

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:11-CV-371-RJC-DCK

US AIRWAYS, INC., )  
 )  
 Plaintiff, ) DECLARATION  
 )  
 vs. )  
 )  
 US AIRLINE PILOTS ASSOCIATION )  
 And MICHAEL J. CLEARY, )  
 )  
 Defendants. )  
\_\_\_\_\_ )

GARY HUMMEL, declares as follows under penalty of perjury pursuant to 28  
U.S.C. §1746:

1. I am the President of USAPA, its Chief Executive Officer. I was elected to the office of President in April 2012, and I replaced Michael Cleary. I served as Executive Vice President of USAPA from 2010 through April 2012. I have been employed as a pilot at US Airways since 1984. I am currently an A320 Captain flying out of Philadelphia. Prior to my service as an officer for USAPA, I was a B767 Captain, an A330 Instructor Pilot and a DC-9 Check Airman. I have been a member of USAPA since 2008 when it became the certified bargaining agent for the pilots of US Airways, replacing the Air Line Pilots Association.

2. I submit this declaration in support of USAPA's motion to vacate the permanent injunction principally on the grounds that the facts and circumstances that gave rise to the injunction are vastly different now such that the injunction should be vacated.

3. As of the time the preliminary injunction was entered in 2011, USAPA and US Airways had been engaged in negotiations with respect to long amendable (i.e. expired) collective bargaining agreements. These Section 6 contract negotiations were stalled and pilots were working under terms of employment, including most critically, pay, that were significantly

below industry standards due to various factors, including concessions made by the pilots to help US Airways emerge from bankruptcy. It is fair to say that pilots believed US Airways' return to profitability was due, in large part, to the sacrifices they had made and that their pay stagnated or lost ground while the pay rates of their pilot counterparts employed by other airlines continued to rise.

4. Two related events that have occurred since 2011 have completely changed the landscape: the merger of US Airways with American Airlines (which became effective on December 9, 2013), and the entry into a collective bargaining agreement (in February 2013) that significantly improves the terms and conditions of employment of US Airways pilots.

5. In April 2012, US Airways announced its intention to pursue a merger with American Airlines ("American"), which was in Chapter 11 bankruptcy proceedings in the United States Bankruptcy Court for the Southern District of New York, *In re AMR Corp.*, Case No. 11-15463.

6. Soon thereafter, USAPA, US Airways, American, and APA (the collective bargaining representative for the American pilots) began negotiations on a four-party Memorandum of Understanding regarding a Contingent Collective Bargaining Agreement ("MOU"). The MOU was executed by USAPA, US Airways, American and Allied Pilots Association in or around February, 2013, and was overwhelmingly ratified by the USAPA membership.

7. It sets forth the procedures to be used by the four-parties for reaching: (a) a Merger Transition Agreement ("MTA) between APA and the New American Airlines; and (b) a joint collective bargaining agreement ("JCBA") to apply to the merged American and US Airways pilots.

8. The Bankruptcy Court approved the merger agreement between the two airlines on March 27, 2013. *In re AMR*, No. 7587, Case No. 11-15463, Doc. 7587. On April 15, 2013, American and US Airways filed a joint POR seeking approval of American's emergence from bankruptcy. *In re AMR*, No. 7587, Case No. 11-15463, Doc. 7631. The merger and POR became effective on December 9, 2013. *In Re AMR*, No. 7587, Case No. 11-15463, Doc. 11402.

9. On December 9, 2013, when the merger went into effect, many of the terms and conditions of employment of the US Airways' pilots became governed by the MTA, which consists of the 2012 APA/American collective bargaining agreement as modified by the MOU. The end result will be a JCBA that applies to the merged American and US Airways pilots.

10. The MOU now operates as the contingent collective bargaining agreement until the JCBA is reached. The MOU provides that if negotiations for a JCBA are not completed within 30 days of the National Mediation Board's single-carrier finding, the new entity known as American Airlines Group will offer and the NMB certified bargaining agent will accept, final and binding interest arbitration under Section 7 of the RLA to resolve any disputes over the terms of the JCBA.

11. On December 9, 2013, the Effective Date of the POR, the pay rates for US Airways pilots became equal to those provided to American pilots. The MOU provides for an industry average pay parity adjustment effective on January 1, 2016, which will bring pay for all the pilots of the merged airline into line with the two other major domestic carriers – Delta Airlines and United Airlines. The increases in annual pay rates that went into effect on December 9, 2013 (all of which were retroactive to February 8, 2013) for US Airways 12-year captains operating the Airbus A320 aircraft is more than \$40,000 annually for those pilots previously flying under the US Airways East CBA, and more than \$20,000 annually for those pilots previously flying under the US Airways West CBA. On December 9, 2013, the defined

contribution rate (made by US Airways to a defined contribution plan on behalf of each eligible pilot) increased from 10% to 14% for all US Airways pilots. On January 1, 2014, the pay rates for all pilots increased an additional 8%, and the defined contribution plan increased to 16%. A \$40 million lump sum payment was also distributed to US Airways pilots. In addition to the significant pay increases and the increases to the defined contribution plan, “no furlough” guarantees have also been implemented under the MOU/MTA. These benefits have all been of paramount importance to the US Airways pilots in their struggle for an industry-standard contract.

12. Upon information and belief, USAPA has fully complied with the terms of the permanent injunction, and it is highly unlikely that the conduct the Court enjoined will occur in the future in light of the benefits conferred under the negotiated MTA and MOU. The successful bargaining of the MOU resolves the underlying dispute between USAPA and US Airways that the Court identified as the reason for USAPA’s actions.

13. The injury to US Airways’ operational performance that the Court found was a result of USAPA’s conduct is no longer an issue. Upon information and belief, there are not now pending and have never been any allegations that USAPA violated the terms of the injunction or that US Airways has suffered any injury resulting from any acts or conduct by USAPA enjoined by the permanent injunction since entry of the injunction.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on March 17, 2014.

Dated: March 17, 2014



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GARY HUMMEL