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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 GARY
HUMMEL IN OPPOSITION TO
PLAINTIFFS’ MOTION FOR A
PRELIMINARY INJUNCTION**

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

1. I am presently, and have been since September 19th, 1984, a pilot employed by defendant US AIRWAYS, INC. (hereinafter “Company”).

2. From September 19, 1984 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 September 19, 1985 until April 2008, I was a member of the Air Line Pilots Association, International (hereinafter “ALPA”). In or around 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 have been President of USAPA since April 18, 2012. Prior to serving as President, I was the Executive Vice President of USAPA from July 2010 until April 2012. I also served as Chairman of the Training Committee for USAPA prior to becoming Executive Vice President.

1
2 4. As President of USAPA, I have personal knowledge of the facts set forth
3 herein, and if called as a witness in this matter, could competently testify regarding same.

4 5. When I took office in April 2012, the former US Airways East pilots were
5 working under a collective bargaining agreement that was originally negotiated in 1998
6 and had been amended by several subsequent Letters of Agreement. As a result, East
7 pilots have had only pay cuts and no pay increases since 2002 and continued to fall
8 farther and farther behind the industry average. As of August 2011, East pilots flying as
9 captains on A319/A320 aircraft earned only 79% of the industry average for pilots flying
10 comparable aircraft at other airlines. Former America West pilots were flying under a
11 collective bargaining agreement negotiated in December 2003, had not had any wage
12 increase since 2006 and continued to fall farther behind the industry average for
13 comparable aircraft. As of August 2011, West pilots flying A319/A320 aircraft were
14 paid only 90% of what pilots flying comparable aircraft at other airlines were paid. The
15 stagnant wages originally resulted from the fact that the ALPA Merger Policy that was in
16 effect at the time of the merger between US Airways and America West (before USAPA
17 became the certified bargaining representative) provided that a new comprehensive
18 collective bargaining agreement for the consolidated pilot craft would be negotiated only
19 **after** seniority was integrated and later from the fact that US Airways was unwilling to
20 negotiate a new collective bargaining agreement until the seniority dispute was settled.
21 The stagnant wages continued because the Company used the seniority dispute between
22 the East and West pilots as an excuse to refuse to negotiate a new contract with industry
23 average wages.

24 6. Given the long period during which our pilots received no wage increases
25 and the problem created by the process under ALPA Merger Policy practice of
26 integrating seniority first followed by the negotiation of collective bargaining agreement,
27 USAPA made a deliberate decision to separate seniority from economics in negotiating
28 the Memorandum of Understanding that would determine wages and benefits following a
merger between US Airways and American Airlines.

1
2 7. On October 11, 2012, this Court issued its decision in the Declaratory
3 Judgment case (*US Airways Inc. vs. Addington, et al.*, No. CV-10-01570-PHX-ROS).

4 8. By letter dated October 12, 2012, I wrote to Captain John Scherff, the
5 Phoenix Domicile Chairman for the USAPA Board of Pilot Representatives, requesting
6 that the East and West representatives of USAPA arrange a meeting to sit down and
7 attempt to work together towards an acceptable seniority integration proposal.

8 9. By letter dated October 16, 2012, Captain Scherff responded to me,
9 essentially stating that the position directed by the former America West pilots (West
10 Pilots) was “Nicolau-or-nothing.” He did not directly respond to my request for an actual
11 meeting to discuss this issue further.

12 10. By letter dated October 12, 2012, Marty Harper, counsel for the West pilots
13 in the dismissed declaratory judgment action, wrote to Patrick Szymanski, USAPA’s
14 merger counsel, regarding the October 11, 2012 decision referenced in paragraph 7
15 above.

16 11. By letter dated October 15, 2012, Mr. Szymanski responded to Mr.
17 Harper’s October 12, 2012 letter, requesting that the West pilots agree to sit down with
18 USAPA officials in order to have good faith discussions about USAPA’s potential
19 seniority proposal in McCaskill-Bond proceedings.

20 12. By letter dated October 17, 2012, Mr. Harper replied to Mr. Szymanski’s
21 October 15, 2012 letter, stating that his clients indicated the same “Nicolau-or-nothing”
22 position as stated by Captain Scherff, and advising that his “clients will have no part” of
23 sitting down and negotiating with USAPA over the potential seniority proposal in
24 McCaskill-Bond proceedings.

25 13. In preparing for negotiations regarding the MOU, USAPA did not want to
26 repeat the mistakes made during the America West merger with US Airways. Our pilots
27 had gone too long without reasonable wage and working condition increases, and
28 continued to fall farther and farther from the industry average. It was time for our pilots
to end the era of bankruptcy contracts and the issue of seniority should not be allowed to

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stand in the way. As a result, the Memorandum of Understanding (MOU) provides that US Airways pilots be equal with the American pilots AND be neutral with respect to the seniority, leaving the issue of seniority integration to the McCaskill-Bond process as required by federal law in mergers between organizations with different Union representation such as US Airways and American Airlines. These provisions of the MOU had the unanimous support of the Board of Pilot Representatives that represents all former US Airways East pilot domiciles (Charlotte, Washington DC, and Philadelphia) and from the domicile that includes all former America West pilots (Phoenix). The US Airways Pilots ratified the MOU by over 75% voting yes. Of the 1041 West pilots that voted, 1017 voted to approve the MOU, and 24 voted to oppose it.

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.



GARY HUMMEL