

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

US AIRLINE PILOTS ASSOCIATION,

Plaintiff,

v.

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

Defendants.

File No. 3:14-CV-577-RJC-DCK

**EDDIE BOLLMEIER, BILL TRACY, and
SIMON PARROTT,**

Plaintiffs,

v.

GARY HUMMEL et al.,

Defendants.

File No. 3:15-CV-00111-RJC-DCK

**EDDIE BOLLMEIER, BILL TRACY, and
SIMON PARROTT,**

Plaintiffs,

v.

**ROBERT FREAR, COURTNEY BROWN,
RONALD NELSON, PAUL DIORIO, and
PAUL MUSIC,**

Defendants.

File No. 3:15-cv-480-RJC-DSC

DEFENDANTS DIORIO, FREAR, AND NELSON'S
MOTION TO DISMISS

Defendants Paul DiOrio, Robert Frear, and Ronald Nelson (collectively, the "Moving Defendants"), through their counsel, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby move to dismiss plaintiffs' claims against them.

Plaintiffs allege that the Moving Defendants, all former members of the US Airline Pilots Association ("USAPA") board of representatives, violated their fiduciary duties to USAPA. However, all of the Moving Defendants' alleged acts were plainly in pursuit of USAPA's constitutionally-enshrined objective to seek date-of-hire-based seniority. Under controlling Fourth Circuit authority (not cited previously in this case) those acts cannot have breached defendants' fiduciary duty to USAPA, regardless of whether they had a negative impact on a portion of USAPA's membership. Therefore, plaintiffs' claims against the Moving Defendants must be dismissed for failure to state a valid claim.

WHEREFORE, for the reasons stated above, and as further explained in their supporting Memorandum of Law filed contemporaneously herewith, the Moving Defendants respectfully request that the Court enter an order granting the instant motion and dismissing plaintiffs' claims against them, with prejudice.

This the 2nd day of December, 2015.

/s/ Narendra K. Ghosh
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*Counsel for Defendants Robert Frear,
Ronald Nelson, and Paul DiOrio.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Dismiss was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to C. Grainger Pierce, Jr., Jeffrey R. Freund, Kelly Joyce Flood, Marty Harper, Zachary Ista, John Gresham, and Roger Adams Blake, Jr., Attorneys for the other parties.

Dated: December 2, 2015.

/s/ Narendra K. Ghosh
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