

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Case No.: 2:13-CV-00471-PHX-ROS

Addington et. al.,)
)
Plaintiffs,)
)
v.)
)
US Airline Pilots Ass’n, et. al,)
)
Defendants.)
)

DECLARATION OF JOHN OWENS IN OPPOSITION TO PLAINTIFFS’ MOTION FOR A PRELIMINARY INJUNCTION

JOHN OWENS, declares as follows under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am presently, and have been since October 10, 1989, a pilot employed by defendant US AIRWAYS, INC. (hereinafter “Company”).¹ I have been a commercial airline pilot for approximately 30 years. I also spent approximately seven years as a military pilot with the United States Air Force.

2. From October 10, 1990, to present, I have been, and continue to be, a member of the labor organization certified as the exclusive bargaining representative of US Airways pilots. From October 10, 1990, until April 2008, I was a member of the Air Line Pilots Association, International (hereinafter “ALPA”). In April 2008, defendant US AIRLINE PILOTS ASSOCIATION (hereinafter “USAPA”) replaced ALPA as the certified bargaining representative for US Airways pilots. From April 2008 to the present, I have been, and continue to be, a member of USAPA in good standing.

3. I am presently, and have been since May 2010, the Chairman of USAPA’s

¹ My employment has been continuous with the exception of two furloughs from 1991 to 2000, and from 2003 to 2007.

Business Intelligence Committee. In that capacity, my duties include, but are not limited to: providing USAPA leadership with “real time” industry business analysis, data, and strategic recommendations; collecting, analyzing, and coordinating critical business intelligence for USAPA leadership; liaising with USAPA leadership to serve as a focal point to ensure a steady flow of information, and act in a quality-control capacity, to ensure technical accuracy of USAPA business related plans and communications; supporting Committee Chairmen by providing related content and overall message strategy; assisting in the strategic planning of USAPA activities; and directly assisting and supporting the USAPA President in his mission to best represent the pilots of US Airways.

4. I am presently, and have been since July 2012, a member of USAPA’s Negotiating Advisory Committee (“NAC”). In that capacity, my duties include, but are not limited to: negotiating agreements for the pilots of US Airways; attending negotiating sessions; developing negotiating strategies and proposals/counterproposals based on the direction established by USAPA’s Board of Pilot Representatives (“BPR”); educating the Pilots on contractual proposals and elements, and assisting the NAC Chairman in coordinating with the Company, other parties to such negotiations, and other USAPA committees regarding procedural and substantive bargaining issues.

5. Two of the NAC’s members, Ken Holmes and Rocky Calveri are West pilots.

6. The BPR is USAPA’s governing body, and consists of elected representatives from each US Airways domicile (Philadelphia, Washington, D.C., Charlotte, and Phoenix).

7. I have personal knowledge of the facts set forth herein, and if called as a witness in this matter, could competently testify regarding same.

8. On or about April 18, 2012, USAPA learned of US Airways intention to pursue a merger with American Airlines, Inc. (“American”). This announcement included the fact that the Company had negotiated various conditional labor agreements

with the unions representing employees at American Airlines including the Allied Pilots Association (“APA”), which represents the pilots employed by American Airlines.

9. In April 2012, USAPA began requesting negotiations with the Company for an agreement that, in the event of a merger, would afford US Airways pilots the same benefits that US Airways had negotiated with APA for the American Airlines pilots.

10. The MOU is also “seniority-neutral,” that is, it does not make any changes to the current two-list seniority regime at US Airways, one for the former America West pilots and one for the former US Airways pilots. This ensures that discussions on the economic issues of a future agreement could occur without being hindered by an ongoing seniority dispute.

11. The MOU also provides that in the event a Plan of Reorganization (including a merger) was approved by the bankruptcy court, neither the MOU nor the future Joint Collective Bargaining Agreement would provide any basis for changing the existing two-list seniority system at US Airways except through the McCaskill-Bond process, which was required by federal law. The McCaskill Bond process governs seniority integration of merging airlines with different Union representation such as US Airways (USAPA) and American (APA)

12. After reviewing the proposed MOU, the BPR asked for a change in the MOU side letter between US Airways and USAPA. As negotiated, the MOU side letter provided that US Airways pilots would receive a retroactive wage adjustment based on the difference between the substantially higher American Airlines pay rates that would take affect at the POR and the current pay rates in affect at US Airways. As originally negotiated, this adjustment would begin when all of the regulatory approvals for the proposed merger had been obtained; a date estimated to be 1-2 months before the Plan of Reorganization was likely to be approved by the Bankruptcy Court. The BPR directed the NAC to request to have this adjustment changed to begin on the date of ratification of the MOU by US Airways pilots. The NAC presented the proposal to the parties on January 3, and on January 4, the UCC, American, and US Airways agreed to the

proposed change. Based on this change, the BPR voted unanimously to send the MOU out for pilot ratification with a BPR recommendation to approve.

13. During the negotiation and ratification periods, USAPA took numerous actions to fully inform the pilots regarding the content and effect of the MOU.

14. Throughout the negotiation and ratification periods, all NAC updates included the names, cellular phone numbers, and e-mail addresses for the members of the NAC. Pilots were encouraged to contact NAC members with any questions or concerns regarding the MOU.

15. On January 15, 2013, the NAC published an update to all pilots in good standing regarding the MOU, which included a summary of some of the significant terms therein, and a schedule of the upcoming roadshow presentations being held at each domicile.

16. The January 15, 2013 NAC Update also contained links to the actual text of the MOU and the conditional labor agreement (referred to therein as the “APA 2012 Contract”).

17. In or around January 16, 2013, USAPA published and mailed an analysis and explanation of the MOU to all pilots in good standing in a document entitled “Flight Plan to a Merger: What the Memorandum of Understanding Means to You.”

18. The NAC scheduled roadshow presentations regarding the MOU as follows:

| Base | Dates (Times) | Location |
|-------------|--|--|
| DCA | Thurs, Jan 17th (9-2) | Conference Center, Terminal A, ground floor, next to the lobby of the old terminal |
| | Thurs, Jan 17th (2-5) Fri, Jan 18th (9-1) | Room 264 in terminal A |
| CLT | Mon, Jan 21st (4 PM) | USAPA Headquarters |
| | Tue, Jan 22nd (9-5) | Auditorium, above the Food Court |
| | Wed, Jan 23rd (9-4) | |
| PHX | Thurs, Jan 24th (9-5) Fri, Jan 25th (9-1) | International Concourse, Meeting Room next to British Airways Club, above B23 |
| | Mon, Jan 28th (9-5) Tue, Jan 29th (9-4) | Airport Tour Room, inside security, between concourses C&D, near Au Bon Pain |

19. At each Roadshow, the pilots were told that the MOU was neutral with respect to seniority and, in particular, that voting for the MOU would not result in implementing the Nicolau Award.

20. The ballots in the ratification referendum were counted on February 8, 2013. A true and correct copy of the published results of the balloting is annexed hereto as Exhibit "A."

21. On or about February 13, 2013, the Company and American entered into an Agreement and Plan of Merger ("Merger Agreement").

22. On or about February 22, 2013, the Company and American filed a joint motion in the AMR bankruptcy proceeding seeking approval of the Merger Agreement.

23. On or about March 27, 2013, the Bankruptcy Court approved the vast majority of the Merger Agreement.

24. On or about April 15, 2013, the Company and American filed a joint Plan of Reorganization in the AMR bankruptcy proceeding seeking approval of AMR's emergence from bankruptcy. A hearing to set forth the procedures for approving the Plan of Reorganization is scheduled for June 4, 2013 before the Bankruptcy Court.

25. The POR asks the Bankruptcy Court to schedule a hearing to approve the POR on August 15, 2013.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct

Executed this 26th day of April, 2013.



JOHN OWENS