

1 US Airways, Inc.
2 KAREN GILLEN, State Bar No. 018008
3 karen.gillen@usairways.com
4 111 West Rio Salado Parkway
5 Tempe, AZ 85281
6 Telephone: (480) 693-0800
7 Facsimile: (480) 693-5932

8 O'Melveny & Myers LLP
9 ROBERT A. SIEGEL (*pro hac vice*)
10 CHRIS A. HOLLINGER (*pro hac vice*)
11 rsiegel@omm.com
12 chollinger@omm.com
13 400 South Hope Street
14 Los Angeles, CA 90071-2899
15 Telephone: (213) 430-6000
16 Facsimile: (213) 430-6407

17 Attorneys for Proposed Intervenor
18 US Airways, Inc.

19 **IN THE UNITED STATES DISTRICT COURT**
20 **FOR THE DISTRICT OF ARIZONA**

21 Don Addington, *et al.*, on behalf of
22 themselves and all similarly situated
23 former America West Pilots,

24 Plaintiffs,

25 vs.

26 US Airline Pilots Ass'n, an
27 unincorporated association,

28 Defendant,

US Airways, Inc.,

[Proposed] Intervenor.

Case No. 2:13-cv-00471-ROS

**US AIRWAYS, INC.'S STATEMENT
REGARDING LAWSUIT FILED BY
UNITED STATES**

1 In response to the Court’s Order (Doc. No. 150), directing the submission of
2 statements regarding the impact of *United States v. US Airways Group, Inc., et al.*, Case
3 No. 1:13-cv-01236 (D.D.C.), proposed intervenor US Airways, Inc. (“US Airways”)
4 respectfully submits that this case should not be dismissed. Rather, US Airways believes
5 that the most expeditious means for resolving the present dispute is to adhere to the
6 current trial schedule, after which the Court could decide whether to proceed with or stay
7 further litigation activity (including issuance of the Court’s decision) pending clarification
8 of the status of the merger.

9 Throughout the entire course of these proceedings, (i) the ripeness of the claims
10 asserted against defendant US Airline Pilots Association (“USAPA”) has been dependent
11 on the Memorandum of Understanding (“MOU”) taking effect; (ii) the MOU would only
12 take effect upon the completion of the merger between US Airways and American
13 Airlines, Inc. (“American”); and (iii) the merger would not be consummated until all
14 closing conditions, including clearance regarding any potential antitrust issues, were
15 satisfied. The filing of the Government’s lawsuit does not change the ripeness analysis.
16 Nor does it in any way diminish US Airways’ significant interest in a prompt resolution of
17 the merits of the claims asserted in this lawsuit, so that the seniority integration of the
18 US Airways and American pilots may begin promptly after the merger closes and in
19 accordance with the schedule in the MOU. The filing of the Government’s lawsuit will,
20 of course, cause some delay in the closing of the merger (currently estimated to be
21 approximately three months), because antitrust clearance now must be obtained through a
22 judicial rather than regulatory process – but US Airways is highly confident the merger
23 will be approved and any such delay is not a reason to alter the trial schedule.

24 US Airways respectfully suggests that the trial currently scheduled for
25 September 24-25, 2013 should proceed. Doing so will protect US Airways’ significant
26 interest in a prompt resolution of the disputed claims in a manner that does not prejudice
27 plaintiffs or USAPA. Following completion of the trial, the Court can decide whether to
28 move forward with, or instead to stay, the remaining post-trial activity – including

1 issuance of the Court’s decision. At that time, the Court will be able to make its
2 determination about how to proceed based on more complete information than is currently
3 available.

4 The Government’s lawsuit does not require dismissal of this case, and doing so
5 would damage US Airways’ – indeed, all parties’ – interest in ensuring that the seniority
6 integration of US Airways and American pilots begins promptly after the merger closes in
7 accordance with the schedule prescribed in the MOU. If a new lawsuit could not be filed
8 by the West Pilots until antitrust clearance was obtained (or perhaps even later), the
9 parties would have to “start over” in that lawsuit at a point in time when the closing of the
10 merger would be imminent. In such a circumstance, it would be impossible to conduct a
11 trial on the West Pilots’ DFR and McCaskill-Bond claims before the merger closed and
12 the MOU took effect. The McCaskill-Bond seniority-integration process would then have
13 to take place against the disruptive backdrop of the West Pilots’ pending legal claims,
14 implicating their rights and USAPA’s obligations in the McCaskill-Bond process, and all
15 the work that this Court and the parties have done in this case to avoid that prospect will
16 have been squandered.

17 Respectfully submitted,

18 Dated: August 15, 2013.

O’MELVENY & MYERS LLP

19
20 By: /s/Robert A. Siegel
21 Robert A. Siegel (pro hac vice)
22 Chris A. Hollinger (pro hac vice)
23 400 South Hope Street, Suite 1500
24 Los Angeles, California 90071-2899

25 US Airways, Inc.
26 Karen Gillen, State Bar No. 018008
27 111 W. Rio Salado Parkway
28 Tempe, AZ 85281

Attorneys for US Airways, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2013, I caused to be electronically transmitted the attached US Airways, Inc.'s Statement Regarding Lawsuit Filed By United States to the Clerk's office using the CM/ECF System for filing.

/s/Robert A. Siegel

Robert A. Siegel

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