

EXHIBIT B TO

AMR CORPORATION AND

AMERICAN AIRLINES, INC.’S

APPLICATION TO INTERVENE

EXHIBIT A

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April 3, 2013

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B E F O R E :

HON SEAN H. LANE

U.S. BANKRUPTCY JUDGE

1 Hearing re: Adversary proceeding 13-01282-sh1 - Status
2 Conference

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4 Hearing re: Adversary proceeding 13-01283-sh1 - Status
5 Conference

6
7 Hearing re: Doc. #7194 Supplemental Motion to
8 Authorize/Supplemental Application of Debtors Pursuant to 11
9 U.S.C. 327(e) and Fed. R. Bankr. P. 2014(a) for Authority to
10 Expand the Employment and Retention of Sheppard Mullin
11 Richter & Hampton LLP as Special Counsel to the Debtors on
12 Certain Additional Matters Nunc Pro Tunc to January 29, 2013
13 (related document(s)2707)

14
15 Hearing re: Doc. #7072 Motion to Approve/Motion of Debtors
16 for Entry of Order Pursuant to 11 U.S.C. 105(a) and 365(a),
17 Fed. R. Bankr. P. 9019(a) and 6006, and LBR 6006-1 (I)
18 Approving Stipulation by and Among Debtors, the Bank of New
19 York Mellon, as Trustee for Various Issues of Bonds, and the
20 New York City Industrial Development Authority and (II)
21 Authorizing Assumption, as Modified, of Certain Unexpired
22 Leases of Nonresidential Real Property Related Thereto

23
24 Hearing re: Doc. #7094 Motion to Authorize/Motion for an
25 Order Pursuant to 11 U.S.C. 107(b) and Fed. R. Bankr. P.

1 9018 Authorizing the Filing of Certain Information Under
2 Seal in Connection with Motion of Debtors for Order Pursuant
3 to 11 U.S.C. 363 and Fed. R. Bankr. P. 6004 Authorizing
4 Debtors to Enter into Sale Leaseback Transaction with Next
5 General Aircraft Purchase Limited and AerCap Ireland Limited
6 for up to Eleven Boeing 737-823 Aircraft
7
8 Hearing re: Doc. #7096 Motion to Authorize/Motion of
9 Debtors for Order to 11 U.S.C. 363 and Fed. R. Bankr. P.
10 6004 Authorizing Debtors to Enter into Sale Leaseback
11 Transactions with Next Generation Aircraft Purchase Limited
12 and AerCap Ireland Limited for up to Eleven Boeing 737-823
13 Aircraft
14
15 Hearing re: Doc. #7188 Motion Approve/Motion of Debtors for
16 Order Pursuant to 11 U.S.C. 105(a) and Fed. R. Bankr. P.
17 9019(a) Approving Settlement Agreement with Respect to
18 N643AA
19
20 Hearing re: Doc. #7191 Motion to Seal/Motion for an Order
21 Pursuant to 11 U.S.C. 107(b) and Fed. R. Bankr. P. 9018
22 Authorizing the Filing of Certain Information Under Seal in
23 Connection with Motion of Debtors for Order Pursuant to 11
24 U.S.C. 105(a) and Fed. R. Bankr. P. 9019(a) Approving
25 Settlement Agreement with Respect to N643AA

1 Transcribed by: Dawn South

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P R O C E E D I N G S

THE COURT: Good morning, please be seated.

All right, we're here this morning for the 26th omnibus hearing in AMR Corporation, et al.

MR. PEREZ: Good morning, Your Honor, Alfredo Perez on behalf of the debtors.

The first two matters are status conferences. The first one is US Airline Pilots Association versus Leonidas.

THE COURT: All right. So who would like to give me an update on where things stand?

I know from looking at the complaint that this is an action to enjoin plaintiffs who filed an action to enjoin American as to the merger, and I know that this relates to the merger between I guess it's 2000 between US Airways and America West. So I was unclear in the procedural morass what the next appropriate steps would be.

MR. PEREZ: It's --

MR. MACLAY: Your Honor, this is Kevin Maclay speaking.

We filed the complaint on behalf of USAPA, which is US Airways Pilots Union.

THE COURT: Yes.

MR. MACLAY: The underlying dispute between Leonidas and certain pilots and USAPA is a seniority dispute involving pilots much like the one that you have next in

1 Krakowski matter.

2 THE COURT: Right.

3 MR. MACLAY: The underlying fact pattern is that
4 Leonidas is attempting to enforce with respect to the merger
5 pending before this Court an arbitration award, the so-
6 called nicolau award --

7 THE COURT: Right.

8 MR. MACLAY: -- from 2007 which was arrived at by
9 a previous union that no longer represents pilots at US
10 Airways with respect to a previous merger.

11 One key question in that underlying action is
12 whether the nicolau award is relevant to the current merger
13 that's taking place obviously under the (indiscernible -
14 00:01:59) of your court, which is why yesterday we filed the
15 motion to transfer that underlying action to New York.

16 With respect to this matter, the stay enforcement
17 matter, we have filed an amended complaint as of last
18 Thursday, we will be filing a preliminary injunction
19 shortly.

20 We have a scheduled pretrial conference on May
21 9th, and so we intend to have a Rule 26 meet and confer
22 conference by April 15th so that we can move forward with
23 the matter.

24 And that's essentially where things stand right
25 now, Your Honor.

1 MR. HARPER: Your Honor, this is Marty Harper,
2 Polsinelli firm and I'm in my Phoenix office, we represent
3 Leonidas, the defendant, and we also represent the
4 individual defendants in the first amended complaint.

5 As a fundamental matter, Your Honor, I need to
6 point out that the litigation pending in Federal District
7 Court in Arizona does not seek to enjoin the American merger
8 at all. It is a piece of litigation that has to do with
9 seniority litigation under the memorandum of understanding
10 which does not become effective until after the plan of
11 reorganization becomes final, hopefully later this year.

12 So there is no impact on the American merger going
13 forward as a result of the pending litigation in District
14 Court in Phoenix.

15 This is a third cause of action that has been in
16 the Federal District Court between the pilots and US Airway,
17 since 2008.

18 In the litigation pending out here American is not
19 a party, APA is not a party.

20 What is happening is a hybrid litigation mostly
21 against USAPA on a DFR coming out of mostly the 2008 nicolau
22 award -- arbitration award.

23 Your Honor, we are prepared to file a motion to
24 dismiss the action that is in front of you. With your
25 permission we would like to go forward and do that. We had

1 it prepared when we called in to get a date for the argument
2 and we were told to hold off doing that until we had this
3 status conference today.

4 MR. MACLAY: Your Honor, could I respond on behalf
5 of USAPA?

6 THE COURT: All right. Well let -- before you do
7 that and before I get into sort of the second bites at the
8 apple let me hear from somebody who's in the courtroom on
9 behalf of the debtors so I can get all interested parties
10 take first and then we'll circle back around and I'll hear
11 whatever else anybody else wants to say.

12 MR. MOLLEN: Thank you, Your Honor, Neal Mollen
13 for the debtors.

14 The litigation in Arizona is a dispute between two
15 groups of employees who work for a different company.
16 American has no position on the merits of that controversy.

17 Our interest in that controversy is limited. It's
18 exclusively and seen to it that that matter is resolved on
19 the merits in a timely way so that the parties can proceed
20 without any hindrance with the seniority integration process
21 that would need to take place in order to effectuate the
22 merger that we are all hoping to effectuate.

23 THE COURT: All right. Although given the things
24 that I've seen in this case that relate to seniority
25 integration the word "expedited" is not perhaps an

1 appropriate adjective, but be that as it may --

2 MR. MOLLEN: Your Honor has become far too
3 experienced and particularly in pilot matters in the airline
4 industry.

5 No, you're quite right, Your Honor, and that's
6 really our only concern.

7 In our view this case doesn't belong in the AMR
8 bankruptcy, it doesn't involve American, it doesn't involve
9 American employees. We're a stranger to that dispute.
10 We're looking at it from afar hoping that the parties to the
11 Arizona litigation can figure out some sort of way to get an
12 expedited result that everybody can live with so that when
13 we get to the point where there's a seniority integration
14 process as contemplated by the memorandum of understanding
15 that the parties have entered into, we can do that without
16 any hindrance.

17 I'm relieved to hear this morning from Mr. Harper,
18 and it's something that he's said before, that he intends
19 for that Arizona litigation to have no impact on the merger
20 going forward.

21 We're comforted by that to a degree, Your Honor.
22 The prayer for relief out in Arizona though says essentially
23 that we don't want to hinder the seniority integration
24 process and the merger from going forward as long as
25 everybody agrees that we're right on the merits of our DFR

1 claim before we get there.

2 In our view there is no eminent threat of
3 irreparable harm to anybody. This case ought to be
4 dismissed, it ought to be off of your docket.

5 Our only reservation, Your Honor, is that if we
6 are unable -- the parties are unable, and American is
7 willing to do anything it can to support a result -- an
8 expedited result before we get there -- if we get to the
9 point where the parties are on the precipus of engaging in
10 that seniority integration process and any relief coming out
11 of the Arizona court threatens to interfere with Your
12 Honor's jurisdiction we may end up back before Your Honor
13 asking for some relief to protect the Court's jurisdiction
14 and the ability of the parties to effectuate the agreement
15 that they've reached.

16 But we're not there yet, Your Honor, and I think
17 in our view the Arizona litigation ought to go forward
18 unhindered and the parties ought to get to an answer and
19 then we can all go forward with the memorandum of
20 understanding.

21 THE COURT: All right. Before I hear from the
22 other folks on the phone who wish to be heard let me share
23 my take on this.

24 Parties could spend a lot of time and money filing
25 various motions in this court that I don't know will really

1 advance the ball. There'll be a fight about forum and
2 procedures rather than delving into the underlying merits.

3 There was no one who appeared on behalf of the
4 these parties on the merger motion and the merger hearing
5 that we had last week, so it would seem that to the extent
6 that someone wanted to object to that I'm sure they were
7 aware of it, it was very hard to not be aware that that
8 motion was going to be heard, that that ship has sailed.

9 So I will take at face value the statement that no
10 one has an interest in interfering with the merger, because
11 I suspect if they did they would have been here to announce
12 their presence with authority.

13 So that said, I would think that the parties could
14 come up with some sort of stipulation to put a pin in any
15 activity, so to speak, that would have to be done in this
16 court until it's necessary, if it ever becomes necessary,
17 and then find the appropriate forum to litigate their
18 dispute, which sounds like is Arizona, but again, I don't
19 have any motion to transfer venue or do anything in
20 connection with that. But just thinking off the top of my
21 head I don't have either of those parties in my courtroom.

22 There are some seniority issues from prior mergers
23 or purchases of airlines that I may have no choice but to
24 get involved then because those parties have been much more
25 actively involved in this case and they're involved in

1 American, that is the debtors. But for a party who's going
2 to be a part of the merger but who's not a debtor I have
3 trouble really seeing why -- and that coupled with the fact
4 that there's a statement that there's no desire to interfere
5 with their merger why these matters would be in front of me
6 now.

7 I think we could find some procedural way to
8 either stay this or dismiss something without prejudice to
9 reasserting and perhaps we could all set a date in the
10 future that we think would be an appropriate time to revisit
11 any issues.

12 But I would think it's in the parties' best
13 interest to get these matters resolved promptly, because if
14 you're litigating in a court and getting that court up to
15 speed on the merits of the issues it's best for that court
16 to decide the issues rather than have to run back in here to
17 me and then all of a sudden go from 0 to 60 immediately.

18 So I can understand why parties have filed things
19 in this case perhaps concerned of that 0 to 60 problem, but
20 I don't think right now I have any basis in law and
21 certainly even less basis in common sense for me to delve
22 into these particular disputes.

23 MR. MOLLEN: Our view, Your Honor, is that
24 dismissal without prejudice is precisely the right course to
25 take leaving open the opportunity for any party who believes

1 that actions being taken elsewhere are threatening to
2 interfere with this Court's work could return to Your Honor.
3 There's absolutely no reason why this case should be on your
4 docket.

5 The prayer for relief in this case asks to enjoin
6 the litigation in Arizona in toto, to stop it in its tracks
7 and to prevent the court out there from reaching the merits
8 of the seniority integration dispute, and we think that
9 that's counterproductive for everybody.

10 THE COURT: Well, it sounds like somebody is going
11 to have to reach the merits of that. So if you're going to
12 enjoin that court from doing it I question where should it
13 be, and I suppose some would say the answer should be here,
14 but I don't see a basis for me to be -- to be that person
15 looking at that dispute right now. I don't see -- without a
16 debtor it's a fairly slender read to have me be the party
17 that's going to look at that right now.

18 So let me hear from the folks on the phone. I do
19 think there's probably a stipulation here that would be
20 appropriate just to make it very clear that there's no
21 desire to interfere with the merger just so that can be
22 clear. I know the statement was made and it seems that
23 everybody agrees that that's the position, but I think it's
24 probably just so everyone can sleep at night a stipulation
25 might make sense.

1 Mr. -- I see Mr. Butler from the committee rising
2 so let me hear first from him and then I'll hear from folks
3 on the phone.

4 MR. BUTLER: Thanks. Your Honor, Jack Butler from
5 Skadden on behalf of the committee.

6 The committee has -- and my partner John Furfaro
7 is here, we're both active as you know with the debtors and
8 the US Airways and the labor transition working group in
9 connection with the merger. We spent a lot of time looking
10 at this, and the committee actually voted to intervene in
11 this matter, and we'll either seek that stipulation or if a
12 dismissal works out we won't need to right now.

13 We have much the same view as the committee that
14 Mr. Mollen expressed on behalf of American, except perhaps a
15 heightened concern in two areas.

16 One, there has been a flurry of communication
17 outside of this courtroom in the form of press releases and
18 letters and revised statements and pleadings in Arizona
19 which if you take a conservative read you could say it walks
20 like a duck and quacks like a duck and people are saying,
21 well, I'm really not a duck, and my talking about the duck
22 here I'm talking about trying to interfere with this merger.

23 THE COURT: Right. Well, that's why I think a
24 stipulation would be appropriate, because that's an
25 important question and there can be no ambiguity about it if

1 the case here is going to be dismissed.

2 Again, I'll go by what I heard here this morning
3 on the phone that there's no desire to interfere with that
4 and that seems to be the debtor's understanding as well
5 based on communications with the parties. But it can't be
6 unclear, that's no favor to any of the parties or to the
7 court in Arizona or to me, because uncertainty is a very bad
8 thing.

9 MR. BUTLER: Right. And the second piece, Your
10 Honor, is -- and we're not parties in nor will we become
11 parties in the Arizona litigation, but in reading some of
12 those papers and understanding the posture of those cases
13 there appears to us to be some debate in Arizona about
14 whether some of those matters are ripe for decision or not
15 ripe for decision in Arizona and the procedural posture of
16 that case, vis-à-vis some prior decisions and appeals and so
17 forth, and our view from the committee is that these matters
18 need to get resolved on -- I guess I'll use that word again
19 -- on an expedited basis -- however dangerous that word is
20 -- but we think that's important.

21 And we would -- you know, sometimes all these
22 procedural things mask communication, and to the extent that
23 there could be -- you know, if we're able to structure a
24 proposed stipulation order for Your Honor to consider some
25 finding in the order that would point out and help at least

1 inform the District Court out there that there is a view
2 that actually this is important and ripe.

3 I think the -- I think the court could actually --
4 my sense is that court could actually find useful of you
5 that it's time to get this decided, because people can make
6 the argument that -- and just looking at that litigation,
7 that you know, until MOUs become effective and the plan
8 becomes effective that maybe it's not ripe for decision, and
9 in fact it is. And so we rise on that point as well.

10 THE COURT: Well, it's a precondition to the
11 integration that's contemplated by this merger.

12 MR. BUTLER: Right.

13 THE COURT: You have to figure out what the rights
14 are within that airline first.

15 MR. BUTLER: Right. And therefore we think
16 actually to have some clarity, you know, in whatever is
17 issued by this Court that it would be, you know, helpful or
18 would further the work of this Court and the work in this
19 case for that case to be decided might in fact help people
20 get beyond the ripeness issue and that court get beyond the
21 ripeness issue. Obviously, you know, (indiscernible -
22 00:16:14) doesn't bind that court but it would -- it might
23 be helpful.

24 I've seen in similar situations where you get this
25 cross -- you know, cross court and jurisdictional issue

1 that, you know, you get lost in the procedure and you don't
2 get to the substance, and that's the committee's concern,
3 Your Honor.

4 THE COURT: All right. Well, that's an
5 understandable concern, and I did note that there was --
6 notice that there was a Ninth Circuit proceedings and the
7 District Court, so there's a lot going on, which also
8 counsels extreme caution for my involvement, because more is
9 not better, it can be -- it can be worse when it comes to
10 multiple litigations. And I don't know what the appropriate
11 vehicle is for moving that case forward if there's still a
12 jurisdiction in the Ninth Circuit in Arizona in some
13 administrative body. But I think it's clear that the issue
14 should be resolved as quickly as it can.

15 So I think that that's a fairly straightforward
16 and probably uncontrovertible position that I'm happy to
17 memorialize if we get to a stipulation or if there is an
18 order that would be a short order of a page or two that'd be
19 appropriate to enter approving a stipulation just to make it
20 come from the Court. And I'm not telling anybody what to
21 do, I want to make that very clear. Each court has its own
22 responsibilities and I'm -- as do I.

23 But to the extent that any guidance in terms of
24 what the thinking is as to the merger that's in front of
25 this Court I'd be happy to provide a window into what's

1 going on here if that's of assistance to courts that do
2 properly have the other dispute in front of it.

3 MR. BUTLER: Thank you, Your Honor.

4 THE COURT: All right. So let me hear from the
5 folks on the phone as to your thoughts about the
6 conversation we just had.

7 MR. MACLAY: Your Honor, this is Kevin Maclay
8 speaking on behalf of USAPA.

9 First of all, I would just like to reiterate for
10 Your Honor that there's a pending motion to transfer that's
11 been filed in the Arizona District Court, and the issue of
12 whether or not transfer is appropriate will be heard at
13 least in the first instance in that court. And so --

14 THE COURT: Well, but let me just tell you though,
15 I certainly would have a say in whether I have appropriate
16 jurisdiction to consider a matter that doesn't involve a
17 debtor or a creditor.

18 Again, there may be a time when I do have
19 jurisdiction, but I will tell you, I certainly am not going
20 to be agnostic and say, well, whatever somebody tells me I'm
21 supposed to do. That's not how it works.

22 So I'm just telling you that I have concerns given
23 what the debtors have told me about their views of the case
24 exercising jurisdiction. And my experience is that debtors
25 in bankruptcy are not shy about invoking a Bankruptcy

1 Court's jurisdiction where they think it's appropriate and
2 necessary to preserve is value of the estate.

3 And I can certainly see -- and again, I think I
4 said this -- I don't begrudge you for filing something here
5 because there's a lot of uncertainty in connection with this
6 issue and the merger and timing, but what I am telling you
7 is sort of taking this apart piece by piece.

8 Right now I do have a view about whether it should
9 be in front of me, and I will tell you that view is that it
10 should not. If it -- there comes a time when it is
11 unavoidable that the issue has to be in front of me I think
12 one, that would be a pity really because there will have
13 been courts that have spent a significant amount of time on
14 the issue -- on the merits of the issue and I would be the
15 last person to the party, but it might be inevitable just in
16 order to preserve the value of the debtor's bankruptcy
17 estate and have the merger go forward as appropriate. But
18 I'm not simply going to sign off on what a party's views are
19 as to transfer.

20 I understand why you filed that motion, that's
21 fine, but I am giving you my two cents for what it's worth
22 to the District Court in Arizona.

23 MR. MACLAY: Thank you, Your Honor. And I didn't
24 mean to suggest the contrary, I was just helping to
25 illustrate the procedural posture so it was clear to

1 everyone in the courtroom.

2 And one of the things I wanted to mention is
3 obviously either of the DFR proceeding in Arizona is going
4 to be litigated in Arizona or it's going to be litigated in
5 New York. And I've heard people say today in the courtroom
6 that people in the courtroom want to have a say essentially
7 in how the Arizona litigation proceeds.

8 I guess from my perspective, Your Honor, if people
9 with respect to the merger think how the Arizona action
10 proceeds that seems to be a logical reason why in fact it
11 should be in New York potentially, although I'm not asking
12 you to rule at this time on that, Your Honor, but just --

13 THE COURT: Well, I understood the comments are
14 really one of timing, not of substance, that people are
15 agnostic about the result because it's not their fight, not
16 that they don't think it's an important issue, obviously
17 everyone thinks it's an important issue, but that their
18 concern I understand is one of timing. So -- which is
19 slightly different, and I suppose if need be, you know,
20 American's attorneys would show up in Arizona to express
21 that exact feeling again wrapped in a view that they're
22 agnostic on the merits.

23 So I don't know that that mandates or even
24 suggests that these issues and that case be resolved on the
25 merits here.

1 MR. MACLAY: Understood, Your Honor. And two
2 final points.

3 One is the chronology here was Leonidas and
4 apparently certain of its affiliated pilots had actually
5 expressly in writing threatened to enjoin this merger.
6 After that explicit threat we filed our original complaint
7 in this matter and then Leonidas and its pilots changes
8 their position. And then enunciated that they did not
9 intend to enjoin the merger. So just --

10 THE COURT: No, I -- again, I think I'll say this
11 for the third and last time. I don't begrudge the filing, I
12 think I understand the different reasons that this may have
13 been filed here, and I do think it is important that any
14 stipulation that addresses this complaint and either stays
15 it or dismisses it without prejudice, which I think is
16 probably the better course of action, explicitly address the
17 issue of the merger. And again, I didn't see these parties
18 in front of me on the merger, so I will take that as a
19 significant fact and evidence of the sincerity of their
20 current position that they don't have a view about the
21 merger.

22 So let me just cut to the quick then. Is there a
23 reason why or would you be willing to dismiss this action
24 without prejudice to have this matter go forward in Arizona?

25 MR. MACLAY: Yes, Your Honor. Yes, I would, I

1 think that's an excellent idea. The devil is in the details
2 obviously with respect to the stipulation, so we would be
3 very interested in what the stipulation says, because the
4 actual prayer for relief in the Arizona action asks for an
5 injunction that would preclude the integration of the pilot
6 unions absent enforcement of the nicolau award. And even
7 though I agree with the debtors that's a little ways off in
8 the future.

9 If they were to get such an injunction that would
10 clearly have the effect of precluding enforcement of the MOU
11 which is a component of their merger agreement to which no
12 one in your court has objected, at least not these parties.

13 THE COURT: Well, my general view is that I can't
14 litigate possibilities. It's a very impossible world to
15 live in. I have enough work to do litigating actual
16 controversies. There may be other steps down the road as to
17 what happens or doesn't happen and what a ruling means or
18 doesn't mean, but I can't deal with that in the abstract.

19 I certainly will trust interested parties in the
20 Bankruptcy Court to -- including yourself -- to red flag the
21 time when a failure to have a decision or the results of a
22 decision become a real issue. But that again is separate
23 from the integration dispute arising out of that, I believe
24 it's a 2000 merger, and the 2007 arbitration award.

25 So I do think that the stipulation is something

1 that needs to be crafted appropriately by the parties to
2 make clear that the merger is not an issue, and I will leave
3 to people who are much more in the weeds what else it should
4 say, although I think the idea of providing a context for
5 the timing of what's in front of this Court would be
6 probably viewed with some gratitude by the courts that have
7 to deal with that case.

8 MR. MOLLEN: Your Honor, Neal Mollen for the
9 debtors.

10 We will volunteer to prepare a stipulation and
11 work with the parties and with the committee to reach an
12 acceptable form and get something in front of Your Honor as
13 soon as possible.

14 THE COURT: All right. And it may be that there's
15 -- it's appropriate for me to issue a short order to
16 accompany the stipulation. I'll leave that to the parties
17 if the parties think that is helpful. Again, I'm not going
18 to tell another court what they should be doing, but to the
19 extent that they are seeking guidance that they can't get
20 from this transcript I'm happy to do that.

21 MR. MOLLEN: Thanks, Your Honor.

22 THE COURT: So anybody else on the phone want to
23 comment?

24 MR. HARPER: Your Honor, Marty Harper just to wrap
25 up. I appreciate your comments today.

1 Just so the Court clearly understands, Leonidas,
2 the individual attendants, and the (indiscernible -
3 00:26:19) class, which is the plaintiff in the pending
4 matter in Arizona, is in full accord with the comments that
5 were made by Mr. Mollen on behalf of the debtor, by the
6 counsel for the creditors on the creditors' committee that
7 west pilots out here are only seeking to try to move this
8 matter along with respect to the pilot integration as
9 quickly as we can move it along, and absolutely no intent to
10 do anything that might interfere with the merger between
11 American and US Airways going final.

12 THE COURT: All right. Let me ask you one
13 question about the status of the merits of that case in
14 light of things going up to the Ninth Circuit and then
15 coming back down.

16 Where do things stand and what's the road just
17 from an FYI point of view to getting from where you are now
18 to a conclusion on the merits?

19 MR. HARPER: Your Honor, we -- at the first part
20 of March we filed a -- well, a hybrid action against US
21 Airways and USAPA out here early part of March, it was
22 assigned to the Federal District court judge. We filed a
23 motion to transfer it to one of the two judges that has
24 experience in this from the prior litigation and we filed
25 our motion for a preliminary injunction.

1 Then what happened is USAPA has tried to slow that
2 down as a result of what was pending in front of Your Honor.
3 But if we can clear the decks back in New York then perhaps
4 we can start this process going as quickly as we can out
5 here.

6 I understand that airways is going to be
7 responding to the complaint tomorrow. We still need to then
8 have an answer or some sort of responsive pleading from
9 USAPA.

10 THE COURT: All right. And it sounds like no one
11 in the Arizona litigation disputes the proposition that it
12 is important to get a timely answer as quickly as possible,
13 that is to the merits of that litigation, both for the
14 parties -- those parties to be able to put the matter behind
15 them and also that everyone understands that that issue
16 needs to be resolved before integration in this merger would
17 be addressed.

18 MR. HARPER: Your Honor, from the defendant's
19 point of view we fully embrace the comment you have made.
20 We have an observation that USAPA is not interested in
21 moving the integration issue --

22 THE COURT: Well, I don't want to get -- I don't
23 want to start calling names, everyone has been so civil up
24 to this point and I don't think it'll help.

25 So -- but let me just from your point of view you

1 don't have a quarrel with any of that -- those propositions?

2 MR. HARPER: None whatever.

3 THE COURT: All right. Let me hear from USAPA.

4 Is that -- assuming that this matter is dismissed without
5 prejudice and the matter is in front of the District Court
6 in Arizona do you have any quibble with moving forward with
7 that case with all deliberate speed?

8 MR. MACLAY: Well, Your Honor, I'm a bankruptcy
9 attorney, so I'm not directly involved in the Arizona
10 action. I don't have any quibble with the general concept
11 that if things are ripe and if the legal issues are
12 appropriate it should move forward, but I'm not in a
13 position to make any representations one way or the other at
14 this time.

15 THE COURT: All right. But there were a lot of
16 caveats in that.

17 (Laughter)

18 THE COURT: I don't know what you -- what's the
19 ripeness question? Certainly there is a live dispute about
20 seniority as a result of that merger. I would think after
21 13 years I guess one would think it's ripe for decision. Is
22 that a question about whether the Ninth Circuit still has
23 some pending issues in front of it or what's -- if you can
24 tell me what the thinking is on the ripeness question.

25 MR. MACLAY: Well, I can tell you, Your Honor,

1 that the Ninth Circuit has ruled that the matter isn't ripe
2 and that there hasn't been any reevaluation of that decision
3 as of this time. There's a pending appeal in front of the
4 Ninth Circuit which both US Airways and the Leonidas group
5 have sought to extend as opposed to accelerate. We moved to
6 accelerate the deadlines and they opposed that and asked for
7 more time.

8 THE COURT: All right. Again, I don't want to
9 start getting into casting aspersions, I think that is the
10 enemy to actually making progress in procedural matters.

11 MR. MACLAY: Sure.

12 THE COURT: So I have not read the Ninth Circuit
13 decision, I have read the complaint and other parties'
14 explanations of what was going on in the Ninth Circuit and I
15 left that with a little bit of confusion.

16 Is the notion that it should be in another forum,
17 what exactly is the question? And I see Mr. Mollen rising
18 to address that issue.

19 MR. MOLLEN: Your Honor, as I understand it what
20 the Ninth Circuit said is we can't determine whether the
21 union breached its duty of fair representation until there's
22 a negotiated agreement using a list, because if they use a
23 list other than nicolau but some other features of the
24 agreement show that the pilots who might have preferred
25 nicolau got value there may not be a breach of the duty of

1 fair representation. There was a suggestion --

2 THE COURT: All right.

3 MR. MOLLEN: -- that unless such --

4 THE COURT: There needs to be a decision as to
5 what the integration is going to be by the union.

6 MR. MOLLEN: Right. Right.

7 But from our perspective, Your Honor, the Ninth
8 Circuit has not ruled that the case isn't ripe, it held that
9 it wasn't ripe.

10 Now that we've got the MOU in place and we're
11 moving rapidly towards seniority integration under this
12 merger the question of whether USAPA has to come to that
13 particular integration process with a nicolau-based list or
14 not is as ripe as it can be. It will never be more ripe.
15 We are there, we have reached that juncture.

16 THE COURT: And the debtors are waiting for that
17 list to be provided to them.

18 MR. MOLLEN: The debtor is sort of agnostic as to
19 what the list looks like, but they have to come to the table
20 with a list, and --

21 THE COURT: But I guess that list would
22 essentially go to US Airways and then go to you.

23 MR. MOLLEN: Correct.

24 THE COURT: It really is a US Airway's issue when
25 you think about it that way.

1 MR. MOLLEN: Correct. Correct.

2 THE COURT: All right. All right. Is there some
3 sort of timetable for making a decision about the list,
4 which list it is, the nicolau list or some other list?

5 MR. MACLAY: Your Honor, I think just to reiterate
6 that to the extent the Ninth Circuit decision was based on
7 ripeness, although obviously this isn't an issue that anyone
8 has briefed in front of Your Honor or that's really in front
9 of Your Honor, our position has been and remains there isn't
10 such a list yet.

11 THE COURT: Yeah. No, no I understand that,
12 that's why I'm asking you if there's a timetable for
13 preparing such a list. Because it sounds like no one can
14 say whether they made out okay or more poorly than they
15 should have, that is whether someone violated their duty to
16 represent them fairly and putting them on a list until they
17 see what the list is.

18 So if I am getting this correctly, and I'm just
19 trying to deal with the practicalities here, if I understand
20 this correctly this nicolau list, if you use that list well
21 then a bunch of people would say that's great and that's
22 fine, you may have other people complaining, but it sounds
23 like the folks who are involved in this litigation would
24 probably be quite content. But if you used a different list
25 they would not be content.

1 So then the question is the next step as a
2 practical matter seems to be the list.

3 So is there a timetable for the union to adopt a
4 list or prepare a list, promulgate a list, do anything with
5 any list that would move the ball forward on this?

6 And I'm just asking a question I think the Arizona
7 court is going to ask at the first status conference that
8 you have, right? So I'm sure they have read the Ninth
9 Circuit decision unlike myself.

10 MR. MACLAY: Yes. Yes, Your Honor, it is actually
11 the MOU subparagraph F of paragraph 10 addresses this point
12 in general terms, and said that a seniority integration
13 protocol agreement consistent with (indiscernible -
14 00:34:27) bond and this paragraph 10 will be agreed upon
15 within 30 days of the effective date.

16 So that's the timing and that's quite a bit in the
17 future.

18 THE COURT: So you're going to push this to the
19 merger then are you?

20 MR. MACLAY: Well, Your Honor --

21 THE COURT: I mean you're then essentially saying
22 you're not going to prepare anything so that you can make
23 this part of the merger problem. Is that what I'm hearing,
24 that you're going to rely on the merger deadline to resolve
25 a 13-year old dispute?

1 MR. MACLAY: Well, that's actually what all
2 parties have agreed to in the MOU, Your Honor.

3 THE COURT: No, that's what American and US
4 Airways has agreed to. Until there's a merger I understand
5 US Airways is its own separate airline the last time I
6 checked, and I would imagine integration issues are things
7 that it tries to resolve in the ordinary course of business
8 in consultation with its union. Am I missing something
9 about that?

10 MS. AXEL: Your Honor, this is Jennifer Axel on
11 behalf of west pilots, Marty had to run out to a doctor's
12 appointment.

13 I just want to make clear that it is our position
14 that the MOU had triggered any concerns regarding ripeness
15 from the prior Ninth Circuit opinion, and USAPA has been
16 very clear in a lot of correspondence that they are not
17 going to use the nicolau award in terms of the integration
18 with American. So we believe there is no ripeness issue.

19 THE COURT: Well, I guess if they don't promulgate
20 a list the failure to act certainly is often deemed to be a
21 decision, right, that's the way the government is often
22 viewed under the Administrative Procedures Act is you can
23 either make a decision and somebody says it's arbitrary and
24 capricious or your failure to make a decision, which
25 essentially a decision in and of itself is arbitrary and

1 capricious.

2 So I would imagine that that's one way to look at
3 it, and I don't think it changes my view about what should
4 and should not be here at the present time. I do think that
5 I have some views about what may or may not be going on
6 there, but it's really at this point none of my business.

7 So I will ask the parties to chat about an
8 appropriate stipulation and they can let me know where they
9 end up, and if some sort of short order is appropriate or if
10 the transcript really of this proceeding would do the trick
11 in terms of providing any window of thinking to the Court in
12 Arizona.

13 All right. So let's move on to the next adversary
14 proceeding.

15 MR. MACLAY: Thank you, Your Honor. And for USAPA
16 we're signing off at this point.

17 THE COURT: All right. Yeah, certainly anybody
18 who's on the call for the -- for that adversary proceeding
19 is more than free to carry on with the rest of their life.
20 Thank you.

21 MS. AXEL: Thank you, Your Honor.

22 MR. MACLAY: Thank you.

23 MR. JAMES: Your Honor, Edgar James on behalf of
24 the Allied Pilots Association, the gift that keeps on
25 giving.

1 THE COURT: It always happened to you.

2 MR. JAMES: If the former case is not resolved we
3 will be the inheritor of that dispute.

4 This case was brought as a so-called hybrid duty
5 of fair rep case, and what it's seeking to do -- and I can
6 go back and remind you, we've had this issue three times in
7 the Court already, is relitigate the 2001 TWA integration
8 when American bought the assets --

9 THE COURT: Right.

10 MR. JAMES: -- from TWA. The -- in that
11 integration the AK and the company entered into an agreement
12 called Supplement CC. That had two components. It had a
13 seniority list and it had a fence in St. Louis for some
14 reserve flying.

15 In the 1113 proceeding the company proposed to and
16 did eliminate Supplement CC. When they abrogated the
17 agreement one of the specific things they wanted to get rid
18 of was Supplement CC.

19 Your Honor heard the objections on behalf of a
20 different group representing these pilots with Stanley
21 Silverstone's firm on behalf of something called the
22 American Independent Cockpit Alliance. They argued that
23 1113 should not be entered because the agreement that the
24 union or the company were thinking about entering into
25 contained a breach of the duty of fair representation.

1 That issue came up again at the 363 hearing on
2 December 19th when they appeared again and said that the --
3 were you to adopt the resolution that the parties entered
4 into to resolve the abrogation of Supplement CC, it had the
5 technical name of Letter of Agreement 1205, that would be a
6 breach of the duty of fair representation.

7 And what the parties agreed on is that American
8 was not changing the seniority list, they were closing
9 St. Louis, and the union said we will give this over to
10 three nationally recognized arbitrators, and that process
11 began yesterday, and we'll let these three arbitrators
12 decide what should be done as a result of the closing of
13 St. Louis, what protected flying ought to continue to exist?

14 That arbitration is going forward again starting
15 yesterday, it will be resolved by June 1st.

16 The plaintiffs in this case brought a case which
17 we had transferred to this court because they argued in
18 St. Louis there was nothing in this court that raised the
19 same issue. We pointed out to the judge that the very same
20 arguments had already been raised. In fact in your opinion
21 on December 19th you discussed the very case law involving a
22 duty of fair representation, you cited Alba versus Ameal
23 (ph) for example.

24 We got the case transferred and the argument there
25 is exactly the same as the one that came up in 1113(n) on

1 December 19th. That is this agreement between the company
2 and the union is itself unlawful.

3 Mr. Allen Press is on the phone, he's now filing a
4 motion to withdraw the reference and wants to send it back
5 to St. Louis.

6 I don't intend to argue about withdrawn, we think
7 he's wrong as to mandatory withdrawal, we think he's wrong
8 as to permissive withdrawal. There's no stay. We intend to
9 file a motion to dismiss this case. It's the same issue we
10 litigated between 2001 and 2003 in the district of New
11 Jersey in the Third Circuit and American and APA were
12 dismissed from the case. We were found not to have breached
13 the duty in the way we constructed Supplement CC. They're
14 attempting to resurrect it and bring it back.

15 Mr. Press is on the phone, Your Honor.

16 THE COURT: All right. Mr. Press?

17 MR. PRESS: Yes, Judge, this is Allen Press.

18 I don't intend to make a closing argument, Judge,
19 unless you want to hear one, but Mr. James' last comment,
20 there was a motion to dismiss made in the District Court
21 here in St. Louis and that motion was denied.

22 THE COURT: Yeah. No, I read the decision of the
23 District Court in St. Louis.

24 MR. PRESS: Right. And we are asking for the case
25 to -- for the reference to be withdrawn, Judge, and have the

1 case transferred back to St. Louis. This is a St. Louis
2 case and it --

3 THE COURT: Well, that's not what the judge in
4 St. Louis thought, but do you have a judge yet to address
5 the motion to withdraw the reference in the District Court?

6 MR. PRESS: I can't -- I don't know that answer,
7 Judge. I assume that the case has been docketed in the
8 District Court, but I don't know that as a fact.

9 THE COURT: All right.

10 All right. Well, it sounds like I have nothing to
11 do currently in this case for two reasons.

12 One is that there's an interest arbitration
13 deadline of June 1st and it doesn't sound like anybody
14 wishes to jump the queue pending a resolution there, which
15 may or may not put the dispute to rest.

16 But secondly, there's a motion to withdraw the
17 reference, which with the argument being that this duty of
18 fair representation question should be in front of the
19 District Court.

20 District Courts here have been confronted in the
21 last few years after Stern versus Marshall with an
22 increasing number of request to withdraw the reference and
23 the District Court will do whatever it thinks is appropriate
24 and I will await that decision.

25 What I can tell you is that the District Court

1 judges have tended to deny those motions and do one of two
2 things. Either if they think there's something that is --
3 represents -- or implicates Stern will say please give us a
4 report and recommendation. But most often they say the
5 Bankruptcy Court is familiar with this, it should do
6 whatever it thinks it should do consistent with the Supreme
7 court's decision in Stern versus Marshall and therefore
8 issue whatever it thinks is the appropriate decision, either
9 a report and recommendation or a judgment.

10 So -- but who knows, we'll see what the District
11 Court decides on these particular set of facts and
12 circumstances.

13 I do think it's important to find out sort of what
14 the schedule is for that being decided in the sense that
15 this will -- all this will wait, but I guess if there's an
16 interest arbitration deadline of June 1st we were going wait
17 for that any way; is that correct?

18 MR. JAMES: Here's my only comment on that, Your
19 Honor. That will not moot out this case, because they're
20 arguing that the very failure to revisit the 2001
21 integration and redo the seniority list is a breach of the
22 duty and that the interest arbitration is inherently
23 unlawful.

24 So that -- getting the result will not satisfy
25 their objection or the prior two objections you had in front

1 of you that went to the same issue, that unless we revisit
2 the 2001 integration they're not going to be satisfied with
3 the interest arbitration.

4 My concern about the timing, and there has been a
5 judge assigned in the Southern District of New York, and I
6 forget her name, she's a new judge. But --

7 MR. MOLLEN: Brand new.

8 THE COURT: Judge Nathan?

9 MR. MOLLEN: I believe so, Your Honor.

10 THE COURT: All right.

11 MR. JAMES: Former White House counsel?

12 THE COURT: Yes.

13 MR. JAMES: Yeah. The arbitrators will probably
14 rule shortly after June 1. If we're wrong and Mr. Press is
15 right there'll be damages running against the estate,
16 that'll be -- or at least under their theory. So there is
17 some need for expedition of this matter.

18 Your law clerk had asked us not to file a
19 dispositive motion. I assume what I can do with
20 Mr. Mollen --

21 THE COURT: Well, I think the idea is I wanted to
22 talk about this first before motions got filed, because as
23 the prior adversary demonstrates often people want to file
24 motions that they may not necessarily after a conversation
25 be the way to go.

1 But it sounds like -- just thinking about where
2 you're going that you would like to file a motion to dismiss
3 and thus have it ready to go for whatever decision comes
4 from the District Court and from interest arbitration.

5 MR. JAMES: I think that's right, Your Honor.

6 MR. MOLLEN: I believe that's right, Your Honor.
7 We'd like to be able to file a dispositive motion as well.

8 THE COURT: All right.

9 MR. BUTLER: Your Honor, on this one. Jack Butler
10 from Skadden, Arps for the committee.

11 The committee also considered this matter at its
12 meeting yesterday and intends to exercise its statutory
13 right to intervene. We're going seek -- try to seek a
14 stipulation from the parties, if not we'll file a motion.

15 THE COURT: All right. Let me ask if there's any
16 objection to the committee intervening in this matter given
17 its participation in the 1113 matters to this point, which
18 obviously I have some overlap.

19 MR. MOLLEN: None from the debtors, Your Honor.

20 MR. JAMES: None from the Allied Pilots
21 Association.

22 MR. PRESS: And none from the plaintiffs, Judge.

23 THE COURT: All right. I think we just saved
24 ourselves a motion. So you can just provide me with the
25 stipulation.

1 All right. So it sounds like a motion to dismiss
2 will be filed and you can work out a briefing schedule and
3 then that will essentially wait until one or two things
4 happen that may or may not change where we need to go, but I
5 certainly won't plan on addressing it until there's a little
6 more clarity as to what I can appropriately do.

7 So perhaps we can put this down for another status
8 conference and perhaps even a hearing on the motion to
9 dismiss as a tentative matter which will just sort of kick
10 the can down the road depending on what else has happened or
11 not happened as the case will be.

12 MR. MOLLEN: I think that's advisable, Your Honor.

13 THE COURT: All right. All right, anything else
14 we need to discuss in connection with this particular
15 adversary?

16 MR. PRESS: Yes, Judge, this is Allen Press again
17 for the plaintiffs.

18 We're set for a pretrial conference on the 23rd,
19 is that -- will that be going forward?

20 THE COURT: I don't think there's a need do that.
21 We -- we generally generate those pretrial conference
22 deadlines as a sort of a matter of course, so I don't have a
23 problem canceling that unless somebody can see that the 23rd
24 provides any value, but it sounds like it's a bit premature.
25 So maybe we can set up a status conference some time in May

1 and I'll leave it to the parties to work out what timing
2 wise would seem to be appropriate.

3 In the meantime you can work out a briefing
4 schedule for the motion to dismiss if you want to give me a
5 stipulation with an agreed upon schedule that's fine. And
6 are there any other motions that would be contemplated other
7 than a motion to dismiss?

8 MR. MOLLEN: I don't believe so, Your Honor.

9 THE COURT: All right.

10 MR. MOLLEN: We'll be responding to the motion to
11 withdraw of course.

12 THE COURT: All right. All right. All right, I
13 think that concludes any discussion we need to have on this
14 second adversary proceeding.

15 MR. PRESS: Thank you, Judge.

16 THE COURT: Thank you.

17 MR. PEREZ: Your Honor, there's four other matters
18 pending and two motions to seal the record connected to the
19 other two matters, and in addition I have one housekeeping
20 matter with respect to extension of leases.

21 But the next matter, Your Honor, is the -- a
22 supplemental retention of Sheppard Mullin. They had been
23 hired for certain specified tasks and now they -- nunc pro
24 tunc as of January 29th, the company has also retained
25 them for some potential organizing drive by the mechanics,

1 so it's just a matter of expanding the --

2 THE COURT: Scope.

3 MR. PEREZ: -- scope of their employment.

4 THE COURT: All right. Anyone wish to be heard on
5 the supplemental application to retain Sheppard Mullin and
6 extend their activities?

7 All right. It seemed to me a very straightforward
8 application and I'm happy to grant it to allow them to
9 expand their duties to include a potential organizing drive
10 related to the mechanics which is defined as the
11 supplemental matter.

12 And I think we had talked about this once before
13 in terms of trying to keep track of attorneys' fees, this
14 also seems to be yet another instance where the debtors are
15 appropriately before the Court but in the manner of sort of
16 ordinary course professionals rather than people retained
17 for this estate, and to the extent that there's essentially
18 going to be a number at the end of this case about what
19 reflects professional fees I think it probably just makes
20 some sense to try to keep those two separate. I think it
21 would present an unfair picture of professional compensation
22 in this case if we just lumped everything together.

23 So -- but I will grant the supplemental
24 application and I think I have a proposed order.

25 MR. PEREZ: Thank you, Your Honor. And I actually

1 have orders as well.

2 Your Honor, the next matter is the 9019 with
3 respect to JFK and the JFK bonds.

4 Your Honor, I must say this is probably one of the
5 more complicated settlements before the Court. We've
6 literally been negotiating this for a year and a half,
7 almost since the inception of the case.

8 It involves four issues of JFK bonds, a '90 and a
9 '94, which are about \$170 million in total that were secured
10 by a facility that's no longer there, as well as the 2002,
11 2005s which total about a billion three which are secured by
12 the existing terminal eight at JFK.

13 So we have basically four disparate -- or maybe
14 not for disparate groups of bondholders and we've been able
15 to address the issue of in essence compromising with the '90
16 and '94s and treating them as unsecured creditors, although
17 there is some value being given for that compromise.

18 So we're assuming the subleases from the New York
19 City Industrial Development Agency, that's, you know,
20 basically whose issued the bonds at -- and these are all
21 properties owned by the Port Authority -- but in essence
22 we're compromising that claim, we're assuming the bonds, the
23 '90s and '94s will be treated as unsecured creditors with a
24 claim against American and a guarantee claim against AMR,
25 and we're making all of the cure payments, fees, et cetera,

1 that have been outstanding and resolving all of the matters
2 relating to JFK.

3 And there were some -- there was also some -- a
4 little bit involvement of LaGuardia, because some of the
5 funds may have been used for some improvements at LaGuardia,
6 and that's also being resolved.

7 So, Your Honor, with this resolution, except for
8 small amounts in the thousands of dollars, not in the
9 millions of dollars, we've pretty much resolved all of the
10 airport facilities with the exception of O'Hara, which will
11 probably be treated in the plan, and that's about
12 \$110 million, but it will have basically resolved debt
13 totaling in excess of \$3.5 billion, all of these facilities.

14 So it took a long time to get here, I think it's a
15 good compromise for everyone, and we're resolving in essence
16 recharacterizing deeming them unsecured and then in essence
17 assuming the subleases on the 2000, 2005s and the
18 (indiscernible - 00:52:51) will be treated as secured
19 creditors under the plan.

20 THE COURT: All right. Does anyone wish to be
21 heard on this motion?

22 MR. PEREZ: There you are. I knew you were
23 somewhere.

24 MS. CATON: Good morning -- or good afternoon,
25 Your Honor, Amy Caton from the Kramer Levin on behalf of

1 Bank of New York as indenture trustee for the JFK 1990 and
2 1994 bonds as well as the JFK 2002 and 2005 bonds. And as
3 Mr. Perez mentioned those total approximately 1.4 billion in
4 debt.

5 And in addition we represent Bank of New York and
6 law debentures indenture trustees on another approximate
7 800 million in airport revenue bonds at other facilities.

8 As Mr. Perez said, we've work would the debtors
9 for over a year as well as the majority holders to structure
10 this settlement, and while it certainly looks like a complex
11 settlement document, you know, at heart what it is is it's
12 settling the '90 and '94 bonds as unsecured claims of the
13 small amount of consideration given to them primarily by the
14 2002 and 2005 holders -- or I should say the 2002-B holders,
15 and with the debtors contributing a little bit in cash and
16 also some amounts from the debt service reserve funds that's
17 currently held by Bank of New York as indenture trustee.

18 We think it's a very good result for everyone and
19 it avoids what could have been a multi-front, very costly
20 and protracted litigation across a variety of bond tranches.

21 And what I did want to go through for Your Honor
22 today is the fact that -- and these facts were set forth in
23 the declaration filed by Alex -- file by Alex on behalf of
24 Alex Chang (ph), who's a vice president at Bank of New York
25 Mellon.

1 We did send out four notices regarding the
2 proposed settlement through DTC and EMMA. The first notice
3 was on November 30th, which outlined the settlement,
4 including specific disclosure -- specific disclosure
5 regarding exculpations and releases that were granted to
6 Bank of New York Mellon, IDA, and the debtors for entering
7 into the settlement.

8 There was a December 13th notice regarding a
9 slight amendment to the settlement, which basically shifted
10 the cost of the settlement away from the 2005 holders over
11 to the 2002-B holders.

12 There was a January 25th notice regarding
13 detailing the direction that was actually received from
14 bondholders for the settlement.

15 And a March 13th notice regarding the filing of
16 the motion and letting people know about the objection
17 deadline.

18 Bank of New York Mellon received direction to
19 enter into the settlement from a pretty extraordinary number
20 of holders given that they're widely held. We got a
21 direction from 71 percent of the 1990 holders, 80 percent of
22 the 1994 holders, 75 percent of the 2002-A holders, 98
23 percent of the 2002-B holders, and 73 percent of the 2005
24 holders.

25 And Mr. Chang is here in the courtroom if Your

1 Honor has any questions regarding his declaration.

2 THE COURT: All right. Thank you very much.

3 MS. CATON: The last point I want to make is that
4 the support for the settlement really goes beyond the
5 direction that we received, that's only the people who
6 actually signed direction letters, and we had -- we've heard
7 no formal or informal objections to the settlement, and if
8 Your Honor has any additional questions about the settlement
9 having worked for over a year on it I'm happy to answer
10 them.

11 THE COURT: I'm sure you are more than conversant
12 in this settlement, which is very helpfully explained, both
13 the debtor's motion and the declaration of Mr. Chang. Thank
14 you.

15 MS. CATON: Thank you, Your Honor.

16 MR. BUTLER: Your Honor, Jack Butler again from
17 Skadden on behalf of the creditors' committee.

18 I'd simply echo what Mr. Perez and Ms. Caton has
19 said, this is a complex settlement, the committee has
20 exercised its oversight responsibilities in evaluating this
21 and believes it falls well within 9019.

22 In any of these complex settlements that Your
23 Honor -- anyone could look at a particular transaction and
24 say, well, you could have done that differently or that
25 differently, and that's really not the test for our review.

1 Our test is to sort of understand whether the debtors
2 exercised appropriate business judgment making their
3 assessment.

4 The debtors provided us information in this and
5 consulted with the committee in connection with this and I'm
6 happy to stand up and report the committee has no objection
7 to the settlement.

8 In addition, Your Honor, I think it is noteworthy
9 what Mr. Perez said on the record today, it's really quite
10 remarkable that the debtors have been able to navigate
11 through some three and a half billion dollars worth of
12 facilities issues without at least to my recollection a
13 contested hearing. The -- now I think that has something do
14 with the fact that there's been tremendous value generated
15 by the debtors and their stakeholders and the overall merger
16 and everything else that's going on here, which I think has
17 given if you will room for people to reach settlements, I
18 think -- and you know, with less value people may have come
19 into different perspectives, but this is I think a really
20 noteworthy accomplishment on behalf the debtors and the
21 committee appreciates the extent of cooperation that the
22 debtors have had with the committee in evaluating these
23 transactions.

24 THE COURT: All right. Thank you. Anyone else
25 who wishes to be heard on this motion?

1 All right, I'm happy to grant the motion that
2 invokes Section 9019 as well as 365(a) of the Bankruptcy
3 Code. It's very clear that the subleases are important to
4 the debtor's business operations and preserve and enhance
5 the value of the estates, including maintaining operations
6 at JFK, which are of obvious value.

7 I am also struck by the fact that there have been
8 no objections from folks who are on the other side of this
9 agreement despite the numerous notices that had been sent
10 out relating to the bonds. I think that speaks very highly
11 of the settlement from that perspective as well.

12 And it's clear that it will avoid protracted
13 litigation, and the complexity of this settlement I think
14 speaks to the complexity of the litigation that would
15 commence.

16 So I commend all the parties for efforts in
17 reaching a resolution of this and I am very happy to approve
18 it.

19 MR. PEREZ: Thank you, Your Honor.

20 Your Honor, before I turn it over to Ms. Ball we
21 do have on presentment, and I'll present the order
22 afterwards, the sixteenth consensual lease extension motion.
23 No objections, Your Honor.

24 This would extend ten leases. Primarily -- not
25 major leases, but some of them like a fuel farm lease at the

1 (indiscernible - 00:59:28) Airport in Nashville, Ontario,
2 LAX, San Francisco and San Juan. So it's just been a
3 smattering of airport leases.

4 Thank you, Your Honor.

5 THE COURT: All right. All right, and that leaves
6 a few other matters -- I believe two other matters.

7 MS. BALL: Yes. Good afternoon, Your Honor,
8 Jasmine Ball from Debevoise & Plimpton, special aircraft
9 counsel to the debtors.

10 Items 3 and 4 are a motion authorizing the debtors
11 to enter into a sale leaseback transaction for up to 11
12 aircraft and a related sealing motion, which with your
13 permission I'll just take them both together.

14 The debtors are requesting an order pursuant to
15 Section 336 of the Bankruptcy Code and Rule 6004 authorizing
16 the debtors to enter into sale leaseback transactions with
17 Next Generation Aircraft Purchase Limited and AerCap Ireland
18 limited for up to 11 Boeing 737 aircraft, which would happen
19 between April 2013 -- so between this month and October of
20 this year.

21 As provided in more detail in the motion the
22 debtors periodically purchase new aircraft and already have
23 approval to purchase these 11 aircraft from the Boeing
24 company.

25 The debtors usually finance these types of

1 purchases and have recently done so through various sale
2 leaseback transactions with other parties.

3 The debtors and their aircraft restructuring
4 advisors have gone through various marketing processes that
5 are set forth in more detail in the motion, and believe that
6 the processes resulted in the highest and best offers for
7 these particular group of aircraft with AerCap.

8 The debtors will realize a significant amount of
9 proceeds from the sale of the aircraft and the transactions
10 will allow the debtors to introduce the aircraft into the
11 fleet at good attractive rental rates.

12 The debtors believe that the decision to pursue
13 this transaction is supported by sound business judgment
14 based on these factors and other factors set forth in the
15 motion.

16 The debtors are also requesting a related order
17 pursuant to Section 107(b) and Bankruptcy Rule 9018
18 authorizing the filing of certain information in these
19 motions under seal with respect to the transactions.

20 The sale leaseback motion and the related
21 agreements contain certain information that both the debtors
22 and AerCap feel is sensitive, confidential, and commercial
23 information that they feel would be disadvantageous to both
24 the debtors and AerCap if they were publicly disclosed.

25 We have provided the information to the unsecured

1 creditors' committee counsel for their review. We also have
2 not received any objections from any parties on either the
3 sale leaseback motion or the sealing motion.

4 So unless there are questions we would request
5 that both those orders be entered.

6 THE COURT: All right, thank you. Anyone have any
7 objection to either motion?

8 MR. BUTLER: Your Honor, just so I can stand one
9 time as to aircraft of the aircraft motions here they have
10 reviewed by the fleet subcommittee, Ms. Ball is right, they
11 provided us the information acquired and there are no
12 objections to anything on the docket here.

13 THE COURT: All right. Thank you.

14 I'm happy to grant the motion under 363(b) of the
15 Bankruptcy Code as consistent with sound business judgment
16 and as very similar to other relief that's previously been
17 granted for the reasons that you've explained.

18 And I'm also happy to grant the related sealing
19 motion under Section 107(b) that covers trade secret
20 confidential research development or other sensitive
21 commercial information.

22 MS. BALL: Thank you, Your Honor.

23 THE COURT: Thank you.

24 MS. BALL: Items 5 and 6 on the uncontested agenda
25 are a motion to approve a settlement agreement with respect

1 to one aircraft and a related sealing motion with -- which
2 I'll put together as well with Your Honor's permission.

3 THE COURT: Certainly.

4 MS. BALL: The debtors are requesting an order
5 pursuant to Section 105(a) and Bankruptcy Rule 9019 to
6 approve a settlement with respect to one aircraft with FAA
7 registration number N643AA.

8 In March of last year claim settlement procedures
9 were established and approved by this Court that would allow
10 the debtors to settle any claim exceeding \$10 million with
11 the Court's approval upon no less than 14 days notice.

12 The motion requests authority for the debtors to
13 enter into a settlement agreement relating to 643AA where
14 claims are settled between the debtors and U.S. Bank
15 National Association as a trustee in that case.

16 The settlement agreement would provide for, among
17 various other things, an allowance of general unsecured,
18 non-priority prepetition claim to be allowed to U.S. Bank in
19 this case.

20 As provided in more detail in the motion and the
21 settlement agreement the settlement would resolve all claims
22 with respect to this particular aircraft except with respect
23 to any tax indemnity agreement claims that may exist, and
24 those are held by another party and so we would negotiate
25 those separately with that other party.

1 The debtors and the counterparties have had
2 extensive negotiations on this settlement and the debtors
3 believe that the settlement is in the best interest of the
4 estate.

5 The debtors have also requested an order
6 authorizing the filing of some of this information under
7 seal in connection with the settlement, and we believe that
8 the terms and conditions of the settlement are sensitive and
9 would -- if disclosed could harm the debtors in future
10 negotiations.

11 THE COURT: All right. Having heard Mr. Butler
12 express the views of the committee already anyone else wish
13 to be heard on these motions?

14 MR. TOP: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. TOP: I'll be very, very brief. Frank Top
17 from Chapman and Cutler on behalf of U.S. Bank National
18 Association for the 1991-A PTCs.

19 I just also wanted to add to the record the fact
20 that we send out notice to holders with respect to the
21 settlement just advising them of their opportunity to
22 object, and also though received a significant number of
23 letters and direction from holders supporting this
24 settlement agreement, and of course U.S. Bank supports the
25 relief requested in the motion.

1 THE COURT: All right. Thank you, I appreciate
2 the information of that notice particularly.

3 All right, I'm happy to grant the motion under
4 Bankruptcy Rule 9019, which authorizes the Court to approve
5 a compromise or settlement, that it's in the best interest
6 of the estate, and compromises are in fact favored in
7 bankruptcy. It's clear that this meets the criteria for an
8 appropriate compromise under Section 9019.

9 And I will grant the related sealing motion under
10 Section 107 as the debtors have represented this contains
11 confidential business information that would be harmful to
12 the estate if made public.

13 MS. BALL: Thank you very much, Your Honor.

14 THE COURT: Thank you.

15 MR. PEREZ: Just -- Your Honor, just two
16 housekeeping matters.

17 I neglected to introduce -- not to introduce John
18 Gross who is here, a company representative.

19 THE COURT: Good afternoon.

20 MR. GROSS: Hi, Your Honor.

21 MR. PEREZ: Second, Your Honor, we have not sent
22 down the NOL motion from last week and we're just waiting to
23 send it down when we send down the motion to the order on
24 the merger since they kind of have to be -- they have to go
25 in tandem --

1 THE COURT: Together.

2 MR. PEREZ: -- and then we need -- there's a short
3 window that we have to get out the notice. So we're just --
4 that's -- if the Court had wondered --

5 THE COURT: That's fine. I appreciate the heads
6 up. That's fine, because I figured that when that comes
7 that should be dealt with quickly, so.

8 MR. PEREZ: Well, yeah, the key thing for us is
9 that they kind of both be entered at the same time.

10 THE COURT: Right. When do you expect to get it
11 down here? And I'm not asking to rush you along.

12 MR. PEREZ: No, we're kind of waiting on you. As
13 soon as you enter your memorandum opinion them we'll send
14 down an order.

15 THE COURT: All right. That should be coming in
16 the next few days. I've learned not to make promises that I
17 can't necessarily keep --

18 MR. PEREZ: And I wasn't trying to get it out of
19 you or anything.

20 (Laughter)

21 THE COURT: -- but it will be done fairly quickly.
22 That's fine. So I -- what you can do is send down the --
23 send down the -- well, maybe what you should do is wait till
24 I issue that and then you can make a reference to that in
25 the orders, that's probably the quickest way to do it and

1 then that way you have everything in front of you. But
2 that's fine.

3 MR. PEREZ: We'll have it to you immediately.

4 THE COURT: All right, that's fine. So we'll get
5 that all done fairly quickly.

6 MR. PEREZ: Thank you.

7 THE COURT: Anything else we should discuss here
8 today?

9 MR. PEREZ: I think we're good.

10 THE COURT: All right, thank you very much, folks.

11 MR. PEREZ: Thank you, Your Honor.

12 (Pause)

13 MR. PEREZ: Thank you.

14 THE COURT: Thank you.

15 (Whereupon these proceedings were concluded at 12:19
16 PM)

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Authorize/Supplemental Application of
Debtors Pursuant to 11 U.S.C. 327(e) and
Fed. R. Bankr. P. 2014(a) for Authority to
Expand the Employment and Retention of
Sheppard Mullin Richter & Hampton LLP as
Special Counsel to the Debtors on Certain
Additional Matters Nunc Pro Tunc to January
29, 2013 (related document(s) 2707)

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Doc. #7072 Motion to Approve/Motion of
Debtors for Entry of Order Pursuant to 11
U.S.C. 105(a) and 365(a), Fed. R. Bankr. P.
9019(a) and 6006, and LBR 6006-1 (I)
Approving Stipulation by and Among Debtors,
the Bank of New York Mellon, as Trustee for
Various Issues of Bonds, and the New York
City Industrial Development Authority and
(II) Authorizing Assumption, as Modified,
of Certain Unexpired Leases of Nonresidential
Real Property Related Thereto

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| 3 | Order Pursuant to 11 U.S.C. 107(b) and Fed. | | |
| 4 | R. Bankr. P. 9018 Authorizing the Filing of | | |
| 5 | Certain Information Under Seal in Connection | | |
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| 18 | Next Generation Aircraft Purchase Limited and | | |
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| 23 | for Order Pursuant to 11 U.S.C. 105(a) and | | |
| 24 | Fed. R. Bankr. P. 9019(a) Approving Settlement | | |
| 25 | Agreement with Respect to N643AA | 60 | 3 |

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Doc. #7191 Motion to Seal/Motion for an
Order Pursuant to 11 U.S.C. 107(b) and Fed.
R. Bankr. P. 9018 Authorizing the Filing of
Certain Information Under Seal in Connection
with Motion of Debtors for Order Pursuant to
11 U.S.C. 105(a) and Fed. R. Bankr. P. 9019(a)
Approving Settlement Agreement with Respect
to N643AA

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C E R T I F I C A T I O N

I, Dawn South, certify that the foregoing transcript is a true and accurate record of the proceedings.

Dawn South

Digitally signed by Dawn South
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AAERT Certified Electronic Transcriber CET**D-408

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Date: March 4, 2013

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[assumption - circumstances]

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EXHIBIT B TO

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APPLICATION TO INTERVENE