

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 LYLE HOGG IN  
SUPPORT OF PLAINTIFF'S BRIEF IN  
OPPOSITION TO DEFENDANTS'  
MOTION TO ALTER OR AMEND  
SEPTEMBER 28, 2011  
DECISION AND ORDER**

I, LYLE HOGG, declare and state as follows:

1. I am employed by US Airways, Inc. ("US Airways"), as Vice President of Flight Operations. In this position, I have responsibility for US Airways' flight technical operations and flight training groups, maintaining the airline's operations specifications, and overseeing operations compliance with all Federal Aviation Administration requirements. I also supervise US Airways' daily flight operations and the pilot and administrative management teams. 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. Attached as Exhibit 1 is a true and correct copy of a US Airline Pilots Association ("USAPA") publication entitled "President's Update — Injunction Q and A," issued on October 17, 2011.

3. Attached as Exhibit 2 is a true and correct copy of a publication entitled "President's Update to the Board: October 14, 2011," which was posted on a public website ([http://airlineforums.com/topic/49837-us-pilots-labor-discussion/page\\_\\_st\\_\\_24416](http://airlineforums.com/topic/49837-us-pilots-labor-discussion/page__st__24416)).

4. Attached as Exhibit 3 is a true and correct copy of an anonymous text message sent to US Airways' pilots on October 18, 2011. A copy of this text message was provided to me by a chief pilot in the normal course of my duties as Vice President of Flight Operations.

5. Attached as Exhibit 4 is a true and correct copy of a note placed in a pilot's mailbox in the Charlotte crew room on October 10, 2011. A copy of this note was provided to me by a chief pilot in the normal course of my duties as Vice President of Flight Operations, following a complaint by the pilot who received the note.

6. Attached as Exhibit 5 is a true and correct copy of a USAPA publication entitled "Legal Update," issued on October 19, 2011.

7. Attached as Exhibit 6 is a true and correct copy of a USAPA publication entitled "PHL Domicile Update," issued on October 24, 2011.

8. Attached as Exhibit 7 is a true and correct copy of a USAPA publication entitled "The Iron Compass," issued on October 26, 2011.

9. Attached as Exhibit 8 is a true and correct copy of a USAPA publication entitled "Urgent DCA Domicile Update," issued on October 2, 2011.

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

Executed this 31st day of October, 2011, at Tempe, Arizona.

  
Lyle Hogg

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document has been duly served on Defendants US Airlines Pilots Association and Michael J. Cleary to the following counsel of record 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

Brian O'Dwyer  
Zachary R. Harkin  
O'Dwyer & Bernstein, LLP  
Paul O'Dwyer Way  
52 Duane Street  
New York, NY 10007

This the 1<sup>st</sup> day of November, 2011.

/s/ C. Bailey King, Jr. \_\_\_\_\_  
C. Bailey King, Jr.  
*Attorney for Plaintiff*

# EXHIBIT 1



## President's Update - Injunction Q and A

Fellow Pilots,

We have received numerous questions about the Injunction issued by the United States District Court, including many questions about whether it changes a pilot's obligations under the Federal Aviation Regulations, the Flight Operations Manual and the applicable Pilot Handbook. With the help of USAPA Legal, we have distilled and consolidated the questions and have developed answers that we believe are consistent with the Court's order. The questions and answers are below. We will provide further information when the Court issues a decision on our motion to clarify its Order. We are also including a set of Q and A's concerning the procedural litigation steps that lie ahead.

### **What should I do if something is wrong with my aircraft; and can I still write up a maintenance issue?**

Section 121.563 of the Federal Aviation Regulations states that the "pilot in command shall ensure that all mechanical irregularities occurring during flight time are entered in the maintenance log of the airplane at the end of flight time." Section 4.18.9 of the Flight Operations Manual, "Difficulties or Deficiencies Noted During Flight," directs that pilots are to "Record any discrepancies in the logbook." USAPA does not understand that the Injunction permits or requires pilots to violate these directives. If there is something wrong with your aircraft you are required to enter it in the log book.

### **How do I comply with this injunction and the Federal Aviation Regulations and/or Company policies?**

USAPA does not understand that the Injunction permits or requires pilots to violate the Federal Aviation Regulations, the Flight Operations Manual or the applicable Pilot Handbook. Pilots cannot, however, use these rules as a pretext to unnecessarily delay or cancel a flight, slowdown operations or otherwise interfere with normal flight operations.

### **Could I be held legally accountable if I write up a maintenance issue? Could I be fired?**

USAPA does not believe that a pilot can be disciplined or otherwise penalized if she or he legitimately writes up a maintenance issue. Section 4.18.9 of the FOM, "Difficulties or Deficiencies Noted During Flight," directs that pilots are to "Record any discrepancies in the logbook." The fact is that you can be held accountable if you fail to fulfill your obligations under the Federal Aviation Regulations, Flight Operations Manual, or Pilot Handbook. However, you cannot use these rules and regulations as an excuse to unnecessarily interfere with normal flight operations or to engage in any slowdown or other work stoppage.

### **Could I be fired if I call off a trip because I'm fatigued?**

On page 42 of its Memorandum and Order, the Court "declares that it in no way intends to interfere with the duty of pilots in command to ensure the safety of their passengers and equipment" and that "the court's injunction therefore should not dissuade good faith efforts to ensure the safe operation of

the airline." USAPA understands this to mean that the injunction is not to be construed to require you to violate the Federal Aviation Regulations, Flight Operations Manual, or the applicable Pilot Handbook. Section 2.1.1 of the Flight Operations Manual states: Flight crewmembers will not report for duty when . . . fatigued." Section 13.7.5 states that "it is ultimately the individual pilot's responsibility to determine their level of fatigue and ability to safely remain on duty. Any pilot who is too fatigued to fly must . . . contact Crew Scheduling immediately." Therefore, if you are fatigued so that accepting a flight would endanger passengers or equipment, you should so inform flight operations. If you are not fatigued, you may not call in fatigued. In short, these regulations do not allow any pilot to call in fatigued when he or she is not fatigued.

### **How should this injunction change my behavior?**

If you were engaging in activity to interfere with normal operations, you must stop. Pilots must not engage in any slowdown, strike, work stoppage, sick-out, work to rule campaign or any concerted refusal to perform normal pilot operations in violation of the Railway Labor Act. In addition, pilots must not engage in any communication, words or actions designed to encourage or persuade other pilots to engage in any such actions. Each pilot is subject to the jurisdiction of the Court and is individually bound by and must obey the injunction. Any individual pilot who violates the injunction can be prosecuted for contempt of the order, can be held in contempt and can be individually fined or otherwise punished. You must fully perform your normal working schedule and must fully perform normal flight operations. You may not engage in or continue to engage in any slowdown or other interference with normal flight operations.

**IMPORTANT NOTE:** This bears repeating. Each individual pilot is subject to the jurisdiction of the Court and is individually bound by and must obey the injunction. Any individual pilot who violates the injunction can be prosecuted for contempt of the order, can be held in contempt and can be individually fined or otherwise punished. Every pilot must be sure to follow standard operating practices and normal flight operations. You may not engage in any slowdown or other interference with normal flight operations.

### **Regarding Litigation**

#### **What are the next steps of the legal process?**

There are two. The first is that we will be asking the District Court to clarify/modify its order to make it clear that pilots are still required to obey the Federal Aviation Regulations, Flight Operations Manual and the Pilot Handbook; and in particular, must write up maintenance issues as those rules and regulations require, and must take appropriate action to ensure the safety of their passengers and equipment, including calling in fatigued when they are fatigued. USAPA has the right to appeal the District Court's decision to the United States Court of Appeals for the Fourth Circuit, and will decide whether to appeal only after the request for clarification/modification is decided.

The second step is a trial on the merits. The current injunction is a "preliminary injunction" issued as the result of an abbreviated hearing and before discovery. A preliminary injunction remains in place until the Court issues a decision on the Carrier's request for a permanent injunction; that decision comes only after a regular trial on the merits. Before trial, each party is entitled to seek discovery from the other side, or from third parties, to find information relevant to the dispute that can be presented at trial.

#### **What is the timeline?**

The request for clarification/modification will be filed within the next few days and we expect the Court will act promptly on the motion. Discovery would take several months and we would not expect a trial

on the merits to be scheduled until April of next year at the earliest.

**Can we appeal?**

USAPA can appeal the preliminary injunction and will decide whether to do so once the request for clarification/modification is decided.

**Does the union owe damages as a result of the ruling?** No.

**Can the union and/or an individual be held in contempt of the injunction?**

The Union and individual pilots can be held in contempt if they violate the injunction.

**If so, what is the process?**

In this situation, a contempt proceeding would begin with a petition filed by the Company alleging that either the Union, any of its officers or any pilot or group of pilots has violated the injunction and should be held in contempt. The Court would hold a hearing on the motion and, after hearing the evidence, decide whether the respondents (Union, officers or individual pilots) had, in fact, violated the injunction and, if so, what the remedy should be. The usual remedy for a first offense is a fine calculated in an amount designed (a) to compensate the Company for the damage resulting from the violation and (b) to deter future violations. In unusual situations, the Court might decide that the contempt is so serious that it should be treated as a criminal contempt, in which case the all the usual protections available in a criminal proceeding will apply.

**Does the Order allow the Company to circumvent the discipline process?**The Order does not allow the Company to circumvent the contractual investigation, hearing, discipline and grievance process.

Sincerely,



Captain Mike Cleary  
President

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200 East Woodlawn Road, Suite 250, Charlotte, NC 28217  
Phone Message: 877-332-3350 | Office: 704-936-4500 | Toll-free: 877-332-3342

# EXHIBIT 2

## President's Update to the Board: October 14, 2011

Board Members,

This is a recap of this week's activities.

I attended the PHL Domicile Meeting this week with the PHL Reps (sans Mike Gillies who was ill and unable to attend), VP Randy Mowrey and EVP Gary Hummel. Special guests CLT VC DeWitt Ingram, the PIC's Dave Westberg and Dave Koseruba, Aeromedical Consultant Steve Javaras, attorney Pat Szymanski and Paul DiOrio on the NAC were also there. The meeting was well attended. The pilots are necessarily very concerned about the PI, its overall meaning, and with how we are expected to behave going forward with the seemingly conflicting directives coming from the Injunction and coming from our responsibilities under the FARs and the FOM. It was very helpful to have Pat Szymanski there to discuss these issues. I read the Court's Order and we discussed its meaning and ramifications at length. We have been working on a Q and A document to publish to the pilots shortly that will address the concerns. We have been deliberate in the pace of that communication so as to provide separation from our PI requirements that we due on October 4 and any follow on explanations to the pilots. Specifically, we wanted to the Court to see our compliance with the directives as a standalone action undiluted by commentary or explanation. That being said, I recognize that there are many unanswered questions. The Q and A document will be responsive to that need.

Also on Tuesday Rob Streble and I had a conversation with Sarah McShea and Joel Podgor (retained by the Board to conduct the audit of our legal bills) to be sure that the project was getting off on the correct foot, that they understood the direction from the Board, and to unsure that they had the resources and information required to perform their work. We made arrangements for the secure transfer of the billing files and discussed the next steps. We are collectively drafting a letter to be sent to the firms being audited with a list of materials and information that will be required. I am very confident in the integrity of both Ms. McShea and Mr. Podgor and of the process that the Board has put in motion.

I had a conversation with the FAA about our PI on Tuesday afternoon as well. I wanted to alert the FAA to the sense of confusion that our pilots are experiencing over the PI. We know that FAA understands the pilots' requirements to adhere to FAR and FOM standards and want to be sure we are on the necessary common footing with them on these critical pieces. My conversations with them will continue.

We travelled to CLT on Tuesday afternoon and worked in the office on a variety of issues Wednesday. Thursday was spent in NY at Brian's office. Jeff Davis and Jess Pauley were there to continue our work on the change of control project. As you have been previously briefed, we now have a thorough understanding of our legal footing, are establishing the baseline, and will monitor any changes to that baseline as we go forward. Also discussed in NY were the follow on plans for the WDNC case, ongoing compliance with the PI, as well as plans for the union to continue to advocate for our communication and safety initiatives going forward.

Today I finished communicating to the various members of the new Ad Hoc IBT Investigatory Committee and have gotten that committee appointed and ready to work. I think we produced a great cross section of pilots for this committee and expect them to work well and efficiently together to accomplish their work in a timely manner.

Also today, we conducted a conference call with the Grievance Committee and legal counsel to discuss more actions on the part of the company that may be further violations of the status quo provisions of the RLA and that may support our EDNY filing. These include more retaliation against USAPA pilots and stalling the processing of arbitrations.

I hope to see you all in the office next week.

MC

# EXHIBIT 3

No judge can order you to compromise safety. Tempe will find out that this is the new norm. Do not be intimidated. Be strong.

# EXHIBIT 4

FLt 1182 men 10th

left 43 min late you

where only 7 min late

In LGA, THERE IS NO  
EXCUSE FOR THIS WE NEED

EVERYONE ON-BOARD TO LEARN

MORE GO TO ANGRY PILOTS ARE

GET ON

BOARD

your not fair to your

BROTHERS WHO ARE

WORKING FOR A STANTAN CONTRACT

# EXHIBIT 5



## USAPA Legal Update

### USAPA Files Notice of Motion to Clarify Preliminary Injunction

Today USAPA asked the United States District for the Western District of North Carolina to clarify the Preliminary Injunction issued on September 28, 2011, to make clear that the injunction does not permit or require pilots to violate any provision of the Federal Aviation Regulations or the Flight Operations Manual, and does not supersede the applicable collective bargaining agreements. The *Notice of Motion*, along with the *Brief in Support of the Motion*, *Declaration and Support of the Motion*, supporting exhibits, and the *Proposed Amended Order* are posted in the [Legal Library](#) on the USAPA website.

Pilots are reminded that the original Order of the Court remains in effect and pilots, therefore, continue to be subject to the Court's Order enjoining them from participating in any slowdown, strike, work stoppage, sick-out, work to rule campaign, or any concerted refusal to perform normal pilot operations in violation of the RLA.

*To adjust your email preferences or to opt out of communications, please visit the [My Settings](#) section of the website.*

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200 East Woodlawn Road, Suite 250, Charlotte, NC 28217  
Phone Message: 877-332-3350 | Office: 704-936-4500 | Toll-free: 877-332-3342

# EXHIBIT 6

## PHL Domicile Update: October 24, 2011

Philadelphia Pilots --

This week we will be in Charlotte attending the continuation of the Regular Fall BPR Meeting. The meeting was recessed on Oct. 6 to allow the entire BPR to attend the funeral of Captains Stephanie and Jim Hamilton. The boardroom at the USAPA offices is occupied this week, so the meeting is taking place at the long Charlotte overnight hotel: Crowne Plaza Charlotte Uptown, 201 S. McDowell Street, Charlotte, NC 28204, 704-372-7550. Complimentary van service is available from the CLT airport.

### Injunction Compliance

As previously reported, all pilots are required to comply with Judge Conrad's orders. As you know, the injunction in some cases appears to conflict with FAR and FOM requirements. A Motion to Clarify has been filed and we expect a reasonably rapid response to our concerns. In the meantime, we'd like to thank Chief Pilot Jim Corbusier for some verbal guidance he offered us in responding to questions about writing up a toxic fume event. In essence, Jim stated that he wants "pilots to be pilots." If there's something wrong with the aircraft, write it up. Apply common sense. Be professional. We are paraphrasing, but we're confident that Capt. Corbusier agrees with this characterization of the guidance he provided. Above all, no matter what the words imply, do not interpret Judge Conrad's Order to mean that you should do anything unsafe. You have a responsibility to your passengers, your crew, and your fellow employees to operate only safe, airworthy aircraft.

### Recent CBS Message

We've received numerous calls about a CBS message sent by Mr. Lyle Hogg on Oct. 13, 2011. In it he states: "Eliminating the divisiveness created by these badge backers will allow us to all work together in order to resolve our differences." Pilots should realize, first and foremost, that the Union pilot badge backers were a unifying symbol specifically allowed by the National Labor Relations Act (NLRA), which protects workers' rights to "Wear union buttons, T-shirts, stickers, hats or other items on the job..." But, beyond what appears to be another case of the Company overstepping their boundaries, we are amused by the notion Mr. Hogg seems to be propagating, that stripping us of our right to display unity will somehow "allow us to all work together in order to resolve our differences." Really? Is Mr. Hogg saying that the Company will now start negotiating in earnest? Or that our seniority dispute will dissolve because of the absence of our red badge backers? The approved USAPA badge backers had nothing to do with the divisiveness Management refers to. They stripped us of that NLRA-protected right improperly, and it has been added to our lawsuit in the Eastern District of New York. While we await word on this, please standby - but don't hold your breath - to witness the resolution of differences brought on by the removal of Union badges. We anxiously await results on Mr. Hogg's hypothesis.

### Distance Learning Suggestion

East pilots, specifically, are within 30 days of the new, altered Distance Learning deadline (Nov. 15). For added protection against computer anomalies, which played a role in the recently terminated pilots' cases, we'd like to suggest that when you finish your Distance Learning you print out the page which shows "Completion Status: 100%." This should clear up any false accusations in short order.

Fraternally,

Chairman Steve "Spike" Szyrka  
[spike@usairlinepilots.org](mailto:spike@usairlinepilots.org)  
704-408-6814

Vice Chairman Eric Jordan  
[ejordan@usairlinepilots.org](mailto:ejordan@usairlinepilots.org)  
980-875-7643

Vice Chairman Mike Gillies  
[mgillies@usairlinepilots.org](mailto:mgillies@usairlinepilots.org)  
704-620-8824

# EXHIBIT 7



# THE IRON COMPASS

## - Ongoing Items -

In any week, your Union is confronting issues on literally dozens of fronts. Let your voice be heard. Get involved.

In addition to the subjects in today's Compass, below are some of the past issues we have discussed.

### UPEAF Payroll Deduction

Pilots are now able to contribute to the US Airways Pilots Emergency Assistance Fund (UPEAF) via payroll deductions. [Download the UPEAF Payroll Deduction Form](#)

### Upcoming USAPA Events

- Nov. 8- 11** NAC Negotiating Session with NMB, US Airways
- Nov. 16** Grievance - System Board

## In this edition:

- [Safety Committee Update](#)
- [Business Intelligence Committee Update](#)
- [R&I Update: Annual Enrollment Reminder](#)
- [USAPA Files Notice of Motion to Clarify Preliminary Injunction](#)
- [Nomination Announcement: 2012 Appeal Board](#)
- [Nomination Announcement: 2012 National Officers](#)
- [Nomination Announcement Reminder: PHX Domicile Officers](#)

## Safety Committee Update

This month saw the first meeting of the Fatigue Management Action Group (FMAG). This group, which USAPA is part of, will be responsible for the implementation of the Fatigue Risk Management Plan (FRMP). The FRMP is part of Level IV SMS. The plan includes a fatigue countermeasures training program, much of which you have probably seen in the current distance learning module. Another integral part of the FRMP is data collection. On the Company safety page (on the Wings website) under ASAP and Event Reporting, you now have a Fatigue Reporting Form. Several Safety Committee members provided valuable input in the design of this form to US Airways management. When filling out an ASAP (Aviation Safety Action Program) form that includes any aspect of fatigue, the information will auto populate to the fatigue form. This form can also be accessed on its own as a stand-alone document relating to fatigue issues. In either case, we highly recommend you fill out the form, as data collection is essential to addressing fatigue issues.

We will be holding our next FMAG meeting in November.

Attention All Reserve Pilots: Your Safety Committee has an important request. When you experience a transition to short call or a change of PT, we would like a fatigue form filled out covering any issues involved with disruption of your schedule. We would also

for TA 10 Meeting in DCA with Arbitrator Block

[Click here for the full USAPA Calendar.](#)

## USAPA Officers

**President**  
Mike Cleary

**Vice President**  
Randy Mowrey

**Secretary-Treasurer**  
Rob Streble

**Executive Vice President**  
Gary Hummel

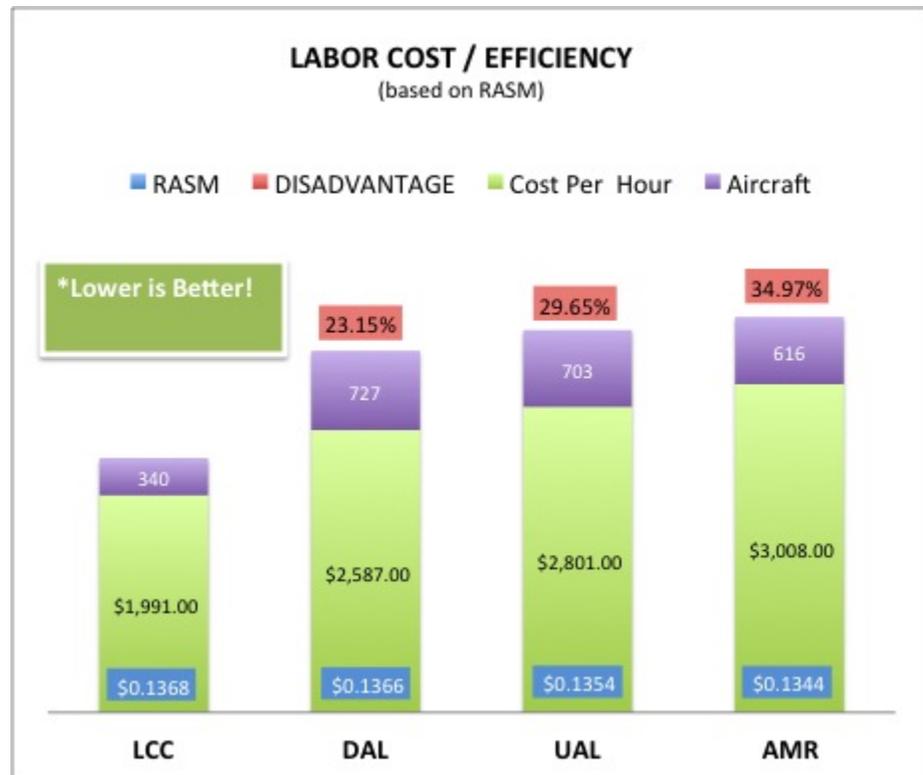
like to know any time a reserve is called out on an international trip with a two-man crew and is informed that a PT does not apply. As we stated in an earlier update, SMS is a system that thrives from data collection. Data is the lifeblood of the SMS. Any data on reserve incidents in the month of October or September are appreciated. Lastly, we welcome any ASAP/fatigue reports with which you have experienced fatigue as a contributing factor, for example a West flip-flop trip or an East on-duty-all-night trip.

Thanks for your help.

USAPA Safety Committee

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## Business Intelligence Committee Update: A Revenue Disadvantage



We have often heard from US Airways management that our company has a "revenue disadvantage"<sup>[1]</sup> relative to our peers. We have also witnessed how there is an ability to present the data in a manner that communicates a particular message.

Above is a chart derived from public data, and provides a different way to look at productivity as it applies to costs. As with many Company presentations, this is not a public industry-standard metric... but, then again, neither is "Stage Adjusted PRASM."<sup>[2]</sup> This represents our analysis of the obvious: US Airways has a distinct cost advantage, which leads to a significant revenue advantage.

Data:

- Cost per hour of operation (salary & benefits)
- RASM (all revenue per available seat mile)

- Fleet size

Business Intelligence Committee

Credits:

*DOT 41*

*SEC*

[http://www.google.com/hostednews/ap/article/ALeqM5g6jb4DI7ZsD-B\\_FHcTgT-VT9F4mQ?docId=9efb8605db7549adbbbd48ffe829b114](http://www.google.com/hostednews/ap/article/ALeqM5g6jb4DI7ZsD-B_FHcTgT-VT9F4mQ?docId=9efb8605db7549adbbbd48ffe829b114)

[1] Flightglobal.com March 4, 2011 <http://www.flightglobal.com/news/articles/parker-stresses-us-airways-hubs-generate-less-traffic-353954/>

[2] Scott Kirby, September 13, 2011, 2011 Deutsche Bank Aviation and Transportation Conference

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## R&I Update: Annual Enrollment Reminder

The 2012 Annual Enrollment is currently in progress through 11:59 p.m. ET (8:59 p.m. PT) on Monday, October 31, 2011. As in prior years, you can participate by logging on to [www.ebenefitsus.com](http://www.ebenefitsus.com). If you are having difficulty with the website, please contact the enrollment center at 1-888-860-6178. For more information and enrollment brochures, please log on to USAPA's [R&I Library](#). Please note that the Company does not permit East employees on LTD (including East pilots) to participate in Annual Enrollment!

**1. New High Deductible Medical/H.S.A. Plan:** In 2012, the Company has introduced a new high deductible plan that works in conjunction with a Health Savings Account (H.S.A.), which is different from a Flexible Spending Account (F.S.A). An H.S.A. is an account that you own and administer yourself for tax-deductible medical expenses, whereas an F.S.A. is administered by US Airways and has a use-it-or-lose-it feature. A word of caution on the high deductible plan: Although the monthly premiums are very attractive, please keep in mind that you must spend the first \$4,000 (\$8,000 out-of-network) in the year before you receive 100 percent reimbursement from US Airways, if you are single. And, if you have the family coverage, you must spend the first \$8,000 (\$16,000 out-of-network) in the year before you will receive 100 percent reimbursement. So think it through very carefully before choosing this plan to ensure you have access to this type of funds in order to protect yourself and your family's health in 2012.

**2. Life Insurance Beneficiary Designation:** If you do not intend to participate in Annual Enrollment, be sure to log on to the above website ([www.ebenefitsus.com](http://www.ebenefitsus.com)) to verify your beneficiary designations are up-to-date for your life insurance coverage. Don't leave it up to your employer to determine your spouse and other dependents' surviving benefits!

**3. Medicare Annual Enrollment and 2012 Booklet:** For those of you on LTD who are also Medicare-eligible, please note that Medicare is treated as your primary coverage and your insurance through US Airways as secondary coverage. This year's Medicare Annual Enrollment takes place October 15 through December 7, 2011. We have posted the revised Medicare booklet on the R&I Library under Medical/Vision/Dental/Prescription Insurance.

For questions or assistance with your benefits, please contact [Randl@usairlinepilots.org](mailto:Randl@usairlinepilots.org) or 704-557-6635.

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## **USAPA Files Notice of Motion to Clarify Preliminary Injunction**

On October 19, 2011, USAPA asked the United States District for the Western District of North Carolina to clarify the Preliminary Injunction issued on September 28, 2011, to make clear that the injunction does not permit or require pilots to violate any provision of the Federal Aviation Regulations or the Flight Operations Manual, and does not supersede the applicable collective bargaining agreements.

In the Association's Brief in Support of the Motion, it stated in part, "The Preliminary Injunction issued on September 28, 2011, puts US Airways pilots and USAPA in an impossible position, for, although the Court noted that 'it in no way intends to interfere with the duty of pilots in command to ensure the safety of their passengers and equipment' and although the intent of the Order is to restore the status quo that existed before May 1, 2011, the terms of the Order directly contradict various provisions of the Federal Aviation Regulations (FARs) and the company's Flight Operations Manual (FOM) and require other actions inconsistent with applicable rules, regulations and the applicable collective bargaining agreements that go beyond restoring the status quo."

The Notice of Motion, along with the full Brief in Support of the Motion, Declaration and Support of the Motion, supporting exhibits, and the Proposed Amended Order are posted in the [Legal Library](#) on the USAPA website.

Pilots are reminded that the original Order of the Court remains in effect and pilots, therefore, continue to be subject to the Court's Order enjoining them from participating in any slowdown, strike, work stoppage, sick-out, work to rule campaign, or any concerted refusal to perform normal pilot operations in violation of the RLA.

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## **Nomination Announcement: 2012 Appeal Board**

Nominations for the Appeal Board will be accepted by internet and telephone beginning December 27, 2011. Due to the requirements and term limits defined by the USAPA Constitution and Bylaws, Article VI, Sections 4A and 4B, the terms of office will begin April 18, 2012 and run until April 17, 2015.

In order to meet the requirements of Article III, Section 4 (Nominations for National Office), members must be active and in good standing by 1700 ET, October 28, 2011. No member whose dues have been withheld by his employer pursuant to a voluntary authorization shall be declared ineligible to nominate or vote for a candidate because of a delay or default in the payment of dues by the employer.

**All nominations must be received no later than  
1400 ET on January 17, 2012.**

Within 48 hours after the close of nominations, all eligible nominees will be notified of their nomination. Nominees shall execute a statement, in a form provided by the Secretary-Treasurer, indicating a willingness to serve if elected, and the Conflict of Interest Disclosure Form set forth in Appendix B to the USAPA Constitution and Bylaws. These forms are available in the members' only section of the USAPA website,

under [Ballot Certification Committee](#). The executed Willingness to Serve Form and Conflict of Interest Disclosure Form must be received by the Secretary-Treasurer no later than 1700 ET on January 27, 2012. Nominees will not be included on the election ballot if the required paperwork is not received. If desired, these forms may be transmitted via fax.

Election balloting is anticipated to take place by internet and telephone from February 2, 2012 through February 23, 2012. If necessary, a runoff election is anticipated to be conducted from March 1, 2012 through March 22, 2012. Notice of election with account activation information and voting instructions will be mailed 21 days prior to the close of voting.

Please contact the Ballot Certification Committee via email at [ballot@usairlinepilots.org](mailto:ballot@usairlinepilots.org) or by telephone at (704) 936-4576 if you need assistance.

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### **Nomination Announcement: 2012 National Officers**

Nominations for the USAPA National Officers will be accepted by internet and telephone beginning December 27, 2011. Due to the requirements and term limits defined in 29CFR452.23 and 29CFR452.24, the terms of office will begin April 18, 2012 and run until April 17, 2015.

In order to meet the requirements of Article III, Section 4 (Nominations for National Office), members must be active and in good standing by 1700 ET on October 28, 2011. No member whose dues have been withheld by his employer pursuant to a voluntary authorization shall be declared ineligible to nominate or vote for a candidate because of a delay or default in the payment of dues by the employer.

**All nominations must be received no later than  
1400 ET on January 17, 2012.**

Within 48 hours after the close of nominations, all eligible nominees will be notified of their nomination. Nominees shall execute a statement, in a form provided by the Secretary-Treasurer, indicating a willingness to serve if elected, and the Conflict of Interest Disclosure Form set forth in Appendix B of the USAPA Constitution and Bylaws. These forms are available in the members' only section of the USAPA website, under [Ballot Certification Committee](#). The executed Willingness to Serve Form and Conflict of Interest Disclosure Form must be received by the Secretary-Treasurer no later than 1700 ET on January 27, 2012. Nominees will not be included on the election ballot if the required paperwork is not received. If desired, these forms may be transmitted via fax.

Election balloting is anticipated to take place by internet and telephone from February 2, 2012 through February 23, 2012. If necessary, a runoff election is anticipated to be conducted from March 1, 2012 through March 22, 2012. Notice of election with account activation information and voting instructions will be mailed 21 days prior to the close of voting.

Please contact the Ballot Certification Committee via email at [ballot@usairlinepilots.org](mailto:ballot@usairlinepilots.org) or by telephone at (704) 936-4576 if you need assistance.

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## Nomination Announcement: PHX Domicile Officers

Nominations for the PHX Domicile Officers will be accepted by internet and telephone beginning December 13, 2011. As outlined in Article IV, Section 5B of the USAPA Constitution and Bylaws, the term of office will begin April 1, 2012 and run until March 31, 2014.

In order to meet the requirements of Article IV, Section 3 (Domicile Nominations), members must be active and in good standing by 1700 ET, October 14, 2011. No member whose dues have been withheld by his employer pursuant to a voluntary authorization shall be declared ineligible to nominate or vote for a candidate because of a delay or default in the payment of dues by the employer.

**All nominations must be received no later than  
1400 ET on January 3, 2012.**

Within 48 hours after the close of nominations, all eligible nominees will be notified of their nomination. Nominees shall execute a statement, in a form provided by the Secretary-Treasurer, indicating a willingness to serve if elected, and the Conflict of Interest Disclosure form set forth in Appendix B to the USAPA Constitution and Bylaws. These forms are available in the members' only section of the USAPA website, under [Ballot Certification Committee](#). The executed Willingness to Serve form and Conflict of Interest Disclosure form must be received by the Secretary-Treasurer no later than 1700 ET on January 13, 2012. Nominees will not be included on the election ballot if the required paperwork is not received. If desired, these forms may be transmitted via fax.

Election balloting is anticipated to take place by internet and telephone from January 19, 2012 through February 9, 2012. If necessary, a runoff election is anticipated to be conducted from February 16, 2012 through March 8, 2012. Notice of election with account activation information and voting instructions will be mailed 21 days prior to the close of voting.

Please contact the Ballot Certification Committee via email at [ballot@usairlinepilots.org](mailto:ballot@usairlinepilots.org) or by telephone at (704) 936-4576 if you need assistance.

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# EXHIBIT 8



DCA@usairlinepilots.org

## Washington Domicile Update

October 2, 2011

### **Urgent DCA Domicile Update**

Fellow DCA pilots,

As you are all aware, the United States District Court of the Western District of North Carolina ruled in favor of the plaintiff, US Airways, in their motion for a Preliminary Injunction against USAPA on Tuesday September 27<sup>th</sup>. We have attached this entire 45 page document as a file onto this update and we **highly encourage you to read the complete ruling**. Much more information will be forthcoming as to the implications that this Preliminary Injunction will have upon our Union, but for now, we strongly believe that we need to share the two pages of the Court Order with each of you. This Order describes the requirements which must be strictly complied with by USAPA, its leadership, and all of us individually. Please read the following, from the conclusion of the ruling, very carefully:

#### **IV. CONCLUSION**

***For the foregoing reasons, this Court finds that Plaintiff has sufficiently demonstrated the necessity of a preliminary injunction to prevent the actual and imminent irreparable harm posed by USAPA's actions. Therefore, the Court GRANTS Plaintiff's Motion for Preliminary***

***Injunction (Doc. No. 10) against USAPA and HEREBY ORDERS:***

***1. USAPA and its members, agents, and employees, and all persons and organizations acting by, in concert with, through, or under it, or by and through its order, are enjoined from permitting, instigating, authorizing, encouraging, participating in, approving, or continuing any interference with Plaintiff's airline operations, including, but not limited to, any slowdown, strike, work stoppage, sick-out, work to rule campaign, or any concerted refusal to perform normal pilot operations in violation of the RLA, pending a hearing on the permanent injunction.***

***2. USAPA shall take all reasonable steps within its power to prevent the aforesaid actions and to refrain from continuing the aforesaid actions if commenced, including, but not limited to, the following:***

***a. Instructing all pilots represented by USAPA and employed by Plaintiff to resume their normal working schedule and practices and providing Plaintiff a copy of all such instructions;***

***b. Notifying all pilots represented by USAPA and employed by Plaintiff, by the most expeditious means possible, of the issuance, contents, and meaning of this Preliminary Injunction and providing Plaintiff a copy of all such notices;***

**c. Including in such notice a directive from USAPA to US Airways' pilots who are engaging in a concerted refusal to perform normal pilot operations, including but not limited to, slow taxiing, writing up all maintenance items, calling in fatigued, delaying flights, refusing to answer a call from the scheduling, refusing to fly an aircraft that meets the requirements for flight, or refusing to accept voluntary or overtime flying, to cease and desist all such activity and to cease and desist all exhortations or communications encouraging same.**

**d. Posting the notice described above on Defendant USAPA's internet websites and providing Plaintiff a copy of the notices;**

**e. Including the contents of such notice on any and all recorded telephone hotlines under control of USAPA, until such time as the Court has acted on Plaintiff's Motion for a Permanent Injunction, and providing Plaintiff a copy of all such messages; and**

**f. Distributing the contents of such notice through all non-public communication systems maintained by USAPA, including any telephone trees, text message lists, pilot-to-pilot communication systems, or similar systems, and providing Plaintiff a copy of the notices.**

**3. USAPA is prohibited from including in such notices (or distributing contemporaneously with such notices) any statements that are intended or could reasonably be interpreted to mean that pilots should continue to engage in the previously-described conduct notwithstanding the Preliminary Injunction.**

**4. USAPA shall report to the Court by 5 p.m. on October 4, 2011, by sworn affidavit, the methods used to effect the notice described above to all USAPA-represented pilots, and furnish to the Court copies of all notices required to be furnished to the Plaintiff under the Court's Order.**

We cannot stress enough, the importance of our full and complete compliance with all parts of this Order, however we also need to clarify that we are still to exercise our rights and duties as Pilots in Command to ensure the safety of our passengers and equipment, as is exhibited by the following statement included by Judge Conrad in the ruling:

**3) The balance of the equities tips in favor of US Airways.**

**Because USAPA is engaged in an illegal slowdown, the balance of equities clearly tips in favor of US Airways. On one side, rests the enormous disruption and harm to US Airways and the traveling public, while on the other side, rests no legally cognizable harm to USAPA because an injunction would only require it to satisfy its existing legal duty under the RLA. To the extent that USAPA is concerned that an injunction would hamper its legitimate safety efforts, this Court declares that it in no way intends to interfere with the duty of pilots in command to ensure the safety of their passengers and equipment. The court's injunction therefore should not dissuade good faith efforts to ensure the safe operation of the airline.**

To emphasize the gravity of this Order at our Domicile meeting on Friday September 30th, Joe read the two-page conclusion in its entirety immediately after calling the meeting to order. When President Cleary later addressed our pilots at this same meeting, he also read the complete Order a second time, to ensure that anyone joining the meeting late had the opportunity to hear their requirements and understand the importance of their compliance.

Accompanying Mike Cleary was attorney Pat Syzmanski, who addressed our membership and answered

questions related to the ruling and order, and our obligations in compliance.

Your Union will comply fully with this Order and we strongly condemn any breaches of its compliance. More information and clarification can be expected next week. For now, we ask that you stay focused on your duties and responsibilities as professional airline pilots and that you utilize good sound judgment in all of your actions. We appreciate your attention to this important matter and your understanding of its significance to our Union and to each of us.

Fraternally,

Joe Stein  
DCA Chairman  
[jstein@usairlinepilots.org](mailto:jstein@usairlinepilots.org)

Pete Dugstad  
DCA Vice Chairman  
[pdugstad@usairlinepilots.org](mailto:pdugstad@usairlinepilots.org)

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