

EXHIBIT A

1 **PATRICK J. SZYMANSKI** (*pro hac vice*)
2 **PATRICK J. SZYMANSKI, PLLC**
3 1900 L Street, NW, Ste 900
4 Washington, DC 20036
5 Telephone: (202) 721-6035
6 szymanskip@msn.com

7 **BRIAN J. O'DWYER** (*pro hac vice*)
8 **GARY SILVERMAN** (*pro hac vice*)
9 **JOY K. MELE** (*pro hac vice*)
10 **O'DWYER & BERNSTIEN, LLP**
11 52 Duane Street, 5th Floor
12 New York, NY 10007
13 Telephone: (212) 571-7100
14 bodwyer@odblaw.com
15 gsilverman@odblaw.com
16 jmele@odblaw.com

17 Attorneys for US Airline Pilots Association

18 **IN THE UNITED STATES DISTRICT COURT**
19 **DISTRICT OF ARIZONA**

20 Don Addington, *et. al.*,
21 *Plaintiffs,*
22 v.
23 US Airline Pilots Association, *et. al.*,
24 *Defendants.*

SUSAN MARTIN (AZ#014226)
JENNIFER KROLL (AZ#019859)
MARTIN & BONNETT, P.L.L.C.
1850 N. Central Ave. Suite 2010
Phoenix, Arizona 85004
Telephone: (602) 240-6900
smartin@martinbonnett.com
jkroll@martinbonnett.com

Case No.: CV-13-00471-PHX-ROS

Declaration of Gary Hummel

25
26
27
28

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

3 1. I am the President of USAPA, its Chief Executive Officer. I submit this
4 declaration in lieu of testifying for the reasons set forth below. I was elected to the office
5 of President in April 2012. I served as Executive Vice President of USAPA from 2010
6 through April 2012. I have been employed as a pilot at US Airways since 1984. I am
7 currently an A320 Captain flying out of Philadelphia. Prior to my service as an officer
8 for USAPA, I was a B767 Captain, an A330 Instructor Pilot and a DC-9 Check Airman. I
9 reside in Pittsburgh. I have been a member of USAPA since 2008 when it became the
10 certified bargaining agent for the pilots of US Airways.
11

12 **Details Regarding My Unavailability to Testify in Person or By Phone**
13 **on October 23, 2013**

14 2. It was always my intention and desire to attend the trial in this matter and to
15 testify in person. In May 2013 I suffered a myocardial infarction. As a result, a stent was
16 placed in my heart. In or about the week of October 7, 2013, I experienced chest pain.
17 The following week I went for a check-up with my cardiologist Dr. John T. Schindler,
18 MD, at the University of Pittsburgh Medical Center. At that check-up it was determined
19 that the stent that had been placed in my heart had failed and that I would need to have
20 emergency arterial bypass surgery. I was admitted right then and there to the cardiac
21 intensive care unit where I remained until my bypass surgery on October 14, 2013.

22 3. On October 14, 2013, I underwent cardiac bypass surgery. The surgery
23 was performed by Dr. Thomas Gleason. On October 18, 2013, I was released from the
24 hospital. I continue under the care of my cardiologist Dr. Schindler and my primary care
25 physician and surgeon Dr. Peter Lambrou. Dr. Lambrou, who is also a retired US
26 Airways pilot, has been my primary care physician for over 25 years, has followed my
27 care throughout the heart attack, stent and surgery, and is fully familiar with my entire
28

1 medical condition and medical history. As of the time of this declaration, I am
2 recovering steadily from the heart surgery. However, I continue to need significant times
3 for rest and require pain medication which causes some drowsiness. Both Drs. Schindler
4 and Dr. Lambrou have advised me that during the first several weeks following surgery, I
5 must get plenty of rest and refrain from activities that cause emotional stress. I will first
6 leave my home following my return from the hospital on November 7, 2013, for a
7 follow-up examination with Dr. Schindler.

8
9 4. I understand USAPA's counsel advised the Court that I was unable to
10 testify by telephone on October 23, 2013. This was done at my request. I knew from my
11 deposition that being examined and cross-examined in this case could be stressful.
12 These are highly disputed issues and I expected that on cross-examination my decisions,
13 recollections, and credibility would be challenged. My doctors advised me that it would
14 not be safe to subject myself to this environment immediately following major heart
15 surgery. Regrettably, with my own personal safety in mind, I was unable to testify on
16 October 23, 2013.

17 **My Role as President of USAPA**

18 5. As President of USAPA I am responsible for supervising all of the
19 organization's officers, committees, employees and its day-to-day affairs. I am the
20 principal executive of the organization and its principal spokesperson. USAPA has a
21 governing body called the Board of Pilot Representatives (BPR), which consists of three
22 members from each of the larger domiciles (Charlotte, Philadelphia and Phoenix) and
23 two from the smaller domicile at the DC National Airport.

24 6. As of February 8, 2013, the date of the ratification of the MOU, USAPA
25 had 3,864 members. This number is substantially below the total number of pilots on the
26 two seniority lists (approximately 5,100) because many pilots are inactive because of
27 disability, military service, management positions, a small number of furloughs on the
28

1 West list and other reasons. As of February 8, 2013 there were approximately 1,600
2 pilots on the West list, approximately 200 pilots who were inactive for various reasons
3 and not eligible for membership, 153 active pilots who could have been members but
4 apparently chose not to be members, and 1,194 members. The results of the referendum
5 show that 1,041 PHX-based pilots voted, 1,017 for the MOU and 24 against.

6 7. I ran for election in early 2012 with candidates Steve Bradford for Vice
7 President, Steve Smyser for Executive Vice President and Rob Streble for Secretary-
8 Treasurer. All four of us were elected in the Spring of 2012.

9 8. It was my desire as a candidate to work to eliminate some of the conflict
10 and rancor from earlier years both within USAPA and with US Airways. I ran for
11 election as a pragmatist with a pledge to work with everyone in the organization for the
12 good of all our pilots. The national press reported the results of the election and referred
13 to me as the “peacemaker.”

14 9. Exactly as I had pledged during the campaign, after I was elected, but
15 before I took office, I immediately reached out to the Phoenix Domicile Representatives
16 who, under the USAPA constitutional and organizational structure, represent the former
17 America West Pilots (who have come to be called the “West Pilots).” I, along with the
18 other newly elected officers, went to Phoenix and met with the three Phoenix BPR
19 representatives and other West Pilots. I asked them to work with me for the benefit of all
20 US Airways pilots. I asked for their recommendations for appointments to USAPA
21 Committees and pledged to equitably represent the Phoenix base. As a result of that visit
22 and our pragmatic understanding, over 25 West pilots were appointed by me to USAPA
23 committees. Additionally, several West Pilots who ran in the election in opposition to the
24 newly elected officers were appointed to prominent committees and the West Pilot who
25 was the chairman of the America West merger committee and proponent of the Nicolau
26
27
28

1 award was appointed to the USAPA Merger Committee. The following is a list of all of
2 the West Pilots currently serving on USAPA Committees who I appointed:

- 3 1. Johan DeVicq, Ad Hoc Committee to Distribute \$40 million, Business
4 Intelligence
- 5 2. Herschel Beard, ACARS Ad Hoc Committee
- 6 3. Andy Hunt, Ballot Certification
- 7 4. Ryan Giampietro, Communications, P4P
- 8 5. Eric McEldowney, P4P
- 9 6. Jeff Koontz, Grievance Comm Vice Chair
- 10 7. Mike Bendett, Grievance Comm
- 11 8. Leonard Jessup, Grievance Comm Hotline
- 12 9. Mike Plapp, Chm, Hotel Comm
- 13 10. Jerry Hargis, Hotel Comm
- 14 11. Delbert Brummett, Hotel Comm
- 15 12. Nat Fuqua, HIMS, Human Intervention Comm
- 16 13. Brian Suddy, HIMS, Human Intervention Comm
- 17 14. Archie Turnbull, HIMS, Human Intervention Comm
- 18 15. Mark Murphy, HIMS, Human Intervention Comm
- 19 16. George Mailga, HIMS, Human Intervention Comm
- 20 17. John Johnson, Jumpseat
- 21 18. Ryan Giampietro, Membership Services, West Recall Specialist
- 22 19. Nick Peterson, Membership Services
- 23 20. Ken Stravers, Merger Comm
- 24 21. Rocky Calveri, Merger Comm
- 25 22. Ken Holmes, NAC
- 26 23. Rocky Calveri, NAC
- 27 24. Ken Hewitt, Professional Standards
- 28 25. Aaron Wallace, Professional Standards
- 29 26. Bill White, Professional Standards
- 30 27. Robert Ely, Professional Standards
- 31 28. Garry VanderBerg, Retirement & Insurance/Bereavement
- 32 29. Ken Hewitt, Safety
- 33 30. Delbert Brummett, Safety Comm
- 34 31. Ken Hagan, Safety Comm
- 35 32. Ken Hagan, Co-Chair, Safety, Critical Incident Response Program (sub-
committee)
- 36 33. Vernon Reaser, Safety, Critical Incident Response Program (sub-
committee)
- 37 34. Brandon Hubley, Safety, Critical Incident Response Program (sub-
committee)

- 1 35. Cindy Mandel, Safety, Critical Incident Response Program (sub-
- 2 committee)
- 3 36. Leonard Jessop, Scheduling Comm, Hotline
- 4 37. David Weeks, Scheduling Comm, Scheduling Specialist
- 5 38. Greg Jones, Scheduling Comm, Scheduling Specialist
- 6 39. Dennis Glauner, Scheduling Comm, Scheduling Specialist
- 7 40. Richard Hughes, Scheduling Comm, Scheduling Specialist
- 8 41. Patrick O'Neill, Scope Monitoring Comm
- 9 42. Bob Manning, Security/FFDO
- 10 43. Ralph Bledsoe, Training Comm
- 11 44. Mike Winger, Training Comm
- 12 45. Rick Pitt, Training Comm
- 13 46. Ken Holmes, UOM and Constitutional Review Comm
- 14 47. Herschel Beard, Trustee, US Airways Pilots Emergency Assistance Fund
- 15 (UPEAF)
- 16 48. Ryan Giampietro, Trustee, US Airways Pilots Emergency Assistance Fund
- 17 (UPEAF)

18 Patrick O'Neill is a West Pilot serving on the Appeal Board. He was elected. In addition,
19 there are West Pilots elected to the BPR and West Pilots serving at the Phoenix Domicile
20 in other positions.

21 **The Company's Demand That USAPA Agree to Maintain Status Quo**
22 **on Seniority**

23 10. On or around April 18, 2012, my first day in office, I received a call from
24 Doug Parker, Chief Executive Officer of US Airways, informing me that there was going
25 to be a public statement made by US Airways that they planned to merge with American
26 Airlines. On or about that same date, I also received a call from Dave Bates, the
27 President of the Allied Pilots Association (APA), the union that represents the pilots
28 employed at American Airlines.

11. Shortly after the merger was publicly announced, in early May 2012, I met
with Doug Parker and US Airways General Counsel Steve Johnson in Washington D.C.
USAPA's General Counsel Brian O'Dwyer and Steve Bradford, USAPA's Vice

1 President, also participated in the meeting. In substance, Doug Parker advised us that US
2 Airways had made an agreement with the APA and that it did not need to negotiate with
3 USAPA. We advised him that it was in the airlines' interest to have USAPA's support
4 and that, in order for that to happen, we needed our own MOU that made us equal with
5 American's pilots on day one of the merger. Mr. Parker said, in effect, that US Airways
6 didn't need to work with USAPA because it already had an agreement with the APA. He
7 also made clear his belief that this merger would be good for the pilots of US Airways
8 because the ongoing seniority integration issue could now be finally resolved through the
9 McCaskill-Bond Process.

10
11 12. After that meeting, I and the BPR worked with USAPA's legal advisors on
12 the goal of getting the Company to negotiate with us so that we could arrive as equals on
13 the first day of the merger. We also were determined to address various shortcomings we
14 found in the term sheet that APA had negotiated.

15 13. Thereafter, in early July 2012, while I was in Washington, D.C, I received a
16 call from Dave Bates and later met with him and US Airways President Scott Kirby.
17 Dave Bates was concerned with USAPA's demand for its own MOU. He was also
18 concerned with the seniority integration issue. Scott Kirby stated emphatically that the
19 Company was not going to deal with seniority in any way, shape, or form and that the
20 only way USAPA could work towards our own MOU was if we agreed to allow the
21 seniority issues to be decided through the McCaskill-Bond process. Mr. Kirby said he
22 would support USAPA working for its own MOU provided there was *no* discussion on
23 seniority, all pilots would continue on separate seniority lists up through the merger, and
24 that issue would only be addressed afterwards and only through the McCaskill-Bond
25 process with the APA. Based on that conversation and in subsequent conversations I had
26 with company representatives, it was very clear that the Company would refuse to
27 bargain with USAPA over the terms and conditions for US Airways pilots that would
28

1 apply in the event of a merger with American unless USAPA was willing to agree that
2 seniority integration would not be addressed prior to the merger and that the MOU would
3 provide a post-merger process consistent with McCaskill-Bond.

4 14. US Airways pilots have not had raises in their rates of pay for over six
5 years. Given the Company's clearly stated position, it was plain that that the wages,
6 benefits and working condition improvements and protections that were long awaited and
7 achieved through the MOU could not and would not have been achieved if USAPA had
8 attempted or insisted on any kind of seniority resolution other than through a subsequent
9 McCaskill-Bond process. Paragraph 10 of the MOU sets forth the process and provides
10 that the *status quo* will continue until changed through that process. Agreement on these
11 matters was not only the essential *quid pro quo* for the MOU, it was essentially
12 demanded as a pre-condition for the Company's willingness to even begin to negotiate
13 with us about the effects of the merger on US Airways pilots.
14

15 15. In view of these facts, USAPA really had no choice but to agree to the
16 Company's seniority neutral pre-condition. APA had made its deal with our employer,
17 US Airways, and it was clear that USAPA would be totally left behind if we failed to
18 agree to this pre-condition. I believed then, and now, that given these facts, the only
19 choice was the right choice for all of US Airways' pilots. I discussed the Companies'
20 positions with the NAC and instructed them that in negotiating the MOU they should not
21 address seniority because any agreement will provide only that seniority will be resolved
22 in accordance with a process consistent with McCaskill-Bond.
23

24 16. I have read the trial testimony of Capt. John Scherff asserting that he is
25 subject to a different and more restrictive policy on what messages can be sent through
26 the USAPA email system to the pilots assigned to the PHX Domicile. Day to day
27 operation of USAPA's communication system is run by its Communications Committee,
28 which has significant say over what goes out over the official USAPA communications

1 network. That said, I have ultimate authority over this (and) other committees and I am
2 aware of Captain Scherff's concerns and I have reviewed the communications that were
3 not put through the USAPA network. I categorically deny the Phoenix domicile
4 communications are subject to different standards. Neither Capt. Scherff nor any of the
5 other PHX reps are subject to any different policy than another of our Domicile Reps. In
6 fact all of the Domicile Reps are allowed to express their opinions in the messages they
7 are allowed to send using the USAPA email list. I could produce many, many such
8 messages that Capt. Scherff has sent using through our email list. The fact is that he
9 chose to compose the one message he referred to at trial exclusively from quotations from
10 the Court's October 2012 opinion was his choice. Generally, we review messages from
11 the Domicile Reps only for inaccuracies and for language unbecoming a USAPA
12 representative. Our Communications Committee also often makes suggestions to clarify
13 statements in the messages drafted by the Domicile Reps, but these are only suggestions
14 and not requirements.

16 17. I have read Capt. Scherff's testimony that suggests that 500-600 PHX-
17 based pilots were disenfranchised from voting on the MOU. Under the USAPA
18 Constitution, only members of USAPA in good standing are allowed to vote for officers
19 (national and domicile) and contract ratifications (such as the MOU). The numbers in
20 PHX are as stated in paragraph 6 above.

21 18. I have read the trial testimony of Ken Holmes concerning two meetings
22 held in Dallas in mid-December 2012 concerning what later became paragraph 10.h of
23 the MOU. Mr. Holmes states that I met with him, Rocky Calveri, the other PHX-based
24 pilots on the NAC, and other NAC members. These meetings did not include either Pat
25 Szymanski or Jess Pauley by telephone or otherwise. Mr. Holmes and Mr. Calveri did
26 indeed object to the first version of what became paragraph 10.h, but neither said the
27 reason was that either West Pilots or the PHX Base Reps would not vote for the MOU if
28

1 the provision was included as originally written. What they said was that, in their
2 opinion, the original language was not “seniority neutral” as was their charge in
3 negotiating the MOU. While, I did not agree with that assessment, in response to the
4 concerns raised by Mr. Holmes I asked Merger Counsel Pat Szymanski to revise the
5 provision. Mr. Holmes, Mr. Calveri and the other members of the NAC unanimously
6 agreed to the new version of paragraph 10.h and it was that second version that was
7 carried forward into the final version of the MOU.

8
9 19. I am familiar with Article I, Section 8.D of the USAPA Constitution which
10 states that one of the Objectives of USAPA is “[t]o maintain uniform principles of
11 seniority based on date of hire and the perpetuation thereof, with reasonable conditions
12 and restrictions to preserve each pilot’s un-merged career expectations.” This provision
13 does not restrict the Merger Committee from making recommendations for proposals to
14 be used in any seniority integration proceeding, does not restrict the BPR in what
15 proposals or agreements they might decide to approve, and does not prevent our
16 membership from voting on or accepting the results of any agreement that might be
17 reached with the Allied Pilots Association. Article I, Section 8.D is an objective, not a
18 mandatory requirement and like all objects it is something the organization must consider
19 and seek to achieve. But also like any objective, it is subordinate to the overall purpose
20 of USAPA which is to represent the best interests of its members. This objective is
21 designed to insure that USAPA, the Merger Committee and the BPR seek to insure that
22 “principles” of date of hire are considered in any seniority decision. It was a reaction to
23 the Nicolau Award which did not give any weight to the date of hire or length of service
24 of the pilots involved.

25
26 20. One example of the application of Article I, Section 8.D was the authority
27 given to the Ad Hoc Committee that was appointed in mid-May 2013 to meet with
28 representatives of the Plaintiffs in this case pursuant to the request of the Court. We held

1 a special BPR meeting to approve the appointment of the Committee as soon as we were
2 able to under our rules following the Court's recommendation. The resolution that was
3 adopted did not restrict the Committee with respect to what proposals they could
4 consider. It authorized the Committee to meet with the representatives of the Plaintiffs
5 and negotiate the best resolution that they could and bring it back to the BPR for
6 consideration. The resolution did not limit the Committee to a date of hire proposal.
7 Unfortunately, following that resolution, the plaintiffs did not agree to meet.

8
9 21. With respect to the merger of US Airways and American, the charge of the
10 Merger Committee is to obtain for our pilots the best result possible with respect to the
11 merger of our seniority lists with the seniority list of the APA. I do not believe that
12 Article I, Section 8.D prevents USAPA from pursuing and achieving this goal. It
13 certainly does not restrict the Merger Committee, the BPR or our membership to using a
14 strict date of hire list.

15 22. I believe that the two bargaining representatives – USAPA and APA – are
16 the only appropriate representatives in the seniority integration proceeding. I believe that
17 the two bargaining representatives can reach a fair and equitable agreement with respect
18 to an integrated seniority list that would be ratified by our pilots. I also believe that any
19 decision allowing the Plaintiffs in this case to participate separately as a full party in the
20 seniority integration proceeding will make such an agreement impossible. I say this
21 because the Plaintiffs are committed to a “Nic or nothing” approach. It is contained
22 within the charter of Leonidas LLC that their purpose is to defend the unmodified
23 Nicolau Award and not to negotiate. They have refused to move one iota from the
24 unmodified Nicolau Award. That position does not allow them any flexibility to
25 negotiate an agreement with APA on a fair and equitable resolution of seniority
26 integration. In fact, in reading the transcript in this case, I see that Plaintiffs' counsel has
27 taken the position that the purpose for which they seek to participate in the seniority
28

1 integration proceeding is solely to protect their asserted interest in the Nicolau Award and
2 not to otherwise represent the interests of the West Pilots.

3 23. In addition, I believe that allowing any group the right to separately
4 participate in the seniority integration proceeding makes an agreement much more
5 difficult and puts all of our pilots at a distinct disadvantage in dealing with APA by
6 splitting our strength and potentially pitting one group within our union against another.
7 This is just another attempt by US Airways to weaken USAPA and another way in which
8 they are discriminating against USAPA and in favor of APA.

9 24. USAPA can effectively represent all US Airways pilots. I have been and
10 have continually demonstrated my commitment to this goal. In particular, I believe that
11 the Merger Committee is completely capable of representing all US Airways pilots with
12 respect to obtaining the best possible result in discussions with APA and, if necessary, in
13 an arbitration proceeding should it become necessary. I have carefully considered the
14 appointments to the Merger Committee. It is comprised of representatives of East and
15 West domiciles in an equitable and proportional way. I have appointed pilots who are
16 highly knowledgeable and experienced, who take their profound responsibilities to their
17 fellow pilots very seriously. In sum, I believe the following :. First, separate
18 representation in seniority integration process is inconsistent with USAPA's status as the
19 exclusive bargaining representative. Second, separate representation will be counter-
20 productive and ultimately work a disadvantage to all US Airways' pilots. Third, the
21 pilots on the Merger Committee can and will represent the interest of all US Airways
22 pilots fairly.

23 25. The only disagreement that we have with the Plaintiffs is over the
24 unmodified Nicolau list. I and our other officers do not believe that award was fair and
25 equitable or that it complied with ALPA Merger Policy. I believe that the clear majority
26 of our pilots are of the same belief. But this is the only disagreement. We do not
27
28

1 disagree on representing all of our pilots fairly and pursuing their interests vigorously. If
2 the obstacle of the unmodified Nicolau Award is removed, I firmly believe we can all
3 work together through the Merger Committee and the BPR to represent our pilots.

4 26. I attended all of the roadshows concerning the MOU. Our pilots clearly
5 voted on the MOU with the understanding that the MOU was neutral with respect to
6 seniority and, in particular, that it did not trigger implementation of the Nicolau Award in
7 any way, shape or form. A decision that requires implementation of the Nicolau Award,
8 even if only as the starting point in the seniority integration proceeding that will follow
9 an approved merger, is absolutely inconsistent with that understanding and with the
10 agreement of the parties. Such a decision would require renegotiation of the MOU and a
11 new ratification vote in which the membership is accurately informed that the MOU will
12 trigger the Nicolau Award. This is exactly the result we sought to avoid.

14 27. Contrary to some testimony in this case, I, the other officers, the members
15 of the BPR and all of our Committee members are fully aware of the duty of fair
16 representation we have to all of our pilots. We believe in the democratic principle of
17 majority rule, but we understand that the majority cannot violate the DFR rights of our
18 pilots. We do not believe, however, that any of our pilots have a right to the unmodified
19 Nicolau Award which was something that came about under the policies that applied to
20 the Air Line Pilots Association which was replaced when USAPA was certified by the
21 National Mediation Board in 2008.

22 28. Other testimony in this case tries to portray me and the other officers as
23 cavalier with respect to various aspects of the decision issued by the Court in October
24 2012. Nothing could be further from the truth. I and the other officers fully understood
25 that we were to be guided by the decision and were to be careful with respect to how we
26 handled seniority in light of the Nicolau Award. We reached out to the West Pilots
27 through John Scherff, the PHX Domicile Chairman, and, through our counsel, to the
28

1 Addington parties, seeking serious and substantive discussions with respect to resolving
2 the issue. The response was "Nic or nothing." They refused, as they have at every point
3 in the past, to consider anything other than the unmodified Nicolau Award

4 29. Paragraph 10.h of the MOU has nothing to do with terminating the 2005
5 Transition Agreement. It simply makes clear that the parties have agreed to maintain the
6 status quo with respect to the two existing seniority lists until there is an integrated list for
7 all our pilots through the process set forth in paragraph 10 of the MOU. Termination of
8 the Transition Agreement is governed by paragraph 4 of the MOU which has the same
9 result as paragraph 2 of the first MOU. These provisions were proposed by US Airways
10 in the first MOU and by American and US Airways in the second MOU, not by USAPA.

11 Dated this 30th day of October, 2013.

12 
13 _____
14 GARY HUMMEL

15
16
17
18
19
20
21
22
23
24
25
26
27
28