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10 Attorneys for Intervenor
US Airways, Inc.

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 Don Addington; John Bostic; Mark
14 Burman; Afshin Iranpour; Roger Velez;
Steve Wargoeki; Michael J. Soha;
15 Rodney Albert Brackin; and George
Maliga, on behalf of themselves and all
16 similarly situated former America West
Pilots,

17 Plaintiffs,

18 vs.

19 US Airline Pilots Ass'n, an
unincorporated association,

20 Defendant.

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22 US Airways, Inc.

23 Intervenor.

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

**INTERVENOR US AIRWAYS, INC.'S
OPPOSITION TO USAPA'S MOTION
TO STRIKE**

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25 Defendant US Airline Pilots Association ("USAPA") seeks to strike Section III of
26 Intervenor US Airways, Inc.'s ("US Airways") Reply Brief in Support of its Motion For
27 Summary Judgment because in Section III US Airways purportedly argues for the first
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1 time that “[t]his dispute is about the relative ordering of the US Airways East and West
2 Pilots.” (Doc. No. 283 at 1:6-9 (quoting Doc. No. 277 at 6:8-9).) Contrary to USAPA’s
3 assertion, however, US Airways has argued throughout the course of this litigation,
4 including in its Motion For Summary Judgment, that, because the McCaskill-Bond
5 seniority-integration process following the US Airways-American merger will, by
6 necessity, finally integrate the East and West Pilots seniority lists, and because of the
7 long-standing dispute between the West Pilots and USAPA over whether the Nicolau
8 Award should be used to integrate those two seniority lists, McCaskill-Bond’s “fair and
9 equitable” standard mandates that the West Pilots be given an opportunity to separately
10 advance their view on the Nicolau Award in the upcoming McCaskill-Bond process.¹ The
11 Nicolau Award only deals with the relative ordering of US Airways pilots and, thus, the
12 dispute over whether the West Pilots may advocate separately for the Nicolau Award is
13 indisputably a dispute over the relative ordering of US Airways East and West Pilots.

14 There is nothing new about US Airways’ articulation of this basic point in its Reply
15 and USAPA’s Motion to Strike should therefore be denied.

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20 ¹ See US Airways’ Motion For Summary Judgment - Claim Regarding McCaskill-Bond Statute
21 (Doc. No. 212 at 1:22-24) (“Fairness and equity under the unique circumstances of this case require that
22 the West Pilots be permitted to fully participate with separate representation in the McCaskill-Bond
23 negotiation and arbitration process, thereby allowing the West Pilots’ argument regarding the Nicolau
24 Award to be presented for consideration by the McCaskill-Bond arbitration panel.”); *id.* at 6:24-7:2 (“If
25 the West Pilots are able to participate through separate representation of their own choosing in the
26 McCaskill-Bond seniority integration process, they will argue that the Nicolau Award should be the sole
27 basis to determine the relative seniority of US Airways (East and West) pilots.”); US Airways’ Post-
28 Hearing Supplemental Brief (Doc. No. 98) at 6:4-11 (“there are currently two separate seniority lists for
the US Airways East and West pilots, and, as a result, the McCaskill-Bond negotiation/arbitration process
will necessarily have to determine the relative seniority of East and West pilots as part of the overall
process of integrating the US Airways pilots with the American pilots. And . . . the West Pilots and East
Pilots . . . have strongly-held and sharply conflicting views on how their relative seniority should be
determined.”); US Airways’ Response To Plaintiffs’ And USAPA’s Post-Hearing Supplemental Briefs
(Doc. No. 110 at 7:20-23) (“Because integration of the ‘West’ seniority list and the ‘East’ seniority list
will effectively have to occur in order to achieve a single seniority list for all US Airways and American
pilots following the [merger], the East pilots and West pilots constitute distinct seniority interest groups.”).

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Respectfully submitted,

Dated: November 26, 2013.

For O'Melveny & Myers LLP

By: /s/ Robert A. Siegel

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CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2013, I caused to be electronically transmitted the attached Intervenor US Airways, Inc.'s Opposition to USAPA's Motion To Strike to the Clerk's office using the CM/ECF System for filing.

/s/ Robert A. Siegel

Robert A. Siegel

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