

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. _____

US AIRWAYS, INC.,

Plaintiff,

v.

US AIRLINE PILOTS ASSOCIATION and
MICHAEL J. CLEARY,

Defendants.

**DECLARATION OF PAUL MORELL IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION**

I, PAUL MORELL, declare and state as follows:

1. I am employed by US Airways, Inc. ("US Airways" or "the Company"), as Vice President, Safety and Regulatory Compliance. In this position, I serve as the Company's Federal Aviation Administration ("FAA")-mandated director of safety, ensuring that required safety program elements have been established, implemented, and maintained throughout the airline. I have personal knowledge of the facts set forth below and if called as a witness in this matter, I could and would competently testify thereto.

2. My declaration is organized into four sections. Section A provides background information regarding my work experience at US Airways. Section B describes a "Safety Culture Survey" commissioned by the US Airline Pilots Association ("USAPA"), and addresses US Airways' safety record. Section C describes certain USAPA communications in contradiction of the Company's Standard Operating Procedures. Section D describes USAPA's recent advertisement in the newspaper, *USA Today*, and the FAA's statement regarding the incident described in the advertisement.

A. Background

3. I have held my current position at US Airways since November 2005. I have 43 years of aviation experience, and 33 years with US Airways. I was a line and management pilot from 1978 to 2006. I have over 10,000 hours flying time and was qualified to fly Boeing 767, 757, Airbus A330, MD-80, DC-9, and BAe-146 aircraft, and have held positions of Check Airman and designated FAA examiner. I was a Fleet Captain on the A330 and B757/767, overseeing pilot training and operational policies and procedures, Director Flight Training and Standards, and am Vice Chairman of the Air Transport Association Safety Council. Prior to joining US Airways, I was a US Navy aviation safety officer, where I managed a program of maintenance and aviation safety training and awareness during the fleet introduction of the F-14 aircraft.

4. I hold a master's degree in business administration from National University in San Diego, and a bachelor's degree in civil engineering from the Illinois Institute of Technology.

B. USAPA's "Safety Culture Survey" and US Airways' Safety Record

5. In the fall of 2010, USAPA commissioned a "Safety Culture Survey" to be conducted by a third-party, Illumia Corporation. The survey was conducted in October/November 2010. The survey included a number of questions asking pilots to rate, on a seven-point scale, whether pilots agreed or disagreed with various statements. I have attached as Exhibit 1 a true and correct copy of the safety culture survey questionnaire.

6. In December 2010, USAPA informed the Company that the Safety Culture Survey was completed and asked for a meeting with the Company. On January 25, 2010, representatives of US Airways attended a meeting with USAPA and a representative of Illumia, where a summary of the survey results was presented. At the conclusion of the meeting, US Airways was provided with a copy of the "abridged analysis of the survey results."

7. After reviewing and considering the analysis, on February 11, 2011, I sent a letter to USAPA conveying the Company's belief that USAPA was inappropriately using the survey to characterize pilots' concerns about seniority and contract negotiations as safety issues. The Company's conclusion was driven in part by certain of the questions/statements included in the survey that were unrelated to airline safety. For example, the statements included: "When selecting a hotel for a crew layover, personal safety and comfort is the primary objective considered by US Airways;" and "US Airways' leadership assures correctness in ACARS reporting [the reporting method used to determine the number of hours worked by a pilot for purposes of determining each pilot's pay]." I have attached as Exhibit 2 a true and correct copy of my February 11, 2011 letter.

8. The Company's conclusion was also driven by the make-up of the survey participants. Although West pilots comprise 34% of US Airways' overall crew force, only 14% of the survey participants were West pilots — whose allegiance to USAPA is generally weaker than that of the East pilots. And nearly 50% of those pilots who responded to the survey are based in Charlotte, where USAPA's headquarters is located and ties to the Union are much stronger, even though just 29% of US Airways' pilots are based there.

9. My letter explained that, as USAPA knows, US Airways has implemented and invested very significant resources in numerous industry safety programs, including: the Aviation Safety Action Program (ASAP); Flight Operational Quality Assurance (FOQA); and Advance Qualification Program (AQP) — all of which the Company participates in voluntarily. US Airways also is the industry leader in the FAA's Safety Management System (SMS) pilot program — a program developed in conjunction with the FAA to identify safety hazards and risks, develop risk mitigation strategies, and monitor their effectiveness. US Airways is one of

only two airlines in the United States to complete the program with a fully functioning SMS program, and the Company's SMS program is now serving as the model for the FAA as well as for other airlines.

10. My letter also explained that, to the extent pilots have legitimate safety concerns, such concerns can and should be reported to US Airways through the reporting systems maintained specifically for that purpose — reporting systems of which USAPA is well aware and that its members have used effectively. And these reporting systems are extensive and robust. Pilots at US Airways can report safety concerns in a number of ways, including: submitting an online ASAP Report Form pursuant to the Aviation Safety Action Program; calling the Safety Hotline; completing an event report form (which goes directly to the Company's Safety Department for processing); reporting any safety issues to the pilot's supervisor or Chief Pilots; and reporting any safety issues to USAPA's safety officials.

11. The Aviation Safety Action Program or "ASAP" program was specifically designed for pilots systematically to identify and correct potential safety hazards and was developed with input from US Airways pilots' former union representative (ALPA), and renewed with input from USAPA. The ASAP program is memorialized in a Memorandum of Understanding between the Company, USAPA, and the FAA. The ASAP program establishes an Event Review Committee (consisting of one management member, one USAPA member, and one FAA member) that reviews all ASAP reports to determine if an issue reported warrants further investigation or action. If the Event Review Committee determines that an ASAP report warrants further action, the Committee will work to determine the cause and appropriate corrective action. The ASAP program is the agreed-upon method for pilots to report safety issues at most airlines in the United States.

12. Safety concerns reported through the other reporting systems are evaluated by the Company's Flight Data Analysis Group, comprised of representatives from various groups within the Company (including Safety, Flight Operations, Flight Technical, and Flight Training) as well as representatives of USAPA and the FAA.

13. Also as set forth in my February 11, 2011 letter, the Company's safety programs and reporting systems are effective and working. For example, in ten routine inspections conducted by the Occupational Safety and Health Administration in 2010, not a single violation was found.

C. USAPA's Communications in Contradiction of the Company's Standard Operating Procedures

14. In the April/May 2011 time period, Safety Committee Chairman Thomas K. Kubik started providing advice to US Airways' pilots regarding aircraft operations in contradiction of the Company's Standard Operating Procedures ("SOPs"). The Company's SOPs have been developed as part of its safety program and have been approved by the FAA. In a March 31, 2011 communication entitled "What is Safety Culture and Why is it so important," Captain Kubik stated that his "guidance [to US Airways' pilots] will, at times, differ, from SOPs." A true and correct copy of the March 31, 2011 communications is attached as Exhibit 3.

15. Since that time USAPA and Captain Kubik have indeed issued several publications that contradict the Company's SOPs, including in regards to gate hold procedures and specific SOPs regarding single engine taxiing. Captain Kubik's guidance to pilots has also mischaracterized how the Minimum Equipment List is to be applied and used by the Company and its pilots. As to this issue, Captain Kubik's advice attempted to change the long-standing FAA-sanctioned process regarding the Minimum Equipment List that has been used for many years by all airlines operating under the FAA's oversight. A true and correct copy of the

publication regarding gate hold procedures is attached as Exhibit 4, a true and correct copy of the publication regarding single engine taxiing is attached as Exhibit 5, and a true and correct copy of the publication regarding the Minimum Equipment List is attached as Exhibit 6.

16. As a result of Captain Kubik's communications contradicting the Company's SOPs, on July 1, 2011, US Airways sent a letter advising him that he has no authority to advise pilots to disregard the Company's SOPs or to create different operating procedures for its pilots. The letter also directed Captain Kubik not to contradict the Company's SOPs and explained that if USAPA or Kubik believes the Company's SOPs should be modified in any way, recommendations should be brought to the Company through USAPA's representation in US Airways' Safety Management System. A true and correct copy of US Airways' letter, dated July 1, 2011, is attached as Exhibit 7.

17. Captain Kubik responded in a letter dated July 27, 2011, claiming that he is "a safety guy, period" and does not "get involved in politics . . . [or] contract negotiations." A true and correct copy of Kubik's letter, dated July 27, 2011 is attached as Exhibit 8.

D. USAPA's Advertisement in USA Today

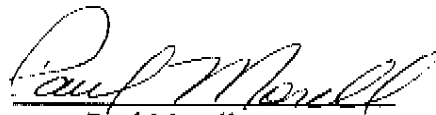
18. USAPA purchased a full page advertisement in the Money Section of *USA Today* entitled "US Airways' Unwritten Policy: Revenues First, Safety Second?", which was published on July 22, 2011. In the advertisement, USAPA alleged that, on June 16, 2011, certain US Airways pilots were pressured to ignore their safety concerns and fly a plane that needed maintenance. A true and correct copy of USAPA's advertisement is attached as Exhibit 9.

19. Contrary to USAPA's assertions, the FAA issued a statement with respect to the incident stating that it "found no violation of Federal Aviation Regulations" and that "US Airways followed their approved MEL procedures, and all maintenance procedures were

followed in accordance with the operator's approved maintenance program." US Airways was also compelled to issue a statement in response setting forth the Company's position that "USAPA has embarked upon a smear campaign that in reality is all about contract negotiations, not safety" and is "the latest in a series of misguided efforts to put pressure on the Company as part of [contract] negotiations . . . us[ing] safety as a negotiating tactic." A true and correct copy of the FAA's statement is attached as Exhibit 10, and a true and correct copy of the statement that US Airways issued is attached as Exhibit 11.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct.

Executed this 28th day of July, 2011, at Tempe, Arizona.


Paul Morell

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DECLARATION OF PAUL MORELL IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION** was served on Defendants United Airlines Pilots Association and Michael J. Cleary by depositing a copy with the United States Postal Service, certified mail, return receipt, postage prepaid, addressed to the following:

US Airline Pilots Association
c/o Michael J. Cleary
26-A Cedar Point Road
Durham, NH 03824

Michael J. Cleary
26-A Cedar Point Road
Durham, NH 03824

and on Defendant United Airlines Pilots Association via hand delivery to the following address:

US Airline Pilots Association
200 East Woodlawn Road, Suite 250
Charlotte, North Carolina 28217-2207

This the 29th day of July, 2011.

/s/ Robert R. Marcus

Robert R. Marcus

Attorney for Plaintiff