

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 11-CV-371 (RJC)(DCK)

-----X
US AIRWAYS, INC.

Plaintiff,

v.

US AIRLINE PILOTS ASSOCIATION
and MICHAEL J. CLEARY,

Defendants.
-----X

**BRIEF IN SUPPORT OF
DEFENDANTS' MOTION FOR
LEAVE TO EXCEED PAGE LIMITS
FOR THEIR BRIEF IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS THE COMPLAINT**

Pursuant to Local Rule 7.1 (C), defendants US Airline Pilots Association (“USAPA”) and Michael J. Cleary (“Cleary”) (collectively, the “defendants”) hereby submit this Brief in Support of Defendants’ Motion for Leave to Exceed Page Limits for its Brief in Support of Defendants’ Motion to Dismiss the Complaint (“Motion to Exceed Page Limits”).

NATURE OF THE MATTER BEFORE THE COURT

On July 29, 2011, US Airways, Inc. (“US Airways”) filed a Complaint for Injunctive Relief against defendants alleging USAPA is engaging in an illegal slowdown designed to disrupt US Airways’ operations for the purpose of putting economic pressure on US Airways in the parties’ current collective bargaining negotiations in violation of the Railway Labor Act (“RLA”). US Airways also filed a Motion for Preliminary Injunction (“Motion for Preliminary Injunction”) seeking a preliminary injunction prohibiting USAPA from continuing its alleged slowdown, and a Motion for an Expedited Scheduling Order for Plaintiff’s Motion for

Preliminary Injunction (“Motion for an Expedited Scheduling Order) contemporaneously with the Complaint. US Airways also filed briefs in support of those motions.

On August 8, 2011, plaintiff filed a Motion for a Temporary Restraining Order. In response to the motion, the Court scheduled a hearing for August 12, 2011. Because of the complexity of the issues presented, defendants were unable to comply with the 25-page limit on briefs set forth in Local Rule 7.1 (D). Defendants’ Brief is 28 pages.

Under normal circumstances, defendants would have filed their Motion to Exceed Page Limits in advance of the filing of its Brief in Support of Defendants’ Motion to Dismiss the Complaint. However, because of the hearing that is scheduled for August 12, 2011 and plaintiff’s Motion for a Temporary Restraining Order, defendants are filing this Motion contemporaneously with its Brief. Accordingly, defendants respectfully request that the Court grant them leave to exceed the page limits and ask that the Court consider their Brief in Support of Defendants’ Motion to Dismiss the Complaint in its entirety.

ARGUMENT

The Court may grant leave to a party to exceed the 25-page limit established by this Court in Local Rule 7.1(D), and consider a party’s brief in support in its entirety. Jeffries v. U.S., Civil Case No. 1:10cv205, 2010 WL 4291365, at *1 (W.D.N.C. Oct. 25, 2010) (granting motion to exceed the page limit and considering petitioner’s 43-page memorandum of law in its entirety). Here, because of the extensive factual background of this case, including USAPA’s related case against US Airways in the Eastern District of New York under docket number 11-CIV-2579 (the “NY Action”), and the urgency of the matter in light of plaintiff’s motion for a temporary restraining order and the hearing scheduled for August 12, 2011, defendants believe it is necessary to fully respond and further describe the relevant facts.

Defendants are responding to plaintiff's complaint which was 43-pages in length. In order to fully respond to the lengthy complaint, and inform this Court of the NY Action and the common and related claims and issues in these two lawsuits, defendants had to exceed the 25-page limit in its Brief.

In addition, defendants' Brief involves significant issues of law arising under complex statutory schemes, including the Railway Labor Act, 45 U.S.C. § 151 *et seq.*, and the Norris LaGuardia Act, 29 U.S.C. § 101 *et seq.*, that have been the subject of extensive body of case law. Accordingly, defendants were unable to fully address the multiple factual and legal issues within the 25-page limit. Moreover, there will be no prejudice to US Airways as a result of the Court granting this Motion to Exceed Page Limits. US Airways filed an identical motion, which defendants did not oppose, regarding its Brief in Support of Plaintiff's Motion for Preliminary Injunction.

CONCLUSION

For the reasons set forth above, defendants respectfully request that the Court grant them leave to exceed the page limits set forth in Local Rule 7.1(D) and ask that the Court consider their Brief in Support of Defendants' Motion to Dismiss the Complaint in its entirety.

Dated: August 11, 2011
Charlotte, North Carolina

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing **Defendants' Brief in Support of the Motion for Leave to Exceed the Page Limits** on all of the parties to this cause by:

- _____ Hand delivering a copy hereof to the attorney for each said party addressed as follows:
- _____ Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to the attorney for each said party as follows:
- _____ Transmitting via facsimile transmission a copy hereof to the attorney for each said party as follows:
- X Electronic transmission (e-mail) to the attorney for each said party as follows:
- _____ Depositing a copy hereof in a first-class, postage-prepaid, properly-addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed to the attorney for each said party as follows:

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This, the 11th day of August, 2011.

/s/ John W. Gresham
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