

1                   BEFORE THE ALPA ARBITRATION BOARD

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3   - - - - -x

4 THE CREW MEMBERS OF US       :

5 AIRWAYS,                       :

6                   Plaintiffs,   :

7       vs.                       :

8 THE CREW MEMBERS OF       :

9 AMERICA WEST AIRLINES,     :

10                   Defendants.    :

11   - - - - -x

12

13                               HEARING, VOLUME VI

14

15   GEORGE NICOLAU, Chairman

16   CAPTAIN STEVE GILLEN, Pilot Neutral

17   CAPTAIN JIM BRUCIA, Pilot Neutral

18

19                               Washington, DC

20

Wednesday, December 13, 2006

21 REPORTED BY:

22 DONALD R. THACKER

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1 Hearing before the ALPA Arbitration Board,  
2 on Wednesday, December 13, 2006, in Washington, D.C.  
3 at the Marriott Wardman Park, 2660 Woodley Road,  
4 Northwest, at 9:30 a.m. before DONALD R. THACKER, a  
5 Notary Public within and for the District of  
6 Columbia, when were present on behalf of the  
7 respective parties:

8

9 DANIEL M. KATZ, ESQ.

10 JASON WHITEMAN, ESQ.

11 Katz & Ranzman

12 5028 Wisconsin Avenue, Northwest, Suite 250

13 Washington, D.C. 22036

14 202-659-4656

15 danielmkatz@comcast.net

16 On behalf of US Airways

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-- continued --

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1 APPEARANCES (Continued):

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JEFFREY R. FREUND, ESQ.

4

Bredhoff & Kaiser, PLLC

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805 15th Street, Northwest, Suite 1000

6

Washington, D.C. 20005

7

202-842-2600

8

jfreund@bredhoff.com

9

On behalf of America West Airlines

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1                   P R O C E E D I N G S                   (10:05 a.m.)

2                   CHAIRMAN NICOLAU: All right.

3                   MR. KATZ: We call as our next witness Jim  
4                   Hershey.

5                   Whereupon,

6   JAMES L. HERSHEY

7                   was called as a witness and, having first been duly  
8                   sworn, was examined and testified as follows:

9   DIRECT EXAMINATION

10                   BY MR. KATZ:

11 Q So you said your name. Would you give  
12 your residence for the record please, Mr. Hershey?

13 A I live in Bartersville, Pennsylvania,  
14 which is a suburb of Philadelphia, about 45 minutes  
15 away.

16 Q What is your present employment?

17 A Realtor, I am self-employed.

18 Q Have you had an employment relationship  
19 with US Airways as a pilot over the years?

20 A Yes.

21 Q When were you first employed as a pilot US  
22 Airways or one of its predecessor carriers?

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1 A I was hired by Piedmont airlines July 19,  
2 1989.

3 Q All right, and since then -- well, what is  
4 your present status?

5 A I am currently furloughed.

6 Q All right. Would you mind telling us how  
7 you first got interested in employment in aviation?

8           A     My dad traveled quite a bit when I was  
9     kid. I went to Europe probably four or five times,  
10    before I was out of high school, maybe six. And I  
11    had also one of the small airplanes with my dad. He  
12    wasn't a pilot but through his business, we had done  
13    that. And so I mean I enjoyed traveling, enjoyed  
14    flying, it was something I was interested in from an  
15    early age.

16           Q     When did you first develop an interest in  
17    flying as a pilot?

18           A     Well, in high school I had to decide what  
19    I wanted to go to college for, so I attended a  
20    school with an aviation program and I have a degree  
21    in aviation, Associates degree.

22           Q     What school was that?

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1           A     Heston college in Heston, Kansas, a very  
2    small school.

3           Q     When did you attend that school?

4           A     I graduated high school in '82 so I

5 started in the fall of '82, and I graduated Heston  
6 in '84 as a flight instructor at age 19.

7 Q When did you start flying as a pilot?

8 A Right away that summer, I worked as -- I  
9 worked as a flight instructor.

10 Q Right. And so you were flying as a pilot  
11 at 19?

12 A Right.

13 Q And what employment did you have after  
14 graduating from Heston?

15 A As a flight instructor. Yes, that was my  
16 initial employment, you know, that is an entry level  
17 job.

18 Q Right. And did you hold any other jobs  
19 between then and 1989, I believe you said it was,  
20 when you went to work at Piedmont?

21 A Right. Yes, I was hired. I was a flight  
22 instructor when I was 19. I was a flight instructor

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1 for approximately two and a half years then I was

2 hired by a small commuter airline, Wings Airways,  
3 out of Blue Bell.

4 Q Where is Blue Bell, what state is that in?

5 A Pennsylvania. Never heard of Blue Bell?

6 Q I have now that you mentioned it.

7 A The had a small shuttle service between  
8 Blue Bell and Philadelphia International. There  
9 were some large corporations in that area and the  
10 traffic wasn't good, so it was an effective shuttle  
11 service for a lot users.

12 I was with that company through Islander,  
13 Tri-Islander, and I flew the Navajo and checked out  
14 in the Dash 6 Twin Otter turboprop.

15 Q When you went to work at Piedmont what  
16 sort of airplanes were you flying there?

17 A Well, first of all after Wings I got hired  
18 by Pennsylvania Airlines, which was U.S. Air  
19 Express, and I was there exactly two years. My date  
20 of hire at Pennsylvania was my date of hire at  
21 Piedmont.

22 Q Just two years earlier?



1 A Yes.

2 Q So that was July 19 --

3 A Of '87, I was hired by Penn.

4 Q And didn't that become one of the wholly  
5 owned --

6 A Yes.

7 Q -- express carriers that was named after  
8 PSA or Piedmont or Allegheny?

9 A Now part of Allegheny, right.

10 Q You flew what airplanes at Pennsylvania  
11 commuter?

12 A I flew the Beech 1900, I was a co-pilot  
13 for about 14 months and a captain for about 10  
14 months.

15 Q Then after two years you were hired on at  
16 Piedmont?

17 A Correct.

18 Q That wasn't any kind of a flow up  
19 arrangement?

20 A No.

21 Q You just applied and worked up through the

22 employment?

1061

1 A Yes actually U.S. Air was doing all the  
2 hiring at that time. They were placing candidates  
3 in the Piedmont class or U.S. Air class.

4 Q That was after the announcement of the  
5 Piedmont-U.S. Air merger?

6 A The merger took place when I was in ground  
7 school in the second week.

8 Q And what sorts of airplanes did you fly at  
9 Piedmont and U.S. Air?

10 A I was junior in my class to start out, so  
11 I didn't have a choice. I was the second officer on  
12 the 727, I was rated as a flight engineer, went  
13 through the training cycle and started out in  
14 Greensboro.

15 Q So you were based in Greensboro on the  
16 727?

17 A Correct.

18 Q As a second officer?

19 A Correct.

20 Q And you held a variety of positions I  
21 assume at Piedmont. Can you tell us what some of  
22 those were?

1062

1 A Well, actually shortly after I was hired  
2 Piedmont name went away.

3 Q You became a U.S. Air pilot?

4 A U.S. Air, the lists were merged within  
5 like six months of my being hired. And the next  
6 position I held was I got a bid to Pittsburgh as a  
7 727 flight engineer, and I held a low block in  
8 Pittsburgh. That was in February of 1990.

9 Q All right, and you flew as a co-pilot on  
10 the 727 at any time, did you?

11 A Went through my progression.

12 Q Sure?

13 A I was a flight engineer. 1990, I got  
14 married in the spring of '90, and then in 1991 I was  
15 a second officer. I was furloughed, August 1st of

16 '91, to a little over two years from my date of  
17 hire, then I was called back November 20th, 1991,  
18 and flew as second officer in Charlotte on the 727.

19 Q So you were on furlough for a few months  
20 then?

21 A Right; then I got a bid, I can't remember  
22 if I got a bid or was displaced, but I was checked

1063

1 out on the F-28 as a first officer, I flew the F-28  
2 for about 12 months based in Charlotte, flew into  
3 Philly, where I live now.

4 Then in the fall of '92 I was awarded 737  
5 first officer reserve in Baltimore, and so I flew as  
6 first officer in Baltimore for about a year. And  
7 then I was displaced to Washington, and I flew 737  
8 first officer in Washington for about another year.

9 If I can keep track of the years here, I  
10 think that would take me to '94. Then I was  
11 displaced back to the F-28, again for about a year.

12 So I went through another training cycle

13 in the F-28. I was on that airplane again for about  
14 a year, 10 months. Then I was awarded a DC-9 bid in  
15 Washington, DC.

16 Q You flew co-pilot on the DC-9 out of DCA?

17 A Correct, for about five months and then I  
18 was displaced to Boston. And the whole time through  
19 all of this I was commuting to where I live now in  
20 Philly.

21 I had a crash pad in Baltimore, I had a  
22 commuter car in Charlotte, I had a crash pad in

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1 Charlotte, et cetera, et cetera, you know. Lots of  
2 sitting around. Typical reserve, that is what you  
3 do.

4 But anyways, so I was in Boston until the  
5 spring of '98, I believe, and I was finally awarded  
6 a position in Philadelphia, 737 first officer.

7 Q All right. And you were I guess happy  
8 about being able to fly out of Philly?

9 A Yes, the nine-year commute had ended. So

10 that was very, very happy time in my life.

11 Q And have you been based in Philly other  
12 than being on furlough since then?

13 A Yes, I held the 737 for about a year and I  
14 got an international bid on the 757-767. I didn't  
15 get a domestic bid, I went right to international  
16 right.

17 Q Right.

18 A And I was on international co-pilot,  
19 International Relief Officer, IRO for about a year  
20 and a half, something like that. I flew 50 trips to  
21 Europe. We flew a lot of one day's to the  
22 Caribbean, with the IRO we would fly to St. Martin,

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1 Bermuda you know, all kind of stuff like that.

2 Q How was that flying compared to the other  
3 flying that you had done?

4 A As far as my career goes that was the  
5 pinnacle of my career, flying to Europe. I told you  
6 in the beginning that is one of the things that I

7 liked about flying was I traveled to Europe as a  
8 kid.

9 Q Yes, you did.

10 A So I mean, you know from a trip  
11 standpoint, the trips left late in the day, you were  
12 gone the whole second day and on the third day you  
13 got back by the afternoon. So from a family  
14 standpoint, I could see my kids when I got, when  
15 they got off the bus, have dinner, you know, and  
16 then be home for dinner on the third day.

17 So I mean it is just -- in my opinion the  
18 best flying, plus I live 45 minutes from the  
19 airport, so it was great.

20 Q And how do you feel about the possibility  
21 of getting back to that kind of flying later in your  
22 career after you are recalled?

1066

1 A Well, obviously I would like to do it.  
2 You know, that is my goal, I guess you could say,  
3 you know.

4 Q The evidence that we put into date shows a  
5 fellow named Peppers who is in the class ahead of  
6 you, as having accepted recall for a class on  
7 January 8th, 2007. Have you decided what you would  
8 do at this point if you were to be offered recall?

9 A I haven't been offered recall as of yet,  
10 so I will make that decision at the time that I am  
11 offered.

12 Q When you get the letter or the call?

13 A Correct.

14 Q Okay. Where he also have an exhibit that  
15 one of the merger committee members did analyzing  
16 your position on the list, and for the record  
17 Exhibit E-16 A, showing that there are only 18  
18 people senior to you on the US Airways list who are  
19 also younger than you.

20 A Correct.

21 Q Which would mean that you could retire at  
22 no worse than 19 on the US Airways list. Why is



1 that an important feature of the list to you?

2 A Well, I mean you could ask any pilot  
3 sitting in this room and the ultimate thing is, you  
4 know, to achieve the top seniority.

5 Just as an example very quickly, when I  
6 flew international I flew with number one pilot on  
7 the seniority list, I am trying to think of his  
8 name -- I think his name is Clark. I flew with the  
9 number one pilot on the seniority list, and that guy  
10 to the rest of us pilots was like the ultimate. You  
11 know, he was walking around at the airline and he  
12 was number one, I mean that --

13 Q He could fly anything he wanted?

14 A Yes, he had the best job in the world, you  
15 know, and that is, I mean as any pilot that is  
16 obviously goal.

17 Q All right. The same exhibit, E-16 B shows  
18 there are 644 America West pilots who are younger  
19 than you. Our adversaries on the other side of the  
20 table have proposed to place all of them senior to  
21 you on the combined list. What would that do to  
22 your career, Mr. Hershey?

1           A     Well, obviously it would be devastating.  
2     I don't know exactly what I could hold at position  
3     645, but I am assuming it would be, you know,  
4     nothing is left in international.

5           Q     And that is your objective is to fly  
6     captain as an international wide body pilot?

7           A     Well, I mean I worked, you know, hard out  
8     of school and in my early 20s and got hired by a  
9     major airline prior to my 25th birthday, and that  
10    is, you know, the career track that I want.

11          Q     You think that would be fair to allow you  
12    to pursue that track?

13          A     Well, yes. And I am not asking to take  
14    anything from anybody else, either. I mean, you  
15    know, it is -- its, because of what I did and got  
16    the number on the seniority list, that is my career  
17    track is to take me to number 18 or 19 at the time  
18    of retirement.

19                   And it just so happens the company I got  
20    on with flew wide bodies out of the city that I have

21 I live in, et cetera, et cetera.

22 Q That is a track important to you?

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1 A Yes.

2 MR. KATZ: Thank you, Mr. Hershey. That  
3 completes our direct examination.

4 CROSS-EXAMINATION

5 BY MR. FREUND:

6 Q Mr. Hershey my objective is to be Chief  
7 Justice in of the Supreme Court in the  
8 United States. But do you think I am likely to get  
9 there.

10 A Well, I mean have you done, taken the  
11 steps necessary to get there?

12 Q Well, I went to law school?

13 A I don't know anything --

14 Q I did pretty well at law school. I  
15 clerked for a federal judge.

16 A Right.

17 Q And I have been a good lawyer in practice.

18 Do you think I am going to be Chief Justice of the  
19 United States Supreme Court?

20 A I couldn't tell you.

21 Q Okay. Let me just ask a couple of  
22 questions about your career. If I understand your

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1 testimony correctly you were hired on and were  
2 effectively the bottom guy on the, what became the  
3 combined US Airways-Piedmont, ultimately US Airways  
4 seniority list effective July 19th, 1989. I mean  
5 you may not have been the bottom guy, you were in a  
6 class that was at the bottom?

7 A I was the most junior pilot in my class at  
8 July 1989, but they continued to hire after that.

9 Q Right, right, I mean there was a point in  
10 time when you were the most junior guy on the  
11 seniority list?

12 A At age 24, and 11 months 16 days,  
13 something like that.

14 Q We will call it 25?

15 A Just short.

16 Q Then if I track you are a career correctly  
17 and understand it correctly, you flew as a second  
18 officer from 1989, I couldn't really track the  
19 dates, but it looks like you flew as a second  
20 officer from 1989 -- my notes say that you had a  
21 second officer position on a 72 in Charlotte  
22 November 2nd, 1991, that is right?

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1 A November 20th.

2 Q November 20th, 1991.

3 A It was through the end of '91 and I got a  
4 first officer bid on the F-28.

5 Q That is what I am trying to figure out,  
6 you got the first officer bid on the F-28 at the end  
7 of '91?

8 A Correct.

9 Q All right. And so you flew as second  
10 officer from '89 essentially through '91?

11 A Correct.

12 Q A little more than two years?

13 A Correct.

14 Q And then the entire rest of your active  
15 career as a pilot at US Airways was as a first  
16 officer, correct?

17 A Correct.

18 Q And I missed it in here, aside from the  
19 point in time when you were put on the furlough that  
20 you are presently on, I am only reflecting a  
21 furlough in on August 1st, 1991 which lasted for a  
22 couple months?

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1 A That is correct.

2 Q Is that the only furlough up until the  
3 most recent furlough?

4 A That is correct.

5 Q But in addition to that single furlough  
6 you were displaced several times?

7 A That is correct.

8 Q To lower rated positions, correct?

9           A     I was displaced to lower rated position  
10 once, what happened was I was displaced from base to  
11 base.

12           Q     Okay, so you were displaced once from the  
13 73 to the F-28?

14           A     Correct.

15           Q     And then you had a series of displacements  
16 from base to base?

17           A     Well, it was kind of alternated. I got an  
18 award and then I was displaced, I got an award, but  
19 that was by my choosing, I mean I wanted to stay as  
20 close to Philly as I could.

21           Q     What do you mean it was by your choosing?

22           A     In other words, I could have bid into DC

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1 voluntarily. Instead of bid into Baltimore, but  
2 then what happened is I got displaced from Baltimore  
3 to DC.

4           Q     So you made choices on the, in terms of  
5 the exercise of your seniority that didn't use the

6 full power of your seniority; am I right?

7 A No, not necessarily, if I understand that  
8 question correctly.

9 Q All right. I guess the one thing that I,  
10 the date that I don't have is the date that you were  
11 furloughed to your present furlough?

12 A January 7th of '03.

13 Q And what were you flying prior to that  
14 furlough?

15 A I was a first officer on the A 320 in  
16 Philadelphia.

17 Q So you actually didn't tell us about the  
18 displacement from 757-76 first officer position?

19 A That is correct.

20 Q So let's take that back from there. You  
21 were first officer of 75-76 in Philly for a year and  
22 a half?

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1 A Correct.

2 Q And --



3 A Well, international for year and a half.

4 Q International?

5 A I was displaced at domestic for about  
6 another six or eight months or so.

7 Q And then you were displaced from there to  
8 what?

9 A A 320 first officer.

10 Q And you flew the A 320 first officer until  
11 January 7th, 2003 --

12 A Correct.

13 Q So for the years of your active flying at  
14 US Airways or Piedmont-US Airways, taking you back  
15 to the beginning, from July of 1989 until January  
16 of 2003 which is, what --

17 A 13.2 years.

18 Q -- 13.2 years, 13.2 years you never held  
19 nor could you have held a captain position, correct?

20 A I could have, yes.

21 Q When was that?

22 A I could have held a 737-200 in Baltimore

1 when I was an international first officer in Philly.  
2 I may have been able to hold it on the F-28 at one  
3 point, too. I am not 100 percent sure.

4 Q Okay. But with respect to, we will put  
5 the F-28 to one side for a moment, with respect to  
6 the 737-200 captain position in Baltimore, again you  
7 didn't exercise your seniority to the fullest extent  
8 that it could have been exercised in terms of  
9 bidding for pay, correct?

10 A Well, I am not -- I don't remember what  
11 the pay rate was on the 737-200 at that time, that  
12 was part of Metrojet. It may have been similar to  
13 the position I was holding pay wise.

14 Q Okay, we will hear more about Metrojet in  
15 our case, but so if you could have held a captain  
16 position then it would have been a Metrojet captain  
17 position or you know it would have been a metro jet  
18 captain position?

19 A That is correct.

20 Q So if you could have held a captain  
21 position it would have been a metro jet captain  
22 position, and Metrojet captain positions were lower

1 pay than the main line captain positions?

2 A I don't -- that is, I think that is  
3 correct, but you have to understand when you are  
4 talking about bidding, I commuted for nine years, I  
5 spent hundreds and hundreds of days in the trash  
6 bag. I missed the birth of my son because I was  
7 flying, okay? I was not going to bid out of  
8 Philadelphia to another base, I don't care what the  
9 pay would have been, okay --

10 Q I understand --

11 A I wasn't going to do it.

12 Q I absolutely understand that.

13 A You miss Christmas like eight years in a  
14 row and you just don't, you know --

15 Q Sure. No, I understand that.

16 Now, we ascertained that when you started  
17 at Piedmont you were at the bottom of the seniority  
18 list?

19 A Correct.

20 Q And there were no, at the time you started  
21 at Piedmont there were no furloughed pilots on the  
22 seniority list below you, correct?

1077

1 A Correct.

2 Q So you were at the bottom of, we can look  
3 at it in two ways. You were at the bottom of the  
4 seniority list. You were also at the bottom of the  
5 list of active pilots at the carrier because those  
6 two were the same?

7 A On the day I was hired?

8 Q Yes?

9 A That is correct.

10 Q On the day before you were furloughed in  
11 on January September, 2003, you were effectively at  
12 the bottom of the seniority list among the active  
13 pilots of US Airways, correct?

14 A Yes. I was not the bottom guy, I was  
15 furloughed in a group.

16 Q Right, you were furloughed in a group?

17 A Right.

18 Q The cushion below you was a group that you  
19 were part of that was furloughed on the same day?

20 A Yes, I guess.

21 Q Okay. And from July 1989 to January 2003  
22 would it be fair to say, and I don't have the

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1 numbers, that your career, if the bottom axis of it  
2 of the graph I am about to draw in the air --

3 A I will try to follow.

4 Q Okay, is the last active pilot, the bottom  
5 active pilot on the seniority list, your career in  
6 terms of placement among that group of pilots looked  
7 something like this, correct?

8 A Yes, I guess. I was hired and then I was  
9 furloughed so that is -- but I spent 13.2 years  
10 there.

11 Q Oh, yes, you actually did, we are all  
12 counting that.

13 Dan asked you about Exhibit 19 and I don't

14 need to have you look at Exhibit 19. That is the  
15 exhibit that shows that you could have retired as  
16 the --

17 MR. KATZ: Exhibit 16.

18 BY MR. FREUND:

19 Q Exhibit 16. I was wondering if it was  
20 just that interesting coincidence or if I flipped  
21 it. Exhibit 16 which reflects that there were 19  
22 pilots or 18 pilots younger than you who were ahead

1079

1 of you on the US Airways seniority list, and that,  
2 therefore, you could have retired as pilot number 19  
3 on the US Airways seniority list, correct?

4 A Correct.

5 Q And that, you have got the numbers down  
6 pretty well. Do you know what year that would have  
7 been then, what year you turned age 60?

8 A Yes, 2024.

9 Q So, for you to have retired as number 19  
10 on the US Airways seniority list would have required

11 that US Airways remained in existence as a stand  
12 alone carrier until 2024 correct?

13 MR. KATZ: I am going to object to that.

14 MR. FREUND: On what ground?

15 MR. KATZ: I think it is irrelevant.

16 CHAIRMAN NICOLAU: It is a fact, isn't it,  
17 I mean, you know --

18 MR. FREUND: It is a fact, isn't it?

19 CHAIRMAN NICOLAU: If the airline didn't  
20 exist you wouldn't be retiring in 2024?

21 THE WITNESS: Yes, same as if America West  
22 didn't exist or any other company.

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1 MR. FREUND: Absolutely right. That is  
2 all I have got.

3 MR. KATZ: Let me just follow up with one  
4 question in response to the cross-examination.

5 REDIRECT EXAMINATION

6 BY MR. KATZ:

7 Q You did talk about the flying you did for

8 these 13.2 years you were actively employed as a  
9 pilot, Mr. Hershey, and obviously as you traced  
10 through the jobs you held you have endured some  
11 displacements and even a couple of furloughs, which  
12 added up to over two years of furlough time by the  
13 time of the announcement of the merger. My question  
14 is why is it that you have endured these  
15 displacements and furloughs rather than going and  
16 getting a job at another airline?

17 A Because obviously what I did prior to age  
18 25 and what I achieved by being hired at the company  
19 and my career track, is that I would be number 19 at  
20 my retirement date. So you know, I endured those  
21 conditions that, even that I endured, and I was a  
22 major airline pilot, you know, kind of an offset on

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1 the job.

2 But anyways, I stayed with it and I  
3 continued to stay with it because of the career  
4 track that I have through due to the attrition



5 coming up.

6 Q Thank you, Mr. Hershey.

7 RE CROSS EXAMINATION

8 BY MR. FREUND:

9 Q Mr. Hershey, with all due respect, isn't  
10 it correct that if you look at that little graph  
11 that I just drew in the air, that your career track  
12 showed exactly the opposite, that is to say your  
13 career track was a downward spiral sending you off  
14 of the active seniority list?

15 A I would definitely disagree with that.

16 MR. FREUND: Yes, I figured you would.

17 That is all I have.

18 CHAIRMAN NICOLAU: Any questions? 42?

19 THE WITNESS: Yes.

20 CHAIRMAN NICOLAU: You aren't telling me,  
21 Mr. Hershey, that when you were hired back in '89  
22 you took a look at the seniority list and then over

1082

1 the course of time kept looking at it to make sure

2 you were going to be 19 in your retirement, you  
3 aren't telling me that are you?

4 THE WITNESS: No, they actually --

5 CHAIRMAN NICOLAU: No, that is all I have.

6 THE WITNESS: I didn't in the beginning,  
7 but within five years or so, once computers came  
8 around you could plug your numbers in, and then I  
9 looked at it and then I could tell. I knew I was  
10 hired young, junior in my class, et cetera, but I  
11 didn't know the actual number until maybe 10 years  
12 ago or something.

13 CHAIRMAN NICOLAU: Thank you, sir.

14 MR. KATZ: Thank you Mr. Hershey.

15 MR. FREUND: We all would have been better  
16 off if they never invented computers, I think.

17 CHAIRMAN NICOLAU: Let's take about five  
18 minutes.

19 MR. KATZ: Okay, fine.

20 (10:05 a.m. -- recess -- 10:25 a.m.)

21 CHAIRMAN NICOLAU: Your next witness.

22 MR. KATZ: We are going to call Rick

1 Salamat as our next witness. Because we are going  
2 to very quickly get into the slides I will ask Rick  
3 to sit here on my left, because otherwise he will  
4 block the screen.

5 CHAIRMAN NICOLAU: Okay.

6 Whereupon,

7 RIKK SALAMAT

8 was called as a witness and, having first been duly  
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. KATZ:

12 Q Would you give us your name and residence  
13 for the record, please?

14 A Rick Salamat, Toronto, Ontario, Canada.

15 Q And what is your employment, Mr. Salamat?

16 A I am a consultant. I work with union  
17 groups who are involved in disputes of all kinds,  
18 including seniority disputes with pilots.

19 Q And would you describe your educational  
20 background, please?

21 A I have an MBA from the University of

22 Toronto and BA from New York University. In

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1 addition to that, computer courses at Honeywell  
2 Institute, and university, college.

3 Q What is your present employment,  
4 Mr. Salamat?

5 A My present employment is as a consultant.

6 Q What is what sort of things do you consult  
7 on?

8 A The major part of my practice is working  
9 with union groups who are involved in disputes where  
10 there are lots of complicated issues to be sorted  
11 through. So this can include groups that are going  
12 through contract negotiations, restructuring,  
13 mergers, in all of those cases there are lots of  
14 factors at play, and my role is to work as a data  
15 analyst bringing all of those under control and  
16 allowing them to see what the big picture is.

17 So in the large part in the last few years  
18 I have been working with Canadian Airlines pilots in

19 the merger with Air Canada in the seniority merger.

20 Q I do want to ask you about the Canadian  
21 Air-Air Canada merger in a minute, but first wanted  
22 to ask you to tell us some of the employment you

1085

1 performed prior to your present position that  
2 relates to the field that you are in now?

3 A Well, going back to the beginning.

4 Q Please?

5 A My first real job was as a data analyst  
6 working for a real estate, commercial real estate  
7 information company, 20s, out of high school. When  
8 I did that and they had a large database that  
9 tracked all of the vacancies in commercial real  
10 estate in Toronto and surrounding area, and they  
11 performed all kinds of analysis on vacancy rates.

12 And I built and managed the database for  
13 them. And then they had an economist and a  
14 statistician who would take raw results that I would  
15 produce and then come up with reports that they

16 would provide trade associations, banks.

17           And that type of work has continued. I  
18 continue to do that up until this day for a couple  
19 of companies that track various real estate  
20 statistics.

21           After that I worked for Citibank for two  
22 years in their treasury department in Toronto,

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1 working on the foreign exchange. Again it was  
2 tracking foreign exchange rates from all over the  
3 world, in all of their branches, again coming up  
4 with aggregate numbers on trends in exchange rates,  
5 interest rates, providing the treasurer with reports  
6 at the end of every day.

7           From there, after Citibank I knocked  
8 around a little bit as an environmentalist. That  
9 was kind of interesting, didn't involve whole lot of  
10 number crunching other than, you know, managing  
11 donor databases.

12           But then I had an Internet company that

13 dealt with complex data for companies that were  
14 dealing with sales information, that kind of thing,  
15 that they were making available on line. Sold that  
16 company, couldn't work in the Internet because of a  
17 noncompetition agreement and ended up doing this  
18 kind of stuff.

19 Q When did you start working on the Air  
20 Canada-Canadian project?

21 A I first started working with them in 2001,  
22 right after their first arbitration in front of

1087

1 arbitrator Michnick, which had gone terribly wrong  
2 for them, and they were appealing that arbitration  
3 to the Canadian Industrial Relations Board.

4 I started working with them in order to  
5 put together their case to have that award  
6 overturned, which ultimately it was. Led to a  
7 second arbitration, and a whole round of several  
8 mediations and a dozen other pieces of appeals and  
9 litigations and DFR and that continue on to this

10 day; still three, I think there is still three  
11 appeals outstanding on that case, and, you know, a  
12 dozen or so DFR files. It is very hard to keep  
13 track of.

14 Q Did that project grow out of the seniority  
15 integration for the Air Canada-Canadian Airlines  
16 pilots?

17 A Yes.

18 Q And the Michnick award was the integration  
19 of those two seniority lists?

20 A Yes.

21 Q And your clients were the Canadian pilot  
22 representatives?

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1 A That is correct.

2 Q And you were hired initially at least on  
3 behalf of the Canadian airlines pilots?

4 A That is correct.

5 Q Okay, and what role did you play in this  
6 appeal to the is it called CIRB?



7           A     The CIRB, my role with the Canadian pilots  
8     the CIRB was to take the Michnick award, and provide  
9     them with their assistance on various forms of  
10    analysis of what the impact of that award was going  
11    to be on the careers of the Canadian pilots.

12                 So we looked at the long term effects of  
13    that seniority award in terms of where people were  
14    going to be retiring.

15           Q     When you say where they were going to be  
16    retiring --

17           A     What percentage of the list they would be  
18    retiring.

19           Q     -- you didn't care where they bought their  
20    summer home or --

21           A     Well, curiously, we did because there was  
22    this very east-west divide, you know. Retiring in

1089

1     Vancouver was everybody's objective and that would  
2     have been very difficult under that award, but  
3     without getting into --

4                   CHAIRMAN NICOLAU: Everybody's objective  
5 is being in the airline --

6                   THE WITNESS: Actually even on the Air  
7 Canada side.

8                   CHAIRMAN NICOLAU: Not Georgia Bay.

9                   THE WITNESS: No, no, they all want to  
10 live in the west and they all want to ski. I don't  
11 know, that is a Canadian thing, right? Ontario is  
12 not a great place for skiing.

13                   So there was -- when we went to the CIRB  
14 that was in 2001-2002, you know, the level of  
15 analysis that I was performing for them was quite  
16 cursory compared to what would come later in the  
17 second arbitration.

18                   BY MR. KATZ:

19           Q     I was about to get to that. The CIRB  
20 reversed the Michnick award, did it not?

21           A     Yes, they quashed the award.

22           Q     And then what happened after that?

1           A     It was sent to mediation. The board sent  
2 the parties off to get them to try and resolve their  
3 dispute amongst themselves.

4           Q     Did the pilots work out an agreement on  
5 their own?

6           A     No, no they didn't. They, you know,  
7 they -- and to be fair, I think they tried, but they  
8 couldn't even get to a protocol agreement for the  
9 mediation, so it didn't go terribly far. And so  
10 ultimately it was second to sent to a second  
11 arbitrator, arbitrator Keller.

12          Q     Arbitrator Keller conducted some  
13 proceedings and came up with the Keller award?

14          A     Yes.

15          Q     Then what was your role in that process?

16          A     Well, I had two distinct roles at  
17 different times during --

18          Q     Let's start with the first one first then?

19          A     At first I was there as a technical  
20 assistant to the committee, again, we had performed  
21 quite extensive analysis on the award that had been  
22 quashed, on our proposal, and on the proposal that

1 was coming from the Air Canada pilots. By that  
2 point in time we had developed the applications that  
3 I am going to using today quite fully, and so we  
4 were able to demonstrate just with the  
5 short-long-medium term impact of various seniority  
6 integrations was going to be.

7           And we worked with the arbitrator in the  
8 early stages, you know, he would ask a question,  
9 what if you did this, what did you did that, what  
10 did you did this, and so my role was to answer those  
11 questions.

12           Q    Using the computer software that you  
13 developed?

14           A    Using the computer software, yes.

15           Q    You said there were two roles, what was  
16 the second role?

17           A    In the second role, at the end of the  
18 arbitration proper the board kidnapped, absconded, I  
19 don't know what the correct word is. They made me  
20 an adjunct to the panel, along with someone who was

21 a data representative from the Air Canada pilots.

22 And at that point I just worked

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1 exclusively with the board. We couldn't have any  
2 contact with the Canadian Airlines pilots and I  
3 worked with arbitrator Keller and our nominee to try  
4 out ideas, to -- they had a number of questions that  
5 they themselves had developed about how the  
6 seniority integration would work at various points  
7 in the future, and there was metrics and things that  
8 they had developed on their own that I had to come  
9 up with answers for them for.

10 Q When you say they in that sentence --

11 A The panel.

12 Q -- that refers to the panel?

13 A Yes.

14 Q You were considered an adjunct member of  
15 the panel?

16 CHAIRMAN NICOLAU: Adjunct to the panel.

17 THE WITNESS: Adjunct to the panel,

18 technical assistant. The word "adjunct" got used.

19 BY MR. KATZ:

20 Q But you weren't a member of the panel per  
21 se?

22 A No.

1093

1 Q But you were working with the panel in the  
2 panel's role of developing its award?

3 A That is correct.

4 Q And do you continue to have some role in  
5 the proceedings that have arisen from the Keller  
6 award?

7 A Yes, I continue to this day to work with  
8 the Canadian pilots. As I said, these appeals  
9 continue. There has been decision after decision  
10 after decision, that have favored the Canadian  
11 pilots, but the Air Canada pilots continue to try  
12 and get the seniority list revised, and they are  
13 very creative in how they go about that.

14 And so every six months or so there is a

15 new round of litigation that is spawned, and then my  
16 role again is to analyze whatever it is that is  
17 being put out there, either the new seniority list  
18 or proposal or calculating the impact of some  
19 non-seniority related change that has been made to  
20 the operation of the airline. Those are -- have  
21 been fairly extensive, and so --

22 Q All right, I don't have many additional

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1 questions about the Air Canada-Canadian litigation.  
2 I would just like to turn your attention to a  
3 document that Captain Kirch referred to in his  
4 testimony yesterday, which has been marked as  
5 Exhibit E-22 A. It is a report on Deloitte and  
6 Touche letterhead dated December 22, 2003, and I am  
7 going to ask you some, basically preliminary  
8 questions about this document.

9 First of all, have you ever seen this  
10 before?

11 A Yes, I have.

12 Q And secondly, does the document accurately  
13 describe the software that you utilized in the Air  
14 Canada-Canadian project as you described it to us  
15 and that you have utilized here?

16 A It does.

17 Q And without getting into the report too  
18 much can you just tell us why it was requested, who  
19 asked Deloitte and Touche to do this report, do you  
20 know?

21 A Yes, the Canadian Airlines pilots, after  
22 the Keller awarded had been issued, and the first

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1 round of appeals were coming out, felt that since  
2 some reliance had been placed on the analysis that  
3 had been done by the software it would just be  
4 prudent to have it audited to make sure that should  
5 anyone say that these numbers had been relied on,  
6 and are incorrect, so they went to the trouble to  
7 having Deloitte Touche audit the output from the  
8 software.



9 Q All right, and the report mentioned  
10 someone named Dr. Gordon Sick, Ph.D.?

11 A Yes.

12 Q Was he retained by Deloitte and Touche to  
13 perform some role this that project?

14 A Yes, Gordon Sick and Deloitte Touche kind  
15 of came as a package. Gordon Sick was engaged to  
16 verify the methodology that had been used and  
17 Deloitte Touche was then auditing his work. So it  
18 was sort of two levels of having the software  
19 scrutinized.

20 Q All right. The report was provided by  
21 ALPA to the U.S. Air merger committee and we  
22 provided it to the panel. I don't think I need to

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1 ask this witness any additional questions about it.

2 In Exhibit E-22 there is also a memo to  
3 Jalmer Johnson, general manager of ALPA dated  
4 September 7, 2005, have you seen that before?

5 A Yes, I have.

6 Q And do you know anything about how that  
7 memo came to be created?

8 A Yes.

9 Q Could you describe that for us, please?

10 A Yes, in August of 2005 I met with Bob  
11 Christy and Jalmer and someone else, at ALPA  
12 National in Herndon, to discuss the software and the  
13 possibility of using it as ALPA National in the  
14 early stages of these seniority integrations.

15 I had it in the back of my mind that the  
16 US Airways-America West merger was a pending issue  
17 and thought that perhaps ALPA and the national union  
18 could use this software in order to help the two  
19 sides communicate and understand each other's  
20 position.

21 Ultimately I think by that point the two  
22 sides had -- ALPA's role as a national union was

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1 kind of limited at that point. And so -- they went  
2 to the trouble of going over the software, looking

3 at some of the sample output that it had and reading  
4 things like the Gordon Sick report and the Deloitte  
5 Touche.

6           And after they finished doing that and  
7 satisfied themselves that it was, there was no  
8 biases built into the software, they said well, what  
9 they would do was they would send it off to both  
10 merger committees and you know, hopefully they would  
11 maybe decide to use it jointly, or if not then maybe  
12 one side or the other would like to use it going  
13 through an arbitration.

14           Q     Mr. Salamat, the memo that has been marked  
15 as Exhibit E-22 B starts out talking about the  
16 purpose of this memo is to provide information about  
17 the merger application developed by the Canadian  
18 pilots to the Air Canada-Canadian Airlines merger.  
19 Rob Maginnis, has offered this application to ALPA  
20 for a cost to be determined.

21                     Was it your understanding at this meeting  
22 in August that Mr. Johnson was interested in having

1 ALPA acquire the software to provide it to both  
2 pilot groups?

3 A Well, that well, that, I don't know what  
4 was -- what his thought was on that day, but it had  
5 taken a long time to get a meeting together, and we  
6 had been talking with ALPA national since early in  
7 2005. Right after -- actually, certainly we started  
8 making, I started making more calls right after May  
9 19th, so that was how we had discussed it, but by  
10 the time we actually got around to meeting, I am not  
11 sure what they were thinking would be the best use  
12 for it.

13 Q And does the memo accurately describe the  
14 workings of your software?

15 A It does.

16 Q And it is your understanding that the memo  
17 was provided to the representatives of both pilot  
18 groups?

19 A That is what I am told. I know it was  
20 provided to one group.

21 Q And you came to be retained after the memo  
22 was provided to the U.S. Air merger committee, that

1 is right?

2 A That is correct.

3 Q And you came to my office and met with me  
4 and the merger committee and were retained in the  
5 year 2005?

6 A 2006 --

7 Q Or early 2006?

8 A Sometime around there yes, you are right.

9 Q I don't really remember whether it was  
10 2005 or early 2006, I don't think that matters.

11 Can you describe what the mission of the  
12 project was that the merger committee asked you to  
13 undertake?

14 A Yes. They obviously were going into  
15 seniority merger, and they had two seniority lists  
16 and a bunch of ideas about how they would want to  
17 merge the two of them.

18 They were going to have to, A, come up  
19 with a proposal and, you know, and analyze other

20 proposals, look at how they were going to present  
21 their proposal. And so those would be the major  
22 things that they wanted the software to address, me

1100

1 and the software to address, you know, help them  
2 understand what the impacts of this merger were  
3 going to be on both groups.

4 Q All right. At this time I would proffer  
5 Mr. Salamat as an expert in the data analysis  
6 applications, particularly with respect to pilot  
7 seniority integrations and other labor disputes.

8 MR. FREUND: I am some voir dire questions  
9 on expert status.

10 CHAIRMAN NICOLAU: Go ahead.

11 VOIR DIRE EXAMINATION

12 BY MR. FREUND:

13 Q Mr. Salamat, did you ever testify in any  
14 of the Air Canada Canadian proceedings?

15 A Testify, certainly in front of the panel,  
16 I did.

17 Q You did in --

18 A In front of the panel, yes, extensively.

19 Q And other than testifying before the

20 Keller panel have you testified in any other

21 proceedings of any kind?

22 A Just arbitration.

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1 Q But you have testified in arbitrations?

2 A Yes, I have.

3 Q Unrelated to the airline industry or

4 related to the airline industry?

5 A For the most part unrelated to the airline

6 industry. There is one other airline that I have

7 testified for.

8 Q Can you tell me, you said you do work for

9 a number of unions in dispute resolution -- in

10 dispute circumstances. Can you tell me who those

11 unions are?

12 A I guess so. Most recently I have been

13 working with the IAMAW in their wage reopener that

14 they had with Air Canada earlier this year.

15 Q That is machinists?

16 A Yes, CAW again with their wage reopeners  
17 for the Air Canada pilots association as a whole,  
18 this is the combined group, and some matters  
19 relating to the flow through agreement with their  
20 regional airline, Jazz, with the Ontario Crown  
21 Attorneys Association, which is professional  
22 association for the lawyers of Ontario, who are on

1102

1 the criminal side with the AJOP, the Association of  
2 Justices of the Peace of Ontario, AJOP, the  
3 Association of Law Officers of the Crown, which is  
4 the civil body representing lawyers who work for the  
5 province of Ontario; that is sort of, those are the  
6 big names for the last couple of years.

7 Q Other than the work in Air Canada and  
8 Canadian has any of your work for any of your other  
9 clients involved integration of seniority lists?

10 A Not as such. Sorry, there was a matter



11 that involved two seniority lists that had to  
12 inter-operate, but it would not be really comparable  
13 to what we see here.

14 Q And other than -- so I think the question  
15 I am about to ask follows, the answer to the  
16 question I am about to ask follows from that  
17 previous answer. Other than the Air Canada-Canadian  
18 matter that you worked on, and putting aside this  
19 matter, because this is the one that is in  
20 litigation, have you utilized your software for the  
21 purposes of analyzing any other seniority list  
22 integration scenarios?

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1 A Not with a client.

2 Q You have played around with it?

3 A I certainly have a whole lot of seniority  
4 lists that have been sent to me and by various  
5 people, you know, and I have run them through the  
6 software and given sort of off the cuff sort of  
7 results to people who are curious about what would

8 happen if you merged airline A and airline B, but  
9 you know, certainly not to the degree of analysis  
10 done here.

11 Q And putting to one side for the moment  
12 your work as an adjunct to the Keller panel -- let  
13 me see if I can ask this correctly.

14 You utilized your model in the Keller  
15 panel arbitration prior to the time you were an  
16 adjunct to the Keller panel in your capacity as an  
17 advocate, as it were, for the Canadian pilots,  
18 correct? That was too long a question.

19 A Yes, I am sorry.

20 MR. KATZ: Start over.

21 THE WITNESS: Could you just ask a  
22 different one.

1104

1 BY MR. FREUND:

2 Q Put your role as an adjunct aside.

3 A Right.

4 Q Where I understand you, as an adjunct you

5 did some modeling for the Keller panel, in the  
6 Keller arbitration hearings like the ones we are  
7 having here --

8 A Uh-huh, yes.

9 Q -- you testified and used your model to do  
10 certain analysis which you described to the panel in  
11 those hearings, correct?

12 A That is correct.

13 Q And subsequent -- and I think you told us  
14 that the model that you are using here today, or  
15 that you are going to be using here today, is the  
16 model that you used in the Keller case in connection  
17 with your testimony as an advocate, correct?

18 A Yes, that is correct. Uh -- yes.

19 Q And you also told us that since the Keller  
20 award was issued there has been sort of nonstop  
21 litigation, correct?

22 A That would be a good way to describe it,

1105

1 yes.

2 Q That nonstop litigation has not required  
3 you to rerun the models or to use the models in any  
4 way different than you used them in the Keller case;  
5 correct? That is to say -- I will strike that  
6 question and I will ask it this way.

7 Were you a witness in any of the pieces of  
8 subsequent litigation?

9 A I have filed affidavits as part of, you  
10 know, briefs, certainly.

11 Q And those affidavits, did they describe  
12 your model and what you had testified about at the  
13 Keller, during the Keller hearings or alternatively  
14 did they describe the modeling that you did for the  
15 Keller panel in your capacity as an adjunct to the  
16 panel?

17 A No, the only thing that I had filed  
18 affidavits on had to do with the results coming out  
19 of the model itself and not anything to do with my  
20 role outside of, you know, the -- outside of that,  
21 you know.

22 I testified, I put in affidavits, saying

1 these are the numbers that were produced.

2 Q These were the numbers that were produced  
3 in your capacity as an advocate or these were the  
4 numbers that were produced by the Keller panel when  
5 I was an adjunct to the Keller panel?

6 MR. KATZ: I guess I am going to object--

7 CHAIRMAN NICOLAU: Wait a minute. I take  
8 it your affidavits and so forth were in support of  
9 the Keller award, were they not?

10 THE WITNESS: Yes, they were. Yes, they  
11 were --

12 CHAIRMAN NICOLAU: And am I right that the  
13 model used in both capacities as an advocate and as  
14 an adjunct was the same model, with different  
15 inputs.

16 THE WITNESS: Yes, that is correct.

17 CHAIRMAN NICOLAU: Okay.

18 BY MR. FREUND:

19 Q All right. And the purpose of the model  
20 that you used in your capacity as an advocate was to  
21 predict, was to describe the short, medium and long

22 term economic and related consequences of one or

1107

1 more seniority lists, correct?

2 A That is correct.

3 Q I am going to read a passage to you and

4 you tell me if you recognize where it comes from.

5 A Uh-huh.

6 Q The above is raised not because it

7 influences the manner in which the seniority list is

8 integrated, but to make one important point.

9 Assumptions made by the parties on which they base

10 their computer modeling and trends to predict the

11 future are likely only marginally accurate in the

12 short term, and almost certainly wildly inaccurate

13 in the medium and long term. Static assumptions,

14 therefore, which were used to quote show unquote the

15 impact of various scenarios in reality do not quote

16 show unquote anything that is likely to bear any

17 relation to reality."

18 Do you remember those words?

19 MR. KATZ: I am going to object --

20 CHAIRMAN NICOLAU: Is this a voir dire  
21 question or cross-examination?

22 MR. FREUND: Yes, it is. Well, voir dire

1108

1 is --

2 CHAIRMAN NICOLAU: The question is whether  
3 you object to the testimony as an expert --

4 MR. FREUND: That is correct.

5 CHAIRMAN NICOLAU: -- in data analysis.

6 MR. FREUND: That is correct.

7 MR. KATZ: I object to the question. I  
8 think it may be appropriate at cross-examination but  
9 it is not relevant to whether the witness is an  
10 expert in data analysis.

11 MR. FREUND: Well, he is not really being  
12 proffered just as an expert in data analysis. What  
13 he is being proffered as an expert on is someone who  
14 can do data analysis to predict the future.

15 CHAIRMAN NICOLAU: Yes, and I think that

16 is a proper question for cross-examination. But I  
17 don't know in terms of the witness' basic skills  
18 that that is a proper question in regard to whether  
19 or not he is an expert in those skills.

20 I mean you could attack the model all you  
21 want. The question is whether he has the expertise  
22 to develop it, essentially, and to describe it.

1109

1 MR. FREUND: Well, if all he is being  
2 offered for is to testify about his model and not  
3 that it accurately predicts anything, then I don't  
4 have any problem with him testifying as an expert.

5 CHAIRMAN NICOLAU: He is obviously going  
6 to say it accurately predicts, and your job is to  
7 show it doesn't, right?

8 MR. FREUND: I intend to do that.

9 CHAIRMAN NICOLAU: Okay, fine.

10 MR. FREUND: I simply want to understand  
11 what the scope of his expertise is, and if the scope  
12 of his expertise is manipulating data, I have no



13 problem with that.

14 MR. KATZ: I think I described what he was  
15 proffered as an expert on. I said data analysis  
16 applications particularly with regard to pilot  
17 seniority integrations and other labor disputes.

18 MR. FREUND: I just want to be clear that  
19 I have no problem with this witness testifying as an  
20 expert on data analysis. To the extent he is, that  
21 the US Airways pilots are going to rely on his  
22 expertise as a predictor of future earnings by

1110

1 reason of integration scenarios on his model, I  
2 would object to his testimony as an expert in that  
3 capacity.

4 CHAIRMAN NICOLAU: You will have your  
5 chance at cross-examination.

6 MR. KATZ: The cross-examination can be a  
7 rebuttal case. You can put in a rebuttal case if  
8 you would like to.

9 CHAIRMAN NICOLAU: Continue.

10 DIRECT EXAMINATION (Resumed)

11 BY MR. KATZ:

12 Q The volume of materials marked E contains  
13 as the third item in exhibit E-22, namely E-22 C,  
14 something called merger analysis tool. Would you  
15 tell us, Mr. Salamat, whether you put that document  
16 together?

17 A Yes, I did.

18 Q And would you tell us for what purpose you  
19 put the document together?

20 A The purpose of this document is to try to  
21 explain the basic methodology and assumptions that  
22 this piece of software that I am going to be using

1111

1 today uses.

2 Q Okay, would you describe for us the  
3 highlights of this document, recognizing that the  
4 document will be in evidence, can you hit the main  
5 points of how the merger analysis tool functions for  
6 us?

7           A     Yes, and the main thing about this  
8 document that I wanted to come across was how this  
9 particular method of analysis works. And that is,  
10 first, to generate a seniority list for every year  
11 out into the future until all or most of the pilots  
12 from the two contributing seniority lists have  
13 retired, so number one it creates a seniority list  
14 for every year.

15                     Each year when the seniority list is  
16 created from the attrition that has happened in the  
17 interim period it takes those vacancies and then  
18 fills them in seniority order, and according to any  
19 bidding restrictions that may be in place.

20                     And then for each pilot on the seniority  
21 list it keeps track of how much money he will make  
22 over the course of his career, assuming that

1112

1 everybody bids at the maximum, and always chooses to  
2 go for the most amount of money that is available  
3 from the pool of jobs that is created by attrition.

4                   After that it does a bunch of statistical  
5 calculations to track how many people are in which  
6 category, you know, how many have retired. It  
7 tracks various things about what has happened over  
8 time, and it --

9           Q     Let me stop you there before we go on to  
10 the next step, and ask you in terms of the  
11 information you have just covered, you mentioned  
12 that each year it builds a new seniority list based  
13 on the attrition that has occurred in the prior  
14 year. Is it capable, is your tool capable of  
15 working with other inputs or just age 60 attrition?

16           A     No, it has in fact been used with other  
17 than age 60 attrition, in two different ways. One  
18 is using some sort of table that just gives other  
19 retirement dates for pilots other than their 60th  
20 anniversary.

21                   It has also been used using dates,  
22 retirement ages other than 60; 58.1 was a year that

1 we used just to see what would happen, you know, if  
2 we used a different age in the Canadian merger. I  
3 am not sure where the panel came up with 58 from but  
4 they wanted to see what that would look like.

5           So it is a relatively simple thing to just  
6 change those assumptions, and I have done that.  
7 None of the material that I am showing today is done  
8 with anything other than age 60.

9           CHAIRMAN NICOLAU: I just want to make  
10 sure. You said that it assumes that everybody is  
11 going to bid forever to the max of whatever their  
12 entitlement is, am I right?

13           THE WITNESS: That is correct.

14           MR. KATZ: That was going to be my next  
15 question, George.

16           CHAIRMAN NICOLAU: Sorry.

17           BY MR. KATZ:

18           Q     That is fine.

19                     The job it gives the pilot then after the  
20 awards based on the maximum use of seniority, the  
21 computer software assumes that the pilot will hold  
22 that job for the year.

1           A     That is correct, unless they are going to  
2 retire in that year in which they can just use the  
3 portion of the year that they will still be active  
4 for.

5           Q     And it has as an input the pay for pilots  
6 in different jobs, I assume?

7           A     Yes, that is correct, and the stuff I am  
8 presenting today will be using the pay table that  
9 Bob Kirch described it yesterday.

10          Q     And it would give the earnings then for a  
11 pilot who did not retire because his birthday was  
12 during that year, it would take the assumed pay rate  
13 for the job the pilot was holding and provide that  
14 income for that pilot for that year?

15          A     That is correct.

16          Q     And then it would go on and the computer  
17 software then in the next year gives him a new job  
18 based on the attrition of the people senior to the  
19 pilot and values the earnings in that year?

20          A     That is correct.

21 Q And you have listed on page 2 of exhibit  
22 E-22 C the inputs that are necessary for the program

1115

1 to function; is that correct?

2 A That is correct.

3 Q And would you describe these for us  
4 generally?

5 A Well, obviously the two contributing  
6 seniority lists, the most important things from  
7 those being what, you know, how -- what somebody's  
8 date of birth is. You need to know that in order to  
9 know when they retire; what position they were  
10 holding on the date that you were going to merge the  
11 seniority lists, because that is the position that  
12 they will hold and can't be bumped out of that one.

13 So we know that they are going to hold  
14 that one until they have the seniority to hold  
15 something better, there has been sufficient  
16 attrition to have them move up; the pay table which  
17 we just discussed, the seniority list as it is

18 merged, so the actual list that the program is  
19 analyzing.

20           And again sort of EFGs are listed there  
21 are optional things such as fleet plans. If you  
22 want it that is what happens if the airline goes, if

1116

1 the airline shrinks, bidding restrictions. The  
2 information that I am showing today was modeled  
3 using the bidding restrictions that are outlined  
4 yesterday.

5           Q    By Captain Kirch?

6           A    By Captain Kirch, and again, optionally  
7 some other retirement age viewed other than 60.

8           Q    You mentioned the fleet plan --

9           A    Uh-huh.

10          Q    -- let me just have you explain in a  
11 little more detail how the computer gets the pilots  
12 from jobs in say year X to year X plus 1, either  
13 using a fleet plan or other information. How would  
14 that work?



15           A     Well, what would happen is, if there are  
16     say two retirements that year that has created two  
17     jobs, two positions.

18           Q     Two vacant --

19           A     Two vacant positions.  If the fleet plan  
20     then has additional growth then those vacancies get  
21     added to the available pool of jobs which are then  
22     filled in seniority order, or according to the

1117

1     bidding restrictions as they have been outlined.

2                   CHAIRMAN NICOLAU:  Did you model through  
3     those?

4                   THE WITNESS:  I do have a growth model and  
5     a reduction model just to show, you know, what that  
6     is.  But the model that most of what I am going to  
7     be talking about today, just assumes the same pool  
8     of jobs that existed on July 1st, 2006.

9                   BY MR. KATZ:

10           Q     Let me just clarify one thing to make sure  
11     that it is on the record.  When you are talking

12 about the fleet plan, for example, assuming growth,  
13 to add to the attrition related --

14 A Or reduced.

15 Q -- vacancies, or to reduce, it is  
16 necessary to translate fleet plan, which talks about  
17 airplanes, into jobs which talks about vacancies,  
18 and pilot head count?

19 A That is correct.

20 Q So would you explain how that works,  
21 please?

22 A Yes, in practical terms the way it is done

1118

1 is to take all of the rosters that exist, you know,  
2 at some point in time, you know, and so that would  
3 be a starting at the top, captains A 330  
4 Philadelphia, captain 330 Charlotte and how many  
5 positions, how many pilots are required to fill each  
6 of those positions all the way down to the bottom.

7 And then in some arbitrary year you can  
8 change the requirements. You can say 2007 we are

9 going to need 10 more, or we are going to need 10  
10 less, and you can do that at any point in time, you  
11 know, you choose.

12 Q When you say 10 more or 10 less are you  
13 referring to airplanes or jobs?

14 A These would be positions, these would be  
15 pilots required to --

16 Q So the software then functions off of the  
17 staffing part of it, the pilot positions?

18 A Yes. How you come up with those  
19 requirements can be subject to any kind of  
20 assumptions about aircraft, but the way I  
21 functionally do it is by body count.

22 Q All right. In the middle of page 2 of

1119

1 Exhibit E-22 C you talk about having filled a  
2 vacancy, the tool reassigns the pilot at his or her  
3 previous position back into the pool of jobs,  
4 calculates the present value of the annual salary to  
5 the new position using discount rate of 3 percent,

6 and you have put in a footnote there, would you  
7 explain to us what those steps in the software refer  
8 to?

9 A Yes. Well, reassigning a pilot is pretty  
10 straightforward. That just means by the time we get  
11 to that part of the seniority list there is a  
12 vacancy available that pays more than the pilot's  
13 current position. He takes that vacancy, he/she  
14 takes that vacancy. The position that they were  
15 holding goes back to the next pilot below or anybody  
16 below, if that position would be more economically  
17 advantageous for them, then they take that.

18 So you know, in doing it this way you make  
19 sure that the positions do get filled in proper  
20 seniority order.

21 Q All right, and when the pilot is moved,  
22 has moved to a different position because he has

1120

1 been promoted, his position becomes vacant and a  
2 junior pilot will then be promoted to fill that?

3 A That is correct.

4 Q And so on down the line.

5 And is it possible to use a different  
6 discount for present value than 3 percent?

7 A Oh, yes. It is simply a parameter for the  
8 program. Two percent, 3 percent, 2.5 percent are  
9 fairly common discount value.

10 In this case we are using 3 just because  
11 it is the one in vogue this year. I am not the one  
12 who actually comes up with the choice of 2 or 3. I  
13 mean that is sort of dictated from banks more than  
14 anybody.

15 Q The description in the exhibits refers to  
16 something called surplus earnings. Would you  
17 explain to for the panel's benefit what that means?

18 A Yes. Because we are attempting with this  
19 model to assess the impact of merging seniority  
20 lists and really nothing else, what we do is to  
21 isolate any other thing that is going to affect the  
22 pilots' income. In this case one of the things that

1 comes up as one of those effects is pilots who are  
2 going to come back from furlough a year early,  
3 because there is now more attrition being created  
4 because there is attrition from two groups.

5           They come back a year early and so they  
6 have an increase in career earnings. However,  
7 increase in career earnings didn't come from anybody  
8 else. There is no way that anybody else on either  
9 seniority list or from, particularly from the other  
10 contributing list, could have used that vacancy.

11         Q     That is because the America West pilots  
12 are all active --

13         A     They are all active. They are all in a  
14 better position. There is no way that vacancy could  
15 be used by any anybody other than a new hire who is  
16 not really a factor that we are concerned with here.

17           Likewise, there are future years when  
18 America West pilots can occupy positions that will  
19 pay better than the position they may have had  
20 unmerged. For instance, you know, in several years  
21 you will have several years under several scenarios  
22 you will have America West pilots who could hold

1 first officer on the 330, which would pay more than  
2 first officer on the 757. So there is a salary  
3 difference for that individual. However, every US  
4 Airways pilot is already senior to that, then he is  
5 filling that vacancy at nobody's expense.

6           So, the increase in salary that he has  
7 didn't cost anybody anything. So we just pull that  
8 out and track it as a surplus.

9           And so we look at those numbers and we  
10 track them, and I will point them out in a few  
11 minutes. But what the advantage is of doing it this  
12 way is that you do end up with as close to a zero  
13 sum game as you can get. And those sort of say that  
14 these surpluses, if you have taken the surpluses out  
15 then you really see the impact that the pilots have  
16 on each other more clearly.

17           Q    And the impact of the merged --

18           A    Yes.

19           Q    -- methodology, the methodology for

20 merging the list?

21 A Yes. And, you know, maybe I will --

22 Q Well, rather than going through any

1123

1 further explanation --

2 CHAIRMAN NICOLAU: Even though I didn't  
3 understand what he just said, you know?

4 THE WITNESS: Yes, you know, I'm going to  
5 go through some slides in a minute which may help to  
6 clear it up a little bit.

7 CHAIRMAN NICOLAU: But surplus earnings, I  
8 take it, means the amount that anybody would have  
9 earned that he couldn't have earned if the airline  
10 stood alone?

11 THE WITNESS: It is the amount -- yes, it  
12 is an amount that nobody could have used if the  
13 airlines hadn't been merged.

14 CHAIRMAN NICOLAU: And in the model what  
15 happens to that \$1000 or whatever.

16 THE WITNESS: It is just tracked



17 separately, but it counts it.

18 CHAIRMAN NICOLAU: It is counted as  
19 salary?

20 THE WITNESS: We show it and we just sort  
21 of, when we are looking at somebody's salary  
22 difference, merged and unmerged, we take that number

1124

1 out and just look at it separately, because we know  
2 it didn't come out of anybody else's pocket.

3 CHAIRMAN NICOLAU: Okay.

4 MR. KATZ: We will show it to you as we go  
5 along. I think the easiest way to explain the way  
6 the software functions from here out is to  
7 demonstrate it using some real examples.

8 MR. FREUND: I will help you along in  
9 cross-examination on that point, too.

10 CHAIRMAN NICOLAU: Thank you.

11 MR. KATZ: In order to help with that we  
12 have some, the reason we have got two projectors  
13 here is that we are going to track two separate

14 seniority integration methods at the same time.

15           The proposal of the US Airways pilots is  
16 in both in book E and book F, contains the ones that  
17 are going to be used as another example to track  
18 along with these. So we have those volumes, and we  
19 have given them to a representative of the America  
20 West pilots.

21           MR. FREUND: While those are being passed  
22 out and since we are going to start with the

1125

1 numbers, if we could take maybe five minutes?

2           CHAIRMAN NICOLAU: Sure. What is that  
3 again?

4           MR. KATZ: It is a parallel --

5           CHAIRMAN NICOLAU: But whose proposal?

6           MR. KATZ: It isn't anybody's. It is just  
7 the methodology.

8           CHAIRMAN NICOLAU: Worst scenario, right.

9           MR. KATZ: That is right.

10           (11:16 am -- recess -- 11:26 a.m.)

11 CHAIRMAN NICOLAU: Dan, when you are  
12 ready.

13 BY MR. KATZ:

14 Q We are ready. What are we going to see on  
15 the left screen and what are we going to see on the  
16 right screen?

17 A Okay we are going to be going through  
18 volume E and F. Volume E, which is on our left here,  
19 is go to be the proposal that we have put in for US  
20 Airways.

21 Q And the volume F is a worst proposal?

22 A Volume F which has what we are calling a

1126

1 hypothetical job ratio, seniority integration.

2 Can I have the first slide there, Kevin?

3 Q This exhibit F-1 A describes the  
4 hypothetical job ratio methodology?

5 A That is correct. In order to come up with  
6 this category ratio we took the number of positions  
7 as they actually existed at merger date, so

8 Category 1, which would be wide body captains, there  
9 was 323 US Airways pilots and 92 America West  
10 pilots.

11 Q What jobs are in the wide body captain  
12 category?

13 A That would be 330 captains, 767 captains,  
14 and 757.

15 CHAIRMAN NICOLAU: International is  
16 what --

17 THE WITNESS: International.

18 BY MR. KATZ:

19 Q But it also includes the 757 domestic?

20 A Yes, every 757 and every 767.

21 MR. FREUND: I don't mean to interrupt and  
22 not as a cross-examination question, but so we are

1127

1 all on the same page, when you said merger date what  
2 was the actual date that you used for this count?

3 THE WITNESS: These are the counts as they  
4 existed on the certified seniority list, so I guess

5 as close as possible to May 19th, 2005.

6 MR. FREUND: Again, I don't mean to  
7 cross-examine, but just so we are on the same page,  
8 the original seniority, certified seniority list  
9 that the America West pilots gave you was a list  
10 dated September 23rd, 2005. Subsequently we  
11 produced a seniority list dated May 19, 2005, and I  
12 just think it would be helpful for everybody to know  
13 which one you use and what the baseline is.

14 MR. KATZ: It starts with the data on  
15 Exhibit B-1, I think.

16 CHAIRMAN NICOLAU: What list was it  
17 though, what AWA list was it?

18 THE WITNESS: The September 27th, 2005  
19 list. And the May 19th, 2005 list for the US  
20 Airways.

21 BY MR. KATZ:

22 Q 92 is the number of 757 captains on that

1128

1 list?

2 A Yes.

3 Q Okay.

4 A For Category 2 we then took the narrow  
5 body captains which would be the A330 and 737  
6 captains, and then the number of aircraft, and then  
7 either increased or decreased the number of  
8 positions according to some guess as to what  
9 aircraft count would be in the future.

10 So the effect of that was to decrease the  
11 number of those positions on the US Airways side and  
12 increase the number of positions on the America West  
13 side.

14 Q And the extent of the increase as shown on  
15 your exhibit F-1 A, Mr. Salamat, has the effect of  
16 proportionally increasing the America West pilots as  
17 if they had 161 airplanes instead of 142, is that  
18 right?

19 A I am sorry, no. No, it would be to make  
20 the US Airways fleet decrease to 161.

21 Q I asked about the America West?

22 A I mean America West. Theirs would

1 increase from 129 to 148.

2 Q All right, and there are 13 Boeing 757's  
3 also in the America West fleet. So the 13 plus 148  
4 would give the America West operation 161 airplanes,  
5 would it not?

6 A 161 is on the US Airways side.

7 Q I am confusing people by using that  
8 number, but let's just talk about America West for a  
9 minute?

10 A Yes.

11 Q On exhibit B, as in boy, 1 there are shown  
12 in the America West data 13 Boeing 757's?

13 A That is correct.

14 Q In the America West fleet. Then you add  
15 13 to 148, which is the number of narrow body  
16 captain jobs you have shown airplanes for, 13 plus  
17 148 just happens to be 161. I think that is where  
18 the confusion was coming from.

19 A Oh, I see.

20 Q Isn't that right?

21 A That is. That is correct.

22 Q My arithmetic is flawless?

1130

1 A I believe so.

2 CHAIRMAN NICOLAU: Is this a growth model  
3 as opposed to the other side is a non-growth model?

4 MR. KATZ: We have assumed a starting  
5 point for the America West pilots.

6 THE WITNESS: These are just -- this is  
7 just a calculation to figure out how to create, how  
8 many pilots to put in each of the five categories.

9 So when we count up how many narrow body  
10 captains, you know reducing the US Airways count to  
11 go into that second half of it, because there was  
12 potentially reductions about to happen, we are  
13 increasing the number of America West captains  
14 because there were, you, there is a possibility that  
15 there was additional aircraft coming to that side.  
16 So we are discounting the US Airways count and  
17 increasing the America West count.

18 MR. GILLEN: What was the variable that



19 you went from aircraft shells to positions?

20 THE WITNESS: We just used the staffing  
21 rates.

22 MR. GILLEN: The individual staffing rate

1131

1 for each airline at the time or a common number?

2 THE WITNESS: Yes, so actually it is even  
3 simpler than that. We just said US Airways had 220,  
4 they were going to go down to 161. That is  
5 73 percent. So we just multiplied the count that  
6 they actually had by 73 percent so come up with 809.

7 MR. KATZ: Similarly --

8 THE WITNESS: It would maintain the  
9 staffing levels as they were.

10 BY MR. KATZ:

11 Q Similarly for America West, you took  
12 the 798 jobs shown as 737 and A 320 captain  
13 positions and increased that by 15 percent, which is  
14 the percent increase that 148 airplanes would be  
15 from 129?

16 A That is correct.

17 MR. FREUND: I am sorry again. I don't  
18 mean to interrupt or cross-examine, but you gave us  
19 what the total America West fleet was that formed  
20 the basis for this model through Dan's questions. I  
21 wonder if there is a comparable total number fleet  
22 size for the US Airways fleet?

1132

1 THE WITNESS: 220. Shown as A/E aircraft.

2 BY MR. KATZ:

3 Q Those are 737s and A 320s?

4 A That's correct.

5 Q But then you reduced it to 161?

6 A That's correct.

7 Q But then there are also the A 330s, the  
8 76s and 75s.

9 A They have been left, we are not adjusting  
10 the pilot count in those categories.

11 Q No, I understand that. My question is we  
12 know from what you told us that they there are

13 between the wide body aircraft at America West and  
14 the narrow body aircraft at America West, Dan just  
15 walked you through that little exercise, and said  
16 that is the 148 plus the 13 aircraft at America West  
17 that are the wide bodies equals 161.

18 My question to you is, that is 148 plus  
19 13. My question to you is you have got 161 narrow  
20 bodies at US Airways --

21 A And it is just a coincidence that that  
22 happened.

1133

1 Q I don't care about the coincidence. What  
2 I am wondering about is what is the number on the  
3 wide bodies, that is of aircraft, that is comparable  
4 in this piece, that is comparable to the 13 757's  
5 that are on the America West side of the equation?

6 MR. KATZ: Exhibit B-1 shows 31 Boeing  
7 757's, 10 Boeing 767's, 9 A 330 at US Airways.  
8 Those are those the numbers that were the fleet that  
9 supported the 323 captains in Category 1.

10 THE WITNESS: That is correct. These  
11 numbers all came off of this exhibit B-1.

12 MR. FREUND: Okay. So that the comparable  
13 number to the America West total fleet which was  
14 161, 50 plus 161 on the US Airways side, or 121 one,  
15 correct.

16 MR. KATZ: 211.

17 MR. FREUND: Sorry.

18 MR. KATZ: A mere dyslexia.

19 MR. FREUND: 211.

20 BY MR. KATZ:

21 Q All right. Then you did the same analysis  
22 for -- let me slow you down here, because

1134

1 Mr. Nicolau asked about was this a growth model.  
2 These jobs were assumed to be unmerged futures for  
3 each pilot group; is that right?

4 A That is correct.

5 Q And then the merged scenario was run and  
6 as we go through these most of them were run at

7 static jobs, but at the end you are going to show a  
8 growth and a reduction model?

9 A Yes, just to be perfectly clear about this  
10 thing. This is just used to create a seniority list  
11 based on five categories, and how you would derive  
12 the count of pilots from both contributing lists to  
13 go into those categories.

14 And so you know, this one discounts the  
15 number of narrow body positions that the US Airways  
16 had and increases the number of positions that the  
17 America West pilots have, you know, based on numbers  
18 that have been thrown around in this room fairly  
19 extensively, so --

20 Q Okay. And that is the chart that is up on  
21 the right-hand side?

22 A Yes, and it is exhibit something in that

1135

1 book.

2 Q F-1 A?

3 A Yes.

4           Q    Okay.  Let's flip to the next slide,  
5  please.

6                    Now we have on the right the jobs ratio  
7  methodology for integrating the list that you have  
8  just described and on the left is the adjusted date  
9  of hire proposal of the US Airways merger committee,  
10 is that right?

11           A    That is correct.

12                   MR. FREUND:  Can you tell me what exhibits  
13 we are looking at?

14                   THE WITNESS:  The page references are in  
15 the bottom left-hand corner, if you want to look  
16 them up in the book.  Because I am going to be  
17 focusing on a few different pilots on both of these,  
18 on both of these lists, to show how the model  
19 calculates their careers, they are going to end up  
20 on different pages.  But if you want to follow along  
21 we will have to flip back and forth a little bit.

22                   MR. FREUND:  So --

1                   CAPTAIN BARRY: On the left is volume E  
2 and on the right is volume F.

3                   MR. KATZ: So we could go to page 133 in  
4 the F book and 103 in the E book.

5                   THE WITNESS: And somewhere along there  
6 you will find Mr. Hershey who was here earlier  
7 today.

8                   MR. FREUND: Wait a minute, slow down.

9                   So again, I apologize. But I am looking  
10 another 133 up on the screen and it starts with  
11 somebody by the name of Green.

12                  THE WITNESS: The section that you are  
13 looking at here will not correspond to the first  
14 name on the page that you are looking at. You would  
15 have to go and look up seniority number 5298.

16                  MR. KATZ: He is in the middle of the page  
17 on page 133.

18                  MR. FREUND: So if we go to 133 in our  
19 book it is not going to look like that page.

20                  THE WITNESS: It is not going to look like  
21 that page.

22                  CAPTAIN BARRY: It's not highlighted.

1           MR. FREUND: Aside from it not being  
2 highlighted it doesn't have the same pilots on it.

3           THE WITNESS: No, it wouldn't. These come  
4 from the application. They are not blow-ups of  
5 printed pages.

6           MR. KATZ: Those pages that are on the  
7 screen, the information is on page 133.

8           MR. FREUND: Correct, yes.

9           BY MR. KATZ:

10          Q     All right. Mr. Hershey is number on the  
11 Volume F jobs ratio list, and he is at the top of  
12 the page number 4081 in volume E, the adjusted date  
13 of hire integration. What can you tell us about  
14 this document that explains further how your  
15 software works?

16          A     Okay. As I said earlier, the application  
17 ages the list every year and then it figures out  
18 what position each pilot can hold. This is a way of  
19 summarizing the career of Mr. Hershey.

20                   This column here and this column here just



21 show the number of years that Mr. Hershey will spend  
22 in each of the positions on his unmerged list, as if

1138

1 the two carriers had not come together.

2           And so we see he will spend three years on  
3 layoff, furlough, and four years is a 32 first  
4 officer, one as a first on the 57, one as a first on  
5 the 67, five as a captain 32 and then he will spend  
6 his final three years as a wide body captain for 67  
7 international.

8           And so to summarize he has six years as a  
9 first officer and 10 years as a captain. This is  
10 how the model figures is possible for Mr. Hershey.

11           When we look under our adjusted date of  
12 hire under the US Airways proposal, he would only  
13 spend two years on furlough, five years as a first  
14 on the 32, and again, you know, skipping over the  
15 middle positions spend the last three years of his  
16 career in the same place, and would end up with  
17 seven years as a first officer and 10 years as a

18 captain; identical except for the fact that he will  
19 come back one year earlier on the merged model.

20 Shall I go on?

21 CHAIRMAN NICOLAU: Yes.

22 BY MR. KATZ:

1139

1 Q Talk about the one on the right now.

2 A When we look at the jobs ratio list and we  
3 go through the same exercise, his unmerged career is  
4 identical because it is the same unmerged scenario.

5 And again, you know, we see he is going to  
6 spend a year less on furlough, but now, whereas he  
7 was going to be four years to the first on the 32,  
8 now he is going to be there for seven, you know, and  
9 spend the majority of his career down here as a  
10 captain on a 32 and will never make it up into that  
11 wide body area.

12 So at the end of the day he is going to  
13 spend nine years as a first officer and eight years  
14 as a captain on the list, if it was to be merged

15 according to this methodology.

16           Could I have the next slide, please --

17           CHAIRMAN NICOLAU: Wait, before you go.

18 Isn't he a captain for a while on that merged, on F,

19 I mean maybe I can't see the W, I don't know where

20 it is.

21           BY MR. KATZ:

22           Q Yes, it is hard to see. If you look in

1140

1 the book on F it is line 5298, on page 133. Middle

2 of the page 5298, and he has lost the A 330 captain

3 years, 767 captain years and the 757 captain years.

4 He shows eight years merged on the A 320 in the left

5 seat, and that is his eight years as captain. And

6 then the other time he has got one year as a first

7 officer on the A 330, one year on the 757 and seven

8 as a first officer on the A 320.

9           Now, before you go on to the next page

10 there is an entry to the left of the summary of

11 captain and first officer years for NB, it says NBNF

12 difference, and the witness isn't going to explain  
13 it.

14 A Yes. I will, I promise.

15 Q Okay. So shall we go to the next slide  
16 then?

17 A The next slide. Now these are coming from  
18 further tabs, this is Tab 24 and Tab 2. I am going  
19 to show the summary.

20 Q Okay.

21 A What this does is just summarizes the  
22 difference premerger and merged, so instead of going

1141

1 across all the columns he would two years hear and  
2 one year there, whatever, this just summarizes.

3 Under the adjusted date of hire --

4 MR. FREUND: Again I am sorry, since your  
5 page numbers don't match up there on the page  
6 numbers in the book, I want to work on the book, I  
7 want to find the page number you are talking about.

8 MR. KATZ: Page 144 on the right and 111

9 on the left.

10 MR. FREUND: No, it is not, because --

11 well, maybe it does.

12 THE WITNESS: Mr. Hershey is 4081. It is

13 probably easier to locate him that way.

14 CHAIRMAN NICOLAU: What did you say his

15 number was?

16 THE WITNESS: He is 4081 in Volume E and

17 5298 in Volume F.

18 MR. KATZ: He is page 144, 5298.

19 CHAIRMAN NICOLAU: Go ahead.

20 THE WITNESS: So, again these tables that

21 summarize the information that was in the previous

22 table, so instead of looking all these number of

1142

1 years that he spends merged and unmerged, we just

2 look at the difference between the two.

3 BY MR. KATZ:

4 Q The computer did a subtraction or an

5 addition to work that out?

6           A     Yes.  So we see up here under the adjusted  
7     date of hire --

8           Q     On the left?

9           A     On the left, he spends one fewer year on  
10    furlough and one additional year as a first on 57.  
11    Of course you add those up and it comes out zero;  
12    and you know, summarizes.

13                    An additional year as a first officer,  
14    over here to the far right, where it shows 87,311.  
15    That is the surplus amount that I was talking about.  
16    So he comes back a year earlier into a vacancy that  
17    nobody else can use.  So we know that any benefit  
18    that he gets from that position isn't coming from  
19    anybody, so we track that differently.

20                    And I am going to be coming back to this  
21    several times as we go along, but if there is any  
22    sort of issue about how that number is derived maybe

1143

1    now would be a good time to clear it up.

2           Q     Well, does that represent his salary for a

3 full year as the first officer on the A 320?

4 A That is correct.

5 Q And the computer uses the actual longevity  
6 step that is calculated from his years of 13 years  
7 of service?

8 A Yes.

9 Q Initially?

10 A There is -- you know, yes, it assumes a  
11 date of recall, what his length of service will be  
12 as of the date that he is recalled, and then figures  
13 out where he would be on the pay scale.

14 MR. GILLEN: That 87,311, does that assume  
15 a full year as when he shows up 1 January and works  
16 for the whole year?

17 THE WITNESS: Yes, that is right.

18 MR. GILLEN: Then how do you get from  
19 87,311, work backwards to the hourly pay rate, what  
20 assumptions?

21 THE WITNESS: 85 hours a month.

22 MR. GILLEN: 85 hours a month.

1 MR. BRUCIA: Pay straight pay hours.

2 THE WITNESS: Yes, just straight.

3 MR. GILLEN: 85 hours a month, 12 months a  
4 year. So there is no -- I don't know the difference  
5 but what your delta is between reserve guarantee and  
6 line guarantee, but you are consistent in terms of  
7 using the 85-hour calculation 1 January to the end  
8 of the year?

9 THE WITNESS: Yes. Yes, in fact you know,  
10 there is an option for discounting, for non-block  
11 holders, you know, but I am not doing that.

12 MR. GILLEN: In this case you haven't done  
13 that.

14 THE WITNESS: No. It doesn't really make  
15 any practical effect when you are looking at the  
16 difference between two lists, on mine just everybody  
17 is going to make a little bit less because everyone  
18 is going to be a non-block holder for some period.

19 MR. GILLEN: I just wanted to know what  
20 went behind the 87,311 --

21 THE WITNESS: Straight 85 hours.

22 CHAIRMAN NICOLAU: Let me just ask you a



1 question on Hershey. You have the NBNF difference  
2 of 100,000. Is that what he has lost over the  
3 course of his career by being on the F scenario than  
4 in the E scenario?

5 THE WITNESS: That is correct.

6 CHAIRMAN NICOLAU: Or is that 100,000  
7 minus 87,000 --

8 THE WITNESS: No, that is actual --  
9 actually can I come to that in one second.

10 MR. KATZ: Why don't you answer it now.

11 THE WITNESS: Okay. The \$100,000 that we  
12 see in the F scenario, if you take that 100,000 and  
13 you add back in the 87,000 you will have the  
14 difference in his total career earnings.

15 CHAIRMAN NICOLAU: What is the difference?

16 THE WITNESS: The difference in his total  
17 career --

18 CHAIRMAN NICOLAU: \$13,000?

19 THE WITNESS: Yes, 13,000.

20 CHAIRMAN NICOLAU: I just wanted to know  
21 how it works. I just want to understand. So  
22 Mr. Hershey, under this ratio scenario which is

1146

1 apparently 1 to 4 and 1 to 5, at least part of the  
2 way, will make less than -- will make \$13,000 less  
3 over the course of the next 16 or 18 years than he  
4 would otherwise.

5 THE WITNESS: Yes.

6 CHAIRMAN NICOLAU: Than he would on the E  
7 list.

8 THE WITNESS: Than he would unmerged.

9 CHAIRMAN NICOLAU: Unmerged.

10 THE WITNESS: Unmerged, all of the  
11 comparisons are to merged versus unmerged.

12 BY MR. KATZ:

13 Q And I see now George's question has  
14 brought us to an important point, which is that if  
15 we are viewing our mission as comparing different  
16 methodologies for integrating seniority lists, then

17 the 87,000 that he earns coming back a year earlier  
18 than he would unmerged, that \$87,000 isn't a  
19 variable that depends on anything to do with the  
20 integration list, is it?

21 A No. I think Mr. Nicolau put it well when  
22 he said it is an amount that would be unavailable

1147

1 had they not merged the airlines. That is why I  
2 call it a surplus, because that is exactly what it  
3 is. It is like the, you know, it is a benefit that  
4 comes as a result of putting the airlines together.

5 CHAIRMAN NICOLAU: Okay, thank you.

6 THE WITNESS: If I can just go over to the  
7 F tab, you know, and look at the same difference in  
8 Mr. Hershey's career, you will see that again he  
9 spends a year less on furlough, three additional  
10 years as a first officer on the 320, you know, loses  
11 a year as a first on the 67, makes it up as the  
12 first on the 330 and then, you know, at the end of  
13 his career, the last five years he is going to be

14 losing time as a captain on all of the larger  
15 aircraft.

16           So the net difference merged-unmerged, if  
17 we take that year that he got out, is \$100,000 less.

18           BY MR. KATZ:

19           Q     And that has been discounted for present  
20 value?

21           A     That is correct, that has been discounted  
22 at 3 percent. So what that \$100,000 represents is

1148

1 an amount that has been lost to the other  
2 contributing list, because there was a pilot from  
3 the other group who was in position that he  
4 otherwise could have held.

5           This is why we track it separately because  
6 we really, if we just want to see the impact of the  
7 merger. So by taking out surplus we only see the  
8 transfer of money and jobs from one group to  
9 another.

10           Q     Can you show us another example using the

11 same tabs that you have got there?

12 A Yes. So here I am going to look at Dave  
13 O'Dell, who is going to be the last pilot on the  
14 adjusted date of hire list, and he will be on page  
15 101, Tab 1 again going back to the tabs with the  
16 yellow.

17 Q What can you tell us about Dave O'Dell?

18 A Okay. If we look again at what he could  
19 hold unmerged, Mr. O'Dell has spent in 15 years as a  
20 first on the 320, would then have got one year as a  
21 first on the 757 and then spent the remaining 10  
22 years of his career as captain on the 320.

1149

1 When we look at what would happen to him  
2 merged under the DOH list, you know, he instead of  
3 spending 15 years now has 13 years as a first on the  
4 320, gains an additional year.

5 And as first on the 67, instead of 10  
6 years he is nine on the 320 and then two years as a  
7 captain on the 57 which he wouldn't have had

8 otherwise.

9 I am going to talk more about Dave on the  
10 next slide, but if we just go over and take a look  
11 at what happens under the jobs ratio, you know,  
12 immediately you can kind of see, well, obviously the  
13 unmerged career track for O'Dell is the same but  
14 merged under that list he is now 13 years captain on  
15 the 320, four on the 757 and one on the 67. So  
16 instead of 16 years as a first and 10 years as a  
17 captain, now he is only eight years as a first and  
18 18 as a captain, under the jobs ratio list.

19 Could I have the next slide please, Kevin?

20 Q Do you want to go to the next tab?

21 A If you would like.

22 Q Yes. I will follow along in the book

1150

1 here. That is page 181 in volume E, and page 109 in  
2 Tab 2, Volume F, okay.

3 A To go back to the adjusted date of hire  
4 proposal, we just look at the difference. He gains

5 an additional year as captain, you know. He is two  
6 years longer on the 757 and one fewer year on the  
7 320, and in that NBNF difference when we look at the  
8 difference in his career earnings that we are  
9 tracking as a transfer from one to the other, zero,  
10 because the years when he is captain of a 57 every  
11 US Airways pilot is either senior to him or has  
12 retired. So even though he is making more money it  
13 is not costing anybody anything. So this is sort of  
14 the parallel surplus that happens in later years.

15           So you know, the net impact for this as a  
16 group is zero, under the date of hire list for  
17 O'Dell.

18           If we go over to the jobs ratio that again  
19 you will see he is eight additional years as a  
20 captain and eight fewer years as a first officer,  
21 making some of that up in wide body jobs, and the  
22 net impact is \$263,000. Again there is a bit of a

1151

1 surplus, \$28,000 that comes out because some of that

2 time US Airways pilots are senior or retired,  
3 because there is going to be a lot of US Airways  
4 pilots junior to him on the jobs ratio list. That  
5 surplus is smaller than it was before because there  
6 is going to be fewer years when you can say that  
7 nobody could have used the position that he is in.

8           So without editorializing, I think O'Dell  
9 is kind of a dramatic demonstration of the two  
10 different methodologies and what the impact is on a  
11 pilot in O'Dell's situation.

12           Q    Okay, did you want to show us anybody  
13 else?

14           A    Yes, I am going to just go through pretty  
15 quickly and show people sort of as we go down the  
16 seniority list.

17           Q    Are they going to be in the same tab?

18           A    Yes, I am going to be exclusively on the  
19 summary tab, I am not going to look at the number of  
20 years for merged and unmerged.

21           Q    Okay.

22           A    Page 21 on the left and page 40 on the



1 right, I am looking at Pilot Mosarski, you can see  
2 under the adjusted date of hire proposal, there is  
3 no difference in his career whatsoever. Under the  
4 jobs ratio proposal he would lose five years --

5 MR. BRUCIA: Let us catch up with you a  
6 second.

7 THE WITNESS: Sure.

8 MR. BRUCIA: Tab 2, page 21 on the left?

9 MR. KATZ: 23 on the left. It is on 24,  
10 that is right.

11 MR. BRUCIA: So what we are seeing on the  
12 screen is incorrect, it is actually tab 24 page 21?

13 BY MR. KATZ:

14 Q No, I am sorry. It is going to be tab 24  
15 and it is going to be page 22.

16 A I can go through these examples really  
17 quickly if you want to just follow the screen.

18 Q It is hard for us to see on the screen  
19 from back here?

20 A All right.

21 Q So if we want to write any down in our

22 book, it is easier to have the page open in the

1153

1 book.

2 A Yes. Kind of an unremarkable story on the  
3 adjusted date of hire on the left.

4 If we look at the jobs ratio we see that  
5 Mosarski loses five years as a 330 captain and  
6 spends an additional five years as a captain of the  
7 757 and the net impact to him is \$73,000 lost.

8 You know, when you are looking at this  
9 section you can look up and down the columns just to  
10 see what the gains and losses are and who is getting  
11 them and who is losing them, you know, it is kind of  
12 a random example, you can see that the America West  
13 pilots around him are all zero or gaining, whereas  
14 most of the US Airways pilots in this section are  
15 zero or losing. That is probably one of the easiest  
16 ways to use this exhibit is to just kind of go up  
17 and down and see where there are substantial  
18 differences.

19 Kevin.  
20 Moving on to Pat Costello, who is a fairly  
21 senior America West pilot under the date of hire  
22 proposal he gives up five years on the 757 and makes

1154

1 it up --

2 Q When the give the guy's name would you  
3 give the seniority number?

4 A Costello, 910 on the adjusted date of  
5 hire, and 22 on the jobs ratio.

6 Q Okay. What did you want to say about  
7 Costello, senior America West pilot?

8 A Senior America West pilot, under the  
9 adjusted date of hire list he gives up five years as  
10 a 757 captain and trades them in for five years on  
11 the international and A330, so --

12 Q That is worth 41,000?

13 A That is worth \$41,000, yes.

14 Q And on the list on the right?

15 A Under the jobs ratio list you can see he

16 would pick up eight years as a 330 captain, three  
17 years as 767 captain and give up all of the sort of  
18 domestic and narrow body captain time for a net gain  
19 of 155 -- \$156,000.

20 Q Okay.

21 A Kevin --

22 CHAIRMAN NICOLAU: No Rikk, why is there

1155

1 such a difference in earnings between two America  
2 West guys who were hired on the same day?

3 THE WITNESS: Age. It will have a lot to  
4 do with how old they are and how much time they have  
5 to pick up flying. That is the major variable.

6 To a smaller degree what position they  
7 were holding at the merger, because that is the  
8 position they can't be bumped out of, but it is  
9 primarily age.

10 CHAIRMAN NICOLAU: I just don't have the  
11 age list here.

12 THE WITNESS: Yes, if I look -- he is

13 probably a somewhat young guy for the cohort that he  
14 is in.

15 MR. KATZ: We know he has 11 years left to  
16 work, so let's subtract that from 60, he is 49 when  
17 you start this running.

18 CHAIRMAN NICOLAU: And Gilmore is ahead of  
19 him.

20 MR. GILLEN: Kirch is between young and  
21 senior.

22 CHAIRMAN NICOLAU: How did you know he had

1156

1 11 more years to work.

2 MR. KATZ: I added the eight years as A330  
3 captain to the three years of 767 captain --

4 THE WITNESS: He may have longer than that  
5 because these are only the differences. You have to  
6 go back to the previous tab --

7 MR. KATZ: So I could be wrong about the  
8 49 years.

9 THE WITNESS: Yes, you could be.

10 BY MR. KATZ:

11 Q No, he has got -- he has got 11 years --  
12 well this is the differences, I guess --

13 A Five years that wash out, in the new  
14 equipment. You can't say for certain.

15 MR. KATZ: Who else did you want to show  
16 us?

17 THE WITNESS: Kevin.

18 Junior Jones, who is 2082 on the adjusted  
19 date of hire and 3531 on the jobs ratio.

20 MR. KATZ: Give me a second here.

21 CHAIRMAN NICOLAU: What was the second  
22 figure?

1157

1 THE WITNESS: 3531.

2 MR. FREUND: Who is his seniority  
3 number --

4 THE WITNESS: On the jobs ratios 3531.

5 MR. FREUND: Start with the adjusted date  
6 of hire.

7 THE WITNESS: 3082.

8 BY MR. KATZ:

9 Q Okay, that shows he was hired in 1986 at  
10 US Airways, right?

11 A That is correct.

12 Q On St. Patrick's Day in fact. All right,  
13 what happens under these two methodologies for  
14 integrating seniority lists to Jones?

15 A Again under the adjusted date of hire  
16 there is no change to his career, and it is not by  
17 design that I have picked these people. As I get on  
18 to the subject of the other slides it is kind of  
19 difficult to get people who have different adjusted  
20 dates of hire.

21 However, if you look at him under the jobs  
22 ratio he quickly loses two years of captain, a lot

1158

1 of that in wide body territory, so he loses almost  
2 \$100,000 under that list.

3 Q And the America West pilots around him are

4 gaining 200 to \$300,000 or more?

5 A That is correct. That would be a part of  
6 the list, under that proposal, where you start to  
7 see some very large differences between who is  
8 gaining and who is losing.

9 Q Okay, anyone else?

10 A Yes. Kevin.

11 You know, what, I am going to make this  
12 the last one and I am going to skip the last two,  
13 because I think it is sort of making the point and I  
14 wasn't thinking how difficult it was going to be for  
15 people to follow along in the book. But I will stop  
16 at Pilot Gant, who under our adjusted date of  
17 hire --

18 MR. FREUND: Give us his numbers, please.

19 THE WITNESS: 3524 on the date of hire  
20 list, and 1057 on the jobs ratio.

21 Under the date of hire list he gives up  
22 three years as a domestic 57 and picks up three



1 years as international or captain 330 for a net  
2 impact of \$22,000 roughly.

3 Under the job ratio list, you know, he is  
4 going to give up six years as a 320, two years as a  
5 domestic and make up that time as an international  
6 67 in 330 captain for a net increase of \$113,000.

7 So again, you know, he is in a fortunate  
8 situation, he is going to gain under both proposals.

9 So, any questions about how these exhibits  
10 are put together?

11 BY MR. KATZ:

12 Q Gant wasn't one of the people who had  
13 surplus earnings; is that right?

14 A No, you really don't see the surplus  
15 earnings other than sort of in the very junior  
16 ranks.

17 Q Of both lists?

18 A Of both lists, that is correct.

19 Q Well, let's move on then?

20 A Okay. Kevin, I will tell you when to  
21 stop. Keep going, keep going.

22 All right; this is just sort of looks at

1 the groups as a whole. One of the quick tests for  
2 how a list is going to function for the two groups  
3 is to look at the number of pilots who are going to  
4 retire in the top 10 percent of the list.

5           When we look at the adjusted date of hire  
6 proposal you will see unmerged roughly 61 percent of  
7 the pilots on both contributing lists were  
8 eventually going to make it up into the top 10  
9 percent of their list, you know. And of course the  
10 top 10 percent is where the best flying is, where  
11 you have the most options even though it is somewhat  
12 arbitrary. It seems to come up all the time people  
13 referring to 10 percent, so that is what we are  
14 looking at.

15           Under this proposal the number of US  
16 Airways pilots would go up a little bit, it would go  
17 up 1.7 percent, and the America West would go down  
18 3.3 percent. So close, but not exact.

19           When we look at the same statistic on the  
20 jobs ratio list, again identical premerger, roughly

21 60, 61 percent for both groups. However, that  
22 number goes up to 87 percent for the America West

1161

1 pilots, and down to just over 30 percent for the US  
2 Airways pilots.

3           So there is a 27 percent gain for the  
4 America West pilots and a 30 something percent loss  
5 for the US Airways pilots, under that, and this is  
6 just because younger pilots are getting up to the  
7 top of the list and they don't attrit and older  
8 pilots can't ever get up there.

9           CHAIRMAN NICOLAU: Do we have both of  
10 those --

11           MR. KATZ: Yes this is on the right,  
12 Exhibit F-3, on the left, Exhibit E-25.

13           CHAIRMAN NICOLAU: E-25.

14           THE WITNESS: From this point forward I am  
15 just going to be following the book religiously so  
16 there should be no need to hunt.

17           CHAIRMAN NICOLAU: Okay.

18 BY MR. KATZ:

19 Q Let's flip to F-4 and E-26 then, and we  
20 see a lot of dots on this. Will you tell us what  
21 these dots are?

22 A You see a lot of dots. All of those gains

1162

1 and losses that I was talking about when we were  
2 going to through the list, here we just plot them  
3 for the entire group, and we can see the pattern of  
4 gains and losses as we go up and down the list.

5 On the left are adjusted date of hire  
6 proposals --

7 CHAIRMAN NICOLAU: What exhibit is this?

8 THE WITNESS: This is the next, E-26.

9 MR. KATZ: And F-4.

10 THE WITNESS: And F-4.

11 MR. KATZ: We wanted to be able to look at  
12 them side by side.

13 CHAIRMAN NICOLAU: We can over there,  
14 right. Okay, thank you.

15 MR. KATZ: Jim, if you will put yours up  
16 there --

17 CHAIRMAN NICOLAU: No, that is all right.

18 BY MR. KATZ:

19 Q So the senior pilots on the merged list  
20 are on the left of this chart right?

21 A That is correct.

22 Q And the bottom of the list is to the far

1163

1 right?

2 A That is correct.

3 Q And then the more you gain the higher you  
4 go on the chart?

5 A Uh-huh.

6 Q And conversely the more you lose the lower  
7 you go?

8 A If you are above zero you are gaining and  
9 if you are below zero you are losing. So we see for  
10 the most part, you know, when you are looking at the  
11 top two-thirds of the list there are some winners

12 and some losers, but, you know, stays pretty close  
13 to zero, which is kind of what we saw when we looked  
14 down the list, you know, when we looked at it pilot  
15 by pilot.

16           You know when you get to this part of the  
17 list then you start to see some larger gains for the  
18 America West pilots because these are the guys who  
19 are younger. They are going to be picking up all of  
20 the premium flying in later years.

21           And you know, a few down here don't do as  
22 well, and a large group of US Airways pilots who

1164

1 don't do as well. But, you know, plus or minus  
2 \$100,000, in a fairly narrow band. I am going into  
3 more detail about that.

4           Q    Let me pin down some detail on it right  
5 now? In calculating the page information you are  
6 measuring the difference between the pilots unmerged  
7 career pay and his merged career path with this  
8 methodology?

9 A That is correct.

10 Q What have you done with the surplus  
11 earnings?

12 A They are not in here.

13 Q Okay?

14 A The reason for that is when we see a dot  
15 below the line, theoretically at least, you should  
16 be able to find a dot or a combination of dots above  
17 the line that zero that out. So the money from the  
18 top is -- the money from the top is going to the  
19 top.

20 Q This refers to the transfer of money then  
21 from, as a result of this methodology --

22 A If you look at the transfer of money or

1165

1 the transfer of work or, you know, the transfer --  
2 attrition, transfer of opportunities, it is a  
3 transfer.

4 Q All right, but in this particular pair of  
5 charts you are tracking dollars, aren't you?

6 A That is right.

7 Q Tell us about the one on the right then,  
8 please?

9 A Well, now we see the same difference under  
10 the job ratio proposal, on the job ratio list I am  
11 sorry, it is not a proposal, but the pattern sort of  
12 speaks for itself.

13 You know, every single America West pilot  
14 gains and, or does the same, and every single US  
15 Airways pilot loses or does the same. There are  
16 some fairly dramatic amounts. We have guys back  
17 here who are between 200 and \$300,000 increase in  
18 earnings and people losing between 100 and \$200,000,  
19 on the US Airways side.

20 Q And the scale of dollars is the same for  
21 both of these charts?

22 A Yes, they are.

1166

1 Q All right. What about the next pair of  
2 exhibits?



3           A     This just shows how those amounts happen  
4 over time. When we look at the adjusted date of  
5 hire proposal what we see, there is virtually no  
6 difference to the groups over the first 10 years  
7 that we list as an operation and then there is a  
8 period where there is a slight gain for the US  
9 Airways pilots and then a slight loss at the end.

10                     But you know they are within about \$10  
11 million of this premerger earnings and their merged  
12 earnings. You know, at the end, you know, we will  
13 see a difference of about \$10 million over the  
14 course of everybody's career.

15                     When we look at the jobs ratio proposal  
16 you see right from the beginning the pilots on the  
17 America West side gain and gain and gain and  
18 continue to gain until they get to a point where  
19 there is really probably nobody there. There is no  
20 US Airways pilots left to gain from, and so they end  
21 up they are just shy of \$200 million in increased  
22 earnings, you know, versus the parallel on the US

1 Airways side.

2 Q For the record, Rikk, you called these  
3 cumulative pay differential and unlike the previous  
4 exhibit where we saw an individual dot for each  
5 individual pilot, here the entry for each year is  
6 the sum of all those dots for the America West  
7 pilots or the sum of all those dots for the US  
8 Airways pilots in that year?

9 A That is correct. I don't have anything  
10 else to say about it.

11 Q Okay. You have aggregated it for the  
12 entire group?

13 A Yes.

14 Q And then shown it year by year?

15 A Yes.

16 Q Let's look at the next one then, this is  
17 called share of jobs.

18 A This is just another way of looking at  
19 what happens to the two groups in aggregate over  
20 time; for each group we have just shown how many  
21 will be holding each of the positions grouped and  
22 just the captain positions.

1           So we see under the adjusted date of hire  
2 proposal there is 167 US Airways wide body captains  
3 and 2013 America West pilots start to occupy that  
4 position, and the magic number there being 2013  
5 because that will be the first time under the  
6 adjusted date of hire proposal they can bid that  
7 position. So as soon as they can they start to  
8 occupy that position and then, you know, they go to  
9 2023 and then they start to outnumber.

10         Q     Were you referring to the seven years of  
11 conditions and restriction under the US Airways  
12 pilots proposal?

13         A     That is correct.

14         Q     Then what happens as time goes along?

15         A     Well, as time goes along of course the  
16 America West pilots start to occupy that top end of  
17 the list and in increasing numbers, just as it  
18 happens with the narrow body pilots.

19                 Now, that is one way of looking at how a

20 list operates and how jobs will get allocated as a  
21 result of seniority and/or bidding restrictions.

22 Q Let me just clarify, the part of the

1169

1 exhibit that is on the right you have simply broken  
2 down the wide body captains into the two specific  
3 aircraft types that are there, the A330 and the 767?

4 A That is correct.

5 Q And similarly broken down the narrow body  
6 jobs, and so it is really a detail of what is on the  
7 left half of the exhibit?

8 A That is correct.

9 Q Okay. What about the next exhibit, number  
10 F-7 and E-29.

11 A No, we are not there.

12 Q I thought you were done?

13 A No, I want to talk about the jobs ratio  
14 side of that.

15 Q Oh, okay.

16 A For a moment.

17 Q Go ahead.

18 A Again, if we just look at under the jobs  
19 ratio what happens with that wide body captain  
20 category, again we see we start off in 2006 with 176  
21 of those positions on the US Airways side and by  
22 2012 the America West pilots outnumber the US

1170

1 Airways pilots and continue on until they have  
2 virtually all of those positions by 2020.

3 Q What was the duration of the conditions  
4 and restrictions protecting the US Airways pilots  
5 wide body captain's positions?

6 A A year, I believe.

7 Sorry, I was looking over here. It would  
8 be 2009 when they could first hold that, it would be  
9 2009 when they could first bid that position.

10 Q Okay, so the -- the America West pilots  
11 were restricted by a condition and restriction on  
12 the A330 captain seat, so getting there until the  
13 year 2010, looks like?

14 A Yes.

15 CHAIRMAN NICOLAU: Is that built into the  
16 hypothetical.

17 THE WITNESS: It is.

18 CHAIRMAN NICOLAU: Are there other  
19 conditions in the --

20 THE WITNESS: Just that one.

21 CHAIRMAN NICOLAU: Just that one?

22 THE WITNESS: Uh-huh. Yes.

1171

1 This just shows very quickly how it can  
2 get transferred from one group to another in a  
3 relatively short period of time, under certain  
4 conditions.

5 MR. KATZ: I am just making a notes of  
6 that position.

7 CHAIRMAN NICOLAU: What was it, three  
8 years --

9 BY MR. KATZ:

10 Q Sounds like three years, barred during

11 2007, 2008 and 2009?

12 A Yes, from getting to the A330 captain's  
13 position.

14 Q 2006 is your starting point isn't it,  
15 Rikk?

16 A That is right.

17 Q Okay, shall we flip now to Exhibit F-7 and  
18 E-29?

19 A Yes. These exhibits just really show if  
20 you are starting with a category ratio, as we are  
21 with the jobs ratio, what happens to the ratio over  
22 time, as pilots attrit.

1172

1 That number, that category number one  
2 which had 92 America West pilots and 323, that is  
3 how this list was constructed, at the ratio of 0.28  
4 America West pilots to one US Airways pilot.

5 You know, and if you go down to just 2010,  
6 the end of the decade, that will already have become  
7 one-to-one, and we will just get more favorable in

8 terms of to the America West side over time.

9           It is not a particularly useful exhibit.

10 When you are looking at a non-ratio list, but just  
11 for completeness I have included it for the date of  
12 hire proposal as well.

13           And these of course have been looked at  
14 fairly extensively by other people who are looking  
15 at how a day one ratio will change over time, if you  
16 set out lists for these people.

17       Q    And in this analysis you don't assume any  
18 growth or reduction in the number of jobs, so total  
19 number of changes come from attrition?

20       A    This isn't people actually holding those  
21 positions, this is just sectioning off a portion of  
22 the seniority list and saying who is going to be in

1173

1 that portion on each of these years going forward.

2 So --

3       Q    Would you say that again, I didn't  
4 understand the last thing you said?



5           A     This is, unlike the previous exhibit which  
6 shows given all of the bidding restrictions and  
7 everything else, who is going to be holding what  
8 jobs. This is just who is going to be in that  
9 section of the seniority list that defines as a  
10 category called wide body captain. It is just a  
11 count of people in that section of the list.

12                     So --

13           Q     For wide body captains that would be the  
14 senior part of the list?

15           A     Yes, you are better if you add 323 and 92,  
16 that many.

17           Q     415?

18           A     Yes, who, what is the composition of the  
19 top 415 positions on the seniority list.

20           Q     I see. And you track that 415 top spots  
21 year by year?

22           A     That is correct.

1174

1           Q     Okay. Anything else or shall we flip to

2 F-8 and E-30?

3 A No. Uh-huh.

4 This is a related but different metric  
5 that we use, and it had to do with the delay or  
6 acceleration in making captain, and this would be  
7 for people who are still first officers.

8 CHAIRMAN NICOLAU: Something seems to be  
9 missing on --

10 MR. GILLEN: Nobody makes captain.

11 THE WITNESS: I am going to just talk  
12 about the date of hire proposal; you can just leave  
13 it there, Kevin, for a moment. I am going to talk  
14 about how this date of hire list got made in the  
15 first basis, the date of hire list.

16 What I am showing here is the delay or  
17 acceleration of first officers getting to captain  
18 and this is under a straight date of hire list, not  
19 adjusting for furlough times, nothing else. This is  
20 simply if you put a list together based strictly on  
21 date of hire.

22 What we would see is US Airways pilots

1 making captain, you know, somewhere between a year  
2 and a year and a half earlier.

3           On the America West side we would see some  
4 dramatic delays where out here you have got pilots  
5 who would have to wait eight additional years to  
6 check out as captain, under that list.

7           And, you know, continuing on pretty badly  
8 until you get to the end of the list and guys are  
9 getting there about the same about the same time  
10 they would have anyway. That obviously is something  
11 that was considered at one point in time in this  
12 proposal. But, it wasn't ultimately put in.

13           All right, can I have the next slide.

14           The committee here then made a list which  
15 was the adjusted date of hire or a date of hire  
16 adjusted for furlough time, when you see that delay  
17 that they would have seen on the America West side  
18 has been moderated somewhat.

19           It has actually gotten more favorable for  
20 some pilots, but there are still a bunch of pilots  
21 who would have been delayed a significant amount of

22 time in making captain.

1176

1           Some of the gains on the US Airways side  
2 have gone down, but still this was something that  
3 you know was obviously not reasonable, you know,  
4 when you look at your own proposal, the fact that  
5 this ends up at seven and the fact that our bidding  
6 restrictions are seven years isn't entirely  
7 coincidence. That was the thing that led us to use  
8 that as a number.

9           Could I have the next slide please, Kevin.

10           When we put those bidding restrictions in  
11 and then we look at it we see how that whole tail  
12 has disappeared, and most people are getting there  
13 within a year of when they would have.

14           This little joggy line is just the time in  
15 the year that you are making captain, a little bit  
16 later, plus or minus a year. And so for the most  
17 part, you know, a lot of -- those delays, can I have  
18 the last slide there, when we look at the difference

19 between what the delay or increase in, making  
20 captain is under the length of service proposal that  
21 we are talking about, now in the date of hire, you  
22 know. This will just sort of give you some idea how

1177

1 this committee got to the proposal that they put in  
2 front of you.

3 CHAIRMAN NICOLAU: Is this exhibit --

4 MR. KATZ: This is several pages of E-30,  
5 four pages of E-30.

6 CHAIRMAN NICOLAU: All right.

7 THE WITNESS: May I have the next two.

8 All right, so if we just look, we have now  
9 gotten above the line. This is the delay and  
10 acceleration in making captain under the adjusted  
11 date of hire proposal, versus what happens if we  
12 look at it under the jobs ratio proposal, and there  
13 are lots and lots of America West pilots getting to  
14 captain a lot sooner and lots and lots of US Airways  
15 pilots not getting there actually as soon.

16 MR. GILLEN: Rikk, on the slide on the  
17 right, that jobs ratio, could you refresh my memory,  
18 do you have that three-year bidding restriction  
19 built into this that you assume?

20 THE WITNESS: Yes, yes, all of these have  
21 that three-year bidding restriction on the 330 built  
22 into it.

1178

1 So you know, look at them slide by side  
2 for what and draw whatever conclusions you like  
3 about how those lists would preserve people's career  
4 expectations.

5 BY MR. KATZ:

6 Q All right, we have some individual to look  
7 at in Exhibit F-9?

8 A Yes, it does help again to sort of look at  
9 individuals, you know. When you look at dots and  
10 bar graphs, you can get lost, so we are going to  
11 look at Pilot Hershey again. Under this adjusted  
12 date of hire, this solid line here, shows how he is

13 going to move up the seniority list under the date  
14 of hire proposal. And the hashed line is how he  
15 would have moved up unmerged.

16 And these lines here just show the points  
17 at which he would have crossed roughly the threshold  
18 required to make various pieces of equipment status.

19 If we look at this first 57 he will cross  
20 that line under this proposal somewhere around his  
21 48 birthday; unmerged, you know, it would have been  
22 a little bit later.

1179

1 And as he goes up the list eventually  
2 these two lines converge and he ends up in more or  
3 less the same place he would have been unmerged.

4 If we look at him under the US Airways,  
5 under the jobs ratio list, obviously he is going to  
6 go slower. He is not going to get as far up the  
7 list because the very thing they were talking about  
8 this morning, we see that never actually does cross  
9 the captain 57, captain 67 or captain 330.

10 Q So the best job he can hold is A 320  
11 captain?

12 A Yes. Whereas he would have made 57 first  
13 officer around 48 again. Now it will be 50, and his  
14 career progress will be delayed, so this is personal  
15 side of, you know, that delay acceleration making  
16 captain I talked about just before.

17 Q Can you tell us on Exhibit F-9, Captain  
18 Hershey, how long, how would you calculate for this  
19 graph how long he is delayed in reaching A 320  
20 captain?

21 A Well, you know, you see he intersects that  
22 line under this merged proposal looking down around

1180

1 50 something, 50 -- let's call it 53.

2 Unmerged he would have made that you know,  
3 up here. So it is really the lengths of this little  
4 piece here that shows the difference in how long it  
5 takes or how much sooner he gets in this case there.

6 Q So it would be about four years?



7           A     Just eyeballing I don't think it is quite,  
8 quite so much. Maybe three.

9           Q     Okay. There is a second page to exhibit  
10 F-9?

11          A     Yes, again, Captain Dave O'Dell, under the  
12 adjusted date of hire, the solid line again is the  
13 path that he would follow there. The hashed line is  
14 the path that he would follow unmerged, you know,  
15 soon as we get to a common piece of equipment, first  
16 57 we see under this DOH proposal call that again  
17 three years sooner. When it comes to captain 32 he  
18 is getting there at about the same time. And then  
19 at the end of his career he is going to make captain  
20 57, which he would just have fallen shy of unmerged.

21          Q     So is it your opinion, Rikk, that Dave  
22 O'Dell, the junior guy on the America West seniority

1181

1 list, actually does better on the proposal of the US  
2 Airways pilots than he would have unmerged?

3           A     Well, that is my opinion. You know, you

4 see that he is making that part and everything above  
5 that we already discussed earlier was that surplus  
6 amount that is, you know, benefits comes from  
7 merging the seniority lists.

8           So yes, it is my opinion that he does  
9 better under the adjusted date of hire. It is also  
10 my opinion that he would do better under this jobs  
11 ratio list.

12           Q    To what extent?

13           A    More, you know, we see he was going to  
14 make first 57 somewhere here in his late 40s. Now he  
15 is going to make it at the age of 40. So you know,  
16 the distance on this line here is how much sooner  
17 would make first on the 757.

18           Q    What about A 320 captain?

19           A    Again we are looking at an acceleration  
20 probably somewhere in the range of eight years  
21 sooner, he would be able to check out as a captain  
22 on the 320.

1                   And then at the ends of his career he will  
2 be able to hold captain 57 and some time on the 67  
3 evolves just shy of the 330. So yes, Dave is one of  
4 these, you know, he is a young guy, he has got a lot  
5 of time left in his career and, you know, he is  
6 going to benefit from this merger either way.

7           Q     Okay. Exhibit 10 F and 32, 32 E?

8           A     Yes. These just compare the differences  
9 in length of service for the pilots in the two  
10 groups. How these are calculated is by looking at  
11 the pilots in the other contributing list just  
12 senior to you, and seeing how much more or less  
13 service you have.

14                   Under a date-based list these differences  
15 are usually anomalies. These are all Shuttle pilots  
16 and people who have got odd dates of hire that come  
17 from previous mergers, you know. That is to show  
18 that these guys are junior to the America -- US  
19 Airways pilot ahead of them which you would expect  
20 anyway.

21                   MR. GILLEN: You just called Kevin odd.

22                   THE WITNESS: No, I called Kevin an odd

1 ball. Does the record reflect that I called him  
2 that?

3 All right, these are Shuttle pilots. All  
4 kind of weird bumps that come from weird dates.

5 When we look at the differential under the  
6 ratios list patterns become a little bit more  
7 meaningful, and you see the top of the list you have  
8 America West pilots with, you know, let's call that  
9 about eight years junior to the US Airways pilots  
10 ahead of them. And that just increases until you  
11 get to the Dave O'Dell out here who is going to have  
12 just shy of 20 years less service than the America  
13 West pilot who would be ahead of him.

14 BY MR. KATZ:

15 Q You said America West pilot ahead of him.

16 A Sorry, the US Airways pilot ahead of him.

17 And this is just, where O'Dell is there is the  
18 difference. That guy is obviously going to have  
19 that much more and it will be coming down to the end  
20 of the -- you find people who have a similar length

21 of service, and look at these guys are about the  
22 same, but they have been separated by about

1184

1 40 percent.

2 Q Okay. Have you pulled some summary  
3 statistics together in F-11 and E-33?

4 A I have.

5 Q Can you take us through those, please?

6 A Yes. Yes, the summary statistics,  
7 highlighted in yellow, are what I refer to as sort  
8 of the quick litmus test on what the impact of  
9 merging the two seniority lists is going to be.

10 The first one, you know, towards the top  
11 left, the median gain or loss of service under the  
12 date of hire list, you know, the guy in the middle  
13 didn't gain or lose any time, by putting the lists  
14 together.

15 Q That is kind of natural since that was the  
16 methodology for putting the lists together, right?

17 A Yes; now I want to go down to career

18 earnings and we see the pre merger figure that is  
19 about 2 1/2 billion dollars net present value for  
20 all of the a pilot's for America West until the end  
21 of time and about 3.8 billion net present for US  
22 Airways pilots.

1185

1           If we merge these lists and look at their  
2 total earnings, I am skipping the net merged line  
3 now and looking down to that, becomes 2.4, roughly  
4 the same for the America West pilots and slightly  
5 more for the US Airways pilots. And we have this  
6 \$82 million which is the surplus figure that we have  
7 been going on about. So we net that out. That ends  
8 up to be about \$4 million on the America West side  
9 for similar phenomena.

10           Then there is this weird \$4 million that  
11 has to do with the difference to the company in  
12 staffing all of the positions, but different length  
13 of services of pilots in those positions it ends up  
14 costing the company a little bit more to do the same

15 work, than it would have unmerged.

16           So, we net that out by just looking at the  
17 percentage of payroll that each pilot group incurs  
18 in the year when the difference occurs. And that  
19 ends up almost equal, about \$2 million on either  
20 side. Then we net out the surplus, net out the cost  
21 to the employer and then we end up with this net  
22 merged figure, which on static fleet where we have

1186

1 got the same jobs merged and the same number of jobs  
2 unmerged, we can see how much has been transferred  
3 from one group to another.

4           And under the adjusted date of hire list  
5 it is pretty minimal, about \$5 million, on, you  
6 know, on the basis of 2 1/2 billion, so it is pretty  
7 insignificant transfer.

8           To the extent that anybody gains the  
9 America West pilots gain a little bit. This is gain  
10 after netting out all of the surplus, and so we are  
11 not talking about much. So this is just work

12 transferring from one group to the other.

13           When we look at it on the other side we  
14 see the length of service, you know, that we were  
15 talking about, O'Dell there, and in the earlier  
16 chart and we see sort of the median gain is about  
17 13 years.

18           So an average we picked sort of the middle  
19 guy whereas many are better and as many worse, there  
20 is a 13 year differential, and I won't say anything  
21 more about that.

22           When we go to the career earnings, again

1187

1 exactly the same way of calculating it, the cost to  
2 the employer is greater under this. The surplus,  
3 you know, roughly the same, but we see that the  
4 America West pilots, once we take all of those  
5 things out, go up roughly 8 percent to about 188  
6 million. An of course that by design comes out of  
7 the US Airways. So they go down 5 percent.

8           Those are the probably the two numbers



9 that I, when I am working with a client, look at the  
10 most to see how they break out. And when we see  
11 below and we get into some detail about how those  
12 numbers come to be in the year, I am talking  
13 primarily down here, pilots gain, and come out to  
14 say about the same.

15 Pilots who lose income we see that a  
16 whole, you know, roughly two-thirds of the US  
17 Airways pilots stay exactly where they would have  
18 been. About half of the America West pilots stay  
19 about that. But a third of them increase 20  
20 percent, so it looks a little bit favorable on their  
21 side. Just small, relatively small compared to the  
22 staying the same or go up losses, but they are

1188

1 there.

2 Then when we look at the magnitude of  
3 those, you know, average gain about 20 now, the  
4 average loss about the same, on the US Airways side,  
5 10,000 versus 20,000 down. So these put the two

6 pilot groups roughly I think in the same ballpark  
7 for gains and losses.

8           When we go and look at the jobs ratio  
9 list, maximum and minimum are interesting in that  
10 there are no gains on US Airways side and there are  
11 no losses on the America West side, and what we  
12 reflect here, 81 percent of them will increase, 20  
13 percent stay the same. This is a third, staying the  
14 same on the US Airways side and roughly two-thirds  
15 going down. So obviously not having the same effect  
16 on both groups.

17           Q    Any other comments on the statistics,  
18 Mr. Salamat?

19           A    No, I don't think so. I mean the captains  
20 expectancies, that is just a different way of  
21 looking at it, what the average delay or  
22 acceleration is in years in making captain.

1189

1           Q    You talked about that on one of the  
2 specific slides earlier?

3 A Yes.

4 Q Did you also do a growth scenario and  
5 reductions scenario?

6 A I did. Is that what is next, are we there  
7 already?

8 Q Yes.

9 A What is on the screen is a little  
10 different than what is in your book. I did a  
11 15 percent reduction where I just took out  
12 15 percent of the jobs over 10 years, to see how  
13 bidding restrictions worked, what the impact the of  
14 the two groups would be, and you know, we see this  
15 little inset here is just what this looked like  
16 under the normal, no growth-no reduction scenario,  
17 so you don't have to flip back and forth.

18 You start to see where there was no real  
19 losses here. We are starting to see some, still  
20 there is a group that gains, the group that loses  
21 down here, that starts to lose fairly significantly.

22 Under the DOH proposal it doesn't really

1 change sort of the pattern much, so ultimately other  
2 than saying that the -- proves that the bidding  
3 restrictions work as they were intended to, and  
4 quotas work as they were intended to. The losses  
5 are shared.

6           When we look at the jobs ratio list, first  
7 thing that jumps out is all of the America West  
8 pilots are still in a positive position, and you  
9 know, if there is no change all of the US Airways  
10 pilots have just gone down a little bit further.

11           Can I have the next slide please, Kevin?

12           And so under the DOH proposal the America  
13 West pilots go down 1 percent over their unmerged  
14 and US Airways pilots go down about 4 percent.

15           Under the jobs ratio list America West  
16 pilots are still up and they are up 7 percent, there  
17 are still no pilots who lose income. And on the US  
18 Airways side about, you know, 3.5 or \$350 million or  
19 10 percent loss, and still loss, still no pilots  
20 gain, ever gaining. Obviously you wouldn't expect  
21 that, and a larger number who lose, so again this  
22 list not working the same for both original groups.

1           Q    All right.  What about in a growth  
2 situation?

3           A    Yes, in a growth situation in a way,  
4 because of the way I grew the airline position it  
5 doesn't have an impact because there is nobody to  
6 fill.  It is growing first officers at the bottom as  
7 fast as the captain's at the top.

8                    What I was looking for is some amount that  
9 you would have to grow the airline in order to get  
10 some of those blue dots to go above the blue line  
11 and I got to 15 percent and stopped looking.

12                   Can I have the next slide please, Kevin.

13                   Seven, I got 15 percent and I got seven  
14 guys who went up above the line on the US Airways  
15 side.  Okay well, I found some, I can stop playing  
16 with the ratio.  So growth wouldn't really help this  
17 ratio, because I think the point that I am trying to  
18 get at here, certainly 15 percent growth isn't going  
19 to help make this list, make the numbers come out

20 any -- 15 growth won't help the US Airways pilots.  
21 I am sure there is some number like a hundred which  
22 might change, get them at least to zero. I mean

1192

1 obviously the America West pilots will continue to  
2 increase from there.

3           So reduction hurt growth, doesn't really  
4 help. And I think that is all I have to say for the  
5 moment.

6           Q    And on the adjusted date of hire list  
7 15 percent growth was shared pretty equally in terms  
8 of the net impact; is that right?

9           A    That is correct. And, yes, the US Airways  
10 pilots went up 2 percent, the America West pilots  
11 went up 2 percent, so --

12          Q    Both sides went up 2 percent?

13          A    Yes. So it distributed the gains roughly  
14 equally percentage terms.

15          Q    Okay. Thank you. That completes our  
16 direct examination.

17 CHAIRMAN NICOLAU: Any questions?

18 How much time do you want, Mr. Freund?

19 MR. FREUND: Well, let's put it in these  
20 terms. It is not going to take me the rest of the  
21 day to get ready for cross-examination. That said I  
22 think, well, let me ask Dan a question. Is Rikk

1193

1 your last witness?

2 MR. KATZ: Last witness is going to be a  
3 pilot from the merger committee. He is going to  
4 only take about five minutes on direct. The  
5 exhibits are already in volume E and so you can see  
6 what they are.

7 MR. FREUND: So here is what I would like  
8 to propose. Rather than doing a cross-examination  
9 and a redirect examination of Rikk today which would  
10 likely go late and would be done at a time when the  
11 panel's attention span might be diminished, I would  
12 like to suggest that we just take a modest lunch  
13 break, come back, Dan can call his last witness, and

14 then I will cross-examine Rikk starting tomorrow  
15 morning. Because we aren't going to finish today.

16 CHAIRMAN NICOLAU: No.

17 Let's go off the record.

18 (12:55 p.m. -- 12:56 p.m.)

19 CHAIRMAN NICOLAU: Do you want to go back  
20 on the record?

21 MR. FREUND: Yes, go back on the record  
22 for just one question.

1194

1 CHAIRMAN NICOLAU: Okay.

2 BY MR. FREUND:

3 Q Rikk, would you flip back to exhibit -- I  
4 want you to stay in the F book for the moment,  
5 please, and put your finger on Exhibit 5 and at the  
6 same time, Exhibit 11?

7 A So I am looking at the staff page and the  
8 pay differential.

9 Q Yes, the cumulative pay differential?

10 A Cumulative pay differential, okay.



11 Q I can't remember precisely, looking first  
12 at 5, I can't remember precisely the question that  
13 Dan asked that you answered that I thought we may  
14 have left a misleading impression in people's minds,  
15 but the way to look at this chart is not to say  
16 let's look at the year 2022 for the moment. The way  
17 to look at this chart is not to say there is a pay  
18 differential in 2022 of roughly 175 million on the  
19 positive and then \$175 million on the negative, and  
20 then in 2026 there is a pay differential of again  
21 roughly the same amount on both sides, and you are  
22 supposed to add those together, correct?

1195

1 A That is right. Can I clarify --

2 Q Yes, please?

3 A If we look at tab 11 and you have got \$188  
4 million on the America West side and negative \$188  
5 million on the US Airways side. This chart just  
6 shows how fast you get there.

7 Q I knew that was the right --

8           A    I thought that was the question Dan asked  
9 me.

10          Q    Dan may have thought he was asking that  
11 question, but his collection of words could have led  
12 someone to think that the right way to look at  
13 Exhibit 5 is to add the difference each year and  
14 that's not the right way to look at it?

15          A    No, that was not the way.

16                   MR. KATZ: That is two questions.

17                   CHAIRMAN NICOLAU: Yes, sorry about --

18                   MR. FREUND: That is all I have for the  
19 moment.

20                   CHAIRMAN NICOLAU: 4:00. Unless you  
21 finish earlier, at which point find us.

22                   MR. FREUND: Sure.

1196

1                   (Whereupon, at 12:58 p.m., the hearing was  
2 recessed, to be reconvened at 4:00 p.m. this same  
3 day.)  
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AFTERNOON SESSION (4:10 p.m.)

2 Whereupon,

3 RIKK SALAMAT

4 resumed the stand and, having been previously duly  
5 sworn, was examined and testified further as  
6 follows:

7 CHAIRMAN NICOLAU: Ready?

8 I take it it is okay if the witness sits  
9 over there.

10 MR. FREUND: That is fine, probably  
11 better.

12 CHAIRMAN NICOLAU: Okay.

13 MR. FREUND: Before we start, just to make  
14 things easier for everybody, so that you don't have  
15 to page through these books, if you want to, I am  
16 going to tell you the five exhibits that I am going  
17 to be referring to out of the -- in fact five pieces  
18 of paper that I am going to be referring to out of  
19 these thousands and thousands of pieces of paper  
20 that we have seen.

21 If you want to pull those five pieces of  
22 paper out in advance it might make the exercise a

1 little easier, it is your choice collectively. I am  
2 going to be using exhibit E-5 five, and the rest of  
3 them will be from F and I will give you the F  
4 numbers after you get E-5 taken care of.

5 MR. BRUCIA: I am sorry, Jeff, E-5 what?

6 MR. FREUND: E-5.

7 CHAIRMAN NICOLAU: The rest are coming out  
8 of F.

9 MR. FREUND: I will tell what you those  
10 are, F-1, page 133.

11 CHAIRMAN NICOLAU: What is next?

12 MR. FREUND: F-2, I think it is page --  
13 yes, 144, F-2, page 144.

14 F-11, the summary sheet.

15 CHAIRMAN NICOLAU: All right.

16 MR. FREUND: And F-13 B, also a summary  
17 sheet.

18 Now after giving you that comfort that I  
19 am only going to use five pieces of paper I can  
20 envision the possibility of having to go to other  
21 pieces of paper depending on what Mr. Salamat says

22 but --

1199

1 CHAIRMAN NICOLAU: We are holding you to  
2 five.

3 MR. KATZ: Only going to have 31  
4 questions.

5 CROSS-EXAMINATION

6 BY MR. FREUND:

7 Q I have only a few questions.

8 Mr. Salamat, did you ever see the movie My  
9 Cousin Vinnie?

10 A I don't believe so, no.

11 Q You really ought do see that movie. It is  
12 a great movie, and there is one particular scene  
13 that I watch over and over and over again, and I  
14 think it would be really important for you to see  
15 it.

16 It is a movie where Joe Pesci is a lawyer  
17 and Marissa Tomei, who is his girlfriend, is,  
18 becomes an expert witness, in the case, and Joe

19 Pesci has Marissa Tomei up on the witness stand, and  
20 in a Brooklyn accent that I cannot possibly begin to  
21 mimic, Joe Pesci says to Marissa Tomei, having her  
22 look at a document, "Isn't it a fact that the

1200

1 defense case doesn't hold any water," and Marissa  
2 Tomei says, "The defense case doesn't hold any  
3 water."

4           Isn't it a fact that the US Airways pilots  
5 case doesn't hold any water?

6       A    Sorry, is that a question?

7       Q    That is a question.

8       A    No, it is not a fact.

9       Q    Okay. Let's talk about your model a bit,  
10 and first in broad terms.

11           Let's clear one thing up first, and that  
12 is, and I think you were alluding to it when you  
13 testified on direct examination, and that is that  
14 when you met with ALPA you were trying to sell your  
15 model to ALPA for ALPA to use or make available to

16 pilot groups to use in seniority integration cases  
17 on an equal basis, correct?

18 A Yes, that is essentially correct.

19 Q And to be clear, ALPA did not buy your  
20 model, did it?

21 A No, they did not.

22 Q Okay. So to whatever extent Dan's

1201

1 questions implied that ALPA had the model and made  
2 the model available to both pilots, that didn't  
3 happen, so far as you understand, correct?

4 A Well, he made it available to both groups.  
5 They passed on the information.

6 Q They passed on the information, but they  
7 didn't buy the model and say, America West pilots if  
8 you want to use that model we have got it and you  
9 can use it?

10 A No, they didn't.

11 Q Okay. If I understand the model, let me  
12 put this in my terms, the purpose of the model is to



13 take a look at two airlines operating on a stand  
14 alone basis and the career progressions of those two  
15 airlines operating on a stand alone basis, and  
16 compare those -- compare them to the career,  
17 consequences to a pilot's career in a merged airline  
18 using different integration scenarios. Is that a  
19 fair statement?

20 A Yes, I think that is a fair summation.

21 Q And what your model does, and we have seen  
22 hundreds and thousands of lines, is produce some

1202

1 very precise numbers for pilots based on a bunch of  
2 assumptions, and then add those numbers up, and does  
3 some present value calculations with respect to  
4 them, and then issues a report, correct?

5 A That is correct.

6 Q And in addition to issuing a report with  
7 respect to that calculation of all of these very  
8 precise numbers added up to a very precise number,  
9 it also generates a bunch of -- shows career

10 earnings, it makes a career earning comparisons. In  
11 addition to that it throws off a bunch of other  
12 kinds of comparisons, some of which you took us  
13 through today, correct?

14 A That is correct.

15 Q And just so we are clear, all of the  
16 charts that are separate, that show things that are  
17 separate and apart from career earnings are  
18 generated from the same set of data that generate  
19 the career earnings, correct?

20 A Yes, they are calculated at the same time.  
21 The other things that are non-career earnings  
22 related would be calculated as the program goes

1203

1 through each year --

2 Q Sure.

3 A -- but the financial information is  
4 calculated with one set of variables, and all the  
5 other stuff is calculated with another. So I mean  
6 they are computed simultaneously but there is no --

7 yes, hopefully that answers.

8 Q Well, I am not sure it does. In order to  
9 calculate the pay on a year by year basis --

10 A Yes.

11 Q -- you take into account retirements and  
12 promotions, movement from one position to another  
13 position?

14 A That is correct.

15 Q And in order to calculate things like  
16 percentage of pilots who retire from the top 10  
17 percent, using the same underlying database?

18 A Yes.

19 Q Okay. And on the delay to captain and  
20 various other delays or advances, same underlying  
21 database?

22 A That is correct.

1204

1 Q Okay. Now, I want to look big picture  
2 here on your model. There are some fundamental  
3 underlying principles that form the basis for your

4 model, and I want to run through some of them and  
5 see if you agree with me that they are fundamental  
6 propositions that underlie the basis of your model.

7           One of them is that US Airways would have  
8 survived as a stand alone carrier through the  
9 retirement of the youngest pilot on the US Airways  
10 seniority list, correct?

11           A     Correct.

12           Q     And to whatever extent that may not be  
13 accurate in the real world, that would have an  
14 effect on your model, correct?

15           A     Yes, sure.

16           Q     In addition your model is premised on the  
17 fundamental proposition that not only would US  
18 Airways have stayed in business until the last  
19 U.S. -- the youngest US Airways pilot retired, it is  
20 premised on the notion that it would have stayed in  
21 business with the 2011 airplane fleet, with the same  
22 fleet mix that existed as of the first day of the

1 running of the model, correct?

2 A That is correct.

3 Q And if that didn't happen in the real  
4 world that, your model wouldn't predict what would  
5 have happened at US Airways pilots' career  
6 expectations?

7 Well, let me ask the question a different  
8 way. Your model would still predict it but it  
9 wouldn't in fact be accurate in terms of what  
10 actually happened to the US Airways pilots careers,  
11 correct?

12 A The amount of earnings that a pilot would  
13 earn over the course of their careers would be  
14 different, yes.

15 Q And the third fundamental premise that  
16 your model is based on is that pilots are required  
17 to retire at age 60, correct?

18 A That is correct.

19 Q And, indeed, your model is premised on the  
20 notion that all of the pilots will retire at age 60,  
21 correct?

22 A That is correct.

1 Q So if age 60 at some point during the how  
2 ever many years your model runs out were moved to  
3 age 65 then your model would not accurately describe  
4 what would happen to a pilot's career, correct?

5 A That depends on what you mean by what  
6 happens to a pilot's career.

7 Q Well, your model reflects them dropping  
8 off the list at age 60?

9 A Yes.

10 Q Correct, and -- let's just do it step by  
11 step. And requires them to drop off the list at age  
12 60, correct?

13 A Correct.

14 Q And if age 60 -- if somewhere during the  
15 20 some odd years that your model runs, age 60  
16 became age 65 some number of pilots under the model  
17 would have dropped off, some number of pilots would  
18 in fact have dropped off at age 60, but some number  
19 of pilots would be able to continue to work to age  
20 65, correct?

21 A Yes, that is correct.

22 Q Okay. And the converse of the age 60, I

1207

1 asked you this already, but I want to go back on it,  
2 the converse of your age 60 requirement in your  
3 model is that it requires pilots to work to age 60,  
4 and if in fact the reality was that pilots left the  
5 work force before age 60 your model would not  
6 accurately predict either the individual or the sum  
7 total of the value of the pilots careers, correct?

8 A Not as it has been run today, no.

9 Q All right. Okay. I am just talking about  
10 how it has been run today because that is all we  
11 have before us at the moment?

12 A Yes.

13 Q The other interesting component of your  
14 model which I think is worth talking about here for  
15 a moment is that, if I understand it correctly, it  
16 starts with the pilots in the places they occupy as  
17 of a particular, in the positions, the seats and the

18 equipment, that they occupy as of a particular date,  
19 as of the starting date, correct?

20 A That is correct.

21 Q Okay. And we know from looking at the  
22 list, and you know from looking at the list, that

1208

1 that positioning of pilots as of that first day does  
2 not reflect the pilots, most -- many pilots full and  
3 complete exercise of the full power of their  
4 seniority, correct?

5 A That is correct.

6 Q And we have had a lot, we have heard a lot  
7 of testimony kind of swirling around that issue.  
8 You have been here for most, if not all, of the  
9 hearings and you know the industry, so you know and  
10 understand that there are all kinds of reasons why  
11 pilots don't actually exercise their bidding power  
12 to the fullest dollar extent possible, correct?

13 A That is correct.

14 Q So can we say that your model starts with



15 a seniority list that is based on subjective  
16 decision making by the pilots who are on the  
17 seniority list?

18 A It ends up with people, starts off with  
19 people in the positions they are holding on that  
20 day, yes.

21 Q Right, and they got there by making  
22 decisions that were not based entirely upon bidding

1209

1 for the highest paid position?

2 A I assume that is correct, yes.

3 Q But then your model, if I understand it  
4 correctly, contrary to what the universe has shown  
5 us is true, assumes that from that point on every  
6 pilot will always bid to the highest paid position  
7 that he or she can bid, correct?

8 A That is and isn't correct at the same  
9 time. The model is not trying to figure out what  
10 position the pilot will actually hold over the  
11 course of his or her career. It is trying to

12 estimate what the value of the positions he or she  
13 could hold over the course of their career, and  
14 assign a number to that.

15 Q Correct. And in order to do that it  
16 assumes, contrary to fact, that each and every pilot  
17 will always bid to the maximum dollar position  
18 available, correct?

19 A Well, it has to, because should a pilot  
20 choose, as they do in the real world --

21 Q Let me interrupt you. Whether has to or  
22 doesn't have to is a different question. My

1210

1 question is that is what it does?

2 CHAIRMAN NICOLAU: He answered that  
3 earlier this morning, that they bid to their full  
4 entitlement, right.

5 THE WITNESS: Yes, and that is how it  
6 places a value on their place on the seniority list.

7 BY MR. FREUND:

8 Q Right. But in doing that it does not

9 mirror your actual experience of watching pilots bid  
10 in the real world, does it?

11 A Well, it does, because pilots who choose  
12 not to bid a position for more money are choosing  
13 not to exercise their seniority because the value of  
14 the base or the value of the lifestyle is real  
15 enough to them that the difference in pay isn't  
16 significant enough to say that I choose to remain  
17 senior on a junior piece of equipment. So the value  
18 is always there. The fact that they choose not to  
19 use it doesn't mean that it has evaporated.

20 Q All I am saying is perhaps you and I  
21 aren't quarreling. Let's see if I can put it in  
22 different terms?

1211

1 A Yes.

2 Q All I am saying, that is when you look at  
3 your list on a pilot by pilot basis to the extent  
4 that it reflects a quote loss, it assumes that the  
5 pilot always bid to the highest paid position even

6 though many pilots will not, correct?

7 A That is how it calculates the loss, yes.

8 Q And if a pilot or any number of pilots  
9 choose not to bid to the highest dollar position  
10 then with respect to their line on the chart, their  
11 career dollars, losses as you put them, or gains as  
12 you put them, would not match the output of your  
13 chart, correct?

14 A Yes. As I say in a real world their  
15 earnings would be different than the value that has  
16 been placed on this, the seniority, you know,  
17 integration or unmerged seniority.

18 Q Okay. The next thing that it assumes is  
19 that every furloughed US Airways pilot will accept  
20 recall when first offered recall, correct?

21 A That is correct.

22 Q And sort of a sub component of that is

1212

1 that every US Airways pilot will in fact come back,  
2 every furloughed US Airways pilot will in fact come

3 back to US Airways?

4 A That is correct.

5 Q And sitting here today you know that the  
6 first of those is not true in the real world,  
7 correct?

8 A Yes.

9 Q Okay. And sitting here today, I assume  
10 that you would not be uncomfortable surmising that  
11 the second of those is not likely to be true, that  
12 is it is not likely that every US Airways pilot will  
13 come back to the airline?

14 A No, I don't think that is unlikely. That  
15 is what has been presented here in their --

16 Q Correct. The next thing that it assumes,  
17 or the next fundamental principle that it is built  
18 on is that there is no event external to this  
19 process such as, for example, a merger with Delta  
20 Airlines and the consequent effect of that merger on  
21 the seniority list and the earning opportunities of  
22 pilots, correct?

1           A     That is correct.

2           Q     The next thing that it assumes is that for  
3 purposes of making dollar assessments, let me put  
4 it -- let me not ask it in terms of what it assumes  
5 or doesn't assume. It does not take into account in  
6 calculating earnings of a person who was on the  
7 seniority list who then came off -- didn't come off  
8 the seniority list, but gets furloughed and then  
9 comes back onto the seniority list; it doesn't take  
10 into account the life span or the career span of  
11 that pilot any earnings earned while on furlough  
12 from some other source?

13          A     No, it wouldn't. I mean there is no model  
14 that, I presented where that would occur, so --

15          Q     Right, it assumes if one was, if one were  
16 trying to look at this, not as an earnings from the  
17 airline, the employment at the single or merged  
18 airlines, if one were to look at this question as  
19 earnings during a career from age 25 to age 60, it  
20 assumes zero earnings for purposes or times in which  
21 the pilot was on furlough and may or may not have  
22 been working someplace else?

1           A     Sure.

2           Q     Okay.  And it also assumes, does it not,  
3     that the same -- well, your model is based on the  
4     same fleet composition on a stand alone basis as on  
5     a merged basis?

6           A     That is the way it was run today, yes.

7           Q     All right.  That is what produced the  
8     numbers that we looked at today?

9           A     That is correct.

10          Q     And you answered that in, I don't want to  
11     say you hedged, but obviously you can -- that is a  
12     parameter you can change?

13          A     Yes.

14          Q     And it also, the numbers that it produces  
15     as it was run today are premised on the list  
16     starting to crank and do its thing sometime in 2006,  
17     it was unclear to me whether it was July 1st --

18          A     It was July 1st, 2006.

19          Q     Okay.  So it was premised on the quote

20 gains and losses unquote starting -- well, back up.  
21 It was premised on a merged seniority list being  
22 operative as of July 1st, 2006 and the gains and

1215

1 losses or the earnings associated with the operation  
2 of that list beginning on July 1st, 2006?

3 A It assumed the list would be merged with  
4 the pilots who were there on the 1st of July 2006,  
5 and then first combined bid being July 1, 2007, and  
6 annually thereafter.

7 Q Okay. I didn't understand that, so you  
8 helped us out there a little bit. It assumes a list  
9 merged with the pilots in place who were in place as  
10 of July 1, 2006. It then ages the pilot work force  
11 to July 1st, 2007, without taking account of any of  
12 the earnings in between that period --

13 A Well, it would account for their earnings  
14 in 2006, in the position that they were in, as  
15 listed in the table. That is what they would earn  
16 for 2006.



17                   Then in 2007 when the list has been aged  
18 and vacancies have been refilled then it calculates  
19 how much they would earn for that year 2007.

20           Q     And the year --

21           A     Then it goes on in the same manner.

22           Q     And the year that we are talking about is

1216

1 always going to be a July 1st to June 30th year; is  
2 that right?

3           A     Yes, for today that is correct. I mean  
4 that is the baseline date, yes, that I have been  
5 using.

6           Q     So just to make sure I understand it, it  
7 assumes that whatever position the pilots were in on  
8 their separate operations on June 1st -- July 1st,  
9 2006, they remained in for that entire year?

10          A     Uh-huh.

11          Q     And then reshuffles the deck using the  
12 merged or the integrated seniority list on July 1st,  
13 2007?

14           A     That is correct.

15           Q     Okay.  One question I meant to ask you  
16     when I was asking you about the effect of pilots,  
17     furloughed pilots who choose not to come back from  
18     furlough, and I think you agreed with me that would  
19     affect the output of model that was run as of today,  
20     one of the ways it would affect the outcome of the  
21     model, if I understand it correctly, is that all of  
22     the quote losses that were, or may have been

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1     associated with any of those pilots who didn't come  
2     back attributable to the rest of their career at the  
3     merged airline, would drop off of the list, correct?

4           A     Yes, if we were to run the list, assuming  
5     that those pilots weren't going to come back or some  
6     pilots weren't going to come back then, yes, the  
7     model wouldn't calculate a loss for them.

8           Q     So, we don't need to look at Exhibit F-2  
9     page 144 for this, but just by, just to make it as  
10    concrete as we possibly can, Mr. Hershey shows in

11 your analysis a loss of 100, slightly more than  
12 \$100,000, and that is cranked into the sort of the  
13 total and if in fact Mr. Hershey didn't come back  
14 and dropped off the list for whatever reason, that  
15 \$100,000 would disappear off of the net loss column,  
16 correct?

17 A If we ran the model with that assumption  
18 that he wasn't coming back, then yes.

19 Q That is what I am saying. If in fact you  
20 ran the model with the assumption that he and every  
21 other furloughed pilot would come back, and all I am  
22 wanting to make sure that I understand, is that for

1218

1 every one of the pilots that don't come back, then  
2 the dollar figure associated with the described and  
3 described as the loss next to them would be  
4 subtracted from --

5 A Yes.

6 Q -- removed from the list?

7 A That is how the model would work, yes.

8 Q And so with all of that, all of those  
9 assumes in mind, I want to go back to the quote that  
10 I read to you earlier today from the Keller award,  
11 well, I didn't tell you it was from the Keller award  
12 but you may have recognized it?

13 A I certainly did.

14 Q Mr. Keller said the above is related not  
15 because it ---the above is raised not because it  
16 influences the manner in which the seniority list is  
17 integrated but to make one important point,  
18 assumptions made by the parties on which they based  
19 their computer modeling and trends to predict the  
20 future are likely only marginally accurate in the  
21 short term, and almost certainly wildly inaccurate  
22 in the medium and long term. Static assumptions,

1219

1 therefore, which were used to quote show unquote the  
2 impact of various scenarios in reality do not quote  
3 show unquote anything that is likely to bear any  
4 relation to reality.

5 Mr. Keller wrote that didn't he?

6 A Mr. Keller wrote that.

7 Q Do you agree with Mr. Keller?

8 A In a limited sense, yes.

9 Q All right?

10 A In a very limited sense that when we  
11 calculate somebody's quote/unquote career earnings  
12 it is unlikely to bear, you know, a whole lot of  
13 relationship to what they are actually going to do,  
14 for reasons that you have pointed out, people will  
15 choose to bid for lifestyle, pay rates will change,  
16 the industry will change --

17 Q They won't come back to work from  
18 furlough, they will retire before age 60?

19 A And so on.

20 Q Age 60 will turn to age 65, Delta will be  
21 acquired by US Airways, the fleet will change, all  
22 of those things, correct?

1220

1 A That is correct. However, I disagree with

2 him, and he didn't actually say this, so you know --

3 Q He didn't actually say what? He said what  
4 I read, didn't he?

5 A Yes. He didn't imply that the model would  
6 show a particular seniority integration as being  
7 fair when in fact it would be unfair. He didn't say  
8 that the model would show that a particular  
9 seniority integration would be unfair, which would  
10 in fact be fair. So you know, I have my own  
11 particular opinion about why that was put in there.

12 Q I am not interested in your opinion --

13 A I didn't think you would be.

14 Q -- why it was put in there. The fact is  
15 that it was put in there, and it says what it says,  
16 and we don't need to really say any more about it.

17 I want to turn to the next subject, if I  
18 can, please -- I am sorry. I want to clear one more  
19 sort of data point up. The lists, I think you were  
20 a little unclear about on this direct, the lists  
21 that you used both in the merged and unmerged  
22 scenarios were lists that were premised on the May

1 19th seniority lists but aged, May 19, 2005, but  
2 aged to July 1, 2006, correct?

3 A That is correct.

4 Q Okay.

5 A Yes, that is correct, and pilots who had  
6 been posted as deceased or, you know, retired were  
7 removed.

8 Q Okay.

9 A It wasn't just straight people being age  
10 60.

11 Q I don't mean this in a derogatory fashion  
12 what I am about to ask, but you are familiar with  
13 the term garbage in-garbage out?

14 A Yes, I am.

15 Q And in shorthand garbage in-garbage out,  
16 if I understand it correctly means the outputs you  
17 get are only as good as the quality of the inputs  
18 that you put in, is that a fair statement?

19 A That is what the saying means, yes.

20 Q Okay. So I want to talk a little bit  
21 about inputs. We already said that the inputs of

22 pilots that go into the list, that go into your

1222

1 model, are the pilots who were on the respective  
2 parties May 19th seniority lists aged to July 1st,  
3 2006?

4 A That is correct.

5 Q And on the America West side of the street  
6 that included obviously all of the pilots who were  
7 on that seniority list, correct?

8 A Yes.

9 Q On the US Airways side of the street it  
10 included a group of pilots that you may have heard  
11 us jabbering about over the course of this hearing,  
12 although not too much, pilots that are, we commonly  
13 refer to as the CEL pilots?

14 A Well, if they are in these exhibits then  
15 they were included in the model, yes.

16 Q Do you know anything at all about the YEB  
17 issue?

18 A I know a little bit about it, I have



19 been -- had it explained to me sort of cursory  
20 fashion. I understand something to do with flow  
21 through arrangement.

22 Q I am not going to ask you about sort of

1223

1 the merits or demerits --

2 A Yes.

3 Q -- of that, but put in simple terms there  
4 are 106 pilots that were on the US Airways seniority  
5 list that you used in your model who came to US  
6 Airways from a regional carrier to fly in the MDA  
7 division, and we contend that they shouldn't be  
8 really taken into account in the seniority  
9 integration, and that US Airways pilots take the  
10 opposite position, that they should be taken into  
11 account.

12 Be that as it may, those pilots, if they  
13 were on the seniority list and they were upon the US  
14 Airways seniority list, are run through your model  
15 just like any other pilot correct?

16 A Correct.

17 Q So whatever quote losses unquote that are  
18 attributable to those pilots are built into your  
19 model and ultimately became part of the total quote  
20 loss, correct?

21 A Yes, they would become part of the total,  
22 right.

1224

1 Q Another input that I want to be clear on,  
2 I think I know the answer to it, but I want to be  
3 absolutely certain, and that is why don't we look  
4 at, for the first time we can look at a piece of  
5 paper, Exhibit E-5, which is the job difference.

6 I am not interested particularly in the  
7 job groupings per se, but I am interested in the  
8 wage rates that are shown on the job groupings. So  
9 if I understand your model correctly, in the  
10 modeling process you always used the higher of the  
11 two, the highest wage rate from either of the two  
12 companies, correct?

13 A That is correct, yes.

14 Q So when you were looking at the merged  
15 airline you were using the US Airways A 330 and  
16 76-75 international captain position, captain rate,  
17 and the US Airways 76-757 domestic captain wage  
18 rate, and you were using the America West narrow  
19 body captain wage rate. Am I getting it right so  
20 far?

21 A Yes.

22 Q Okay. And then you used the US Airways A

1225

1 330, 76-75 international first officer wage rate for  
2 that position, correct?

3 A Yes.

4 Q And you used again, you used their wage  
5 rate also for the 76-75 domestic first officer, and  
6 then you shifted back to the America West narrow  
7 body first officer wage rate for the rest of the  
8 equipment, correct?

9 A You have identified the higher of the two

10 wage rates, actually.

11 Q And just so we can be sure what numbers  
12 you used, did you use for the US Airways  
13 international wide body rates 159.56 or 164.89?

14 A I am sorry, for the --

15 Q For the 330, I am sorry?

16 A For the 330?

17 Q Yes.

18 A It would be the one, I assume it would be  
19 the 164.89, the actual pay table of the that the  
20 model is using -- the actual pay table that the  
21 model uses would be on my computer, and I would have  
22 to look and see what precise rate it was using, but

1226

1 it would be the rate that was in effect May 1st,  
2 2000 -- sorry, July 1st, 2005 -- 6.

3 Q Five or six, 2006?

4 A Uh-huh.

5 Q And do you know whether for the 75-76 you  
6 used the pay table that was in effect which would

7 have been 144.02 or did you put the international  
8 override of \$5.33 into the mix to use a pay rate of  
9 149.35?

10 A It would be 149.35.

11 Q And then shifting down to the narrow body  
12 captain, you already told us you used the America  
13 West rate. Did you use 137.72 or did you use, for  
14 at any point in time, the wage rate that is  
15 scheduled to come into effect January 1, 2007,  
16 namely 141.85.

17 A No, currently we would be using whatever  
18 the rate was in 2006, so we wouldn't be using the  
19 2007 rate.

20 Q And you did that, okay, let's just, again  
21 let's get all of these out there. For the A 330  
22 first officer would you have used I assume then the

1227

1 112.51?

2 A Uh-huh.

3 Q For the 76-75 international first officer

4 you would have used 101.90 rather than the 98.37  
5 which is actually in the pay table, correct?

6 A I believe so yes. Perhaps I should turn  
7 on my computer and look these up so I can tell you  
8 exactly what rates we used.

9 Q Well, why don't you do that.

10 A Perhaps I could just give you the 15th  
11 year rate for the various pieces of equipment.

12 Q That would be a lot easier.

13 A I think it would be. All right, the 15th  
14 year -- those are annual rates.

15 Okay, captain 33, 164.89.

16 Q Okay.

17 A Captain 67 which would be 67-57  
18 international, 149.35. 57, 142.02.

19 Q Wait a minute, I am sorry --

20 CHAIRMAN NICOLAU: One --

21 THE WITNESS: 144.02.

22 BY MR. FREUND:

1 Q Okay?

2 A 330 captain, 137.72; the same for the  
3 captain 37, although we combined that with the 320.  
4 First officer on the A 330 112.51, first officer on  
5 767 101.90; first officer on 757, 98.37, that is  
6 what domestic 67/57, and on the first 320, 98 --  
7 sorry, 90.89.

8 Q Okay, so that confirms what I thought you  
9 had --

10 A That confirms.

11 Q -- had said, which was that you always  
12 used the higher of the wage rates. You cranked in  
13 the international override to do certain of the --

14 A I believe if you go down the longevity  
15 scale that if it was higher on one it would be  
16 higher on the other.

17 Q Okay. At the moment I am not focusing on  
18 the longevity scale, I am just trying to look at  
19 what got cranked in.

20 So you cranked in, looking at the 15th  
21 year and assuming things worked backwards from there  
22 similarly, you cranked in the US Airways A 330 rate,

1 you cranked in the US Airways 757-76 international  
2 captain's rate plus the international override for  
3 that position, and cranked in the US Airways wage  
4 rate for the 75-76 domestic, and then you cranked in  
5 the America West captain's rate for the narrow body  
6 equipment, correct?

7 A That is correct.

8 Q And then you paralleled that with the  
9 first officer rates?

10 A Correct.

11 Q Okay. And you used those rates from the  
12 beginning of the running of your model until the end  
13 of the running of your model, correct?

14 A That is correct.

15 Q And you used those rates, you used the --  
16 let me back up before I ask that. You know that  
17 roughly 90 percent, maybe more, of the US Airways  
18 fleet is narrow body equipment, does that sound  
19 about right to you?

20 A I have never, I don't think I have ever



21 calculated the percentage, but sure.

22 Q From a chainsaw math standpoint it sounds

1230

1 about right?

2 A My committee tells me that is right, then

3 --

4 Q Well, we can demonstrate it precisely if

5 we need to?

6 A Yes.

7 Q But the vast majority of the US Airways

8 fleet you used the higher America West rates,

9 correct?

10 A Well, that --

11 Q Did you or didn't you?

12 A Yes. Yes. That is correct. That is the

13 pay table that was used.

14 Q And notwithstanding that there is a wage

15 increase that was, that is scheduled to go into

16 effect, and that was scheduled to go into effect

17 on -- at, was already scheduled to go into effect

18 when the merger was announced, and will go into  
19 effect in about, less than three weeks, you didn't  
20 increase the America West rate from 137.72 to 141.85  
21 for the captain's narrow body captain's and from  
22 90.89 to 93.61 for the narrow body first officers?

1231

1 A No, I did not.

2 Q Okay. Having figured out what the rates  
3 were that you used, to be clear, you used them  
4 throughout the model, that is to say you used them  
5 on a stand alone basis looking at the airlines on a  
6 stand alone basis, and you used them looking at the  
7 airlines on a combined basis, correct?

8 A That is correct.

9 Q So in calculating the career earnings of  
10 US Airways pilots standing alone you used a wage  
11 rate that was in excess of the wage rate that they  
12 actually could have earned under their stand alone  
13 collective bargaining agreement, correct?

14 A I used -- I used a pay scale which was

15 combined.

16 Q You didn't use their pay scale, you used  
17 the America West pay scale, correct?

18 A For those pieces of equipment, yes, that  
19 is correct.

20 Q Which we have said on a chainsaw math  
21 basis is about 90 percent of the fleet, correct?

22 A Yes, there is a part --

1232

1 Q Is that correct or is that not correct?

2 A Pardon?

3 Q Is that correct or is it not correct?

4 A Is what correct?

5 Q Is it correct that you used a pay scale  
6 for 90 percent, roughly 90 percent of US Airways  
7 fleet and the pilots associated with flying  
8 90 percent of the --

9 A Yes, I said that.

10 Q -- that was in excess of the wage rate  
11 that they could have earned on a stand alone basis

12 under the terms of their existing collective  
13 bargaining agreement, assuming that the company even  
14 stayed in business? The answer is yes, I take it?

15 A The answer is yes.

16 Q Okay, and similarly on the flip side of  
17 that, in looking at the America West pilots' careers  
18 and career earnings on a stand alone basis, you used  
19 a wage rate that was below the wage rate that was  
20 scheduled to come into effect, let's see, you  
21 started this on July 1, 2006, that was scheduled to  
22 come into effect a mere six months into running

1233

1 the -- after the beginning of the running of your  
2 model, correct?

3 A That is correct.

4 Q Okay. So it is fair to say, is it not,  
5 that if one is looking to try to match your model up  
6 to anything that remotely resembles the real world,  
7 and I use the word remotely with a lot of caveats,  
8 your methodology overstates the earnings of US

9 Airways pilots on a stand alone basis to the extent  
10 that it uses a wage rate that they didn't have and  
11 weren't going to have, and it under understates the  
12 career earnings of the America West pilots to the  
13 extent that it doesn't use the higher wage rate that  
14 was scheduled to come into effect?

15 A Using this pay table as we have described  
16 using the higher of the various rates, the net  
17 impact of that is to understate the gains and losses  
18 that come from the merged list.

19 I think we have a very -- as we discussed  
20 yesterday, small discrepancy, smaller distance from  
21 the bottom of the pay scale to the top of the pay  
22 scale when we do it this way. The value of premium

1234

1 flying is understated and the value of junior flying  
2 is overstated so, therefore, the gains and losses  
3 actually get understated when we use this pay scale  
4 as opposed to any other pay scale that we use.

5 Q I don't think that makes any sense to me

6 but --

7 A Well, can I explain it.

8 Q No, you can answer my questions.

9 And my question is the following. To the  
10 extent that you trace an America West pilot through  
11 his career during the period of the 20 years or so,  
12 whatever it may be, of flying, you have that America  
13 West pilot earning less during his or her years  
14 flying on narrow body equipment than he or she would  
15 have actually earned once the wage rates increased  
16 on January 1, 2007, correct?

17 A That is correct.

18 Q All right. And to the extent that you  
19 have a US Airways pilot flying on a stand alone  
20 basis through his career, his or her career,  
21 29 years, whatever it may be, you overstate his or  
22 her earnings by using a higher wage rate than the

1235

1 wage rate that was in his collective bargaining

2 agreement for the narrow body positions, correct?

3 A That is correct --

4 Q Okay.

5 A -- the way the data was run today.

6 Q Correct. I can only ask you questions  
7 about the way the data was run today because that is  
8 all you have given us. So I just want to be clear  
9 that I understand what you did.

10 The next thing that you did, as best I  
11 understand, is that -- well, before I ask you about  
12 the next thing that you did, you know the piece of  
13 equipment the EMB 190?

14 A Yes.

15 Q You know that on July 1, 2006, which is  
16 when your model begins, there were no EMB 190s on  
17 the property, correct?

18 A That is correct.

19 Q And your model treats the universe as  
20 though there were never any, there would never be  
21 any EMB 190s, correct?

22 A Uh-huh.

1 Q But you also know that in the real world  
2 there were EMB 190s that came to the fleet, correct?

3 A Yes.

4 Q And you know that pilots who were  
5 furloughed from US Airways were recalled to fly that  
6 equipment, correct?

7 A That is correct.

8 Q And you know that when they flew that  
9 equipment they didn't fly it for free, they got paid  
10 for it, correct?

11 A Yes.

12 Q And if you took one of your, one of the  
13 pilots that are on the seniority list who actually  
14 returned from recall, returned from furlough to  
15 actually fly an EMB 190 and actually got paid for  
16 paid for it, if you -- the dollars that he earned  
17 from flying that EMB 190 are not recited or  
18 reflected anywhere in your tables, correct?

19 A No, they are not.

20 Q Let me ask you some -- well, I guess I  
21 call them math questions, not my strongest suit.

22 If I understand the way in which you moved



1 pilots in and out of positions and credited them for  
2 pay, stopped their pay, you said if a pilot moves  
3 into a position -- let me start from the other end.

4 In the last year of a pilot's career you  
5 stopped his or her pay when he actually turned age  
6 60, correct?

7 A Well, yes, the pilot is removed from the  
8 list on the first day of the month after they turn  
9 60, and so there is some fraction.

10 Q Right, but it is -- if they turn 60 in  
11 July of a particular year, they are removed --  
12 well --

13 A If they turn 60 in July of the year --

14 Q Forget July because that is not a good  
15 example. If they turned 60 in August, let's use  
16 August, if they turned 60 in August you credited  
17 them with earnings for July and then took them off  
18 effective August 1st?

19 A I think if they turned -- it would be

20 credited for July, they would be removed from the  
21 list in, if someone turned 60 in August they will be  
22 removed from the list --

1238

1 Q Okay.

2 A -- first of the next month.

3 CHAIRMAN NICOLAU: I was going to say if  
4 they turn 60 they go off at September, right.

5 THE WITNESS: Yes, as of September 1st  
6 they are gone.

7 BY MR. FREUND:

8 Q Okay. My question doesn't depend on the  
9 precise details. The fundamental point that I am  
10 trying to make sure I understand is that in the last  
11 year of a pilot's career you credit that pilot with  
12 less than a full year, depending upon when he turns  
13 age 60?

14 A Uh-huh.

15 Q The flip side of that, though, if I  
16 understand what you said correctly, is that any year

17 in which a pilot who was less than age 60 moves to a  
18 higher paid position he is credited with the pay for  
19 that position for the entire year; is that right?

20 A No.

21 Q Okay, well then I misunderstood you. Tell  
22 me how you --

1239

1 A Anyone who moved to that position, if they  
2 are only going to be in that position for six months  
3 then you would credit them with six months pay.

4 Q So if they have been there one month they  
5 get one month pay, if they are going to be there  
6 11 months --

7 A Yes.

8 Q Then either you misspoke or I misheard you  
9 because I thought you told us that every pilot that  
10 you moved into a higher paid vacancy you credited  
11 him for a year's worth --

12 A A year or the portion of the year they are  
13 going to be in that position.

14 Q Okay, I didn't, I am sorry, I didn't hear  
15 you a say a portion of the year.

16 A What it assumes is that people don't  
17 change positions midyear.

18 Q That actually reminds me, of a question I  
19 was going to ask you about your methodology. You  
20 are always moving a pilot into a higher paid  
21 position as soon as that pilot can hold it on the  
22 basis of his seniority, correct?

1240

1 A That is correct.

2 Q So your model doesn't take into account  
3 seat locks or training locks or anything that might  
4 be in existence?

5 A No, it doesn't. It can but it doesn't.

6 Q Okay. Now, let's turn to Exhibit F-1 and  
7 Exhibit F-2 if we can for a moment, please. Just to  
8 refresh us, Exhibit F-1 shows, both of these are on  
9 what you call the jobs ratio list construction,  
10 correct?

11 A Uh-huh.

12 Q And the jobs list -- the job ratio  
13 construction doesn't purport to be the proposal made  
14 by the America West pilots?

15 A No.

16 Q But I take it, it is a surrogate for  
17 something that might be proposed by the America West  
18 pilots?

19 A Yes.

20 Q Okay. And the difference between Exhibit  
21 F-1 and Exhibit F-2 is really Exhibit F-2, page 144  
22 of Exhibit F-2 which is the one we are looking at,

1241

1 is a summary exhibit?

2 A Yes, it just subtracts the values the  
3 unmerged column on F-1 from the merged column on  
4 F-1, whereas in the unmerged column where Farrington  
5 is what we are looking at, or whoever. I am looking  
6 at someone here who has gotten years as a captain on  
7 the unmerged -- and eight years as a captain on the

8 merged list and ends up with a minus 2 on the  
9 resulting summary.

10 Q Okay. But in all other respects those two  
11 exhibits are the same, that is they are generated by  
12 the same database?

13 A Yes.

14 Q They show the pilots in the same order,  
15 and they show either in summary fashion or  
16 collectively the gains and losses of years in  
17 particular seats and they show certain dollar  
18 values, correct?

19 A That is right.

20 Q Now, let's just take a look at Mr. Hershey  
21 because we talked a little bit about him?

22 A Uh-huh.

1242

1 Q To be, just to be clear, and I think the  
2 chairman asked you a question along these same  
3 lines, the line for -- well, let's look at F-1. The  
4 line for Mr. Hershey shows that on an unmerged list

5 he would have been on furlough for three years,  
6 again I assume that is commencing July 1st, 2006?

7 A Huh-uh.

8 Q He would have been on furlough for from --  
9 for three years from July 1st, 2006 and on the  
10 merged list it shows him only being on furlough for  
11 two years?

12 A That is correct.

13 Q On, starting from July 1st, 2006, so a  
14 quote benefit end quote of the merger is the  
15 opportunity for Mr. Hershey to come back to work a  
16 year earlier than he would have under the stand  
17 alone scenario, correct?

18 A Correct.

19 Q And when Mr. Hershey, assuming he did  
20 that, when Mr. Hershey came back to work a year  
21 earlier he would have earned, and we see that number  
22 in F-2, he would have earned \$87,311 by reason of

1243

1 coming back to work a year earlier?

2           A     That would be the net present value of the  
3 salary that he would earn in the year he comes back.

4           Q     Okay, that's the net, that is good. I  
5 wasn't actually sure whether the so-called surpluses  
6 and net present value number --

7           A     All numbers are net present value.

8           Q     All right. Those are net present value  
9 numbers.

10                     So by virtue of the merger, just looking  
11 at Exhibit F-1, page 133, by virtue of the merger,  
12 on the basis of this jobs ratio seniority list,  
13 Mr. Hershey would have quote lost \$100,208 net  
14 present value and would have gained \$87,311 of net  
15 present value, correct?

16           A     Mr. Hershey gains \$87,000 as a result of  
17 the corporate merger, and loses \$100,000 as a result  
18 of the seniority integration.

19           Q     Well, the seniority integration, and I  
20 don't want to get into legal squabbles with you, the  
21 seniority integration just like the fleet plan, just  
22 like wage rates, just like everything else, are all



1 a product of the merger transaction, are they not?

2 A Yes.

3 Q Okay. So I am going to repeat what I said  
4 and you tell me if I am correct. On this list as a  
5 consequence of the merger Mr. Hershey loses \$100,208  
6 in net present value and gains \$87,311 in net  
7 present value?

8 A That is correct.

9 Q Okay, and if in fact you had cranked in  
10 the EMB 190s and if Mr. Hershey had returned from  
11 furlough and flown when he first could and flown the  
12 EMB 190 he would have come back to work even earlier  
13 and would have gained additional net present value  
14 dollars, right?

15 A If it had been part of the fleet plan or  
16 the growth plan as was done later on, then that  
17 would have increased the amount that shows up in the  
18 surplus column. If it turns out he came back a year  
19 earlier because that would be a product of the  
20 merger, not a product of the seniority integration.

21 Q I have got one more subject I want to do

22 but I would like to fake a short break here?

1245

1 CHAIRMAN NICOLAU: Sure, okay.

2 (5:15 p.m. -- recess -- 5:29 p.m.)

3 CHAIRMAN NICOLAU: Okay, I think we are  
4 ready.

5 BY MR. FREUND:

6 Q Mr. Salamat, before I turn to the last  
7 part of the questions that I want to ask you, before  
8 we broke I asked you about Mr. Hershey and how his  
9 career earnings on an unmerged, in the unmerged  
10 carrier are quote overstated because of the use of  
11 wage rates that he didn't and couldn't have actually  
12 earned, I want to turn to, that is higher wage rates  
13 than were at US Airways contract, I want to turn to  
14 the flip side of that. And we don't really need to  
15 look at an exhibit, but just to kind of bring  
16 together one of the things that you told us earlier,  
17 you have got a bunch of lines for America West  
18 pilots, and for whatever number of years in their

19 career progression that are reflected on the job  
20 progression scenario, for whatever number of years  
21 they were holding or shown as holding narrow body  
22 first officer and narrow body captain positions.

1246

1 To the extent that you used the wage rate  
2 that was in effect in 2006 rather than the increased  
3 wage rate that was in effect in 2007, that  
4 understated the total dollars they would have earned  
5 on an unmerged carrier, correct?

6 A Correct.

7 Q So now let's take a look at, we can put  
8 exhibits -- these two exhibits away, and take a look  
9 at Exhibit 11.

10 Exhibit 11 is the summation of all of the  
11 lines of data that are contained in Exhibit F-1,  
12 correct?

13 A That is correct.

14 Q So turning to the box that is headed  
15 career earnings, the premerger in millions of

16 dollars line which shows 2459, so that is \$2 billion  
17 459 million, correct?

18 A That is correct.

19 Q For America West and 3 billion 783 million  
20 for premerger, namely stand alone US Airways pilots.  
21 Looking first at the US Airways side of the equation  
22 that 3 billion 783 million dollars is inflated over

1247

1 what the sum total of US Airways pilots would have  
2 earned during that period by all of those years in  
3 which all of those US Airways pilots were flying  
4 narrow body equipment but were being credited in  
5 your model for the wage rates at, that were in  
6 effect at America West, correct?

7 A That is correct.

8 Q Okay. And the same is true or the  
9 converse is true with respect to the premerger  
10 America West, that \$2,459,000,000 number understates  
11 the total dollar value of all of the America West  
12 pilots by all of the years in which those pilots

13 were flying narrow body positions, captain or first  
14 officer, and were credited by you in your model as  
15 earning the 2006 wage rate rather than the 2007 wage  
16 rate, correct?

17 A That is correct.

18 Q Let's do a little math together. The wage  
19 rate differential for -- that is overstated in the  
20 US Airways side of the equation is the difference  
21 between 137.72 and 124.88; is that right?

22 A Yes.

1248

1 Q Okay. So 130 -- I will turn the  
2 calculator on, 137.72 minus 124.88, it works out  
3 what I had on my pad. I just wanted to be sure I  
4 was right. I come up with \$12.84 an hour  
5 difference. Does that sound right to you, do you  
6 have a calculator or --

7 A I am just going, I am going to trust your  
8 calculator.

9 Q Go ahead, don't trust me but trust

10 calculator.

11           And doing the same thing with respect to  
12 the first officer wage rates the wage rate that you  
13 credited the US Airways pilots with that they didn't  
14 and couldn't earn was \$90.89 and what in wage rates  
15 actually were \$85.29 for a difference of \$5.60 an  
16 hour. Trust me on that too?

17           A     Sure, sounds about right.

18           Q     Okay. So let's just take, for ease of  
19 calculation and because it is probably as good a  
20 number as any, let's just take a pilot flying or  
21 getting pay, credited pay for a thousand hours a  
22 year, is that a fair assumption?

1249

1           A     Sounds about right. It is a good round  
2 number.

3           Q     Okay, so that is pretty easy math. For  
4 every first officer year flown by an America West --  
5 by a US Airways pilot in which he is credited with  
6 America West rates but didn't actually, couldn't

7 actually have earned them, he is credited with \$5600  
8 for that year that he couldn't have earned on stand  
9 alone basis, correct?

10 A Sure.

11 Q And for every captain, in every narrow  
12 body captain year that a US Airways pilot was  
13 credited as flying on a stand alone basis at US  
14 Airways and was credited for the America West rate  
15 and couldn't have earned that, the wage differential  
16 we said was \$12.84 an hour so that is \$12,840;  
17 correct?

18 A Sure.

19 Q Okay. Now, you know I think I jumped too  
20 soon when I said we could put Mr. Hershey away.  
21 Let's take Mr. Hershey out for a moment if we could,  
22 please, and for this look at Mr. Hershey. We only

1250

1 need page 133?

2 MR. KATZ: Of what exhibit?

3 BY MR. FREUND:

4 Q F-1. So by my calculation looking across  
5 Mr. Hershey's line, he had four years as a narrow  
6 body first officer, this is on the unmerged list.  
7 He had -- would have four years as a first officer  
8 on the A 320 in which he was getting paid, in which  
9 he was being credited by your model with \$5600 more  
10 than he actually could have earned, and in terms of  
11 captain positions by my calculations he was, he had  
12 five years as an A 320 captain in which he was  
13 credited in your model with earning \$12,840 more  
14 than he could have actually earned at a stand alone  
15 US Airways, correct?

16 A Correct.

17 Q So if I do the math that amounts to five  
18 years at \$5600 or \$24,400 and five years at \$12,840  
19 or \$64,200. Sound right?

20 A Well, with \$64,000.

21 Q I am going to go with 64,200 because that  
22 is what I already wrote down.



1 A Uh-huh.

2 Q And the sum of those two over creditings  
3 for him is \$88,600, correct?

4 MR. KATZ: What were the two numbers you  
5 were adding up --

6 MR. FREUND: 24,400 and 64,200.

7 MR. KATZ: You have got the wrong  
8 calculator, I guess. What is 4 times 5600, Jeff?

9 MR. FREUND: Let's find out; 22,400.

10 MR. KATZ: Thank you. And your whole line  
11 of reasoning is wrong, but at least arithmetic  
12 should be right.

13 THE WITNESS: I agree at that time  
14 arithmetic should be right.

15 Let's call it 80,000 or 90,000 or whatever  
16 so we can get on to the point.

17 BY MR. FREUND:

18 Q We will get on to the point, but I agree  
19 with Dan, the arithmetic should be right. Five  
20 times 12,840 is 64,200, and so the grand total is  
21 86,600.

22 So Mr. Hershey is shown, going back to his

1 line an Exhibit F-1, Mr. Hershey is shown as having  
2 an MBMF difference of roughly 100,000, \$100,208 in  
3 net present value losses, correct?

4 A That is what it shows.

5 Q But that is overstated by whatever the  
6 present value of that 86,600 figure which is  
7 calculated?

8 A That is incorrect. What is incorrect  
9 using that line is that his surplus figure is 86,000  
10 short, because again that 86,000 is the product of  
11 merging the two seniority lists, not a product of  
12 the particular integration methodology.

13 Hershey goes up to a higher rate because  
14 people have to be on the same rate at the same  
15 airline, I am assuming, you know. So that \$86,000  
16 additional that he will make merged isn't because he  
17 is having less taken out of his career going  
18 forward, it is because the wage rates have to be  
19 rationalized. So the surplus figure is understated.  
20 That is the net impact.

21 Q We will talk in a minute or two about the  
22 surplus figure.

1253

1 The fact of the merger is going to cause  
2 him, and the fact of the merger alone, is going to  
3 cause him to get the higher wage rate, correct?

4 A That is correct.

5 Q And on a stand alone basis, talking about  
6 a stand alone basis, he would not have had that  
7 amount, correct?

8 A That is correct.

9 Q And you calculated his stand alone  
10 amount --

11 A That is correct.

12 Q -- based on wage rates that he couldn't  
13 have earned?

14 A Uh-huh.

15 Q Correct? And that is the first part of  
16 the calculation that leads you to that \$100,208,  
17 correct?

18           A     No the \$100,208 is the result of the  
19 differences in positions that he will hold after all  
20 those surpluses have been taken out, so --

21           Q     You didn't take out the surplus, the  
22 so-called surplus associated with giving him on a

1254

1 stand alone basis a higher wage rate than the wage  
2 rate that he --

3           A     No, this model was run using the same  
4 rate, premerger and merged. There is a way of  
5 running this using different premerger and merged  
6 wage rates and the only difference that would come  
7 up is he would have a different surplus value. That  
8 \$100,000 would be identical.

9           Q     Because you treat the increased wage rate  
10 that he is going to earn by reason of this merger as  
11 a surplus, correct?

12           A     Yes, because it is by reason of the merger  
13 and not a result of this particular method of  
14 merging the two seniority lists.

15 Q But we talked earlier when I asked you  
16 this question, and I think you agreed with me then  
17 and I think you are going to agree with me, now that  
18 there are a whole bunch of things that come out of  
19 the product of the merger of the two companies. One  
20 is the shape of the fleet, the second is the shape  
21 of the wage tables, the third, and there may be many  
22 more, but a third is what the seniority list is

1255

1 going to look like, correct?

2 MR. KATZ: I object to that. That is the  
3 responsibility of this arbitration board to define  
4 the shape of the seniority integration methodology.

5 BY MR. FREUND:

6 Q But it is a product, whatever it is that  
7 the panel does is a product of the merger, that is  
8 to say it would not happen but for the merger,  
9 correct?

10 MR. KATZ: I object. If the work of this  
11 arbitration board is to be belittled and treated as

12 if it were nothing but a product of the merger then  
13 I don't know what we are here for.

14 CHAIRMAN NICOLAU: I didn't understand  
15 that, Jeff.

16 MR. KATZ: There is no particular  
17 methodology of integrating the seniority list. It  
18 is dictated by the fact that there is a merger and  
19 that is what Jeff's question assumes.

20 MR. FREUND: Not at all.

21 CHAIRMAN NICOLAU: I didn't think you were  
22 assuming that.

1256

1 BY MR. FREUND:

2 Q No not at all. All I am assuming is that  
3 merged seniority list is a product of the fact that  
4 the two airlines merged, correct?

5 A Yes, the lists are being integrated  
6 because the airlines merged, that is correct.

7 Q That wouldn't have, whatever the result,  
8 whatever the methodology, that wouldn't happen

9 anymore than the US Airways pilots getting a higher  
10 wage rate or getting the benefit of continuing to  
11 work. None of that would happen but for the fact of  
12 the merger, correct?

13 A And, you know, complete --

14 Q Is that a yes or no?

15 A That is a yes.

16 Q Just to circle back to something that I  
17 think you said clearly already. Looking back at  
18 Exhibit F-11, the blue number on top of this that is  
19 next to the line premerger under US Airways, that is  
20 premerger or stand alone earnings, is a number that  
21 is made up of all of the, what I have called  
22 inflated earnings of the US Airways pilots that are

1257

1 occasioned by using a rate that they didn't earn,  
2 correct, couldn't earn, correct?

3 A Correct.

4 Q Okay. And we just went through a little  
5 exercise with respect to Mr. Hershey which doesn't

6 do a net present value calculation, I understand  
7 that, but which concludes that his, the over  
8 statement with respect to him is \$86,600, correct?

9 A Sure.

10 Q And that is going to net present value  
11 something, I don't know what it is going to net  
12 present value to --

13 A Less.

14 Q We can agree it is going to be less than  
15 \$86,600.

16 Now, let's talk for just a moment about  
17 the \$83 million that is on that sheet that you have  
18 as surplus earnings. That surplus number is made up  
19 of all of the \$87,311 or whatever the numbers are  
20 next to the US Airways pilots occasioned by the fact  
21 that necessary were called back to work early,  
22 correct?

1258

1 A That is correct.

2 Q So that is money that under this model



3 they actually earn as a result of the merger,  
4 correct?

5 A That is as a result of the merger.

6 Q Okay. And not only as a result of the  
7 merger but as a result of the, in the model, the  
8 attrition of both America West and US Airways pilots  
9 reaching age 60 and thereby having to recall pilots  
10 from furlough?

11 A That is a result of pilots coming pack  
12 from furlough early.

13 Q Okay, and so again assuming that this  
14 model mirrored reality and for all the reasons we  
15 went through before it does not, but assuming that  
16 it did, Mr. Hershey would have earned \$87,311 and  
17 all of those \$87,311 add up to that \$83 million on  
18 your summary sheet, correct?

19 A Correct.

20 Q And so just sort of as a combination of  
21 things, looking at the summary sheet, if the  
22 \$3,783,000,000 is overstated in the way in which we

1 talked about, then the total earnings, the  
2 difference between net merged and unmerged would be  
3 a different number, correct?

4 A No, it wouldn't.

5 Q Why is that?

6 A If, if you use a round number, the  
7 premerger earnings on the US Airways side are  
8 understated --

9 Q Overstated?

10 A -- overstated, by \$83 million.

11 Q Forget about that, I am not talking  
12 about --

13 A I am just using a round number because it  
14 is 3.78 --

15 Q You are going to confuse us because there  
16 is another \$83 million on that sheet?

17 A If it is overstated by a billion dollars  
18 that means that the surplus earnings is understated  
19 by a billion dollars, because that billion dollars  
20 is a result of the two groups coming together. And,  
21 that billion dollars is money that couldn't be used  
22 by anybody but Mr. Hershey. No America West pilot

1 could have made any advantage of that. Him getting  
2 a pay raise doesn't come out of anyone else's  
3 pocket. That is why it just washes out. That is  
4 why we don't use it.

5 Q Are you so sure that his getting a pay  
6 raise doesn't come out of anybody else's pocket? I  
7 mean if the company has to pay him additional money  
8 to come up to parity with the America West pilots  
9 that is a chunk of money that is only going to go to  
10 the US Airways pilots, and is going to be less  
11 disposable money to put into pay raises generally  
12 isn't it? That is sort of a fundamental collective  
13 bargaining position isn't it?

14 A Well, fundamental collective bargaining is  
15 that people get paid the same for doing the same  
16 thing.

17 Q That isn't the fundamental collective --

18 A It isn't in the same union, most of the  
19 ones I work with.

20 Q My point is a very simple one. You have  
21 worked for a bunch of unions. My point is a very  
22 simple one. You understand, don't you, that when a

1261

1 union bargains with an employer that in one fashion  
2 or another there is some fixed amount of money that  
3 the employer is prepared to pay for wage increases.  
4 It may be subject to economic pressures, strikes --

5 A Companies certainly claim there is a fixed  
6 amount of money that they can use, and that is an  
7 argument the companies make all the time.

8 Q And if they have to pay some amounts to  
9 one group in order to make them equal to another  
10 group that makes less total dollars available for  
11 the group to which the second group is being brought  
12 up to?

13 MR. KATZ: I object to this whole line of  
14 cross-examination. It seems to me that the  
15 philosophical theorizing about collective bargaining  
16 has nothing to do with the integration of pilot

17 seniority lists.

18 MR. FREUND: I disagree completely, and I  
19 think that the cases are quite with me on this  
20 point.

21 CHAIRMAN NICOLAU: Keep on going.

22 BY MR. FREUND:

1262

1 Q Thank you. I think I made my point on  
2 that one, in any event.

3 You don't -- to put it in simple terms,  
4 you don't want -- how ever one calculates the quote  
5 surplus, whether it is by reason of use of monies  
6 that got paid to somebody from being called back  
7 early from furlough or monies that got paid to  
8 somebody by reason of getting the benefit of a wage  
9 increase that they otherwise wouldn't have had, you  
10 don't want to count that even though it is monies  
11 earned, you don't want to count that as something  
12 that is part and parcel of the economic analysis of  
13 the seniority integration, is that a --

14           A    I think the fact that it is on the list  
15   says that I do want to count it. The number shows  
16   up there quite clearly, I think. Maybe I should  
17   have made it bigger, I don't know, but I do  
18   calculate it. But is that 83 million dollars coming  
19   out of somebody's pocket, I would argue no.

20           Q    It is money that US Airways pilots earned  
21   by reason of the merger, correct?

22           A    And that is why it is characterized the

1263

1   way it is.

2           Q    Okay. One more little piece, little peek  
3   at this same exhibit. You show the average quote  
4   loss to a US Airways pilot as 37,000. These numbers  
5   are in thousands, right, the gains and losses on  
6   average?

7           A    Yes.

8           Q    Those are in thousands. You show the  
9   average loss to US Airways pilots as 37,763, right?

10          A    That is the average difference.

11 Q Yes, the average difference. The average  
12 difference --

13 A Is a loss on the US Airways side of the  
14 table.

15 Q Right, and just to be clear, I think we  
16 earlier said that one year of flying captain at the  
17 higher wage rates on the narrow body is worth  
18 12,840. So that average loss, again I understand it  
19 is present value, but that average loss is about  
20 three years of the difference in wage rates that are  
21 available to the US Airways pilots by reason of the  
22 merger and the higher wage rates that they are going

1264

1 to get as a consequence, correct?

2 A Correct.

3 Q And indeed it is actually less than that  
4 because you used the 2006 wage rates and we know  
5 they are going to go up in 2007. So if you use the  
6 2007 wage rates it would be less than two years of  
7 the wage differential, correct, less than three

8 years, I am sorry?

9 A Correct.

10 Q Okay. And just with respect, staying now  
11 in the career earnings, the total career earnings  
12 piece, just with respect to the surplus, that  
13 \$83 million surplus that you show which is  
14 attributable to the US Airways pilots coming back  
15 early, from furlough, just that alone knocks off  
16 \$83 million from, in real dollars from the 188  
17 million in real dollars that you show as the net  
18 impact, correct?

19 A Sir, could you say that again, please?

20 Q Well, yes. You have got a surplus of  
21 \$83 million which we previously identified as the  
22 sum total of the US Airways pilots earnings by

1265

1 reason of coming back from furlough earlier as a  
2 result of the merger?

3 A Uh-huh.

4 Q And you show a net impact loss of \$188



5 million by reason of the operation of this seniority  
6 list. Of the \$188 million quote loss by reason of  
7 the operation of the seniority list, 100 at this  
8 time -- not 100, \$83 million is absorbed by the fact  
9 that the pilots collectively are going to come back  
10 from furlough early, correct, in dollars in pilots  
11 pockets?

12 A Yes, I think that is -- yes.

13 Q And on your average/median gain line you  
14 show no gains for, on the US Airways side, correct?

15 A That is correct.

16 Q And that is because you don't credit the  
17 dollars attributable to coming back from furlough  
18 early, correct?

19 A Yes. What no gains means is that no US  
20 Airways pilot has gained at an America West pilot's  
21 expense.

22 Q So you are not saying, you are not

1266

1 saying --

2           A     I am not saying there is no gain to be had  
3 from the types of numbers that we have been talking  
4 about, these surpluses.

5           Q     And now let's just take a look at one last  
6 little piece of evidence, and that is Exhibit  
7 F-13(b). Do you have it?

8           A     Yes.

9           Q     With respect to the premerger under career  
10 earnings with respect to the premerger numbers  
11 everything that I asked you about the overstatement  
12 or the understatement of those numbers from the  
13 reality, based on the use of the, the failure to use  
14 the new US Airways -- I am sorry the new America  
15 West wage rates for the stand alone America West  
16 pilots, and the use of the America West wage rates  
17 for the stand alone US Airways pilots, everything  
18 you said about exhibit, those numbers in Exhibit F-1  
19 are equally true -- I am sorry, F-11, are equally  
20 true with respect to those numbers on Exhibit  
21 F-13(b); correct?

22           A     Correct.

1 Q And in this -- just sort of as a baseline  
2 point, this is a 15 percent growth scenario. What  
3 do you mean by 15 percent growth, what actually  
4 happens in this model?

5 A Added 15 percent to all of the available  
6 positions over a period of 10 years.

7 Q So you added 15 percent more A 330,  
8 15 percent more --

9 A All positions.

10 Q All positions, so you didn't make any  
11 judgment value as to the likelihood that growth  
12 would come in wide bodies --

13 A No, 15 percent.

14 Q -- okay. And this cranks out a net impact  
15 loss under your reasoning of \$112 million total for  
16 the US Airways pilots work force, correct?

17 A That would be the net impact.

18 Q Without taking the surplus into account?

19 A Without taking the surplus into account.

20 Q If you take the surplus into account in  
21 terms of dollars in people's pockets collectively it

22 produces a positive number, correct?

1268

1 A Correct.

2 MR. FREUND: That is all the questions I  
3 have got of this witness.

4 MR. KATZ: I have some questions, George.  
5 It is not going to take that long but I think, if  
6 the panel wanted to ask their questions before I do  
7 mine that would be fine. Whatever your preference  
8 is.

9 CHAIRMAN NICOLAU: Well, I just have one  
10 at the moment. I think it has been cleared up  
11 already, but let me just ask; Rikk, on page 144, of  
12 81?

13 THE WITNESS: Yes.

14 CHAIRMAN NICOLAU: Am I right that anytime  
15 I see a number on the NBNF column that is less than  
16 the surplus column that individual hasn't lost any  
17 money?

18 THE WITNESS: If the number in the NBNF

19 column is less than the number in the surplus  
20 column.

21 CHAIRMAN NICOLAU: Yes.

22 THE WITNESS: Then in terms of total

1269

1 career earnings, yes, they would not have lost any  
2 real money.

3 CHAIRMAN NICOLAU: Just individual pilot,  
4 Hershey individually didn't and so forth?

5 THE WITNESS: There are those who in fact  
6 did, yes.

7 CHAIRMAN NICOLAU: I just wanted to make  
8 sure.

9 Did you have anything?

10 MR. GILLEN: No, that was it.

11 CHAIRMAN NICOLAU: Go ahead.

12 REDIRECT EXAMINATION

13 BY MR. KATZ:

14 Q Let me just ask a few questions, Rikk,  
15 starting with this one. Is it true that the entire

16 line of cross-examination that we just heard suffers  
17 from a misunderstanding of the purpose of your  
18 model?

19 A Well, I think -- I think there is.

20 Q Would you explain, please?

21 A The purpose of this model is not to figure  
22 out to the penny what somebody is going to earn in

1270

1 the course of their career. It is not intended to  
2 come up with a number on the basis of which we could  
3 loan them money to buy a house or anything. It is  
4 intended as a way of measuring the value of the  
5 seniority they had unmerged and the value of the  
6 seniority number they will have merged. By doing it  
7 that way you can compare different integration  
8 methodologies.

9 The number, the amount of money that it  
10 calculated, you know, assumes a pay scale that we  
11 know, we went over in some detail, and you get paid  
12 more at the top than you do at the bottom. And that

13 is the way of valuing how somebody can move up  
14 towards the top of the seniority list as integration  
15 happens.

16           You know, we are using the best  
17 assumptions that we have, you know, in terms of what  
18 that pay scale looks like. Gives us a somewhat  
19 realistic impression of what the value of someone's  
20 career is, both unmerged and merged, and you know,  
21 for all of the issues that Jeff pointed out, what  
22 someone's career earnings might be.

1271

1           It would be miraculous if it worked out to  
2 that exact number, but let's -- that is the means by  
3 which we can assess whether a particular seniority  
4 integration methodology is going to cause harm or  
5 create windfall gains for another group.

6           And so, you know, as we go through and we  
7 pick apart the pay scale and we realize that there  
8 is issues there, we realize that there is gains to  
9 be had just because these two companies come

10 together, the model attempts to determine to the  
11 best degree possible with what is known today, what  
12 the impact of one merger integration model is over  
13 another.

14 Q Let me stop you at that point. I think  
15 that really answered my question.

16 You agreed with opposing counsel at the  
17 start that the purpose of the model was to look at  
18 two airlines on a stand alone basis and compare the  
19 careers to their careers on a merged airline using  
20 different seniority integration scenarios. That is  
21 what I wrote down and you --

22 A That is what the model is designed to do,

1272

1 yes.

2 Q And is it doing that in order to calculate  
3 the career earnings of any particular pilot?

4 A No, it is not, and there are other ways  
5 that this model has run in the past where we didn't  
6 use earnings at all, where we just use value of 1 to



7 10, for the best job and the worst job, in a  
8 situation where it happened to be 10, and you can  
9 use those numbers to see how they stack up against  
10 each other.

11 Q So the exercise is to compare the fairness  
12 of different seniority integration methodologies to  
13 one another?

14 A That is correct.

15 Q Going back then to some of the things like  
16 the pay rates that he dwelled upon in  
17 cross-examination, what would be the impact in terms  
18 of your purpose of evaluating fairness of different  
19 seniority integration methodologies if you had used  
20 different pay rates for the different pilot groups,  
21 since that is what they have got unmerged?

22 A As I tried to explain, if we use a

1273

1 different set of pay rates for an unmerged carrier  
2 and a merged carrier what do we end up with? We end  
3 up with exactly the surpluses that we have been

4 talking about. One group is going to potentially  
5 earn more but it doesn't really matter, in a sense,  
6 because we are not trying to figure out how much  
7 money somebody is going to make as a result.

8           We are trying to figure out whether this  
9 seniority integration methodology has any impacts  
10 that are notable from doing it this way. So yes,  
11 you know, in real terms furloughees coming back  
12 early earn more money, you know, and we calculate  
13 that out, but --

14       Q    All right. There is one piece of the  
15 examination that I think confused me. I am hoping  
16 we can straighten it out now. There was a series of  
17 questions about does the model assumed this and does  
18 the model assume that? And when you described it on  
19 direct examination I understood that the model  
20 consisted of certain inputs or assumptions like the  
21 pay scales, and those were run through some software  
22 which to us is sort of a black box that mixes them

1 around in the way you described, how making up a new  
2 seniority list and a new set of jobs and the output  
3 comes out in the form of charts like this, if you  
4 print it in this way.

5 So separating out the inputs from the  
6 software, what is the model and what are the  
7 assumptions, can you describe that?

8 CHAIRMAN NICOLAU: Hasn't he told us what  
9 the assumptions were?

10 MR. KATZ: Well, we had one -- let me just  
11 go back to one of the questions that Jeff asked on  
12 cross-examination. He said the model assumes age 60  
13 attrition.

14 CHAIRMAN NICOLAU: Doesn't it?

15 BY MR. KATZ:

16 Q And you agreed with that?

17 A I did.

18 Q And does the software assume age 60  
19 attrition?

20 A Well, the software has a parameter to  
21 require people at age 60, it is -- it is how, it is  
22 the line that people --

1 MR. GILLEN: It is a variable.

2 THE WITNESS: Yes, it is a variable, and  
3 it has been set to other things over time.

4 BY MR. KATZ:

5 Q All right. In the runs that you put in  
6 this book you used age 60 attrition?

7 A I did.

8 Q And you testified that the model has run  
9 age 58.1?

10 CHAIRMAN NICOLAU: Yes.

11 THE WITNESS: It has.

12 CHAIRMAN NICOLAU: You can change it if  
13 you want. The software will take what you give it?

14 MR. FREUND: That is what I said; garbage  
15 in, garbage out.

16 CHAIRMAN NICOLAU: Stop.

17 THE WITNESS: As I say, it is a variable  
18 you can change and it won't -- as long as it is  
19 applied to both groups merged and unmerged, it is  
20 not going to really change the picture of whether

21 jobs get transferred in great numbers from one group  
22 to another. It is like changing the pay rates won't

1276

1 really change that picture at all.

2 BY MR. KATZ:

3 Q All right. If you would use the United  
4 Airlines pay rates instead of the pay rates that you  
5 used, what would have been the impact of using the  
6 United Airlines pay rates instead of the U.S. Air  
7 pay rates, and the America West pay rates?

8 A If we had used these --

9 CHAIRMAN NICOLAU: I was going to say, do  
10 we care?

11 BY MR. KATZ:

12 Q Well, we don't know what the pay rates are  
13 going to ultimately be for this company, do we?

14 A No, we don't. Just, it is a quick answer,  
15 if we had used the industry average pay rates where  
16 we see gains they would be bigger. Where we see  
17 losses they would be bigger, because the value --

18 MR. GILLEN: All right.

19 THE WITNESS: -- for the captain would be  
20 higher.

21 BY MR. KATZ:

22 Q You talked about the starting point and as

1277

1 an assumption here. What is the starting point,  
2 what jobs were the pilots in?

3 A The pilots were in the positions that  
4 they, I believe they were holding on the first of  
5 July.

6 Q 2006?

7 A 2006.

8 CHAIRMAN NICOLAU: Right.

9 THE WITNESS: Or best data we have for  
10 that date.

11 BY MR. KATZ:

12 Q Okay.

13 CHAIRMAN NICOLAU: You didn't try to put  
14 them in the maximum entitlement positions at July 1,

15 2006?

16 THE WITNESS: No, we didn't, because we  
17 want to see how people can actually use their  
18 seniority since you can't jump people. You just  
19 leave them there and then they move from that  
20 position.

21 CHAIRMAN NICOLAU: Yes, but you didn't see  
22 from then on how they actually used it because you

1278

1 just simply said they used it according to the model  
2 to their maximum entitlement.

3 THE WITNESS: Yes, but they start from  
4 that position.

5 CHAIRMAN NICOLAU: Okay.

6 THE WITNESS: They can't be delayed from  
7 that position.

8 MR. GILLEN: The changeover starts in the  
9 next year.

10 THE WITNESS: Yes.

11 MR. GILLEN: So for an example, a person

12 who is exercising in seniority today, who could hold  
13 wide body captain but who chose to be, for the sake  
14 of argument an A 320 captain, in your model the  
15 progression would be that in that next year --

16 THE WITNESS: That person would grab that  
17 vacancy should one come up.

18 MR. BRUCIA: Now, take it to the next  
19 year --

20 THE WITNESS: Well, 330 captain, there is  
21 no way, no place for him to go.

22 BY MR. BRUCIA:

1279

1 Q My point is this. Are you advancing  
2 people into these positions as the retirees go off  
3 the edge of the earth?

4 A That is correct.

5 Q Are you advancing the people commensurate  
6 with that retirement date or --

7 A No, just take a snapshot.

8 MR. BRUCIA: Okay. That is what I



9 understood, okay.

10 CHAIRMAN NICOLAU: We are sorry --

11 BY MR. KATZ:

12 Q No, that is quite all right. I want  
13 everybody in the room to understand what is going  
14 on.

15 There were a whole series of questions  
16 about U.S. Air pilots getting credit for a rate that  
17 was higher than the actual rate in effect under the  
18 US Airways separate collective bargaining agreement.  
19 Isn't the 757 captain and co-pilot, aren't the 757  
20 and every captain and co-pilot's rates that you used  
21 higher than the rates that the America West pilots  
22 are paid?

1280

1 CHAIRMAN NICOLAU: Yes.

2 THE WITNESS: Yes.

3 CHAIRMAN NICOLAU: He indicated that he  
4 went back and forth, picking the highest.

5 BY MR. KATZ:

6 Q There were some questions about  
7 Mr. Hershey. Suppose Mr. Hershey didn't come back,  
8 he gets a recall notice and he passes and then  
9 ultimately he says, I would, I like being in real  
10 estate, I don't want to be a wide body international  
11 captain after all.

12 A Yes.

13 Q What happens, there were questions about  
14 doesn't that reduce the career earnings if you  
15 assume that there is a furlougee who doesn't come  
16 back? What does that do, can you tell us, without  
17 running it, what that would do to the surplus  
18 earnings and the transfer earnings that you  
19 calculated if there were some U.S. Air furlougees  
20 who didn't accept recall?

21 A If their -- well, the surplus earnings  
22 will go down.

1281

1 CHAIRMAN NICOLAU: Sure.

2 THE WITNESS: Because there is no earnings

3 to be had.

4 BY MR. KATZ:

5 Q The surplus earnings of the U.S. Air  
6 pilots?

7 A Yes, surplus earnings would go down.

8 Q What about the surplus earnings of the  
9 America West pilots?

10 A Well, they would stay the same. Their  
11 earnings, their surpluses come from, there is none  
12 of them on furlough.

13 CHAIRMAN NICOLAU: Yes.

14 BY MR. KATZ:

15 Q But what about Hershey's A 330 job?

16 A Well, yes. I mean this would be a  
17 different type of analysis you would have to look at  
18 in some detail, you know. If Hershey isn't there to  
19 take a job in the future it would be highly  
20 dependent on what positions, if he is on the bottom  
21 of the list it is not going to have any impact for  
22 anybody. However, if he is higher up the list and

1 he is not there, well then that would be an  
2 advantage for the America West pilots and we would  
3 probably have to track that as a surplus because  
4 again they are not taking that from anybody if they  
5 have his job, but he chose not to take it, so that  
6 would be a very different sort of exercise. But it  
7 is definitely a potential advantage for the America  
8 West pilots depending on where he ends up on the  
9 list.

10 Q What about transfer earnings, do you have  
11 any comments on how that would be affected by some  
12 of the furloughees not accepting recall?

13 A If the furloughees, again it would be  
14 difficult to sort of talk about in any one general  
15 way, because of what I just said.

16 Q All right, if you have to run it in order  
17 to answer the question that is a fine answer too, I  
18 just --

19 A Yes, you know, we did some very cursory  
20 look at this, assuming what would happen if a third  
21 didn't come back, but if you assume, you know, that  
22 a third just disappear, you know, then, yes, the

1 losses would go down by some amount and the  
2 surpluses would go down by some amount.

3           And so you know, in a different way you  
4 might want to look at those differences broken out  
5 from the others, but for purposes of the model they  
6 are still on the seniority list and we still have to  
7 see what happens to the merged and unmerged, and we  
8 assume they will come back.

9           (6:00 p.m.)

10          Q    All right, in assessing the fairness of  
11 different methods for integrating seniority lists do  
12 you think it is a proper calculation to offset the  
13 transfer earnings by the amount of the surplus  
14 earnings?

15          A    No. Well, for a bunch of reasons, you  
16 know, A, it doesn't, if you just look at that bottom  
17 line figure, so the guy gets a little bit more  
18 because he comes back early, and then you could say,  
19 well then he has been compensated for a loss that

20 happens later in his career. But if there is a loss  
21 later in his career it is variable just as coming  
22 back early.

1284

1 I don't think they net each other out, and  
2 if you are looking to say whether this list or that  
3 list involves a significant transfer of wealth from  
4 one group to another, I think you, its only  
5 analytical property is to look at that separately,  
6 because it is, you know, I have to say it again, I  
7 mean that is a product of having put these two  
8 groups together, that is a windfall.

9 And when you are looking at an impact to a  
10 group you don't want those windfalls to mask what  
11 would be very real losses for somebody who is not  
12 going to have, somebody who is not on furlough and  
13 doesn't come back a year early, but is going to have  
14 harm to their career done.

15 Hershey's gain can't offset somebody  
16 else's loss.

17 Q This is slightly different question, but  
18 it is really my last question, and that is on  
19 Exhibit F-1(a) you have laid out the hypothetical  
20 jobs ratio categories, there is the manner in which  
21 you built the list described in Exhibit F?

22 A Yes.

1285

1 Q And I would just like you to, in order to  
2 make sure that the record is clear and everybody is  
3 clear, on how you constructed the list, could you go  
4 over the narrow body captain section? I think the  
5 wide body captain and co-pilot sections are clear.  
6 You just plucked out some of the jobs on Exhibits  
7 B-1?

8 A Yes.

9 Q But for the narrow body jobs would you  
10 just state that, as clearly as you can, what  
11 exercise you went through there?

12 A Well, the first line which is called jobs,  
13 that is the number of positions that show up on B-1

14 when we look at the 320 and the three 76-737  
15 captain's. So if we add those up we end up with  
16 1106 and 798 for US Airways and America West  
17 respectively.

18 We then took the number of aircraft that  
19 were used on those dates, and again these are coming  
20 right off here, so you have got 220 on the US  
21 Airways side and 129 on the America West side.

22 Q And that corresponds to A 320s and Boeing

1286

1 737s?

2 A That is correct. You figure out how many  
3 pilots would get ratioed together in that category,  
4 too. We assumed that, you know, a list might  
5 discount the number of positions that US Airways  
6 actually had because there was some planned fleet  
7 reductions, and so we used the number of 161  
8 aircraft which corresponds to 73 percent of the  
9 fleet they had.

10 Q In those A 320 and 737 aircraft types?



11           A     That is correct.  So we just took  
12     73 percent of the actual number of jobs that were  
13     there and resulted with 809.  So that would be the  
14     number of pilots that you would use to ratio in  
15     under Category 2, under --

16           Q     Then due a similar exercise in the other  
17     direction with the 798 A 320 and Boeing 737  
18     captain's positions at America West at the time of  
19     the announcement of the merger?

20           A     That is correct.  So there was 129  
21     aircraft.

22           Q     And there was arguably an increase?

1287

1           A     There was arguably an increase, about half  
2     of them.  So if we increase that to 148 that means  
3     it is 115 percent, so we multiply 798 by 15 percent  
4     and end up with 916 America West pilots who would  
5     end up being ratioed into Category 2.

6                     It is the same math using the 73 percent  
7     from above to multiply the number of narrow --

8 sorry, that should be NBF, narrow body first.

9 Q Where it says NBC down there?

10 A Where it says NBC it should be NBF, narrow  
11 body first. So we just take 73 percent of 1057 and  
12 we end up with --

13 Q Isn't it the 774 that is there?

14 A 774.

15 Q You have the numbers put out there?

16 A Yes, and then 881 would be 115 percent of  
17 768, and since there aren't actually 768 America  
18 West pilots left once we get down to this category,  
19 there is only 748 so we just, we know that the ratio  
20 of pilots who would have gone to Category 3 is .88  
21 US Airways pilots to 1 America West pilot so, we  
22 just use that ratio to come up with 650 seven US

1288

1 Airways pilots who go in Category 4.

2 Q Then you ran out of America West pilots?

3 A At that point we have run out of America  
4 West pilots and we have 2655 US Airways pilots left

5 at the end of the list, of what is left.

6 Q That is how you constructed that, and that  
7 would give the America West pilots credit for 148  
8 airplanes in the A 320 and 737 types, plus 13 757's  
9 is a total of 161 airplanes, right?

10 A That number sounds very familiar, yes.

11 Q And the 220 aircraft in this category, it  
12 is the A 320 and 737 aircraft types, when added to  
13 the 75s and 76s and A 330s we give the US Airways  
14 pilots credit for 270 Airbus and Boeing aircraft?

15 A That is correct.

16 Q Okay. And the only restriction other than  
17 no bump no flush was the three-year restriction on A  
18 330 captain reserving those jobs for US Airways  
19 pilots?

20 A That is correct.

21 MR. KATZ: Thank you. I think that  
22 clarifies the record.

1289

1 CHAIRMAN NICOLAU: Anything?

2 MR. FREUND: I have some more questions.

3 It is getting late and they may be a  
4 little complicated but I am happy to keep pressing  
5 forward.

6 CHAIRMAN NICOLAU: I think Rikk would not  
7 be unhappy if we finished it up today.

8 RECROSS EXAMINATION

9 BY MR. FREUND:

10 Q Okay. Rikk, I am glad that Dan asked you  
11 about F-1(a) because I knew there was a line of  
12 questions that I hadn't asked you about and his  
13 asking that question reminded me that I wanted to do  
14 that.

15 A All right.

16 Q Again recognizing that all of this was  
17 done for the purpose of the modeling the  
18 hypothetical jobs ratio model as against a stand  
19 alone company, what I understood you to be doing  
20 here was to, in F-1(a) was to be creating  
21 essentially a mythical fleet, not mythical, a fleet  
22 that has for each airline on a stand alone basis,

1 that has had some evidentiary basis in this case,  
2 correct?

3 A Correct.

4 Q Okay. And that is why you grossed up the  
5 America West fleet to 161 and determined how many  
6 pilots would be necessary to be fly 161 pieces of  
7 hardware. And, while you ratchet down the US  
8 Airways side to 221 pilots and made a determination  
9 of how many pilots, 221 aircraft, and ratcheted down  
10 the number of pilots necessary to fly 221 pieces of  
11 hardware?

12 A That is how the categories are derived,  
13 yes.

14 MR. KATZ: I think the number is 211.

15 BY MR. FREUND:

16 Q 211. Rikk, what you didn't do after doing  
17 that was to restaff the fleet in a way that those --  
18 restaff each fleet in the way in which each of those  
19 fleets would have to be restaffed if they were those  
20 respective sizes, and by that I mean, you didn't  
21 promote America West first officers into captain

22 positions sufficient to fill the number of captain

1291

1 positions that would exist at a fleet of 161 and run  
2 your models on a stand alone, run your models  
3 against that, did you?

4 A There is a scenario that we have run where  
5 we do that.

6 Q I am asking what you did in the evidence  
7 that you chose to put on in this case. And it is  
8 absolutely clear that the exhibits -- the exhibits  
9 that you put on are the choices that your witness --

10 CHAIRMAN NICOLAU: Let him answer the  
11 question.

12 THE WITNESS: The count where you just  
13 derived these categories, they weren't used to  
14 actually say what the pool of jobs that were  
15 available to pilots were. The pool of jobs that was  
16 available to jobs are the ones that they are holding  
17 on July 1st.

18 BY MR. FREUND:

19 Q But I am correct, am I not, that if in  
20 fact the America West fleet was a fleet of 161  
21 aircraft, that on a stand alone basis without a  
22 merger, more pilots would have had to have been

1292

1 hired and pilots who were in first officer positions  
2 at a smaller fleet would have promoted to captains  
3 on that 161 aircraft?

4 A Well, if that had happened that would be  
5 true.

6 Q Yes, okay, and all I am saying is, to be  
7 clear, you used those fleets only to establish  
8 ratios, not to running -- do any of your modeling?

9 A That is correct.

10 Q Okay.

11 And if you had done that to do your  
12 modeling it would have produced larger, on the  
13 America West side it would have produced larger  
14 stand alone career earnings for the extant pilot  
15 force than is reflected in your exhibits, correct?

16 A A very marginal amount, very small amount.

17 Q And it would have produced a smaller  
18 career net earnings for the US Airways pilots on a  
19 stand alone basis?

20 A Again, quite small.

21 Q Let's look back at Exhibit F-2, page 144,  
22 the one that has got Mr. Hershey on it. Let's this

1293

1 time look at the first name on the list. I haven't  
2 had the pleasure of meeting him or her, Mr. or Ms.  
3 Iler, I-L-E-R. In the long answer you gave to Dan's  
4 question about what the purpose of the model was,  
5 you said the purpose of the model is not to figure  
6 out how much money somebody has so that he can go to  
7 a bank and buy a house, but rather to show the, what  
8 you describe as the wealth shifts by reason of the  
9 operation of a particular seniority list, one  
10 against another, correct?

11 A That is correct.

12 Q But it all, it does in fact show the,



13 recognizing all of the flaws in it, it does in fact  
14 show the total wealth, the total earnings of any  
15 particular pilot from all of the consequences of the  
16 merger run through the model, correct?

17 A Correct.

18 Q So just taking Mr. Iler, and I am taking  
19 him only because he is there at the end of his  
20 career, if he wanted to go to a bank and buy a house  
21 he would have about \$17,000 more under this scenario  
22 than he would have on a stand alone basis, correct?

1294

1 CHAIRMAN NICOLAU: He has already answered  
2 that question.

3 MR. KATZ: Objection, asked and answered.

4 MR. FREUND: I was so intrigued by his  
5 house buying example that I just had to go down that  
6 road.

7 CHAIRMAN NICOLAU: All right.

8 THE WITNESS: Yes, he comes back a year  
9 early, so he makes some additional income there. He

10 loses some income at the end of his career as a  
11 result.

12 BY MR. FREUND:

13 Q And goes out and buys a house with that  
14 extra \$17,000?

15 A I don't know where he is living, but if  
16 you can do that for 17,000 then good for him. You  
17 can't do that where I come from, but, you know --

18 MR. FREUND: That is all I have of this  
19 witness.

20 MR. KATZ: No further questions.

21 CHAIRMAN NICOLAU: Unfortunately I have  
22 one. I hope it doesn't generate more.

1295

1 MR. FREUND: Is that a hint?

2 BY CHAIRMAN NICOLAU:

3 Q Rikk, on F-11, and I am reminded that we  
4 took some of your earlier testimony, are you there?

5 A Yes.

6 Q There is a category under captain

7 expectancy that says windfall captains?

8 A Yes.

9 Q What is that?

10 A A windfall captain is, there are two, that  
11 sorts of go together. There is a lost captain the  
12 line above it, and those are first officers who  
13 would have made captain unmerged, who won't now. So  
14 there is 133 guys who just never get there at all.  
15 So we can't say how much later or how much sooner.

16 The other side of that is the windfall  
17 captains, the first officers who will now make  
18 captain who never would have, unmerged. And so we  
19 can't calculate a difference in the time because  
20 there is no other number to compare it to.

21 Q What figure did you say? I have 35. Are  
22 we looking at the same chart.

1296

1 MR. KATZ: Look at F-11.

2 THE WITNESS: I am sorry I am looking

3 at --

4 MR. KATZ: You were confusing me too,  
5 showing 304 and 35.

6 THE WITNESS: So 304 US Airways pilots  
7 don't ever make captain who would have, unmerged,  
8 and 35 America West first officers will make captain  
9 who never would have.

10 CHAIRMAN NICOLAU: Okay, so who never  
11 would have, thanks. That is all I have.

12 MR. FREUND: I am through.

13 MR. KATZ: That doesn't prompt any  
14 questions by me.

15 Did you get the hint too, Jeff.

16 MR. FREUND: Absolutely, but even without  
17 the hint it didn't prompt any additional questions.

18 CHAIRMAN NICOLAU: Very good. Let's go  
19 off the record.

20 (Discussion off the record.)

21 CHAIRMAN NICOLAU: Let's put it on the  
22 record. We are starting at 9:30 tomorrow.

1                   (Whereupon, at 6:40 p.m., the hearing was  
2 recessed, to be reconvened at 9:30 a.m., on  
3 Thursday, December 14, 2006).

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1	C O N T E N T S	
2		
3	WITNESS	EXAMINATION
4	JAMES L. HERSHEY	
5	by Mr. Katz	DX 1055, RDX 1079
6	by Mr. Freund	CX 068, RCX 1080
7	RIKK SALAMAT	
8	by Mr. Katz	DX 1082, 1109, RDX 1268
9	by Mr. Freund	VDX 1099, CX 1198,
10		RCX 1288
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