax (914) 997-7125
ssmpls@aol.com

Stanley J. Silverstone
Seham, Seham, Meltz & Petersen, LLP
199 Main Street, 7th Floor
White Plains, NY 10601
Tel. (914) 997-1346
Fax (914) 997-7125
ssilverstone@ssmplaw.com

Any objections and/or comments to the Settlement Agreement that you wish the Court to consider in determining whether to enter a Final Order approving the Settlement Agreement, or requests to speak at the Fairness Hearing must be submitted to Grant Thornton, LLP, at the address provided in paragraph 9. Only those submissions will be provided to the Court. All questions regarding the Settlement Agreement or the related proceedings must be directed to your Class Counsel, and all objections, comments, and/or any other correspondence that you wish the Court to consider must be directed to Grant Thornton, LLP. **DO NOT CONTACT THE COURT WITH QUESTIONS, OBJECTIONS, COMMENTS, AND/OR ANY OTHER CORRESPONDENCE REGARDING THE SETTLEMENT AGREEMENT OR THE RELATED PROCEEDINGS. THE COURT WILL NOT RECEIVE OR RESPOND TO ANY SUCH COMMUNICATIONS.**

Conclusion

This Notice and its contents have been authorized by the United States District Court for the Western District of North Carolina.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:14-CV-577-RJC-DCK**

US AIRLINE PILOTS ASSOCIATION,)
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 ROGER VELEZ, and LEONIDAS, LLC,)
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 Defendants.)
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SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE is entered into by and between the Parties, as defined below.

DEFINITIONS

A. “Parties” means the US Airline Pilots Association (“USAPA”), and its current and former officers, directors, and employees, including, but not limited to, Gary Hummel, Stephen Bradford, Rob Streble, Steve Smyser, Courtney Borman, John Taylor, Joe Stein, Pete Dugstad, Jay Milkey, Stephen Nathan, John Owens, Robert Frear, Ronald Nelson, Paul Diorio, and Paul Music; and Eddie Bollmeier, Bill Tracey, Simon Parrott, Roger Velez, and Leonidas, LLC, and its current and former officers, directors, and members.

B. “North Carolina Litigation” collectively refers to *USAPA v. Velez, et al.*, 3:14-cv-00577-RJC-DCK (“USAPA DJ Action”), *Bollmeier v. Hummel, et al.*, 3:15-cv-00111 (“LMRDA action I”), and *Bollmeier v. Frear, et al.*, 3:15-cv-00480 (“LMRDA action II”).

C. “Arizona Litigation” collectively refers to *Addington v. USAPA, et al.*, 2:08-cv-01633-NVW (“*Addington I*”), *US Airways v. Addington, et al.*, 2:10-cv-01570-ROS (“*Addington II*”), and *Addington v. USAPA, et al.*, 2:13-CV-00471-ROS (“*Addington III*”).

D. “East Pilot Settlement Class” means all pilots who were employed by US Airlines/American Airlines as of September 16, 2014 and who were listed on the US Airways East Pilot Seniority List.

E. “West Pilot Settlement Class” means all pilots who were employed by US Airlines/American Airlines as of September 16, 2014 and who were listed on the US Airways West Pilot Seniority List.

F. “Settlement Classes” means the East Pilot Settlement Class and the West Pilot Settlement Class.

G. “Released Parties” means the Parties, the East Pilot Settlement Class, and the West Pilot Settlement Class.

H. “MOS” means the Memorandum of Settlement dated February 5, 2016.

SETTLEMENT AGREEMENT

1. To help effectuate the terms and conditions of this Settlement Agreement, two settlement classes will be created. The “East Pilot Settlement Class” is defined as “All pilots who were employed by US Airlines/American Airlines as of September 16, 2014 and who were listed on the US Airways East Pilot Seniority List.” The representatives for the East Pilot Settlement Class will be John Owens, Bob Burdick and Mark King. The West Pilot Settlement Class is defined as “All pilots who were employed by US Airlines/American Airlines as of September 16, 2014 and who were listed on the US Airways West Pilot Seniority List.” The representatives for the West Pilot Settlement Class will be Eddie Bollmeier, Bill Tracey and Simon Parrott.

2. Upon entry of the Final Order approving this Settlement Agreement, USAPA shall wire payment of \$5.5 million to the ASU Alumni Law Group trust account, representing full and final consideration in settlement of the USAPA DJ Action, LMRDA action I, LMRDA action II, and the claim for attorneys’ fees in *Addington I, II, and III*.

3. Upon entry of the Final Order approving this Settlement Agreement, and after the \$5.5 million payment provided for herein has been made, West Pilot Settlement Class members will no longer be considered members of USAPA for any purpose. In addition, each member of the West Pilot Settlement Class will be deemed to disclaim any and all interest the member might have in USAPA treasury funds and shall be deemed to waive any and all rights the member might have to the distribution of such funds, including under the dissolution provisions of the USAPA Constitution and Bylaws (Article I, Section 3, subdiv. A) and the merger dues increase provision (Article II, Section 5, subdiv. F).

4. Upon entry of the Final Order approving this Settlement Agreement, and after the \$5.5 million payment provided for herein has been made, (a) the *Addington III* plaintiffs will provide notice to the Arizona District Court of said payment and the West Pilots’ application for attorneys’ fees for the Arizona Litigation will be dismissed with prejudice, and (b) all Parties in the North Carolina Litigation will dismiss all claims, counterclaims, and third-party claims with prejudice, except that the terms of the preliminary injunction relating to certain activities of USAPA as described in paragraph 8 below shall become permanent by consent of the Parties and will be included in the Final Order the Parties will ask the Court to enter.

5. USAPA represents and warrants that it had and has the legal right and authority under its Constitution and Bylaws to enter into the MOS and this Settlement Agreement.

6. Upon entry of the Final Order approving this Settlement Agreement, USAPA Officers, past and present, and Board of Pilot Representatives (“BPR”) members, past and present, agree to waive, relinquish and forego any and all claims and/or potential claims against USAPA for indemnification under the USAPA Constitution and Bylaws, except that this release is not effective and does not apply to the named defendants in LMRDA action I and LMRDA action II until USAPA has fully reimbursed the attorneys’ fees and expenses incurred by the named defendants in LMRDA action I and LMRDA action II. As to all other USAPA Officers, past and present, and BPR members, past and present, the release is effective upon entry of the Final Order.

7. Upon entry of the Final Order approving this Settlement Agreement, and after the payment provided in paragraph 2 above has been made, USAPA will retain exclusive control over all funds remaining in the USAPA treasury and, in its discretion, may use the remaining funds to, *inter alia*, (1) wind up the business affairs of USAPA, as it sees fit, and for which it has the exclusive obligation to complete; (2) ensure that all USAPA debts and liabilities are satisfied and/or set aside; (3) take action against USAPA’s insurer (AIG) with respect to any prior denial of insurance coverage and defense of claims against USAPA, including but not limited to *Karas v. Allied Pilots Association, et al.*, 3:16-cv-00168-TJM-DEP; (4) reimburse attorneys’ fees and expenses incurred by any USAPA officer or BPR member named as a defendant in LMRDA action I and LMRDA action II; (5) pay any previously incurred expenses, including for USAPA’s counsel in the North Carolina Litigation and the Arizona Litigation; and (6) make disbursements to East Pilot Settlement Class members according to the USAPA Constitution and Bylaws. As part of the Settlement Agreement, each member of the East Pilot Settlement Class will be deemed to waive any and all rights the member might have to the \$5.5 million settlement payment provided for in paragraph 2 above.

8. The Parties shall consent to and request the Court make permanent, for a period of three years from the date of entry of the Final Order approving this Settlement Agreement, the portion of the preliminary injunction entered on August 27, 2015 enjoining USAPA and any officers, servants, employees, and attorneys, and anyone in active concert or participation therewith from causing, permitting, or directing USAPA to spend any USAPA funds for any seniority-related matter or seniority-list-related matter, except as provided in paragraph 7 above.

9. All parties to the North Carolina Litigation and the Arizona Litigation will be responsible for their own costs and expenses, except as provided in paragraph 7 above.

10. The Parties understand and agree that this Settlement Agreement embodies a compromise and settlement of disputed claims, and that nothing in this Settlement Agreement, including the furnishing of consideration for this Settlement Agreement, shall be deemed to constitute any finding of wrongdoing by any of the Released Parties, or give rise to any inference of wrongdoing or admission of wrongdoing or liability in this or any other proceeding. This Settlement Agreement and the payment made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. Moreover, the Released Parties specifically deny any such liability or wrongdoing.

11. The Court shall retain jurisdiction over all Parties to resolve any dispute that may arise regarding this Settlement Agreement, including any dispute regarding the validity,

performance, interpretation, administration, enforcement, or enforceability of the Settlement Agreement.

12. This Settlement Agreement may be executed by exchange of emailed or faxed executed hand-written signature pages, and any hand-written signature transmitted by email or facsimile for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. This Settlement Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

13. Upon approval by the Court of the Notice of Settlement Agreement and Fairness Hearing (the "Notice"), Class Counsel for the Settlement Classes shall arrange for the delivery of the Notice, Settlement Agreement and Release, preliminary Order, and the MOS to all members of the Settlement Classes to their last-known addresses by regular first-class mail. The above documents shall also be delivered by e-mail to those Class Members for whom Class Counsel has or has access to the e-mail addresses, and to the e-mail addresses of Class Members maintained by the Allied Pilots Association. The above documents shall also be posted on the public portion of the USAPA and Leonidas websites.

MUTUAL GENERAL RELEASE AND COVENANT NOT TO SUE

14. The Parties as defined herein, and each and every member of the East Pilot Settlement Class and the West Pilot Settlement Class, individually and as Settlement Classes, for themselves, and their representatives, heirs, successors, and assigns, in consideration of the relief set forth in the Settlement Agreement, hereby fully and finally waive, release, remise, acquit, and forever discharge all of the other Parties and all other members of the East Pilot Settlement Class and the West Pilot Settlement Class, and the Settlement Classes, with respect to any and all past or present claims, debts, demands, causes of action, losses, obligations, costs, fees, interest, attorneys' fees, expenses, damages, and injuries and liabilities of whatever kind or nature, in law, equity or otherwise, whether known or unknown, suspected or unsuspected, which the Parties or the members of the East Pilot Settlement Class and West Pilot Settlement Class ever had, now have or may have up through the entry of the Final Order approving this Settlement Agreement (collectively, the "Released Claims").

15. The Released Claims include specifically but not exclusively, all of the following known and unknown claims:

a. Any claim that could arise under or be based on common (including civil tort) law and/or state, federal, or local statutes or ordinances or related regulations or doctrines (including any revisions or amendments), including but not limited to, any and all rights or claims under, based on, or related to the Labor Management Reporting and Disclosure Act, the Railway Labor Act, the National Labor Relations Act, the Labor Management Relations Act, and any other federal, state or local law, without limitation or exception;

b. Any tort claim, including but not limited to claims for battery, assault, fraud, conspiracy, breach of the duty of fair representation, intentional or negligent infliction of emotional

distress, breach of fiduciary duty, fraud and deceit, negligent misrepresentation, defamation, libel, slander, invasion of privacy, disclosure or misuse of private facts, bad faith denial of contract, and tortious interference with contract, contractual relations and/or prospective business interests;

c. Any and all claims or rights (past, present, future, or executory) arising out of or in any way related to any express, implied, oral, or written contract, union constitution and bylaws, or collective bargaining agreement or any alleged breach thereof, or other tort, contract, or statutory claims of any kind;

d. All claims against USAPA, and/or any past or present officer, BPR member, agent, or employee of USAPA in his/her individual and/or official capacity, in any way related to the McCaskill-Bond seniority list integration (“SLI”) process arising from the merger of US Airways with America West Airlines and/or the merger of US Airways with American Airlines;

e. Any claim for disgorgement, penalties (statutory or otherwise), interest, exemplary or punitive damages, or attorneys’ fees (including by way of common benefit or other basis for recovery);

f. Any claim arising out of or in any way connected with any past, present, or future loss, damage or injury whatsoever, known or unknown, suspected or unsuspected, resulting from any act, event, condition, or omission occurring or existing at or before the entry of the Final Order approving this Settlement Agreement.

g. All claims, counterclaims, and third-party claims in the North Carolina Litigation and Arizona Litigation.

16. Notwithstanding paragraph 15 above, the Released Claims do not include the claims in *Karas v. Allied Pilots Association, et al.*, 3:16-cv-00168-TJM-DEP, pending in the U.S. District Court for the Northern District of New York.

17. The release of claims by the USAPA Officers and BPR members for indemnification by USAPA is subject to paragraph 6 above.

18. The Parties and each and every member of the East Pilot Settlement Class and the West Pilot Settlement Class intend this Release to be broadly interpreted, construed, and enforced as such, and to settle all disputes and matters, without limitation of any kind or nature, and whether known or unknown.

19. The Parties and each and every member of the East Pilot Settlement Class and the West Pilot Settlement Class, and the Settlement Classes, shall be deemed to have promised and agreed that they shall not, at any time, institute, cause to be instituted, assist in instituting, or permit to be instituted on their behalf any proceeding in any state or federal court, in or before any regulatory body or administrative agency, or any other proceeding, or otherwise allege or assert any of the Released Claims against any of the Released Parties.

Dated: April 11, 2016

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MEMORANDUM OF SETTLEMENT

1. After execution of this Memorandum of Settlement (hereinafter "MOS") counsel will work jointly to present a notice of settlement in principle to the District Court in Arizona and to the District Court in North Carolina. The notice sent to Judge Silver in Arizona will advise her that the parties have settled on the amount of fees and expenses to be paid in the *Addington I, II and III litigation* and that the Court can hold in abeyance any decision on plaintiff's motion for the recovery of fees and expenses, pending approval by the North Carolina District Court of the terms of the global settlement, including the term calling for payment by USAPA of the sum described hereinbelow as plaintiff's fees and expenses in the *Addington* litigation. Concurrently, counsel will submit a notice of settlement in principle to the District Court in the Western District of North Carolina. That notice will advise Judge Conrad that the parties have settled all matters in principle and will ask Judge Conrad to hold in abeyance all pending motions, including all motions to dismiss and motions for contempt, further advising the Court that the parties request a day and time for Judge Conrad to conduct a fairness hearing or process for the approval of the settlement in all respects by the Court.
2. Counsel shall be responsible to identify and stipulate to a class of all East pilots and a class of all West pilots, which individuals shall thereafter receive written notice of the details of the settlement in principle described herein and shall also receive written notice of the calendaring of the fairness hearing to be held by Judge Conrad. This process shall be designed to develop the broadest possible listing of those individuals serving as pilots of U.S. Airways represented for purposes of collective bargaining as of September 15, 2014.
3. Pending the fairness procedure to be held by Judge Conrad, USAPA (by and through its officers, directors, agents, employees and attorneys) shall be authorized to pay any and all costs and expenses incurred by USAPA in the ordinary course of its business, however, not to include the reimbursement of attorney's fees or expenses incurred by any defendant in the LMRDA/Bollmeier litigation nor any pro-rata distribution of any sum to USAPA members. USAPA will provide a listing to all counsel of those costs and expenses incurred from the date of execution of the MOS until a date ten days prior to the fairness hearing to be conducted by Judge Conrad. In no case can the expenses in the ordinary course of business infringe upon USAPA's ability to tender, in full, the \$5.5 million due as prescribed in ¶5. Subsequent to the fairness hearing and assuming Judge Conrad approves the settlement in principle as described herein, USAPA shall be free to utilize all funds remaining in its treasury after the payment described in ¶5

hereinbelow in a manner in which USAPA sees fit and in connection with and to achieve a winding down of its affairs and ultimate dissolution of USAPA, to be completed in a timely manner.

4. Subsequent to approval by Judge Conrad of the settlement in principle set forth in the MOS and subsequent to the payment described in ¶5 hereinbelow, members of the West pilot class of individuals will no longer be considered members of USAPA. In addition and contingent upon those two events occurring, the West pilot class of individuals will be deemed to disclaim any interest in the USAPA treasury funds and shall be deemed to waive any right of distribution to such funds.
5. Upon approval by the Court of this settlement at or after the fairness hearing, USAPA shall wire payment of \$5.5 million to ASU Alumni Law Group trust account, representing full and final consideration in settlement of *USAPA v. Velez* (including counterclaims and third-party claims) *Bollmeier v. Hummel, et al. (LMRDA action I)* and *Bollmeier v. Frear, et al. (LMRDA action II)* and the claim for fees and expenses in *Addington I, II and III*.
6. Once payment by USAPA of the sum of \$5.5 million has been collected as good funds into the ASUALG trust account, the *Addington* plaintiffs shall provide notice to the Arizona District Court of said payment and will dismiss their action with prejudice. Assuming Judge Conrad approves the settlement in principle set out in the MOS at the fairness hearing to be conducted by the Court, all parties in the North Carolina litigation shall dismiss all claims, counterclaims and third-party claims with prejudice, except that the terms of the preliminary injunction relating to certain activities of USAPA described hereinbelow shall become permanent by consent of the parties and shall be included in the Order entered by Judge Conrad.
7. The parties contemplate including in any Order entered by Judge Conrad incidental to the fairness hearing language which shall reflect the mutual release of all parties to the litigation in both Arizona and North Carolina of all claims in the broadest possible terms, such as to effect a full and final resolution of all claims arising between the parties, with the exception of any prospective performance or obligation set forth in the Order.
8. The parties in the North Carolina litigation shall consent to and ask Judge Conrad to make permanent the portion of the preliminary injunction preventing USAPA and any officers, agents, servants, employees and attorneys, and anyone in active concert or participation therewith from causing, permitting or directing USAPA

to spend any USAPA funds for any seniority-related activity, including but not limited to any litigation directly related to any merger or seniority-related matter or seniority list for a period of three years from the date the permanent injunction is issued in Judge Conrad's Order. Notwithstanding the foregoing, and following Judge Conrad's approval of the settlement in principle, USAPA will be permitted to: (i) reimburse attorneys' fees and expenses incurred by any defendant in the *Bollmeier/LMRDA* cases; (ii) take action against AIG with respect to its prior denial of insurance coverage; or (iii) pay any previously incurred expenses, including for USAPA's counsel in the North Carolina and Arizona litigation.

9. Other than as expressly set forth herein, the parties to the Arizona and North Carolina litigations shall bear their own costs and expenses, including the implementation and performance of the terms of this MOS.

Effective as of this 5th day of February, 2016.

[Signature Pages available at www.usairlinepilots.org and www.cactuspilot.com]

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-cv-00577-RJC-DCK**

US AIRLINE PILOTS ASSOCIATION,)

Plaintiff,)

v.)

ROGER VELEZ, on behalf of himself)
and all similarly situated former)
America West Pilots, and)
LEONIDAS, LLC,)

Defendants.)

ORDER

THIS MATTER comes before the Court on the parties’ Joint Motion for Conditional Certification of Class Action for Settlement Purposes Only, Preliminary Approval of the Settlement, and Approval of the Content and Method of Distribution of Notice to Class Members (“Joint Motion”). (Doc. No. 115). The moving parties submitted the Settlement Agreement and Release (“Settlement Agreement”), (Doc. No. 115-1), and the proposed Notice of Settlement Agreement and Fairness Hearing (“Notice”), (Doc. No. 115-2), for approval. Having reviewed the exhibits and the memorandum submitted by the parties in support of the Joint Motion, the Court finds that the Joint Motion should be **granted**.

I. DISCUSSION

In their motion, the parties to these Consolidated Cases¹ seek conditional certification of this case as a class action for purposes of settlement in accordance with the Settlement Agreement.

¹ The Consolidated Cases consist of the above-captioned case, USAPA v. Velez, et al., 3:14-cv-577-RJC-DCK, as well as two other cases that were consolidated into this case, Bollmeier v. Hummel, et al., 3:15-cv-00111-RJC-DCK, and Bollmeier v. Frear, et al., 3:15-cv-

The law permits conditional certification for settlement purposes only; however, even where the parties agree to class certification as part of a settlement, the Court must still review the case to ensure that it meets the requirements for certification under Federal Rule of Civil Procedure 23. See Amchem Products, Inc. v. Windsor, 521 U.S. 591, 620 (1997).

A. Conditional Class Certification

Before determining whether a class should be certified, the district court must make two initial determinations: (1) whether a precisely defined class exists; Haywood v. Barnes, 109 F.R.D. 568, 576 (E.D.N.C. 1986); and (2) whether the class representative is a member of the proposed class, East Texas Motor Freight System, Inc. v. Rodriguez, 431 U.S. 395, 403 (1977). The proposed settlement in this case provides for two settlement classes.

The East Pilot Settlement Class is defined as:

All pilots who were employed by US Airlines/American Airlines as of September 16, 2014, and who were listed on the US Airways East Pilot Seniority List.

The West Pilot Settlement Class is defined as:

All pilots who were employed by US Airlines/American Airlines as of September 16, 2014, and who were listed on the US Airways West Pilot Seniority List.

(Doc. No. 115-1 at 1).

The Court finds that both initial determinations are satisfied. The East Pilot Settlement Class and the West Pilot Settlement Class are sufficiently precise, and the named representatives are each members of their respective class. John Owens, Bob Burdick, and Mark King were all employed by US Airlines/American Airlines as of September 16, 2014, and were listed on the US Airways East Pilot Seniority List. Eddie Bollmeier, Bill Tracey, and Simon Parrott were all

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employed by US Airlines/American Airlines as of September 16, 2014, and were listed on the US Airways West Pilot Seniority List.

Next, the Court must determine whether the purported classes satisfy the four threshold requirements of Rule 23(a), as well as the requirements for certification under one of the three subsections of Rule 23(b).² Fed. R. Civ. P. 23; see also Gunnells v. Healthplan Servs., Inc., 348 F.3d 417, 423 (4th Cir. 2003). Rule 23(a) provides that a case is appropriate for certification as a class action if:

(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a). These four requirements are commonly referred to as numerosity, commonality, typicality, and adequacy of representation.

The Court finds that the four requirements of Rule 23(a) are met. First, the proposed classes satisfy the numerosity requirement because they consist of approximately 1,600 West Pilots and 3,576 East Pilots. Second, there are questions of law and fact common to the classes; therefore, the commonality requirement is met. Third, the typicality requirement is met because the claims of the representative parties are identical to the claims of the proposed classes. Fourth, it appears that the representative parties will fairly and adequately protect the interests of the class because their interests are identical and not antagonistic.

Finally, a putative class satisfies Rule 23(b)(2) if “[1] the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that [2] final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P.

² The parties in this case are seeking certification under Rule 23(b)(2). (Doc. No. 116 at 8).

23(b)(2). Accordingly, Rule 23(b)(2) does not “cover cases where the primary claim is for damages, but is only applicable where the relief sought is exclusively or predominantly injunctive or declaratory.” Lukenas v. Bryce’s Mountain Resort, Inc., 538 F.2d 594, 595 (4th Cir. 1976). Although the proposed Settlement Agreement includes monetary payment by USAPA to counsel for the benefit of the West Pilots, the payment is “incidental” and “non-individualized” and does not predominate the uniform injunctive and declaratory relief the settlement provides. See Berry v. Schulman, 807 F.3d 600, 609 (4th Cir. 2015). Therefore, the Court finds that the East and West Settlement Classes satisfy Rule 23(b)(2) because the relief sought in the Consolidated Cases is predominantly injunctive or declaratory, and not for money damages.

Accordingly, with respect to the proposed Settlement Agreement among the parties, the Court preliminarily finds that the applicable requirements of Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure are satisfied. The Consolidated Cases shall be conditionally certified, for settlement purposes only, as a class action pursuant to Rules 23, 23.1, and 23.2 of the Federal Rules of Civil Procedure on behalf of the proposed Settlement Classes.

B. Class Counsel and Class Representatives

The parties also move for appointment of their respective counsel as class counsel and for appointment of class representatives. Rule 23(g)(1)(A) states that, in appointing class counsel, the Court must consider the following:

- (i) the work counsel has done in identifying or investigating potential claims in the action;
- (ii) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- (iii) counsel’s knowledge of the applicable law; and
- (iv) the resources that counsel will commit to representing the class.

In addition, the Court “may consider any other matter pertinent to counsel’s ability to fairly and adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(1)(B).

The Court finds that all of these factors weigh in favor of appointing each party’s respective counsel as class counsel. Both counsel have significant experience and have demonstrated substantial knowledge of the applicable law. Counsel have also expended significant resources investigating the claims in the Consolidated Cases and negotiating to reach the Settlement Agreement. Furthermore, nothing indicates that counsel will not continue devoting significant resources to adequately representing their respective Class. Therefore, the Court hereby appoints Seham, Seham, Meltz & Petersen, LLP (specifically attorneys Lee Seham and Stanley J. Silverstone) as Class Counsel for the East Pilot Settlement Class and the ASU Alumni Law Group (specifically attorneys Marty Harper and Kelly J. Flood) as Class Counsel for the West Pilot Settlement Class.

With regard to class representatives, the Court has already found that the proposed representatives are each members of their respective class. There is no indication that the proposed class representatives have any conflict with any other Class Member, and therefore, the Court further finds that the proposed class representatives will fairly and adequately protect the interests of their respective class. Accordingly, the Court hereby appoints John Owens, Bob Burdick, and Mark King as Class Representatives for the East Pilot Settlement Class and Eddie Bollmeier, Bill Tracey, and Simon Parrott as Class Representatives for the West Pilot Settlement Class.

C. Preliminary Approval of the Settlement Agreement

Next, the parties jointly request that the Court preliminarily approve the Settlement Agreement under Rule 23(e) and 23.1(c). The Settlement Agreement would put to final rest eight years of litigation between the East Pilots and West Pilots. The main terms of the Settlement

Agreement include: (1) settlement of the West Pilots' claim for attorneys' fees in Addington v. USAPA, et al., 2:08-cv-01633-NVW, US Airways v. Addington, et al., 2:10-cv-01570-ROS, and Addington v. USAPA, et al., 2:13-CV-00471-ROS, (collectively, the "Addington Cases"), and all claims, counterclaims, and third-party claims in the Consolidated Cases; (2) certification of a class of East Pilots and a class of West Pilots; (3) payment by USAPA in the amount of \$5.5 million to counsel for the benefit of the West Pilots, representing full and final consideration in settlement of the Consolidated Cases and the West Pilots' motion for attorneys' fees in the Addington Cases; (4) dismissal of all claims, counterclaims, and third-party claims by all parties with prejudice; (5) converting certain terms of the Court's August 27, 2015 preliminary injunction relating to certain activities of USAPA into a permanent injunction, and extending its duration for three years from entry of the Final Order; and (6) mutual releases of all possible related claims.

Rule 23(e) requires that the court approve any proposed settlement of a class action, and that notice of the settlement be given to all class members. At this preliminary stage of settlement proceedings, the court need only decide "whether the proposed settlement is within the range of possible approval or, in other words, whether there is probable cause to notify the class of the proposed settlement." Horton v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 855 F. Supp. 825, 827 (E.D.N.C. 1994) (internal quotation marks omitted). The ultimate purpose of court approval is to ensure that the settlement is "fair, reasonable, and adequate." Id. "In applying this standard, the Fourth Circuit has bifurcated the analysis into consideration of fairness, which focuses on whether the proposed settlement was negotiated at arm's length, and adequacy, which focuses on whether the consideration provided the class members is sufficient." Beaulieu v. EQ Indus. Servs., Inc., No. 5:06-CV-00400BR, 2009 WL 2208131, at *24 (E.D.N.C. July 22, 2009) (citing In re Jiffy Lube Sec. Litig., 927 F.2d 155, 158–59 (4th Cir. 1991)). A four-factor test is applied to

determine the fairness of a proposed settlement: “(1) the posture of the case at the time the proposed settlement was reached, (2) the extent of discovery that had been conducted, (3) the circumstances surrounding the settlement negotiations, and (4) counsel’s experience in the type of case at issue.” Id.

The Consolidated Cases had been actively and rigorously litigated with extensive motion practice by the time settlement was reached in this matter. Prior to reaching a settlement, the parties engaged in a combination of formal and informal discovery, and counsel for the parties conducted extensive investigation relating to the potential claims and the underlying events and transactions and researched the applicable law with respect to the claims and defenses. The parties and their counsel then engaged in court-approved mediation over three days in Charlotte, North Carolina, in January 2016, which did not result in an agreement. However, the parties continued negotiating in the weeks following the mediation sessions, and those negotiations ultimately resulted in the Settlement Agreement. Counsel for both sides have been representing their respective party in multiple actions related to these issues for many years now, and they have ample experience in the type of case at issue here. Consequently, the Court finds that all the fairness factors favor preliminary approval of the Settlement Agreement.

In analyzing the adequacy of the settlement, the relevant factors include:

(1) the relative strength of the plaintiffs’ case on the merits, (2) any difficulties of proof or strong defenses the plaintiffs would likely encounter if the case were to go to trial, (3) the expected duration and expense of additional litigation, (4) the solvency of the defendants and the probability of recovery on a litigated judgment, and (5) the degree of opposition to the proposed settlement.

Beaulieu, 2009 WL 2208131, at *26 (citing Jiffy Lube, 927 F.2d at 158; Horton, 855 F. Supp. at 829–30).

Regardless of the strength of a claim on the merits, one can never ensure a finding of

liability in complex litigation like this. Similarly, all parties to this litigation face significant difficulties and risks in establishing liability and defending against the claims. Therefore, the Court finds that the first two adequacy factors weigh in favor of approving the Settlement Agreement. The third factor clearly weighs in favor of settlement. The parties to the Consolidated Cases have been litigating these issues for eight years, and the Cases are still in the early stages of litigation. Settling this matter now will save the parties from years of litigation and expense. Fourth, USAPA is no longer a certified union receiving dues income; therefore, its solvency is a concern that weighs in favor of approving the Settlement Agreement. Finally, although the parties are aware of several potential objectors to the settlement, it appears that the majority of the class members prefer to end this lengthy dispute with settlement. Consequently, the Court finds that the Settlement Agreement is fair, adequate, and within the range of possible final approval such that it is reasonable and should be preliminarily approved.

D. Approval of Content and Method of Notice

The parties have submitted a proposed Notice, (Doc. No. 115-2), which they ask the Court to approve and to authorize distribution thereof. Because the Court has certified the Class under Rule 23(b)(2), there are no specific requirements for the notice. Rather, the Court may direct any appropriate notice to the Class. Fed. R. Civ. P. 23(c)(2)(A).

The Court has reviewed the proposed Notice and has no objections to its content. There are, however, several items that the Court finds should be added to or modified in the Notice. Accordingly, the Court hereby approves the proposed Notice, as attached as Exhibit 2 to the Joint Motion, (Doc. No. 115-2), with the following additions and modifications.

1. The following shall be added to the beginning of the Notice after the heading that reads **“NOTICE OF SETTLEMENT AGREEMENT AND FAIRNESS**

HEARING: **“A FEDERAL COURT HAS AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.”**

2. In the first paragraph on page 3, the sentences reading, “Eventually LMRDA action I and LMRDA action II were consolidated with the USAPA DJ Action. All of these cases were consolidated before Judge Conrad in the federal court for the Western District of North Carolina.” shall be modified to read, “Eventually, LMRDA action I and LMRDA action II were consolidated with the USAPA DJ Action before the U.S. District Court for the Western District of North Carolina (the “Court”).” Each subsequent reference to the U.S. District Court for the Western District of North Carolina shall be changed to “the Court.”
3. In the second paragraph on page 3, the phrase “Judge Conrad issued a preliminary injunction” shall be changed to read, “the Court issued a preliminary injunction.”
4. In the fifth paragraph on page 3, the phrase “the Honorable Robert J. Conrad, Jr. of the Western District of North Carolina, issued” shall be changed to “the Court issued.”
5. All references to “Judge Conrad” on page 4 and, to the extent the Court has overlooked references not specifically addressed here, all such references throughout the Notice, shall be changed to “The Court.” For example, the phrases “Judge Conrad preliminarily determined” and “Judge Conrad appointed” shall be changed to “The Court preliminarily determined” and “The Court appointed.”
6. Under item number 3 on page 8, the phrase “if approved by Judge Conrad,” shall be changed to read “if approved by the Court.”
7. Under item number 4 on page 9, the phrase “both by Judge Conrad in LMRDA

action I” shall be changed to read “both by the Court in LMRDA action I.”

8. Under item number 7 on page 10, the phrase “in the courtroom of the Honorable Robert J. Conrad, at the following address: United States District, Western District of North Carolina, 235 Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, N.C. 28202” shall be changed to read “in Courtroom 2-1, located at the Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28202.”
9. The following shall be added to the end of the paragraph under item number 8 on page 10: “If there are objections to the Settlement Agreement, the Court will consider them. We do not know how long the hearing will take or whether the Court will make its decision on the day of the hearing or sometime later. The Fairness Hearing may be continued without further notice to the Classes.”
10. The last sentence in the second paragraph on page 11 shall be changed from “will not be considered by the Court” to “may not be considered by the Court.”
11. The following sentence shall be added to the end of the third paragraph on page 11, which ends with the phrase “issues that you did not address in your written objections or comments or request”: “Non-written, untimely, or otherwise non-compliant objections, comments, and/or requests to speak may not be considered by the Court.”
12. Links, webpage addresses, and/or directions for accessing the specific webpage containing the indicated information shall be added to the end of the paragraph under item number 10 on page 11. For example, “This information may be accessed at <http://leonidas.cactuspilots.us/settlement> and <http://www.usairlinepilots.org/settlement>.”

13. Attorney Lee Seham shall be added as a contact under item 11.B. on page 12 along with his contact information in similar form to that which is listed for Stanley J. Silverstone.
14. The following paragraph shall be added on page 12 after the paragraph ending with “Only those submissions will be provided to the Court.” and immediately before the “Conclusion”: “All questions regarding the Settlement Agreement or the related proceedings must be directed to your Class Counsel, and all objections, comments, and/or any other correspondence that you wish the Court to consider must be directed to Grant Thornton, LLP. **DO NOT CONTACT THE COURT WITH QUESTIONS, OBJECTIONS, COMMENTS, AND/OR ANY OTHER CORRESPONDENCE REGARDING THE SETTLEMENT AGREEMENT OR THE RELATED PROCEEDINGS. THE COURT WILL NOT RECEIVE OR RESPOND TO ANY SUCH COMMUNICATIONS.**”
15. The “Conclusion” sentence on page 12 shall be modified to read, “This Notice and its contents have been authorized by the United States District Court for the Western District of North Carolina.”

As to the method of notice, the parties propose to give notice through several different avenues. The Notice and its supporting documents³ will be mailed by regular first-class mail to the last-known address of each member of the Settlement Classes. In addition, the Notice will be delivered by email to those Class Members for whom Class Counsel has or has access to an email address. The Notice will also be posted on the public portion of the USAPA and Leonidas, LLC

³ The documents mailed shall be the Notice, Settlement Agreement and Release, this Order, and the Memorandum of Settlement (collectively, the “Notice”).

websites. The Court hereby approves the parties' plan for disseminating the Notice with the following modifications.

1. If a Notice is returned to Class Counsel by the United States Postal Service with a forwarding address for the recipient, Class Counsel shall re-mail the Notice to that address. In the event that, subsequent to the first mailing of the Notice and at least seven days prior to the deadline for submitting objections, comments, and/or requests to speak, the Notice is returned to Class Counsel by the United States Postal Service because the address of the recipient is no longer valid, Class Counsel shall perform a standard skip trace in an effort to attempt to ascertain the current address of the particular Class Member in question, and if such an address is ascertained, Class Counsel will promptly re-send the Notice.

E. Settlement Agreement Timeline

The Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1711 to 1715, requires, in relevant part, that within ten days after a proposed settlement of a class action under Rule 23 is filed in court, each defendant participating in the proposed settlement shall serve on the appropriate Federal and State regulatory officials a notice providing specified information and documents regarding the proposed settlement. 28 U.S.C. §§ 1711, 1715(a), (b). The statute further provides that an order giving final approval to the proposed settlement may not be issued earlier than 90 days after service of the notice upon the appropriate Federal and State officials.⁴ § 1715(d). To the extent these actions have not already been done, Class Counsel for the East Pilot Settlement Class and Class Counsel for the West Pilot Settlement Class shall each provide the notice and other

⁴ Consequently, the earliest date upon which the Fairness Hearing could be held in this case is July 20, 2016.

materials as required by 28 U.S.C. § 1715(b) to the appropriate Federal and State officials within **seven (7) days** of the entry of this Order. Each Class Counsel shall also submit a declaration to the Court within **fourteen (14) days** of the entry this Order identifying the officials to whom the materials were sent and the date on which they were sent. For the purpose of providing such notice and materials, the Federal and State officials under CAFA, 28 U.S.C. § 1715(a) and (b), are the Attorney General of the United States and the Attorneys General of the states in which the identified Class Members reside. In light of the terms of the Settlement Agreement, which does not identify or provide for any monetary award attributable to Class Members who reside in particular states, the Court finds that it is not feasible to include in the notices the information described in CAFA, 28 U.S.C. § 1715(b)(7)(A) & (B).

Upon review of the parties' proposed timeline and in light of CAFA, the Court finds that it is necessary to modify the proposed timeline for notice and final approval of the Settlement Agreement. The schedule for final approval shall be as follows:

Event	Deadline
Deadline for Notices to be mailed and emailed to Class Members	Twenty (20) days from entry of this Order
Deadline for posting of Notice on USAPA and Leonidas websites	Twenty (20) days from entry of this Order
Deadline for submitting objections, comments, and/or requests to speak at the Fairness Hearing	Eighty (80) days from entry of this Order
Deadline for submitting responses to objections and/or comments	August 8, 2016
Deadline for the parties to file their Joint Motion for Final Approval of the Settlement Agreement	August 8, 2016
Fairness Hearing	August 30, 2016, at 9:30 a.m.

II. CONCLUSION

IT IS, THEREFORE, ORDERED that:

1. The Joint Motion for Conditional Certification of Class Action for Settlement Purposes Only, Preliminary Approval of the Settlement, and Approval of the Content and Method of Distribution of Notice to Class Members, (Doc. No. 115), is **GRANTED**.
2. With respect to the proposed Settlement Agreement among the parties, the applicable requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(2) are satisfied, and the Consolidated Cases are conditionally certified, for settlement purposes only, as a class action pursuant to Rules 23, 23.1, and 23.2 on behalf of the following proposed Settlement Classes:

The East Pilot Settlement Class is defined as:

All pilots who were employed by US Airlines/American Airlines as of September 16, 2014, and who were listed on the US Airways East Pilot Seniority List.

The West Pilot Settlement Class is defined as:

All pilots who were employed by US Airlines/American Airlines as of September 16, 2014, and who were listed on the US Airways West Pilot Seniority List.

3. With respect to the proposed Settlement Agreement among the parties, Rules 23(e), 23.1(c), and 23.2 of the Federal Rules of Civil Procedure are satisfied and this Settlement Agreement is preliminarily determined to be fair, reasonable, and adequate and is preliminarily approved.
4. The form, content, and method of the Notice, as modified above by this Order, comports with Rules 23(c)(2)(A) and 23.1(c) of the Federal Rules of Civil Procedure and due process of law. Dissemination of the Notice shall be made as provided for in

- the Settlement Agreement and the joint brief and as modified above by this Order.
5. John Owens, Bob Burdick, and Mark King are preliminarily determined to be adequate representatives for the proposed East Pilot Settlement Class and are so appointed.
 6. Eddie Bollmeier, Bill Tracey, and Simon Parrott are preliminarily determined to be adequate representatives for the proposed West Pilot Settlement Class and are so appointed.
 7. Pursuant to Rule 23(g), Lee Seham and Stanley J. Silverstone are hereby determined to be adequate Class Counsel for the East Pilot Settlement Class and are so appointed.
 8. Pursuant to Rule 23(g), Marty Harper and Kelly J. Flood are hereby determined to be adequate Class Counsel for the West Pilot Settlement Class and are so appointed.
 9. To the extent these actions have not already been done, Class Counsel for the East Pilot Settlement Class and Class Counsel for the West Pilot Settlement Class shall each provide the notice and other materials as required by CAFA, 28 U.S.C. § 1715(b), to the appropriate Federal and State officials within **seven (7) days** of the entry of this Order. Each Class Counsel shall also submit a declaration to the Court within **fourteen (14) days** of the entry this Order identifying the officials to whom the materials were sent and the date on which they were sent. As discussed above, the notice need not include the information described in CAFA, 28 U.S.C. § 1715(b)(7)(A) & (B).
 10. The Notice shall be mailed by regular first-class mail, delivered by email, and posted on the public portion of the USAPA and Leonidas, LLC websites no later than **twenty (20) days** from the entry of this Order.
 11. Any members of the conditionally certified Settlement Classes who elect to object to or comment on the fairness of the Settlement Agreement must do so no later than **eighty**

- (80) days from the entry of this Order by following the procedures set forth in the Notice.
12. Any members of the conditionally certified Settlement Classes who wish to speak at the Fairness Hearing must submit a written request no later than **eighty (80) days** from the entry of this Order by following the procedures set forth in the Notice. The Court will decide in its discretion who, if anyone, is permitted to speak at the Fairness Hearing.
 13. Any parties who elect to respond to any objection or comment on the fairness of the Settlement Agreement must do so no later than **August 8, 2016**.
 14. The parties shall jointly move for final approval of the proposed Settlement Agreement by **August 8, 2016**.
 15. A Fairness Hearing shall be held to consider final approval of the Settlement Agreement and final certification of the Settlement Classes at 9:30 a.m. on **August 30, 2016**.
 16. This action is hereby **STAYED** pending the outcome of the Fairness Hearing.
 17. Pending the outcome of the Fairness Hearing, all parties and any and all Class Members are hereby **ENJOINED** from commencing or prosecuting, either directly or indirectly, any action in any forum (state or federal) asserting any of the Released Claims in the Settlement Agreement.
 18. The terms of the Settlement Agreement are subject to further evaluation and final approval after notice and objections and comments have been received during the time period between this Order and the Fairness Hearing.

Signed: April 22, 2016

