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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
CASE NO. : CV-13-00471-PHX-ROS

Don Addington; et al.,)
Plaintiffs,)
vs.)
US Airline Pilots Ass'n, et al.,)
Defendants.)

DEPOSITION OF GARY P. HUMMEL
(Taken by Plaintiffs)
Charlotte, North Carolina
Tuesday, September 17, 2013

Reported in Stenotype by
V. Dario Stanziola, CSR (N.J.), RPR, CRR

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26 DEPOSITION OF GARY P. HUMMEL,
27 a witness called on behalf of the Plaintiffs,
28 before V. Dario Stanziola, CSR (N.J.), RPR, CRR,
29 Notary Public, in and for the State of North
30 Carolina, held at the offices of Huseby, Inc., 1230
31 West Morehead Street, Suite 104, Charlotte, North
32 Carolina, on Tuesday, September 17, 2013,
33 commencing at 8:32 a.m.

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15 Gary Hummel dated 1/30/12, Bates
16 WP019186 - 189

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18 Exhibit Number 1002: Gary Hummel 37
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20 material contained in an e-mail from
21 Gary Hummel dated 3/16/12, Bates
22 WP020094 - 96

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24 Exhibit Number 1003: Document entitled 44
25 EVP Runoff Election Results, Bates
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28 From The Chairman dated 8/29/13, Bates
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34 6/11/12, Bates USAPA 221794 - 95

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1 GARY P. HUMMEL,
2 having first been duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. HARPER:

6 Q. Captain Hummel, my name is Marty Harper.
7 And, as you know, we represent the West pilots in the
8 litigation that's pending in Phoenix. We're here
9 today to talk about some issues in that litigation.

10 You understand that?

11 A. Yes.

12 Q. I assume you have been briefed on how
13 depositions go?

14 A. Yes.

15 Q. So I don't need to spend time going over
16 that, correct?

17 A. Correct.

18 Q. One of the things that we ought to try hard
19 not to do is to overtalk each other so that you've
20 got to wait until I get my question out, and I'll try
21 to work very hard to not overtalk you before you get
22 your answer done.

23 Is that okay?

24 A. Yes.

25 Q. Is there any reason that you're not

1 physically fit to do the depo? I know you've had
2 some problems in the past, and I just wanted to make
3 sure that we're okay today to do this.

4 A. Yes.

5 Q. Okay. How long have you been president of
6 USAPA?

7 A. Since April 18th, 19-- no, 2012.

8 Q. And in general, what are your
9 responsibilities as president of USAPA?

10 A. To oversee the organization.

11 Q. And what do you mean by that?

12 A. USAPA has a constitution and my authority
13 and duties are vested therein.

14 Q. So one of your jobs is to enforce or make
15 sure that the constitution is either enforced or
16 followed?

17 A. Yes.

18 Q. In the hierarchy, if I understand USAPA, is
19 that it is generally governed by a board of pilot
20 representatives, correct?

21 A. Generally, yes.

22 Q. And then there are a group of officers at
23 USAPA also?

24 A. Yes.

25 Q. And you're the president. Who's the

1 current vice president?

2 A. Steven Bradford.

3 Q. And who are the other officers?

4 A. Rob Streble is the secretary treasurer
5 and Steve Smyser, the executive vice president.

6 Q. And how long is your term?

7 A. Three years.

8 Q. So it will go until early 2015?

9 A. Yes.

10 Q. As president of USAPA, are you in a
11 position to talk about policies that USAPA has?

12 A. Generally speaking, yes.

13 Q. And are you able to discuss and articulate
14 various positions that USAPA takes vis-a-vis its
15 memberships or other issues associated with USAPA?

16 A. Yes.

17 Q. So if I asked you -- and I am asking you,
18 what is USAPA's current policy with respect to the
19 West pilots participating in the McCaskill-Bond
20 process?

21 A. It would be my understanding that the
22 McCaskill-Bond process currently would be between
23 the Allied Pilots Association and USAPA.

24 Q. Why do you say currently would be?

25 A. That is what is embodied in the

1 memorandum of understanding between the four
2 parties to this merger agreement.

3 Q. Are you sure about that?

4 A. There are four signatories to the MOU.

5 Q. But the language in paragraph 11 of the MOU
6 talks about the parties participating, doesn't it?

7 A. I would have to --

8 MR. O'DWYER: Well, let's take a look at
9 it. If you want to show him the document.

10 MR. HARPER: I'm just asking for his
11 recollection.

12 A. Yeah, I would have --

13 MR. O'DWYER: If he recollects or does he
14 need to see it?

15 MR. HARPER: Okay. We're going to be
16 operating this depo under the rules of
17 procedure in Arizona. You understand that,
18 Mr. O'Dwyer?

19 MR. O'DWYER: I understand we're
20 operating under the rules of the federal
21 district court.

22 MR. HARPER: Right. And the current
23 requirement is that if you want to object, you
24 simply make an objection, brief, form,
25 foundation or instruct the witness not to

1 answer.

2 Do you understand that?

3 MR. O'DWYER: I understand what the rules
4 are, Mr. Marty.

5 MR. HARPER: Okay. So we're going to --
6 you agree we can operate under those rules
7 today?

8 MR. O'DWYER: I'm operating under those
9 rules.

10 MR. HARPER: Let's go back.

11 Can I have the last question back,
12 please.

13 (THE QUESTION WAS READ BACK.)

14 Q. Do you have a recollection of what the
15 language is?

16 A. I do not. I would have to see the
17 document.

18 Q. But notwithstanding the fact you haven't
19 seen the document, your position is on behalf of
20 USAPA that the only participants in the
21 McCaskill-Bond process is APA and USAPA?

22 A. Well, when you say participants, yes, the
23 only bargaining agents are APA and USAPA.

24 Q. So as president of USAPA is it USAPA's
25 current position that the West pilots will have no

1 seat at the arbitration table if, indeed, there is a
2 McCaskill-Bond arbitration?

3 A. No. And that is why I specifically
4 appointed West pilots to the merger committee and,
5 in fact, to all of our committees, because all of
6 the bases are equitably represented in the process.

7 Q. So you think the -- and the two pilots that
8 you have put on the merger committee are Ken
9 Stravers?

10 A. Yes.

11 Q. And Rocky Calveri?

12 A. Calveri.

13 Q. Calveri.

14 A. He pronounces it Calveri.

15 Q. Well, I pronounce it differently too.

16 And you put those two pilots on the merger
17 committee sometime earlier this year, correct?

18 A. Yes.

19 Q. So you think -- and there are how many
20 pilots on the merger committee?

21 A. Well, if I can correct that just for the
22 record, I actually appointed Ken Stravers to the
23 merger committee my first day in office on
24 April 18th, 2012.

25 Q. How many pilots are on the merger

1 committee?

2 A. Six.

3 Q. And you've got two West pilots and four
4 East pilots?

5 A. Two West, three East and a chairman, yes.

6 Q. And the chairman is Jess Pauley?

7 A. Correct.

8 Q. And he's East?

9 A. Correct.

10 Q. So it's four East pilots and two West
11 pilots?

12 A. Correct.

13 Q. And if I understand correctly, the merger
14 committee positions that it takes in connection with
15 perhaps a future arbitration is as dictated and
16 instructed by the board of pilot representatives?

17 A. Generally speaking, yes.

18 Q. Well, why do you say generally?

19 A. It is the merger committee's
20 responsibility to develop what they think is the
21 best process and present it to the board for
22 approval.

23 Q. And if the board approves, then the merger
24 committee will have permission to go forward and try
25 to effectuate what has been approved?

1 A. That's my understanding, correct.

2 Q. And the merger committee will not have
3 authority to deviate from what the BPR approves
4 unless it goes back to the board and gets additional
5 authority or modification to its authority, correct?

6 A. Ultimately, the board would have to
7 approve their position.

8 Q. Okay. So is it your -- and correct me if
9 I'm wrong, Captain Hummel, is it your position that
10 because there are two out of six West pilots on the
11 merger committee, the West pilot group has
12 representation in a future McCaskill-Bond process
13 because of those two pilots?

14 A. That's correct.

15 Q. And why do you say that?

16 A. Because USAPA has made every attempt to
17 represent all bases equitably.

18 Q. And I know we're talking a little bit of a
19 hypothetical here because neither one of us knows
20 whether this merger, as we sit here today, is going
21 to go forward, do we?

22 A. Correct.

23 Q. So do you mind dealing with me on the
24 hypothetical that the Justice Department's objection
25 is going to be overcome and at some point in time the

1 merger will be consummated?

2 A. Hypothetically.

3 Q. Okay. So we can talk that way today and
4 you're comfortable talking that way today about this?

5 A. I'll let you know if I'm not.

6 Q. Okay.

7 Okay. So let's just hypothetically assume
8 that the McCaskill-Bond arbitration itself with a
9 three-panel arbitrators will begin -- pick a date,
10 February 1, 2014.

11 Is that okay with you?

12 A. Fine.

13 Q. And let's assume that this arbitration is
14 going to take place in D.C., okay?

15 A. Okay.

16 Q. Now, on the morning of that first day of
17 arbitration it's your position, as you understand it,
18 that APA will be represented by a merger committee in
19 the context of that arbitration, correct?

20 A. Correct.

21 Q. And you will have an understanding that
22 USAPA will be represented at the merger -- by the
23 merger committee that you have appointed, correct?

24 A. Correct.

25 Q. And as I understand it, it's your position

1 that the West pilot group itself will not have a
2 separate seat at that arbitration, correct?

3 A. Correct.

4 Q. And that's because you have put two members
5 from the West on the West merger committee, correct?

6 A. It's because USAPA has equitably
7 represented all bases involved in this merger.

8 Q. How do you say that? Please explain that.

9 A. Well, we just have tried to make certain
10 that with our board, with our representation on
11 committees that we have been inclusive with
12 everybody.

13 Q. Let's talk about that. What list, as you
14 currently understand it, is USAPA going to present at
15 the first day of arbitration?

16 A. I have no idea.

17 Q. It's going to be a date-of-hire list, isn't
18 it, Captain Hummel?

19 A. I don't know.

20 MR. O'DWYER: Objection.

21 MR. HARPER: Why?

22 MR. O'DWYER: He said he had no idea.

23 You're being argumentative.

24 Q. Why do you say you don't know?

25 A. Because the merger committee has not yet

1 discussed that with the board and not yet produced
2 a protocol agreement pursuant to the McCaskill-Bond
3 process.

4 Q. How far along is that protocol agreement?

5 A. I believe it should be completed by the
6 end of the month.

7 Q. Right. And Jess Pauley is working on that
8 protocol agreement?

9 A. Yes.

10 Q. And the other members of the merger
11 committee are working on it, correct?

12 A. I assume.

13 Q. And Steve Bradford is sort of working on
14 that too?

15 A. Yes.

16 Q. With Mr. King, Captain King?

17 A. I don't know.

18 Q. Okay. And that protocol agreement, as I
19 understand it, unless it has been changed recently,
20 does not provide for West pilot separate
21 participation in the arbitration, does it?

22 A. I don't know.

23 Q. You haven't seen it?

24 A. No.

25 Q. You haven't even seen drafts of it?

1 A. No.

2 Q. Well, what did the BPR tell the merger
3 committee to include in the protocol, merger
4 protocol, if anything?

5 A. They did not.

6 Q. So the BPR hasn't seen it at all?

7 A. Correct.

8 Q. Okay. And you say that the merger
9 committee, and I think you chose your words
10 carefully, has not yet presented a date-of-hire list
11 to the BPR, correct, to be included in the
12 arbitration?

13 A. I would have to review what I said, but I
14 believe that I said that the merger committee was
15 developing a protocol agreement, and I believe that
16 I told you that neither I nor the board has seen
17 that.

18 Q. The merger committee and others have
19 already put together several date-of-hire lists to be
20 utilized in connection with the upcoming
21 McCaskill-Bond arbitration, correct?

22 A. I don't know.

23 Q. And the merger committee will not be given
24 authority from the BPR to deviate from whatever the
25 USAPA constitution mandates by way of a seniority

1 list, will it?

2 A. I don't know.

3 Q. Why?

4 A. Because that would be a decision for the
5 board.

6 Q. To modify its constitution?

7 A. No, to give the merger committee
8 authority.

9 Q. Well, you previously told me that you --
10 the BPR -- one of your jobs was to enforce the -- the
11 -- USAPA's constitution, correct?

12 A. Correct.

13 Q. And as I understand it, currently the USAPA
14 constitution requires that the only seniority list
15 that can be utilized is date of hire with conditions
16 and restrictions, correct?

17 A. I would have to review the document
18 specifically, but I believe there is more to it
19 than that, paraphrasing it something like date of
20 hire with conditions and restrictions to protect
21 everyone's career expectations.

22 Q. It's your understanding that the West pilot
23 group wants the Nicolau list to be presented at the
24 arbitration, correct?

25 A. I understand that there are a group of

1 West pilots and, therefore, the reason for this
2 litigation that are requesting that, yes.

3 Q. And as you sit here, it's your
4 understanding that USAPA merger committee will never
5 present the Nicolau list to the McCaskill-Bond
6 arbitrators, correct?

7 A. I don't know what the merger committee
8 will ultimately bring to the board to present.
9 That's a question for the merger committee.

10 Q. As you sit here under oath, do you have any
11 reasonable expectation that the merger committee
12 controlled by four East pilots will bring the Nicolau
13 list to the BPR with the recommendation that it be
14 utilized in the McCaskill-Bond process?

15 MR. O'DWYER: Objection. Objection.

16 Q. You can answer.

17 A. My personal opinion is no.

18 Q. So based upon your personal experience and
19 your experience as you've had it as president of
20 USAPA, the process that you envision at
21 McCaskill-Bond will never give the West pilots an
22 opportunity to present the Nicolau list, will it?

23 A. That's not true.

24 Q. How will that process work? Will the West
25 pilots have an opportunity to present the Nicolau

1 list under USAPA to the arbitration panel?

2 A. You have just modified your question.

3 You said to the arbitration panel?

4 Q. Yes.

5 A. Well, again, we're being very
6 hypothetical because we do have an equitable
7 representation of all the pilots on the merger
8 committee who will work together, as they have in
9 the past, and come up with a list that is -- meets
10 the requirements of the constitution, present that
11 to the board. There will be a merger process
12 which, as I told you, will be contained in a
13 protocol agreement which I have not reviewed. And
14 this may not even go to an arbitration panel. So
15 we're being very hypothetical.

16 Q. And it wouldn't go to an arbitration panel
17 if, by chance, USAPA and APA could reach an agreement
18 on a integrated seniority list, correct?

19 A. Correct.

20 Q. Captain Hummel, as you sit here, do you
21 have any reasonable expectation that APA would reach
22 a negotiated list with USAPA if it did not include
23 the Nicolau?

24 A. I'm sorry, could you repeat that?

25 MR. HARPER: Can you read it back to him,

1 please.

2 (THE QUESTION WAS READ BACK.)

3 MR. O'DWYER: Objection to form.

4 You don't answer.

5 Would you please rephrase the question.

6 MR. HARPER: No, he can answer that
7 question. I don't have to rephrase just
8 because you objected.

9 THE WITNESS: Could you read the question
10 back again, please.

11 (THE QUESTION WAS READ BACK.)

12 A. I find the question very confusing, and
13 my answer would be that I have expectations that
14 APA and USAPA may, in fact, reach a negotiated
15 settlement.

16 Q. That does not include the Nicolau?

17 A. That is possible.

18 Q. Do you really think that APA would step
19 into USAPA's shoes and assume whatever responsibility
20 it would have when it becomes a single bargaining
21 agent if the Nicolau list is not used?

22 A. I'm having trouble with your questions.
23 Perhaps it's me. But could you restate that
24 question?

25 MR. HARPER: You can read it back.

1 (THE QUESTION WAS READ BACK.)

2 A. I honestly don't understand the question.
3 You're asking me to make an assumption based on
4 responsibility that I don't understand the
5 inference.

6 Q. Well, at some point in time APA's going to
7 become the exclusive bargaining agent, assuming the
8 merger goes through, of all of the new American
9 pilots, correct?

10 A. Potentially, correct.

11 Q. And why do you have any doubt about that?

12 A. The process goes to the National
13 Mediation Board to determine who would be the
14 bargaining agent.

15 Q. And you've been told that under the current
16 set of circumstances with the number of pilots on
17 both the APA side and the USAPA side, that that's
18 going to be APA, correct?

19 A. I don't think any of us can predict the
20 future.

21 Q. So are you sitting there and telling us
22 that there's some chance that USAPA is going to
23 emerge as the exclusive bargaining agent of the new
24 American pilots?

25 A. No, I'm sitting here answering your

1 questions.

2 Q. So you have no reasonable expectation that
3 USAPA will end up as the exclusive bargaining
4 representative of the new American pilots, do you?

5 A. I do not.

6 Q. So the only other alternative is that APA
7 is going to end up as that bargaining representative,
8 correct?

9 A. No.

10 Q. Who else would it be?

11 A. Could be Bob's union.

12 Q. Okay. Have you seen -- maybe you've
13 answered this question, Captain Hummel. Have you
14 seen any of the potential merger lists that have been
15 prepared by either the merger committee or
16 Captain Owens?

17 A. No.

18 Q. Have you directed them to prepare such
19 lists?

20 A. No.

21 Q. Do you know if they have prepared such
22 lists?

23 A. No.

24 Q. Do you know if a potential merger list has
25 been prepared utilizing the Nicolau list?

1 A. No.

2 Q. Have you instructed anybody to prepare such
3 a list?

4 A. No.

5 Q. Why is that?

6 A. It's not my job.

7 Q. To do what, instruct your committees what
8 to do?

9 A. I'm sorry, could you repeat the question?
10 (THE QUESTION WAS READ BACK.)

11 A. Could you make that a question?

12 Q. Don't you set policy -- I mean, you
13 articulate USAPA's policy, correct?

14 A. Correct.

15 Q. And USAPA's current policy is to have a
16 date-of-hire list with conditions and restrictions,
17 correct?

18 A. I believe there's more to that, as I
19 stated. I would have to review the constitution to
20 protect everyone's career expectations, correct.

21 Q. You appoint these committees, correct?

22 A. Correct.

23 Q. And your instructions when you appoint them
24 is to abide by the constitution requirements,
25 correct?

1 A. Correct.

2 Q. And that's what you've done here?

3 A. Correct.

4 Q. And the constitutional requirements do not
5 allow the merger committee to prepare a potential
6 merger list utilizing the Nicolau, does it?

7 A. I don't believe the constitution says
8 anything about the Nicolau list.

9 Q. I know. In specific it doesn't say that.
10 But Nicolau is not a date of hire, is it,
11 Captain Hummel?

12 MR. O'DWYER: Objection as to form.

13 Q. It's not a date-of-hire list, is it?

14 MR. O'DWYER: Repeating it doesn't make
15 it better as to form.

16 A. It's my understanding, no, it is not.

17 Q. And therefore, it doesn't satisfy the USAPA
18 constitutional requirements, does it?

19 MR. O'DWYER: Objection as to form.

20 A. My understanding is that no, it does not.

21 Q. Right. So as we sit here constitutionally,
22 it's not possible for the merger committee to prepare
23 a merger list based upon the Nicolau award, is it?

24 MR. O'DWYER: Objection as to form.

25 A. My understanding would be no.

1 Q. So if we extend that, the constitution then
2 would preclude the merger committee from recommending
3 to the BPR a merger list that would include or be
4 based upon the Nicolau, correct?

5 A. Based on your logic and assumptions, yes.

6 Q. Okay. And as we sit here then, it's going
7 to be impossible for your merger -- for the USAPA
8 merger committee to present a merger list in the
9 upcoming arbitration based upon the Nicolau list,
10 correct?

11 A. Again, that's up to the merger committee.

12 Q. Well, and the fact that you have two West
13 pilots on the merger committee is not going to change
14 the constitutional requirements for USAPA, is it,
15 with respect to a date-of-hire list?

16 MR. O'DWYER: Objection as to form.

17 A. The makeup of the merger committee, I
18 agree with you, has nothing to do with the
19 constitution.

20 Q. Right.

21 So as we sit here now, looking forward to
22 the upcoming arbitration, the only way for the West
23 pilots to have an opportunity to present the Nicolau
24 list in the upcoming arbitration is for them to have
25 a separate seat at the table, correct?

1 MR. O'DWYER: Objection as to form.

2 A. No. The lists can be presented to the
3 merger committee as the process unfolds.

4 Q. Yeah, but the -- you just agreed with me
5 that the merger committee cannot utilize the Nicolau
6 to present -- to prepare a seniority integration list
7 because of the constitu- -- constitutional
8 restrictions, right?

9 A. I believe that you asked me would they
10 have the opportunity to present it.

11 Q. No.

12 A. And I disagreed with you, they would have
13 the opportunity to present it.

14 Q. I said to the arbitration panel. The only
15 way for them to have an opportunity to present it to
16 the arbitration panel is to have a seat at the table,
17 correct?

18 A. Once again, we're making the assumption
19 that this process eventually would go to an
20 arbitration panel.

21 Q. Well, assuming that you can't -- well,
22 that's good. Assuming that we can't negotiate a list
23 with the APA it's going to go to the panel, correct?

24 A. Correct. That is the process as defined.

25 Q. So we've got that established.

1 Now, the only way, after all the
2 conversations we've had here for 25 minutes, for the
3 West pilots to get the Nicolau list in front of the
4 McCaskill-Bond arbitrators is for them to have a seat
5 at the table, correct?

6 MR. O'DWYER: Objection as to form.

7 A. The only way for any individual to
8 present their individual concerns would be for
9 those -- or that individual to have an individual
10 seat at the table. But that is not the way the
11 process works.

12 Q. Okay.

13 A. The process works by committee, by merger
14 committee where all of the views are present --
15 presented and that is how the process works.

16 Q. Does USAPA currently fully support the
17 upcoming merger?

18 A. Yes.

19 Q. Has USAPA put out a bulletin or a release
20 saying that it fully supports the merger just like
21 ALPA has put out or the flight attendants have put
22 out?

23 A. Yes.

24 Q. When did that happen?

25 A. I would have to review updates and such

1 from our Comm chair, but yes.

2 Q. Yeah, as you sit here, do you have any
3 recollection of you signing anything Captain Hummel
4 saying that USAPA fully and unconditionally supports
5 the merger?

6 A. I don't recall those words specifically,
7 fully and unconditionally, but there have been
8 several joint press releases with all of the unions
9 where statements from me personally supporting the
10 merger have appeared.

11 Q. Yeah, I understand. In the joint context
12 it has. But ALPA put out a separate free-standing
13 statement fully supporting the merger, correct?

14 A. I don't know.

15 Q. And the flight attendants did likewise,
16 correct?

17 A. I -- I assume.

18 Q. And the APA did likewise, correct?

19 A. If you say so.

20 Q. Yeah, but the only entity that has not put
21 out a full support of the merger on a free-standing
22 basis as of today is USAPA, correct?

23 A. I don't know that that's correct. Again,
24 I would have to look at updates that our Comm and
25 that I have put out. And I believe that we have

1 put out updates to our pilots in support of the
2 merger.

3 MR. HARPER: I just want to get -- what's
4 this number going to be?

5 MS. AXEL: 1000.

6 (Exhibit Number 1000: USAPA's Response To
7 Plaintiffs' Interrogatories marked for
8 identification, as of this date.)

9 Q. I just want -- can you identify for me,
10 Captain Hummel, Exhibit Number 1000?

11 A. It is USAPA's response to plaintiff's
12 interrogatories.

13 Q. And if you go to Exhibit 1000 on page ten,
14 is that your signature there or a facsimile of your
15 signature?

16 A. Yes.

17 Q. And the date on page ten is August 20,
18 2013, correct?

19 A. Correct.

20 Q. And your signature follows a heading at the
21 top that says verification, correct?

22 A. Correct.

23 Q. Do you understand what you were verifying
24 when you signed Exhibit 1000 on August 20, 2013?

25 A. I do.

1 Q. What were you verifying?

2 A. That the statements included in this
3 response to plaintiff's interrogatory, to the best
4 of my knowledge, were true and correct.

5 Q. Based upon firsthand information, correct?

6 A. As I said, based upon my knowledge.

7 Q. So it wasn't firsthand information?

8 A. I don't know. I would have to review the
9 document.

10 Q. We'll give you an opportunity to do that in
11 a moment.

12 A. Okay.

13 Q. Okay.

14 (Exhibit Number 1001: Gary Hummel
15 Candidate For President campaign material
16 contained in an e-mail from Gary Hummel dated
17 1/30/12, Bates WP019186 - 189 marked for
18 identification, as of this date.)

19 Q. Want to show you what we've had marked as
20 Exhibit 1001, Captain Hummel.

21 A. Okay.

22 Q. It's a multipage document, four pages.
23 Is that what you have in front of you?

24 A. I do.

25 Q. And can you identify it for me, please?

1 A. It is a campaign piece from me to the
2 USAPA membership.

3 Q. And the date on the campaign piece perhaps
4 is --

5 A. January 30, 2012.

6 Q. And you're looking at the top left-hand
7 corner?

8 A. Correct.

9 Q. Who was your campaign manager during this
10 campaign?

11 A. I never really had a manager, per se.
12 There were several people that helped with the
13 campaign.

14 Q. Can you name those for me?

15 A. Mark King, John Owens come to mind.

16 Q. Okay. And you ran -- you ran your campaign
17 based upon date of hire as one of the issues,
18 correct?

19 A. No.

20 Q. You ran your campaign on the fact that
21 you -- your position was the date of hire as mandated
22 by the constitution was a requirement in any future
23 seniority integration, correct?

24 A. Could you repeat the question?

25 MR. HARPER: Can you read it back.

1 (THE QUESTION WAS READ BACK.)

2 A. No.

3 Q. Tell me what your position in your campaign
4 then was on seniority integration?

5 A. I would have to review all of the
6 documents. But generally speaking, I believe it
7 was my understanding that the -- in fact, I believe
8 that I made a statement somewhere in there that
9 this was now an issue for the courts.

10 Q. Right.

11 If you go to page three, second paragraph
12 from the bottom, I think your statement's there.

13 A. Where was that again?

14 Q. Go to page three, Captain Hummel, the
15 paragraph at the bottom of that starts with so there
16 you have it.

17 That's the statement you were making
18 reference to.

19 A. Thank you.

20 Q. Can you read that into the record, please.

21 A. So there you have it, it just doesn't
22 matter anymore what I think about date of hire,
23 what you think about the Nic, it is no longer an
24 issue for the union under the RLA. USAPA's
25 attorneys have agreed with the company and the West

1 pilot class that this is a legal issue that will be
2 resolved in the courts.

3 Q. And that's a statement you made to all the
4 pilots, all the U.S. Airway pilots on or about
5 January 30, 2012, correct?

6 A. I would have to refresh the date, but I
7 believe this was in the aftermath of litigation in
8 the Phoenix court where Mr. Harper and
9 Mr. Szymanski and Mr. Siegel all agreed that this
10 was a legal issue for the courts, yes.

11 Q. But that's what you wrote --

12 A. Correct.

13 Q. -- in your campaign materials -- let me get
14 it out, please. That's what you -- this is what you
15 wrote in your campaign materials in January of 2012,
16 correct?

17 A. Correct.

18 Q. And now you don't believe that anymore, do
19 you?

20 A. I don't believe what anymore?

21 Q. That this -- this issue, the Nic or date of
22 hire is to be resolved in the courts?

23 MR. O'DWYER: Objection as to form.

24 A. I think that's why we're here today is
25 that we are resolving this.

1 Q. Well, do you still -- is it still your
2 personal opinion, Captain Hummel, that the dispute
3 between the East pilots and West pilots should be
4 decided in the courts?

5 A. I believe that's the opinion of all three
6 counsels involved in this matter as well.

7 Q. So why did USAPA last Friday file a motion
8 in the 9th Circuit to stay the litigation?

9 MR. O'DWYER: Objection as to form.

10 A. That would best be a question I think
11 that I would have to discuss with my attorneys
12 before answering. It may involve attorney/client
13 privilege. I'm not familiar enough with these
14 proceedings to answer that.

15 Q. Yeah, did you give the lawyers permission
16 to file that pleading in the 9th Circuit last Friday?

17 A. Yes.

18 Q. Okay. As president of USAPA?

19 A. Yes.

20 Q. Did you get permission from the BPR to give
21 that permission before you gave it to the attorneys?

22 A. No.

23 Q. Why?

24 A. It is not a requirement for the BPR to be
25 involved with every legal decision that's made

1 pursuant to the adjudication of a specific case.

2 Q. But the purpose of the pleading last
3 Friday, as you understand it, was to delay the
4 litigation in Phoenix, correct?

5 A. I would have to review --

6 MR. O'DWYER: Objection as to form and
7 involves privilege.

8 MR. HARPER: Well, I'm just asking him
9 the effects. I'm not asking any privileged
10 communications.

11 Q. Go ahead.

12 A. I would have to review the pleading to
13 answer that.

14 Q. Well, did you review it before it was filed
15 last Friday?

16 A. Yes.

17 Q. And we're sitting here the following
18 Tuesday?

19 A. Yes.

20 Q. And you can't remember?

21 A. I cannot.

22 MR. O'DWYER: Objection as to form.

23 Q. You can't remember what the --

24 MR. O'DWYER: Objection as to form.

25 Q. You can't remember what the pleading that

1 was filed by USAPA in the 9th Circuit seeks to do?

2 A. I do recall what it seeks to do.

3 Q. What is that?

4 A. It seeks to -- again, my recollection is
5 that it seeks to have a decision rendered because
6 perhaps the decision already proposed in a circuit
7 court was contrary to a prior decision rendered at
8 the 9th Circuit.

9 Q. Yeah, okay. That's good. I mean, I think
10 that you have the gist. Let's just kind of boil it
11 down a little bit.

12 If the pleadings that USAPA -- you
13 authorized the lawyers to file last Thursday and
14 Friday in the 9th Circuit are granted, do you
15 understand the effect will be to stop the litigation
16 in Phoenix, right?

17 A. Yes.

18 Q. Okay. And if the litigation in Phoenix is
19 stopped, okay, then that clears the way for USAPA to
20 go forward with its present plans to present only a
21 date-of-hire list in the McCaskill-Bond arbitration
22 upcoming; isn't that correct?

23 A. I don't believe that's correct.

24 (Exhibit Number 1002: Gary Hummel

25 Candidate For President campaign material

1 contained in an e-mail from Gary Hummel dated
2 3/16/12, Bates WP020094 - 96 marked for
3 identification, as of this date.)

4 Q. Yeah, this one is Exhibit 1002,
5 Captain Hummel.

6 MR. HARPER: Gary, I think we have a
7 semblance of a Bates number on this one, it's
8 WP 020094. Do you see that at the bottom
9 left?

10 MR. O'DWYER: Yeah, yeah.

11 Q. And, Captain Hummel, you understand
12 sometimes we'll have Bates numbers on these documents
13 which will -- I can use to identify the document just
14 because we've been moving so rapidly here in the past
15 several weeks, not all the documents have those. And
16 so I'll try to make sure we're both on the same page
17 as best I can.

18 A. Okay.

19 Q. I'm just looking at Exhibit 1002, Bates
20 WP 020094. Can you identify this document for me,
21 please.

22 A. It's a campaign piece from me to the
23 membership.

24 Q. And you recall sending this out to the
25 membership?

1 A. Yes.

2 Q. And the date in the top right-hand corner
3 is March 16, 2012, correct?

4 A. Correct.

5 Q. And so this is something you and your
6 helpers actually put out to everybody on or about the
7 mid part of March 2012, correct?

8 A. Correct.

9 Q. And your -- this was during the runoff
10 election, if I understand correctly?

11 A. Yes.

12 Q. And your opponent was Eric Ferguson from
13 the West group, correct?

14 A. Correct.

15 Q. So this was a contest between you at this
16 point in time and Mr. Ferguson, correct?

17 A. Correct.

18 Q. And can you read what you wrote on page
19 two, the paragraph that begins Gary Hummel?

20 A. Gary Hummel, Steve Bradford and Steve
21 Smyser remain focused on an impending airline
22 merger and achieving an industry-standard contract
23 that merges our seniority list based on date of
24 hire. We unconditionally support date of hire with
25 conditions and restrictions as prescribed in the

1 USAPA constitution and will support the process to
2 appeal any decision in a court that holds that
3 USAPA cannot bargain in good faith to that end.

4 Q. So you wrote that to all pilots in March of
5 2012, correct?

6 A. Correct.

7 Q. And that was your -- your belief and
8 position when you wrote this to all of the USAPA
9 pilots, correct?

10 A. Correct, to uphold the USAPA
11 constitution, correct.

12 Q. And that remains your intent today, isn't
13 it, Captain -- doesn't it?

14 A. Correct.

15 Q. And that remains your intent today, isn't
16 it, Captain Hummel?

17 A. To uphold the constitution, correct.

18 Q. And the date of hire with the conditions
19 and restrictions as you wrote?

20 A. As prescribed in the constitution,
21 correct.

22 Q. And it's your position as president that
23 you will work and do anything necessary to keep
24 anything other than the date-of-hire list with
25 conditions and restriction from being presented in

1 the upcoming McCaskill-Bond arbitration, correct?

2 MR. O'DWYER: Objection as to form.

3 A. Could you repeat the question?

4 MR. HARPER: Can you read it back to him,
5 please.

6 (THE QUESTION WAS READ BACK.)

7 A. No, because of the form of the question.
8 It is my responsibility to uphold the constitution
9 as it is written. So I find your inference that I
10 will do anything to do that a little bit offensive.
11 I'm not sure what the form of the question is.

12 Q. Why do you feel offended?

13 A. Could you repeat the question?

14 Q. Well, why do you feel offended?

15 A. That's why I asked him to repeat the
16 question.

17 Q. Oh, you want the previous question?

18 A. Correct.

19 Q. Okay.

20 (THE QUESTION WAS READ BACK.)

21 A. That's incorrect, because I don't
22 understand what anything other than the
23 date-of-hire list is. It's the merger committee,
24 as I told you, has been tasked to present a
25 protocol agreement, a workable list pursuant to the

1 constitution that upholds the principals of date of
2 hire with conditions and restrictions to protect
3 everyone's pre-merger career expectations. And
4 that is what I will work to accomplish.

5 Q. Which pre merger?

6 A. Depends on what merger we're talking
7 about.

8 Q. What did you just mean by -- which pre
9 merger did you mean in that answer?

10 A. Well, as we sit here today, it would be
11 the pre merger between USAPA and APA, between
12 US Airways and American Airlines.

13 Q. So you weren't referring back to the
14 pre-merger expectations in the 2005 merger?

15 A. At this point in history I was. You
16 asked me a question based on present day, you
17 said --

18 Q. So --

19 A. -- isn't that your -- I would have to
20 have you repeat the question.

21 Q. And what you intend to do is to do anything
22 necessary to protect what you understand to be the
23 East pilot's pre-merger expectations before the
24 Nicolau arbitration, right?

25 MR. O'DWYER: Objection. Mr. Harper,

1 will you please stop pounding the table.

2 A. Are we referring --

3 MR. O'DWYER: Mr. Harper, would you --

4 MR. HARPER: I stopped.

5 MR. O'DWYER: I take offense to the fact
6 that at this point in time you're pounding the
7 table --

8 MR. HARPER: I'm not pounding the table,
9 I'm emphasizing my question.

10 MR. O'DWYER: Well, let's put the fact
11 that you're taking your hand and moving it up
12 and down and hitting the table with it.

13 MR. HARPER: Okay.

14 MR. O'DWYER: However you want to
15 characterize it.

16 MR. HARPER: Okay, okay, Okay.

17 MR. O'DWYER: Okay.

18 Q. Can you answer the question,
19 Captain Hummel?

20 MR. O'DWYER: If he now remembers the
21 question, because I certainly don't.

22 MR. HARPER: Well, he may.

23 A. I would like to ask, are you referring to
24 my understanding of history and my position on
25 March 16th, 2012 or today?

1 Q. No, no, we'll get to it, Captain Hummel,
2 okay?

3 (Exhibit Number 1003: Document entitled
4 EVP Runoff Election Results, Bates WP019137
5 marked for identification, as of this date.)

6 Q. I just want to show you what I've had
7 marked as Exhibit 1003, Captain Hummel, Bates
8 WP 019137.

9 Do you have that?

10 A. I do.

11 Q. Can you identify that for me, please?

12 A. It's the weather forecast for Charlotte.

13 Q. I knew you were going to say that.

14 A. Which also appears to contain election
15 results from the pre- -- presidential election.

16 Q. And it shows Gary Hummel had a total of
17 1,867 votes, correct?

18 A. Correct.

19 Q. 67.64 percent?

20 A. Correct.

21 Q. Eric Ferguson 893 with 32.36 percent,
22 correct?

23 A. Correct.

24 Q. And these numbers were reported -- when
25 they were reported, indicated that you had won the

1 runoff election, correct?

2 A. Correct.

3 Q. And after that you became president of
4 USAPA?

5 MR. O'DWYER: Mr. Harper, you gave me the
6 executive vice president.

7 MR. HARKIN: The 2010.

8 MR. O'DWYER: The 2010.

9 Q. Well, but I have Gary Hummel and Eric
10 Ferguson here. That's what it -- it confuses me.
11 It's reporting --

12 MR. O'DWYER: That was the previous
13 election.

14 MR. HARPER: The previous year?

15 Oh, so it's the -- I've got the wrong one
16 here. This is the executive vice president
17 from 2010, okay. I don't know if we have one
18 for --

19 MR. JACOB: I've got it.

20 MR. HARPER: Andy's got it down there.

21 Q. Okay. We'll get the one for the runoff.
22 You and I -- Captain Hummel, are just -- I was moving
23 too fast here, I guess, for you.

24 MR. JACOB: You got the weather report
25 right, though.

1 MR. O'DWYER: This may be an appropriate
2 time to take a break.

3 MR. HARPER: Oh, sure.

4 THE WITNESS: Good.

5 (A BRIEF RECESS WAS TAKEN.)

6 Q. Captain Hummel, I apologize for that
7 misunderstanding. We'll get a document and bring it
8 back here.

9 A. That's fine.

10 Q. I'm going to move on and, if it's okay,
11 I'll come back to this a little bit later.

12 (Exhibit Number 1004: Document entitled
13 From The Chairman dated 8/29/13, Bates
14 WP018906 marked for identification, as of this
15 date.)

16 Q. Captain Hummel, I'm going to show you what
17 we've had marked as Exhibit 1004. It's a two-page
18 document Bates WP 018906, 907. Is that what you
19 have?

20 A. Yes.

21 Q. Okay. Can you identify this document for
22 me?

23 A. The header is from the chairman. I'm not
24 sure what chairman.

25 Q. Go to page two, it will tell you.

1 A. Delta MEC chairman, Captain Kingsley
2 Roberts.

3 Q. Have you seen this before?

4 A. I -- this was passed to me from someone.
5 I'm not familiar with it. But yes, I have seen it.

6 Q. I'd like to direct your attention to the
7 fourth full paragraph on page one to Exhibit 1004.
8 And I just ask you, do you agree with the points that
9 are being made by Captain Roberts in that paragraph?

10 A. No.

11 Q. And what do you disagree with?

12 A. All of it.

13 Q. All of it?

14 The whole characterization of USAPA as
15 being a runaway union?

16 A. I disagree with all of it.

17 Q. Okay. Have you written to Captain Roberts
18 and told him that you disagree with the way that he
19 characterizes your union?

20 A. No.

21 Q. Do you intend to?

22 A. No.

23 Q. Why?

24 A. It's my understanding that the Delta
25 pilots are in the process of a initiative that

1 would have them go to the National Mediation Board
2 to certify a new union and leave ALPA.

3 Q. Okay. I'd like -- we can put that down.
4 We're going to move to a different area. And what
5 I'd like to do at this point in time, Captain Hummel,
6 at some point -- someplace I read that on the first
7 day you assumed office you learned that there was a
8 possibility of a merger between American and US
9 Airways; is that right? Or about the first day of
10 your office.

11 A. About that time, I was officially
12 informed.

13 Q. Okay. And so this would be April of
14 2012 --

15 A. 17, correct.

16 Q. -- right?

17 A. Correct.

18 Q. So the time period I'd like to talk about
19 now is beginning in April of 2012 and ending -- and
20 you tell me the date, would be in August of 2012 when
21 MOU 1 was rejected by the BPR.

22 Do you have that time period in mind?

23 A. Yes.

24 Q. And that date that it was rejected would be
25 August 22 or August 27th; do you recall the precise

1 date?

2 A. Well, first, I'm not certain that I would
3 characterize it as rejected.

4 Q. Didn't go any further or was sent back for
5 renegotiation or something, correct? You tell me
6 what happened.

7 A. We can assume that time frame.

8 Q. From mid April 2012 to the third week in
9 August 2012. Is that okay?

10 A. I'm assuming that time frame, yes.

11 Q. Okay. Can you tell me, in your own words,
12 what happened during that time period with respect to
13 USAPA dealing with APA or USAPA dealing with US
14 Airways in connection with an MOU or potential MOU.

15 So I just would like to have you break it
16 down for us so that we get your understanding of what
17 occurred during that time period.

18 A. So just so I'm clear, you're asking me to
19 give you a history from my perspective of what
20 happened in that four, five-month period.

21 Q. Yeah, just an overview.

22 A. Okay. On or about April 17th I received
23 a phone call from Doug Parker informing me that
24 they were going to make a public statement that
25 they planned a merger with American Airlines.

1 I also received a call from Dave Bates,
2 the president of APA. The announcement was made
3 publically and on or about April 30th Doug Parker
4 and Scott Kirby, some others, came to a BPR meeting
5 in Charlotte and addressed our board, answered
6 their questions. Several weeks later I had
7 breakfast with Doug Parker, Steve Johnson, Brian
8 O'Dwyer and Steve Bradford in Washington, D.C. to
9 discuss USAPA's role in that.

10 Q. And that would have been mid May,
11 approximately?

12 A. Early May.

13 Q. Okay.

14 A. During that time, we had several board
15 meetings. We were advised by our merger counsel
16 and specifically our professional negotiator,
17 Roland Wilder, that our goal should be to ensure
18 that if a merger was consummated, that the pilots
19 of US Airways would arrive on the same date as the
20 merger with equal pay, benefits and working
21 conditions.

22 Q. And that would, in their view, help in the
23 pilot integration arbitration or negotiations?

24 A. I can't speak to that specifically. But
25 it was understood that our best opportunity to

1 arrive as equals would be to negotiate to that end
2 prior to the merger instead of having to try to
3 attain that same equality after the merger.

4 Q. Okay.

5 A. With that in mind, somewhere in July,
6 first week of July, there was a press conference in
7 Washington, D.C., and Doug Parker and Dave Bates
8 were attending the press conference in the
9 afternoon. I received a call from Dave Bates who
10 asked me to meet him in Washington that morning to
11 have conversation. When I arrived, also Scott
12 Kirby was present. And on that morning Scott
13 Kirby, Dave Bates and myself had conversation. And
14 the tone of the conversation was that Dave Bates
15 was very concerned about my insistence that we
16 needed to have our own MOU as opposed to their term
17 sheet that would allow us to resolve some issues
18 and arrive at the merger equal in pay, benefits and
19 working conditions.

20 Q. Okay. Without interrupting you, when you
21 just used MOU here. When you said USAPA's desire or
22 need to have its own MOU, is that the product of
23 Roland and Pat advising the BPR that you ought to
24 arrive at these merger with the same or equal working
25 conditions and pay as the APA pilots?

1 A. Yes.

2 Q. Okay. So that's where the MOU first was
3 given life?

4 A. The MOU was first given life exactly that
5 way by Roland Wilder's suggestion.

6 Q. Okay.

7 A. So at that meeting Dave Bates, his
8 overriding concern was on how USAPA was going to
9 handle their current seniority integration issue
10 and would that be handled prior to any merger with
11 American. And that concern was answered by Scott
12 Kirby, who made it perfectly clear that we weren't
13 going to deal with seniority in any way, shape or
14 form, that the McCaskill-Bond process would allow
15 us to deal with that at a later date, that we would
16 be able to work towards an MOU provided that there
17 was no discussion on seniority and that the
18 seniority issue would be dealt with after the
19 merger.

20 Q. Okay. Just so I have it in context, this
21 suggestion by Kirby about how the process was to go
22 forward was at this breakfast meeting in July of 2012
23 or afterwards?

24 A. It was not a suggestion.

25 Q. I understand that. I'm being facetious.

1 A. It was -- no, just so you're clear, it
2 was not a suggestion. As I stated, it was the
3 definitive statement on how the process would work
4 if, in fact, we could work towards an MOU.

5 Q. Okay. Then what happened next?

6 A. That would have been in July. There was
7 some conversation then at that meeting on what our
8 requirements would be.

9 There was conversation with Mr. Kirby on
10 what their requirements would be. And that
11 information was then given to our negotiating
12 committee, was presented to the board and the
13 process continued then developing an MOU.

14 Q. And when you say what USAPA's requirements
15 can be, could you flush that out a little bit for us,
16 Captain?

17 A. I don't recall all of the specifics --

18 Q. No, I'm just asking --

19 A. -- but a general overview would be the
20 initial APA term sheet dealt with some
21 international flying that was offensive to the
22 Phoenix-based pilots because they had Phoenix to
23 Hawaii flying.

24 The term sheet dealt with some flying in
25 D.C. that was offensive to our D.C.-based pilots,

1 the shuttle flying specifically. There were issues
2 like that that needed to be addressed.

3 Q. Let me just back up further without taking
4 you off course here, but before you got the call to
5 meet with Bates and Kirby in D.C. that morning, I'm
6 assuming that USAPA had been provided with the APA
7 term sheet to look at?

8 A. Yes.

9 Q. Okay. And so somebody within USAPA had
10 done some work in evaluating the APA term sheet,
11 correct?

12 A. Yes.

13 Q. And I understand that was John Owens?

14 A. John Owens was involved.

15 Q. The -- I don't need to get -- I've seen a
16 document that compared --

17 A. I believe the business intelligence
18 committee was involved, Johan de Vicq, John Owens,
19 I believe the NAC was involved, yes.

20 Q. Okay.

21 Okay. And then what did Kirby say were the
22 Airways' requirements?

23 A. I don't recall specifically.

24 Q. Okay. Taking you back to mid July or early
25 July when we're having this meeting, what happened

1 next then?

2 A. The negotiating advisory committee and
3 Roland Wilder, our professional negotiator,
4 developed an MOU. There were several board
5 meetings. It went back and forth and eventually
6 was -- eventually there was a vote by the board not
7 to recommend the MOU, but to have the NAC return
8 and negotiate three or four items that they weren't
9 clear on.

10 Q. Return to Airways?

11 A. Correct. And negotiate and fix these
12 three or four items.

13 Q. And did the NAC do that or attempt to do
14 it?

15 A. Yes.

16 Q. Did they fix it or just attempt?

17 A. They actually returned to either Dallas
18 or Phoenix for a scheduled meeting. And on the
19 same day US Airways entered into a nondisclosure
20 agreement with American Airlines and the process
21 ended.

22 Q. I also thought, though, before it ended,
23 there were some communications from Airways' counsel
24 to USAPA counsel that the MOU was off the table?

25 A. I believe that occurred after the NDA.

1 Q. But that did happen, to round it out, there
2 was word from Airways that they weren't going to go
3 forward with the MOU anymore?

4 A. That's correct.

5 Q. Okay. And so can we -- and that happened
6 approximately when, Captain Hummel?

7 A. I don't recall. In the fall of '12.

8 Q. Put it into the September-ish time period;
9 is that okay with you?

10 A. I -- if you have knowledge that that
11 was -- happened in September, I'll accept that. I
12 don't recall.

13 Q. Okay. And just so I understand it, at some
14 point in time it's my understanding that the BPR
15 actually came up with a list of objectives for the
16 NAC to try to achieve in these discussions during
17 this time period with Airways, correct?

18 A. That's correct.

19 Q. And so that was what the NAC was charged
20 with attempting to accomplish?

21 A. Correct.

22 Q. Okay. But also at this point in time or
23 during this point in time, APA actually had also
24 negotiated a term sheet with Airways; is that right?

25 A. No, APA negotiated a term sheet with

1 Airways prior to the announcement of the merger,
2 prior to April 18th.

3 Q. Okay. Let's go back.

4 And so when you get the call on or about
5 April 17th from Parker, it's your understanding that
6 Kirby and Bates or their representatives had already
7 entered into an APA term sheet with Airways?

8 A. That's correct.

9 Q. Okay. I'm just going to work through --

10 A. Sure.

11 Q. -- some documents that I have here that
12 kind of, I think, track what you and I have just
13 talked about just to fill in some of the points.

14 (Exhibit Number 1005: Document entitled
15 President's Message contained in an e-mail
16 from USAPA Communications dated 6/11/12, Bates
17 USAPA 221794 - 95 marked for identification,
18 as of this date.)

19 Q. Can you identify what I've handed you as
20 Exhibit 105? And it's --

21 MR. HARKIN: I've got something else in
22 here too.

23 MR. HARPER: I'm sorry.

24 Q. -- a two-page -- a multipage document, but
25 the first page has president's message on it and then

1 it's also printed on the back of the first page. So
2 the message, I think, is on the first -- on the front
3 and back of the first page. Is that what you have in
4 front of you, Captain Hummel?

5 Oh, you don't?

6 A. No, this is different.

7 Q. Okay. Same document, only done
8 differently.

9 MS. AXEL: Sorry. You could ask him
10 about the Bates number.

11 Q. I'm sorry, you ready to --

12 A. Oh, yes.

13 Q. Okay. Can you identify Exhibit 1005 for
14 us, Captain Hummel?

15 A. It's a president's message on June 11,
16 2012.

17 Q. And it was sent to the committee chairs; is
18 that right?

19 A. I don't know who -- that's where this
20 came from. I don't know. Generally these are sent
21 to everyone.

22 Q. Right. And the salutation at the beginning
23 of this is fellow pilots.

24 Do you see that?

25 A. Correct.

1 Q. Okay. So is it your best recollection
2 right now that this was sent to all of the USAPA
3 pilots in mid June, approximately, 2012?

4 A. Yes.

5 Q. And this was, what, an attempt for you to
6 update them on the happenings between Airways and
7 USAPA up to this point in time?

8 A. Yes.

9 Q. And also a little bit of discussion on what
10 was happening on the APA side?

11 A. Yes.

12 Q. And this message to everybody came out
13 before you had your breakfast meeting in D.C. with
14 Kirby and Bates; is that right?

15 A. I assume. I would have to confirm the
16 dates. But yes.

17 Q. Okay.

18 (Exhibit Number 1006: Memorandum of
19 Understanding Regarding Contingent Collective
20 Bargaining Agreement, Bates WP020495 - 501
21 marked for identification, as of this date.)

22 Q. I want to show you, then, what has been
23 marked as Exhibit 1006 and give you a moment to look
24 at it and see if you can identify that for us,
25 Captain Hummel.

1 A. It appears from the heading to be a
2 tentative agreement between US Airways, APA and
3 USAPA, three parties, dated August 20th, 2012.

4 Q. And it's headed -- the heading is
5 Memorandum of Understanding Or Regarding Contingent
6 Collective Bargaining Agreement.

7 Did I read that right?

8 A. Correct.

9 Q. And in your previous discussion with me
10 about what happened during the April to August time
11 period, you said that eventually that the NAC came
12 back with a proposed MOU and took it to the BPR
13 sometime in August of 2012, in general; is that
14 correct?

15 A. I'm not -- I would have to confirm the
16 date, but generally, yes.

17 Q. Okay, okay. And is Exhibit 1006 that MOU
18 that you previously were talking about?

19 A. It appears to be so, yes.

20 Q. Can you identify the rates of pay on this
21 document for me?

22 A. They're contained in paragraph six under
23 the heading of Substantive Elements. And it reads:
24 Beginning on the effective date or as soon
25 thereafter as practical pilots employed by US

1 Airways shall be paid in accordance with the
2 provisions of the new APA CBA.

3 Q. Now, USAPA didn't have any involvement in
4 negotiating the terms of the new APA CBA, did it?

5 A. No.

6 Q. So the rates that are included in that
7 document, whatever they are right now as of this MOU,
8 were all negotiated between APA and Airways, right?

9 A. No.

10 Q. Who were they negotiated between?

11 A. Between APA and AMR.

12 Q. AMR.

13 So it was the bankruptcy agreement
14 negotiated between AMR and APA to set the rates?

15 A. Could you rephrase the question?

16 Q. No. He can read it back, though.

17 (THE QUESTION WAS READ BACK.)

18 A. To set what rates?

19 Q. The rates that you're just talking about
20 here, working conditions effecting compensation in
21 this paragraph six.

22 A. If that is what the new APA CBA, yes.

23 Q. Okay. So just so that the record is clear,
24 while AMR was still in bankruptcy, it negotiated a
25 new collective bargaining agreement with APA,

1 correct?

2 A. Correct.

3 Q. And that document contained compensation
4 for the APA pilots going forward, right?

5 A. Correct.

6 Q. Over a period of time into the future,
7 correct?

8 A. Correct.

9 Q. And those rates, as they were negotiated,
10 USAPA agreed to include in Exhibit 1006 as a
11 memorandum of understanding, right?

12 A. Correct.

13 Q. So bottom line, USAPA didn't negotiate any
14 future compensation rates for its pilots, did it?

15 A. As of --

16 MR. O'DWYER: Objection as to form.

17 A. As of the date of this document, no.

18 Q. Okay. And it never did, did it?

19 A. I don't know that that's true.

20 Q. Well, when you got to Dallas, and I'm
21 jumping forward on you now, what was given to the
22 USAPA team -- negotiating team on day one was the new
23 APA Green Book rates, correct?

24 A. During that process there was additional
25 negotiations between APA and AMR. There was a

1 subsequent contract agreed to.

2 During that process our NAC and their NAC
3 were working concurrently.

4 Q. Okay. Well, are you sure?

5 A. That they were working concurrently, yes.

6 Q. On -- on compensation?

7 A. No.

8 Q. No.

9 Not on compensation, right?

10 Not on any issues that were covered by the
11 nondisclosure agreement that was executed just as
12 Exhibit 106 was being presented to the BPR and not
13 listed until shortly before your NAC was invited to
14 Dallas for conversations, right?

15 A. I can't answer that. I don't know.

16 Q. Okay. Now, also going back to 106, just so
17 that we can identify the other issue, paragraph nine
18 talks about McCaskill-Bond, right?

19 A. Yes.

20 Q. And at some point in time -- well, at least
21 the language at the beginning of paragraph nine
22 reads: The pilot representative shall deliver an
23 integrated seniority list in accordance with
24 McCaskill-Bond within 24 months. It doesn't talk
25 about APA or USAPA in this paragraph, does it?

1 A. The document is between APA and USAPA,
2 but that paragraph specifically does not, correct.

3 Q. And I just need some help on this. At some
4 point in time the issue of changing control becomes
5 an issue within USAPA leadership in the context of
6 what we have just been talking about the negotiation
7 of a MOU, right?

8 A. It was discussed.

9 Q. Okay.

10 (Exhibit Number 1007: Legal Update -
11 Change of Control contained in an e-mail from
12 Ken Holmes dated 8/20/13, Bates WP020388 - 392
13 marked for identification, as of this date.)

14 Q. I want to show you what we've had marked
15 for identification purposes as Exhibit 1007,
16 multipage document beginning with Bates number
17 WP 20388. Is that what you have in front of you?

18 A. No, I have seven.

19 Q. 107?

20 A. I'm sorry, read that number again.

21 Q. Yeah, it's at the bottom.

22 A. Oh, here? Yes, I'm sorry. Yes, correct.

23 Q. Can you identify -- if you can, can you
24 identify Exhibit 1007 for us?

25 A. It appears to be a legal update on change

1 of control from USAPA legal and, again, I assume
2 this went to the membership.

3 Q. And if I understand correctly, the change
4 of control was a provision that was included in the
5 East -- the last East labor contract with US Airways,
6 correct?

7 A. Correct.

8 Q. And, in general, it provided that if there
9 was a change of control at US Airways, then certain
10 snap back compensation issues would be available to
11 the East pilots going forward, correct?

12 A. Generally -- in general terms, yes.

13 Q. And that change of control provision in the
14 East contract had value, according to USAPA, correct?

15 A. Yes.

16 Q. And USAPA was using it or attempting to use
17 it as leverage in negotiations with Airways over the
18 terms and conditions of the MOU, right?

19 A. Correct.

20 Q. But in the context, and correct me if I'm
21 wrong, but in the context of the negotiations leading
22 up to Exhibit 1006, the MOU, USAPA never gave up its
23 claim that it had a change of control claim against
24 Airways, did it?

25 It didn't waive it during the negotiations

1 leading up to the MOU?

2 A. Your statement is incorrect.

3 Q. Okay. Tell me where -- maybe I missed it.

4 What page? Where was that?

5 A. Page five, paragraph 14.

6 Q. Okay. I just missed that.

7 So as part of the negotiations for MOU I --

8 can we call that first one MOU I? You okay with

9 that?

10 A. That's fine.

11 Q. Okay. So in the context of negotiating the

12 MOU I, USAPA was willing to waive change of control

13 provisions as set forth in paragraph 14 of

14 Exhibit 1006, right?

15 A. I can't confirm that because, and only

16 because, I'm not certain exactly what this document

17 and date refers to.

18 This says tentative agreement of

19 August 20th. I don't know, in fact, if this was

20 the document that the board voted on that day or

21 perhaps if this was a draft.

22 Q. Okay.

23 A. Only for that reason.

24 Q. And that's legit.

25 A. Thank you.

1 Q. I don't want to get hung up on this. MOU
2 I, 1006, was never consummated, was it?

3 A. That's correct.

4 Q. Jump over from MOU I to Dallas, December of
5 2012 when negotiations started again, change of
6 control from the USAPA's point of view was still an
7 issue on the table, right?

8 A. I can't say that that's right because it
9 would appear if, in fact, your contention that this
10 is the document that the board had agreed to, it
11 would appear that in that article of this MOU,
12 article 14, that the board had, in fact, already
13 agreed and was contemplating exchanging change of
14 control.

15 Q. But MOU I, 1006, was never consummated, was
16 it?

17 A. That's correct.

18 Q. Okay. So it was not -- did not become
19 effective, correct?

20 A. Correct.

21 Q. And whatever the BPR was willing to do in
22 the context of 1006 never came to fruition, did it?

23 A. That's not true because MOU II arose from
24 and was --

25 Q. Okay, okay. I'm not trying to be imprecise

1 here. I just want to know when you get to Dallas in
2 December of 2006 -- or '12, was the change of control
3 provision in the East collective bargaining agreement
4 still a tool that USAPA had to use in negotiating
5 with Airways?

6 A. I don't recall.

7 Q. Okay.

8 A. And only because it's already been
9 produced in this document as item 14.

10 Q. Well, let me just go to the quick of it.
11 I'm going to screw up this.

12 MS. AXEL: Ciabattoni.

13 Q. Ciabattoni and you had a big
14 misunderstanding in the context of the ratifying of
15 the MOU whether issues associated with the change of
16 control and the valuation ought to be presented to
17 all pilots, right?

18 Do you remember that?

19 A. I do not.

20 Q. Okay. We'll get to it.

21 I'm just going to...

22 (Exhibit Number 1008: Document entitled
23 P4P Conference Call 5/18/12, Bates WP019209 -
24 214 marked for identification, as of this
25 date.)

1 Q. I want to show you what I have marked as
2 1008, Captain Hummel. And I understand that this
3 is -- these are notes associated with something
4 called P4P conference calls?

5 A. Yes.

6 Q. What are they?

7 A. The union has pilots in every base that
8 are charged to keep their ear to the rail and then
9 report back what they hear to the communications
10 committee in a group to try to ensure that the
11 board and the officers are kept abreast of the
12 current considerations of the line pilots.

13 Q. Are the P4P conference call minutes that
14 are sent out USAPA documents?

15 A. I believe they're done by someone on the
16 P4P committee informally. So loosely, yes.

17 Q. Yeah.

18 A. They're notes. I don't know that they're
19 reviewed for accuracy. But yes, in a general
20 sense, they would be.

21 Q. Well, let's just look, for example, on
22 108 -- 1008, bottom of the first page under president
23 Gary Hummel, paragraph seven.

24 Do you see that?

25 A. Yes.

1 Q. It says, the change of control is being
2 used as a negotiating tool for achieving a contract
3 we deserve, correct?

4 I read that correctly?

5 A. Correct.

6 Q. Does that accurately reflect your position
7 with respect to change of control on or about May 8,
8 2012?

9 A. On May 8th prior to MOU I, yes.

10 Q. Okay. And we got -- if you go to page
11 three, merger committee chairman Jess Pauley, see
12 item number five?

13 A. Yes.

14 Q. And apparently -- and Jess Pauley was the
15 head of the merger committee at that point in time?

16 A. Yes.

17 Q. And he writes -- or it's written here that
18 he said with respect to seniority, USAPA is governed
19 by the provisions of our constitution which require
20 us to adhere to DOH principles and preserve unmerged
21 career expectation. Any seniority proposal must be
22 approved by the BPR.

23 A. Correct.

24 Q. That accurately reflected USAPA's merger
25 committee's position in May of 2012, correct?

1 A. It appears so.

2 Q. Okay. And then Szymanski says on that very
3 same page under item 2, under his name, Pat Szymanski
4 believes a merger as described in the APA term sheet
5 would trigger the change of control provisions of the
6 US Airways collective bargaining agreement.

7 That accurately reflected his position in
8 May of 2012, too, right?

9 A. Where was that?

10 Q. Right at number one under Szymanski.

11 A. Oh, I'm sorry.

12 Yes.

13 Q. Okay. Did -- if you know, did USAPA -- did
14 USAPA -- I think --

15 A. Either way.

16 Q. -- it comes from Addington 1, I heard too
17 many people call it USAPA.

18 Did USAPA commission a study by a
19 consultant Salamat to put a value on the change of
20 control provisions for USAPA?

21 A. I believe there were two studies. One
22 was the Giordano document which dealt with the
23 legal aspects of it. And there may have been one
24 by Rick Salamat as well. I'm actually more
25 familiar with the Giordano document.

1 Q. Well, good.

2 (Exhibit Number 1009: Document entitled
3 2011 Wages Only - No Fringe No DC, Bates
4 USAPA003825 marked for identification, as of
5 this date.)

6 Q. 1009, Captain Hummel, this document Bates
7 number USAPA 003825 was given to us in a document
8 production. We think we had asked for the Salamat
9 report and we were given this.

10 Do you know what Exhibit 1009 is?

11 A. I do not.

12 Q. You do not.

13 Have you seen the Salamat report?

14 A. I don't recall.

15 Q. Okay. And you talk about a Gior- --

16 A. Dano.

17 Q. Dano?

18 A. Giordano.

19 MR. HARPER: Do we have that?

20 MS. AXEL: I'm not sure.

21 Q. Well, we'll look. I'm not too sure if we
22 have the Giordano, but if we don't, we may need to
23 ask you for it to be produced so that we have it.

24 MR. HARKIN: It's attorney work product.

25 MR. O'DWYER: I believe that's a

1 privileged document. We've asserted
2 privilege.

3 MS. AXEL: We didn't know that you guys
4 asserted the privilege.

5 MR. HARPER: Let's go off the record.

6 (A DISCUSSION WAS HELD OFF THE RECORD.)

7 (Exhibit Number 1010: Document entitled
8 Summary of Findings Jenkins/Marks - USAPA
9 Analysis December 20, 2012, Bates USAPA003826
10 - 3887 marked for identification, as of this
11 date.)

12 Q. Captain Hummel, I want to show you what
13 I've had marked as 1010. Multipage document
14 beginning with USAPA 003826.

15 Is that what you have in front of you?

16 A. Yes.

17 Q. Can you identify this document for me,
18 please?

19 A. The title says Summary of Findings,
20 Jenkins/Marks USAPA Analysis December 20th, 2012.

21 Q. Have you seen this document before?

22 A. No.

23 Q. If you haven't seen it, we will move on.

24 (Exhibit Number 1011: E-mail string with
25 the top from Jed Thomas dated 7/30/12, Bates

1 USAPA252214 - 2216 marked for identification,
2 as of this date.)

3 Q. I want to show you what we've had marked as
4 Exhibit 1011, starts with Bates 252214.

5 Do you have that in front of you?

6 A. I do.

7 Q. This is a -- an e-mail from a Jed Thomas.
8 Do you know Jed Thomas?

9 A. I do.

10 Q. Who is Jed Thomas?

11 A. Jed, until recently, served as the
12 scheduling committee chairman for USAPA.

13 Q. And he's sending -- appears to be sending a
14 e-mail July 30, 2012 to officers. Do you recall
15 receiving this e-mail from Mr. Thomas at the end of
16 July, approximately, 2012?

17 A. I do not.

18 Q. Okay. I want to ask you about a point
19 that's made here.

20 If you go to second page, and there's an
21 e-mail from Steve Crimi, and I understand he is a --
22 or he was at that point in time a BPR member?

23 A. Yes.

24 Q. He was.

25 And he writes at the bottom of page two,

1 first bullet point, here's what we know at this
2 point, bullet number one --

3 A. Excuse me, where are we?

4 Q. At the bottom of page two. Right at the
5 bottom. You see the two bullets right at the bottom?

6 A. Yes.

7 Q. Okay. Bullet number one.

8 A. Okay.

9 Q. You there?

10 A. That reads what?

11 Q. Crimi is writing all four members of the --

12 A. No, I'm lost. Oh, okay. I'm at the top
13 of page two.

14 Q. The format is different.

15 A. That's fine. Okay, yes, I'm with you
16 now.

17 Q. Okay. Crimi is writing on July 20th to Jay
18 Portale. Do you know who he is?

19 A. I know of him.

20 Q. Okay. Anyway, the point is Crimi is
21 writing a BPR member in July of 2012, bullet point
22 number one, all four members of the NAC, N-A-C, our
23 professional negotiator and our merger counsel have
24 informed us that the NAC has been cut out of the
25 loop.

1 Do you see that?

2 A. I do.

3 Q. Do you have any idea of what Crimi is
4 writing about?

5 A. No.

6 Q. He writes at the next bullet, Gary Hummel
7 sent two people not on the NAC, Ciabattoni and Owens,
8 to New York to work on the MOU with our general
9 counsel, Brian O'Dwyer, with no notice or input from
10 any of the four members of the NAC.

11 Do you see that?

12 A. Yes.

13 Q. Did you do that?

14 A. Yes.

15 Q. Why?

16 A. Because Dave Ciabattoni was our grievance
17 committee chairman and John Owens was our business
18 intelligence chairman, and at that point in time --
19 let me refresh my memory of the point in time.

20 Q. Would have been late July, after your
21 breakfast meeting with Kirby and Bates.

22 A. No, there was something that triggered
23 that meeting where I wanted our grievance committee
24 chairman and our business intelligence chairman to
25 specifically consider issues that might effect our

1 grievance process and our business intelligence
2 chairman to discuss with Brian.

3 Q. Okay. So they would know best what went on
4 at that meeting, one of the two of them?

5 A. I was not at that meeting.

6 Q. Well, that's what I understand.

7 So you sent them and they did something and
8 we should ask them about what they did?

9 A. Correct.

10 Q. Okay. Now, let's go to the next time
11 period I want to talk to you about. It would be --

12 A. Are we done with this document then?

13 Q. Yes, yes.

14 A. Okay.

15 Q. Let me just, before we do that, how do you
16 get along with Ciabattoni presently?

17 A. He's the chairman of our grievance
18 committee.

19 Q. I know that. But how do you get along with
20 him?

21 A. I'm not sure --

22 Q. Do you have good working relationships with
23 him?

24 A. Yes.

25 Q. You do.

1 And when did you appoint him the head of
2 the grievance committee?

3 A. My first day of office.

4 Q. And -- okay.

5 I want to -- time period I want to talk
6 about now briefly is after MOU I stopped for whatever
7 reason, whether it was because of the NDA or Kirby
8 later saying they had taken it off the table or
9 whatever the reason was, so it's that point in time
10 up to December 10, 2012.

11 A. Okay.

12 Q. Okay. So it's September-ish, October,
13 November, early December. What was happening in
14 connection with USAPA's attempt to negotiate
15 agreements either with Airways or APA or anybody
16 else?

17 A. I believe that everyone -- the -- it was
18 my belief that at some point in time the NDA period
19 would end and that negotiations would begin again
20 and, therefore, we continued to proceed as best we
21 could in analyzing the information, in having
22 conversations with our counterparts at APA to
23 promote that process once that time came about.

24 Q. Okay. But during that time period, we're
25 talking about September to December 10th, there were

1 no direct negotiations with Airways going on between
2 USAPA and Airways over compensation or other working
3 conditions for the pilots, correct?

4 A. I don't know that that's correct. I
5 don't recall any. I don't know that that's
6 correct.

7 Q. Well, then what were the discussions that
8 were going on between USAPA and APA? What were --
9 what were the discussions about?

10 A. There was a -- and remains a potential
11 that we will be integrating the work forces.

12 Q. Right.

13 A. So there is much to be discussed.

14 Q. There's mostly processes and procedures for
15 merging the pilots, that was what was going on during
16 that time period, correct?

17 A. I believe that at that time period I had
18 asked -- had a meeting where I invited all of the
19 committee chairmen to our union hall and asked all
20 of them to get involved with their counterparts at
21 APA. So there was much going on.

22 Q. But the primary point that was being
23 addressed was getting ready for the future merger if
24 it occurred, correct?

25 A. I wouldn't classify that as primary.

1 There was a lot going on. There was people on all
2 of the committees working with our counterparts,
3 which, of course, would include the negotiating
4 committee. And I'm not certain what interactions
5 they were having at that point in history in the
6 negotiating process with APA. To my recollection,
7 that they were in contact with their counterparts
8 at APA.

9 Q. During this -- during that time period,
10 though, USAPA went back to the NMB to see if they
11 couldn't get some help from the NMB to start
12 negotiations directly with Airways, right?

13 A. I do recall going. I don't recall the
14 date.

15 Q. And at some point in time various position
16 papers were submitted to the NMB about negotiation --
17 during this time period about negotiations and could
18 they go forward, right?

19 A. Yes.

20 (Exhibit Number 1012: US Airways letter
21 dated 11/28/12 to Honorable Harry R. Hoglander
22 from Paul D. Jones marked for identification,
23 as of this date.)

24 Q. I want to show you what we've had marked as
25 Exhibit 1012. It's a multipage document from Paul D.

1 Jones, vice president of legal affairs, dated
2 November 28, 2012 to three members of the National
3 Mediation Board, correct?

4 A. Correct.

5 Q. Do you remember seeing this letter before?

6 A. Yes.

7 Q. And when do you -- when did you first see
8 it, as you recall?

9 A. It's dated November 28th. So sometime
10 after that.

11 Q. And --

12 MR. HARPER: Let's go off the record for
13 a minute.

14 (A DISCUSSION WAS HELD OFF THE RECORD.)

15 MR. O'DWYER: Take a break while you're
16 looking at that.

17 (A BRIEF RECESS WAS TAKEN.)

18 (Exhibit Number 1013: USAPA letter dated
19 10/12/12 to Honorable Harry R. Hoglander from
20 Gary Hummel, Bates WP019229 marked for
21 identification, as of this date.)

22 Q. Let's look at 1013, Captain Hummel. Can
23 you identify that document, please?

24 A. Yes, it's a letter from me to Harry
25 Hoglander at the National Mediation Board on

1 October 12th, 2012.

2 Q. And it's signed by you?

3 A. Yes.

4 Q. And just to put this into context, you send
5 the letter after Judge Silver made her decision in
6 October of 2012, correct?

7 A. Correct.

8 Q. And that's -- a reference to that decision
9 is in paragraph two of Exhibit 1013, right?

10 A. Correct.

11 Q. And in your words, because you've signed
12 this, you write to the NMB chairman: As you will
13 note, the court concluded, quote, three ellipse,
14 USAPA and US Airways are now engaged in negotiations
15 for an entirely new collective bargaining agreement
16 and there is no obvious impediment to USAPA and US
17 Airways negotiating and agreeing upon any seniority
18 regime they wish, four-dot ellipse, closed quote,
19 correct?

20 A. Correct.

21 Q. That's what you wrote?

22 A. Correct.

23 Q. And that's what you believed personally in
24 October of 2012, correct?

25 A. Well, here I'm quoting what the judge has

1 said.

2 Q. That's what you believed too, right?

3 A. Yes.

4 Q. And that's what you wrote to the NMB?

5 A. Correct.

6 Q. And then Mr. Jones in his letter makes a
7 different point, if you go to page three, and he's
8 referring to another letter, a letter that Mr. Wilder
9 wrote. Do you remember that letter?

10 A. Wrote to who?

11 Q. NMB.

12 A. I know that I have seen that letter, yes.

13 Q. Okay. So you write a letter and you quote
14 from the Judge Silver's opinion and then Mr. Wilder
15 writes another letter, correct?

16 A. I don't recall the order or the dates,
17 but yes, there was another letter.

18 Q. But anyway, Mr. Jones, who is legal affairs
19 counsel for Airways, on page three, second full
20 paragraph -- or the first full paragraph at the top,
21 new full paragraph at the top.

22 Do you see that?

23 A. Yes.

24 Q. He -- what he writes, Mr. Wilder neglects
25 to mention, however, is that just a few lines later

1 in that same opinion Judge Silver declared that,
2 quote, by discarding the result of a valid
3 arbitration in negotiating for a different seniority
4 regime, USAPA is running the risk that it will be
5 sued by disadvantaged pilots when the new collective
6 bargaining agreement is finalized. An impartial
7 arbitrator's decision regarding an appropriate method
8 of seniority integration is powerful evidence of a
9 fair result. Disregarding the Nicolau award places
10 USAPA on dangerous ground, closed quote.

11 Do you see that?

12 A. Yes.

13 Q. And that's what -- indeed, what Judge
14 Silver wrote in her October opinion, correct?

15 A. Correct.

16 Q. And you gave no credence to that warning
17 going forward, did you, Mr. Hummel?

18 A. In my letter to the NMB, I gave no
19 credence to it?

20 Q. Or in your conduct.

21 A. No, that's not true.

22 Q. Well, you have repeatedly said after she
23 entered her decision that USAPA is free to go forward
24 and use whatever lists it needs and the Nic is dead,
25 right?

1 A. No, I never said that.

2 Q. Okay. Is there any reason why when you
3 wrote to the NMB you didn't quote the entire quote
4 from Judge Silver rather than leaving off the point
5 that Mr. Jones had been bringing to the NMB's
6 attention?

7 A. I believe I was attempting to make a case
8 to the NMB as to why the NMB should reengage USAPA
9 to seek our own Section 6 negotiation that would
10 benefit all US Airways' pilots.

11 Q. And at some point in time the NMB rejected
12 USAPA's request, correct?

13 A. Correct.

14 Q. So September, MOU I is dead, after MOU I,
15 USAPA goes back to the NMB to see if it can get some
16 help from them to negotiate on Section 6, correct?

17 A. Correct. And the NMB, because of the
18 impending merger, was under the opinion that it
19 would be best if we pursued the merger and not our
20 own Section 6 negotiations.

21 Q. So that's the reason the NMB refused to
22 assist USAPA?

23 A. Correct.

24 Q. And did USAPA get a letter from the NMB to
25 that effect?

1 A. I don't know.

2 Q. Well, how do you know that then?

3 A. I was sitting in the room with Harry
4 Hoglander when he told me so.

5 Q. You actually visited the NMB yourself,
6 didn't you, on -- about November 8th?

7 A. Yes.

8 Q. And you took along Colello and Wilder?

9 A. Correct.

10 Q. And what was the purpose of that visit?

11 A. Again, to see if we could engage in
12 parallel negotiations, if you will, under our own
13 Section 6.

14 Q. And if I understand from the timeline, that
15 NMB refused to assist USAPA in reactivating Section 6
16 negotiations at about the end of October 2012, right?

17 A. No, the NMB actually parked USAPA from
18 negotiations, I believe, in December of 2011.

19 Q. Well, okay. I mean, what I'm -- I'm just
20 in this period of time where USAPA is trying to get
21 NMB to help restart negotiations, you guys send the
22 letters, the decision was made by the NMB and then
23 you visit the NMB to try to talk them into a
24 different position. Is that, in general, the
25 sequence?

1 A. In general, the USAPA was parked, and I
2 spent quite a bit of time trying to restart the
3 process of our own Section 6 negotiations, yes.

4 Q. Let me ask -- and this is then in the fall
5 of 2012, what we're now talking about, correct?

6 A. Okay.

7 Q. In general, without getting specific on the
8 timelines, right?

9 A. Okay.

10 Q. About a year before this, USAPA had made an
11 economic proposal to -- if you know, to Airways in
12 connection with compensation, working conditions and
13 things like that before you became president?

14 A. I believe so, yes.

15 Q. And that was a pretty solid proposal from
16 USAPA's point of view; if you know?

17 Solid in the sense it was asking for good
18 compensation for the pilots, other working conditions
19 and even an effort, perhaps, to try to catch up lost
20 wages when the Kirby hadn't been put into place
21 before, right?

22 A. Generally speaking, there was a proposal
23 made at that time.

24 Q. And that proposal -- was that ever
25 responded to by Airways?

1 A. I have no knowledge that it was.

2 Q. But that proposal was still on the table
3 when the discussions on the MOU began again in
4 December of 2012, correct?

5 A. I couldn't answer that it was. I know
6 that -- again, that we were parked on or about
7 December of 2011 from negotiations.

8 (Exhibit Number 1014: Document entitled
9 NAC Update created 11/16/11 marked for
10 identification, as of this date.)

11 Q. Captain Hummel, I just want to show you
12 what I've had marked as 1014. It's a NAC update,
13 that's the negotiating committee, advisory committee?

14 A. Yes.

15 Q. I don't know if you have ever seen this
16 before. If you have, can you let me know?

17 A. I don't recall.

18 Q. Okay.

19 A. I may have.

20 Q. Before we move onto the next document, you
21 still have it in your hand, 1014?

22 A. Yes.

23 Q. Your committees -- some of your
24 committees -- some of USAPA's committees periodically
25 put out updates to all the pilots covering status of

1 things that are happening under that committee's
2 jurisdiction, correct?

3 A. Correct.

4 Q. And those are official USAPA documents?

5 A. Correct.

6 Q. Are they run by you before they go out?

7 A. No.

8 Q. Are they run by legal counsel before they
9 go out?

10 A. Sometimes if there are issues that the
11 author perceives or our Comm chairman perceives may
12 need an interpretation.

13 Q. And presently the person that those
14 documents are run by is Pat Szymanski?

15 A. I think we use different legal
16 consultants based on what the issue at hand is.
17 But Pat Szymanski certainly would be one of them.

18 Q. For merger issues, for seniority issues,
19 for MOU issues?

20 A. And Roland Wilder.

21 Q. All right. And for vote ratification
22 issues?

23 A. I don't know.

24 (Exhibit Number 1015: Document entitled
25 USAPA Comprehensive Proposal Summary marked

1 for identification, as of this date.)

2 Q. Okay. I want to show you what has been
3 marked as 1015.

4 A. I have 14 in my hand. You want me to go
5 to 15?

6 Q. Yeah.

7 A. We're done with 14?

8 Q. We're done with 14.

9 A. Okay.

10 Q. Have you seen Exhibit 1015 before?

11 A. I don't recall.

12 Q. I believe that this is the document, really
13 proposal that I was talking about before, a USAPA
14 comprehensive proposal that was presented to Airways
15 in November of 2011 before you became president.

16 A. Okay.

17 Q. So you may not know about it or seen it.
18 So if you want to look forward to it, that's fine. I
19 don't have any detailed questions about it for you.
20 So you okay in going forward?

21 A. I'm fine.

22 Q. The point I have, though, and I want to ask
23 you is 1015 was a proposal that you had -- that USAPA
24 had presented to Airways before you became president,
25 correct, if --

1 A. If, in fact, they did, I have no
2 knowledge that they did or did not.

3 Q. We'll ask other people about that.

4 If they had proposed it to Airways, it was
5 still on the table when you met with Kirby in 2000 --
6 in July of 2012, correct?

7 A. I don't know that that's correct because
8 it's my understanding that several months after
9 that USAPA was parked by the NMB and what
10 transpired in that period I have no knowledge of.
11 In fact, this may have been rejected entirely. I
12 have no knowledge.

13 Q. Rejected by Airways?

14 A. And perhaps by the NMB, I don't know.

15 Q. Okay.

16 A. It would seem to me that given the
17 timeline you propose, that subsequent to this
18 document, USAPA was parked from negotiations. I
19 can draw no conclusions as to why.

20 Q. That's fine. That's fine.

21 (Exhibit Number 1016: E-mail string with
22 the top from Gary Hummel dated 10/3/12, Bates
23 USAPA 238826 - 828 marked for identification,
24 as of this date.)

25 Q. I'm going to show you what I've had marked

1 as Exhibit 1016. It's an e-mail at the top, anyway,
2 from yourself to -- is that yourself to yourself at
3 home?

4 A. Actually, from looking at the header, it
5 appears that I had received this e-mail through the
6 global address of officers and that I had forwarded
7 it to my wife's e-mail address.

8 Q. And your wife's e-mail address is which
9 address there?

10 A. The ones at the top,
11 ghummel@zoominternet.

12 Q. Well, that's ghummel. You and your wife
13 share?

14 A. Correct.

15 Q. Okay, okay. Did you do USAPA business on
16 your personal e-mail?

17 A. No.

18 Q. Never?

19 A. Never.

20 Q. Why would you be sending this to your
21 personal e-mail then?

22 A. I don't recall. But there must have been
23 something in here that I thought she would enjoy
24 reading.

25 Q. When we sent out a document request to

1 USAPA August to collect e-mails and stuff like that.

2 A. Correct.

3 Q. Captain Hummel, do you know if anybody
4 looked at your personal computer and e-mail system to
5 see if there was any documents there?

6 A. No, I was asked and I conduct no USAPA
7 business on my personal e-mail.

8 Q. So you told them no and, therefore, they
9 didn't check?

10 A. Correct.

11 Q. Okay. Let's look then at the Bradford part
12 of this e-mail, which is from Steve Bradford to
13 somebody kas740il; is that about right?

14 A. Yes.

15 Q. And he's answering a question about the
16 impact or the effect of Judge Silver's decision; is
17 that, in general, correct?

18 A. It would appear so. And here, again,
19 just so that we're perfectly clear, I did not
20 compose this e-mail, this was an e-mail I received
21 through a global address and I forwarded it.

22 Q. I'm not trying to make --

23 A. Yeah, that's all.

24 Q. I'm not trying to make you the ghost author
25 here, okay?

1 A. Okay.

2 Q. Bradford is the author.

3 A. Okay.

4 Q. He's the VP of USAPA?

5 A. Correct.

6 Q. He was the VP of USAPA on October 3rd,
7 2012?

8 A. Correct.

9 Q. He was the founder of USAPA back in 2007?
10 One of the founders.

11 A. I would assume so, yes.

12 Q. Well, you know that, don't you, Mr. Hummel?
13 Or Captain Hummel, I didn't mean to --

14 A. That's fine.

15 Yes.

16 Q. Okay. And he's writing in here, we won,
17 make no mistake about it, we won. Third paragraph,
18 there is no basis in law for USAPA to use the Nic.

19 He wrote that, didn't he?

20 A. It would appear so.

21 Q. And that was his point of view as your vice
22 president?

23 A. It would appear so.

24 Q. And that's been his point of view on the
25 Nicolau from May of 2007 to when he wrote this in

1 October of 2012, correct?

2 A. You would have to ask him that question.

3 Q. I intend to.

4 And that's his position as of today,
5 correct?

6 A. You would have to ask him that question.

7 Q. There is no basis for anybody at USAPA
8 being required to use the Nic going forward at all
9 under any circumstances, right? That's his point of
10 view?

11 A. You can ask him that question.

12 Q. And you've talked to him about that,
13 though, haven't you, Captain Hummel?

14 A. About what?

15 Q. His attitude about not needing to use the
16 Nic.

17 A. We've discussed many things referencing
18 that.

19 Q. That particular point. After -- after
20 Judge Silver's decision in October of 2012, you and
21 he have discussed what obligation, if any, USAPA has
22 to use the Nic for seniority litigation, right?

23 A. Yes.

24 MR. JACOB: Integration.

25 Q. Integration. Sorry about that. Takes a

1 village. I told you that.

2 Integration, you've talked about that with
3 him?

4 A. About Judge Silver's decision, yes.

5 Q. And the effect of it on USAPA?

6 A. Yes.

7 Q. And no need to use the Nic for pilot
8 integration, seniority integration at all, that's his
9 position, isn't it?

10 A. I don't know what his position is.

11 Q. He's talked to you about that, though?

12 A. I believe in a letter we referred to
13 earlier, the position of Judge Silver was that
14 USAPA was free to use whatever seniority proposal
15 that we chose to use, that the board would choose
16 to use.

17 Q. With potential consequences?

18 A. That's correct, with potential
19 consequences.

20 Q. If you deviated from an arbitrated award
21 like the Nic?

22 A. I don't believe that that was her intent.
23 I believe that her intent was to say that USAPA
24 would run the risk of litigation no matter what
25 they did, of course. And that's why we have a

1 merger committee that equitably represents
2 everyone, and we will do our solid best to make
3 sure that the constitution is upheld and that with
4 the appropriate conditions and restrictions, to
5 protect everyone's career expectations, that that
6 charge of our constitution is met.

7 Q. What career expectations did you just make
8 reference to in that answer?

9 A. Everyone's individually.

10 Q. At what point in time, career expectations
11 now or career expectations from before?

12 A. I think it depends a lot on what the
13 situation is on that particular day.

14 Q. No, you used it. I'm just trying to find
15 out the time period that you're talking about?

16 A. I'm not sure I understand your question.

17 Q. Well, I think you do, Captain Hummel. The
18 career expectations you're talking about is a redo on
19 the career expectations that the East pilots had back
20 in '05, '06 and '07, isn't it?

21 A. If you mean in '05, '06 and '07, they had
22 no expectations of merging with American Airlines,
23 then certainly, yes, they would have different
24 career expectations today.

25 Q. You're trying to relitigate the issues in

1 this litigation, the issues that were decided by
2 Arbitrator Nicolau back in 2007, aren't you?

3 MR. O'DWYER: Objection as to form.

4 A. No, I don't understand the question.

5 (Exhibit Number 1017: E-mail string with
6 the top from Gary Hummel dated 10/16/12, Bates
7 USAPA 238885 marked for identification, as of
8 this date.)

9 Q. 2017, that's an e-mail you wrote to a James
10 Ray on October 16, 2012, correct?

11 A. Yes.

12 MR. JACOB: You said 2017. You mean
13 1017?

14 MR. HARPER: One, Jesus.

15 Q. And who's James Ray?

16 A. James Ray is our communications chairman
17 at USAPA.

18 Q. He was and still is?

19 A. Correct.

20 Q. And why are you -- what are you telling him
21 in the e-mail that you wrote to him? Can you explain
22 that to me?

23 A. I don't know the context of -- it appears
24 that there was some communication that was reviewed
25 by the lawyers and that James had sent it to me and

1 then I responded to James about that communication.

2 Q. And you wrote: We won, it's over, and we
3 are moving on, that's all that needs to be said,
4 correct?

5 A. More importantly, I think the first --

6 Q. That's what you wrote, though, right?

7 A. And more importantly, the first sentence
8 that I wrote was no more legal opinions or debates
9 emanating from USAPA.

10 Q. Right.

11 A. So if you would ask me to explain this to
12 you.

13 Q. I didn't. I just --

14 A. I believe you did.

15 Q. I just asked you to -- the point you wrote.
16 You wrote: We won, it's over, and we are moving on,
17 that's all that needs to be said, correct?

18 A. Yes.

19 Q. Okay. And that was on October 6th of 2012,
20 right?

21 A. No.

22 Q. Is that 6 or 16? 16?

23 A. Correct.

24 (Exhibit Number 1018: Pilot-For-Pilot

25 Conference Call Recap - 10/8/12, Bates

1 WP019218 - 224 marked for identification, as
2 of this date.)

3 Q. Show you what I've had marked as 2000 --
4 I'm sorry, 2017. You want to take a moment to look
5 at that?

6 A. I'm fine.

7 Q. And this is -- one of those -- instead of
8 P-4 with a numerical 4 P, this is written out Pilot
9 For Pilot conference recap, one we've seen before.

10 A. Correct.

11 Q. And this is --

12 MR. JACOB: Marty, I think you need to
13 get the number of the exhibit right. You said
14 2017.

15 MR. HARPER: It's 10 -- 1017.

16 MR. JACOB: I think it's 1018.

17 MR. HARPER: 1018? Okay.

18 MS. AXEL: 1118.

19 THE WITNESS: No, I have 1018.

20 MS. AXEL: Oh, I'm sorry.

21 Q. Okay. So we got it right.

22 A. Who's on first?

23 MS. AXEL: Not me.

24 Q. Yeah, what you have in your hand, Captain
25 Hummel, there is 1018, correct?

1 A. Correct.

2 Q. First page Bates number WP 019218?

3 A. Correct.

4 Q. And this is a Pilot For Pilot conference
5 call recap dated October 8, 2012, correct?

6 A. Correct.

7 Q. And at least under the section that starts
8 President Gary Hummel began his briefing with
9 addressing the committee on three points. First, as
10 a result of Judge Silver's proposed ruling, USAPA is
11 free to use whatever seniority list we want.

12 Does that -- is that your recollection of
13 what you reported to the pilots on or about
14 October 8, 2012?

15 A. Well, I think there's quite a few pages
16 of what was reported that day. That's one sentence
17 removed from it.

18 Q. That's the first sentence?

19 A. Correct.

20 Q. And that's what's reported here, anyway,
21 correct?

22 A. Correct.

23 Q. And you have no recollection that it was
24 reported incorrectly?

25 A. That that sentence was reported

1 incorrectly?

2 Q. Yes, yes.

3 A. No.

4 Q. Okay. Let me ask, in general,
5 Captain Hummel, when these conferences start, do you
6 stay around for the entire conference?

7 A. Generally, yes.

8 Q. Okay.

9 A. Unless I have other business to attend
10 to.

11 Q. So the general practice is for you to be
12 there at the beginning, they give deference to the
13 office of the president, you can make your opening
14 comments, and then if your time allows, you stay
15 around for the entire conference?

16 A. Correct.

17 Q. And in this one, Exhibit 1018, it suggests,
18 anyway, that you stayed around for the -- the entire
19 conference.

20 A. Okay.

21 Q. For example, if you go to page four at the
22 bottom. There's a question at the bottom: Do we
23 have a seat? Do we have -- do we have to have a seat
24 of table? And the answer is from Gary Hummel, and
25 it's attributable to you?

1 A. Yes.

2 Q. Okay. And if -- if during the course of
3 these conferences, if something is said that you
4 don't agree with, do you speak up?

5 A. I wouldn't say that's generally. I mean,
6 the intent of this is for people to get their
7 opinions heard and for us to get feedback from the
8 pilots.

9 (Exhibit Number 1019: US Airline Pilots
10 Association Phoenix Declaratory Judgement
11 Action, Judgement Issued contained in an
12 e-mail from Ken Holmes dated 8/20/13, Bates
13 WP020740 - 41 marked for identification, as of
14 this date.)

15 Q. I want to show you what I've had marked as
16 Exhibit 1019, Bates WP 020740.

17 Do you have that in front of you?

18 A. Yes.

19 Q. Can you identify this document,
20 Captain Hummel?

21 A. It appears to be a update, if you will,
22 from our Comm committee to the pilots subsequent to
23 the Phoenix declaratory judgment act -- action
24 where a judgment was issued on October 12, 2012.

25 Q. On the issue of -- well, try to help me, if

1 you can here. The communications committee is
2 authorized to make official statements on behalf of
3 USAPA?

4 A. Yes.

5 Q. And when they do make such decisions, are
6 they cleared by someone before the communications
7 committee puts it out?

8 A. As we discussed earlier, sometimes they
9 are, sometimes they are not.

10 Q. And do you have any idea whether this
11 particular communication from -- communication from
12 the communications committee was cleared by someone
13 else before it went out?

14 A. I do not.

15 Q. Because they -- the committee writes right
16 below the block in indented paragraph, do you see
17 that?

18 A. Yes.

19 Q. Thus, as the court states, USAPA, quote, is
20 free to pursue any seniority position it wishes
21 during the collective bargaining negotiations,
22 period, closed quote.

23 This document went to all pilots?

24 A. I can only assume so, yes.

25 Q. Let me -- did you ever read Judge Wake's

1 decision in Addington 1?

2 A. No.

3 Q. You never did?

4 So you are unaware of a section in there
5 where he says that one of the things that USAPA
6 failed to do during the '08, '09 time period was
7 sensitize the East pilots to their limitations on
8 what they could do with their majority status
9 vis-a-vis the minority West pilots?

10 A. Correct me if I'm wrong, but was
11 Addington 1 the case that was dismissed, vacated by
12 the 9th Circuit?

13 Q. It went in front of a jury before it was
14 vacated by the 9th Circuit.

15 A. But, in fact, was it vacated by the 9th
16 Circuit?

17 Q. Right, right.

18 A. So why would I take the time to read
19 that?

20 Q. Well, it might have some instructions in
21 there that you would deem to be appropriate or
22 important for the president of USAPA to be aware of.

23 A. Even though it was vacated?

24 Q. Even -- we'll get into the legal debate
25 about it. Yes, I have a question about it.

1 A. Okay.

2 Q. Did you ever read it?

3 A. No.

4 Q. Have you taken any steps, Captain Hummel,
5 to talk to the East pilots about limitations on what
6 they can do as a majority group within USAPA
7 vis-a-vis the West pilots?

8 A. Specific to what issues?

9 Q. Seniority.

10 A. I think that we've had numerous base
11 meetings and board meetings and meetings in every
12 domicile where the issue has been addressed, and I
13 think we continue to promote our merger committee
14 in the present situation to come up with a
15 seniority integration that will work in the present
16 situation with APA.

17 Q. As dominated by the East pilots, correct?

18 A. I would like to think that it's equitably
19 represented by all pilots.

20 Q. I understand.

21 But it's forwarded to on the merger
22 committee, dominated by East pilots, correct?

23 MR. O'DWYER: I'm going to object to
24 form.

25 A. Equitably represented.

1 Q. What do you mean by equitably represented?

2 A. I think it means that if you have bases
3 that contain certain number of pilots and one base
4 has 100 pilots, they might have one representative.
5 If another base has 200 pilots, they might have two
6 representatives. And such is the case of the
7 representation on our board of directors is on a
8 scale based on equitable representation. That's
9 what I mean by equitable.

10 Q. Dominated by East pilots both at the BPR
11 and at the merger committee, right?

12 MR. O'DWYER: That is -- is that a
13 statement or question?

14 MR. HARPER: Question.

15 Q. Right?

16 MR. O'DWYER: Right?

17 MR. HARPER: That's what I said, right.

18 MR. O'DWYER: I'm glad we finally caught
19 the right at the end. I'll object as to form.

20 A. Again, I don't subscribe to your term
21 dominated by. It's an equitable distribution as
22 pursuant to our constitution, pursuant to the way
23 that our union tries to do business.

24 Q. Well, can you point to -- me to any written
25 statement from USAPA since you have been president

1 that talks about the East pilots needing to make
2 accommodations to a minority group of pilots in the
3 context of a previously arbitrated seniority list?

4 A. Specific to that question, I cannot.

5 Q. And you have taken no steps to address that
6 issue about the rights, the obligations and the
7 restrictions that may be applicable to a East pilot
8 majority vis-a-vis a West pilot minority group with
9 respect to seniority?

10 A. On the contrary --

11 Q. No, answer that question, please.

12 MR. O'DWYER: He is answering the
13 question.

14 A. I am answering the question. On the
15 contrary, I have gone out of my way, even prior to
16 taking office, to make every accommodation I can,
17 including visiting with the Phoenix leadership at
18 the time in Phoenix prior to my taking office and
19 trying to resolve any and all issues in appointing,
20 I believe, over 25 Phoenix-based pilots to
21 committees, in appointing the officers that ran
22 against the officers who are presently elected to
23 positions in USAPA, notable among them, Ken
24 Stravers to the merger committee.

25 Ken Stravers, of course, was the merger

1 committee chairman for the America West pilots. I
2 have gone out of my way to make every accommodation
3 to ensure that the Phoenix-based pilots have
4 equitable representation.

5 Q. Were you involved in Stravers' interview by
6 the BPR to determine whether he could or should be
7 appointed to the merger committee?

8 A. I appointed -- yes.

9 Q. You were involved in that?

10 A. Yes.

11 Q. And do you recall the questions by several
12 of the BPR members that asked him if we go into a
13 merger with APA, what list is to be promoted?

14 Do you remember that question?

15 A. I do not.

16 Q. Do you remember his answer?

17 A. I do not.

18 Q. It's the Nic. Because that's the only list
19 that has been approved by an arbitrator. He told the
20 BPR that, correct?

21 A. If that's the case, as you assert that it
22 is, then, therefore, I have done a wonderful job in
23 ensuring that your clients have someone on the
24 merger committee who is promoting the Nic for you.
25 And, again, that is why we need to make sure that

1 we have equitable representation on our committees.

2 Q. And it's going to be voted down by the
3 merger committee because the constitution says the
4 only seniority list that can be used is the date of
5 hire with restrictions and conditions, correct?

6 MR. O'DWYER: Objection as to form and
7 asking for speculation on behalf of the
8 witness.

9 Q. You can answer.

10 A. I don't have a crystal ball.

11 Q. You know darn good and well that no matter
12 what Ken Stravers says on the merger committee, it's
13 never going to see the light of day because of the
14 constitutional restrictions, right?

15 MR. O'DWYER: Mr. Harper, would you
16 please, one, stop arguing with the witness;
17 and two, stop pointing your fingers at the
18 witness now.

19 MR. HARPER: He's a hostile witness, I
20 can cross-examine him in an aggressive way.

21 MR. O'DWYER: By pointing fingers at him?
22 Maybe you can do it in Arizona. Even in
23 New York we do not that.

24 Q. Go ahead.

25 Do you need it back?

1 MR. HARPER: Could you repeat the
2 question?

3 THE COURT REPORTER: Could you restate
4 it, please.

5 MR. HARPER: I don't know if I can.

6 Q. Let me say, even though Stravers may have a
7 point of view about the Nic in his position on the
8 merger committee, you know darned good and well that
9 his position can never see the light of day out of
10 the merger committee and through the BPR because of
11 the constitutional restrictions about using date of
12 hire with restrictions and conditions, right?

13 A. No.

14 Q. Why do you disagree with that?

15 A. I can't predict history.

16 Q. You mean the future, you can predict
17 history.

18 A. Yeah, the future, yeah.

19 Q. Okay.

20 MR. O'DWYER: Let's take five minutes.

21 (A BRIEF RECESS WAS TAKEN.)

22 (Exhibit Number 1020: National Officer
23 Runoff Election Results dated 3/22/12 marked
24 for identification, as of this date.)

25 Q. Captain Hummel, I'm not trying to just jump

1 around willy-nilly on you here, but I did want to go
2 back to that runoff vote that I now have I think the
3 results of that election. So I've shown you what
4 I've had marked as Exhibit 1020. Do you have that in
5 front of you?

6 A. Yes.

7 Q. And if I read this one correctly, this is
8 the ballot certification committee announcing the
9 national officer runoff election results for the
10 position of president.

11 A. Yes.

12 Q. Okay. And the date of the report is
13 March 20, 2012, correct?

14 A. Yes.

15 Q. And if we go to page two, it reports that
16 you got 2,165 votes, right?

17 A. Yes.

18 Q. And Mr. Ferguson got 1,289 votes, right?

19 A. Yes.

20 Q. Can you explain to me why the results of
21 this election was not reported by domicile?

22 A. I'm not certain, but it's my
23 understanding that the officer elections never had
24 been reported by domicile so that the inferences
25 that whoever is elected was elected by everyone and

1 there wasn't anything to suggest that one
2 particular base may not have supported the
3 candidate, that everyone unanimously was -- not
4 unanimously but that everyone in USAPA had elected
5 these individuals.

6 Q. Are there rules for the ballot
7 certification committee to follow with respect in how
8 to report the election results?

9 A. I don't know. I'm not familiar with the
10 rules of balloting.

11 Q. Okay. Taking your statement that by
12 reporting it without domicile that sort of shows how
13 they may group as a whole voted without breaking it
14 down into domiciles, that's sort of the philosophy,
15 at least, with respect to the officer election, as
16 you understand it?

17 A. Yes.

18 Q. Okay. Then explain to me why the results
19 of the ratification of the MOU vote was broken down
20 by domicile?

21 A. I would think that generally speaking in
22 unions across the country, it's handled that way so
23 that if you have a referendum as opposed to an
24 election, on issues of referendum, if there is a
25 perceived problem in one area of the country, that

1 then that gives you an opportunity to address that
2 area of the country as a union leader to try to fix
3 that problem. You can focus on why geographically
4 was the referendum not successful and you can
5 address the issue would be my understanding of why.

6 Q. Well, let's talk about that.

7 In the results of the MOU vote, the results
8 reported by USAPA demonstrated that a substantial
9 percentage of the West pilots who voted or were
10 eligible to vote, voted in favor of the MOU, right?

11 A. Correct.

12 Q. And so almost immediately, and correct me
13 if I'm wrong, after those results were reported, you
14 and USAPA took steps to use that vote against the
15 West pilots, didn't you?

16 A. I have no knowledge of that.

17 Q. Well, sure you do.

18 A. No, I do not.

19 Q. You do too.

20 A. I answered the question that I do not,
21 sir.

22 Q. You understand the position that your union
23 is taking in the litigation in Phoenix with respect
24 to the MOU vote by the West pilots?

25 A. Your statement was that immediately after

1 the election that I and my union used those
2 election results somehow against the West pilots --

3 Q. You're attempting to.

4 A. -- and my answer to you was no, and you
5 continued to challenge my answer.

6 Q. Well, you understand that your union is
7 taking the position that the vote by the West pilots
8 in favor of the MOU was a waiver of their right to
9 continue to pursue USAPA on its DFR -- on their DFR
10 issues, right?

11 A. I would have to read the complaint to
12 refresh my memory.

13 Q. You're not aware of that as the president
14 of USAPA sitting here without reviewing the
15 pleadings, Captain Hummel?

16 A. I'm unaware of the exact statement that
17 you made as it is written into to the answer to the
18 complaint filed by you in this litigation.

19 Q. I didn't file the answer, I filed the
20 complaint.

21 A. Correct.

22 Q. The first amendment.

23 A. And I believe we filed the response.

24 Q. Right.

25 A. And I'm unaware of that statement being

1 contained in our answer.

2 Q. Without being hung up on my statement,
3 what's your understanding of the position that USAPA
4 is taking against the West pilots based upon their
5 vote in favor of the MOU?

6 A. We're taking no position against the West
7 pilots. If anything, we are defending statements
8 and claims brought by you and a group against
9 USAPA.

10 Q. Let's talk about that group. What group
11 are you talking about?

12 A. The plaintiffs as listed in the
13 complaint.

14 Q. Just the individuals?

15 A. That's what's listed in the complaint.

16 Q. And they purport to represent a putative
17 class. Do you understand that what means?

18 A. Yes.

19 Q. And what does that mean to you?

20 A. That they purport to represent a -- the
21 class of Phoenix-based pilots.

22 Q. The -- what we have been referring to as
23 the West pilots?

24 A. Okay. Perhaps that's part of the -- your
25 problem.

1 Q. Why?

2 A. We have one union and we have domiciles
3 in every base.

4 Q. No, but we have been talking -- I mean, at
5 least the East and the West, we had been talking
6 about in the form of questions and answers today,
7 correct?

8 A. Correct.

9 Q. And when we said the East pilots in those
10 questions and answers, we were referring to the
11 former US Airways pilots, correct?

12 A. Correct.

13 Q. And when we were talking about the West
14 pilots, we were referring to the former America West
15 pilots, correct?

16 A. Correct.

17 Q. Two groups within one union, correct?

18 A. I don't particularly see it that way, but
19 for the purpose of this litigation, obviously you
20 do.

21 Q. And -- sure. And one group having a
22 three-to-one, approximately, numerical advantage over
23 the other, right?

24 A. I prefer to look at it as we have
25 different domiciles all within one happy

1 organization, USAPA.

2 Q. The glass is half full, right?

3 A. Correct.

4 Q. I mean, I understand that, that's your
5 point of view.

6 But tell me the factual basis you have, if
7 any, for the contention that the named plaintiffs in
8 the case currently pending in Phoenix do not fairly
9 represent the entire West pilot group?

10 MR. O'DWYER: Objection as to form.

11 A. I have no knowledge that they do.

12 Q. Well, do you have any knowledge that they
13 don't?

14 A. No.

15 Q. So you're just completely without
16 knowledge?

17 A. On that particular issue, yes.

18 Q. Are you aware of what position your union
19 is taking with respect to that question in the
20 litigation that's pending in Arizona?

21 A. What question?

22 Q. The question as to whether or not the class
23 representatives fairly represent the entire putative
24 West class?

25 A. In the current litigation, I am not

1 familiar with a position on the class issue. I do
2 know that in the prior litigation that the
3 Phoenix-based pilots were certified as a class. I
4 don't know that the conversation has come up or
5 that position papers have been written as to class
6 certification in the present litigation.

7 Q. Really?

8 A. Really.

9 Q. You haven't been told by your law firm here
10 what the litigation strategy is with respect to
11 whether or not the class representatives adequately
12 represent the putative class in the pending
13 litigation in Phoenix?

14 MR. O'DWYER: Objection.

15 Don't answer. It's privileged.

16 MR. HARPER: It's a yes or no.

17 MR. O'DWYER: I'm telling him not to
18 answer on the basis that you're asking him for
19 information imparted to him by counsel.

20 Q. How are you kept apprised of what's
21 happening in the litigation in Phoenix,
22 Captain Hummel?

23 A. Conversations with our attorneys.

24 Q. But also conversations with Steve Bradford?

25 A. Yes.

1 Q. And other officers?

2 A. Yes.

3 Q. So people outside of the direct
4 attorney/client relationship?

5 A. Specific to what issues?

6 Q. The position that your union is taking with
7 respect to whether or not the named plaintiffs
8 adequately represent -- can adequately represent the
9 putative West class group?

10 MR. O'DWYER: Objection.

11 And you may not answer.

12 You're asking him for privileged
13 information.

14 MR. HARPER: Can I have that question
15 back.

16 (THE QUESTION WAS READ BACK.)

17 Q. A predicate to that was your conversations
18 with Bradford and others, outside of the
19 attorney/client privilege --

20 MR. O'DWYER: Bradford is an attorney --
21 is an officer of the organization, he is --
22 whatever he gave -- what information he
23 imparts is part of attorney/client privilege.

24 MR. HARPER: But that's not necessarily
25 true. I mean, you don't know where Bradford

1 got his information.

2 Q. You can answer that question.

3 MR. O'DWYER: To the extent that Bradford
4 got information that was not imparted to him
5 by an attorney.

6 Q. Go ahead.

7 A. Could you repeat the question?

8 MR. HARPER: Read it back.

9 (THE QUESTION WAS READ BACK.)

10 A. And again, I would have to give the same
11 answer. I'm unaware of any filings in the instant
12 case referencing class status.

13 Q. Let me ask this question, then,
14 Captain Hummel, have you given instructions to the
15 lawyers to attack and try to prevent the West class
16 from being certified in the pending litigation in
17 Arizona?

18 A. No.

19 MR. O'DWYER: I'm going to object to
20 that.

21 Q. Have you seen during the course of the last
22 five or six months -- oh, let's start back.

23 You're aware that Jess Pauley, as part of
24 the work of the merger committee, had sent out
25 inquiries to all of the pilots at one point in time

1 soliciting input on perhaps changes to the conditions
2 and restrictions that were attached to the
3 date-of-hire list given to the company back in 2008?

4 A. I don't recall that.

5 Q. You don't?

6 A. I don't.

7 Q. So you haven't seen or it hasn't been
8 reported to you the results of that inquiry by the
9 merger committee?

10 A. No.

11 Q. Have you seen any of the e-mails that have
12 come in from the West pilots in connection with that
13 inquiry?

14 A. No.

15 Q. Have you seen any of the e-mails that have
16 come in from the East pilots in connection with that
17 inquiry?

18 A. I don't recall on both. I really don't.

19 (Exhibit Number 1021: E-mail from USAPA
20 Communications dated 11/15/12 entitled BPR
21 Special Meeting Recap - Day 2 Corrected dated
22 11/15/12, Bates USAPA 227002 - 5 marked for
23 identification, as of this date.)

24 Q. Before we move onto 1021, my village here
25 has helped me and asked me to follow up just on the

1 litigation pending in -- in Phoenix currently.

2 Do you know whether USAPA in its pleadings
3 has opposed class certification in that case?

4 A. I do not know.

5 Q. You do not know.

6 And you have given no instructions to
7 the -- your legal team to do so?

8 MR. O'DWYER: Objection.

9 Do not answer.

10 MR. HARPER: He answered the last one, he
11 waived it. I'm just -- this is just a
12 follow-up to the previous question that he
13 answered.

14 Q. Go ahead.

15 A. No.

16 Q. Okay. Back to 21, 1021, multipage document
17 starting with a Bates number USAPA 227002.

18 Do you see that?

19 A. Yes.

20 Q. Can you identify this for me?

21 A. It appears to be --

22 MR. O'DWYER: I have a November 15th
23 date.

24 MR. HARKIN: As do I.

25 MR. HARPER: I don't think I made a

1 reference to the date.

2 MR. O'DWYER: You said 1021.

3 MR. HARPER: That's the exhibit.

4 A. Oh, that's this little number down here.

5 MR. HARPER: You're trying to trick me.

6 One of the mistakes I didn't make.

7 Q. You're ready to go?

8 A. Yes.

9 Q. What I'd like to do is to simply address
10 your attention, Captain Hummel, to page -- actually,
11 it's the third page of Exhibit 1021, and it's under
12 -- for all of the whereases.

13 Do you see that?

14 A. Yes.

15 Q. And it says, the board then considered the
16 resolution shown below dealing with the NAC
17 negotiating committee/Kirby proposal where a
18 constitutional conflict was ruled out of order.

19 And I'm just giving this to you to see if
20 it helps refresh your recollection as to whether or
21 not during the latter part of 2012 efforts were made
22 mostly by the Phoenix representatives on the BPR to
23 bring forward a resolution that would perhaps modify
24 the constitutional requirement that the seniority
25 list, in order to satisfy the constitution, would be

1 a date-of-hire list with restrictions and conditions?

2 A. I'm sorry, where specifically are we --

3 Q. I'm just -- I mean, seeing if this helps
4 refresh your recollection as to whether or not the
5 Phoenix representatives made such an effort during
6 the latter part of 2012?

7 A. Right.

8 Where specifically in the document.

9 MR. HARKIN: I think you referenced the
10 wrong page.

11 A. Yeah.

12 MR. HARKIN: It's on the bottom of page
13 one of the document.

14 MR. HARPER: One -- two --

15 MR. HARKIN: You said page two.

16 A. On the bottom of page one.

17 MR. HARPER: Which one are we on?

18 MR. O'DWYER: Is that where it says the
19 board references resolution? Is that what
20 you're dealing with?

21 MR. JACOB: I think your document isn't
22 printed out the same --

23 MR. HARPER: Yeah, can I -- can somebody
24 Point me to the -- where are we?

25 MS. AXEL: I don't know where you last --

1 MR. HARPER: Maybe I've got the wrong
2 one. Is this the right one, Andy?
3 Can you tell?

4 MR. JACOB: He's got it.

5 MR. HARPER: Why don't we pass, I'll get
6 back to it.

7 Q. Captain Hummel, let's pass it for a moment.

8 A. Okay.

9 Q. Okay. You with me, Captain Hummel?

10 A. Yes.

11 Q. We're going to move to a new time zone.

12 A. Okay.

13 (Exhibit Number 1022: Document entitled
14 11/12/11 Joint Session US/AA/UCC/APA/USAPA,
15 Bates WP021276 marked for identification, as
16 of this date.)

17 Q. I'm going to show you what has been marked
18 as Exhibit 1022, Bates WP 021276.

19 Do you have that?

20 A. Yes.

21 Q. Can you identify this exhibit, if you can,
22 and I realize it's a little bit of a trick question
23 because the date at the top may be wrong.

24 A. That and also I really don't know -- it
25 says it was a joint session of USAA, UCC, APA and

1 USAPA, but I don't know what it was for.

2 Q. Look at the list of participants. I just
3 want to try to find out if this is related to the
4 discussions that started to occur in Dallas on or
5 about December 10, 2012 in connection with MOU II?

6 A. Do you have any idea what the proper date
7 would be?

8 Q. I've been told it's December 10, 2012, that
9 it started.

10 A. Then that would be correct. That this
11 would appear to be a list of participants -- I
12 think you're rubbing off on me.

13 Q. I am. And that gives me great pleasure to
14 make some inroads with you.

15 A. The -- a list of participants at a
16 meeting in Dallas considering a joint four-party
17 MOU.

18 Q. Okay. So we agree that in Dallas in
19 December there were discussions in -- with four
20 parties to see if you could come together on a
21 four-party MOU, right?

22 A. Correct.

23 Q. And the four parties were USAPA, APA,
24 American and Airways with the 800-pound gorilla in
25 the room, the unsecured creditors committee, right?

1 A. Correct.

2 Q. Even though the unsecured creditors
3 committee was not a party to the MOU, they had a
4 presence?

5 A. Correct.

6 Q. And their presence was to do what?

7 A. They were facilitating the meetings.

8 Q. And the head facilitator was whom,
9 Mr. Butler?

10 A. Correct.

11 Q. Now, let me ask you to identify the
12 structure of the USAPA team that was there, if you
13 can, Mr. Hummel -- Captain Hummel, I'm sorry. I
14 didn't mean to. I should do better.

15 A. The -- we had two - our negotiating
16 committee comprised of two East pilots, two West
17 pilots and a professional negotiator, Roland
18 Wilder. And it was their responsibility to -- to
19 be there and negotiate.

20 Q. Were other USAPA representatives there --

21 A. Yes.

22 Q. -- to help?

23 And who were they?

24 A. Myself, Steve Smyser, the USAPA, EVP,
25 Brian O'Dwyer, our general counsel.

1 Q. Okay. And over what period of time did
2 these discussions in December occur?

3 A. On or about December 10th, 12th until
4 Christmas.

5 Q. And did you stay for all of the
6 negotiations or did you come and go?

7 A. I remained in Dallas, but I would come
8 and go. I wasn't actively involved. I only was
9 there if needed.

10 Q. Well, I've been told that these discussions
11 occurred at the Weil law firm in Dallas or something
12 like that. Do you know?

13 A. Yes.

14 Q. Is that --

15 A. I don't recall the exact name, but yes.

16 Q. And it was a --

17 A. Gotshal.

18 Q. Weil, Gotshal?

19 A. Yes.

20 Q. And their office is in -- close to downtown
21 Dallas?

22 A. Correct.

23 Q. In the high-end district in the north part
24 of Dallas, correct?

25 A. Yes.

1 Q. Okay. So if what I hear you saying is that
2 you personally were not involved all of the time,
3 correct?

4 A. Correct.

5 Q. And your involvement occurred when needed;
6 is that right?

7 A. Correct.

8 Q. And when you were not there, who was the
9 primary point person for USAPA?

10 A. Our negotiating advisory committee.

11 Q. And that would be headed up by --

12 A. Roland Wilder is our professional
13 negotiator, Dean Colello is our NAC chairman.

14 Q. Okay. So who would be in the best position
15 to say what exactly happened during the course of the
16 evolution of the MOU during these negotiating time
17 period for USAPA? I mean, whose word would we take
18 primary interest in?

19 A. I would say Dean Colello.

20 Q. You would.

21 Okay. Eventually those negotiations gave
22 rise to MOU, right?

23 A. Correct.

24 Q. I think this has already been marked, but
25 I'm not -- I think it's Exhibit 130 to a prior

1 deposition.

2 MR. HARKIN: You'll have to let me see it
3 first.

4 MS. AXEL: It's a signed copy of the MOU.

5 MR. HARKIN: Right. Okay. I can check
6 the number.

7 MR. HARPER: I have it down as 130.

8 MS. AXEL: Yeah, just remark it.

9 MR. HARPER: I'll just remark it.
10 Is that okay?

11 MR. HARKIN: That's fine.

12 MR. O'DWYER: Yeah, that's fine.

13 MR. HARKIN: Right. It is 130, but...

14 MR. O'DWYER: You can remark it if it's
15 more convenient for you.

16 (Exhibit Number 1023: Memorandum of
17 Understanding Regarding Contention Collective
18 Bargaining Agreement, Bates USAPA 001763 -
19 1781 marked for identification, as of this
20 date.)

21 Q. Exhibit 1023, beginning with USAPA 001763,
22 is the final -- is a copy of the final signed MOU,
23 correct?

24 A. Correct.

25 Q. Okay. I want to direct your attention to

1 page number seven, which is USAPA 001769, and ask you
2 if you have any firsthand knowledge about how
3 paragraph 10H came into existence?

4 A. Yes.

5 Q. Okay. Tell me what your firsthand
6 information is with respect to how paragraph 10H came
7 about.

8 A. I believe it was --

9 Q. Okay. I mean, when you say I believe, I
10 want to make sure that I'm getting your firsthand
11 information. So when you say I believe, it's your
12 recollection?

13 A. It's my recollection.

14 Q. Firsthand?

15 A. Firsthand.

16 Q. Okay.

17 A. That -- and I'll preface this by saying
18 that when I became president and the NAC first was
19 appointed, and I had a conversation with Roland and
20 Ken Holmes, Rocky Calveri, John Owens and Dean
21 Colello, when we were negotiating MOU I, I made it
22 perfectly clear to them that it was their objective
23 to deal with pay benefits and working conditions
24 and to not deal with any inference to seniority
25 given our charge from Scott Kirby and Dave Bates

1 and the whole thing that that would be dealt with
2 later, and that that was how we proceeded.

3 When we were in Dallas, that issue arose
4 in the general sense of the McCaskill-Bond
5 seniority issue.

6 Q. And you're talking about seniority as the
7 issue?

8 A. Yes. And at that time we were in a
9 conference room -- they were in a conference room
10 working and Dean asked me to come in, that we had a
11 problem with this general section. I believe it
12 was section -- it was not written in this format at
13 that time, but in the general section that would
14 have included F, G and H.

15 And the issue was that they weren't
16 comfortable with the language in that it did not --
17 the language that existed prior to this final
18 document did not comport with my charge that this
19 document must be seniority neutral. And to that
20 end, I charge the NAC to not deal any further with
21 it, but that I would remove that section, if you
22 will, and for them to continue work on every other
23 section of the document and that I would come back
24 with a proposed solution for that section that
25 would be acceptable to all members of the

1 negotiating committee. And I telephoned Pat
2 Szymanski and told him of the problem and asked him
3 to resolve it.

4 MR. O'DWYER: I'm going to stop you right
5 there. Anything that Mr. Szymanski says to
6 him is privileged and you may not answer.

7 MR. HARPER: Well, I'm just -- I think
8 that this is absolutely wrong, Brian, because
9 in the course of sending out the documents
10 that you swamped us with, there are numerous
11 documents from Szymanski to others talking
12 about this issue and other issues. So I think
13 you have waived the attorney/client privilege
14 in spades already.

15 MR. O'DWYER: Well, I guess the judge
16 will have to decide that. I mean, it's a
17 privilege operation.

18 Q. So what can't you talk about here now?

19 MR. O'DWYER: Everything.

20 A. Well --

21 MR. O'DWYER: Don't answer.

22 MR. JACOB: What did your lawyer not want
23 you to say?

24 MR. HARPER: I've got to try.

25 Q. So you can't tell me your personal

1 experience?

2 A. I'm not sure where we are.

3 Q. Up to this point.

4 Well, you had talked to your NAC?

5 A. Yeah.

6 Q. They identified a problem?

7 A. Yeah.

8 Q. Apparently no lawyer was involved in that
9 except Roland, and maybe he doesn't count as your
10 lawyer.

11 MR. O'DWYER: Roland counts as
12 everybody's lawyer.

13 MR. HARPER: I know that. But what -- do
14 you have a position there? What Roland told
15 him is privileged too?

16 MR. O'DWYER: Well, I haven't been --

17 MR. HARPER: Well, he said Roland was in
18 the room with him and called him in and talked
19 about the issues with paragraphs F, G and H.

20 MR. O'DWYER: I think he said it was the
21 NAC that said that to him.

22 THE WITNESS: Yeah.

23 Q. Roland was there, right?

24 A. Correct.

25 Q. So we've got Roland in that meeting.

1 MR. O'DWYER: Doesn't mean Roland said
2 anything.

3 MR. HARPER: So it's okay to talk about
4 that meeting?

5 MR. O'DWYER: To the extent that the NAC
6 talked to him about it, yeah.

7 MR. HARPER: Okay. So we've got --

8 MR. O'DWYER: And he already said -- he
9 already testified to that without objection.

10 Q. We've got the NAC and talking about a
11 question you told the NAC not to deal with it, that
12 you would go out and come back with a solution?

13 A. Correct.

14 Q. You said you left and went out and made a
15 call to Szymanski to deal with the problem. Now you
16 can't tell me what you told Pat and how to deal with
17 it?

18 A. I can. Because I didn't tell Pat what or
19 how.

20 Q. Okay.

21 A. I just asked him to deal with it.

22 Q. So you asked him to deal with it. So
23 that's how you took care of it was to ask him to deal
24 with it?

25 A. That the issue was that this must remain

1 absolutely seniority neutral. And my recollection
2 is that's what came back, it was agreed to by all
3 four members of the NAC as being seniority neutral
4 and we went forward.

5 Q. I've just got a ton of stuff that was
6 circulated during the negotiations in Dallas on the
7 MOU. And you said that what is included is the final
8 result in Exhibit 1023 is not what it looked like
9 when you were called in to talk to the NAC, right?

10 A. Correct.

11 Q. Okay. Was it something like this?

12 A. I have no idea.

13 Q. But it was one -- one paragraph?

14 A. I don't recall.

15 Q. Was -- when you were called in to talk to
16 the NAC, other than having Roland there, was there
17 anybody else there, anybody from the company?

18 A. No, it was the four members of the NAC
19 and myself.

20 Q. You said that they were uncomfortable.
21 When you said they were uncomfortable, you meant only
22 the members of the NAC?

23 A. The four members of the NAC.

24 Q. Can you pick up 1006, please, which is MOU
25 I.

1 A. Yes.

2 Q. Okay. Go to page four, paragraph nine.

3 You and I talked about this paragraph briefly before.

4 A. Yes.

5 Q. This is the McCaskill-Bond language in MOU

6 I that -- and correct me if I'm wrong, Kirby was

7 comfortable with in the context of MOU I?

8 A. I have no idea.

9 Q. Well, you told me at that breakfast meeting

10 he said that the MOU, that you were going to be

11 talking about, had to be seniority neutral, correct?

12 A. Correct.

13 Q. And do you know if Kirby signed off on the

14 language or the company signed off on the language

15 contained in paragraph nine of Exhibit 1006?

16 A. I don't recall.

17 Q. So you can't sit here and tell us whether

18 or not Kirby or the company was comfortable with the

19 language in paragraph nine to Exhibit 106 with

20 respect to the McCaskill-Bond process not dealing

21 with seniority?

22 A. I cannot.

23 Q. Okay. Can you tell me, based upon your

24 recollection, what it was precisely that your NAC was

25 telling you was a problem in the language of

1 paragraphs collapsed F, G and H?

2 A. That the NAC, all four members of the NAC
3 were not comfortable with the language in that they
4 collectively did not think as it was written it
5 remained absolutely seniority neutral because that
6 issue by charge, by process was to be dealt with at
7 a later date.

8 Q. But what's the language that was causing
9 them a problem?

10 A. I don't recall specifically. All four
11 members of the NAC, Ken Holmes, Rocky Calveri, John
12 Owens, Dean Colello all voiced concerns over the
13 language. And when it was resolved, they all
14 agreed and were agreeable to the new language.
15 That's my recollection.

16 (Exhibit Number 1024: E-mail from John
17 Owens to Gary Hummel dated 12/14/12, Bates
18 USAPA 308739 marked for identification, as of
19 this date.)

20 Q. Captain Hummel, I want to show you what I
21 have had marked as Exhibit 1024, and you'll see on
22 page one there's a date 12/14/2012, 12:50 a.m.

23 Do you see that?

24 A. Yes.

25 Q. Going through the stuff I have, and it may

1 not be totally complete, that's one of the earliest
2 drafts I've seen of paragraph, what was then 12, that
3 eventually ended up as paragraph ten in the MOU.

4 Does that help refresh your recollection as
5 to what it was that the NAC was concerned about?

6 A. No.

7 Q. You see the paragraph at the end that's
8 underlined, this MOU is not intended to nor shall it
9 constitute the, quote, single agreement, closed
10 quote, referred to in paragraph Roman numeral 6A of
11 the September 23, 2005, quote, transition agreement,
12 closed quote, applicable to the merger of America
13 West and US Airways.

14 Do you see that?

15 A. Yes.

16 Q. Was the issue that the -- you say the NAC
17 was concerned about is that perhaps the language that
18 was being proposed would trigger the transition
19 agreement as the single agreement and, therefore,
20 require the utilization of the Nic?

21 A. I don't recall that.

22 Q. Do you know who submitted the statement
23 that I have just read into the record?

24 A. No.

25 Q. Was it US Airways?

1 A. I don't know.

2 Q. Did anybody ever talk to you about that
3 language?

4 A. No.

5 Q. Did Pat Szymanski ever come back to you and
6 say does this satisfy the issue?

7 MR. O'DWYER: Objection.

8 Don't answer.

9 MR. HARPER: Okay. Can't answer that
10 question?

11 MR. O'DWYER: I'm sorry?

12 MR. HARPER: He's not going to answer
13 that question?

14 MR. O'DWYER: No.

15 MR. HARPER: Okay.

16 Q. Isn't it a fact that Dean Colello actually
17 submitted this language to the MOU negotiators with
18 respect to paragraph 12?

19 A. I already answered that and told you I
20 have no idea.

21 Q. Didn't you tell Dean to prepare this
22 language and submit it?

23 A. No.

24 Q. You didn't.

25 Okay. Can you go back to Exhibit 1000?

1 It's the first document we had today.

2 MR. HARKIN: You've got it right there,
3 left hand.

4 Q. The answers you verified to our
5 interrogatories, do you see that?

6 A. Yes.

7 Q. Can you go to page Roman numeral -- or
8 Arabic three, line 21?

9 A. Hold on one second. What was the date of
10 this? I'm just trying to get back to where we
11 were.

12 MS. AXEL: August 20th.

13 A. August 20th.

14 Okay. I'm sorry, go where?

15 Q. To page three, line 21.

16 A. Okay.

17 Q. Additional reason, section 10H, was, quote,
18 agreed to, closed quote, were that US Airways
19 proposed, paren, and American and the UCC agreed,
20 closed paren, that the MOU would not address
21 seniority other than to provide for seniority
22 integration process consistent with McCaskill-Bond
23 that would be separate from the process for reaching
24 a joint collective bargaining agreement, and then
25 other issues are addressed.

1 When did US Airways make that proposal?

2 A. I believe the first time may have been in
3 April of 2012, even prior to the MOU's existence.
4 I know that Scott Kirby specifically told me, and
5 it was quoted in the papers, I know that on or
6 about April 30th at our board meeting that the
7 intent was that there would be no discussion on
8 seniority, that the McCaskill-Bond process would
9 take care of it.

10 And I know, as I told you earlier, that
11 on the meeting subsequent to those conversations
12 and reported statements by Scott Kirby in the
13 press, that I had a meeting with him and Dave Bates
14 in July when he specifically made that requirement.

15 Q. But this has to do with paragraph 10H
16 specifically. The question -- if you go back to page
17 two, the interrogatory to USAPA, identify and list
18 each reason that supports your determination to agree
19 to section 10, paren, H, closed paren, of the MOU.

20 A. I'm sorry, you have me very confused now.

21 Q. I'm not trying to. Go back to page two of
22 the interrogatories.

23 A. I'm on page two.

24 Q. The question presented to USAPA.

25 A. Okay.

1 Q. Identify and list each reason that supports
2 your determination to agree to section 10H of the
3 MOU.

4 Do you see that?

5 A. I do.

6 Q. That's the question that was pending when
7 you verified the answer to this. 10H did not exist
8 back in the summer of 2012, correct? We just went
9 through Exhibit 1006 and it doesn't have a 10H in it.

10 A. You are asking us the reason that
11 supports your determination to agree to section
12 10H.

13 Q. Yes, and you're answering it, in part,
14 beginning on page three, line 21.

15 A. Right.

16 Q. And you're saying one of the reasons is
17 that Airways proposed, paren, and American and the
18 UCC agreed. When did they make that proposal to you,
19 American -- US Airways?

20 A. As I told you, in July of 2012.

21 Q. So that's what you meant when you answered
22 this?

23 A. Yes.

24 Q. Even when 10H did not exist?

25 A. Yes, because even six months prior to 10H

1 existing, it was the apriority condition that the
2 negotiations going forward would not in any way
3 address seniority.

4 Q. Let me just -- let me just take you then to
5 December of 2012 when you're in Dallas. The
6 statement you say about Airways proposing that the
7 MOU not address seniority other than to provide for a
8 seniority integration process was not made by Airways
9 in Dallas. But you contend it was made earlier by
10 Airways?

11 A. It became the apriority condition both
12 with Airways, American, USAPA and APA six months
13 prior to us arriving in Dallas.

14 Q. So the answer is Airways did not make that
15 proposal in Dallas?

16 A. Did not make what proposal?

17 Q. That the MOU would not address seniority
18 other than to provide for seniority integration
19 process consistent with -- I just -- you wrote this
20 like Airways was part of the reason why paragraph 10H
21 shows up in the MOU.

22 A. They were.

23 Q. But not in Dallas?

24 A. I don't believe that anyone did.

25 Everyone had that understanding six months prior to

1 our arriving at Dallas.

2 Q. But where did the 10H language come from?
3 That was my question to begin with. It came from
4 USAPA, didn't it?

5 A. I don't know that that's true.

6 Q. So you have no firsthand information as to
7 where the actual language for 10H arose?

8 A. No.

9 Q. So you just can't testify as to how it came
10 about, is that what you're telling me now?

11 A. I believe I did. I believe I told you
12 that I told our NAC that that section dealing with
13 seniority should not be their concern, that we
14 would remove it and that subsequent to that,
15 someone resolved it, gave it back to our NAC and
16 our NAC, all four members of the NAC, found the
17 language to be acceptable and that is the language
18 that is contained in the final document going
19 forward.

20 Q. What do you mean somebody gave it back to
21 them? Who was that person?

22 A. I don't recall. I can tell you that, as
23 I did, that my first contact was with Pat
24 Szymanski. What happened to it after that point in
25 time, how it was transmitted back to them and

1 inserted in the document, I have no firsthand
2 knowledge of it. I do know that a day, perhaps
3 several days later when I was communicating with
4 the NAC, they told me that they had language that
5 they were all four in agreement with that met my
6 charge of this document had to be seniority
7 neutral.

8 Q. You agree with me that MOU II is a
9 collective bargaining agreement, correct?

10 A. I really can't comment on the exact
11 letter of the law on what is and what isn't.

12 Q. Well, you've -- on several videos, you've
13 called the MOU a new labor agreement, haven't you?

14 A. Not to my knowledge.

15 Q. You've avoided saying it's either a new
16 labor agreement?

17 A. No, I said that I don't recall and I
18 wouldn't want to comment on the law as to what is
19 and what isn't a labor agreement.

20 Q. Well, in your own words, what is the MOU?

21 A. It's a Memorandum of Understanding on
22 what is going to happen if a merger is consummated
23 with American Airlines and gives detailed
24 descriptions of how that's going to happen and the
25 timeline to -- to get to that point.

1 Q. And it sets new compensation levels,
2 correct?

3 A. Yes.

4 Q. New working conditions?

5 A. Yes.

6 Q. New benefits?

7 A. Yes.

8 Q. Everything that a collective bargaining
9 agreement does?

10 A. Yes.

11 Q. Yet you can't make the jump from the MOU to
12 be a collective bargaining agreement?

13 A. No, I'm just saying I wouldn't comment on
14 what is and isn't a collective bargaining
15 agreement, what is a letter of understanding, what
16 is an MOU. I don't have the knowledge to explain
17 to you what is or isn't contained in those specific
18 documents.

19 Q. How is paragraph 10H neutral?

20 A. It maintains the current lists as they
21 existed on the particular date to be dealt with in
22 the future.

23 Q. And what lists existed on the USAPA side at
24 that point in time?

25 A. There would be -- since the two pilot

1 groups were never integrated, there would be a West
2 seniority list and an East seniority list.

3 Q. Okay. And in the process going forward,
4 does USAPA intend to present the East seniority list
5 and the West seniority list to the panel?

6 A. I believe our merger committee is
7 currently working on that and those issues.

8 Q. Well, what's your position, should the two
9 lists be provided to the panel?

10 A. I'm -- my position is that I've equitably
11 chosen a merger committee to do their due diligence
12 and tell me and the Board what conclusion they have
13 arrived at.

14 Q. Is it your position that the MOU amends the
15 transition agreement from 2005?

16 A. Yes.

17 Q. So you can take that position with respect
18 to the effect of the MOU, but you can't tell me what
19 the MOU is?

20 A. I can tell you what an amendment is. I
21 can't tell you what specific documents must entail
22 to be called those sorts of documents under --

23 Q. How does the MOU amend the TA?

24 A. I can't tell you specifically. I can
25 only tell you that it would seem reasonable that by

1 vote of the membership, the membership has agreed
2 to this document and that the TA in some form
3 allowed for it to be amended.

4 Q. Okay. The TA provided that the Nicolau was
5 to be used in any agreed upon collective bargaining
6 agreement as the seniority list, correct?

7 A. I don't believe that is correct.

8 Q. What's your understanding about the TA and
9 the requirement with respect to the Nicolau award?

10 A. I don't have a working knowledge of it.
11 But it's my understanding that the transition
12 agreement is the transition agreement and that the
13 Nicolau award was the Nicolau award pursuant to the
14 transition agreement.

15 Q. To be inserted as Section 22 in the new
16 collective bargaining agreement?

17 A. And it would be my understanding that
18 your operative word to be is -- becomes important
19 at that point.

20 Q. But that's true, it was to be used in the
21 new labor agreement as the seniority list?

22 MR. O'DWYER: Which new labor agreement?

23 A. And in fact --

24 MR. HARPER: The one that --

25 A. -- that new -- that labor agreement

1 originally anticipated by the transition agreement
2 is never going to happen.

3 Q. Let me -- well, we'll see.

4 Let me ask you about paragraph 10H and the
5 transition agreement and the Nicolau award, okay?

6 Does the MOU in paragraph 10H say that the
7 Nic cannot be proposed to the McCaskill-Bond
8 arbitration panel?

9 A. Could you repeat that? Is what?

10 MR. HARPER: Can you read that back.

11 (THE QUESTION WAS READ BACK.)

12 A. No.

13 Q. It can be proposed to the panel?

14 A. 10H doesn't say that it can't be.

15 Q. So it can be?

16 A. It could be.

17 Q. If USAPA decides to do it?

18 A. It may take more than a decision. Now we
19 get full circle back to the constitutional issues
20 at hand.

21 Q. Right.

22 All of the impediments we talked about. So
23 in order to effectuate the presentation, which you
24 say 10H permits, of the Nicolau award to
25 McCaskill-Bond process, the West pilots have to be at

1 the table to do that, don't they?

2 A. No.

3 Q. Okay. All 10H does is says that the two
4 lists that are operative at -- now between the USAPA
5 and Airways can't be changed except through the
6 McCaskill-Bond process, right?

7 A. That's what it says.

8 Q. So it did not eliminate the -- perhaps
9 requirement, the MOU, to use the Nicolau award in
10 that McCaskill-Bond process, did it?

11 A. What was the requirement to use it? I'm
12 unfamiliar with --

13 Q. It does not eliminate the -- MOU does not
14 eliminate the TA's requirement to use the Nicolau
15 award as the seniority list between the East and West
16 pilots after you have a new collective bargaining
17 agreement; you agree with that, don't you?

18 A. I'm unfamiliar with the requirement to
19 use the Nicolau award.

20 Q. Well, that's what we've been fighting about
21 for ever since 2007, isn't it, Captain Hummel?

22 A. It's my understanding that Judge Silver
23 said that we were not required to use the Nicolau
24 award.

25 Q. No, she didn't quite say that. We've

1 already been over that. She said you can run the
2 risk of changing it, if you want.

3 A. Correct.

4 Q. But you'd better have a legitimate union
5 purpose for doing that, right?

6 A. I believe that may have been --

7 Q. Okay. What was the union's legitimate
8 union purpose for changing that requirement to use
9 the Nicolau in the course of the negotiations with
10 the MOU?

11 A. I don't -- it's my understanding that the
12 Nicolau award never contemplated a merger with
13 American Airlines.

14 Q. Well, Bradford did back in May of 2007,
15 didn't they?

16 A. I have no idea.

17 Q. When he formed the new union, it was done
18 for the purpose of making sure that the Nic was not
19 used back in 2007, 2008 and in the next merger,
20 that's what he wrote, didn't he?

21 A. I don't know.

22 Q. He knew what he was doing back then is to
23 form a new union to preclude the Nic from being used
24 in the next merger, and this is the next merger,
25 isn't it?

1 A. I have no idea what he wrote.

2 Q. So you can't say that the founder of USAPA
3 didn't intend to put together a union that would
4 prevent the Nic from being used in the next merger,
5 can you?

6 A. You're correct, I can't say that.

7 MR. HARPER: Okay. Let's take a short
8 break.

9 (A BRIEF RECESS WAS TAKEN.)

10 MR. HARPER: Go back on the record.

11 Q. Captain Hummel, if you can't tell me
12 precisely how 10H came to be because of your passing
13 the issue to Pat, can you tell me who to ask on your
14 side as to how it came about then?

15 A. Either Dean Colello or Pat.

16 Q. Would be the two people?

17 A. I would assume.

18 Q. Now, I asked you before the break what
19 legitimate union purpose USAPA had for entering into
20 an agreement that did not require the utilization of
21 the Nic.

22 Can you answer that question?

23 A. It's my understanding that the Nic was
24 envisioned for a merger between East and West and
25 the present situation is contemplating a merger

1 between US Airways and American Airlines. So it's
2 my understanding that any proposal that was --
3 existed before, that that proposal would not be
4 timely in going forward into this new merger.

5 Q. Okay. You understand the question I posed
6 to you, what was the legitimate union purpose? You
7 understood that was my question?

8 A. Yes.

9 Q. And I understand your answer to be that we
10 got a new game in town and, therefore, whatever was
11 required before is no longer required now because the
12 MOU is a different type of an agreement.

13 Is that a fair way of putting it?

14 A. Yes.

15 Q. And you have nothing else to add by way of
16 legitimate union purpose?

17 A. No.

18 Q. Now, were you the person who made the
19 decision to agree to the MOU the way it came out of
20 the Dallas and presented then to the BPR for
21 ratification or not?

22 A. Ultimately, yes, to present it to the
23 BPR.

24 Q. Okay. So as we are in Dallas -- as people
25 were in Dallas negotiating the MOU, as I understand

1 it, there came a point in time, either right about
2 Christmas or on New Years Eve, depending upon
3 wherever the warrior is you're talking to, that there
4 was a final agreement, correct?

5 A. Correct.

6 Q. And at that point in time they came to you
7 and said, Captain Hummel, we have an agreement -- the
8 NAC came to you along with Roland, we have an
9 agreement, we think it satisfies the conditions, and
10 you agreed then to go forward with that to the BPR?

11 A. Correct.

12 Q. Nobody else was involved in that decision
13 but you?

14 A. I made the decision. There were a lot of
15 people involved in that.

16 Q. I understand.

17 But you're at the top of the pyramid?

18 A. Yes.

19 Q. And you are the person that was charged
20 with the responsibility of deciding whether this
21 agreement satisfied whatever conditions or
22 restrictions or other obligations that USAPA had?

23 A. Yes.

24 Q. In your position as president of USAPA
25 through your messages and other things that occurred

1 during January leading up to the ratification on
2 February 8th and various ways you encouraged the
3 USAPA pilots to evaluate the MOU and to make up their
4 own mind and vote whatever way they wanted to on it,
5 correct?

6 A. Correct.

7 Q. And that was your message, evaluate it,
8 understand it and vote whatever way you want,
9 correct?

10 A. Correct.

11 Q. With the added assurance there would be no
12 repercussions based upon the vote?

13 A. I don't recall making any statements
14 about repercussions.

15 Q. Well, you didn't tell anybody that there
16 would be a risk associated with voting in favor of
17 the MOU in any way, shape or form, did you?

18 A. A risk involved with -- I believe that we
19 produced a package that we mailed to everyone and
20 distributed at the meetings that had comparisons
21 and analysis and things like that so that they
22 could evaluate the document.

23 Q. And -- okay. That's fair.

24 And the -- I'm just jumping back a little
25 bit. In the negotiations in Dallas over the terms of

1 the MOU, some additional benefits were obtained
2 through those negotiations to the benefit of the
3 USAPA pilots, correct?

4 A. I believe so.

5 Q. Yeah.

6 I mean, there was, if I understand
7 correctly, beyond what USAPA was presented with when
8 they got there with the new APA agreement, your NAC
9 negotiated some additional concessions with respect
10 to the West pilots short-term disability and
11 long-term disability, right?

12 A. I don't recall exactly, but I'm -- I feel
13 confident that given the issues we had that the NAC
14 negotiated some improvements to the original term
15 sheet.

16 Q. Right.

17 A. Correct.

18 Q. And those -- those changes, if I understand
19 correctly, were mostly embodied in the January 7,
20 2013 amendment to the MOU, right?

21 A. The MOU that was negotiated in December.

22 Q. Right.

23 A. Yes, correct.

24 Q. Okay. If we go back and if we wanted to
25 look at it, you would get -- there would be a bridge,

1 five-year bridge for -- before the West pilots lost
2 their short-term disability and their long-term
3 disability, right?

4 MR. O'DWYER: I believe just the
5 short-term.

6 A. Short-term, correct, yes.

7 Q. And then there was a document finally that
8 said that the pay in the APA agreement would be
9 available, the increased pay in the APA agreement
10 would be available to the USAPA pilots on the date of
11 ratification?

12 A. Ultimately that was agreed to, yes.

13 Q. Right.

14 And so that was a change that was
15 negotiated by the -- and that was just to put the
16 USAPA pilots on the same time schedule as the APA
17 pilots, fundamentally --

18 A. Correct.

19 Q. -- right?

20 And then there was a \$40 million sign-up
21 bonus that was put into the agreement to try to help
22 to make sure that the pilots voted in favor of the
23 MOU?

24 A. It was -- I don't believe it was actually
25 part of the agreement, but yes.

1 Q. Okay. And those were the only other --
2 those were the only additional economic issues that
3 were put on the table, discussed and agreed to for
4 the purposes I have outlined in the negotiations in
5 Dallas, right?

6 A. I can't confirm that those were the only
7 issues, but those were some of the issues.

8 Q. Sounds about right to you, correct?

9 A. Those were some of the issues.

10 Q. Okay.

11 MR. HARPER: Okay.

12 MR. JACOB: Just ask him if he knows of
13 any other issues.

14 Q. Yeah, I don't want to spend time -- are you
15 aware of any other economic issue that was agreed to
16 by Airways during those discussions other than the
17 ones I have talked about?

18 A. I would have to review the document. Off
19 the top of my head, no.

20 MR. HARPER: I think we're done.

21 MR. O'DWYER: Nothing.

22 (TIME NOTED: 1:12 p.m.)

23 (SIGNATURE RESERVED.)

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WITNESS' CERTIFICATE

I, GARY P. HUMMEL, do hereby certify that I have read and understand the foregoing transcript and believe it to be true, accurate, and complete transcript of my testimony, subject to the attached list of changes, if any.

GARY P. HUMMEL

This deposition was signed in my presence by _____, on the _____ day of _____, 2013.

NOTARY PUBLIC

My commission expires:

1 Huseby, Inc.
1230 West Morehead Street, Suite 408 (Page 1 of 2)
2 Charlotte, North Carolina 28208

3 E R R A T A S H E E T

4 RE: Don Addington; et al.
vs. US Airline Pilots Association, et al.

5 DEPOSITION OF: Gary P. Hummel

6 Please read this transcript with care,
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8 Certificate and Errata Sheet to this office after
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attention to this matter

9 To assist you in making such corrections,
10 please use the form below. If supplemental or
additional pages are necessary, please furnish same
and attach them to this errata sheet.

11 Page:____ Line: ____ should read: _____

12 Page:____ Line: ____ should read: _____

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14 Page:____ Line: ____ should read: _____

15 Page:____ Line: ____ should read: _____

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1 STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

2

3 REPORTER'S CERTIFICATE

4 I, V. Dario Stanziola, a Notary Public in
5 and for the State of North Carolina, do hereby
6 certify that there came before me on Tuesday,
7 September 17, 2013, the person hereinbefore named,
8 who was by me duly sworn to testify to the truth
9 and nothing but the truth of his knowledge
10 concerning the matters in controversy in this
11 cause; that the witness was thereupon examined
12 under oath, the examination reduced to typewriting
13 under my direction, and the deposition is a true
14 record of the testimony given by the witness.

15 I further certify that I am neither
16 attorney or counsel for, nor related to or employed
17 by, any attorney or counsel employed by the parties
18 hereto or financially interested in the action.

19 IN WITNESS WHEREOF, I have hereto set my
20 hand, this the 24th day of September 2013.

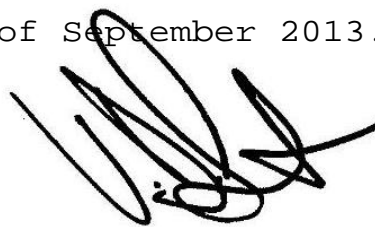
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V. DARIO STANZIOLA, CSR, RPR, CRR
Notary Public No. 20011200120

**Don Addington vs. US Airline Pilots Ass'n
Gary Hummel on 09/17/2013**

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Gary Hummel on 09/17/2013**

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