

Exhibit "D" Jacob Declaration

CAUSE NO. 2011-50314-367

MICHAEL J. CLEARY, AND)	IN THE DISTRICT COURT
THE US AIRLINE PILOTS)	
ASSOCIATION,)	
)	
Petitioners,)	
)	
vs.)	DENTON COUNTY, TEXAS
)	
ERIC FERGUSON,)	
)	
Respondent.)	367TH JUDICIAL DISTRICT

ORAL DEPOSITION
ERIC FERGUSON
June 9, 2011

ORAL DEPOSITION OF ERIC FERGUSON, produced as a witness at the instance of the Petitioner and duly sworn, was taken in the above-styled and numbered cause on June 9, 2011, from 9:27 a.m. to 3:47 p.m., before, by Stacy J. Masten, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the law offices of 218 North Elm, Denton, Texas 76201, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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A P P E A R A N C E S

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ALSO PRESENT:

MR. TODD FIESER, USAPA

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I N D E X

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ERIC FERGUSON

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1 P R O C E E D I N G S

2 (Deposition commenced at 9:27 a.m.)

3 (Exhibits 1-19 marked)

4 MR. MIDDLEBROOK: I am Nicholas Granath, and I
5 am representing the Petitioner in this matter, and I will be
6 taking the deposition today. And to the right of me is my
7 colleague, Lucas Middlebrook. We're both from the same law
8 firm, Seham, Seham, Meltz & Petersen. And then representing
9 one of the Petitioner's, USAPA, today is Todd Fieser.

10 Todd, you are going to have to spell your name.

11 MR. FIESER: F-i-e-s-e-r.

12 MR. JACOB: I'm Andrew Jacob of Polsinelli
13 Shughart, and I represent the Respondent Eric Ferguson.

14 MR. GRANATH: And then we just had a brief
15 discussion beforehand, and since both counsel and I are from
16 out of state, we feel more comfortable in the realm of Federal
17 Rules, so we're going to use that for our guidepost for the
18 deposition today.

19 Is that fair?

20 MR. JACOB: Yes, it is.

21 ERIC FERGUSON,
22 having been first duly sworn, testified as follows:

23 EXAMINATION

24 BY MR. GRANATH:

25 Q. All right. Mr. Ferguson, I'm comfortable with first

1 Q. And was it one company that you used or more than
2 one?

3 A. A single company.

4 Q. What company was that?

5 A. Let me go back a little bit here because I authorized
6 the check to pay for the printer that drop-shipped these, I
7 think is the correct term. It's a company called AllTime
8 Print out of Montana. I think they are out of Great Falls,
9 Montana.

10 Q. How did you find those guys? Were they an internet
11 deal?

12 A. My team found them.

13 Q. Okay.

14 A. Somehow -- I'll tell you the team member that found
15 them was Terry Quershi.

16 Q. And I take it they charged for the service?

17 A. They did.

18 Q. Yes. And who paid for that October mailing then?

19 A. The West pilots did through Leonidas.

20 Q. Did ALPA make any contributions to this mailing?

21 A. No. Go on.

22 Q. You're smiling, so let's cover it right now.

23 A. I'd love to.

24 Q. Has ALPA made any financial contributions to any
25 Leonidas efforts?

1 A. Not a dime. That -- I just find that humorous. I'm
2 no fan of ALPA. I believe if ALPA had done its job properly,
3 none of this would have been necessary. So I've got no lost
4 love for ALPA, and there seems to be quite the disconnect
5 between the perception of some that were supporting, you know,
6 another Union.

7 I think this one -- I like what we have. It can
8 only be made to run better. That's the way we operate. ALPA
9 gets no support from us; they provide no support to us.

10 Q. Let's follow up on that for a second, if we could.
11 Is there an organization called the US Airways MEC that's in
12 existence today that you know about?

13 A. An organization called the US -- I don't know
14 anything about that.

15 Q. There was -- once upon a time, there was an ALPA US
16 Airways MEC, right?

17 A. There was, uh-huh.

18 Q. And that was an ALPA-funded entity that represented
19 pilots at US Airways?

20 A. Well, you say it was ALPA funded. But the pilots of
21 US Airways funded ALPA.

22 Q. That's fair. I appreciate that. I asked if Leonidas
23 got any funding from ALPA, and you said, no, and firmly no.

24 A. Correct.

25 Q. Is that also true if the question is, do you get any

1 funding from an organization called US Airways MEC?

2 A. I do not run -- I no longer keep the books, so I do
3 not know. I used to record in a ledger every transaction or
4 contribution we had received. So I can say without certainty
5 that we have not. I think I used a double negative, so let me
6 clarify. US Airways MEC is not a distinct contributor, if
7 that makes sense, nor are pilots from the old US Airways MEC.

8 Q. Who does do the books for Leonidas?

9 A. Brian Stockdell.

10 Q. Okay. So I understand your last answer -- I'm not
11 clear on your last answer. Here's the question.

12 A. Sure.

13 Q. To your knowledge, have Leonidas received money from
14 the US Airways MEC?

15 A. No. Now, I will say we've received money, some
16 fairly small sums, south of -- or less than a thousand dollars
17 in the past from individual East pilots. We have received
18 money from East pilots, and I believe that is growing, but not
19 from anyone that I recall being on the MEC.

20 Q. Would you be -- would it come as a surprise to you
21 that ALPA funds US Airways MEC currently?

22 A. It would come as a surprise to me.

23 Q. It would?

24 A. Yeah.

25 Q. All right. Okay. Since your teleconference with

1 (Short recess 3:01 to 3:16 p.m.)

2 (Exhibit 20 marked)

3 Q. (By Mr. Granath) I'm showing you what's been marked
4 as Exhibit Number 20, which I will represent for the record
5 says that it is an LM-2 Form by Airline Pilots Association.
6 Is this something you have ever seen before?

7 A. I've seen this.

8 Q. You have seen it?

9 A. I have seen it.

10 Q. Okay. And it purports to be filed from ALPA for the
11 time period of January 1, '10, to January 31, 2010. And if we
12 go to the second page there, it shows an address for this US
13 Airways MEC apparently of -- a Phoenix, Arizona address. Do
14 you have any knowledge of what the heck that is?

15 A. I knew this is what -- that's why I started smiling
16 earlier.

17 Q. Yeah.

18 A. And I'll assert and attest again that Leonidas has
19 not received any money from ALPA. I have no idea what this
20 is. I'm not on ALPA's side. You have to ask ALPA directly.
21 I think they would tell you, but I'm a little shocked at this
22 too. This is a big number. It would be great if they would
23 pay us that, but it wouldn't get them anything. I'd like to
24 know what this is about, too.

25 Q. Do you know what the organization AWAPA is?

1 A. I do know what it is.

2 Q. To your knowledge are they receiving any money from
3 ALPA?

4 A. I don't think so. I don't think so.

5 Q. All of these different itemized sums on the second
6 page, you have no specific knowledge or no knowledge at all?

7 A. No knowledge at all. Anything I say would be
8 speculative, but I saw this and I was shocked. We're not
9 getting that money in any way, shape or form.

10 MR. GRANATH: Okay. All right. Now, did we
11 make copies of what you guys provided? How are we going to do
12 that?

13 MR. JACOB: There are multiple copies. That's
14 an extra copy.

15 MR. GRANATH: This is an extra copy. Okay.
16 Then let's share this, and I'll give that to the court
17 reporter. Is that okay?

18 Q. (By Mr. Granath) So if you want to grab that. And
19 now what I'm referring you to is the document that you came
20 with today, which --

21 MR. JACOB: I actually gave her a copy of it,
22 also. I'm sorry.

23 MR. GRANATH: I'm going to remark this or I will
24 put a stamp on it, Exhibit 21.

25 (Exhibit 21 marked)

america★first

325 N. St. Paul Street
Suite 1900
Dallas, TX 75201
800.497.7618
800.311.8300 (fax)

July 15, 2011

DENTON COUNTY COURTHOUSE
ATTN: FILING CLERK
1450 E. MCKINNEY ST.
COURTS BLDG.
DENTON, TX 76201

Regarding: *2011-50314-367*
MICHAEL J. CLEARY, AND THE US AIRLINE PILOTS ASSOCIATION vs.
ERIC A. FERGUSON

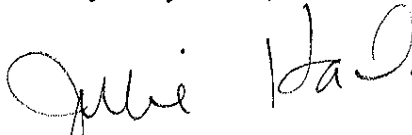
Dear Sir/Madame:

Enclosed for filing in the 367th Judicial Level Court please find the Deposition Certificate for the Oral Deposition of Eric Ferguson,, taken in the above-referenced matter.

By copy of this letter I am providing all counsel of record with a copy of the certificate.

Thank you for your assistance in this matter.

Very Truly Yours,



Julie Hardin
Director of Court Reporting

Encl.

Deposition of Eric Ferguson,

cc: ANDREW JACOB

cc: MICHAEL WHITTEN

cc: NICK GRANATH(With/ Without Original

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1 CAUSE NO. 2011-50314-367
2 MICHAEL J. CLEARY, AND) IN THE DISTRICT COURT
3 THE US AIRLINE PILOTS)
4 ASSOCIATION,)
5 Petitioners,)
6 vs.) DENTON COUNTY, TEXAS
7 ERIC FERGUSON,)
8 Respondent.) 367TH JUDICIAL DISTRICT

9
10 REPORTER'S CERTIFICATE
11 ORAL DEPOSITION OF ERIC FERGUSON

12 June 9, 2011

13
14 I, Stacy J. Masten, Certified Shorthand Reporter in and
15 for the State of Texas, hereby certify to the following:

16 That the witness, ERIC FERGUSON, was duly sworn and that
17 the transcript of the deposition is a true record of the
18 testimony given by the witness;

19 That the deposition transcript was duly submitted on
20 6-22-11 to the witness or to the attorney for the
21 witness for examination, signature, and return to me by

22 7-12-11.

23 That pursuant to information given to the deposition
24 officer at the time said testimony was taken, the following
25 includes all parties of record and the amount of time used by

1 each party at the time of the deposition:

2 MR. NICHOLAS PAUL GRANATH (5h49m)
Attorney for Petitioners

3 MR. ANDREW S. JACOB (0h2m)
Attorney for Respondent

4
5 That a copy of this certificate was served on all parties
6 shown herein on 6-22-11 and filed with the
7 Clerk.

8 I further certify that I am neither counsel for, related
9 to, nor employed by any of the parties in the action in which
10 this proceeding was taken, and further that I am not
11 financially or otherwise interested in the outcome of this
12 action.

13 Further certification requirements pursuant to Rule 203 of
14 the Texas Code of Civil Procedure will be complied with after
15 they have occurred.

16 Certified to by me on this 22 day of
17 June, 2011.

18
19 Stacy Masten
20 STACY J. MASTEN, CSR
Texas CSR 2875, FIRM NO. 514
21 Expiration: 12/31/2012
AMERICA FIRST LEGAL SERVICES
22 325 N. Saint Paul, Suite 1900
Dallas, Texas 75201
23 800-497-7618
800-311-8300 Facsimile

24
25

1 , FURTHER CERTIFICATION UNDER TRCP RULE 203

2
3 The original deposition ^(B)was not returned to the
4 deposition officer on 7-12-11.

5 If returned, the attached Changes and Signature page(s)
6 contain(s) any changes and the reasons therefor.

7 If returned, the original deposition was delivered to
8 Mr. Granath, Custodial Attorney.

9 \$1109.50 is the deposition officer's charges to the
10 Petitioner for preparing the original deposition and any
11 copies of exhibits;

12 The deposition was delivered in accordance with Rule
13 203.3, and a copy of this certificate, served on all parties
14 shown herein, was filed with the Clerk.

15 Certified to by me on this 15 day of

16 July, 2011.

17
18
19
20 Stacy Masten
21 STACY J. MASTEN, CSR
22 Texas CSR 2875, FIRM NO. 514
23 Expiration: 12/31/2012
24 AMERICA FIRST LEGAL SERVICES
325 N. Saint Paul, Suite 1900
Dallas, Texas 75201
800-497-7618
800-311-8300 Facsimile

CHANGES AND SIGNATURE

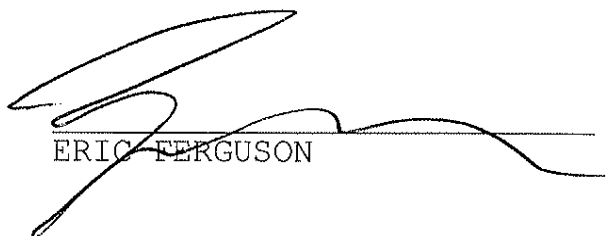
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PAGE LINE CHANGE

REASON

SEE "FERGUSON DEPOSITION ERICATA
 FROM JUNE 9TH, 2011 IN CLEARY
 VS. FERGUSON" (2 PAGES) ATTACHED;

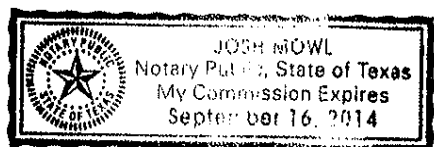
1 I, ERIC FERGUSON, have read the foregoing deposition and
2 hereby affix my signature that same is true and correct,
3 except as noted above.


4
5 
6 ERIC FERGUSON

7 THE STATE OF Texas)
8 COUNTY OF Denton)

9
10 Before me, Josh Mowl, on this day
11 personally appeared ERIC FERGUSON, known to me or proved to me
12 on the oath of _____ or through
13 Drivers License (description of identity card or
14 other document) to be the person whose name is subscribed to
15 the foregoing instrument and acknowledged to me that he/she
16 executed the same for the purpose and consideration therein
17 expressed.

18 Given under my hand and seal of office on this 12th day
19 of July, 2011.



21 
22 NOTARY PUBLIC IN AND FOR
23 THE STATE OF Texas

24 My Commission Expires: 9-16-14
25

Ferguson Deposition Errata from June 9th, 2011 in Cleary vs. Ferguson (pg 1 of 2):

PG 5, ln 4 – Middlebrook and Granath names confused

PG 7, ln 3 “I DID not testify”

PG 7, ln 21 “I didn't eat anything for breakfast” (Cannot be correct)

PG 10, ln 7 “...quite a few NEW-hires as well.”

PG 12, ln 12 “...date of hire AND Nicolau.”

PG 19, ln 12 “I don't think there WERE any extra tabs.”

PG 32, ln 20 “...the former US Airways, THE OLD US Airways...”

PG 32, ln 21 “...additional new HIRES since...”

PG 40, ln 16 “...as somebody WHO helps us with Leonidas...”

PG 40, ln 22 “...brought him IN and added him...”

PG 47, ln 19 “...there, IT IS directly related to...”

PG 49, ln 18 “SO I AM reimbursed from Leonidas and HAVE been, AS are other members that...”

PG 54, ln 5 and 6 “...this time frame WHO would have been on the team...”

PG 55, ln 9- STRIKE “are”

Pg 56, ln 16 “Maybe your question will HELP me clarify.”

PG 71, ln 1- Granath has the year wrong- our conversation was clearly about November 2010.

PG 73, ln 4 “...separate FROM the seniority...”

PG 77, ln 7- CORRECTION - “AllTime Print” is INCORRECT – the actual print shop is “Printing Center USA.” (still located in Great Falls, Montana)

PG 78, ln 7 “TLL TAKE this one...”

PG 86, ln 13 “Because I INTENDED to adjust my -- or FRESHEN my '07 list...”

PG 94, ln 5 “I had A HARDWARE failure.”

PG 95, ln 20 “...it's ZIG-ZAGGY and...”

PG 96, ln 8 “...Shughart law firm AND the company...”

Ferguson Deposition Errata from June 9th, 2011 in Cleary vs. Ferguson (continued - pg 2 of 2):

PG 100, ln 6 and 7- CORRECTION - "AllTime Print" is INCORRECT – the actual print shop is "Printing Center USA"

PG 105, ln 20 "...the various UPDATES ON cactuspilot.com..."

PG 109, ln 19 "...West PILOTS."

PG 113, ln 7 STRIKE "Quershi." This appears to be an error in transcription.

PG 116, ln 25 "...that I discovered WHAT was in there..."

PG 117, ln 11 "...have a jump DRIVE..."

PG 117, ln 12 "...have a jump DRIVE or..."

PG 117, ln 13 "get back to WIRELESS connectivity..."

PG 122, ln 25 "In March, no" STRIKE "the"

PG 132, ln 4 "...this and THAT may be..."

PG 132, ln 8 "...to the board of PILOT representatives..."

PG 137, ln 7 "...because I HAVE now been told..."

PG 146, ln 22 "...this DISCUSSES the investigation..."

PG 153, ln 19 "HE IS A West pilot..."

PG 160, ln 13 "...it leads to AN uptick..."

PG 160, ln 22 "...it depends ON the next step..."

PG 162, ln 21 "...the COMPANY'S RESPONSIBILITY for getting..."

PG 165, ln 20 "Beyond the ADDRESSES, I cannot..."

PG 178, lns 7 and 8 "...or it won't make SENSE."

PG 189, ln 17 "...Holmes delivered THEM, you know..."

PG 190, ln 17 "...perhaps PDF."

PG 190, ln 19 "...maybe he did it in CSV."