

1 US Airways, Inc.
2 KAREN GILLEN, State Bar No. 018008
3 karen.gillen@usairways.com
4 111 West Rio Salado Parkway
5 Tempe, AZ 85281
6 Telephone: (480) 693-0800
7 Facsimile: (480) 693-5932

8 O'Melveny & Myers LLP
9 ROBERT A. SIEGEL (*pro hac vice*)
10 CHRIS A. HOLLINGER (*pro hac vice*)
11 rsiegel@omm.com
12 chollinger@omm.com
13 400 South Hope Street
14 Los Angeles, CA 90071-2899
15 Telephone: (213) 430-6000
16 Facsimile: (213) 430-6407

17 Attorneys for Defendant
18 US Airways, Inc.

19 **IN THE UNITED STATES DISTRICT COURT**
20 **FOR THE DISTRICT OF ARIZONA**

21 Don Addington; John Bostic; Mark
22 Burman; Afshin Iranpour; Roger Velez;
23 Steve Wargoeki; Michael J. Soha;
24 Rodney Albert Brackin; and George
25 Maliga, on behalf of themselves and all
26 similarly situated former America West
27 Pilots,

28 Plaintiffs,

vs.

US Airline Pilots Ass'n, an
unincorporated association; and US
Airways, Inc., a Delaware corporation,

Defendants.

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

**US AIRWAYS, INC.'S RESPONSE TO
PLAINTIFFS' RULE 65(A)(2) MOTION
TO CONSOLIDATE THE
PRELIMINARY INJUNCTION
HEARING WITH TRIAL ON THE
MERITS**

1 Defendant US Airways, Inc. (“US Airways”), by and through its undersigned
2 counsel, hereby submits its response to plaintiffs’ motion to consolidate the May 14, 2013
3 preliminary injunction hearing with a trial on the merits.

4 US Airways agrees that consolidation is appropriate, for many of the reasons stated
5 in plaintiffs’ motion. In particular, US Airways agrees that no evidence of any
6 significance would be presented at a trial that will not have already been presented to the
7 Court in connection with the preliminary injunction hearing.

8 US Airways does, however, disagree with plaintiffs’ mischaracterization of the
9 MOU as an agreement between US Airways and defendant US Airline Pilots Association
10 (“USAPA”) to “abandon the Nicolau Award.” (Plaintiffs’ Rule 65(a)(2) Motion To
11 Consolidate The Preliminary Injunction Hearing With Trial On The Merits (Doc. No. 60),
12 p. 1:2-7 (p. 2 of the ECF filing).) The MOU does *not* abandon or repudiate the Nicolau
13 Award. Plaintiffs themselves acknowledged this point just one week ago, when they
14 argued to this Court that the MOU was ratified by a majority of the West Pilots based on
15 representations by USAPA that the MOU was not an abandonment of the Nicolau Award.
16 (*See* Plaintiffs’ Reply in Support Of Preliminary Injunction (Doc. No. 53), pp. 6:16 & 7:1-
17 2 (pp. 11-12 of the ECF filing).)

18 In fact, the MOU does not specify what seniority list(s) will be used for the
19 US Airways pilots in the overall seniority integration with the American Airlines, Inc.
20 (“American”) pilots because that issue was the subject of dispute between the West Pilots
21 and USAPA and the dispute could not be resolved in the MOU negotiations. (*See*
22 US Airways’ Response To Plaintiffs’ Motion For Preliminary Injunction (Doc. No. 49),
23 p. 6:13-21 (p. 7 of the ECF filing).) Moreover, the MOU does not limit participation in
24 the McCaskill-Bond seniority integration process to the signatories to the MOU. Under
25 McCaskill-Bond, the West Pilots, like the East Pilots, have a right to full party status and
26 to participate fully in the seniority-integration process with counsel of their own choosing.
27 (*See id.*)
28

1 There is no basis for plaintiffs' assertion that the MOU abandons the Nicolau
2 Award. Whether USAPA is *required* to use the Nicolau Award in the seniority
3 integration between the US Airways and American pilots is a separate issue and the
4 proper focus of the proceedings before the Court.

5
6 Dated: May 9, 2013.

O'Melveny & Myers LLP

7 By: /s/Robert A. Siegel
8 Robert A. Siegel (*pro hac vice*)
9 Chris A. Hollinger (*pro hac vice*)
10 400 South Hope Street, Suite 1500
11 Los Angeles, California 90071-2899

12 US Airways, Inc.
13 Karen Gillen, State Bar No. 018008
14 111 W. Rio Salado Parkway
15 Tempe, AZ 85281

16 Attorneys for Defendant US Airways, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2013, I caused to be electronically transmitted the attached Defendant US Airways, Inc.'s Response To Plaintiffs' Rule 65(a)(2) Motion To Consolidate The Preliminary Injunction Hearing With Trial On The Merits.

/s/Robert A. Siegel

Robert A. Siegel