

Exhibit “E” Jacob Declaration

CV 13-00471-PHX-ROS, May 14, 2013

1 dispute, it will go to arbitration. That's the process.

12:04:54

2 THE COURT: Thank you. Thank you.

3 MR. SZYMANSKI: Number three, Your Honor, when I was

4 here in October, I said we were going to fulfill our duty of

5 fair representation. We were going to try to get the West

12:05:07

6 Pilots to participate with us. You've heard Mr. Harper say

7 here that it has to be the Nicolau Award that is in the MOU.

8 You've heard him say that that is the agreement that the only

9 provision that is appropriate as far as he's concerned. He's

10 admitted that there are others but he's saying -- his client is

12:05:28

11 saying that this is the one that they have to have.

12 THE COURT: He's saying that's the remedy he wants.

13 MR. SZYMANSKI: That's the remedy he wants. To the

14 extent that is the remedy he wants on the motion for

15 preliminary injunction, I am here to say to you, as we said in

12:05:42

16 our opposition to the motion for preliminary injunction, that

17 negotiating a Memorandum of Understanding that did not include

18 the Nicolau Award that was neutral with respect to seniority

19 was absolutely not a breach of USAPA's duty to represent the

20 employees. It was a reasonable decision for the union to make

12:06:06

21 to go out and get all of the economic benefits of that

22 Memorandum of Understanding and separate them from this

23 long-standing dispute.

24 That contract over six years gives our pilots \$1.6

25 billion. There's a \$40 million initial signing bonus. There

12:06:29

United States District Court

CV 13-00471-PHX-ROS, May 14, 2013

1 is retrospective pay at the American rates for our pilots 12:06:33
2 beginning on February 8, the date that we ratified the
3 contract. There's immediate parity with the American pilots
4 when that POR date comes. There's an increase from 10 percent
5 currently to 14 percent of wages with respect to contributions 12:06:50
6 on our defined contribution retirement plan when the merger is
7 approved on the POR date. And it goes to 16 percent on January
8 1 of 2013.

9 There's furlough protection for all of our pilots
10 that is in that Memorandum of Understanding and there are 12:07:09
11 additional wage increases every year during that agreement
12 including an industry parity agreement on January 1 of 2016 of
13 16 percent on average. And for narrow-body captains, it's in
14 the neighborhood of \$30,000 to \$40,000 per year.

15 For the plaintiffs to suggest that the union was 12:07:35
16 supposed to take a risk and roll the dice on ratification of an
17 agreement that gave our pilots that kind of benefit, economic
18 benefit, and to do it over the seniority dispute, which
19 everybody agrees here the MOU is neutral about, was certainly
20 not a breach of the union's duty of fair representation. It 12:07:56
21 was clearly within the wide range of reasonableness for the
22 union to do that.

23 And as I've said, it was approved by the Board of
24 Pilot Representatives unanimously. It was approved by our
25 pilots by 75 percent. I think that it's absolutely clear that 12:08:16

United States District Court

CV 13-00471-PHX-ROS, May 14, 2013

1 that is not a breach of the duty of fair representation. 12:08:19

2 And that's the, basically, and in principle the
3 argument about failure to be able to prevail on the merits of
4 their claim with respect to the claim that they are making on
5 the preliminary injunction motion. 12:08:36

6 So I would just finish by saying that we are
7 absolutely still committed to trying to do this. We are in the
8 process of forming a Merger Committee with West Pilots on it.
9 We will have those discussions. The way federal law is set up
10 is that you have an exclusive bargaining representative. There 12:08:56
11 are difficult issues for that bargaining representative to
12 resolve and we've tried to resolve them but what we've had here
13 is we've had a group of our pilots who have said we're not
14 willing to resolve it. We want the Nicolau Award, as
15 Mr. Harper has said, here or nothing else. We're not willing 12:09:14
16 to discuss anything else.

17 And we thought that when we were before the Court
18 before the Court said consider something else other than the
19 Nicolau Award and they said no.

20 What would be helpful to get this process going on is 12:09:35
21 for them to understand that they are supposed to sit down and
22 talk with us about this rather than just simply insist on this
23 one Nicolau Award, which was an airline pilots proposal that
24 was made by the -- I'm going to start doing what Mr. Harper
25 wants to do which is to relitigate the last case and I don't 12:09:55

United States District Court