

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.

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DECLARATION OF SLOANE GIDDON IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION**

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Exhibit 1

**Transcript of Video: On Time Performance Pressure
and Ground Crews Approaching A/C**

Hi, this is Tom Kubik, your Safety Committee Chairman. Today, your Safety Committee presents the first in a series of videos to address the flawed safety culture here at US Airways, and how we must exist and work within that culture. We will provide you with guidance on many operational issues to keep you in the green. While some of our guidance may differ from SOPs, none is outside of your authority or responsibilities as defined in both the FOM and the FARs. The Company refuses to discuss safety culture with your union. With that refusal, it becomes essential that we do all we can to address issues within the safety culture ourselves. That is precisely what we are going to do in these videos. Otherwise, we risk endangering ourselves, our colleagues, and our passengers. Today, we will focus on two very low scoring items from the safety culture survey. First is the pressure for on time performance, and second is ground crews approaching aircraft with engines running.

On time performance is stressed heavily at US Airways. The data in the survey indicates that this push for on time performance adversely affects safety, especially with pressure at the gate from gate agents and others pushing for early departures. They are in a hurry to close the door, remove the jetway, and record an on time departure. As we learned from your survey feedback, interruptions to your flight deck preparation, checklists, and flows are common. Flight attendants performing their duties, requesting catering, or bringing to your attention maintenance issues are a distraction. Again, the pressure to hurry is constantly there. I was taught by my first flight instructor that you can do pretty much anything you want to do in an airplane, as long as you don't do it too close to the ground or do it in a hurry. He was right on the mark. We find ourselves getting caught up in this pressure to hurry.

Here is your guidance to help ensure that safety does not become subordinated to scheduling issues. In your crew briefing, notify the flight attendants that you have numerous pre-flight checks that cannot be disturbed. Tell them that in order to make that happen, you are going to close the flight deck door and that the door will not be opened until you have completed your pre-flight checks. Make absolutely certain that the closed door is your signal to the flight attendants that the cockpit is sterile. In fact, the sterile cockpit procedure is precisely how you need to look at this pre-flight phase of your trip. The distractions from all sources will cease once the cockpit doors close. That will provide you uninterrupted time to perform all that needs to be done. Once your checks are complete, open the door. Any issues that have arisen during your sterile cockpit pre-flight duties can be handled once the flight deck is set up and ready to go. Simply close the cockpit door, and take the time you feel is necessary to do what you need to do. Then deal with the other issues once you open the door. It's pretty simple.

Here is your guidance regarding ground crews approaching operating engines. Upon landing and during your taxi to the gate, start the APU. Once you reach your parking point at the gate, shut down both engines. Once the ground air and ground electric have been hooked up to the aircraft, shut down the APU if it is no longer needed for air or electric. This differs from SOP. However, saving money by not starting the APU is simply an accident waiting to happen. The ground personnel at this airline sometimes do not quite understand the danger involved with an operating engine, and there are documented cases of fatalities when ground crews have been ingested into an operating engine. Your authority extends to the safe operation of your aircraft. Safety first, saving money after that. Imagine how you would feel, should a baggage handler lose his life or be permanently disabled because of your decision to subordinate safety for the sake of a few dollars. Start your APU on taxi in, shut down your engines immediately upon gate

arrival, and then shut down your APU once connected to ground air and electric. This also is a pretty simple way to keep you in the green and to keep our fellow team members safe.

We will have more information for you next week on other steps you can take to ensure your safety. All of our safety guidance will also be printed and distributed via the Pilot for Pilot volunteers throughout our system. Please pass the word to your fellow pilots, who have not yet viewed the videos or recently visited the USAPA website. If you have any questions, please don't hesitate to reach out to me at tkubik@usairlinepilots.org or 704-491-8347, or contact your representatives or Pilot for Pilot volunteers. Remember, this guidance has been developed to keep you safe and in the green, which is our primary responsibility as pilots. Thanks for watching. I'll see you next week.

Exhibit 2

Transcript of Video: Fatigue

Hi, I'm Safety Committee Chairman Tom Kubik, with the second in a series of videos on operational safety actions for you to take to combat the negative safety culture here at US Airways. Today, we will focus on the low scoring survey results of fatigue as it relates to hotel issues as well as scheduling practices, both of which can cause us to find ourselves flying when tired and not up to our best. The survey had an extremely low score on the Company's focus on scheduling practices which disregard fatigue issues, the assignment to hotels that are not conducive to either comfort or safety, and which have a detrimental effect on our rest.

The US Airways threat and air management model incorporates crew factors and fatigue as one of the threats that can push an individual or a crew out of the green and into the yellow or red when the margins of safety are decreased. Keep in mind that fatigue was cited by the NTSB in several recent incidents and accidents, including American Airlines Flight 1420 with 11 fatalities in 1999; the overflight of Hawaii by Mesa Airlines Flight 1002 in 2008; and the fatal Colgan Air Flight 3407 accident near Buffalo, New York in February of 2010.

Reducing fatigue is clearly an important part of safety culture, and we have several recommendations about how you can help ensure that you receive the rest you need to do your job to the absolute best of your abilities. First, the hotel issue. While some of the hotels the Company chooses for us are acceptable, many are not. There is a process for us to follow if a hotel is not to the standards we expect. USAPA has a Hotel Committee that fields your complaints and brings substandard hotels to the Company's attention for remedy. Sometimes the process works. Mostly it does not. The bottom line to this is that we are in hotels that are not conducive to getting the good rest that is essential in fighting fatigue. Vice President of Safety,

Paul Morell, stated that he expects professional pilots to “perform with the highest degree of safety notwithstanding extraneous issues”

Yet, many of the hotels they chose for us are substantially below the standards of other corporations’ hotel guidelines for their most important employees, which means, in this case, that the Company is contributing to the fatigue that has a direct impact on aviation safety. In some cases, we wouldn’t consider putting our families in these hotels. Should you find yourself in one of these substandard layover hotels, you should make every effort to get the rest you need. If you cannot, it then becomes your responsibility to either delay the ensuing flight until you feel rested or inform the Company that they will need to find another pilot to fly your flight because of your fatigue. Your responsibilities are clearly spelled out in the FOM. Section 2.1.1 states clearly you will not report for duty when fatigued. Further, Section 13.7.5 clearly states, “. . . it is ultimately the individual pilot’s responsibility to determine their level of fatigue and ability to safely remain on duty.” The FOM further states that when you report that you are fatigued “you will be released from the trip.” If you are fatigued, you are done flying. This is your legal obligation and a duty that you owe to the travelling public.

When enough of our pilots fully understand this requirement, and more importantly, act upon this requirement, then our substandard hotel situation will disappear with a speed you likely thought was not possible. We cannot overemphasize this. The survey data clearly shows that hotel selection was one of the lowest scoring items. It is up to us to change the hotels if we cannot get the rest we need. Do not fly after a sleepless night in a substandard hotel. Identify yourself as fatigued, clearly explain why, and please keep your Hotel Committee and your Safety Committee informed, regarding scheduling, protected time abuse, and any other issue that relates to too much flying and not enough rest.

We are living in a negative safety culture. In our view, the Company is focused on cost at the expense of safety, no matter what they say. According to the survey data, the Company does not go beyond the regulatory minimums when it comes to flight safety. Apparently, the decision has been made that to do so would be too expensive. This is very evident with their scheduling practices and their reported lack of respect and compassion to our needs when it comes to rest and time off. As you know, this manifests itself with tired and worn out pilots. Legal is one thing. Safe is sometimes very different. This fact must be clearly understood by our pilot group. Being legal does not make you safe! And fatigue is a very insidious and dangerous condition. The sense of professional pride can result in an unrealistic denial of vulnerability to factors, such as fatigue. In other words, we cannot respond to the Company's lack of respect and compassion for our professionalism by accepting and flying trips that we simply should not be flying. We must stop this disregard of basic safety standards if we expect this situation to improve. We cannot do the same thing over and over again expecting different results. It will not stop until we stop it.

As with the fatigue issues created by a poor night's rest at a substandard hotel, the Company's scheduling practices do the same thing. Fatigue is fatigue. It matters little how it occurs. The results are the same. The operational safety guidance is simply this: Don't fly fatigued! If you are a reserve pilot, don't accept a trip if you are fatigued. If you are called for a ridiculous pairing that you know will put you in a fatigued state, don't accept it. Yes, this may cost you money. Yes, you may have to write a letter of explanation or have a friendly in-person visit with your Chief Pilot. Your union will be with you each step of the way. Our job is to represent you when you make these legal and responsible decisions. Help us to educate your Chief Pilots regarding your authority. After you take any of these actions, your next call should

be to us, your USAPA Safety Committee, so that we can work with you to achieve a positive resolution to your issue.

If you make the decision to fly fatigued, three things are certain to happen. One, you put yourself, your crew, and your passengers at risk. Two, you continue to enable a flawed safety culture to exist and thrive. And three, you can absolutely expect the continued poor scheduling practices and hotel selections to continue. We can, to some extent, control the safety culture here if we choose to do so. Please take that control and rely on your elected representatives and your Safety Committee to protect and defend your decisions, responsibilities, and your authority that resides in both the FOM and the FARs. It is up to us, each and every one of us, on each and every flight. I'll talk to you again soon. Fly safe and fly rested. Thanks for listening.

Exhibit 3

Transcript of Video: MEL's

Hello, I'm your Safety Committee Chairman Tom Kubik, with the third in a series of videos providing operational guidance to help you overcome the poor safety culture here at US Airways. Today, I will discuss MEL issues and how to focus on safety versus flying with MEL items that may put you into the yellow. We would all agree that the MEL is an essential tool for the airline to maintain a reasonable schedule. Our maintenance personnel are the best in the industry. We trust their abilities and expertise to maintain and repair the aircraft we operate. Our interaction with our mechanics, our trust in them, and our MOC support were some of the best scoring subjects in the survey.

The MEL itself, however, was a very low scoring item. According to the data, the MEL is not being used as it is meant to be used. Instead, it is being used as a way to defer maintenance issues that could be fixed, but are not fixed in deference to keeping the aircraft moving. The preamble of the MEL is very clear: "The MEL is intended to permit operation with inoperative items or equipment for a period of time until repairs can be accomplished. It is important that repairs be accomplished at the earliest opportunity. Operators are responsible for exercising the necessary operational control to ensure that an acceptable level of safety is maintained. When operating with multiple inoperative items, the interrelationships between those items and the effect on aircraft operation and crew workload will be considered."

The issues here are the definition of the period of time until repairs can be made and the workload we accept with one MEL or multiple MELs. The Company controls the time. We control the workload. It is a fact that maintenance is told to MEL a repairable item if repairing it will cause a delay. That starts a clock on the item that can run on and on. Sometimes the item is acceptable to us as a flight crew, and sometimes it is not. The question though is this, how do

you make that determination, and how do you make the safest determination when you know that, more often than not, you are going to receive a call from a Chief Pilot, who likely will ask you the intimidating question of, “are you refusing a legal aircraft?” The one word answer to that question is “yes.” The longer version is that, “I am refusing an aircraft that I do not consider safe under the authority granted to me in both our FOM and the FARs.”

But back to the determination question. All of us have extensive experience. In fact, substantially more experience than our pilot management, as Paul Morell showed us in his nine-page letter refuting the survey. We innately know when we should accept an MEL and when we should not. However, what we do not do is follow through and make them fix the aircraft or replace it with one that is fixed. We continue to allow our pride to interfere with our judgment and enable this Company to interpret the MEL as an on time tool, rather than temporary relief to fix the aircraft in a timely manner. Our get it done attitude plays perfectly with management’s flawed reliance on the MEL. We simply have to force this Company to maintain these aircraft correctly by refusing them when our extensive experience tells us to do so.

Let me give you a personal example. Awhile back, I was assigned an aircraft with an in-op APU generator that had been on MEL for four days. When I asked if they were going to fix it during the three hours of ground time between the inbound and outbound flight, I was told, “no, that it was a five hour repair.” I was scheduled to fly from Charlotte to Frankfurt, so I asked if they would be fixing it in Frankfurt, and the answer was “no.” I then took a hard look at the en-route, in-destination weather, and had a discussion with the first officer and IRO. We determined that we needed the APU generator to safely complete the flight, and I told the dispatcher. Next, I received a call from an assistant Chief Pilot. He asked me if I was refusing to fly the aircraft. I told him that I was refusing to fly it until it was fixed. He then asked me if

the other two pilots felt the same. I told him they did. I then said that he had some choices. He could fix this aircraft, get us a different aircraft, or get a new flight crew. He hung up the phone. The dispatcher called shortly after and told us they were sending a new aircraft down from Philadelphia. We left about five hours late. Our original aircraft was flown to Philadelphia, went to the hangar, and was fixed. I was asked and complied with a letter to the Chief Pilot explaining why I turned down the aircraft. In that letter, I quoted the FOM in my reasoning. We never heard another word about the issue.

Our guidance here is simple. Use your experience and judgment when confronted with an MEL. Do not accept one that puts you and your crew into the yellow and compromises safety. Take all factors into consideration and never be intimidated by anyone whether from dispatch, maintenance, or the Chief Pilots' office. Our safety culture is flawed, and we must put a stop to it. We make the final call on the MEL items we accept. Every item in the MEL is legal. Not every item in the MEL is safe. That is your decision, and your decision alone. Make the call and allow us to back you up if you are harassed or pushed. We must educate this management of our duties, our authority, and our total commitment to safety. And when you take this important step, we'll be right there with you, supporting you in whatever way you need to make sure that you are protected from management and this unsafe culture in which we're operating. Thanks for watching. Remember, our safety culture depends on the decisions you make each and every flight. I'll be talking to you again very soon. Fly safe.

Exhibit 4

Transcript of Video: Chief Pilots

Hi, I'm Safety Committee Chairman Tom Kubik, with another in a series of videos providing you with guidance to keep you safe within a flawed safety culture. Today, I'd like to address with you our Chief Pilots. The safety culture survey showed an overall low score with regard to Chief Pilots. Interestingly, the West Chief Pilots scored slightly above a 5 on a 7-point scale, which is a relatively good score. East Chief Pilots scored below a 3, not a good score. So there is either a difference in how East pilots are treated versus West pilots or the perception of that treatment is different. Dr. von Thaden states, "the lowest scoring items suggest the majority of respondents do not feel the Chief Pilots act in their best interests . . . and they do not have respect for the Chief Pilot's judgment."

It is appropriate for your Safety Committee to address the Chief Pilot issue, especially as the data scores relate to the East Chief Pilots. Chief Pilots are basically the link, or as one Chief Pilot suggested, the tip of the spear, between management and line pilot. We asked the Company for a description of the Chief Pilot duties a few weeks ago, and we are still waiting. We don't know why management has failed to respond to this simple request, but their failure to respond is in keeping with the lack of communication that was also a low scoring item on the survey. So we will speculate a bit on what a Chief Pilot is and isn't.

First, they should be pilot advocates. They should always be available to help us when we have issues, both operationally and administratively. They should be positively able to cut through red tape and get us answers we may need regarding safety and other operational issues. They should be backing us up when other department interactions conflict with our duties. They should be proactively helping us follow our SOPs and work to solve our problem when we feel SOPs are not appropriate. They should understand that safety sometimes conflicts with

efficiency and legality, that efficiency never can be purchased at a cost to safety, and that safety must always trump legality. They must make every effort to be part of the solution to our safety culture problems, not part of the problem. Most importantly, Chief Pilots must strive to earn the trust and respect of the pilots. Keep in mind the Chief Pilot must also deal with disciplinary issues. That is bound to happen from time to time. It's a difficult and distasteful part of their jobs. So we must expect them to be both advocate and disciplinarian. And we must expect discipline from them when it is appropriate. Again, that is part of their job.

Let me be unequivocal about what a Chief Pilot must never become: a source of intimidation. First, they must never, and I mean never, attempt to intimidate a professional airline pilot for making a decision based on safety or FAR legality. It is absolutely true that the Company owns the aircraft. However, you own the authority to determine whether or not you are going to fly that aircraft. You have that authority because both the Company and the FAA have ceded that authority to you. They can certainly question your decision, but if they do so in an intimidating way, they are out of line. And you need to make that point known. Not belligerently or antagonistically, but politely and with due respect. Your pilot authority can always be questioned. That is the Company's right. Your rights are clearly spelled out in the FOM Chapter 1.3.4: "If the Captain is dissatisfied with any aspect of the aircraft's airworthiness and/or maintenance status, or if he is not sure the operation can be safely executed, then the operation will stop until he is completely satisfied." Please make sure you understand this part. "The operation will stop until he is completely satisfied." That satisfaction has nothing to do with the Chief Pilot. That decision is yours and yours alone, based also on the input of the first officer. These decisions extend to issues beyond the aircraft, such as fatigue. Safety decisions occur both at the airport and at home.

Here is your operational guidance regarding conflicts with a Chief Pilot. If a Chief Pilot questions your decision, it is your responsibility to explain it to him. If he attempts to intimidate you regarding your decision, let him know that you are the final authority regarding your flight, and that you would be more than happy to document your decision, either in writing or with a personal visit to his office. Let him know that you are going to be using your union representation in that process. That is your contractual right, and he knows it. We recommend that you embrace visiting or writing a letter to a Chief Pilot. Part of our job is taking on substantial responsibility. That responsibility needs to be explained to a Chief Pilot from time to time. Consider a request for a visit or a letter as a badge of honor. Your Safety Committee and your base representatives will attend the meeting with you and will provide guidance to you on how to compose your letter to make certain the words you use are correct and focused on your decision. We look forward to these visits and letters to help re-educate this management on your rights and responsibilities.

We are not here to capitulate to the economics of on time performance, crew shortages, or moving aircraft that are in dire need of maintenance. We are here to provide safety and sound decision-making to our passengers and crew. That's what we were hired to do, and that's what we must do. Please contact either your Safety Committee or your base representatives when you have an issue with a Chief Pilot. Make your decisions with full confidence that you will be backed up by your union 100%. Our Chief Pilot group is there to help us, not to intimidate us into poor decisions based on economics. Occasional office visits and letters of explanation are part of our jobs. Don't be shy about it. This interaction will help improve our safety culture and will make certain that the Chief Pilots' office has a just culture. Thanks for watching. I'll see you soon.

Exhibit 5

Transcript of Recorded Call

This is the captain with a safety action update. I'm on board, and we need you on board, too. The distance learning deadline's approaching on May 31st. I am asking that you do not finish this module until the deadline of May 31st. The same request is being made of every pilot on the east coast, and it's very important that you join in the effort. I want to thank you in advance for your participation. This action is part of what will be an inspiring campaign to restore our careers. The result of this first safety action on our operation is unknown, however the purpose is to send a clear message to management.

I know that participation will require a small sacrifice in our pay and schedules, but a small sacrifice now will pay large dividends in the end. I need to know if you're on board and if you plan on participating now and in the future. If so, would you please provide me with your preferred contact number? Please leave a voicemail at this number with your best contact number for future communications. Thank you.

Take my name off the front of it. But it doesn't say your name right?