

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:11-CV-00371-RJC-DCK

US AIRWAYS, INC.,

Plaintiff,

v.

US AIRLINE PILOTS ASSOCIATION and
MICHAEL J. CLEARY,

Defendants.

**DECLARATION OF DARIN N. LEE, PH.D.
IN SUPPORT OF PLAINTIFF'S MOTION
FOR TEMPORARY RESTRAINING
ORDER**

1. I am a Senior Vice President in the Boston, MA office of Compass Lexecon and specialize in the economics of the airline industry, industrial organization, labor economics and auctions. My business address is 200 State Street, 9th Floor, Boston, Massachusetts, 02109. My qualifications and *curriculum vitae* are set forth in Section I and Appendix A, respectively, of my Expert Report filed on July 29, 2011 in support of Plaintiff's Motion for Preliminary Injunction in this matter.¹

2. Based on a statistical analysis of data through July 26, 2011, my Expert Report demonstrated that several pilot behavior measures (including the frequency of pilot maintenance write-ups, pilot fatigue calls, pilot induced flight delays and prolonged aircraft taxi times) exhibited increases since May 1st, 2011 that were well in excess of what conventional statistical analysis would consider to be "random" occurrences when compared to a historical control period.

3. Likewise, my Expert Report demonstrated that these increases in pilot behavior measures have disrupted US Airways on-time performance and have harmed both US Airways and its passengers. For example, my Expert Report showed that East pilot actions have resulted in the addition of 1,900 hours of taxi time for the Company's East fleet, over 8,000 hours of East flight delays and approximately nine to ten East flight cancellations per day (impacting an average of 1,173 daily passengers) for the

¹ See Expert Report of Darin N. Lee, Ph.D. in Support of Plaintiff's Motion for Preliminary Injunction, US AIRWAYS, INC., v. US AIRLINE PILOTS ASSOCIATION and MICHAEL J. CLEARY, UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF NORTH CAROLINA, CHARLOTTE DIVISION, CIVIL ACTION NO. 00371-RJC, hereafter "Expert Report."

period May 1, 2011 to July 29, 2011. My Expert Report also estimated that additional costs from prolonged taxi times, increased costs from greater numbers of misconnected bags, and forgone passenger revenue caused by the loss of passenger goodwill due to increased flight delays attributable to pilot actions negatively impact the Company by approximately \$377,000 per day.

4. I have performed an updated analysis of each of the statistical analyses conducted in my Expert Report using data updated through August 6, 2011. The data show that, since the filing and the Motion for Preliminary Injunction on July 29, 2011, the slowdown has continued unabated. Thus, all of the opinions contained in my Expert Report remain unchanged.

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

Executed this 8th day of August, 2011, at Boston, Massachusetts.



Darin N. Lee
August 8, 2011

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been duly served on Defendants US Airlines Pilots Association and Michael J. Cleary electronically (via facsimile and e-mail), by depositing a copy in the United States Mail, first class, postage prepaid, addressed to the following counsel of record, and by utilizing the Case Management/Electronic Case Filing System, which will send notice electronically to the following counsel of record:

John W. Gresham
Tin Fulton Walker & Owen, PLLC
301 East Park Avenue
Charlotte, NC 28203

Patrick J. Szymanski
Patrick J. Szymanski, PLLC
1900 L Street, NW, Suite 900
Washington, D.C. 20036

In addition, a courtesy copy of the foregoing document has been served on Defendants electronically (via facsimile and e-mail) and by depositing a copy in the United States Mail to the following counsel for Defendants:

Gary Silverman
O'Dwyer & Bernstein, LLP
Paul O'Dwyer Way
52 Duane Street
New York, NY 10007

This the 8th day of August, 2011.

/s/ C. Bailey King, Jr. _____
C. Bailey King, Jr.
Attorney for Plaintiff