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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Don Addington, et al.,	}	No. CV-13-00471-PHX-ROS
Plaintiffs,	}	ORDER
vs.	}	
US Airline Pilots Association, et al.,	}	
Defendants.	}	

Defendants US Airline Pilots Association (“USAPA”), US Airways, Inc. (“US Airways”), and Plaintiffs Don Addington, et al., (“West Pilots”) have filed various motions. At the hearing set for May 14, 2013, the parties are to be prepared to discuss the following:

- If the Court were to find West Pilots’ claim ripe, the motion to dismiss might be granted with leave to amend to allow West Pilots to add factual allegations regarding USAPA’s allegedly wrongful conduct, some of which appear to be in the evidence attached to West Pilots’ motion for preliminary injunction. What additional factual allegations are necessary for West Pilots to state a plausible claim for relief?
- If West Pilots’ claim against USAPA is ripe, what genuine disputes of material fact exist such that a trial is necessary for West Pilots to establish their DFR claim?

- 1 • The West Pilots cite to statements made by USAPA’s counsel Patrick J.
2 Szymanski at a public meeting of Charlotte-based pilots. (Doc. 14 at 22). Will
3 Mr. Szymanski be a witness?
- 4 • At oral argument in the previous case, Mr. Szymanski stated “we’re prepared
5 to talk and we want to talk and we want genuine engagement from the West
6 Pilots about the seniority proposal and we are prepared to make changes.”
7 CV-10-1570-PHX-ROS, Doc. 187 at 31. Does this statement conflict with Mr.
8 Szymanski’s more recent statements indicating “USAPA will do whatever it
9 takes to see that there is no Nicolau” and that USAPA will vigorously fight to
10 prevent the West Pilots from being heard during the McCaskill-Bond process?
11 (Doc. 14-3 at 50-51). Is this approach in violation of this Court’s prior Order
12 stating “[a]n impartial arbitrator’s decision regarding an appropriate method
13 of seniority integration is powerful evidence of a fair result” and “[d]iscarding
14 the Nicolau Award places USAPA on dangerous ground”?
- 15 • In USAPA’s view, if it does not use the Nicolau Award in the McCaskill-Bond
16 process, when, if ever, would the West Pilots’ claim become ripe?
- 17 • Are there only two possible seniority proposals? In other words, is there any
18 legitimate possibility of a compromise such that USAPA will enter the
19 McCaskill-Bond process with a seniority list sharing and including provisions
20 from the Nicolau Award and date-of-hire?
- 21 • Has USAPA’s date-of-hire proposal ever changed?
- 22 • What is USAPA’s legitimate union purpose for discarding the Nicolau Award
23 now?
- 24 • Recent briefing seems to indicate the West Pilots have changed their theory
25 against US Airways. What is the precise claim the West Pilots have against
26 US Airways and why is it not a “minor dispute” subject to mandatory
27 arbitration?
- 28 • American Airlines’ motion to intervene does not include “a pleading that sets


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out the claim or defense for which intervention is sought.” Fed. R. Civ. P. 24(c). If American Airlines is allowed to intervene, what claim or defense will it assert?

- Do we know the position of the Allied Pilots Association on the ripeness of the West Pilots’ claim?
- Do we know what seniority integration the Allied Pilots Association will propose in the McCaskill-Bond process?
- Based on the MOU, have American Airlines and US Airways agreed to *never* take a position regarding the appropriate seniority list to be used by the merged airline?

IT IS SO ORDERED.

DATED this 14th day of May, 2013.



Roslyn O. Silver
Chief United States District Judge