

**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 FOR RECONSIDERATION

Defendants Paul DiOrio, Robert Frear, and Ronald Nelson (collectively, the "Moving Defendants"), through their counsel, and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, hereby move the Court to reconsider its order granting plaintiffs' motion for a preliminary injunction, (Doc. No. 75), and its order dismissing as moot the other defendants' motion to dismiss, (Doc. No. 76).

Plaintiffs allege that defendants, current or former officers or board members of the US Airline Pilots Association ("USAPA"), violated their fiduciary duties to USAPA. However, all of the 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 defendants fail as a matter of law.

WHEREFORE, for the reasons stated above, and as further explained in their supporting Memorandum of Law filed contemporaneously with the Moving Defendants' motion to dismiss, (Doc. No. 87-1), the Moving Defendants respectfully request that the Court enter an order granting the instant motion, and reconsidering and reversing its prior decisions on plaintiffs' motion for a preliminary injunction and the other defendants' motion to dismiss.

This the 2nd day of December, 2015.

/s/ Narendra K. Ghosh

Narendra K. Ghosh, NC Bar No. 37649
Patterson Harkavy LLP
100 Europa Dr., Suite 420
Chapel Hill, NC 27517

Tel: 919.942.5200
Fax: 866.397.8671
nghosh@pathlaw.com

*Counsel for Defendants Robert Frear,
Ronald Nelson, and Paul DiOrio.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion for Reconsideration 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
Narendra K. Ghosh, NC Bar No. 37649
Patterson Harkavy LLP
100 Europa Dr., Suite 420
Chapel Hill, NC 27517
Tel: 919.942.5200
Fax: 866.397.8671
nghosh@pathlaw.com