

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

CIVIL ACTION NO.: 3:14-CV-577-RJC-DCK  
CIVIL ACTION NO.: 3:15-CV-00111-RJC-DCK

US AIRLINE PILOTS ASSOCIATION, )  
)  
Plaintiff, )

vs. )

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

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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. )

**MOTION TO DEFER AND FOR ADDITIONAL BRIEFING ON BEHALF OF  
PLAINTIFF US AIRLINE PILOTS ASSOCIATION (“USAPA”) AND DEFENDANTS  
GARY HUMMEL, STEPHEN BRADFORD, ROB STREBLE, STEVE SMYSER, JOHN  
TAYLOR, JOE STEIN, PETE DUGSTAD, JAY MILKEY AND STEPHEN NATHAN**

Plaintiff US Airline Pilots Association (“USAPA”) and defendants GARY HUMMEL,

STEPHEN BRADFORD, ROB STREBLE, STEVE SMYSER, JOHN TAYLOR, JOE STEIN, PETE DUGSTAD, JAY MILKEY and STEPHEN NATHAN, hereby move this Court for time to provide additional briefing for the following reasons:

1. These actions were commenced in September 2014 (*USAPA v. Velez*) and March 2015 (*Bollmeier v. Hummel*) at which time the matter of *Addington v. USAPA* was on appeal to the Ninth Circuit Court of Appeals. In both of these actions, which have now been consolidated (Doc. 47) the parties referred to, and made arguments relating to, the *Addington* order and judgment in the District Court.

2. On June 26, 2015, the Ninth Circuit Court of Appeals issued an Opinion in the *Addington* matter, in which the majority, over a lengthy and strongly worded dissent, reversed the judgment of the district court and remanded the case to the District Court with instructions to enter an injunction. (Doc. 54) USAPA expects to file a motion for reconsideration and *en banc* review.

3. USAPA submits it is beyond dispute that the Ninth Circuit majority opinion has a significant effect on these and other proceedings. An example of the latter is the McCaskill-Bond seniority integration proceeding that was scheduled to commence on this date in Washington D.C. before a panel of three arbitrators, in which a USAPA Merger Committee was a participant. The supplemental exhibits filed on June 29, 2015 (exhibits attached to Docs. 56 and 57, which are also attached hereto) attest to the impacts that have resulted from the Ninth Circuit's June 26, 2015 Opinion.

4. Although no mandate has issued and there is no current injunction, the Arbitration Board has been advised that no merger committee representing USAPA will participate in the

McCaskill-Bond proceedings at this time. The members of the USAPA Merger Committee are being transitioned back to their line flying.

5. Despite the absence of a current injunction, USAPA states that it will neither incur expenses beyond June 29, 2015, nor expend any resources as of June 30, 2015, with respect to merger related activities, except as to unpaid usual and ordinary expenses incurred by or on behalf of the Merger Committee prior to June 29, 2015 and those expenses necessary to make arrangements for the orderly transition of Merger Committee members to active flying status. The USAPA Secretary-Treasurer estimates these costs will be less than \$15,000. USAPA will seek Court approval to the extent that these costs exceed the foregoing amount.

6. The final resolution of the *Addington* matter in the Ninth Circuit will clarify the matters at issue in this Court, including any order that could be entered with respect to the current motion for TRO.

7. Therefore, the undersigned request that the Court defer any ruling on the motion for temporary restraining order until such time as the ruling by the Ninth Circuit becomes final and the parties have had an opportunity to file briefs regarding the impact of the final Ninth Circuit decision on this matter.

Respectfully submitted this 29<sup>th</sup> day of June, 2015.

Respectfully submitted,

TIN FULTON WALKER & OWEN

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STEPHEN NATHAN

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **MOTION TO DEFER AND FOR ADDITIONAL BRIEFING ON BEHALF OF PLAINTIFF US AIRLINE PILOTS ASSOCIATION (“USAPA”) AND DEFENDANTS GARY HUMMEL, STEPHEN BRADFORD, ROB STREBLE, STEVE SMYSER, JOHN TAYLOR, JOE STEIN, PETE DUGSTAD, JAY MILKEY AND STEPHEN NATHAN** with the Clerk of the Court using the CM/ECF system, and that notification pursuant to the CM/ECF system will be sent to:

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This the 25<sup>th</sup> day of June, 2015.

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