

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

US AIRLINE PILOTS ASSOCIATION,)
)
Plaintiff,)

v.)

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

Civil Action No.:
3:14-CV-577-RJC-DCK

EDDIE BOLLMEIER, BILL TRACEY)
and, SIMON PARROTT,)
)
Plaintiffs,)

v.)

GARY HUMMEL, STEPHEN)
BRADFORD, ROB STREBLE,)
STEVE SMYSER, ROBERT FREAR,)
COURTNEY BORMAN, and JANE)
DOE BORMAN, RONALD NELSON,)
PAUL DIORIO, PAUL MUSIC,)
JOHN TAYLOR, JOE STEIN,)
PETE DUGSTAD, JAY MILKEY,)
and STEPHEN NATHAN,)
)
Defendants.)

Civil Action No.:
3:15-cv-00111-RJC-DCK

Roger Velez,)
)
Counterclaimant and)
Third Party Plaintiff,)

v.)

Civil Action No.:
3:14-CV-577-RJC-DCK

US AIRLINE PILOTS ASSOCIATION)
GARY HUMMEL,)
STEPHEN BRADFORD,)
ROB STREBLE, STEVE SMYSER,)
And JOHN OWENS, in their official)
capacity as officers of USAPA)
)
Counter Defendants)
And Third Party Defendants.)
_____)

MOTION TO HOLD DEFENDANTS IN CONTEMPT AND/OR FOR ORDER TO SHOW CAUSE

LMRDA Plaintiffs Bollmeier, Parrott and Tracey (Plaintiffs) hereby bring their Motion to Hold Defendants In Contempt And For Order To Show Cause, supported by the separate Memorandum in Support, and a Proposed Order, filed contemporaneously herewith.

1. Plaintiffs filed their Motion for Temporary Restraining Order or Preliminary Injunction on March 27, 2015. [Doc. 48.] The Motion sought, inter alia, to restrain Defendants “from authorizing the expenditure of USAPA funds obtained from the collection of dues and assessments of US Airways pilots during the period that USAPA was the exclusive bargaining agent of US Airways pilots in support of activities of any kind, including but not limited to payment of attorneys, experts, witnesses, office space or flight pay loss to pilots for purposes of preparing for and participating in the Substantive Seniority Integration Process.” [Doc. 48-5 ¶ 1.] The Plaintiffs’ Motion was scheduled for oral argument for June 30, 2015.

2. On June 29, 2015, Defendants filed a Motion requesting that the June 30 hearing be continued and additional briefing be allowed. [Doc. 58.] In that Motion, Defendants clearly stated that they wanted the Court's permission to spend approximately \$15,000 from the USAPA treasury to pay seniority/merger-related expenses.

3. The June 30, 2015 hearing was not postponed, and on that date Defendants suddenly announced they were actually seeking the Court's permission to spend approximately \$500,000 on seniority/merger-related expenses.

4. The Court ruled on August 27, 2015 that USAPA's request to spend \$500,000 was "unreasonable," and ordered that it "will not permit USAPA to make these expenditures out of its treasury." (Doc. 75)

5. Between June 30 and August 27, 2015, Defendants, without waiting for Court approval, went forward and spent at least \$380,000 of USAPA's money to pay a majority of the expenses that were pending on June 30, 2015. [See Doc. 98, at Exhibit B, Report of Grant Thornton.]

6. On December 22, 2015, Plaintiffs' counsel contacted LMRDA Defendants to discuss the fact that the Grant Thornton report supported a motion for contempt against the LMRDA Defendants for wrongfully spending USAPA's treasury funds on seniority issues in violation of the Court's order. Plaintiffs' counsel asked for a meet-and-confer on the issue.

7. Defendants' counsel responded that same date questioning the factual and legal basis for such a motion, and thereafter parties exchanged a series of emails setting forth their respective positions on the facts and the law applicable to the issue.

8. On December 29, 2015, all counsel participated in an extended teleconference, during which they continued to discuss the facts the law. The teleconference was followed by another exchange of emails.

9. After extensive discussion via email and teleconference, the parties were unable to reach a resolution on this issue.

CONCLUSION

For the reasons set forth in Plaintiffs' separate Memorandum, Plaintiffs have shown that Defendants willfully obstructed the proceedings in this case by depleting the USAPA treasury by at least \$380,000 while the Plaintiffs' Motion for TRO was under consideration by the Court. Accordingly, Defendants should be held in civil contempt and fines and penalties should be imposed on Defendants, either jointly and severally, including an Order consistent with Rule 65(d)(2)(A-C) (1) requiring the Defendants, either jointly or severally, and their officers, agents, servants, employees, and attorneys and anyone acting in concert with them to immediately restore to the USAPA treasury an amount equal to the merger- and seniority-related expenditures spent after June 30, 2015, with interest, and; (2) payment of Plaintiffs' attorneys' fees and costs incurred in bringing this contempt proceeding; and (3) any other relief the Court deems proper. Plaintiffs request that this Court enter such an order, or, in the alternative, order that Defendants appear and show cause why such an order should not issue.

Respectfully submitted this 20th day of January, 2016.

/s/Kelly J. Flood

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Motion to Hold Defendants in Contempt and for Order to Show Cause with the Clerk of the court using the CM/ECF system and that notification will be sent via that system to:

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This the 20th day of January, 2016.

/s/Kelly J. Flood