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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	Chapter 11
AMR CORPORATION, <i>et al.</i> ,	Case No. 11-15463-SHL
Debtors.	(Jointly Administered)
US AIRLINE PILOTS ASSOCIATION,	Adversary Proceeding
Plaintiff,	Case No. 13-01282-SHL
v.	
LEONIDAS, LLC; DON ADDINGTON; JOHN:	
BOSTIC; MARK BURMAN; AFSHIN	
IRANPOUR; ROGER VELEZ; STEVE	
WARGOCKI; MICHAEL J. SOHA,	
RODNEY ALBERT BRACKIN; AND	
GEORGE MALIGA,	
Defendants.	

AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff US Airline Pilots Association (“**USAPA**” or “**Plaintiff**”), which represents and serves as the certified collective bargaining agent for the thousands of mainline pilots who fly for US Airways Group, Inc. (“**US Airways**”), by their undersigned attorneys, pursuant to sections 105(a) and 362(a)(3) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 7001(7) and 7065 of the Federal Rules of Bankruptcy Procedure (“**Bankruptcy Rules**”), Rule 65 of the Federal Rules of Civil Procedure and 28 U.S.C. § 2201, seeks (1) a declaration that Leonidas, LLC (“**Leonidas**”) and Don Addington, John Bostic, Mark Burman, Afshin Iranpour, Roger Velez, Steve Wargocki, Michael J. Soha, Rodney Albert Brackin, and George Maliga (the “**Nine Pilot Plaintiffs**”) (collectively, “**Defendants**”) have impermissibly interfered with the Bankruptcy Court’s jurisdiction and mandate by announcing an intention to file an action to enjoin the consummation of the Debtors’¹ merger with US Airways (the “**Merger**”), and then subsequently filing an action that impermissibly interferes with the Merger (the “**Arizona Action**”); (2) a declaration that both the threatened action to enjoin the Merger and the subsequently filed Arizona Action violate the automatic stay embodied in 11 U.S.C. § 362(a)(3); (3) injunctive relief preliminarily and permanently enjoining Defendants from interfering with the Bankruptcy Court’s jurisdiction over the Debtors’ chapter 11 cases and the Merger by threatening to enjoin the Merger, prosecuting the claims asserted in the Arizona Action, threatening to file a temporary restraining order, prosecuting a motion for a preliminary

¹ Debtors in the jointly-administered chapter 11 cases titled *In re AMR Corp.*, No. 11-15463 are American Airlines Realty (NYC) Holdings, Inc., AMR Corporation, American Airlines, Inc., AMR Eagle Holding Corporation, Americas Ground Services, Inc., PMA Investment Subsidiary, Inc., SC Investment, Inc., American Eagle Airlines, Inc., Executive Airlines, Inc., Executive Ground Services, Inc., Eagle Aviation Services, Inc., Admirals Club, Inc., Business Express Airlines, Inc., Reno Air, Inc., AA Real Estate Holding GP LLC, AA Real Estate Holding L.P., American Airlines Marketing Services LLC, American Airlines Vacations LLC, American Aviation Supply LLC, American Airlines IP Licensing Holding, LLC.

injunction, or any other such action that would interfere with the Merger; and (4) the automatic stay to be extended, to the extent necessary, and alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, 11 U.S.C. §§ 105 and 362, Rules 7001(7) and 7065 of the Bankruptcy Rules, Rule 65 of the Federal Rules of Civil Procedure and 28 U.S.C. § 2201. This adversary proceeding relates to the jointly-administered chapter 11 cases titled *In re AMR Corp.*, No. 11-15463, currently pending in the United States Bankruptcy Court for the Southern District of New York.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), among others.

3. Venue is proper before this Court pursuant to 28 U.S.C. § 1409.

THE PARTIES

4. Plaintiff USAPA is a party in interest in the jointly-administered chapter 11 cases titled *In re AMR Corp.*, No. 11-15463, currently pending in the United States Bankruptcy Court for the Southern District of New York. USAPA was founded in 2007 by a group of pilots of the new US Airways after the merger between US Airways and America West Airlines, Inc. (“**America West**”). USAPA represents and serves as the certified collective bargaining agent for the thousands of mainline pilots who fly for US Airways. USAPA’s headquarters are located at 200 East Woodlawn Road, Suite 250, Charlotte, North Carolina 28217.

5. On information and belief, defendant Leonidas is an Arizona limited liability company with headquarters located at 3145 East Chandler Boulevard, #110-618, Phoenix, Arizona 85048-8702. Leonidas was created in August of 2007 by several former America West pilots, purportedly to safeguard the legal rights of America West pilots post-merger with US Airways. Leonidas has retained Marty Harper of Polsinelli Shughart PC in Phoenix, Arizona to

represent its interests in litigation against USAPA. Andrew S. Jacob, an attorney at Polsinelli Shughart PC, is listed as the statutory agent for Leonidas on the Arizona Corporation Commission website.

6. On information and belief, defendant Don Addington is a pilot for US Airways, a resident of the State of Arizona, and a member of Leonidas.

7. On information and belief, defendant John Bostic is a pilot for US Airways, a resident of the State of Arizona, and a manager and member of Leonidas.

8. On information and belief, defendant Mark Burman is a pilot for US Airways, a resident of the State of Florida, and a member of Leonidas.

9. On information and belief, defendant Afshin Iranpour is a pilot for US Airways, a resident of the State of Arizona, and a member of Leonidas.

10. On information and belief, defendant Roger Velez is a pilot for US Airways, a resident of the State of Arizona, and a member of Leonidas.

11. On information and belief, defendant Steve Wargocki is a pilot for US Airways and is a resident of the State of Arizona.

12. On information and belief, defendant Michael J. Soha is a pilot for US Airways and is a resident of the State of Washington.

13. On information and belief, defendant Rodney Albert Brackin is a pilot for US Airways and is a resident of the State of Arizona.

14. On information and belief, defendant George Maliga is a pilot for US Airways and is a resident of the State of Arizona.

SUBSTANTIVE ALLEGATIONS

I. The Debtors' Proposed Merger with US Airways

15. On February 13, 2013, after the Debtors had expended significant time and resources to evaluate and analyze various alternatives in order to maximize value for all parties in interest, the Debtors entered into an Agreement and Plan of Merger with US Airways (the “**Merger Agreement**”). The Merger Agreement provides that, subject to and effective upon the confirmation and consummation of a chapter 11 plan of reorganization, Merger Sub, a wholly-owned subsidiary of AMR Corporation formed for the purpose of effectuating the merger, will be merged with and into US Airways, with US Airways continuing as the surviving entity as a direct, wholly-owned subsidiary of AMR. In addition, the Debtors and US Airways have executed conditional agreements with certain of their labor unions, including USAPA, which specifically contemplate the Merger and its effect upon significant portions of their unionized workforce. One such conditional agreement was reached between American Airlines, Inc., US Airways, the Allied Pilots Association (“**APA**”), and USAPA, who entered into a Memorandum of Understanding Regarding Contingent Collective Bargaining Agreement (the “**MOU**”), which spells out in detail, *inter alia*, how the Merger would affect the pilots of US Airways, setting out temporary contract terms that would be implemented in the event of a merger.

16. Debtors' motion to authorize the merger (the “**Motion to Authorize**”)² reflects the importance of the labor agreements between Debtors, US Airways and the airlines' unions and how those agreements will, *inter alia*, facilitate the integration of the airlines:

² Motion of Debtors for Entry of Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 503(b) Authorizing and Approving (I) Merger Agreement among AMR Corporation, AMR Merger Sub, Inc., and US Airways Group, Inc., (II) Debtors' Execution of and Performance under Merger Agreement, (III) Certain Employee Compensation and Benefit Arrangements, (IV) Termination Fees, and (V) Related Relief, *In re AMR Corp.*, No. 11-15463 (Bankr. S.D.N.Y. Feb. 22, 2013) [Dkt. No. 6800].

Additionally, with the assistance of the UCC, the Debtors and US Airways entered into definitive collective bargaining agreements with their labor unions, including collective bargaining agreements that specifically contemplate the Merger, which will serve to facilitate the integration of the two airlines, mitigate labor uncertainty and the additional costs attendant thereto, and enhance the ability to achieve substantial additional value to be realized from the Merger for the benefit of the Debtors' stakeholders.

Motion to Authorize ¶ 21.

17. The consummation of the Merger is conditioned on the filing, confirmation and consummation of a plan of reorganization, which will, among other things, implement the Merger, in accordance with the requirements of the Bankruptcy Code. Debtors have concluded that the Merger is the best available option for Debtors and their stakeholders, and should be expeditiously pursued and implemented.

18. Accordingly, on February 22, 2013, Debtors filed a motion for entry of an order authorizing and approving the Merger Agreement, Debtors' execution of and performance under it, and certain other related relief. The Court held a hearing on Debtors' motion on March 27, 2013.

II. Defendants Threatened to Enjoin the Merger and Subsequently Filed an Action in Arizona That Impermissibly Interferes with the Merger

A. The Dispute with Leonidas Regarding the Nicolau Award

19. Leonidas and USAPA have been on opposite sides of a pilot seniority dispute that has been the subject of ongoing litigation in the United States District Court for the District of Arizona, including a decision by the Ninth Circuit in *Addington v. US Airline Pilots Ass'n*, 606 F.3d 1174 (9th Cir. 2010). That dispute arose as the result of the 2005 merger of US Airways and America West into a single carrier operating under the name of US Airways.

20. At the time of the 2005 merger, the two pilot groups were both represented by the same union, the Air Line Pilots Association ("ALPA"). Pursuant to the internal procedures of

that union, the two pilot groups attempted to integrate seniority culminating in an internal arbitration proceeding. The purpose of that arbitration was to determine the bargaining position that ALPA was to advance in the ongoing negotiations between it and the merged entity regarding seniority. That internal arbitration resulted in the issuance of what is known as the “**Nicolau Award.**” The Nicolau Award placed America West pilots still on probation and in ground school above US Airways pilots with more than 16 years of seniority. Thereafter, the consolidated pilot class voted to replace ALPA with USAPA, a new and independent union. As the new bargaining representative, USAPA took the position that it was not bound by the Nicolau Award, was free to propose and negotiate with US Airways concerning an integrated seniority list other than the Nicolau Award, and in fact proposed a seniority system based on date of hire with significant conditions and restrictions designed to protect the premerger career expectations of both the former US Airways and the former America West pilots.

21. In 2008, six former America West pilots (all of whom are among the Defendants in this action who have recently filed another lawsuit against US Airways and USAPA to interfere with the Merger) sued USAPA in the United States District Court for the District of Arizona alleging, among other things, that USAPA’s failure to follow the Nicolau Award violated its duty of fair representation (“*Addington I*”). Complaint, *Addington I*, No. 08-cv-1633 (D. Ariz. Sept. 4, 2008) [Dkt. No. 1]. While these pilot plaintiffs obtained a judgment in the District Court, on appeal the Court of Appeals for the Ninth Circuit held that the duty of fair representation claim was not ripe and remanded the case to the District Court with directions to vacate its judgment and dismiss the action. *Addington v. US Airline Pilots Ass’n*, 606 F.3d 1174 (9th Cir. 2010). The plaintiffs’ petition for rehearing and rehearing en banc was denied, Order, *Addington v. US Airline Pilots Ass’n*, No. 09-16564 (9th Cir. July 8, 2010) [Dkt. No. 51], as was

their petition for writ of certiorari to the United States Supreme Court, *Addington v. US Airline Pilots Ass'n*, 131 S. Ct. 908 (2011).

22. In July 2010, shortly after the Ninth Circuit denied rehearing in the *Addington I* case, US Airways filed a civil action in the United States District Court for the District of Arizona, asking the District Court to issue a declaratory judgment on one of three alternative Counts: Count I, USAPA and US Airways were bound to follow the Nicolau Award; Count II, USAPA and US Airways were not bound to follow the Nicolau Award; or Count III, US Airways was not liable on any duty of fair representation claim without regard to whatever seniority system it might negotiate with USAPA (“*US Airways DJ Action*”). Complaint, *US Airways DJ Action*, No. 10-cv-01570 (D. Ariz. July 26, 2010) [Dkt. No. 1]. In that connection, US Airways stated that it “remains neutral regarding the merits of the underlying seniority dispute between the two pilot groups, but respectfully asks the Court to resolve this matter so that it and its pilots can move forward in completing negotiations for a new combined post-merger CBA.” Memorandum of Points and Authorities Pertaining to Defendants’ Cross-Motions for Summary Judgment on Counts 1 and 2 of the Complaint at 3, *US Airways DJ Action*, No. 10-cv-01570 (D. Ariz. Jan. 27, 2012) [Dkt. No. 156].

23. In October 2012, on cross-motions for summary judgment, the District Court issued an order and judgment dismissing Counts I and III, and issued judgment in favor of USAPA on Count II, holding that USAPA is free to pursue any seniority position it wishes during the collective bargaining. Order, *US Airways DJ Action*, No. 10-cv-01570 (D. Ariz. Oct. 11, 2012) [Dkt. No. 193]. An appeal was filed to the Ninth Circuit by US Airways on January 2, 2013, after the District Court denied a motion filed by US Airways for relief from the judgment. The issues on appeal have not yet been briefed.

B. The Membership of USAPA, Which Includes the Former America West Pilots, Ratified the MOU by an Overwhelming Margin

24. Following negotiations over many months by Debtors, US Airways, USAPA and APA, on January 4, 2013, the Board of Pilot Representatives of USAPA voted unanimously to recommend the proposed MOU to USAPA's membership for review and ratification.

25. The MOU includes substantial economic improvements, including significant pay increases, for US Airways pilots over the next six years. The MOU will not go into effect unless the Merger is consummated.³ Since the integration of the pilot workforce is vital to the synergies required to effectuate a successful plan of reorganization, included in the MOU are provisions establishing procedures for integrating the pilot workforce. Those procedures provide for an orderly process to determine the seniority of the combined pilot group which culminates, if necessary, in arbitration as required by the McCaskill-Bond Amendment to the Federal Aviation Act, 49 U.S.C. § 42112 note (2008).

26. Voting by USAPA's membership commenced on January 18, 2013 and lasted until February 8, 2013.

27. The results of the vote were announced on February 8, 2013. 75.94% of the members of USAPA voted in favor of the MOU (2,693 of 3,546 voters). Of that group, 97.69% of the Phoenix-based pilots, or former pilots of America West, voted in favor of the MOU. Only 24 out of 1,041 Phoenix-based pilots who voted opposed the MOU.⁴ In other words, the overwhelming majority of the pilots that Defendants purport to represent support the Merger,

³ The MOU includes the following notation: "This Memorandum is ultimately subject to approval by the Bankruptcy Court in In Re AMR Corporation, et al., jointly administered Ch. 11 Case No. 11-15463 (SHL) in connection with the Merger." MOU ¶ 30.

⁴ A copy of the 2013 MOU Referendum Results is annexed hereto as Exhibit A.

which Leonidas and the Nine Pilot Plaintiffs now intend to enjoin and/or otherwise interfere with.

C. Defendants Announced Their Intention to Sue to Block the Merger

28. On or about February 19, 2013, Defendants, through their attorneys Polsinelli Shughart PC, served correspondence on counsel for USAPA (the “**February 19 Letter**”), a copy of which is annexed hereto as Exhibit B. The letter states that

I recently sent letters to Bob Siegal and Ed James stating that unless USAPA agrees that the Nicolau list will be integrated with the American list, the West Pilots *will be forced to file a third round of litigation and seek an injunction of the merger process* until we can get a court order directing that the only list that can be used is the Nicolau.

February 19 Letter at 1 (emphasis added).⁵

29. Also on or about February 19, 2013, Defendants, through their attorneys Polsinelli Shughart PC, served correspondence on counsel for US Airways (“**February 19 Letter to US Airways**”), a copy of which is annexed hereto as Exhibit D. That letter acknowledged that Defendants’ threatened litigation could delay the merger:

If [US] Airways really wants to avoid potential liability to the West Pilots, then it cannot stand by and allow USAPA to construe the MOU and the pilot integration process as creating a legitimate union basis to repudiate the Nicolau list. If it does, not only will [US] Airways find itself in the zone of liability recognized in *Jones*, *but it will also cause the merger process to be unnecessarily delayed by litigation*.

February 19 Letter to US Airways at 2-3 (emphasis added).

⁵ While Defendants are now attempting to backpedal, *see, e.g.*, “[the Nine Pilot] Plaintiffs do not seek to enjoin or delay the process of merging US Airways and American Airlines (as USAPA claims in the New York Adversary),” the fact remains they are attempting to interfere with the Merger, including through seeking injunctive relief. Opposition to USAPA’s Motion for Extension of Time at 5, *Addington v. US Airline Pilots Ass’n*, No. 13-cv-00471 (D. Ariz. Mar. 27, 2013) [Dkt. No. 19]; Motion for a Preliminary Injunction Enjoining Defendants (and their Successors) From Integrating Pilot Seniority Without Using the Nicolau Award List to Define the Relative Seniority of US Airways Pilots, *Addington v. US Airline Pilots Ass’n*, No. 13-cv-00471 (D. Ariz. Mar. 26, 2013) [Dkt. No. 13] (the “**Motion for Preliminary Injunction**”) (appended hereto as Exhibit C).

30. On or about February 20, 2013, Defendants, through their attorneys Polsinelli Shughart PC, served correspondence to counsel for USAPA (the “**February 20 Letter**”), a copy of which is annexed hereto as Exhibit E. This letter was to “serve[] as written notice that the West Pilot Class . . . *anticipates litigation* and hereby requests that the US Airline Pilots Association . . . place a litigation hold on certain materials that will be discoverable in such litigation.” February 20 Letter at 1 (emphasis added). This litigation hold letter made explicit that Defendants intended to commence litigation in the near term.

31. On information and belief, similar letters were sent to the APA and US Airways, and possibly others.

32. On February 23, 2013, in the “Leonidas Update” posted on www.cactuspilot.com (and annexed hereto as Exhibit F), Leonidas stated that

Gary Hummel [USAPA’s president] claims in his latest “President’s Message” that West Pilots will attempt to delay or stop the merger. If so, this is only a consequence of USAPA’s failing to provide, “. . . [t]he West Pilots a union that will not abrogate the Nicolau award without a legitimate purpose.” We would like nothing better than to avoid court altogether but the West Pilot Class, as represented by our legal firm, will use all means at its disposal to defend our seniority rights. . . . With the recent MOU ratification along with the merger announcement, there are substantial legal activities now occurring to defend the West pilots’ Seniority rights.

February 23, 2013 “Leonidas Update” at 1 (initial alteration in original).

D. The Nine Pilot Plaintiffs Filed a Putative Class Action in Arizona on March 6, 2013 and Later Filed a Motion for a Preliminary Injunction

33. On March 6, 2013, the same day that USAPA filed its initial complaint in this adversary proceeding, the Nine Pilot Plaintiffs filed a putative class action against USAPA and US Airways, seeking declaratory and injunctive relief from the District Court for the District of Arizona (“*Addington II*”). Complaint, *Addington II*, No. 13-cv-00471 (D. Ariz. Mar. 6, 2013)

[Dkt. No. 1] (the “**Arizona Complaint**”) (appended hereto as Exhibit G). The six pilots who sued in *Addington I* appear again as plaintiffs in *Addington II*.

34. Polsinelli Shughart, PC is listed as counsel for the Nine Pilot Plaintiffs in the Arizona Action. The caption and signature block for the Class Complaint includes, *inter alia*, Marty Harper and Andrew S. Jacob of that firm. Arizona Complaint at 15.

35. The Arizona Complaint includes three claims: (1) breach of the duty of fair representation by USAPA; (2) breach of the Transition Agreement⁶ by US Airways; and (3) a claim for attorneys’ fees. *Id.* at 12-14.

36. Defendants are fully aware of the pending merger before this Court, and were so aware before they filed their Arizona Complaint and related filings.

37. The Arizona Complaint alleges that “USAPA entered into a contract with US Airways that further repudiates USAPA’s duty to honor the Nicolau Award.” *Id.* ¶ 11. “This action seeks an order enjoining USAPA from taking any steps to integrate pilot operations that does not implement the seniority order set out in the Nicolau Award.” *Id.* ¶ 12. The Arizona Complaint also alleges that entering into the MOU “set the stage for a merger between US Airways and AMR.” *Id.* ¶ 78.

38. With respect to the duty of fair representation, the Arizona Complaint alleges that USAPA breached that duty “by entering into the MOU with the firm intention of using a date-of-hire seniority list rather than the Nicolau Award list.” *Id.* ¶ 99.

39. The Arizona Complaint asserts that by adopting the MOU, US Airways breached the Transition Agreement’s implied covenant of good faith and fair dealing. *Id.* at 13-14.

⁶ The Transition Agreement is an agreement related to the US Airways/American West merger concerning, *inter alia*, integration of the two airlines.

40. In the prayer for relief, among other things, the Nine Pilot Plaintiffs request “[a]n injunction requiring Defendants to conduct seniority integration according to MOU procedures but using the seniority order in the Nicolau Award list to order the US Airways pilots.” *Id.*

¶ 123.

41. The next day, March 7, 2013, the Nine Pilot Plaintiffs filed a motion to transfer the Arizona Action to one of the two judges that have presided over *Addington I* and the US Airways declaratory judgment action. Motion to Transfer Case to Judge Wake or Judge Silver, *Addington II*, No. 13-cv-00471 (D. Ariz. Mar. 7, 2013) [Dkt. No. 5] (the “**Motion to Transfer**”) (appended hereto as Exhibit H).

42. The Motion to Transfer implies that the Arizona Action is designed to reverse the Merger:

The West Pilots bring this action to facilitate, not delay, a timely closing of the US Airways / American Airlines merger They seek to do so before there are missteps in the merger process *that would have to be retraced*.

Motion to Transfer at 4-5 (emphasis added).

43. The Motion to Transfer also reveals that the Nine Pilot Plaintiffs plan to seek a temporary restraining order against USAPA and US Airways. *Id.* at 5.

44. On March 26, 2013, the Nine Pilot Plaintiffs filed a motion for a preliminary injunction, seeking to enjoin USAPA and US Airlines (and their successors) from integrating pilot seniority without using the Nicolau list. *See* Motion for Preliminary Injunction.⁷ Such an injunction, if granted, would inevitably impact the orderly integration of pilots, which is essential to a successful merger and reorganization, and could delay the Merger, as recognized by counsel for the Nine Pilot Plaintiffs.

⁷ The Nine Pilot Plaintiffs have also recently filed a motion to certify the putative class.

45. As Debtors have informed this Court, the Merger contemplates that the agreed-to labor agreements will “facilitate the integration of the two airlines, mitigate labor uncertainty and the additional costs attendant thereto, and enhance the ability to achieve substantial additional value to be realized from the Merger for the benefit of the Debtors’ stakeholders.”⁸ Accordingly, such an injunction could not only delay the Merger process, but would also prevent Debtors from enjoying some of the benefits of the Merger. Thus, the injunction would improperly exercise control over assets of the estates.

46. *Addington II* is expressly designed to impact the Debtors and other parties in interest. On March 8, 2013, in a “Leonidas Update” posted on www.cactuspilot.com (and annexed hereto as Exhibit I), Leonidas acknowledged that unlike *Addington I* and the *US Airways DJ Action*, where “there were just three parties interested in the outcome,” “[i]n *Addington II*] **there are three more parties added to the mix: AMR, APA and the AMR creditors.**” March 8, 2013 “Leonidas Update” at 1 (emphasis added). Similarly, in the Motion for Preliminary Injunction, the Nine Pilot Plaintiffs seek relief against USAPA, US Airways “**and their successors.**” Motion for Preliminary Injunction at 18 (emphasis added).

47. The prosecution of the Arizona Action and any issuance of injunctive relief by another court related to the MOU and/or the Merger will interfere with this Court’s administration of the jointly-administered cases and will irreparably injure Debtors and other parties in interest, including USAPA.

48. If Defendant is permitted to prosecute the Arizona Action, that action would distract parties in interest, such as USAPA, US Airways and Debtors, from the important negotiations and tasks attendant to the Merger, would disrupt the orderly integration of the pilot

⁸ Motion to Authorize ¶ 21.

workforce, and any injunctive relief granted would have a material and direct impact on the ability of Debtors to consummate the Merger.

E. Leonidas Is Playing a Shell Game with the Identification of Relevant Parties

49. On information and belief, five of the Nine Pilot Plaintiffs, Messrs. Addington, Bostic, Burman, Iranpour and Velez, are listed as members of Leonidas on the Arizona Corporation Commission website (annexed hereto as Exhibit J). Besides being a member, Mr. Bostic is also listed as a manager.

50. In the March 5, 2013 “Leonidas Update,” Leonidas implicitly conceded that it is indistinguishable from the *Addington I* class plaintiffs (who are parties to the US Airways declaratory judgment action and who comprise six of the nine of the *Addington II* putative class plaintiffs):

Lastly, this afternoon, attorneys for the West Class filed *our* “Opposition to Motion of US Airline Pilots Association to Expedite Briefing Schedule and for Priority Hearing Date.” *We particularly enjoyed this sentence from our filing*

March 5, 2013 “Leonidas Update” at 2 (emphasis added) (annexed hereto as Exhibit K).

51. In the Motion to Transfer, the putative class plaintiffs attempt to cloak the involvement of Leonidas:

In mid-2008, the West Pilots formed Leonidas, LLC, for the sole purpose of collecting voluntary West Pilot contributions to be used to defend the Nicolau Award in and out of litigation *Leonidas has never been a party to litigation.*

Motion to Transfer at 2 (emphasis added). The putative class plaintiffs then attack the instant adversary proceeding stating that the “action is flawed because Leonidas neither has standing nor intention to file any such litigation.” *Id.* at 4. *See also* Motion for Preliminary Injunction at 9 (“Leonidas, LLC, has never been a party to or threatened any litigation.”).

52. As stated above, Polsinelli Shughart, PC is counsel of record in the Arizona Action. The statutory agent for Leonidas, Andrew S. Jacob, is on the caption and signature block in the Class Complaint and Motion to Transfer. In addition, Mr. Jacob executed a declaration appended to the Motion to Transfer.

53. On March 8, 2013, in the “Leonidas Update” posted on www.cactuspilot.com, Leonidas discusses the commencement of the Arizona Action and apparently concedes that it is driving the Arizona Action: “*Our case* has been assigned to Senior District Judge Paul Rosenblatt, a President Reagan appointee.” Although *we* believe Judge Rosenblatt to be eminently qualified to hear *our* case” March 8, 2013 “Leonidas Update” at 1 (emphasis added). In that update, Leonidas now takes the purported position that it is not trying to stop or derail the Merger:

Truth be told, nobody on the West is trying to stop the merger or derail the MOU, which brings with it long overdue pay and benefit increases for all US Airways pilots.

Id.

54. Regardless of which pilots Leonidas has enlisted to be the putative class plaintiffs in its litigation against USAPA and US Airways, Leonidas is inextricably interwoven both with its own threats issued to USAPA and others to enjoin the Merger and with the Arizona Action, and any argument to the contrary is belied by the facts.

55. In any event, Leonidas and the Nine Pilot Plaintiffs are both actively involved in activities designed to interfere with the Merger and its implementation as set forth in the Merger Agreement and MOU. Such activities violate the automatic stay.

COUNT I
FOR DECLARATORY RELIEF DECLARING THAT DEFENDANTS' ACTIONS HAVE
VIOLATED AND WOULD VIOLATE SECTION 362(a)(3) OF THE BANKRUPTCY
CODE

56. USAPA repeats and re-alleges each and every allegation contained in paragraphs 1 through 55 as if set forth fully herein.

57. Section 2201(a) of Title 28 of the United States Code provides that “[i]n a case of actual controversy within its jurisdiction . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

58. Bankruptcy Rule 7001(7) and (9) provide that an adversary proceeding may be brought “to obtain a declaratory judgment” which relates, among other things, to an effort “to obtain an injunction or other equitable relief.”

59. There is an actual and justiciable controversy between USAPA and Defendants regarding Defendants’ interference with the Debtors’ chapter 11 cases — and the MOU and the Merger in particular — through the threat of litigation against USAPA and others to, *inter alia*, enjoin the Merger and to interfere with the negotiated procedures to provide for an orderly integration of the pilot workforce, and through the commencement of the Arizona Action.

60. The controversy between Plaintiff and Defendants is immediate and real. Section 362(a)(3) of the Bankruptcy Code stays all actions “to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate.” Both the threat to enjoin the Merger and the commencement of the Arizona Action are attempts by Defendants to exercise control over property of the estates and property that is coming into the Debtors’ estates in violation of section 362(a)(3) of the Bankruptcy Code.

61. Defendants have threatened, among other things, to enjoin the Merger. The assets coming into the estate through the Merger — namely, US Airways and its subsidiaries — will clearly be property of the Debtors’ estates upon consummation of the Merger pursuant to the terms of the Merger Agreement and plan of reorganization. Such threats violate the stay.

62. The Nine Pilot Plaintiffs also have initiated litigation in the District Court for the District of Arizona to interfere with the MOU and its implementation. The MOU is a contract to which AMR is a signatory and which is property of the estates. The Arizona Action is another violation of the stay.

63. These issues are ripe for adjudication.

64. Defendants have violated and would violate the automatic stay, by announcing an intention to enjoin Debtors’ merger with US Airways. Such threat of injunctive relief violates the stay. Additionally, the prosecution of the Arizona Action violates the automatic stay. The prosecution of a motion for a preliminary injunction in the Arizona Action also violates the stay. Any injunctive relief ordered by a court will have a material and direct impact on the ability of the Debtors to consummate the Merger, and such relief would seriously jeopardize a successful reorganization and violate the stay.

COUNT II
FOR DECLARATORY RELIEF DECLARING THAT DEFENDANTS HAVE
IMPERMISSIBLY INTERFERED WITH THIS COURT’S JURISDICTION AND
MANDATE

65. USAPA repeats and re-alleges each and every allegation contained in paragraphs 1 through 64 as if set forth fully herein.

66. Section 2201(a) of Title 28 of the United States Code provides that “[i]n a case of actual controversy within its jurisdiction . . . any court of the United States, upon the filing of an

appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

67. Bankruptcy Rule 7001(7) and (9) provide that an adversary proceeding may be brought “to obtain a declaratory judgment” which relates, among other things, to an effort “to obtain an injunction or other equitable relief.”

68. There is an actual and justiciable controversy between USAPA and Defendants regarding Defendants’ interference with the Debtors’ chapter 11 cases — and the MOU and Merger in particular — through the threat of litigation to, *inter alia*, enjoin the Merger and through the commencement of the Arizona Action.

69. The controversy between Plaintiff and Defendants is immediate and real. The injunctive relief sought in the action threatened by Defendants and the filed action by the Nine Pilot Plaintiffs are so intertwined with the Debtors’ chapter 11 cases and the Merger that will be a component of the plan of reorganization that both improperly interfere with this Court’s jurisdiction and mandate.

70. These issues are ripe for adjudication.

71. Absent declaratory relief from this Court declaring that Defendants have improperly interfered with the Bankruptcy Court’s jurisdiction and mandate by threatening an action and then bringing the Arizona Action, the estates and certain parties in interest, including USAPA, will be irreparably harmed.

72. The potential for a successful reorganization would be irreparably jeopardized by the prosecution of the action threatened by Defendants and prosecution of the Arizona Action.

73. Therefore, USAPA is entitled to entry of an order declaring that Defendants improperly interfered with the Bankruptcy Court's jurisdiction and mandate by announcing its intention to file an action and filing an action.

COUNT III
FOR INJUNCTIVE RELIEF PRELIMINARILY AND PERMANENTLY ENJOINING
DEFENDANTS FROM INTERFERING WITH THE MERGER BY PROSECUTING
THE ACTION IN ANY COURT

74. USAPA repeats and re-alleges each and every allegation contained in paragraphs 1 through 73 as if set forth fully herein.

75. Section 105(a) of the Bankruptcy Code authorizes this Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of" the Bankruptcy Code. This Court can issue a preliminary or permanent injunction under section 105(a) enjoining a plaintiff's prosecution of an action where such an act would defeat or impair its jurisdiction with respect to a case pending before it.

76. Federal Rule of Civil Procedure 65, made applicable to adversary proceedings by Bankruptcy Rule 7065, also authorizes this Court to grant preliminary and permanent injunctive relief.

77. Defendants have threatened to enjoin the Merger. Debtors' motion for an order authorizing the Merger was heard on March 27, 2013. The deadline to object to the motion was March 15, 2013. Defendants did not file such an objection. Were any court to grant the injunctive relief threatened in the February 19 Letter, it would interfere with any order of this Court approving the Merger and authorizing Debtors to consummate it. This would invariably impede the successful reorganization of Debtors.

78. The Nine Pilot Plaintiffs also have initiated litigation in the District Court for the District of Arizona to interfere with the MOU and its implementation. The MOU is a contract to

which AMR is a signatory and which is property of the estates. The Arizona Action is another violation of the stay, as is the prosecution of a motion for a preliminary injunction in that action.

79. Absent issuance of a preliminary and permanent injunction enjoining Defendants from prosecuting an action to enjoin the Merger in any court including the Arizona Action, Debtors will be irreparably harmed. If the Merger has not been consummated by December 13, 2013, the parties can terminate the Merger (under certain conditions). Such termination would result in, among other things, a substantial delay in the conclusion of Debtors' chapter 11 cases. The proposed plan of reorganization is going to be, in some form, based on the merger between AMR and US Airways. Central to the success of the plan of reorganization is the orderly integration of the airlines and the pilot workforce. Without the Merger, Debtors would need to develop an alternative to their plan for exiting bankruptcy. This too would cause a substantial delay to the conclusion of these chapter 11 cases. The remedies available at law are inadequate to compensate for that injury.

80. On balance, in considering the hardships as between USAPA and Defendants, an equitable remedy is warranted. As shown by the 97% vote in favor of the Merger by the former America West pilots Defendants purport to represent, the Merger will benefit all USAPA pilots, including those from the former America West airline. Conversely, the interference with the Merger will have negative effects on not just USAPA but every party in interest, debtor, creditor and otherwise, who has invested time and resources into a successful reorganization.

81. Issuance of a preliminary or permanent injunction would further the public interest and the fundamental bankruptcy policy of rehabilitation of debtors. Defendants should not be permitted to enjoin the Merger or threaten to do so to the detriment of the Debtors' estates and certain of their parties in interest, including USAPA, in an effort to pressure them with

respect to the pilot seniority dispute or for any other reason, nor should they be able to interfere with the terms of the MOU. Any such injunction directed to the Merger would disserve the Debtors' goal of a successful reorganization based, at least in part, on the successful consummation of the Merger and the orderly integration of the pilot workforce and would thus impede the bankruptcy proceedings.

**COUNT IV
FOR INJUNCTIVE RELIEF EXTENDING THE AUTOMATIC STAY, TO THE
EXTENT NECESSARY**

82. USAPA repeats and re-alleges each and every allegation contained in paragraphs 1 through 81 as if set forth fully herein.

83. Section 105(a) of the Bankruptcy Code authorizes this Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of” the Bankruptcy Code.

84. Defendants have threatened, among other things, to enjoin the Merger. The assets coming into the estate through the Merger — namely, US Airways and its subsidiaries — will clearly be property of the Debtors' estates upon consummation of the Merger pursuant to the terms of the Merger Agreement and plan of reorganization.

85. The Arizona Action is an action concerning a contract to which the Debtors are a signatory and property that is coming into the Debtors' estates through the Merger, as discussed above. Although Debtors are not specifically named in the Arizona Action, the action directly implicates the Debtors' property interests and inextricably interferes with the Merger, the Merger Agreement and the MOU.

86. The Arizona Action improperly seeks to enjoin the pilot integration as set forth in the MOU and Motion to Authorize.

87. This will inevitably thwart or frustrate the Debtors' reorganization efforts by the injunctive relief sought and by the disrupting effect it will have on the various parties in interest as the tasks attendant to the Merger and reorganization move forward.

88. The Nine Pilot Plaintiffs have asserted their intention to file a temporary restraining order against USAPA and US Airways in the Arizona Action, and have subsequently filed a motion for a preliminary injunction, seeking relief against USAPA, US Airways and their successors.

89. To the extent necessary, and for the reasons explicated above as to why preliminary and permanent injunctive relief should be granted, USAPA requests that the automatic stay be extended.

REQUEST FOR RELIEF

WHEREFORE, USAPA prays that this Court:

1. Grant judgment in favor of USAPA and (1) declare that Leonidas and the Nine Pilot Plaintiffs have impermissibly interfered with the Bankruptcy Court's jurisdiction and mandate; (2) declare that the threatened action to enjoin the Merger and the subsequently filed Arizona Action violate the automatic stay embodied in 11 U.S.C. § 362(a)(3); (3) preliminarily and permanently enjoin Defendants from interfering with the Bankruptcy Court's jurisdiction over the Debtors' chapter 11 cases and the Merger by threatening to enjoin the Merger, by prosecuting the claims asserted in the Arizona Action, threatening to file a temporary restraining order, prosecuting a motion for a preliminary injunction, or taking any other such action that interferes with the Merger; and (4) extend the automatic stay, to the extent necessary.

2. Award USAPA the costs it incurs in pursuing this case, including its attorneys' fees; and

3. Award such other relief as the Court deems just and proper.

Dated: March 28, 2013

Respectfully submitted,

CAPLIN & DRYSDALE, CHARTERED

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