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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.)

WILLIAM "JESS" GORDON PAULEY, JR.
(Taken by Plaintiffs)
Charlotte, North Carolina
Wednesday, September 18, 2013

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

1 APPEARANCES

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Also Present:

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JOHAN de VICQ

22

23

24

25

1 DEPOSITION OF WILLIAM "JESS" GORDON
2 PAULEY, JR., a witness called on behalf of the
3 Plaintiffs, before V. Dario Stanziola, CSR (N.J.),
4 RPR, CRR, Notary Public, in and for the State of
5 North Carolina, held at the offices of Huseby,
6 Inc., 1230 West Morehead Street, Suite 104,
7 Charlotte, North Carolina, on Wednesday, September
8 18, 2013, commencing at 1:54 p.m.

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INDEX OF EXHIBITS

5

NUMBER EXHIBIT MARKED

6 Exhibit Number 1063: USAPA President's 23
Message March 20, 2007

7

8 Exhibit Number 1064: Document entitled 31
Merger Update Summer 2005, Bates
WP018858 - 60

9

10 Exhibit Number 1065: Document entitled 34
Seniority Integration Rights of
11 Furloughees January/February/March 2002,
Bates WP018868 - 871

12 Exhibit Number 1066: Document entitled 38
Seniority Integrations Involving The US
13 Airways Pilot Group: From 1968 Through
1999 September/October 2000

14

15 Exhibit Number 1068: E-mail from John 45
Owens to Dean Colello dated 12/25/12

16 Exhibit Number 1069: Colored chart 48

17 Exhibit Number 1070: E-mail string with 63
the top from Jess Pauley dated 11/5/12,
18 Bates USAPA 222875 - 76

19 Exhibit Number 1071: E-mail string with 72
the top from Jess Pauley dated 11/5/12,
20 Bates USAPA 222867

21 Exhibit Number 1072: E-mail from Patrick 84
Szymanski dated 12/13/12, Bates WP020810

22

23 Exhibit Number 1073: E-mail string with 91
the top from Jess Pauley to Jacquie
Denny dated 10/22/12

24

25

1 WILLIAM "JESS" GORDON PAULEY, JR.,
2 having first been duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. JACOB:

6 Q. Good afternoon, Jess. Just for the record,
7 you said it was okay for me to refer to you by first
8 name. Feel free to refer to me by my first name,
9 Andy.

10 My name is Andy Jacob. I'm one of the
11 attorneys representing the plaintiffs in this
12 lawsuit.

13 Could you state your full name for the
14 record, please.

15 A. William Gordon Pauley, Junior.

16 Q. Okay. And what position do you hold at
17 USAPA at this time?

18 A. I'm merger committee chairman.

19 Q. Can you tell me a little bit about what
20 your job is as the chairman?

21 A. There's a -- we coordinate with the rest
22 of the committee for the activities that are
23 outlined in the UOM, Union Operating Manual. And
24 those entail maintaining the seniority lists, of
25 keeping tabs on other seniority integrations

1 throughout the industry, making recommendations to
2 the board of pilot representatives if we believe
3 there's any language that needs to be changed in
4 the UOM or any other negotiations having to do with
5 seniority integration, fragmentation and so forth.

6 Q. When you say keeping tabs on other mergers
7 in the industry, what have you done along that line?

8 A. Well, there's a long history of seniority
9 integrations in the airline industry. And over
10 time we've collected seniority integrations awards
11 proceedings, transcripts, where available.

12 But most recently, for instance, we've
13 been reviewing the United/Continental seniority
14 integration award. We followed the proceedings,
15 the actual arbitration and now we're in the process
16 of reviewing the award to the extent that it may be
17 -- have some relevance to, you know, future
18 seniority integrations. And we'll make a report
19 this coming week on that particular issue to the
20 BPR.

21 Q. And how long have you had an interest in
22 this subject matter?

23 A. Well, as everyone knows, seniority is
24 very important to all pilots. So it's something
25 that you live with and you follow from the time

1 you're hired, projection that you have, your
2 anticipated career path and so forth.

3 But the interest became very pointed
4 after the seniority list was rendered as a proposal
5 from the seniority list from the Nicolau award.
6 And that has focused much of my attention since
7 that has come out.

8 Q. Prior to that, were you involved in a
9 committee participation in the -- the subject
10 matter --

11 A. No.

12 Q. -- of seniority?

13 How many of the mergers -- how many airline
14 mergers have you been a pilot participant in over the
15 years?

16 MR. SZYMANSKI: You mean not as a
17 committee member, just a pilot?

18 Q. Just been a pilot at an airline that had a
19 merger that you were affected by?

20 A. My tenure at -- at US Airways, I was
21 hired after the Empire and Piedmont merger. But
22 just prior to the integration of the Piedmont
23 merger with US Air, and then there was the PSA
24 merger with US Airways. And then the Trump Shuttle
25 merger. And then America West merger.

1 Q. Other than the America West merger, did you
2 pay attention to the integration that occurred in
3 those other mergers that you just mentioned?

4 A. Yes, I did.

5 Q. Did you read the decisions if there were
6 arbitrations that made the integrated list in those
7 mergers?

8 A. Yes, I did.

9 Q. Did you read the arguments that your union
10 was making on your behalf before those decisions came
11 out?

12 A. I'm sure I was aware of them. I'm not
13 sure I can testify that I read them all, but
14 it's -- it was certainly something of interest.

15 Q. Were there ways that ALPA kept you informed
16 of what was going on in those mergers?

17 A. They would periodically have updates that
18 they would post for the pilots. We would have
19 domicile meetings and so forth. So they would
20 disseminate information via those avenues.

21 Q. Do you recall what form those updates were
22 in?

23 A. This was quite a while ago. So most of
24 it was printed form. Sometimes they would put it
25 up on the bulletin boards in the crew rooms and so

1 forth. ALPA would also publish a magazine and from
2 time to time there would be articles on significant
3 events that took place in the industry. And
4 oftentimes those would make their way through the
5 ALPA magazine.

6 Q. Would you read that magazine?

7 A. Periodically.

8 Q. Did you have an interest at the time that
9 if it was an article talking about a merger or a
10 prospective merger would you read those articles?

11 A. From time to time.

12 Q. Okay. Were there any mergers that -- I'm
13 not sure what the word would be -- were sort of in
14 process but weren't completed when you were a pilot
15 under ALPA at US Airways?

16 A. That would most likely be the PSA and the
17 Piedmont mergers.

18 Q. Let me rephrase that.

19 Right now we're sort of in a merger that
20 may or may not be completed, hopefully it will be.
21 Were there any other times that you were in a phase
22 where there was talk about a merger with some other
23 airline and events unfolded that it didn't come to
24 pass?

25 A. Yes.

1 Q. When was that?

2 A. There was the first attempt at merging
3 with United Airlines.

4 Q. When was that?

5 A. I believe it was about 2000.

6 Q. When that was occurring, did you read some
7 of the information that ALPA was sending out
8 explaining how -- how that merger might work?

9 A. Yes, I'm sure I did. I don't recall
10 specifically, but I'm sure I was paying attention
11 to that at the time.

12 Q. At all these times that you were engaged in
13 mergers or potential mergers when you were under ALPA
14 before the America West one, was there ever a time
15 that you got some information from ALPA that you
16 thought was unfair, was wrong but you had negative
17 thoughts about?

18 A. Not that I recall.

19 Q. Okay. When you were under ALPA, did you
20 have any sort of participation in a committee or an
21 office or anything like that?

22 A. No.

23 Q. Do you recall how or when you resigned from
24 ALPA?

25 A. ALPA became decertified and my membership

1 was concluded at that time.

2 Q. So you were a member of ALPA right up until
3 it became decertified?

4 A. Yes.

5 Q. I believe in one of your declarations you
6 said that you participated in the formation of USAPA
7 or something to that effect; is that correct?

8 A. Just on a very cursory level there was a
9 time when there was -- pilots were asking if they
10 would have assistance disseminating information
11 around the terminals and crew rooms and so forth.
12 So I did assist to that extent. I was not involved
13 much beyond that.

14 Q. I believe you said that you have personal
15 knowledge about how USAPA was formed; is that
16 correct?

17 A. I do have some personal knowledge, that
18 is correct.

19 Q. What is that knowledge, tell me.

20 A. I was, again, assisting in disseminating
21 information, there was other pilots who were more
22 involved than myself, and I had conversations with
23 them via telephone, via e-mail and with occasional
24 web postings that you could follow along in the
25 process.

1 Q. Who formed USAPA?

2 A. It was a group of pilots that formed it.

3 Q. And what are their names?

4 A. I certainly can't recall them all.

5 Q. Tell me the names that you can recall.

6 A. Steve Bradford, Mark King, Scott Theuer,
7 I think Bob Davison was involved. And there was
8 other, again, ancillary people who were helping,
9 but I think that's the core group that got things
10 started.

11 Q. And when did they form it?

12 A. That would be in the fall of 2007.

13 Q. Prior to April 18th of 2008, were you
14 actively encouraging pilots to vote for USAPA in the
15 election against ALPA?

16 A. Yes.

17 Q. Prior to April 18th, 2008 did you pay dues
18 to USAPA?

19 A. No.

20 Q. Did you contribute any funds to USAPA?

21 A. Yes, I did.

22 Q. How much?

23 A. I don't recall.

24 Q. More than \$1,000?

25 A. Less.

1 Q. Were you part of a committee in the summer
2 of 2007 that was investigating the possibility of
3 forming a union to replace USAPA?

4 A. No.

5 Q. Do you know of a committee that existed
6 over the summer of 2007 for that purpose?

7 A. I was aware of the efforts, again, by the
8 same gentlemen which I previously mentioned.

9 Q. Did those gentlemen form a committee that
10 they gave a name to?

11 A. Not that I'm aware of.

12 Q. Did you go with any of those individuals
13 that you named to interview any attorneys to ask them
14 for advice on what your options were to resist the
15 implementation of the Nicolau award?

16 A. No.

17 Q. Did you go with those individuals to
18 interview any attorneys on any subject over the
19 summer of 2007?

20 A. No.

21 Q. Are you aware of whether any of those
22 individuals went to interview any attorneys about any
23 subject matter over the summer of 2007?

24 A. Yes.

25 Q. How did you become aware of that?

1 A. Just, I believe, through the history of
2 litigation, it's become a point of interest. But
3 also during my conversations I was aware that they
4 had made contact with attorneys and inquired about
5 the formation of a new union.

6 Q. Were you aware of that over the summer of
7 2007 that that was ongoing?

8 A. I can't recollect the specific time.

9 Q. I'd like to show you -- well, I'll get to
10 that in a second.

11 Was it your intention when the MOU
12 ratification vote was taking place earlier this year
13 that it would resolve the East/West seniority
14 dispute?

15 A. Yes.

16 Q. And what was your basis for having that
17 intention?

18 A. There was a general consensus of everyone
19 that I had spoken with that by signing onto the MOU
20 with the new process agreement which was consistent
21 with McCaskill-Bond, that we would be able to
22 settle the seniority dispute.

23 Q. And can you tell me some of those people
24 that you spoke to about that?

25 A. It would be merger committee attorneys.

1 Q. And who was that?

2 A. Pat Szymanski.

3 Q. And who else did you speak to about that?

4 A. That's pretty much it.

5 MR. JACOB: Can you read back his answer
6 about two answers back, please?

7 (THE ANSWER WAS READ BACK.)

8 Q. Do you want to change that answer?

9 A. I'm just trying to think of how specific
10 the conversations were about that particular issue
11 and the number of people that I had spoken with
12 about that.

13 Q. Well, you have given me one name and your
14 answer is in the plural, so you can give me more
15 names, you can change your answer or you could leave
16 it inconsistent. Which would you like to do?

17 MR. SZYMANSKI: Not necessarily
18 inconsistent. I mean, he could have --

19 MR. JACOB: Would you like to take an
20 oath and testify with him?

21 MR. SZYMANSKI: Sure, I would.

22 MR. JACOB: Let's swear him in. I'd be
23 very happy to ask you a few questions.

24 MR. SZYMANSKI: All right.

25 A. There's other committee members that we

1 had spoken with in discussions about -- Wayne
2 Siemer was a member of the merger committee. He
3 was an attorney/client privilege. So I was
4 thinking it was a work product that we had
5 discussions with the attorney and Roland Wilder was
6 also a professional negotiator, I believe we had
7 discussions with the attorneys. So it wasn't -- it
8 was multiple.

9 Q. You and Wayne and Roland and Pat.

10 Is there anybody else that you had a -- a
11 consensus with that the vote on the MOU would resolve
12 the East/West seniority dispute?

13 A. Well, maybe I answered too quickly about
14 the vote on the dispute as opposed to the process
15 which we voted on. The MOU provides a process to
16 settle the dispute. I'm not suggesting that the
17 vote itself solved the dispute.

18 Q. I'll give you a chance to change your
19 answer.

20 A. Yes.

21 Q. Did you intend prior to the completion of
22 the MOU vote that the vote would resolve the
23 East/West seniority dispute?

24 A. No.

25 Q. Did you believe that the process that would

1 go into effect if the MOU was ratified would resolve
2 the East/West seniority dispute?

3 A. Yes.

4 Q. Explain to me how that would occur.

5 A. Again, the process outlined in the MOU
6 has the pilot's represented by the merger
7 committee, USAPA, enter into negotiations with APA
8 barring any type of agreement we enter into a
9 McCaskill-Bond process for seniority integration.
10 Once the seniority's integrated via that process,
11 whether it be through negotiations or arbitration,
12 by legislation the result we'll end up with a fair
13 and equitable seniority integration.

14 Q. Is --

15 A. And I believe that that is what we're all
16 looking for is to resolve the dispute so that we
17 can all move forward in our careers.

18 Q. Is your intention to resolve the East/West
19 seniority dispute through a give-and-take negotiation
20 with the American pilots?

21 A. That is one step in the process.

22 Q. What side do you think the American pilots
23 are going to take on that issue?

24 A. American pilots, they have a duty of fair
25 representation to represent the pilots of American

1 Airlines. So they will be advocating vigorously
2 for their pilots.

3 Q. All right. Are they going to advocate for
4 either the East or the West pilots in resolving the
5 East/West seniority integration dispute?

6 A. I believe that their intention would be
7 to, again, conclude the process with a fair and
8 equitable seniority integration. So to the extent
9 that they can work collaboratively with us so
10 that's the end product, then to that extent that
11 they will be advocating for all the pilots of the
12 new American Airlines.

13 Q. So the American pilots are going to
14 represent some of the interests in the East/West
15 seniority dispute?

16 A. They will only be representing the
17 American Airlines pilots.

18 Q. So where is the East/West dispute going to
19 be resolved?

20 A. USAPA has formed a committee to represent
21 all US Airways pilots. And through that process of
22 USAPA, again, negotiating with APA, going to
23 arbitration, if necessary, through that process we
24 will render the fair and equitable seniority
25 integration. And that final result will resolve

1 the dispute.

2 Q. Isn't it true that the USAPA merger
3 committee's going to present a seniority list for all
4 the US Airways pilots and use that list to integrate
5 with the list for the American pilots?

6 A. Yes.

7 Q. Okay. How is the USAPA merger committee
8 going to create that list?

9 A. USAPA merger committee will determine a
10 proposal to recommend to the Board of Pilot
11 Representatives. Through analysis we'll describe
12 to the BPR, the Board of Pilot Representatives what
13 we believe to be the most advantageous position to
14 take in negotiations and arbitration necessary.

15 Q. Vis-a-vis integrating with the American
16 lists, but how will the USAPA merger committee create
17 a single seniority list for US Airways pilots?

18 A. That process has not been determined yet.

19 Q. You're the chairman of the merger
20 committee?

21 A. That's correct.

22 Q. And you don't know how the merger committee
23 is going to create a single seniority list for US
24 Airways pilots to use to integrate with American
25 pilots?

1 A. That's correct.

2 Q. Under oath, pretend that you're sitting in
3 front of the judge, and you're going to tell the
4 judge that you don't know how that's going to happen?

5 A. Not specifically.

6 Q. How about nonspecifically?

7 A. We will evaluate multiple methodologies
8 and at the end of our determination we'll present
9 that to the board of pilot representatives. One
10 potential solution may not be to take a single list
11 to the arbitrator, it may become a universal
12 solution where we integrate the status quo of US
13 Airways, which is two separate seniority lists with
14 the single list of American. So your assumption
15 that it will be a single list will be predetermined
16 and taken forward is not necessarily correct.

17 Q. How does your committee make decisions? I
18 can rephrase that if you like.

19 A. We work together and discuss issues.

20 Q. Assuming that everybody doesn't get Kumbaya
21 and all agree on the same thing, how do you make a
22 decision when everybody doesn't agree on it? You
23 flip a coin?

24 A. No.

25 Q. What do you do?

1 A. Again, the merger committee answers to
2 the Board of Pilot Representatives. And the
3 members of the merger committee are not wall
4 flowers. When we make a presentation to the Board
5 of Pilot Representatives, I'm certain that the
6 board members will inquire if there is consensus on
7 the presentation. If we present pros and cons to
8 the board, if there's a dissenting opinion, it's my
9 intention to allow that dissenting opinion to be
10 vetted openly. When I say openly, it means in
11 front of all the board. We may be in closed
12 session because this would be strategy, of course,
13 very important to our pilots.

14 But their objections or their preferred
15 methodology or their preferences would be vetted so
16 that everyone can hear them.

17 Q. How do you decide which is the dissenting
18 opinion and which is the main opinion?

19 A. Well, I said dissenting in general terms.
20 If there's two opinions or two different
21 recommendations, then the both recommendations will
22 be presented as such.

23 Q. When was the last time your committee made
24 two recommendations that were in conflict with each
25 other to the board?

1 A. The merger committee is a newly formed
2 committee where we had not made presentation to the
3 board where there was a conflict of the -- go
4 ahead.

5 Q. No, you.

6 A. I'm done.

7 Q. Let me just close this up. So if the
8 committee doesn't agree on how to approach the
9 seniority integration of the East and West pilots,
10 your expectation is that two views would be presented
11 to the Board of Pilot Representatives; is that
12 correct?

13 A. Yes.

14 Q. And do you have any idea how that conflict
15 of two views would be resolved when it's presented to
16 the Board of Pilot Representatives?

17 A. Through the democratic process with the
18 union, there would be discussion, floor debates and
19 we would get direction from the Board of Pilot
20 Representatives on how to proceed.

21 Q. And the board would vote; is that correct?

22 A. Sometimes.

23 Q. How else does the board reach a decision
24 other than voting?

25 A. Sometimes it's a vote taken, sometimes

1 it's by consensus of the board.

2 Q. Okay. So just so I can understand what
3 you're saying, I'm going to guess that when the
4 merger committee gets together and raises the issue
5 of how to integrate the East and the West pilots,
6 that one of the West pilot members is not going to
7 agree to anything other than the Nicolau list to be
8 used. Assuming that is correct, are you saying if
9 one member of the merger committee doesn't agree to
10 use anything other than the Nicolau list, that you
11 will present whatever the committee otherwise
12 recommends and the Nicolau list to the Board of Pilot
13 Representatives and you expect that the board will
14 choose between those options by taking a vote; is
15 that correct?

16 A. Yes.

17 MR. JACOB: I totally lost track of the
18 numbers. What's the number we're on?

19 (Exhibit Number 1063: USAPA President's
20 Message March 20, 2007 marked for
21 identification, as of this date.)

22 Q. I'm handing you Exhibit 163 -- 1063.

23 This appears to be a letter written by
24 Stephen Bradford, says USAPA's president's message
25 March 20th, 2007.

1 Did I read that correctly?

2 A. That's what it says.

3 Q. Do you recall ever seeing this?

4 A. I don't. I probably have read it, but I
5 don't recall seeing it.

6 Q. Okay. If you could look for me, one, two,
7 three, four, five -- five paragraphs down on the
8 first page, the third full sentence talks about how
9 if USAPA takes over for ALPA, USAPA will proceed in
10 the negotiating process with management as per the
11 transition agreement, which USAPA will inherit.

12 Did I read that correctly?

13 A. I don't see anything about the transition
14 agreement. I'm sorry.

15 Q. It's the paragraph that starts with by
16 voting for USAPA.

17 A. Okay.

18 Q. And then if you go down one, two, three,
19 four lines, three words in from the left-hand margin,
20 USAPA will proceed in the negotiating process with
21 management --

22 A. Okay.

23 Q. -- as per the transition agreement which
24 USAPA will inherit.

25 Thinking back to March of 2007, was that

1 your understanding of what would occur if USAPA was
2 elected to replace ALPA?

3 MR. SZYMANSKI: Objection, that calls for
4 a legal conclusion.

5 Q. You can answer.

6 A. I'll defer to my counsel.

7 Q. No, your counsel didn't tell you not to
8 answer.

9 A. It's a -- it's a legal conclusion.

10 Q. You wanted USAPA to replace ALPA; is that
11 correct?

12 A. Yes.

13 Q. And in March of 2007 you wanted USAPA to
14 replace ALPA.

15 Did you have any sense in 2007 of what
16 would happen if USAPA would replace ALPA?

17 A. Yes.

18 Q. Did you understand that USAPA would proceed
19 negotiating a CBA as per the transition agreement?

20 A. Again, I don't know about the as per
21 transition agreement. I know the intent would be
22 to resume negotiations under -- I suppose it would
23 be under the transition agreement at the time. But
24 I'm not sure it wasn't -- they weren't eligible to
25 open Section 6. I'm not that familiar with the

1 procedures.

2 Q. Have you ever heard of the AAA Pilots for
3 Fairness committee?

4 A. I have heard of it.

5 Q. Did you talk to any of the people who
6 belonged to that committee over the summer of 2007?

7 A. I don't know who was on the committee
8 specifically of that nomenclature.

9 Q. Do you know of anybody who was on that
10 committee?

11 A. I assume the gentleman that I had
12 mentioned earlier were on that committee.

13 Q. Were -- do you recall whether those
14 gentlemen were concerned that they wanted to position
15 your pilot group to be able to engage in a future
16 merger with another pilot group without getting the
17 Nicolau list used in that future merger?

18 A. I'm not aware of that concern.

19 Q. Do you know a pilot named Steve Whiting?

20 A. I have met Steve Whiting.

21 Q. Was Steve Whiting involved in forming
22 USAPA?

23 A. Not to my knowledge. He may have been.

24 Q. As a chairman of the merger committee, did
25 you receive any instruction as to what is required by

1 the duty of fair representation?

2 A. I've had discussions with my merger
3 counsel regarding the duty of fair representation.

4 Q. Were you given any written material
5 explaining what your duties were under the duty of
6 fair representation?

7 A. I have read a lot of material discussing
8 various presidential cases that deal with the duty
9 of fair representation.

10 Q. Did the union or any representative of the
11 union provide you with any information explaining the
12 duty of fair representation?

13 A. Not to my knowledge.

14 Q. Do you understand that you are obligated as
15 the chairman of the merger committee to abide by the
16 duty of fair representation?

17 A. Yes, I am.

18 Q. What is your understanding of what is the
19 duty of fair representation?

20 A. Again, it's a legal term. I can tell you
21 what my understanding is.

22 Q. That's what I asked.

23 A. Duty of fair representation is to
24 represent all of the pilots without being
25 arbitrary, discriminatory or acting in bad faith.

1 Q. Do you satisfy the duty of fair
2 representation by taking the actions desired by the
3 majority?

4 A. That's a legal conclusion.

5 Q. Do you believe that you satisfy the duty
6 that you owe of fair representation if when faced
7 with a choice you take the option desired by the
8 majority?

9 A. It's too much of a hypothetical. I
10 believe it to be abstract. Everything is a
11 case-by-case basis.

12 Q. Would you say then that you don't always
13 satisfy the duty of fair representation by taking
14 what is desired by the majority?

15 A. Again, hypothetical. You really need to
16 look at it case by case.

17 Q. Do you and does your committee owe a duty
18 to fairly represent US Airways pilots who did not --
19 who do not belong to USAPA?

20 A. Yes.

21 Q. Do you know how many such pilots there are?

22 A. I don't know the number.

23 Q. How do you ascertain what's in the interest
24 of those pilots?

25 A. We have to act in the common good of all

1 of the pilots, and they're best represented by the
2 union and its efforts for all the pilots. But it's
3 difficult to ascertain if they do not communicate
4 to the representatives or to others what their
5 desires are.

6 Q. Would you be -- would you be surprised to
7 hear that there are more than 600 pilots who do not
8 belong to the union?

9 A. That's a larger number than I would have
10 guessed.

11 Q. Would you guess that it would be less than
12 400?

13 A. I would have guessed less than 400.

14 Q. Why would you guess that the number would
15 be that small?

16 A. Just by inference, the number of pilots
17 that are voting in the last elections, the number
18 of pilots that are active and the different
19 domiciles, I would have guessed that there was
20 fewer than 400 who are nonmembers.

21 Q. Would it mean anything to you if the number
22 was larger than 400?

23 A. Not other than being of interest.

24 Q. It doesn't reflect to you that pilots are
25 unsatisfied with their union if they don't belong?

1 A. Certainly is the desire of the union to
2 have all the members be satisfied with their
3 representation.

4 Q. You talked earlier that there was a merger
5 contemplated between United and US Airways back in
6 2001; is that correct?

7 A. Yes, I believe I said 2000, but it was in
8 the time frame of 2000, 2001.

9 Q. Were you aware that at that time there were
10 a number of United pilots that were on furlough?

11 A. I was not aware. I don't recall the
12 status of all the United pilots at that time.

13 Q. I didn't ask all. But you said that you
14 looked into mergers, other mergers, that you studied
15 this, you knew about that merger.

16 Do you know today that there were a number
17 of United pilots at the time that US Airways was
18 contemplating a merger, a number of United pilots who
19 were on furlough?

20 A. Are you asking if I know that now or if I
21 knew that then?

22 Q. Now, now.

23 A. Some of this blends together from one
24 analysis to another. But I -- it does make sense
25 to me that there was a number of pilots on furlough

1 at United during the years 2000, 2001.

2 (Exhibit Number 1064: Document entitled
3 Merger Update Summer 2005, Bates WP018858 - 60
4 marked for identification, as of this date.)

5 Q. I'm handing you Exhibit 1064. Can you
6 identify this for me?

7 A. Appears to be a merger update dated the
8 summer of 2005 from the US Airways.

9 Q. And have you seen this before?

10 A. Not recently. I believe I had seen it at
11 the time it was published.

12 Q. When you did your studying of other mergers
13 and gaining some expertise as the chairman, did you
14 go back and read the US Airways articles on seniority
15 merger such as this?

16 A. Such as this, I would have likely have
17 reviewed this, yes.

18 Q. Okay. Do you recall that you read this
19 article in 2005?

20 A. I don't recall.

21 Q. In 2005 US Airways was in the process of
22 merging with America West; is that correct?

23 A. Yes.

24 Q. Okay. And in 2005 the Nicolau award hadn't
25 come out yet; is that correct?

1 A. That's correct.

2 Q. Okay. Would you agree that this article
3 explains how ALPA merger policy works?

4 A. I believe that's what the intention of
5 the article is is to explain how the ALPA merger
6 policy works.

7 Q. Is it fair to say that if in 2005 you
8 didn't know how ALPA policy worked that you would
9 have read this article to become informed?

10 A. If one was inclined to read the article,
11 yes, that would have helped them with their
12 knowledge.

13 Q. Were you inclined to have that knowledge
14 back in 2005?

15 A. Yes.

16 Q. Do you recall that when you read this
17 article or when you otherwise knew about ALPA merger
18 policy in 2005 that you were unhappy with any aspect
19 of it?

20 A. I was not aware of at that time, no.

21 Q. Would you have been shocked in the summer
22 of 2005 if you read the paragraph on the second page
23 of this which is under the heading that says part
24 three that says: If you are senior to a fellow US
25 Airways pilot now, you will be senior to that pilot

1 on the merger list. If you are junior now, you will
2 be junior on the merger list.

3 That wasn't shocking, was it?

4 A. No, not at all.

5 Q. If you go to the next page, there's a
6 heading called Arbitration. And at the bottom of
7 that heading it says: The merger policy provides the
8 award of the arbitration board shall be final and
9 binding on all parties to the arbitration and shall
10 be defended by ALPA. No ALPA seniority integration
11 arbitration result has ever been set aside by the
12 courts, although some dissatisfied pilots have
13 challenged the award before administrative agencies
14 and the courts.

15 If you had read that in 2005, would you
16 have been shocked by that?

17 A. No.

18 Q. Assuming that United pilots were on
19 furlough and that you knew that in 2001 and you
20 weren't on furlough, was your expectation that if you
21 merged with United that those pilots who were on
22 furlough would be put below you on the merged list?

23 A. I have no way to determine that.

24 Q. Back in 2001 you were hearing that you
25 might be merging with United. You had an interest in

1 knowing how that would work out.

2 Did you know at that time that there were
3 hundreds of United pilots who were on furlough?

4 A. I don't recall.

5 Q. You don't recall?

6 A. No.

7 Q. But you read the articles that would have
8 talked about that merger in US Airways if there were
9 any?

10 A. Likely, I would have.

11 Q. Now let's look at some of them.

12 (Exhibit Number 1065: Document entitled
13 Seniority Integration Rights of Furloughees
14 January/February/March 2002, Bates WP018868 -
15 871 marked for identification, as of this
16 date.)

17 Q. This is Exhibit 1065.

18 Can you identify that for me?

19 A. It's another Airways article titled
20 Seniority Integration Rights of Furloughees.

21 Q. Do you recall seeing this at the time?

22 A. No.

23 Q. Have you ever seen this?

24 A. Yes.

25 Q. When do you think you saw it?

1 A. During review of past mergers. I believe
2 I have come across this document before.

3 Q. Did anything in it shock you?

4 A. No. It appears to be historical review
5 of prior mergers.

6 Q. Let me read the first few sentences
7 starting in the middle of one. Many US Airways
8 pilots have expressed concern about the seniority
9 integration rights of furloughees. For purposes of
10 seniority integration, the bottom line is this,
11 should US Airways merge with another airline, all
12 pilots whose names appear on the US Airways pilots
13 system seniority lists will be included in any
14 seniority integration.

15 I read that correctly?

16 A. Yes.

17 Q. That seems fair, doesn't it?

18 A. It does.

19 Q. Let's go down to the last paragraph in that
20 column.

21 A. Okay.

22 Q. A pilot status as a furlougee at the time
23 of the merger announcement or arbitration hearing may
24 also bear significantly on the pilot's placement on
25 the merged list.

1 Does that shock you?

2 A. No.

3 Q. And then the last part of that paragraph,
4 starting on the next column, the absence of current
5 employment and uncertainty about future prospects are
6 among the equities likely to effect a furlougee's
7 seniority placement.

8 Does that seem right to you?

9 A. That would be one of the factors to be
10 considered in the integration.

11 Q. As far as you know, has the pilot group
12 that you're part of ever merged with another pilot
13 group and put the pilots on furlough below all the
14 active pilots?

15 A. I believe there was some pilots on
16 furlough at the Trump Shuttle the time the Trump
17 Shuttle integrated with US Airways.

18 Q. Okay. Let's go with the same article.
19 It's page 37 in the article. It's just a few pages
20 in. And they're talking about the Allegheny Mohawk
21 integration.

22 The very last sentence right before it
23 talks about the shuttle, it said that the integration
24 agreement, that's the antecedent to the pronoun it,
25 further adjusted their dates of hire to the extent

1 necessary to place them below the most junior active
2 pilots. The sentence before it says it's talking
3 about the Mohawk furloughees.

4 And what this is saying, this is kind of a
5 wrong way to present it, I'm sorry, that the
6 integration agreement was a date of hire but they
7 gave false dates of hire to the Mohawk furloughees to
8 adjust their date of hire so they would be below the
9 most active pilots.

10 Is that how you understand what that says?

11 A. That's what I believe it says.

12 Q. So you were a member in 2005 of a pilot
13 group that a few decades before when they had merged
14 with another airline, they put the furloughees below
15 all the active pilots; is that correct?

16 A. I'm not that familiar with the Allegheny
17 Mohawk. I don't have certainty to answer that
18 question in the affirmative. I do read what it
19 says here. I don't have reason to dispute that.

20 Q. So if we assume that what this says is
21 correct, that's what it says?

22 And you know Michael Cleary and Randy
23 Mowrey, right?

24 A. We have met, yes.

25 Q. You don't have any reason to think they

1 would write this article and get that wrong, do you?

2 A. It's in the realm of possibility.

3 Q. Just because anyone could get something
4 wrong or they're known to get things like that wrong?

5 A. Anyone could get things wrong.

6 Q. That's true.

7 You'll have to forgive me, I love these
8 articles, you can still find them on the internet.

9 One more exhibit, 1066.

10 Do you recognize this article?

11 A. No.

12 (Exhibit Number 1066: Document entitled
13 Seniority Integrations Involving The US
14 Airways Pilot Group: From 1968 Through 1999
15 September/October 2000 marked for
16 identification, as of this date.)

17 Q. Can you identify it for us?

18 A. It's identified as Seniority Integrations
19 Involving The US Airways Pilot Group From 1968
20 Through 1999. And, again, it's published
21 September/October 2000 US Airways.

22 Q. And you haven't seen this and you haven't
23 read this?

24 A. Not in some time if I have seen it
25 before.

1 Q. Do you recall that if you saw it before
2 there was anything in it that just struck you as
3 being very wrong?

4 A. I don't recall.

5 Q. What role does the merger committee play --
6 did it play in planning the ratification vote of the
7 MOU?

8 A. None.

9 Q. Did you draft the ballot questions?

10 A. No.

11 Q. Did you plan any of the information that
12 would be going out to pilots to help them decide
13 whether to ratify or not?

14 A. No.

15 Q. Did you draft anything that explained what
16 was in the MOU?

17 A. There was a merger committee update that
18 had gone out prior to the ratification vote.

19 Q. Just one document that went out?

20 A. That's correct.

21 Q. So who informed the pilots further than
22 that about what the MOU was about, what their
23 ratification votes would mean?

24 A. The negotiating committee had many
25 documents which they had prepared that covered

1 those issues. The communication committee in
2 coordination with the negotiating committee
3 disseminated substantial amount of information. It
4 was road shows at each of the domiciles at multiple
5 times and dates. We had face-to-face information
6 was disseminated to the pilots regarding the merger
7 and the MOU process.

8 Q. Your committee, though, didn't play a part
9 in that?

10 A. Not significantly at all.

11 Q. Did your committee explain to the pilots in
12 any context what the implications of voting for the
13 MOU, what -- let me strike that.

14 Did your committee explain to the pilots at
15 large the implication of passing the MOU on the
16 East/West seniority dispute?

17 A. To the extent that the MOU was neutral on
18 seniority, but it provided for a process to resolve
19 the issue via negotiations and arbitrations
20 consistent with McCaskill-Bond that would render a
21 fair and equitable solution to the seniority issue.

22 Q. Did your committee draft anything that
23 explained that to the pilots?

24 A. Again, that was part and parcel of the
25 information that communication and coordination

1 with merger counsel and the negotiating advisory
2 committee provided to the pilots via electronic
3 information, paper format as well as face-to-face
4 meetings.

5 Q. We're going to take a deposition of those
6 people. I'm asking whether your committee drafted
7 anything that informed the pilots of the implication
8 of voting on the MOU?

9 A. The update was the -- truly the sole
10 piece of information that we provided exclusively
11 from the merger committee.

12 Q. And what did that say about -- what did
13 that update say about resolving the East/West
14 seniority dispute?

15 A. Again, it provided the framework for the
16 McCaskill-Bond process in the timelines established
17 in -- again, the end result rendering fair and
18 equitable seniority integration for all the pilots.

19 Q. Did the word Nicolau appear in your update?

20 A. Yes.

21 Q. What did it say about Nicolau in the update
22 that the merger committee wrote?

23 A. I'm paraphrasing.

24 Q. Sure.

25 A. But the essence was if you're an East

1 pilot, don't vote against the MOU for fear that it
2 will revive the Nicolau award. If you're a West
3 pilot, don't vote against it -- don't vote for it,
4 excuse me, if you believe it will install the
5 Nicolau award.

6 Q. What was the advice you were giving to
7 pilots that wanted the Nicolau to be implemented?

8 Were you telling them they should vote for
9 or against the MOU?

10 A. The merger committee, pardon me, did not
11 advocate for or against the MOU.

12 Q. No, but what advice did you give a pilot
13 who wanted to have their vote cause the
14 implementation of the Nicolau or help the
15 implementation of the Nicolau? Did you tell them
16 they should vote for it or did you tell them they
17 should vote against it or did you not tell them
18 anything?

19 A. I'm not sure I had a direct conversation
20 with the West pilot regarding that specific issue.

21 Q. In your update, how did your update tell
22 the West pilots or an East pilot who wanted the
23 Nicolau to be implemented, what advice did you give
24 in your update as to how they should vote?

25 A. The intent has always been for the MOU to

1 be seniority neutral. So we did not give advice
2 one way or the other in regard to that issue.

3 Q. Do you know how many West pilots didn't
4 cast votes on the MOU ratification?

5 A. No.

6 Q. Does it make a difference to you?

7 A. I'm not sure how to answer that.

8 Q. Has the merger committee done anything to
9 look at certain seniority lists that might be created
10 between the US Airways pilots and the American
11 pilots?

12 A. We've taken some cursory looks at what
13 might be a list.

14 Q. What are some of the formulas that you've
15 used for your cursory looks?

16 A. It's a merger committee work product.

17 Q. Because you anticipate being sued for
18 taking a cursory look?

19 A. No.

20 Q. Okay. Have you constructed a list where
21 you integrated the US Airways pilots in a
22 date-of-hire order with the American pilots in a
23 date-of-hire order?

24 A. There has been a list created for review
25 purposes, internal purposes.

1 Q. Have you created a list where you've taken
2 the US Airways pilots in the Nicolau order and
3 integrated them with the American pilots?

4 A. Yes, for internal evaluation purposes.

5 Q. A list of 15,000 pilots long?

6 A. I'm not quite sure it's that large, but
7 it is quite large, yes.

8 Q. It is that large.

9 MR. JACOB: We've not received that,
10 we've received the other list. We would like
11 that to be produced also.

12 MR. SZYMANSKI: I'm sorry, what do you
13 want produced?

14 MR. JACOB: The Nicolau where they've
15 done an integration of the US Airways pilots
16 in the Nicolau order with the American pilots.
17 We've gotten -- as I'm about to show, we've
18 gotten the US Airways pilots integrated by
19 date of hire with the American by length of
20 service with the American. We've not gotten a
21 trial integration with the Nicolau with the
22 American pilots.

23 MR. HARPER: And we want to make sure
24 that when we get that list there's evidence
25 that it was created before today.

1 MR. SZYMANSKI: Well, I'll see, you
2 know --

3 THE WITNESS: Yeah, and again --

4 MR. SZYMANSKI: -- where it is.

5 A. I'm not sure it's in a list format as it
6 is a dot matrix analysis. But it's -- it was an
7 evaluation to see different --

8 Q. But you have made actual lists of 15,000 --

9 A. That's how it was created. That's how it
10 was created, so the source must be it.

11 MR. HARPER: Pat, it would really help us
12 if we had that by Friday for sure in the
13 morning.

14 MR. SZYMANSKI: Well, I --

15 MR. HARPER: So we can ask somebody about
16 it.

17 MR. SZYMANSKI: -- I will ask this
18 morning -- or this evening.

19 (Exhibit Number 1069: Colored chart
20 marked for identification, as of this date.)

21 Q. This is Exhibit 1069. And I hope you're
22 going to tell me that you've never seen this before.

23 Have you seen this before?

24 A. I've never seen this before.

25 Q. Good.

1 Assume that this shows an integration of
2 the US Airways pilots and the American pilots by date
3 of hire where the former US Airways pilots are coded
4 in red, the former West pilots blue, the American
5 pilots in yellow.

6 Assuming that is what this shows, does this
7 look like a fair integration to you?

8 A. The integration is made up of many
9 different parts, not just a raw system seniority
10 list. There's evaluation done about attrition,
11 there's evaluation done about the age of the
12 pilots, the equipment that they fly, the domiciles
13 they reside and so forth. So conditions or
14 restrictions, offenses and other provisions must be
15 taken into account in doing a proper evaluation of
16 a seniority list.

17 Q. But in your mind, it's conceivable then
18 that if this is how the date of hire sorts out, you
19 could work with this and have this be the integration
20 of those three pilot groups?

21 A. As I said, there's many more tasks that
22 would need to be completed in terms of making
23 provisions for anomalies throughout the list to
24 make it function in a way which is fair and
25 equitable.

1 Q. Would fair and equitable -- would a list
2 that functions fair and equitably be one where the
3 opportunities were more evenly spread through each of
4 the pilot groups?

5 A. The opportunities for the pilot groups,
6 again, have to be evaluated not in a snapshot form,
7 but what the list looks at like on a given day has
8 to be evaluated over the course of time. And the
9 additional factors, as I mentioned before, have to
10 do with the conditions or restrictions, the age of
11 pilots and so forth on how you integrate the
12 seniority list. But it does have to do with the
13 prospects of the career-long opportunities for each
14 of the pilots.

15 Q. Is it fair to say, assuming that this list
16 is a fair and equitable seniority list, that the
17 pilots in blue have much worse prospects than the
18 pilots in red?

19 A. That cannot be evaluated by a single
20 graph.

21 Q. Okay. This is Exhibit --

22 MR. SZYMANSKI: Can -- you're moving onto
23 the next. Can we take a break?

24 MR. JACOB: Sure.

25 (A BRIEF RECESS WAS TAKEN.)

1 Q. I'm going to give you Exhibit 1068.

2 A. Okay.

3 (Exhibit Number 1068: E-mail from John
4 Owens to Dean Colello dated 12/25/12 marked
5 for identification, as of this date.)

6 Q. Do you recognize the first page of this
7 exhibit? Can you look at the first page, please?

8 A. Okay.

9 I don't recognize this. I can read it.
10 I have not seen it before.

11 Q. Did you see any e-mails between Mr. Owens
12 and Mr. Colello that had copies of a seniority list
13 integrating the US Airways and American pilots?

14 Have you ever seen such a list?

15 A. I have.

16 Q. I submit to you that the second page of
17 this exhibit is the first page of a 300-page long
18 document that was attached to this e-mail.

19 Looking at the title of the attachment and
20 looking at this first page that I show you, do you
21 have any reason to believe that this isn't the first
22 page of a list that was integrated by date of hire?

23 A. I have no knowledge of the document and
24 how it was assembled. But it seems reasonable to
25 conclude that's how it was put together.

1 Q. Thank you.

2 Just to touch up one point, if your
3 committee made a recommendation to integrate the East
4 and West pilots according to date of hire, a
5 recommendation to the BPR to integrate the East/West
6 pilots by date of hire and there was a dissenting
7 recommendation to integrate them according to the
8 Nicolau award, does the USAPA constitution allow the
9 BPR to accept the dissenting recommendation for the
10 Nicolau?

11 A. I believe the resolutions are voted on by
12 majority rule. So I'm not sure if you need more
13 than that.

14 Q. Does the USAPA constitution allow the BPR
15 to accept and use the Nicolau East/West integration?

16 A. The constitution has objectives, directs
17 for the use of date-of-hire principles with
18 appropriated conditions and restrictions to protect
19 the career expectations of the pilots. I'm
20 paraphrasing, of course, but that's the essence of
21 it, that the Nicolau award would not fit into that
22 description.

23 Q. Did the BPR give your committee an
24 assignment to integrate the East and West pilots in
25 any particular manner?

1 A. There was a proposal that was rendered by
2 the BPR. Let me take that back.

3 Q. Let me stop you for a second.

4 A. Sure.

5 Q. If you could use the word assignment in
6 your answer or tell me no.

7 Did they give you an assignment to
8 come back to them with an East/West integration by
9 date of hire?

10 A. Did they give me?

11 Q. Your committee.

12 A. Okay. Meaning while I was the chairman?

13 Q. Presently.

14 A. No.

15 Q. Have they ever given your committee that
16 assignment before you were chairman?

17 A. Yes.

18 Q. Had that changed since then?

19 A. Again, that proposal was designed for --

20 Q. Has the assignment changed since then?

21 A. The assignment was to render a proposal
22 for the purpose of Section 6 seniority integration
23 for, again, the proposal for Section 22 during
24 contract negotiations contemplated for a single
25 agreement. That proposal appears to be not in play

1 at this time, but was for -- designed for other
2 purposes.

3 So to answer your question, that
4 assignment to the merger committee happened back in
5 2008. It was brought forward by resolution of the
6 BPR. And the proposal that was delivered to the
7 company has been unchanged since that time. But
8 that was, again, for the purposes of Section 6
9 negotiations with the company.

10 Q. Okay. Is the BPR presently waiting to get
11 any recommendation from your -- from your committee
12 on anything?

13 A. There is a recommendation pending from
14 our committee to the extent that when we get
15 further along in the seniority integration with
16 American, that they will be anticipating a
17 proposal. There's nothing pending at this time.

18 Q. And what's the proposal supposed to
19 address?

20 A. Well, the first step in the seniority
21 integration is going to be a protocol agreement to
22 set the ground rules for the seniority integration
23 process for negotiations and arbitration, if
24 necessary.

25 Q. Have you been given any constraints by the

1 BPR as to what you should come up with?

2 A. For?

3 Q. For this proposal that you've just
4 mentioned to me.

5 A. No.

6 Q. So the BPR is allowing you to come back to
7 them and say, we believe that we should go to the
8 American pilots and tell them we want to integrate
9 your list with the Nicolau list?

10 A. They're expecting us to educate them on
11 the wide range of seniority integration
12 methodologies. And we expect to deliver that to
13 them to show them what the range of possibilities
14 are and make our recommendations. That will be
15 done in conjunction with the merger committee and
16 our experts. That has not been completed at this
17 time.

18 Q. But that's talking about integrating with
19 the American pilots, right?

20 A. That's correct.

21 Q. All right. I'm talking about what you're
22 going to integrate with the American pilots.

23 It's like you have two decks of cards and
24 you're going to shuffle them, and I'm asking you
25 about the deck of cards in the right hand, what order

1 they're going to be in, and you're telling me how
2 you're going to shuffle them. I just want to talk
3 about the deck of cards in the right hand.

4 Have they told you what order that deck of
5 cards in the right hand, the US Airways pilots, what
6 order that deck of cards should be in?

7 A. No.

8 Q. Are they asking you to come back to them
9 and tell them what order you think it should be in?

10 A. Again, you're making assumption that it
11 will not be taking two system -- the status quo
12 seniority lists to the arbitration. There may be a
13 methodology in which we will have a global solution
14 which will not require the integration of East/West
15 first and then with American.

16 Q. Have they told you to come back to them
17 with a recommendation whether you should split that
18 into two separate decks or make it one deck?

19 A. No.

20 Q. So you're not even going to tell them
21 whether you think it should be integrating three
22 lists together as opposed to integrating the East and
23 West and then integrating with the third one?

24 A. Again, we've been given the latitude to
25 bring back to them what our recommendation will be.

1 They have not given us an assignment or put us in a
2 box and said this is how you're going to operate.
3 Stay inside this box and bring it back to us when
4 you're done. That's not what has taken place. We
5 anticipate the process of being internal merger
6 committee work product and after the evaluation's
7 been done, we'll bring it forward to the BPR for
8 their consideration.

9 Q. Other than the Nicolau integration of the
10 East and West pilots, are there any other ways to
11 integrate the East and West pilots that you can
12 conceive of?

13 A. Certainly.

14 Q. What's -- what are the other ways?

15 A. Other than the Nicolau?

16 Q. Yeah.

17 A. Could be date of hire with conditions and
18 restrictions.

19 Q. And what else?

20 A. It could be status and category with a
21 dynamic element to it in which the -- each side
22 would start off with their status and category and
23 move up as attrition takes place from their airline
24 of origin.

25 It's just a concept, nothing that I'm

1 promoting here but just to answer the question it's
2 in the realm of possibility. But the status and
3 category could be for, again, merging wide body
4 pilots with wide body pilots and narrow body pilots
5 with narrow body pilots and so forth.

6 Q. Is it your understanding that the USAPA
7 constitution allows the use of a dynamic list like
8 that?

9 A. I believe the -- the constitution allows
10 for consideration of all methodologies and internal
11 union committees.

12 Q. Sure.

13 Does it allow it to be used?

14 A. That will be up to the BPR to determine
15 what position they choose for us to adopt in
16 negotiations.

17 Q. As the chairman of the merger committee, do
18 you believe that it would violate the USAPA
19 constitution to use a dynamic seniority integration
20 for the East and West pilots?

21 A. I believe it's a wide range of
22 possibilities that may be acceptable within the
23 confines of the constitution. We would have to ask
24 our legal counsel for guidance on that. I'm sure
25 the BPR would be interested to know what their

1 feelings were.

2 But the concept is we want to be able to
3 have a seniority integration methodology as fair
4 and equitable for all pilots of US Airways and the
5 new American. And we will evaluate methodically
6 every possibility that we can come across if we
7 believe it has, you know, some value.

8 Q. Without telling me what advice you got,
9 have you asked your legal counsel to advise you if
10 the USAPA constitution allows any other seniority
11 integration method other than the date of hire with
12 conditions and restrictions?

13 A. Yes.

14 Q. You have posed that question to counsel?

15 THE WITNESS: Can I share?

16 Q. No, don't tell me.

17 And have you received an answer from
18 counsel to the question?

19 A. Yes.

20 Q. And have you shared that answer with the
21 BPR?

22 A. Have I? No.

23 Q. Has -- do you have any reason to believe
24 the BPR knows that answer?

25 A. Yes.

1 Q. So if I had a member of the BPR sitting
2 here and I said to them has counsel for the merger
3 committee advised you as to whether there are other
4 integration methods allowed by the USAPA constitution
5 other than date of hire, they would say to me yes,
6 we've gotten that advice from counsel?

7 A. I can't speak for them what their answer
8 would be.

9 Q. How likely do you think they would say
10 that? There's how many? 11 members?

11 A. Yes.

12 Q. You think five of them would recall that
13 they've been told that?

14 A. Calling for speculation. I can't tell
15 you.

16 Q. Let's look forward and hypothesize that the
17 American pilots have internally reached an agreement
18 to protect their pre merger expectations with certain
19 conditions and restrictions and now they're coming to
20 negotiate an integration with the US Airways pilots.

21 Would you be bound to honor their agreement
22 on conditions and restrictions?

23 A. It depends on the agreement, whether it's
24 in the form of a negotiated solution. And if by
25 agreement, again, we're talking about an agreed

1 solution here. So if we agreed that that would be
2 in the best interests of our pilots and we brought
3 that forward to the BPR and they thought that that
4 was a reasonable solution, it would likely go out
5 because it's an agreement for ratification to our
6 pilots.

7 And that way it will be embedded in the
8 contract at that time. If it went onto
9 arbitration, that would be a matter for the
10 arbitration panel to determine.

11 Q. I don't think I was clear.

12 If on their own the American pilots across
13 the hall reach an agreement amongst themselves that
14 there's certain conditions and restrictions that
15 their Jewish pilots don't have to fly on Yom Kippur,
16 and they have that that they have agreed to it and
17 now they're going to integrate with you, the US
18 Airways pilots, because they've reached that
19 agreement, are you bound to honor that in your
20 integration of US Airways and American pilots?

21 Are you bound to honor it?

22 A. Well, you're calling for -- again, we're
23 talking about a negotiated solution or are we
24 talking about an arbitrated solution?

25 Q. Neither.

1 I'm talking are you bound to honor their
2 agreement amongst themselves?

3 A. Again, I'm trying to direct you that
4 again there's two different avenues here. If we
5 agree to that -- to that process of negotiated
6 solution, they would bring those conditions and
7 restrictions forward. In other words, we've got,
8 for example, some prior seniority integrations that
9 have rights that have been carried forward for
10 various pilots.

11 For instance, in the Piedmont seniority
12 integration, there was lifetime rights for those
13 pilots that would be able to fly those wide bodies,
14 the 76 flights. So that condition had been brought
15 forward by agreement and through arbitration. So
16 it depends on that. So I would imagine that that
17 will not be disturbed going forward. So that's an
18 internal agreement amongst our pilots. So that
19 type of thing would survive. Your hypothetical is
20 really hard for me to follow and split the hairs
21 you're trying to split.

22 Q. Well, I think I get it then. When you talk
23 about those pilots with the lifetime rights to fly
24 which airplane?

25 A. 767.

1 Q. 767.

2 How did Mr. Nicolau deal with that? Do
3 those pilots have a lifetime right to fly the 767 --

4 A. I believe they were carried forward.

5 Q. -- on the Nicolau list?

6 A. I believe so. I'd have to review that.
7 I'm not certain. I'm not.

8 Q. Was Mr. Nicolau -- was the arbitration set
9 up that he had to honor that?

10 A. I believe the reference was it's the
11 Kagel award, if you're interested.

12 Q. But the ground rules for the arbitration
13 were that he had to honor that?

14 A. I don't know the ground rules.

15 Q. You told me that you know that the BPR has
16 been advised of your counsel's advice on the
17 integration methodologies that are allowed by the
18 USAPA constitution; is that correct?

19 A. I believe that they're aware of that. I
20 think counsel has described that there is some room
21 for something other than a straight date of hire
22 with conditions and restrictions, but that's
23 correct.

24 Q. Have they been advised of specific
25 methodologies other than the date of hire with

1 conditions and restrictions?

2 A. No.

3 Q. They haven't been?

4 A. Correct.

5 Q. On what basis do you think that they've
6 gotten what advice you do believe they have?

7 How do you know that they got any advice on
8 that --

9 A. I've been in attendance of many of the
10 BPR meetings.

11 Q. And you've heard it said at those meetings?

12 A. Yes.

13 Q. And you heard it said something to the
14 effect of there must be something we can do other
15 than date of hire with the conditions and
16 restrictions?

17 MR. SZYMANSKI: I've got to object. I
18 mean, unless we are specific about what
19 situation we're talking about. We may be
20 talking about privileged conversations between
21 counsel and members of the Board of Pilot
22 Representatives in a closed session. And so
23 without some more specific indication about
24 what it is that we're talking about, I have to
25 object on the grounds of privilege.

1 Q. Outside of closed session, have you heard
2 counsel give advice to the BPR that they can use
3 something other than date of hire with conditions and
4 restrictions without violating the USAPA
5 constitution?

6 A. I don't recall.

7 Q. Did the merger committee ever ask for input
8 from the pilots at large on how they would like to
9 see the East/West seniority dispute resolved?

10 A. Yes.

11 Q. When was that?

12 A. Several times. Most recent was I think
13 in October of 2012.

14 Q. And how did you make that request?

15 A. It had gone out via a merger committee
16 update.

17 MR. JACOB: What number are we up to?

18 MS. AXEL: I think we're on 1071.

19 MR. SZYMANSKI: This is 1068. That's the
20 last one we have.

21 MS. AXEL: This is the last one you
22 handed him, right?

23 MR. JACOB: So next one is 1070?

24 MR. HARKIN: Um-hum?

25 MR. JACOB: That was my address when I

1 was a kid.

2 Q. All right. I'm giving you another exhibit.

3 (Exhibit Number 1070: E-mail string with
4 the top from Jess Pauley dated 11/5/12, Bates
5 USAPA 222875 - 76 marked for identification,
6 as of this date.)

7 Q. Is the exhibit that I just gave you at the
8 bottom where it says, the merger committee requests
9 for input, what you were just referring to?

10 A. Yes, sir.

11 Q. Okay. Where is the sentence in that that
12 you believe is asking for input on resolving the
13 East/West seniority dispute?

14 A. I'd have to refresh my memory.

15 Q. Take to your time.

16 A. Sure.

17 I think that's the essence of the update
18 is requesting input from the membership on the
19 seniority proposal.

20 Q. Is there someplace where it seems to say
21 that?

22 A. The last, just before the signature
23 there, the merger committee's actively soliciting
24 input from you, the line pilot.

25 Q. And your intent is that that should be read

1 as input on resolving the East/West seniority
2 dispute?

3 A. Yes.

4 Q. Okay. What kind of response did you get to
5 this?

6 A. There's an example at the top of the page
7 we had a range of input. As you might imagine,
8 there was many pilots from the East who still
9 thought that the date of hire with conditions and
10 restrictions would be an appropriate solution, and
11 then input from other pilots that believe that the
12 Nicolau award ought to be integrated as the
13 solution in the seniority integration methodology.

14 Q. Can you estimate how many responses you got
15 altogether?

16 A. I can -- it would be a guess.

17 Q. Guess.

18 A. 300.

19 Q. Okay. How many of them do you think came
20 from the West?

21 A. Probably 200.

22 Q. How would you tell if it came from a West
23 pilot?

24 A. Oftentimes there's signatures, you can
25 take a look and see who the pilot is. Oftentimes

1 they identify themselves as a Phoenix-based pilot
2 or the domicile. Pilots often don't pull punches
3 when they're giving information input.

4 Q. And how many of those --

5 A. -- as you can read. I'll sue -- well,
6 there's no -- bad words in here, okay.

7 Q. How many of those estimated 200 West pilots
8 suggested something other than the Nicolau?

9 A. I don't know.

10 Q. Did you see any West pilot who suggested
11 something other than the Nicolau?

12 A. I don't recall.

13 Q. You don't?

14 A. No.

15 Q. Do you think there was more than one?

16 A. There were not very many, that's for
17 sure.

18 Q. How many East pilots suggested something
19 other than date of hire?

20 A. More than a dozen.

21 Q. What were some of the things they did
22 suggest?

23 A. Different variations of length of service
24 was probably the most instead of the strict date of
25 hire, would be based on length of service. Of

1 course, that would be your ten-year minus time
2 spent on furlough for the length of service.

3 Another creative solution was to do
4 something that was similar to what the
5 Continental/United seniority integration
6 methodology had looked at where you take a status
7 and category list and you take a straight date of
8 hire list and you weight them, divide -- add them
9 up and divide by two and you come up with a hybrid
10 methodology --

11 Q. Did anybody suggest --

12 A. -- for instance.

13 Q. I'm sorry.

14 You're done?

15 A. Yes.

16 Q. Sorry.

17 Did anybody suggest going to someone who
18 was neutral, not involved in this, but had some
19 expertise in the industry and ask them to come up
20 with a fair and equitable way to integrate the East
21 and West pilots?

22 A. I'm not sure in this batch. But over
23 time I have received suggestions to that effect.

24 Q. What were your thoughts about that?

25 A. I thought that was a good idea.

1 Q. You think it's a good idea now?

2 A. It would be -- have to be considered by
3 the union. But we had made offers to the West
4 pilot class in the declaratory judgment to go visit
5 for a mediated solution with a mediator to sit down
6 and have a third party sit with us. And we thought
7 it was a good idea at that time --

8 MR. HARPER: I don't think you ought to
9 be talking about this. I think that this is
10 all covered by that nondisclosure agreement --

11 THE WITNESS: This was something outside
12 of Judge Silver. This is during to
13 declaratory judgement.

14 MR. HARPER: I think this was offered
15 only during the course of those discussions.

16 MR. SZYMANSKI: No, it was in our case
17 management plan that we presented in December
18 of 2011, so...

19 MR. HARPER: Okay.

20 MR. SZYMANSKI: So it's a court public
21 document.

22 THE WITNESS: And Judge Silver actually
23 ruled on that one and we offered -- and she
24 said I don't think the parties are amenable to
25 that.

1 MR. HARPER: I thought you were talking
2 about the other discussions.

3 THE WITNESS: Correct.

4 Q. All right. But I'm asking you about having
5 a neutral decide this, not a mediator encouraging
6 agreement.

7 Has anybody suggested that the East and the
8 West pilots go before a neutral person with expertise
9 in this subject matter and let that person decide in
10 a binding way a fair and equitable way to integrate
11 the East and West lists?

12 A. To the extent that that's exactly what
13 we're doing with the process adopted in the MOU, I
14 would say yes.

15 Q. So the process in the MOU is that the East
16 and West pilots are going to be able to go before a
17 neutral party, present the merits of what they think
18 is a fair and equitable way to integrate the East and
19 West lists, that neutral will decide how to integrate
20 the East and West lists in a fair and equitable way?

21 A. That will not be in front of the
22 arbitrator, I don't believe.

23 Q. Who will it be in front of?

24 A. I meant to say that's not the subject
25 that's in front of the arbitrator.

1 Q. So it's not part of the MOU to do what I
2 said. Let's back up.

3 A. Please.

4 Q. Has anybody suggested -- has any pilot
5 suggested to you, in essence, to redo the Nicolau
6 arbitration to have the East and West pilots present
7 the equities of how they think their seniority should
8 be integrated and to bind themselves to adhere to the
9 result of that arbitrator's decision to create an
10 integrated list?

11 A. No.

12 Q. No one has suggested that to you?

13 A. Not that I can recall.

14 Q. What do you think about doing that,
15 honestly?

16 A. I think USAPA has, again, decided --

17 Q. I asked you what you think about doing
18 that. Pretend Pat's not here. What you do think
19 about doing that?

20 Sounds fair, doesn't it?

21 A. I think the best methodology is to adopt
22 a policy and procedure that we've developed through
23 the MOU process. I think that would render a fair
24 and equitable solution.

25 Q. Sure. Now answer my question.

1 What do you think about redoing the Nicolau
2 arbitration, having the two sides go before an
3 arbitrator and argue the equities of their position
4 and have an arbitrator who's knowledgeable in this
5 industry come up with an integration of the East and
6 West lists; what do you think about that?

7 Do you think that's a good way to resolve
8 this, a fair way to resolve this after six years?

9 A. I could see that would have potential.

10 Q. That's getting close to answering.

11 MR. SZYMANSKI: You've gotten an answer.

12 Q. Do you think it's fair?

13 Let me make it easier. If the BPR was to
14 direct you to do that, would you object to it?

15 A. We would have to thoroughly vet all the
16 implications that would go along with that
17 prospect.

18 Q. But you've never offered that, as far as
19 you know, to resolve the East/West dispute, have you?

20 A. We've offered mediation.

21 Q. Right.

22 But you've never offered what we've just
23 been talking about?

24 A. That's correct.

25 MR. SZYMANSKI: You're willing to accept

1 that? I mean, so far you've never said you
2 were willing to accept that.

3 MR. JACOB: I'd be happy to swear you in,
4 Pat. I've only got about ten questions.

5 MR. SZYMANSKI: No, I want to swear you
6 in.

7 MR. JACOB: I've only got about ten
8 questions. We can both do it.

9 MR. SZYMANSKI: I want to swear you in.

10 MR. JACOB: We'll stop this now. You can
11 ask me ten questions, I'll ask you.

12 MR. SZYMANSKI: Let's do it on the 24th
13 of September in Chicago.

14 MR. JACOB: Okay. Where?

15 MR. SZYMANSKI: I'll find a place.

16 MR. HARPER: We've got an office there.

17 MR. SZYMANSKI: No, I'm not going to do
18 it at your office.

19 MR. JACOB: I'll do it anywhere, top of
20 the Sears tower, we can hang on.

21 MR. SZYMANSKI: No, you talk about
22 dangerous things. People do dangerous things
23 all the time, that's one of them.

24 MR. HARPER: So you're willing to sit in
25 Chicago on the 24th?

1 MR. SZYMANSKI: I have to consult with my
2 counsel.

3 MR. HARPER: I understand. We can get
4 Gary on the phone.

5 Q. Example -- Exhibit 1071.

6 (Exhibit Number 1071: E-mail string with
7 the top from Jess Pauley dated 11/5/12, Bates
8 USAPA 222867 marked for identification, as of
9 this date.)

10 Q. Do you know who George Simmons is?

11 A. I don't.

12 Q. Do you recall seeing this e-mail?

13 A. I don't recall.

14 Q. First sentence, I suggest you support the
15 merger with American and have an arbitrator decide
16 new seniority list, okay?

17 A. Um-hum.

18 Q. I recommend you -- last sentence, I
19 recommend you support the merger and let an
20 arbitrator work things out and support the MOU going
21 in.

22 What do you think he's talking about?

23 A. I believe he's talking about the MOU
24 process. Again, negotiating -- negotiated solution
25 go to arbitration over the system seniority list.

1 MR. JACOB: I have to agree with you, I
2 don't know what I thought that showed.

3 Q. Did you have any opportunity to review the
4 drafts of the MOU before it was presented as the
5 final draft?

6 A. Yes.

7 Q. What were your opportunities?

8 A. I was present at the BPR meeting during
9 discussions prior to the last modifications. I was
10 in the capacity of the merger committee during the
11 MOU I and MOU II. I was there during various
12 iterations of just in discussions about the MOU.

13 Q. From the perspective of the merger
14 committee, did you have any concerns about the first
15 version of the MOU from the summer of 2012?

16 A. Yes.

17 Q. What were your concerns from the merger
18 committee perspective?

19 A. We wanted to make sure that there was
20 proper protections for the pilots going forward in
21 seniority integration with American regarding
22 minimum fleet, minimum utilization to protect the
23 foundation of flying so there was not an inordinate
24 amount of outsourcing of flying to regional
25 carriers or to -- to others to give us the support

1 that we needed and, again, that would protect our
2 pilots from shrinking the airline.

3 Q. Was there anything in the first version of
4 the MOU that impacted how the East/West seniority
5 dispute would play out?

6 A. Again, it was -- I'm not sure. I believe
7 it just, again, the concept of McCaskill-Bond
8 process would be that the venue in order to resolve
9 the issue.

10 Q. Was there anything in the first version of
11 the MOU that impacted the seniority provisions in the
12 2005 transition agreement?

13 A. I'm not certain. I'm sure there were.

14 Q. Is there anything in the current version of
15 the MOU that got ratified that impacts the seniority
16 provisions in the 2005 transition agreement?

17 A. The transition agreement becomes a
18 nullity at the time of the effective date.

19 Q. Now, you're sure about that for the second
20 version of the MOU and you weren't sure about it for
21 the first version; is that correct?

22 A. That's correct. I'm more familiar with
23 the second versions, more recent in time.

24 Q. Let's take a look at the second version,
25 which is Exhibit 1023.

1 A. Okay.

2 Q. This exhibit has been previously identified
3 as a signed copy of the MOU that got ratified by the
4 pilots earlier this year.

5 A. Okay.

6 Q. Can you identify me what language in the
7 MOU impacts the seniority provisions from the 2005
8 transition agreement?

9 A. Well, it's the transition agreement as a
10 whole on the first page, memorandum of
11 understanding regarding contingent collective
12 bargaining agreement on paragraph four, it's the
13 first place there.

14 Q. Okay. So where does it say that it impacts
15 the seniority provisions of the transition agreement?

16 Or if it doesn't say it, where is the
17 language that has that effect?

18 A. Okay. I guess at the top of page two, it
19 starts off with accordingly -- on page two,
20 accordingly, except for those provisions --

21 Q. Sorry, terms?

22 A. Those terms, excuse me, specifically
23 identified in paragraph three, the parties agree
24 that each term of the MTA shall be applicable to
25 all US Airways pilots at the earliest practical

1 time for each such term. And such terms, when
2 applicable, shall govern and displace any
3 conflicting or wholly or partially inconsistent
4 provisions of the former US Airways pilot
5 agreements or the status quo arising thereunder.

6 So the transition agreement would be
7 considered a prior agreement, which would be -- and
8 then the next line we go, once the MTA has been
9 fully implemented, it shall fully displace and
10 render a nullity any prior collective bargaining
11 agreements applicable to the US Airways pilots and
12 status quo arising thereunder.

13 Q. Right.

14 But the MTA hasn't been implemented, has
15 it?

16 A. That's correct.

17 Q. So this basically says that if something
18 conflicts, it will supersede the -- the transition
19 agreement, right?

20 A. It basically says all prior -- we would
21 go forward onto the Green Book and as amended by
22 the MTA and all prior agreements are nullity.

23 Q. No, it says it shall displace any
24 conflicting or inconsistent provisions.

25 So what in this -- what in the MOU is

1 conflicting or inconsistent with the seniority
2 provisions in the TA?

3 A. Again, I believe that the document states
4 that it will supercede all prior agreements.
5 That's my understanding.

6 Q. Sure, sure.

7 What in the MOU is conflicting or
8 inconsistent with the seniority provisions in the TA?

9 A. Transition agreement contemplated a
10 single agreement between East and West for Section
11 6 negotiations. And this is something completely
12 different. There's different parties. And so this
13 provision is not a JCBA. It's in conflict with
14 this new agreement.

15 Q. So all the provisions of the TA are
16 nullified by the MOU?

17 A. Correct. It's no longer minimum fleet,
18 minimum utilization as supported by the transition
19 agreement and so on and so forth.

20 Q. Nothing in the TA is still there.

21 How about in the original CBAs of the East
22 pilots and the West pilots, are they nullified?

23 A. As a transition to the new agreement
24 there may be a period of time. But the way I
25 interpret this, the way I understand the document,

1 it's all -- this is all transitional provision to
2 go from those agreements to the new one. So they
3 are all, again, under nullities.

4 Q. And if you could go to page seven and look
5 at what is paragraph H, it's actually 10H. Towards
6 the bottom of page seven.

7 Have you seen that language before?

8 A. I have.

9 Q. Do you know where that language came from?

10 A. From negotiations over the MOU down in
11 Dallas.

12 Q. Do you know who proposed that language?

13 A. I believe merger counsel, Pat Szymanski
14 did.

15 Q. On what basis do you know that merger
16 counsel proposed that language?

17 A. Discussions.

18 Q. With who?

19 A. With Pat Szymanski.

20 Q. Was anybody else present when you had those
21 discussions?

22 A. It was by phone.

23 Q. Was anybody else on the phone with you when
24 you had those discussions?

25 A. I was participating in a conference call

1 with the representatives of the parties to the MOU,
2 and that was covered at that time.

3 Q. Okay. So you were on a conference call
4 with Pat and with other parties to the MOU?

5 A. That's correct.

6 Q. What do you recall Pat said?

7 A. I think we were just going -- much of the
8 language had already been developed prior to
9 getting onto the conference call was more or less a
10 review of the document that we see in front of us.

11 Q. What did Pat say about paragraph 10H?

12 A. It was read and acknowledged, but it was
13 acceptable to the parties.

14 Q. Who read it?

15 A. I think everybody had a copy of it in
16 front of them and we went through the list of -- to
17 see if there was any objections to the language.

18 Q. Whose mouth did the words of paragraph 10H
19 come out of?

20 A. I don't recall.

21 Q. Why do you think Pat wrote 10H?

22 A. Discussions I have had with him.

23 Q. On that telephone call did Pat say that he
24 wrote 10H?

25 A. I believe it had come from a subsequent

1 conversation.

2 Q. Okay. So on that telephone call, nobody
3 acknowledged who wrote paragraph 10H?

4 A. That's correct.

5 Q. When did Pat tell you that he wrote
6 paragraph 10H?

7 A. It was either just before or just after
8 that call.

9 Q. Was anybody else on the phone with you and
10 Pat when you had that conversation?

11 A. No.

12 Q. Did Pat explain to you why he wrote 10H?

13 A. I think that's privileged.

14 MR. SZYMANSKI: Yeah, I think -- I think
15 that part of it -- other than just the fact of
16 who did it and so on and so forth. But the
17 reasons and the discussion about why seem to
18 me to be privileged.

19 Q. When you got off the phone with Pat, did
20 you have an understanding why he wrote paragraph 10H?

21 A. Yes.

22 Q. Do you have that same understanding today?

23 A. I believe so.

24 Q. Why did he write it?

25 MR. SZYMANSKI: I feel more comfortable

1 if you said what do you understand the intent
2 of this was.

3 Q. What do you understand was the intent of
4 USAPA in putting paragraph 10H into the MOU?

5 A. The intent of all the seniority-related
6 issues was to be neutral on seniority of going
7 forward.

8 Q. Would the MOU have been neutral if
9 paragraph 10H wasn't there?

10 A. I believe it most likely would have been,
11 yes.

12 Q. Is this like animal farm where all animals
13 are equal but some are more equal than others? Could
14 it be more neutral with paragraph 10H?

15 A. I think it was belt and suspenders to
16 make certain that people understood what the intent
17 of the MOU was. And, again, the intent is to be
18 neutral so that the end result we can represent all
19 the pilots by getting fair and equitable seniority
20 integration.

21 Q. Are you telling me that paragraph 10H was
22 put in there to make clear that the MOU was neutral,
23 that the purpose of paragraph 10H was clarity; is
24 that what you're telling me?

25 A. Yes.

1 Q. What does paragraph 10H mean?

2 A. That the seniority integration will take
3 place in accordance with McCaskill-Bond. That's
4 referring to the process set forward in this
5 paragraph 10H. In the paragraph 10H -- excuse me,
6 paragraph ten refers to the timelines of seniority
7 integration, discussions of negotiations and
8 arbitration.

9 Q. As the TA is currently written, unless it
10 is amended, does US Airways have a contractual right
11 to insist that the US Airways pilots are integrated
12 using the Nicolau list?

13 A. It calls for a legal opinion.

14 Q. Is it your understanding that the TA, until
15 it is amended, requires the use of the Nicolau list?

16 A. No.

17 Q. Until it's amended, isn't that what
18 Judge Silver said that your -- that you have the
19 contractual power to amend the TA, but until it's
20 amended it requires the Nicolau?

21 A. No.

22 Q. If paragraph 10H wasn't in the MOU, would
23 the TA still be requiring the Nicolau to the same
24 extent that it does now?

25 A. I disagree with the premise of the

1 question.

2 Q. You said that 10H was clear.

3 Can you explain to me where 10H says that
4 the East/West seniority dispute would be resolved
5 through the -- the process in paragraph ten?

6 A. It just says what it says, that there's
7 -- all of ten -- all of ten directs us to go
8 through seniority integration process consistent
9 with McCaskill-Bond.

10 Q. Does it say integration of the East and the
11 West pilots or integration of the US Airways and
12 American pilots?

13 A. The document specifies for seniority
14 integration. I don't see any reference to
15 East/West pilots in this paragraph.

16 Q. Thank you.

17 Do you recall seeing a version of the MOU
18 that referred to the single agreement in the
19 transition agreement, that phrase?

20 A. I'm sorry, restate that.

21 Q. Do you recall there was a draft of the MOU
22 that made reference to the single agreement, that
23 phrase which is in the transition agreement?

24 A. No.

25 Q. Did you see any drafts of the MOU that had

1 notation on them saying where different language came
2 from?

3 A. I don't recall.

4 (Exhibit Number 1072: E-mail from Patrick
5 Szymanski dated 12/13/12, Bates WP020810
6 marked for identification, as of this date.)

7 Q. This is Exhibit 1072.

8 If you could look at the first page, can
9 you identify this?

10 A. It appears to be an e-mail that was sent
11 on December 13th of 2012, author of Pat Szymanski
12 and to a number of people, including myself.

13 Q. Was it sent to your USAPA e-mail address?

14 A. That is a Hotmail address.

15 Q. So it wasn't sent to your USAPA e-mail
16 address?

17 A. That's correct, it shows
18 jesspauley@hotmail.com.

19 Q. Normally, do you get e-mail related to
20 union business sent to your union e-mail?

21 A. Normally it goes through the union
22 e-mail. Occasionally I get things from my personal
23 e-mail.

24 Q. Was this sent to the union e-mail address
25 of Wayne Siemer?

1 A. No, it appears --

2 Q. Or Kevin Barry?

3 A. No.

4 Q. Or Rocky Calveri? Or Ken Holmes?

5 Do you have any idea why this e-mail went
6 to personal e-mail addresses?

7 A. I did not send the e-mail.

8 Q. Do you have any idea why it went to
9 personal e-mail addresses?

10 A. No, I do not.

11 Q. How many e-mails did you receive on the
12 subject matter of the MOU at your personal e-mail
13 address?

14 A. I'm not sure the number. But I did turn
15 them over to you folks in discovery, the ones I
16 located.

17 Q. Approximately how many did you receive?

18 A. Altogether, probably three or four.

19 Q. Have you been instructed -- or were you
20 instructed around March of this year to preserve all
21 the e-mails on your personal computer?

22 A. Yes.

23 Q. And did you?

24 A. Yes.

25 Q. Do you recall getting this e-mail, and you

1 can look at the second page that is the attachment to
2 the e-mail, can you identify what this is?

3 A. Appears to be a -- an early draft of the
4 section -- what became section ten of the MOU.

5 Q. Have you seen this before?

6 A. I'm sure I read it, yes.

7 Q. Do you have any opinion as to who drafted
8 this?

9 A. I'm not certain who drafted it.

10 Q. Okay. Can you read the last paragraph,
11 separate paragraph into the record, please?

12 A. This MOU is not intended to or nor shall
13 it constitute a single agreement referred to in
14 paragraph 6A of the September 23rd, 2005 transition
15 agreement applicable to the merger of America West
16 and US Airways.

17 Q. Do you know why that was there?

18 A. No.

19 Q. Do you know who proposed that language?

20 A. No.

21 Q. Did you understand at the time what that
22 language was intended to accomplish?

23 A. I believe I did, yes.

24 Q. Can you tell me what that is?

25 A. Again, the -- I believe the intent, as

1 were all the negotiations, were to continue to have
2 the process consistent with McCaskill-Bond render a
3 seniority list that was fair and equitable for all
4 of the pilots and defer that potentially divisive
5 issue from interfering with concluding the MOU
6 negotiations and ratification.

7 Q. What would have happened if the MOU was the
8 single agreement referred to in the 2005 transition
9 agreement?

10 MR. SZYMANSKI: Calls for a legal
11 conclusion.

12 Q. Do you know?

13 A. No.

14 Q. Well, why would you think it would have
15 been divisive if it would have been a single
16 agreement?

17 A. I think that pilots may have latched onto
18 that and to think that it was going to cause the
19 Nicolau to go into effect. There may have been
20 people who had believed that to be the case. And I
21 believe the intent was to make certain everyone was
22 aware that the MOU was designed to render a new
23 process for seniority integration going forward and
24 did not want it to be conflict amongst the pilot
25 ranks again.

1 It was to ensure that we get to the next
2 phase, which is first get the contract, and then
3 move onto the seniority integration to separate the
4 issue that's been keeping us all from getting
5 approved working conditions and wage increases and
6 so forth.

7 Q. The idea was to get rid of the result of
8 the first process, which was the Nicolau arbitration,
9 right?

10 A. I think the intent was to resolve the
11 dispute that had arisen from the Nicolau process.

12 Q. Right.

13 To get rid of the result of that process
14 and start you on a pathway of a new process?

15 A. To conclude the process which was never
16 completed, had been hanging out there and keeping
17 us from getting a new contract.

18 Q. And how was it keeping you from getting a
19 new contract?

20 A. Litigation had persisted for -- for many
21 years. I think the company had used the seniority
22 dispute in order to use it as a shield from having
23 to enter Section 6 negotiations, and it was in --
24 it precluded from -- us from getting a completed
25 JCBA.

1 Q. So what was keeping you from getting a new
2 contract is the East pilots would refuse to enter
3 into a contract that implemented the Nicolau?

4 A. I would say that the pilots were unable
5 to resolve the seniority integration and we
6 persisted through litigation.

7 Q. Do you have any information about the
8 decision to report the MOU ratification by domicile?

9 A. No.

10 Q. You don't know who made that decision?

11 A. No.

12 Q. You don't know when the decision was made?

13 A. No.

14 Q. On the day you were expecting the vote to
15 come out, did you expect it to be reported by
16 domicile?

17 A. I would have anticipated that, yes.

18 Q. Why?

19 A. It's a great interest of all the pilots.
20 It was the first time we had a contract put out to
21 ratification for all the pilots and there was some
22 pilots who were advocating vigorously for it and
23 some were advocating vigorously against it, so I
24 was interested in the result.

25 Q. By domicile?

1 A. We try to be transparent wherever we can.
2 And I suppose that was a decision that was made.
3 But not by me.

4 Q. Okay. But you were interested in the
5 result?

6 A. Absolutely.

7 Q. Were you interested in the result by
8 domicile?

9 A. Certainly.

10 Q. Were you aware that any statement was made
11 informing the pilots prior to the vote that it would
12 be reported by domicile?

13 A. No.

14 Q. Did you see any discussion that was
15 circulated amongst the pilots expressing interest in
16 seeing how the vote comes out by domicile?

17 A. Not that I'm aware of.

18 Q. So this was a silent interest?

19 A. I'm not really sure where you're going
20 with that because I think we were all interested in
21 the results.

22 Q. By domicile?

23 A. I think that just furthers our -- peaks
24 our interest. We're all voyeuristic on how things
25 go and there was -- some -- again, as I had

1 mentioned, some pilots were advocating vigorously
2 for it and some against it.

3 Q. Why don't you take a look at Exhibit --

4 MR. HARPER: What number is that?

5 MS. AXEL: I think we're on 1073.

6 (Exhibit Number 1073: E-mail string with
7 the top from Jess Pauley to Jacquie Denny
8 dated 10/22/12 marked for identification, as
9 of this date.)

10 Q. 1073.

11 Can you identify this?

12 A. This was a e-mail that was sent to me by
13 I think a fella named Ron Denny, back on
14 October 22nd, 2012.

15 Q. And you answered him, right?

16 A. Yes.

17 Q. Can you read the last paragraph in your
18 answer, please, into the record?

19 A. Again, this was a private discussion
20 apparently between myself and another pilot.

21 Q. It's not private now. So what did you
22 answer him?

23 A. I said the second line here regarding
24 Silver's ruling, she gave us what we expected,
25 USAPA is free to negotiate a seniority list within

1 the bounds of the duty of fair representation
2 obligations. We are certain there is a non-Nic
3 solution that will meet that standard.

4 Q. What is that non-Nic solution that you were
5 referring to?

6 A. I think, again, there's a wide range of
7 possibilities that would meet that standard.

8 Q. Give me one, please.

9 A. Date of hire with conditions and
10 restrictions.

11 Q. Is there a second one?

12 A. Again, there's a wide -- wide gamut.
13 They could use -- other methodologies have been
14 advocated over the years and have been found to be
15 fair and equitable for negotiation and arbitration.

16 Q. This e-mail talks about a report by Ethan
17 Singer.

18 Do you know what he's talking about?

19 A. Yes.

20 Q. Who is Ethan Singer?

21 A. There is a paper that was produced by
22 Ethan Singer and Darin Lee, and it discussed a way
23 to quantify seniority integration. And the concept
24 is that -- again, somewhat similar to what they
25 rendered in the seniority integration with

1 Continental/United where you would compare and
2 contrast the individual pilot's position on a
3 status and category seniority list against his date
4 of hire and other seniority list. And, therefore,
5 you could come up with a methodology that on a
6 quantifiable basis, on an objective basis through
7 mathematical equations, find the hybrid way to
8 minimize the distortion of the date of hire versus
9 a pilot's relative position.

10 Q. You're talking about the academic paper
11 that was published by Ethan Singer?

12 A. That's correct.

13 Q. Okay. And Ethan Singer crunched some
14 numbers for the East and West pilots?

15 A. Yes.

16 Q. Did he give a report of some sort on that
17 showing how they would integrate according to his
18 number crunch that you've seen?

19 A. It was very short and almost
20 indiscernible result that came out. I didn't truly
21 understand the result. I understood the concept,
22 but there was some numbers that were associated
23 with the result that he had run.

24 Q. Was it a list of the pilot names in any
25 order?

1 A. No.

2 Q. Does USAPA, without the involvement of
3 American Airlines pilots, plan to come up with the
4 non-Nic solution that you referred to in that e-mail?

5 A. It depends on what takes place here in
6 the near future.

7 Q. Has your committee been asked to come up
8 with a non-Nic solution?

9 A. On a stand-alone basis?

10 Q. Without the involvement of the American
11 pilots.

12 A. No.

13 Q. Has your committee come up with a non-Nic
14 solution without the involvement of the American
15 pilots?

16 A. No.

17 Q. Has USAPA come up with a non-Nic solution
18 without the involvement of the American pilots?

19 A. Again, we've considered and will continue
20 to consider various methodologies in our analysis
21 going forward. But we don't have a proposal that's
22 been approved by the BPR.

23 Q. I've seen a document that explains
24 conditions and restrictions with a date-of-hire list
25 that your committee has put out. Have you put out

1 anything else like that on any other alternative
2 consideration or is that the only consideration that
3 you've worked up to that point?

4 A. It's the only one that's been published.

5 Q. Is it the only one that you've worked up to
6 the point of having a -- a formal list and set of
7 rules that would go with it?

8 A. Yes.

9 MR. JACOB: Take a break for five
10 minutes.

11 A. Sure.

12 (A BRIEF RECESS WAS TAKEN.)

13 Q. You've talked about that there was some
14 communication to the BPR about there being some room
15 to do something other than date of hire with
16 conditions and restrictions.

17 Do you recall saying that?

18 A. Yes.

19 Q. Do you recall if that conversation took
20 place in May before the parties met at US Airways to
21 try to see if they could work something out? Was
22 that the time frame in which that conversation
23 occurred?

24 A. That conversation did occur at that time.
25 And I believe it had occurred at other times as

1 well.

2 Q. After that or before?

3 A. Before.

4 Q. Okay. And then the only other thing to ask
5 you is that e-mail that talked about the Singer
6 number crunching.

7 A. Right.

8 Q. You said you got a report on that --

9 A. It was really the --

10 Q. -- that you couldn't quite figure out. I'm
11 told that there was an attachment to that e-mail that
12 we got in the disclosures that's corrupted that we
13 can't open, that if you guys could find that for us.

14 MR. SZYMANSKI: We'll look.

15 A. Okay.

16 MR. SZYMANSKI: Can you give us the Bates
17 number of the exhibit or can we look at
18 that --

19 THE WITNESS: Yeah, the date of that
20 would also be helpful too so I can locate
21 that.

22 MR. SZYMANSKI: Where is the Bates number
23 on this?

24 MR. JACOB: We can go off the record and
25 just talk about this. I'm done.

1 Thank you very much. Appreciate it.

2 (A DISCUSSION WAS HELD OFF THE RECORD.)

3 MR. JACOB: Go on the record and say that
4 we skipped number 1067 in the exhibits.

5 Thank you.

6 (TIME NOTED: 4:41 p.m.)

7 (SIGNATURE RESERVED.)

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WITNESS' CERTIFICATE

I, WILLIAM "JESS" GORDON PAULEY, JR., 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.

WILLIAM "JESS" GORDON PAULEY, JR.

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: William "Jess" Gordon Pauley, Jr.
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10 additional pages are necessary, please furnish same
and attach them to this errata sheet.

11 Page:____ Line: ____ should read: _____

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14 Page:____ Line: ____ should read: _____

15 Page:____ Line: ____ should read: _____

16 Page:____ Line: ____ should read: _____

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18 Page:____ Line: ____ should read: _____

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22 Page:____ Line: ____ should read: _____

23 Page:____ Line: ____ should read: _____

24 Page:____ Line: ____ should read: _____

25 Page:____ Line: ____ should read: _____

1 (Page 2 of 2)

2 Page:____ Line: ____ should read: _____

3 Page:____ Line: ____ should read: _____

4 Page:____ Line: ____ should read: _____

5 Page:____ Line: ____ should read: _____

6 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 Wednesday,
7 September 18, 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.

21

22

23

24

25



V. DARIO STANZIOLA, CSR, RPR, CRR
Notary Public No. 20011200120

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William Jess Gordon Pauley, Jr. on 09/18/2013**

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