

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF ARIZONA  
3                   CASE NO.: CV-13-00471-PHX-ROS

4                   \_\_\_\_\_)  
5                   Don Addington; et al.,                    )  
6    Plaintiffs,                                    )  
7                   vs.    )  
8                   US Airline Pilots Ass'n, et al.,) )  
9    Defendants.                                    )  
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DEPOSITION OF GARY P. HUMMEL  
(Taken by Plaintiffs)  
Charlotte, North Carolina  
Tuesday, September 17, 2013

25                   Reported in Stenotype by  
V. Dario Stanziola, CSR (N.J.), RPR, CRR

1 APPEARANCES

2 ON BEHALF OF THE PLAINTIFFS:

3 MARTY HARPER, Esquire  
4 JENNIFER AXEL, Esquire  
5 ANDREW JACOB, Esquire  
6 Polsinelli  
7 One East Washington Street, Suite 1200  
8 Phoenix, Arizona 85004  
9 (602) 650-2080  
10 mharper@polsinelli.com  
11 jaxel@polsinelli.com  
12 ajacob@polsinelli.com

13 ON BEHALF OF THE DEFENDANTS:

14 BRIAN O'DWYER, Esquire  
15 ZACHARY R. HARKIN, Esquire  
16 O'Dwyer & Bernstien, LLP  
17 Paul O'Dwyer Way  
18 52 Duane Street, Fifth Floor  
19 New York, New York 10007  
20 (212) 571-7100  
21 bodwyer@odblaw.com  
22 zharkin@odblaw.com

23 Also Present:

24 BRIAN STOCKDELL

25 JOHAN de VICQ

DEPOSITION OF GARY P. HUMMEL,  
a witness called on behalf of the Plaintiffs,  
before V. Dario Stanziola, CSR (N.J.), RPR, CRR,  
Notary Public, in and for the State of North  
Carolina, held at the offices of Huseby, Inc., 1230  
West Morehead Street, Suite 104, Charlotte, North  
Carolina, on Tuesday, September 17, 2013,  
commencing at 8:32 a.m.

1 that the West pilot group itself will not have a  
2 separate seat at that arbitration, correct?

3 A. Correct.

4 Q. And that's because you have put two members  
5 from the West on the West merger committee, correct?

6 A. It's because USAPA has equitably  
7 represented all bases involved in this merger.

8 Q. How do you say that? Please explain that.

9 A. Well, we just have tried to make certain  
10 that with our board, with our representation on  
11 committees that we have been inclusive with  
12 everybody.

13 Q. Let's talk about that. What list, as you  
14 currently understand it, is USAPA going to present at  
15 the first day of arbitration?

16 A. I have no idea.

17 Q. It's going to be a date-of-hire list, isn't  
18 it, Captain Hummel?

19 A. I don't know.

20 MR. O'DWYER: Objection.

21 MR. HARPER: Why?

22 MR. O'DWYER: He said he had no idea.

23 You're being argumentative.

24 Q. Why do you say you don't know?

25 A. Because the merger committee has not yet

1 discussed that with the board and not yet produced  
2 a protocol agreement pursuant to the McCaskill-Bond  
3 process.

4 Q. How far along is that protocol agreement?

5 A. I believe it should be completed by the  
6 end of the month.

7 Q. Right. And Jess Pauley is working on that  
8 protocol agreement?

9 A. Yes.

10 Q. And the other members of the merger  
11 committee are working on it, correct?

12 A. I assume.

13 Q. And Steve Bradford is sort of working on  
14 that too?

15 A. Yes.

16 Q. With Mr. King, Captain King?

17 A. I don't know.

18 Q. Okay. And that protocol agreement, as I  
19 understand it, unless it has been changed recently,  
20 does not provide for West pilot separate  
21 participation in the arbitration, does it?

22 A. I don't know.

23 Q. You haven't seen it?

24 A. No.

25 Q. You haven't even seen drafts of it?

1 A. No.

2 Q. Well, what did the BPR tell the merger  
3 committee to include in the protocol, merger  
4 protocol, if anything?

5 A. They did not.

6 Q. So the BPR hasn't seen it at all?

7 A. Correct.

8 Q. Okay. And you say that the merger  
9 committee, and I think you chose your words  
10 carefully, has not yet presented a date-of-hire list  
11 to the BPR, correct, to be included in the  
12 arbitration?

13 A. I would have to review what I said, but I  
14 believe that I said that the merger committee was  
15 developing a protocol agreement, and I believe that  
16 I told you that neither I nor the board has seen  
17 that.

18 Q. The merger committee and others have  
19 already put together several date-of-hire lists to be  
20 utilized in connection with the upcoming  
21 McCaskill-Bond arbitration, correct?

22 A. I don't know.

23 Q. And the merger committee will not be given  
24 authority from the BPR to deviate from whatever the  
25 USAPA constitution mandates by way of a seniority

1 list, will it?

2 A. I don't know.

3 Q. Why?

4 A. Because that would be a decision for the

5 board.

6 Q. To modify its constitution?

7 A. No, to give the merger committee

8 authority.

9 Q. Well, you previously told me that you --  
10 the BPR -- one of your jobs was to enforce the -- the  
11 -- USAPA's constitution, correct?

12 A. Correct.

13 Q. And as I understand it, currently the USAPA  
14 constitution requires that the only seniority list  
15 that can be utilized is date of hire with conditions  
16 and restrictions, correct?

17 A. I would have to review the document  
18 specifically, but I believe there is more to it  
19 than that, paraphrasing it something like date of  
20 hire with conditions and restrictions to protect  
21 everyone's career expectations.

22 Q. It's your understanding that the West pilot  
23 group wants the Nicolau list to be presented at the  
24 arbitration, correct?

25 A. I understand that there are a group of

1 questions.

2 Q. So you have no reasonable expectation that  
3 USAPA will end up as the exclusive bargaining  
4 representative of the new American pilots, do you?

5 A. I do not.

6 Q. So the only other alternative is that APA  
7 is going to end up as that bargaining representative,  
8 correct?

9 A. No.

10 Q. Who else would it be?

11 A. Could be Bob's union.

12 Q. Okay. Have you seen -- maybe you've  
13 answered this question, Captain Hummel. Have you  
14 seen any of the potential merger lists that have been  
15 prepared by either the merger committee or  
16 Captain Owens?

17 A. No.

18 Q. Have you directed them to prepare such  
19 lists?

20 A. No.

21 Q. Do you know if they have prepared such  
22 lists?

23 A. No.

24 Q. Do you know if a potential merger list has  
25 been prepared utilizing the Nicolau list?

1 A. No.

2 Q. Have you instructed anybody to prepare such  
3 a list?

4 A. No.

5 Q. Why is that?

6 A. It's not my job.

7 Q. To do what, instruct your committees what  
8 to do?

9 A. I'm sorry, could you repeat the question?  
10 (THE QUESTION WAS READ BACK.)

11 A. Could you make that a question?

12 Q. Don't you set policy -- I mean, you  
13 articulate USAPA's policy, correct?

14 A. Correct.

15 Q. And USAPA's current policy is to have a  
16 date-of-hire list with conditions and restrictions,  
17 correct?

18 A. I believe there's more to that, as I  
19 stated. I would have to review the constitution to  
20 protect everyone's career expectations, correct.

21 Q. You appoint these committees, correct?

22 A. Correct.

23 Q. And your instructions when you appoint them  
24 is to abide by the constitution requirements,  
25 correct?



1 Q. What were you verifying?

2 A. That the statements included in this  
3 response to plaintiff's interrogatory, to the best  
4 of my knowledge, were true and correct.

5 Q. Based upon firsthand information, correct?

6 A. As I said, based upon my knowledge.

7 Q. So it wasn't firsthand information?

8 A. I don't know. I would have to review the  
9 document.

10 Q. We'll give you an opportunity to do that in  
11 a moment.

12 A. Okay.

13 Q. Okay.

14 (Exhibit Number 1001: Gary Hummel  
15 Candidate For President campaign material  
16 contained in an e-mail from Gary Hummel dated  
17 1/30/12, Bates WP019186 - 189 marked for  
18 identification, as of this date.)

19 Q. Want to show you what we've had marked as  
20 Exhibit 1001, Captain Hummel.

21 A. Okay.

22 Q. It's a multipage document, four pages.  
23 Is that what you have in front of you?

24 A. I do.

25 Q. And can you identify it for me, please?

1 Q. Well, good.

2 (Exhibit Number 1009: Document entitled  
3 2011 Wages Only - No Fringe No DC, Bates  
4 USAPA003825 marked for identification, as of  
5 this date.)

6 Q. 1009, Captain Hummel, this document Bates  
7 number USAPA 003825 was given to us in a document  
8 production. We think we had asked for the Salamat  
9 report and we were given this.

10 Do you know what Exhibit 1009 is?

11 A. I do not.

12 Q. You do not.

13 Have you seen the Salamat report?

14 A. I don't recall.

15 Q. Okay. And you talk about a Gior- --

16 A. Dano.

17 Q. Dano?

18 A. Giordano.

19 MR. HARPER: Do we have that?

20 MS. AXEL: I'm not sure.

21 Q. Well, we'll look. I'm not too sure if we  
22 have the Giordano, but if we don't, we may need to  
23 ask you for it to be produced so that we have it.

24 MR. HARKIN: It's attorney work product.

25 MR. O'DWYER: I believe that's a

1 Do you see that?

2 A. I do.

3 Q. Do you have any idea of what Crimi is  
4 writing about?

5 A. No.

6 Q. He writes at the next bullet, Gary Hummel  
7 sent two people not on the NAC, Ciabattoni and Owens,  
8 to New York to work on the MOU with our general  
9 counsel, Brian O'Dwyer, with no notice or input from  
10 any of the four members of the NAC.

11 Do you see that?

12 A. Yes.

13 Q. Did you do that?

14 A. Yes.

15 Q. Why?

16 A. Because Dave Ciabattoni was our grievance  
17 committee chairman and John Owens was our business  
18 intelligence chairman, and at that point in time --  
19 let me refresh my memory of the point in time.

20 Q. Would have been late July, after your  
21 breakfast meeting with Kirby and Bates.

22 A. No, there was something that triggered  
23 that meeting where I wanted our grievance committee  
24 chairman and our business intelligence chairman to  
25 specifically consider issues that might effect our

1 grievance process and our business intelligence

2 chairman to discuss with Brian.

3 Q. Okay. So they would know best what went on

4 at that meeting, one of the two of them?

5 A. I was not at that meeting.

6 Q. Well, that's what I understand.

7 So you sent them and they did something and

8 we should ask them about what they did?

9 A. Correct.

10 Q. Okay. Now, let's go to the next time  
11 period I want to talk to you about. It would be --

12 A. Are we done with this document then?

13 Q. Yes, yes.

14 A. Okay.

15 Q. Let me just, before we do that, how do you  
16 get along with Ciabattoni presently?

17 A. He's the chairman of our grievance  
18 committee.

19 Q. I know that. But how do you get along with  
20 him?

21 A. I'm not sure --

22 Q. Do you have good working relationships with  
23 him?

24 A. Yes.

25 Q. You do.

1           And when did you appoint him the head of  
2 the grievance committee?

3           A.    My first day of office.

4           Q.    And -- okay.

5           I want to -- time period I want to talk  
6 about now briefly is after MOU I stopped for whatever  
7 reason, whether it was because of the NDA or Kirby  
8 later saying they had taken it off the table or  
9 whatever the reason was, so it's that point in time  
10 up to December 10, 2012.

11          A.    Okay.

12          Q.    Okay. So it's September'ish, October,  
13 November, early December. What was happening in  
14 connection with USAPA's attempt to negotiate  
15 agreements either with Airways or APA or anybody  
16 else?

17          A.    I believe that everyone -- the -- it was  
18 my belief that at some point in time the NDA period  
19 would end and that negotiations would begin again  
20 and, therefore, we continued to proceed as best we  
21 could in analyzing the information, in having  
22 conversations with our counterparts at APA to  
23 promote that process once that time came about.

24          Q.    Okay. But during that time period, we're  
25 talking about September to December 10th, there were

1 no direct negotiations with Airways going on between

2 USAPA and Airways over compensation or other working

3 conditions for the pilots, correct?

4 A. I don't know that that's correct. I

5 don't recall any. I don't know that that's

6 correct.

7 Q. Well, then what were the discussions that

8 were going on between USAPA and APA? What were --

9 what were the discussions about?

10 A. There was a -- and remains a potential

11 that we will be integrating the work forces.

12 Q. Right.

13 A. So there is much to be discussed.

14 Q. There's mostly processes and procedures for

15 merging the pilots, that was what was going on during

16 that time period, correct?

17 A. I believe that at that time period I had

18 asked -- had a meeting where I invited all of the

19 committee chairmen to our union hall and asked all

20 of them to get involved with their counterparts at

21 APA. So there was much going on.

22 Q. But the primary point that was being

23 addressed was getting ready for the future merger if

24 it occurred, correct?

25 A. I wouldn't classify that as primary.

1 A. I have no knowledge that it was.

2 Q. But that proposal was still on the table  
3 when the discussions on the MOU began again in  
4 December of 2012, correct?

5 A. I couldn't answer that it was. I know  
6 that -- again, that we were parked on or about  
7 December of 2011 from negotiations.

8 (Exhibit Number 1014: Document entitled  
9 NAC Update created 11/16/11 marked for  
10 identification, as of this date.)

11 Q. Captain Hummel, I just want to show you  
12 what I've had marked as 1014. It's a NAC update,  
13 that's the negotiating committee, advisory committee?

14 A. Yes.

15 Q. I don't know if you have ever seen this  
16 before. If you have, can you let me know?

17 A. I don't recall.

18 Q. Okay.

19 A. I may have.

20 Q. Before we move onto the next document, you  
21 still have it in your hand, 1014?

22 A. Yes.

23 Q. Your committees -- some of your  
24 committees -- some of USAPA's committees periodically  
25 put out updates to all the pilots covering status of

1 things that are happening under that committee's  
2 jurisdiction, correct?

3 A. Correct.

4 Q. And those are official USAPA documents?

5 A. Correct.

6 Q. Are they run by you before they go out?

7 A. No.

8 Q. Are they run by legal counsel before they  
9 go out?

10 A. Sometimes if there are issues that the  
11 author perceives or our Comm chairman perceives may  
12 need an interpretation.

13 Q. And presently the person that those  
14 documents are run by is Pat Szymanski?

15 A. I think we use different legal  
16 consultants based on what the issue at hand is.  
17 But Pat Szymanski certainly would be one of them.

18 Q. For merger issues, for seniority issues,  
19 for MOU issues?

20 A. And Roland Wilder.

21 Q. All right. And for vote ratification  
22 issues?

23 A. I don't know.

24 (Exhibit Number 1015: Document entitled  
25 USAPA Comprehensive Proposal Summary marked



1 for identification, as of this date.)

2 Q. Okay. I want to show you what has been  
3 marked as 1015.

4 A. I have 14 in my hand. You want me to go  
5 to 15?

6 Q. Yeah.

7 A. We're done with 14?

8 Q. We're done with 14.

9 A. Okay.

10 Q. Have you seen Exhibit 1015 before?

11 A. I don't recall.

12 Q. I believe that this is the document, really  
13 proposal that I was talking about before, a USAPA  
14 comprehensive proposal that was presented to Airways  
15 in November of 2011 before you became president.

16 A. Okay.

17 Q. So you may not know about it or seen it.  
18 So if you want to look forward to it, that's fine. I  
19 don't have any detailed questions about it for you.  
20 So you okay in going forward?

21 A. I'm fine.

22 Q. The point I have, though, and I want to ask  
23 you is 1015 was a proposal that you had -- that USAPA  
24 had presented to Airways before you became president,  
25 correct, if --

1 A. If, in fact, they did, I have no  
2 knowledge that they did or did not.

3 Q. We'll ask other people about that.

4 If they had proposed it to Airways, it was  
5 still on the table when you met with Kirby in 2000 --  
6 in July of 2012, correct?

7 A. I don't know that that's correct because  
8 it's my understanding that several months after  
9 that USAPA was parked by the NMB and what  
10 transpired in that period I have no knowledge of.  
11 In fact, this may have been rejected entirely. I  
12 have no knowledge.

13 Q. Rejected by Airways?

14 A. And perhaps by the NMB, I don't know.

15 Q. Okay.

16 A. It would seem to me that given the  
17 timeline you propose, that subsequent to this  
18 document, USAPA was parked from negotiations. I  
19 can draw no conclusions as to why.

20 Q. That's fine. That's fine.

21 (Exhibit Number 1016: E-mail string with  
22 the top from Gary Hummel dated 10/3/12, Bates  
23 USAPA 238826 - 828 marked for identification,  
24 as of this date.)

25 Q. I'm going to show you what I've had marked

1 there wasn't anything to suggest that one  
2 particular base may not have supported the  
3 candidate, that everyone unanimously was -- not  
4 unanimously but that everyone in USAPA had elected  
5 these individuals.

6 Q. Are there rules for the ballot  
7 certification committee to follow with respect in how  
8 to report the election results?

9 A. I don't know. I'm not familiar with the  
10 rules of balloting.

11 Q. Okay. Taking your statement that by  
12 reporting it without domicile that sort of shows how  
13 they may group as a whole voted without breaking it  
14 down into domiciles, that's sort of the philosophy,  
15 at least, with respect to the officer election, as  
16 you understand it?

17 A. Yes.

18 Q. Okay. Then explain to me why the results  
19 of the ratification of the MOU vote was broken down  
20 by domicile?

21 A. I would think that generally speaking in  
22 unions across the country, it's handled that way so  
23 that if you have a referendum as opposed to an  
24 election, on issues of referendum, if there is a  
25 perceived problem in one area of the country, that

1 then that gives you an opportunity to address that  
2 area of the country as a union leader to try to fix  
3 that problem. You can focus on why geographically  
4 was the referendum not successful and you can  
5 address the issue would be my understanding of why.

6 Q. Well, let's talk about that.

7 In the results of the MOU vote, the results  
8 reported by USAPA demonstrated that a substantial  
9 percentage of the West pilots who voted or were  
10 eligible to vote, voted in favor of the MOU, right?

11 A. Correct.

12 Q. And so almost immediately, and correct me  
13 if I'm wrong, after those results were reported, you  
14 and USAPA took steps to use that vote against the  
15 West pilots, didn't you?

16 A. I have no knowledge of that.

17 Q. Well, sure you do.

18 A. No, I do not.

19 Q. You do too.

20 A. I answered the question that I do not,  
21 sir.

22 Q. You understand the position that your union  
23 is taking in the litigation in Phoenix with respect  
24 to the MOU vote by the West pilots?

25 A. Your statement was that immediately after

1 litigation pending in -- in Phoenix currently.

2 Do you know whether USAPA in its pleadings

3 has opposed class certification in that case?

4 A. I do not know.

5 Q. You do not know.

6 And you have given no instructions to

7 the -- your legal team to do so?

8 MR. O'DWYER: Objection.

9 Do not answer.

10 MR. HARPER: He answered the last one, he

11 waived it. I'm just -- this is just a

12 follow-up to the previous question that he

13 answered.

14 Q. Go ahead.

15 A. No.

16 Q. Okay. Back to 21, 1021, multipage document  
17 starting with a Bates number USAPA 227002.

18 Do you see that?

19 A. Yes.

20 Q. Can you identify this for me?

21 A. It appears to be --

22 MR. O'DWYER: I have a November 15th  
23 date.

24 MR. HARKIN: As do I.

25 MR. HARPER: I don't think I made a

1 deposition.

2 MR. HARKIN: You'll have to let me see it  
3 first.

4 MS. AXEL: It's a signed copy of the MOU.

5 MR. HARKIN: Right. Okay. I can check  
6 the number.

7 MR. HARPER: I have it down as 130.

8 MS. AXEL: Yeah, just remark it.

9 MR. HARPER: I'll just remark it.  
10 Is that okay?

11 MR. HARKIN: That's fine.

12 MR. O'DWYER: Yeah, that's fine.

13 MR. HARKIN: Right. It is 130, but...

14 MR. O'DWYER: You can remark it if it's  
15 more convenient for you.

16 (Exhibit Number 1023: Memorandum of  
17 Understanding Regarding Contention Collective  
18 Bargaining Agreement, Bates USAPA 001763 -  
19 1781 marked for identification, as of this  
20 date.)

21 Q. Exhibit 1023, beginning with USAPA 001763,  
22 is the final -- is a copy of the final signed MOU,  
23 correct?

24 A. Correct.

25 Q. Okay. I want to direct your attention to

1 page number seven, which is USAPA 001769, and ask you  
2 if you have any firsthand knowledge about how  
3 paragraph 10H came into existence?

4 A. Yes.

5 Q. Okay. Tell me what your firsthand  
6 information is with respect to how paragraph 10H came  
7 about.

8 A. I believe it was --

9 Q. Okay. I mean, when you say I believe, I  
10 want to make sure that I'm getting your firsthand  
11 information. So when you say I believe, it's your  
12 recollection?

13 A. It's my recollection.

14 Q. Firsthand?

15 A. Firsthand.

16 Q. Okay.

17 A. That -- and I'll preface this by saying  
18 that when I became president and the NAC first was  
19 appointed, and I had a conversation with Roland and  
20 Ken Holmes, Rocky Calveri, John Owens and Dean  
21 Colello, when we were negotiating MOU I, I made it  
22 perfectly clear to them that it was their objective  
23 to deal with pay benefits and working conditions  
24 and to not deal with any inference to seniority  
25 given our charge from Scott Kirby and Dave Bates

1 and the whole thing that that would be dealt with  
2 later, and that that was how we proceeded.

3 When we were in Dallas, that issue arose  
4 in the general sense of the McCaskill-Bond  
5 seniority issue.

6 Q. And you're talking about seniority as the  
7 issue?

8 A. Yes. And at that time we were in a  
9 conference room -- they were in a conference room  
10 working and Dean asked me to come in, that we had a  
11 problem with this general section. I believe it  
12 was section -- it was not written in this format at  
13 that time, but in the general section that would  
14 have included F, G and H.

15 And the issue was that they weren't  
16 comfortable with the language in that it did not --  
17 the language that existed prior to this final  
18 document did not comport with my charge that this  
19 document must be seniority neutral. And to that  
20 end, I charge the NAC to not deal any further with  
21 it, but that I would remove that section, if you  
22 will, and for them to continue work on every other  
23 section of the document and that I would come back  
24 with a proposed solution for that section that  
25 would be acceptable to all members of the



1 negotiating committee. And I telephoned Pat  
2 Szymanski and told him of the problem and asked him  
3 to resolve it.

4 MR. O'DWYER: I'm going to stop you right  
5 there. Anything that Mr. Szymanski says to  
6 him is privileged and you may not answer.

7 MR. HARPER: Well, I'm just -- I think  
8 that this is absolutely wrong, Brian, because  
9 in the course of sending out the documents  
10 that you swamped us with, there are numerous  
11 documents from Szymanski to others talking  
12 about this issue and other issues. So I think  
13 you have waived the attorney/client privilege  
14 in spades already.

15 MR. O'DWYER: Well, I guess the judge  
16 will have to decide that. I mean, it's a  
17 privilege operation.

18 Q. So what can't you talk about here now?

19 MR. O'DWYER: Everything.

20 A. Well --

21 MR. O'DWYER: Don't answer.

22 MR. JACOB: What did your lawyer not want  
23 you to say?

24 MR. HARPER: I've got to try.

25 Q. So you can't tell me your personal

1 MR. O'DWYER: Doesn't mean Roland said  
2 anything.

3 MR. HARPER: So it's okay to talk about  
4 that meeting?

5 MR. O'DWYER: To the extent that the NAC  
6 talked to him about it, yeah.

7 MR. HARPER: Okay. So we've got --

8 MR. O'DWYER: And he already said -- he  
9 already testified to that without objection.

10 Q. We've got the NAC and talking about a  
11 question you told the NAC not to deal with it, that  
12 you would go out and come back with a solution?

13 A. Correct.

14 Q. You said you left and went out and made a  
15 call to Szymanski to deal with the problem. Now you  
16 can't tell me what you told Pat and how to deal with  
17 it?

18 A. I can. Because I didn't tell Pat what or  
19 how.

20 Q. Okay.

21 A. I just asked him to deal with it.

22 Q. So you asked him to deal with it. So  
23 that's how you took care of it was to ask him to deal  
24 with it?

25 A. That the issue was that this must remain

1 A. Yes.

2 Q. Okay. Go to page four, paragraph nine.

3 You and I talked about this paragraph briefly before.

4 A. Yes.

5 Q. This is the McCaskill-Bond language in MOU

6 I that -- and correct me if I'm wrong, Kirby was

7 comfortable with in the context of MOU I?

8 A. I have no idea.

9 Q. Well, you told me at that breakfast meeting

10 he said that the MOU, that you were going to be

11 talking about, had to be seniority neutral, correct?

12 A. Correct.

13 Q. And do you know if Kirby signed off on the

14 language or the company signed off on the language

15 contained in paragraph nine of Exhibit 1006?

16 A. I don't recall.

17 Q. So you can't sit here and tell us whether

18 or not Kirby or the company was comfortable with the

19 language in paragraph nine to Exhibit 106 with

20 respect to the McCaskill-Bond process not dealing

21 with seniority?

22 A. I cannot.

23 Q. Okay. Can you tell me, based upon your

24 recollection, what it was precisely that your NAC was

25 telling you was a problem in the language of

1 paragraphs collapsed F, G and H?

2 A. That the NAC, all four members of the NAC  
3 were not comfortable with the language in that they  
4 collectively did not think as it was written it  
5 remained absolutely seniority neutral because that  
6 issue by charge, by process was to be dealt with at  
7 a later date.

8 Q. But what's the language that was causing  
9 them a problem?

10 A. I don't recall specifically. All four  
11 members of the NAC, Ken Holmes, Rocky Calveri, John  
12 Owens, Dean Colello all voiced concerns over the  
13 language. And when it was resolved, they all  
14 agreed and were agreeable to the new language.  
15 That's my recollection.

16 (Exhibit Number 1024: E-mail from John  
17 Owens to Gary Hummel dated 12/14/12, Bates  
18 USAPA 308739 marked for identification, as of  
19 this date.)

20 Q. Captain Hummel, I want to show you what I  
21 have had marked as Exhibit 1024, and you'll see on  
22 page one there's a date 12/14/2012, 12:50 a.m.

23 Do you see that?

24 A. Yes.

25 Q. Going through the stuff I have, and it may

1 not be totally complete, that's one of the earliest  
2 drafts I've seen of paragraph, what was then 12, that  
3 eventually ended up as paragraph ten in the MOU.

4 Does that help refresh your recollection as  
5 to what it was that the NAC was concerned about?

6 A. No.

7 Q. You see the paragraph at the end that's  
8 underlined, this MOU is not intended to nor shall it  
9 constitute the, quote, single agreement, closed  
10 quote, referred to in paragraph Roman numeral 6A of  
11 the September 23, 2005, quote, transition agreement,  
12 closed quote, applicable to the merger of America  
13 West and US Airways.

14 Do you see that?

15 A. Yes.

16 Q. Was the issue that the -- you say the NAC  
17 was concerned about is that perhaps the language that  
18 was being proposed would trigger the transition  
19 agreement as the single agreement and, therefore,  
20 require the utilization of the Nic?

21 A. I don't recall that.

22 Q. Do you know who submitted the statement  
23 that I have just read into the record?

24 A. No.

25 Q. Was it US Airways?

1 A. I don't know.

2 Q. Did anybody ever talk to you about that  
3 language?

4 A. No.

5 Q. Did Pat Szymanski ever come back to you and  
6 say does this satisfy the issue?

7 MR. O'DWYER: Objection.

8 Don't answer.

9 MR. HARPER: Okay. Can't answer that  
10 question?

11 MR. O'DWYER: I'm sorry?

12 MR. HARPER: He's not going to answer  
13 that question?

14 MR. O'DWYER: No.

15 MR. HARPER: Okay.

16 Q. Isn't it a fact that Dean Colello actually  
17 submitted this language to the MOU negotiators with  
18 respect to paragraph 12?

19 A. I already answered that and told you I  
20 have no idea.

21 Q. Didn't you tell Dean to prepare this  
22 language and submit it?

23 A. No.

24 Q. You didn't.

25 Okay. Can you go back to Exhibit 1000?

1 our arriving at Dallas.

2 Q. But where did the 10H language come from?

3 That was my question to begin with. It came from

4 USAPA, didn't it?

5 A. I don't know that that's true.

6 Q. So you have no firsthand information as to

7 where the actual language for 10H arose?

8 A. No.

9 Q. So you just can't testify as to how it came  
10 about, is that what you're telling me now?

11 A. I believe I did. I believe I told you  
12 that I told our NAC that that section dealing with  
13 seniority should not be their concern, that we  
14 would remove it and that subsequent to that,  
15 someone resolved it, gave it back to our NAC and  
16 our NAC, all four members of the NAC, found the  
17 language to be acceptable and that is the language  
18 that is contained in the final document going  
19 forward.

20 Q. What do you mean somebody gave it back to  
21 them? Who was that person?

22 A. I don't recall. I can tell you that, as  
23 I did, that my first contact was with Pat  
24 Szymanski. What happened to it after that point in  
25 time, how it was transmitted back to them and

1 inserted in the document, I have no firsthand  
2 knowledge of it. I do know that a day, perhaps  
3 several days later when I was communicating with  
4 the NAC, they told me that they had language that  
5 they were all four in agreement with that met my  
6 charge of this document had to be seniority  
7 neutral.

8 Q. You agree with me that MOU II is a  
9 collective bargaining agreement, correct?

10 A. I really can't comment on the exact  
11 letter of the law on what is and what isn't.

12 Q. Well, you've -- on several videos, you've  
13 called the MOU a new labor agreement, haven't you?

14 A. Not to my knowledge.

15 Q. You've avoided saying it's either a new  
16 labor agreement?

17 A. No, I said that I don't recall and I  
18 wouldn't want to comment on the law as to what is  
19 and what isn't a labor agreement.

20 Q. Well, in your own words, what is the MOU?

21 A. It's a Memorandum of Understanding on  
22 what is going to happen if a merger is consummated  
23 with American Airlines and gives detailed  
24 descriptions of how that's going to happen and the  
25 timeline to -- to get to that point.