

1 BEFORE THE ALPA ARBITRATION BOARD
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3 - - - - -X
4 THE CREW MEMBERS OF :
5 US AIRWAYS :
6 Plaintiff, :
7 vs. :
8 THE CREW MEMBERS OF :
9 AMERICA WEST AIRLINES :
10 Defendant. :
11 - - - - -X

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13 HEARING, VOLUME II
14 GEORGE NICOLAU, Chairman
15 CAPTAIN STEVE GILLEN, Pilot Neutral
16 CAPTAIN JIM BRUCIA, Pilot Neutral
17
18 Washington, DC
19 Tuesday, December 5, 2006
20
21 REPORTED BY:
22 DONALD R. THACKER

1 Hearing before the ALPA Arbitration Board, on
2 December 5, 2006, in Washington, D.C. at the

1205ARB2

3 Marri ott Wardman Park, 2660 Woodl ey Road, Northwest,
4 at 10:00 a.m. before DONALD R. THACKER, a Notary
5 Public wi thin and for the Di strict of Columbi a, when
6 were present on behal f of the respective parties:

7

8 DANIEL M. KATZ, ESQ.

9 JASON WHITEMAN, ESQ.

10 Katz & Ranzman

11 5028 Wi sconsi n Avenue, NW, Sui te 250

12 Washi ngton, D. C. 22036

13 202-659-4656

14 dani elmkatz@comcast. net

15 On behal f of US Ai rways

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-- conti nued --

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1 APPEARANCES (Conti nued):

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3 JEFFREY R. FREUND, ESQ.

4 Bredhoff & Kai ser, PLLC

5 805 15th Street, NW, Sui te 1000

6 Washi ngton, D. C. 20005

7 202-842-2600

8 jfreund@bredhoff. com

On behalf of America West Airlines

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P R O C E E D I N G S

CHAIRMAN NICOLAU: So let's go on the
record.

MR. KATZ: We have some additional
questions on continued direct examination for the
witness Kevin Barry at this time.

CHAIRMAN NICOLAU: Proceed.

MR. KATZ: Thank you.
Whereupon,

KEVIN BARRY

was called as a witness and, having previously been
duly sworn, was examined and testified as follows:

R E D I R E C T E X A M I N A T I O N

BY MR. KATZ:

15 Q Kevin, would you remind us, when you were
16 talking about the ALPA activities that you had
17 previously engaged in at the very outset of your
18 testimony yesterday, you mentioned something to do
19 with the Shuttle merger in addition to being merger
20 representative, would you remind us what that was,
21 please?

22 A Yes, after the Shuttle merger I became a

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1 member of the Joint Negotiating Committee. For
2 those that are not understanding that, it is two
3 members of each committee gets together to take the
4 best out of each contract to put the combined lists
5 together.

6 Q What was your experience in service on the
7 ALPA Joint Negotiating Committee for the Shuttle-US
8 Airways merger contract?

9 A I was kind of expecting a little different
10 than what I actually got, after what could be
11 described as a very contentious integration
12 arbitration between the Shuttle and the main line.

13 I kind of expected kind of a cold shoulder
14 when I started doing the joint negotiating work,
15 but in reality the two members of the committee
16 Jerry McGucken and Kim Schneider warmly welcomed
17 myself and Ken Fowler to this committee, and
18 explained us to that the merger is over, the
19 arbitration is over, we are here to get the best
20 contract that we have.

21 And I can honestly say not once did I hear
22 anybody on the US Airways side say that it is going

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1 to cost us money to bring you Shuttle guys up from
2 \$126 an hour, which is our captain rate, to the \$150
3 plus that U.S. Air was making. They said we are one
4 company, we are one contract, we are union, this is
5 what we do. And I was very glad to find that to be
6 the case.

7 I find in this situation a little
8 disturbing the fact that the other side has
9 presented that it is a liability to bring us to what
10 they perceive to be a higher pay rate, which in
11 reality, as we will see Doug Parker's tape here, we
12 will see that Doug Parker explain that absent this
13 merger America West would have experienced pay cuts,
14 furloughs, reduction in aircraft, and all the
15 issues. So I think there is a synergy of the
16 merger.

17 Both of these pilot groups, we were
18 actually able to save the America West pay raise, or
19 else their pay raise would probably have been down
20 at ours or significantly below ours, due to the
21 financial situation.

22 Again, you will see to Doug Parker talk

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1 about that in the tape, that due to the slide and
Page 5

2 the yield that they were experiencing, and we all
3 knew what gas prices were at that time; we were
4 putting them into our car.

5 Q Let me interrupt you for a moment, Kevin.
6 We want to introduce, we have got tab 41 for this
7 book, and give 3 to the panel and 3 for the other
8 side; you have got one and I have got one, and well
9 provide a modified table of contents to reflect it.

10 CHAIRMAN NICOLAU: Yes, there is no more
11 exhibits in this volume.

12 BY MR. KATZ:

13 Q Okay, this appears to be a reprint from
14 yesterday's Wall Street journal article headed US
15 Airways sweetens deal with pilots. What is there
16 about this article that we should draw our attention
17 to?

18 A Well, it is talking that US Airways or
19 LCC, the combined company now, in an attempt to
20 maybe reach some labor peace, has decided to offer
21 the America West contract to all employees.

22 He goes on to talk about that. On the

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1 last page here the last paragraph, management's
2 objective is to put these two contracts together
3 without increasing the cost to the firm at all,
4 Parker said in a conference call basically saying
5 that the contracts are the same, or essentially
6 identical in terms of cost to the company at both
7 airlines.

8 Q So that was the company's story as of
9 July 27th, right?

10 A Correct.

11 Q And now what are they saying?

12 A Now that they are saying that they realize
13 that maybe there are some items in the America West
14 contract that may be better and they are offering
15 that as a take all package.

16 Q And they quote a union spokesperson, whose
17 name I am not going to try to pronounce, in the
18 middle of the page as saying they, management, think
19 they need to solve of some of their labor problems
20 prior to making this Delta deal successful.

21 So is it apparently ALPA's view that there
22 is some leverage with the company wanting to pursue

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1 Delta at this time?

2 A Oh, there is some significant leverage to
3 this. I think if you remember the United-US Airways
4 deal, the United pilots got a wonderful contract
5 with the possibility of another merger coming down
6 the line. So here is our opportunity to get great
7 gains for both pilot groups, I think.

8 Q And are there in fact aspects that you are
9 aware of where the America West contract is
10 deficient as compared to the US Airways pilots
11 contract?

12 A Say that again, sir.

13 Q Where the America West contract is

14 deficient as compared to the US Airways pilots
15 contract, the 757 rates, for example?

16 A For example, the 757-767 rates, our rates
17 are higher. We pay a different rate for equipment,
18 they pay a straight rate for all three pieces of
19 equipment.

20 We have international rates on those
21 pieces of equipment. We also have the A330 which
22 pays significantly above that. We also have what we

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1 call the Defined Contribution Plan on our side which
2 is currently a 10 percent pay over and above that
3 goes into a defined contribution plan to us, which
4 is a tax deferred item.

5 Q Is that better than America West has?

6 A Currently America West they have a match
7 on their 401(k) but if you were to look at the two
8 pairings you actually get to put more money aside
9 using our plan and it doesn't come out of your
10 pocket.

11 Q All right. So the objective of the pilot
12 group is to get one contract that has got the best
13 of both contracts?

14 A Correct, that is what the JNC should do.

15 Q Now, to get back to this video that we are
16 going to show in a moment, can you just put in
17 context what it is we are about to see? It is a
18 meeting on January 25th in Phoenix. What is the
19 nature of the meeting?

20 A It is, again, as I said yesterday prior to
21 us not showing this tape, it is a brown bag lunch
22 that Doug Parker or one of his people in his office,

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1 most of them are held by him, comes to the pilots
2 and flight attendants and sometimes combined groups,
3 and explains to them what is going on, state of the
4 airline, and then does a Q and A at the end.

5 Q Okay, and we have provided a transcript
6 and will provide or have provided a DVD or a CD of
7 the entire exchange between Mr. Parker and the
8 assembled pilots and flight attendants, in tab 34 is
9 the transcript.

10 A Correct.

11 Q But there is an excerpt that we have
12 pulled out that is particularly pertinent, it starts
13 at page 11 of the tab 34?

14 A Correct.

15 Q And can you, in anticipation of what we
16 are about to see, can you give us, Mr. Barry, some
17 of the highlights that we should watch for in terms
18 of correcting misstatements by the other side?

19 A Yes. As was mentioned in AWA counsel's
20 opening statement and also in their statement of
21 position, that they call this an acquisition of US
22 Airways. You will hear Doug Parker explaining how

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1 it actually happened and you will actually hear that
2 it was a legally vice versa.

3 You will also hear Mr. Parker talk about
4 his favorite chart, which is in Exhibit 29, and he
5 refers to it as his favorite chart. It is the total
6 cash as a percentage of the last 12 months revenue.
7 You will hear him talk about that and where their
8 company is in relation to the rest of the world and
9 where they are now. You will hear him describe that
10 piece in there.

11 You will also hear him talk about the fact
12 that, as I said previously, that had this merger not
13 occurred that America West would have been facing
14 pay cuts, reduction in aircraft, and the like.

15 Q All right, is that it? Shall we show this
16 clip now, it is about ten minutes, I think.

17 A I've got a couple other things to add
18 here. I am referring to my notes. If you will
19 follow just for a second, also again, if you look at
20 Exhibit 38 that we had for Bear Stearns you will
21 hear him talk about, you know, possibility of
22 liquidity problems, basically cash problems, and

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1 that is what is backed up in the Bear Stearns
2 report. And the idea that some of the fees that
3 they have would have to be returned, and you will
4 hear him talk about some of those issues.

5 MR. KATZ: All right, thank you.

6 (The video clip is shown but not
7 reported.)

8 BY MR. KATZ:

9 Q Thank you. I am going to show you,
10 Mr. Barry, a section of the transition agreement
11 which is a joint exhibit in this case, it is section
12 8D, and let me just read it, it is very short.

13 It says, "Subject to any applicable
14 statutory limits employer contributions to the
15 associations applicable 401(k) or Defined
16 Contribution Plan will be 10 percent of the pilots
17 eligible earnings as defined in the applicable plan
18 without an employee or employer matching
19 contribution. Note, for America West pilots
20 contributions will be effective January 1, 2006."

21 And what you referred to this issue, was
22 that issue straightened out for the America West

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1 pilots in the transition agreement?

2 A It was. I may have misstated and said
3 that there was a matching 10 percent. But now they
4 can put in 10 percent without the company having to
5 match it, I believe is what it is saying here.

6 Let's see, subject to -- yes, I believe
7 that is correct. I believe there used to be a match
8 required before and now there is not.

9 Q So, this issue was resolved at the time of
10 the consummation of merger in December 2005?

11 A Correct.

12 Q I just wanted to clarify that for the
13 record?

14 A My apologies if I misstated.

15 Q Not at all.

16 After seeing the video were there
17 additional comments that you wanted to make on it or
18 should we just open this up to questions by Jeff?

19 A I wanted to just maybe go through some of
20 the other exhibits that we had again or just direct
21 to some of the questions that Jeff had mentioned.

22 CHAIRMAN NICOLAU: Why don't we wait for

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1 redirect.

2 MR. FREUND: Yes, why don't we wait for
3 redirect.

4 MR. KATZ: Fine.

5 RECROSS EXAMINATION

6 BY MR. FREUND:

7 Q Kevin, I am not going to ask you any
8 questions about the 401(k). We will explain to the
9 panel the way the 401(k) and profit sharing works at
10 a proper time.

11 Kevin I hate to do this because you are a
12 really nice guy and I like you, but when Dan throws
13 you to the wolves, the wolves have to do what the
14 wolves have to do.

15 So, yesterday we established that you are
16 not an expert in financial analysis, you are not an
17 expert in bankruptcy, you are not an expert in

18 transactions, mergers and acquisitions, correct?

19 A Yes, sir, we did establish that.

20 Q So today we can also probably establish
21 that you are not an expert in securities law,
22 correct?

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1 A That would also be correct.

2 Q So, if I said the words Sarbanes-Oxley to
3 you would you even know what I was talking about?

4 A I didn't do very well in Latin. That is a
5 joke.

6 Q If I asked you what the legal obligations
7 were with respect to a corporate executive when he
8 was making forward looking statements about his
9 company as opposed to when he was making backward
10 looking statements, you wouldn't be able to tell me
11 the difference in legal obligations, would you?

12 A I would not be able, to reiterate, no I
13 wouldn't.

14 Q So the transcript that we just heard or,
15 that I heard, that some of the people saw, that was
16 insofar as Mr. Parker was talking about what he
17 perceived, what he said he perceived the
18 circumstances that America West would have faced had
19 there not been an acquisition, was in the sense of
20 backward looking discussion, right?

21 That is to say, he wasn't predicting the
22 future for America West as it stood today because

1 there wasn't America West, at that point, he was
2 describing what he thought America West would have
3 faced had the transaction not occurred, correct?

4 A The company, as CEO of the company with
5 probably more information than you and I both have,
6 but he was explaining what he thought would have
7 happened, yes.

8 Q But that was just a hypothetical scenario
9 at that point because the transaction had occurred
10 and so he wasn't really talking about what in fact
11 was going to happen to the company that he was then
12 the CEO of; correct?

13 A Right, he was attempting to answer the
14 questions of someone saying why did we do this
15 merger.

16 Q Right, and in course of that he said some
17 words about what he thought back then, back before
18 the merger might be liquidity issues, correct?

19 A Correct.

20 Q Okay. Now, you know that before the
21 merger was announced that there were presentations
22 made by the company and by Mr. Parker in particular

1 to the investment community, correct?

2 A Correct.

3 Q And do you remember, and if you don't
4 remember, that is fine, but I just want to see now

5 if you remember, whether in one of those
6 presentations there was a very express discussion
7 about liquidity and liquidity issues for America
8 West?

9 A I am sorry, would you say that again?

10 Q I am just asking you whether you remember,
11 and if you don't remember that is fine, but if you
12 do remember whether in one of those pre-merger
13 announcement presentations to industry analysts,
14 Mr. Parker engaged in a discussion with them about
15 future liquidity issues that the company might or
16 might not have?

17 A I think I remember something about that.

18 Q Okay, and you remember, or do you remember
19 that, I am not going to ask you about the details,
20 we will put the details in later, but do you
21 remember him saying after or as part of that
22 discussion, we don't lose any sleep over liquidity

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1 issues here?

2 A I think the comment I remember was we
3 weren't sweating the cash position. It may not have
4 been, but it was Mr. Kirby. But as he said in the
5 tape I --

6 Q Why don't you just answer my questions.

7 A I thought I was.

8 Q No, you weren't.

9 A Okay.

10 Q My question was do you remember Mr. Parker

11 saying words to the effect of we don't lose any
12 sleep over liquidity issues at the company, this
13 is --

14 A I don't remember that statement, no, sir.

15 Q You remember Mr. Kirby saying something
16 like we don't sweat the cash position?

17 A I believe it was Kirby. I have looked at
18 so many financial reports, I believe that was
19 Mr. Kirby that may have made that statement.

20 Q Okay, and sitting here today, you can't
21 tell me, can you, what the legal obligations were
22 with respect to Mr. Kirby's and/or Mr. Parker's

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1 statements at the time he made them in April as
2 distinguished from what legal implications, what
3 legal obligations, if any, there were when he was
4 talking to employees in this lovely little tape we
5 just saw?

6 A If I could answer this question, I think
7 what he was talking about was two different issues
8 --

9 CHAIRMAN NICOLAU: No --

10 MR. FREUND: Just answer my question.

11 CHAIRMAN NICOLAU: The question was
12 whether there was a difference between legal
13 obligation regarding future and past.

14 THE WITNESS: I don't understand the legal
15 obligation as far as the future and past, that is
16 correct.

17 BY MR. FREUND:

18 Q Okay, I think that is enough of that.

19 A Word or two about your discussion of the
20 two collective bargaining agreements. You said that
21 you were on a Joint Negotiating Committee of the
22 Shuttle and US Airways seniority integration?

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1 A That is correct.

2 Q There is a Joint Negotiating Committee in
3 connection with the US Airways-America West
4 transaction, correct?

5 A That is correct.

6 Q You are not on that committee, correct?

7 A I am not.

8 Q Are you aware at all of any of the work of
9 that committee?

10 A I have seen bits and pieces of it. This
11 is such a full-time job, to be honest with you, I
12 was kind of concentrating on this. I have been
13 asked questions by pilots on the line and I refer
14 them to the JNC. So I have limited knowledge.

15 Q So, I am not going to ask you any detailed
16 questions and we will certainly put on witnesses
17 that will describe the work of that committee, but
18 let me just ask you, just so that we can preface
19 this for the Board, whether you know if it is or is
20 not the case that there is a costing to parity
21 exercise that is being engaged in by the Joint
22 Negotiating Committee and the company?

1 A I would assume that is done in any
2 negoti ation.

3 Q Okay. You are not privy to the details of
4 the costing to parity issue, are you?

5 A I am not at this time.

6 Q Right. If I understood your testimony
7 correctly, you said that you were a little disturbed
8 in the context of this case that the America West
9 pilots were pointing to the contract benefits that
10 the US Airways pilots were going to get as a result
11 of this transaction as sort of part of the case.
12 Did I understand your testimony correctly on that?

13 A One more time, please.

14 Q Sure and that was a really badly asked
15 question, so let me try to ask it a little better.

16 Did I understand your testimony to be that
17 you are a little disturbed at the fact that the
18 America West pilots were raising the issue of the
19 cost to the company, and arising from the added
20 benefits that the US Airways pilots were going to
21 receive as a result of this transaction in this
22 case, is that --

1 A Yes. I always find it objectionable when
2 the union is not about everybody getting the same

3 pay rate for doing the same job.

4 Q Okay, but look, you are on the merger
5 committee so you canvas the universe, I assume, of
6 seniority integration decisions that have been
7 issued by arbitrators over the course of how these
8 many years, right?

9 A I have.

10 Q And you are aware, are you not, that in
11 the course of virtually every one of those cases an
12 issue arises in the context of equities of the two
13 parties, of the difference in contract rates and
14 benefits, and the effect on one group or the other
15 of the merger, correct?

16 A That is true, but I still find it
17 objectionable.

18 Q Okay. And not only do they get raised in
19 seniority integration cases but in an exhibit that
20 your colleague put in yesterday, Exhibit 5, there is
21 a document that is called a final order from the
22 United States Department of Transportation in

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1 connection with the Piedmont-Empire transaction, and
2 I am going to just read from the second to the last
3 page of that document, and that is at tab 5, it is
4 at the top second to last page of tab 5, where in
5 explaining why it is that the Department of
6 Transportation was not going to interfere with what
7 had been done in connection with seniority
8 integration, the Assistant Secretary said "moreover,

9 the applicants and the Piedmont pilots have shown
10 that the acquisition will improve rather than injure
11 the wages and working conditions of the Empire
12 employees. The great majority of the empire
13 employees will receive immediate pay increases since
14 Piedmont has higher pay scales than Empire, and no
15 Empire employee will receive less pay."

16 So, assuming I read that correctly, and
17 you can take my word for it that I did, not only in
18 seniority integration cases under ALPA merger policy
19 or otherwise, but apparently under federal -- under
20 what were then existing federal guidelines and
21 federal LPP obligations, those kinds of issues were
22 taken into account by the United States government,

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1 correct.

2 MR. KATZ: I object to that question. It
3 is argumentative, calls for legal conclusion from
4 the witness, and as faulty --

5 MR. FREUND: It is not argument and it
6 doesn't call for a legal conclusion. It calls for
7 you to answer the question if you are able to answer
8 it. If you can't answer it, tell me.

9 CHAIRMAN NICOLAU: Can you?

10 THE WITNESS: I think I can answer it.
11 This is a document from the Department of
12 Transportation. I don't think they are a unionized
13 organization, so they are giving a different point
14 of view.

15

BY MR. FREUND:

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Q Yes, they are. Okay, enough of that.

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I have never found it particularly useful to cross-examine somebody about documents that he didn't author, the witness didn't author, or on subjects that discuss subjects about which the witness is not an expert, but since you took us through, trippingly through a bunch of documents and

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asked us to look at them, I just thought I would ask you to take us through a couple more little pieces of some of those documents?

A As a non-expert, sure.

Q As a non-expert, right.

So why don't we start with Exhibit 13, please. Do you have it?

A I have it, sir, yes.

Okay, if I this, if I read this correctly, talks about the first Chapter 11 that US Airways was in, is that -- am I correct about that?

A You are correct.

Okay. Now, yesterday when we were talking about this US Airways stock I asked you questions about the effect of the bankruptcy, the effect of bankruptcy 2, sometimes referred to as chapter 22, as opposed to Chapter 11, bankruptcy 2 for US Airways and you told me, which was correct, that the shareholders equity was wiped out entirely in bankruptcy 2, correct?

21 A The US Airways shareholders' equity was
22 wiped out in bankruptcy as is traditional in

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1 bankruptcy of most stocks.

2 Q I am glad you said that because that is
3 not actually always the case, is it?

4 A Majority of the cases, as a non-expert on
5 the case, but I have looked at it.

6 Q You have looked at kind of the universe of
7 bankruptcies, not just the airline industry but in
8 sort of industrial America, and concluded that in
9 the majority of the cases the shareholders get wiped
10 out?

11 A I had some Eastern stock and some MCI
12 stock and a few others that aren't with us today,
13 yes.

14 Q Anyway, there was discussing, this
15 Exhibit 13 was discussing the first bankruptcy, and
16 if I am looking, if I am understanding correctly
17 looking at the one, two, three, fourth full
18 paragraph from the bottom, do you see that it says
19 consistent with the plan of reorganization --

20 A Okay.

21 Q Do you see that?

22 A Yes, sir.

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1 Q So consistent with the plan of

2 reorganization confirmed by the U.S. Bankruptcy
3 Court on March 18th, 2003, the company's prior
4 common stock has been cancelled, new restricted
5 stock is being distributed in accordance with post
6 petition agreement."

7 So am I understanding that correctly to
8 mean that in bankruptcy 1, the shareholders of US
9 Airways were wiped out, and then again in bankruptcy
10 2 the shareholders for US Airways were wiped out?

11 A I would say that is correct.

12 Q So it is not just once that the
13 shareholders were wiped out, but twice.

14 Oh, and I was going to raise this at a
15 different point, but as long as we are talking
16 about -- we have looked at some words that say plan
17 of reorganization. Yesterday in connection with
18 your testimony about the extension of exclusivity, I
19 think if I remember your testimony correctly you,
20 when you were describing the deal that the company
21 cut with the credit card companies, you had said the
22 credit card companies had signed on to our plan, do

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1 you remember that?

2 A Yes, I misspoke, there was --

3 Q There was no plan?

4 A No, this was just a motion to extend the
5 period where US Airways would be, you know, the
6 exclusive right to put in a plan. I misspoke when I
7 called that a plan.

8 Q Because there was no plan of
9 reorganization at that time, correct?

10 A I don't know. I was not on the creditors
11 committee, I was just --

12 Q I will ask it differently so that your
13 answer actually matches the question.

14 A Okay.

15 Q You are not aware of any plan of
16 reorganization that was extant at that point, are
17 you?

18 A Correct, I am not aware of any formal plan
19 of reorganization.

20 Q And you, not just at that point but you
21 are not aware of any plan of reorganization that was
22 extant at any time prior to the plan of

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1 reorganization that encompassed the merger
2 transaction?

3 A I was not privy to any of that, so the
4 information I have says no, there was not a plan.

5 Q Okay. Let's look forward, jump forward to
6 Tab 18, please. Now, Tab 18, if I remember your
7 testimony correctly, was you described as an article
8 in the newspaper, I guess, Pittsburgh Post-Gazette
9 that from the reporters perspective describes how
10 the transaction ultimately came to be, correct?

11 A That is correct.

12 Q Okay, and at some later point in your
13 testimony, not related to this article, if I

14 remember correctly, you had made reference to
15 companies other than US Airways -- I am sorry,
16 strike that, companies other than America West
17 having an interest in a transaction of one kind or
18 another with US Airways?

19 A That was in this news story that I was
20 reporting on.

21 Q Yes, I don't think you pointed to the news
22 story when you gave us that testimony, but you did

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1 at some point, you did describe that there were some
2 other, that you understood there were some other
3 companies that had an interest in US Airways?

4 A I believe I probably read it at a very
5 high rate from this news story.

6 Q Well, be that as it may, we will see what
7 you said when we get copied with the transcript of
8 your testimony, but why don't we read it at a little
9 slower rate when we are looking at it today.

10 So Dave Segal was at one point the CEO of
11 US Airways, correct?

12 A Correct.

13 Q And this article describes the Segal, at
14 least in part of the Segal era of US Airways,
15 insofar as its transaction with America West is
16 concerned, correct?

17 A I am sorry, one more time.

18 Q This article describes at least in part --

19 A I'm trying to read here --

20 Q No, don't read. Just listen.

21 A Well, you are going to ask me a question
22 about it and I want to be able to answer it.

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1 Q Let's see if you can answer it without
2 looking at it, and if you need to look at it then
3 you can look at it?

4 A All right.

5 Q This article describes at least in part
6 the Segal era of US Airways insofar as its potential
7 transaction with America West is concerned, correct?

8 A It mentioned, I would have to review the
9 article to see what it says once again, but I see it
10 mentions Mr. Segal at the bottom.

11 Q We are going to read that together and I
12 will just read it and you tell me if I'm reading it
13 correctly, and if what I am reading encompasses
14 your, the substance of the testimony that you gave
15 about other companies having an interest in US
16 Airways. So I am reading from the bottom of the
17 page which reads as follows, "Segal was convinced
18 that for US Airways to avoid the fate of failed
19 carriers such as Eastern Airlines," which I know you
20 know about, "and Pan Am, both of which I liquidated in
21 the 1980s, he would have to bring US Airways costs
22 down further and position the airlines for

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1 consolidation with another carrier. He explored
2 several options."

3 And then I am not going to read
4 specifically the options, except one of them
5 describes a relationship with United, another
6 describes a relationship with Virgin Atlantic, and a
7 third describes a relationship with the carrier
8 dividing the company into two separate companies,
9 and then picking up again, the article reads "but US
10 Airways ultimately rejected those options. United
11 didn't have any interest in the deal and was too
12 distracted by its own struggles in bankruptcy,
13 Virgin Atlantic wanted lots of US Airways assets,
14 namely gates, planes, airport equipment, to help
15 launch a new U.S. Airline, but all it would offer in
16 return was the Virgin brand name. US Airways also
17 turned down several inquiries from other carriers
18 including Southwest, Jet Blue Airways and Air Tran
19 Airways about acquiring the company's assets but not
20 its employees. In the end only America West wanted
21 both."

22 Was that the material that you were

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1 referring to when you were talking about other
2 companies, about the possible other transactions
3 involving US Airways?

4 A No. What I was referring to, and I
5 probably was a B student in English so I really

6 don't understand the difference between paragraphs
7 and a line here, but it seems to me I was talking
8 about the previous and not the time of Dave Segal,
9 because the new paragraph starts off talking about
10 Dave Segal, and what I referred to about other,
11 again through this news story, is actually talking
12 about the, I believe the America West-US Airways
13 deal and not Dave Segal.

14 If you look down through the story Segal
15 isn't mentioned until the bottom on the next to the
16 last paragraph, and the paragraph before that I
17 think refers to the America West-US Airways deal. I
18 don't think it refers to what you are talking about
19 Dave Segal and other airlines.

20 Q I don't understand a word of what you just
21 said?

22 A Okay. The way I read their --

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1 Q Which is the this paragraph?

2 A Excuse me, "but there are several twists
3 along the way, including the people familiar with
4 the event, America West was not the only carrier to
5 express interest in US Airways, nor was America West
6 the only partner US Airways pursued." Now when you
7 talk about it on the next page, nowhere there is it
8 mentioned America West. Those are two different
9 time periods. I am getting that impression.

10 CHAIRMAN NICOLAU: Well, the paragraph
11 that followed talked about what happened before with

12 Ameri ca West.

13 THE WITNESS: Ri ght.

14 CHAIRMAN NICOLAU: Wi th Segal .

15 THE WITNESS: Are you asking me when I am
16 talking about other people interested that I am
17 referring to the Segal paragraph, or am I referring
18 to the Ameri ca West agreement?

19 BY MR. FREUND:

20 Q I am asking you whether aside from -- let
21 me change the questi on so we can make sure we are
22 clear about this.

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1 A Pl ease.

2 Q Aside from the paragraphs on the second
3 page of this article, the deal wi th Uni ted, Virgin
4 Atl anti c, raking US Ai rways into Jet Blue, Ai r Tran,
5 are you aware of any other ai rline companies,
6 putting Ameri ca West aside, that US Ai rways had any
7 di scussi ons wi th about a possi ble transacti on?

8 A Other than what I read in the story, no I
9 do not.

10 Q I think that is all I have on that
11 exhi bi t.

12 Your observati on about your not doing too
13 well in Engl ish ei ther is a good lead in into my
14 next set of questi ons.

15 CHAIRMAN NICOLAU: B isn' t bad, is it?

16 MR. FREUND: No, he is actual ly doi ng
17 fi ne. I di dn' t say it, he di d.

18 MR. GILLEN: Look at our President.
19 BY MR. FREUND:
20 Q Let's turn to Tab 19?
21 A All right.
22 Q Now, the panel, the board is going to be

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1 able to read there for itself, and indeed there will
2 be other witnesses who will testify about this, but
3 since you testified about it on direct I sort of
4 have an obligation to ask you a question or two.
5 This is the famous 25 additional aircraft
6 that are going to be returned. Do you remember your
7 testimony about that?
8 A Yes, sir, I do.
9 Q Okay. There is a yellow highlighted
10 paragraph on the second page of that, I am sorry,
11 the third page of this document, that says, "US
12 Airways projects returning 25 additional aircraft by
13 the end of 2006 in addition to the 46 aircraft that
14 US Airways already has announced it plans to
15 return." Do you see that sentence?
16 A Correct.
17 Q And you told us yesterday that you
18 understood the words US Airways in the phrase US
19 Airways projects returning 25 additional aircraft,
20 that you understood those words US Airways to mean
21 the combined company, that is US Airways, America
22 West, together, correct?

1 A That is what I understand that to say.

2 Q Okay. Now, a little bit of English work
3 we are going to do here, you and me. The -- that
4 very same sentence has the word US Airways later on
5 in it, does it not, where it says in addition to 46
6 aircraft that US Airways already has announced, do
7 you see that?

8 A I do see that.

9 Q You are not telling us that those 46 that
10 the use of the word US Airways in connection with
11 those 46 aircraft was the combined company, are you?

12 A I think in this first document they
13 probably neglected to put out Nuco as compared to US
14 Airways, so I think it changes here.

15 I think they are talking about US Airways
16 in the first sentence, they are talking about the
17 combined company, and in the second sentence when
18 they say US Airways means the combined company
19 because we had announced our returns of the aircraft
20 and America West had not yet returned any aircraft.

21 Q I had a very precise question which you
22 neglected to answer?

1 A I am sorry.

2 Q The second phrase in the first sentence
3 that says "in addition 46 aircraft that US Airways
4 has already announced it plans to return," the words

5 US Airways in that phrase refers to US Airways, not
6 the combined company, correct?

7 A No, I would say it doesn't, because at
8 that time -- if I can ask you a question-

9 Q No, you can't.

10 A At that time America West had not
11 announced any return of aircraft, so therefore, when
12 they say in addition to the 46 that US Airways, they
13 are again talking about the combined company. That
14 is the way I read it. Like I said, I got a B.

15 Q Well, now we are going to combine your
16 English skills with your bankruptcy skills. You
17 know, don't you, that prior to the merger
18 announcement, prior to the merger announcement US
19 Airways in bankruptcy had announced that it was,
20 through its GECAS transaction, was returning 46
21 aircraft, correct?

22 A Correct.

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1 Q So when it says in addition to the 46
2 aircraft that US Airways already has announced it
3 plans to return, that was referring to the 46
4 aircraft that US Airways, not US Airways combined
5 with America West, US Airways in the bankruptcy
6 process had announced it was going to return,
7 correct?

8 A No, I think again, I know what you are
9 trying to get me to say, but this is what I
10 interpret. I interpret that they are talking about

11 the combined company because if you put the combined
12 company together there were only 46 airplanes
13 announced at this time and all of them were coming
14 out of the US Airways side.

15 Q Kevin, before the merger was ever
16 announced US Airways, when America West so far as
17 the world was concerned was nowhere in the picture,
18 US Airways, the company, had announced, that it was
19 returning 46 aircraft, correct?

20 MR. KATZ: I am going to object. I think
21 we are going over this ground again. He has asked
22 and answered that already.

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1 CHAIRMAN NICOLAU: Not quite.

2 Had US Airways already made that
3 announcement, prior to any merger?

4 THE WITNESS: Yes, we were returning
5 aircraft prior to the merger. We were in
6 bankruptcy, correct.

7 BY MR. FREUND:

8 Q 46, correct?

9 MR. KATZ: We will have a fleet witness
10 who will --

11 MR. FREUND: I am asking. I have got a
12 witness on the stand.

13 CHAIRMAN NICOLAU: If he knows.

14 THE WITNESS: I don't know exactly. I
15 apologize.

16 BY MR. FREUND:

17 Q Let's keep doing English. Let's go to the
18 paragraph before that paragraph, the first paragraph
19 under fleet/route system. The first sentence reads
20 "U. S. Airways/U. S. Airways Express currently
21 149 cities."

22 A 179.

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1 Q I am sorry, 179 cities. That is referring
2 to the company US Airways, the company's stand
3 alone?

4 A Right, I assume we were serving 179, yes.

5 Q Then it goes on and says, "America
6 West/America West Express serves 96 cities." So the
7 use of the term America West in that sentence refers
8 to America West standing alone, correct?

9 A Correct.

10 Q Then it goes on to say that when merged
11 the combined airline, do you see that?

12 A I do.

13 Q Where it says combined airline no question
14 in your mind that they are talking about the two
15 airlines combined correct?

16 A Right.

17 Q So in that paragraph, when it uses the
18 term airways stand alone it is referring to the term
19 America West stand alone, and when it uses the term
20 combined airline when it is using it is talking
21 about the two companies together, correct?

22 A Correct.

1 Q Okay. Now in the second paragraph, the
2 one we have just been parsing together, the first
3 sentence uses the term US Airways twice, correct?

4 A Correct.

5 Q Once in connection with 25 additional
6 aircraft, correct?

7 A Correct.

8 Q And once in connection with 46 aircraft
9 that we have, you don't remember the number, but
10 that the aircraft that US Airways standing alone had
11 already announced it was returning.

12 And then in the, then we will skip a
13 sentence and then it goes on to say "the combined
14 airline -- " do you see that?

15 A Yes, I do.

16 Q So in the second paragraph just like the
17 first paragraph, when the author is referring to the
18 airlines together they use the term combined
19 airline, correct?

20 A In that sentence he uses the word combined
21 airline, yes.

22 Q And then indeed in that very sentence it

1 juxtaposes the notion of combined airline, I am
2 sorry, with America West standing alone, because the

3 sentence reads the combined airline, the big one,
4 also will take delivery of 13 Airbus A320 family
5 aircraft previously ordered by America West
6 airlines. So that very sentence distinguishes
7 between one of the airlines standing alone and the
8 combined carrier does it not?

9 A Yes, that does.

10 Q Okay, thank you.

11 Let's move forward to Exhibit 23.

12 CHAIRMAN NICOLAU: Did you say 23.

13 BY MR. FREUND:

14 Q 23, please. 23, I think you described to
15 us as a form 425 which had in it some questions and
16 answers in connection with a transaction; is that
17 right?

18 A Correct.

19 Q And you highlighted for us the, in yellow
20 the question and answer on the first page, the
21 question being why not let US Airways just tank and
22 go belly up, that way there is no bothering with

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1 seniority integration or bickering about the way
2 that their employees are being paid more to do the
3 same jobs than we are?

4 Then I think after reading that question
5 or after describing that question testified about
6 how the answer suggests that, gee, letting them go
7 belly up might be a problem because that would put
8 assets up in the market and other people might want

9 to buy those assets and as a consequence that
10 wouldn't be good for America West, do you remember
11 that testimony?

12 A Yes, I do.

13 Q Okay, but you didn't read us to the last
14 sentence in that answer, did you, that says "also,
15 own a more personal note we are talking about more
16 than just assets. US Airways employs 30,000 people.
17 If US Airways goes belly up so do 30,000 jobs.
18 Sure, it is not our responsibility to save those
19 jobs, but it is a welcome by-product of an already
20 positive merger." Is there a reason that you didn't
21 tell us about that little piece of that answer when
22 you were describing this question and answer

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1 yesterday?

2 A No, I have it highlighted. I probably
3 just missed it in my testimony.

4 Q I guess so.

5 A I wouldn't have highlighted it.

6 Q Let's turn to Exhibit 30.

7 CHAIRMAN NICOLAU: What number? I can't
8 hear you.

9 BY MR. FREUND:

10 Q 30, please. You didn't testify about this
11 subject in your direct testimony yesterday but since
12 you sponsored the exhibit and since I know there has
13 been some contention on this issue I thought we
14 would just take a look at the fourth page of the

15 exhibit, please. Do you have it?
16 A Hawaii proving runs prove successful!
17 Q Hawaii proving run proves successful!
18 A I have it.
19 Q This describes proving run on
20 November 18th in preparation for the 757 service to
21 Honolulu; is that correct?
22 A Yes, it does.

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1 Q And I just want to read the first sentence
2 of the second paragraph which reads as follows "as
3 the flight took off First Officer/Assistant Manager
4 of Flight Operations Regulatory Compliance, Jim
5 Fausel noted, quote, America west started down the
6 road of the 757 ETOPS, certification in 1991, now
7 that we are enroute to Hawaii on our first flight
8 test we have accomplished what previous management
9 teams had envisioned," do you see that?
10 A I do.
11 Q Did I read that correctly?
12 A I think you did.
13 Q Does this report, do you have any reason
14 to doubt that this reports accurately the history of
15 the Hawaiian flying that the company is now doing?
16 A Well, it seems like a long time to do an
17 the top certification from 1991 to 2006 or 2005, that
18 is -- we bought three seven five 7's and had them
19 ETOPS in a matter of a couple months.
20 Q My question is, so are you telling us that

21 is a basis for you having doubt as to when the
22 planning for a Hawaii flying was begun at America

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1 West?

2 A I don't doubt that the planning may have
3 been done in 1991, but if you recall, under
4 synergies with the statement that they filed with
5 the SEC, one of the things under synergies of the
6 merger was return to Hawaii, leads me to believe
7 that without the synergy of the merger there would
8 have been no return to Hawaii.

9 Q Let's turn to Exhibit 31, please.

10 This is -- I don't remember -- oh this
11 must have been part of the annual report, is that
12 it?

13 A Yes, sir. It is, 2005 annual report.

14 Q There is Doug Parker's piece of that
15 annual report?

16 A It is -- yes, the front portion of it,
17 Chairman's Message to Shareholders.

18 Q Look at the third page of that document
19 which is page 6, now. I don't remember what the
20 purpose of your putting this into evidence was but,
21 and I don't much care, but take a look at the third
22 sentence in, on this page 6, the one that starts

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1 with former, do you see that?

2 A Which paragraph are we looking at?

3 Q The top, first paragraph on page 6, the
4 third sentence, starting with the word former. Do
5 you see that?

6 CHAIRMAN NICOLAU: Former furloughed US
7 Airways employees --

8 THE WITNESS: Oh, I am sorry. Thank you.
9 Yes, I see that.

10 BY MR. FREUND:

11 Q So it reads, "Former furloughed US Airways
12 employees are being offered opportunities to come
13 back to work as openings provide, and we are
14 planning to bring back 55 pilots as we add new
15 international flying this summer" and then it goes
16 on to describe the flying.

17 I actually don't have a question about
18 that, I simply wanted to make sure that we were
19 paying attention to it.

20 I think that is all the questions I have
21 got on that, on the subject of your economic
22 presentation.

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1 But I do want to switch subjects on you
2 briefly, and if you can get a copy of the US Airways
3 certified seniority list in front of you that would
4 be kind of helpful for what we are about to do.

5 A I have it.

6 Q Okay, I am just waiting for my machine to
7 fire up here.

8 While it is firing up I will ask you
9 another question. You told us about how AFA is
10 doing seniority integration in the transaction?

11 A That is correct.

12 Q You said they were doing it on the basis
13 of date of hire?

14 A Date of hire and they are actually working
15 out something to smooth out the problems with the
16 date of hire with the two lists.

17 Q You are aware that as a matter of the AFA
18 constitution its merger policy specifically provides
19 for date of hire integration of AFA, correct?

20 A I testified to that yesterday and the fact
21 that the America West flight attendants were trying
22 to change that, to my recollection.

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1 Q And you are aware, are you not, that ALPA
2 merger policy in contrast to AFA policy does not
3 contain a requirement of date of hire integration,
4 correct?

5 A It does not contain date of hire or any
6 other method of putting a list together, just fair
7 and equitable.

8 Q But you are also aware, are you not, that
9 there have been times in all past history when its
10 merger policy had a preference for date of hire?

11 A Yes, there were times when that was in the
12 policy.

13 Q Those were deleted?

14 A They were modified --

15 Q There is no reference to them in merger
16 policy?

17 A I don't know. I think in the policy
18 somewhere I think it still says, they are talked
19 about date of hire, I would have to reference it
20 again. Maybe at a break I will get a chance.

21 Q I don't think it does.

22 A Doesn't say that it is a methodology for

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1 putting the list together, but I think it says
2 somewhere in there the date of hire to be used if it
3 works. I am not sure.

4 Q I don't believe you are right.

5 A Okay.

6 MR. KATZ: We will have another witness
7 who will be talking about the provisions of the
8 merger policy and how they apply here.

9 MR. FREUND:

10 Q Oh, good. I had asked your colleague who
11 testified before you yesterday about one particular
12 name on the seniority list, you were here when I
13 asked that question, and I had asked whether he was,
14 whether the name that I had pointed out, and I don't
15 remember what the name was, was an Empire pilot --

16 MR. KATZ: Tom Babi arz.

17 BY MR. FREUND:

18 Q Yes, Babi arz, correct. We speculated that
19 it wasn't an Empire pilot, we not only speculated

20 but concluded it wasn't an Empire pilot and
21 speculated that it might be a Shuttle pilot, and Dan
22 said there is going to be somebody that is going to

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1 be able to testify about the Shuttle case and that
2 turns out to be you, right?

3 A That is me, right.

4 Q Just so you know, we could do this without
5 this exercise, but just so that it is fresh in
6 everyone's mind, and I apologize to Mr. Nicolau who
7 was the arbitrator in the Shuttle case for going
8 over plowed ground, but for the benefit of the Pilot
9 Neutrals, and this will not take very long, why
10 don't you just look to seniority position 15 -- look
11 at -- you have the Excel grid on the left side as
12 well as --

13 A Do you want the seniority number or the
14 line numbers?

15 Q Let's do it by line number just so we can
16 be talking about the same thing. Look at line 1552.

17 A Yes, sir.

18 Q Mr. -- Captain Nolan?

19 A Line 1552 is a gentleman by the name of
20 Schoonover.

21 Q We will use seniority numbers then,
22 seniority No. 1542.

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1 A Lewis.
2 Q Seniority No. 1648?
3 A New shooter.
4 Q You have got more grids on this document
5 than --
6 A Lots of information. Nolan.
7 Q Nolan?
8 A Triple 851 employee number.
9 Q Triple 851 employee number, Captain Nolan,
10 320 captain, DCA, date of birth 10-8-45?
11 A 10-6-45, make sure we get the right guy.
12 Q 10-6-45, date of hire 4-18-72, sandwiched
13 between Downing and Evans, both of whom have
14 June 3rd, '85 dates of hire, correct?
15 A Actually sandwiched between --
16 Q June 3rd and June 5th date of hire?
17 A All right, all right.
18 Q June 3rd and June 5th. Okay.
19 Was he a Shuttle pilot, if you know, or
20 was he an Empire pilot?
21 A He was a Shuttle pilot and still is.
22 Q Okay. Scrolling down to seniority

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1 position number 1928, Wightman?
2 A Okay.
3 Q I think we previously established from
4 your colleague that Mr. Wightman was an Empire
5 pilot, correct?

6 A I can't tell from the employee number, I
7 can recognize the Shuttle people by name but --

8 Q Okay. So you recognize that Wightman is
9 not a Shuttle pilot?

10 A He is not a Shuttle pilot, that is
11 correct.

12 Q So we won't bother you with him.

13 A Okay.

14 Q Except to observe -- well, we already
15 observed yesterday where he fits in from a date of
16 hire perspective.

17 Then we jump down to seniority position
18 2052, the famous Mr. Babi arz --

19 A Babi arz.

20 Q Babi arz, thank you, he was a Shuttle
21 pilot?

22 A Former pilot known as a Shuttle pilot,

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1 right, Tom Babi arz, La Guardi a.

2 Q With date of hire of 9th of November 1972?

3 A Correct.

4 Q He is sandwiched between two pilots who
5 have dates of hire of June 3rd, 1985 correct right?

6 A Your observation is correct.

7 Q Then we jump than down to seniority
8 posi ti on 2130, Mr. Wi lls?

9 A Yes, si r.

10 Q Shuttle pilot, ri ght?

11 A Yes.

12 Q With a date of hire of January 8, 1973,
13 sandwiched between two pilots with dates of hire of
14 January 20th, 1986, correct?

15 A That is correct.

16 Q Position number, I promise you we are not
17 going to do with this everybody, position No. 2210,
18 Mr. Collins?

19 A Collins I have him. He is a Shuttle
20 pilot, now he is flying the A330 in Philly.

21 Q And he has a date of hire of January 29th,
22 1973 and he is sandwiched between two March 3rd,

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1 1986 pilots, correct?

2 A Correct.

3 Q I am going to skip a whole bunch of
4 people, let's go way down in the list now to 2837?

5 A Mr. Henderson.

6 Q Mr. Henderson, Shuttle pilot?

7 A Yes, sir.

8 Q Date of hire of September 18th, 1980,
9 correct?

10 A Correct.

11 Q Sandwiched between two pilots whose date
12 of hire was March 2, 1987, correct?

13 A You are correct again.

14 Q I am looking for you.

15 A Oh, you need to go way up to the top of
16 the list.

17 Q Okay, what is your seniority --

18 A I never looked, believe it or not. I hate
19 to say that, but I never look.

20 Let's see. Oh, can you do a name search?

21 Q Yes?

22 A There you go.

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1 MR. KATZ: Control X.

2 BY MR. FREUND:

3 Q Is it E or A?

4 A I am disappointed. I could spell your
5 name.

6 Q My name is spelled the natural way? Oh,
7 yeah, I had highlighted you in red, 3298.

8 A Am I a red book filing?

9 Q 3298, right?

10 A There I am, yes, sir.

11 Q Date of hire March 3, 1986, correct?

12 A That is correct.

13 Q Sandwiched between two pilots,
14 Mr. Borrelli. Sandwiched between two pilots whose
15 date of hire was February 1, 1988, correct?

16 A Yes, sir, correct. One of which is in
17 this room.

18 Q Which one?

19 A Mr. Obermeyer.

20 MR. KATZ: Richard.

21 MR. FREUND: That is all I have of this
22 witness.

1 CHAIRMAN NICOLAU: Anything.

2 MR. KATZ: I guess I would ask a couple of
3 questions.

4 REDIRECT EXAMINATION

5 BY MR. KATZ:

6 Q It would seem then that the integration of
7 the shuttle pilots into the US Airways list wasn't
8 by date of hire?

9 A As I testified to, we didn't ask for it
10 and therefore I don't think -- we didn't get it.

11 Q And the US Airways pilots didn't ask for
12 it and they didn't get it?

13 A That is correct.

14 Q Mr. Freund asked you questions about
15 securities law and backwards looking statements and
16 forward looking statements. When you saw Mr. Parker
17 in that video and watched him as he explained the
18 situation to the assembled room of pilots and flight
19 attendants on January, I think it was 25th, 2006,
20 did you have any reason to question his sincerity?

21 A No, and I have looked at, even though that
22 was in front of the America West pilots in Phoenix,

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1 he has the same statement when he talks to the
2 pilots and flight attendants in Charlotte. It
3 doesn't change.

4 Q Are you aware whether some of the pilots

5 and flight attendants in that room may have been
6 shareholders?

7 A I would imagine that some may have been, I
8 don't know.

9 Q Would you think he would be subject to the
10 same legal restrictions?

11 A I am not sure how it works, but I would
12 imagine if he is talking to shareholders he would
13 have to be subject to the same restriction.

14 Q Mr. Freud asked you some questions on
15 cross-examination about some alleged statements
16 where Mr. Parker is reported to have said that he
17 wasn't losing any sleep over liquidity, back before
18 the announcement of the merger, do you recall that
19 question?

20 A I do.

21 Q Do you know for a fact whether Mr. Parker
22 was taking sleeping pills every night?

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1 A I have no idea what his medication
2 schedule was.

3 MR. KATZ: That is all I have.

4 CHAIRMAN NICOLAU: Any questions?

5 MR. FREUND: I have one. I have one
6 question maybe that I could ask before the panel
7 does.

8 CHAIRMAN NICOLAU: All right.

9 MR. FREUND: And again I apologize to you,
10 Mr. Nicolau.

11 RE CROSS EXAMI NATION

12 BY MR. FREUND:

13 Q There is a line in Mr. Nicolau's award in
14 connection with the ultimate decision that he
15 reached in the Shuttle case, and I don't have it in
16 front of me so I can't quote it precisely, but it
17 essentially says that much time and attention was
18 spent on date of hire in the course of the
19 Shuttle-US Airways arbitration. You are not telling
20 us, are you, that the subject of date of hire was
21 not a subject discussed during the course of that
22 arbitration?

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1 A I am not sure what Mr. Nicolau meant and
2 as I talked about it I didn't mean to tell him what
3 he said in his award, but when we describe pilots in
4 the process we always describe their name, seniority
5 number, position date of birth, date of hire. Maybe
6 that is what he was referring to, I don't know.

7 Q Well, I will let Mr. Nicolau decide what
8 he was referring to and describe it to his panel
9 members. That is all I have.

10 MR. KATZ: Nothing further.

11 CHAIRMAN NICOLAU: Thank you, Kevin.

12 Shall we take a break before our next
13 witness?

14 THE WITNESS: Jeff, you are still on my
15 Christmas card list.

16 CHAIRMAN NICOLAU: We are going to take
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17 about 10 minutes.

18 (11:30 a.m. -- recess -- 11:53 a.m.)

19 MR. KATZ: We are going to call Dean
20 Colello as our next witness.

21 Whereupon,

22 DEAN COLELLO

304

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

3 CHAIRMAN NICOLAU: Would you give the
4 reporter the spelling of your last name please.

5 THE WITNESS: C-O-L-E-L-L-O, first name is
6 Dean.

7 CHAIRMAN NICOLAU: Thank you.

8 DIRECT EXAMINATION

9 BY MR. KATZ:

10 Q Let's start out with your giving your name
11 and residence for the record, please?

12 A Dean Colello and I live in Madison,
13 Wisconsin.

14 Q And what is your employment, sir?

15 A I am a First Officer with US Airways.

16 Q How long have you been employed as a pilot
17 with US Airways?

18 A Since July of '88.

19 Q Have you been involved in any ALPA work
20 over the years since July 1988?

21 A I have -- the membership chairman for the
22 membership services committee, and as part of that

1 committee also oversee the furloughed administrator
2 duties, I also do the furlough administrative
3 duties, and I am also the note taker for the
4 negotiating committee.

5 Q For the Joint Negotiating Committee?

6 A Yes, actually our negotiating committee
7 and also the joint --

8 Q For both the separate US Airways
9 committee --

10 A Yes.

11 Q -- and the Joint Negotiating Committee?

12 A Yes.

13 Q Very good. Were you on furlough for a
14 while?

15 A Yes, I was furloughed in June of '03.

16 Q When were you recalled?

17 A I was, began flying for the 170 division
18 of the US Airways in November of '03, and then in
19 March of '06 came back to the main line.

20 Q What were the duties of the furlough
21 administrator position that you held?

22 A Essentially the job of furlough

1 administrator is just looking out after the
2 furloughed pilots, keeping them informed of what is

3 going on and if they have any concerns, if there are
4 any problems, try and handle them from somebody who
5 is actively in the company as opposed to the pilots
6 who are out on the street.

7 If they have any questions, if they have
8 any problems, either dealing with the company or
9 dealing with the ALPA national or whatever, make
10 sure they are advised of what is going on with the
11 company, what is going on with the union.

12 Q Did you field calls or do you field calls,
13 you are still the furlough administrator aren't you?

14 A Yes.

15 Q Do you field calls and have you fielded
16 calls from furloughed pilots as time goes by?

17 A Yes.

18 Q And what sort of inquiries would they
19 have?

20 A The biggest question is, particularly once
21 we started recalls the biggest question I would get
22 from furloughed people is, you know, what was the

307

1 latest seniority, you know, for the guy that got
2 recalled, can you tell me when I am going to come
3 back or what does it look like, what have you heard,
4 how many people are they recalling.

5 Basically the concern of the people on the
6 street is what are my opportunities, A, am I going
7 to come back and, B, how long is it going to take to
8 get back.

9 Q You try to provide accurate enough and
10 up-to-date information when furloughed pilots call
11 in on that subject?

12 A Yes, I try to keep in contact with the
13 company office that handled the furloughs and try
14 and get an idea of when their, what their
15 projections are. A lot of time you don't find out
16 until just prior to the announcement, but we try and
17 do our best to keep abreast of what the plans are
18 for recalls.

19 Q Do you from time to time send out mailings
20 or e-mails to the furloughed pilots in this section?

21 A Yes, I make up furlough administrator
22 updates that cover the gamut of recall information,

308

1 you know. One of the questions -- another question
2 that came up after the merger was can I, because as
3 a furloughed pilot you can still non-rev, the
4 question is can I non-rev on the west side now? We
5 cover things like that.

6 We cover what the projections are and
7 keeping them advised and make sure they keep up
8 their address information and all that, so we send
9 e-mail updates, the update is managed now through an
10 e-mail blast and ALPA national and then for people
11 we don't have an e-mail address on we usually mail a
12 copy to them.

13 Q And you have sent several of these over
14 the years?

15 A Yes, I have been the doing furlough
16 administrator since February, so since February I
17 have probably sent four of them out.

18 Q I would like to distribute some exhibits
19 that are to go into volume B at this time.

20 CHAIRMAN NICOLAU: Since February of this
21 year.

22 THE WITNESS: Yes, sir.

309

1 BY MR. KATZ:

2 Q We are going to give out the binders with
3 the next witness, but for the moment they are going
4 to go in the back of that binder. It is a very slim
5 binder, as you will see.

6 But pending the binder let's just work
7 with these documents, and you have a set of these,
8 Mr. Colello?

9 A Yes.

10 Q Thanks. Now, would you tell us what
11 Tab 19 is, please?

12 A This is the most recent furlough update
13 that was sent out here just recently.

14 Q And you mentioned that the first item that
15 the company is in the process of completing the
16 latest recall, 20 pilots were recalled to the
17 Embraer 190 first officer positions, right?

18 A Yes.

19 Q And then later you talk about an
20 additional 30 pilots to aircraft other than the 190?

21 A Yes.

22 Q Is that positions, the 30 created by

310

1 attrition of the pilots senior to the recall, the
2 furloughed pilots?

3 A Yes, we haven't added any aircraft so it
4 is through attrition.

5 Q Under future recalls you say the company
6 is planning to recall approximately 30 pilots per
7 month, for at least six months, beginning in
8 January 2007?

9 A Yes.

10 Q Have you been advised of anything more
11 recent than that from management?

12 A Well, we just had a bid come out to cover
13 February and one of the drivers for that bid they
14 said that they will be recalling 40 pilots, and
15 that, I assume that is included in this, you know,
16 their plans for the 180 plus that they are planning
17 to recall next year, but there will be 40 that they
18 are beginning to recall now.

19 This initial -- the recalls I talk about
20 in the first paragraph here are for classes that go
21 to the first week in January, and then there is
22 going to be an initial 40 that they are sending

311

1 letters out starting today.

2 Q When would their class begin?

3 A There will be classes starting later in
4 January.

5 Q Later in January?

6 A Yes.

7 Q And am I reading this correctly, that the
8 30 per month is, you say it is exclusive of 190
9 positions?

10 A That is correct.

11 Q So those are not jobs generated by the
12 Embraers?

13 A That is true, right. It is just -- the 30
14 per month are just to cover attrition and the
15 Embraer, if they staff it at 10 pilots per aircraft,
16 which is about average, then there will be an
17 additional five per month, because one airplane a
18 month is coming on average.

19 Q Then you have a paragraph describing the
20 recall process and exactly what happens?

21 A Right.

22 Q And let me ask you to flip to the third

312

1 page, at the bottom there is something called
2 furlough survey results?

3 A Yes.

4 Q Would you tell us what this furloughed
5 survey is and why you conducted it?

6 A Well, to try and give the pilots a little
7 more accurate information, rather than somebody

8 calling me up and saying what are my chances of
9 getting recalled, where do I fit into the system?

10 And we knew there were a lot of people out
11 there, we have had people on furlough since, you
12 know, end of 2001, so we have had people on the
13 street for close to five years, and realistically
14 are these people sitting by their phone every day
15 waiting for the call from US Airways to come back, a
16 lot of them probably not.

17 So we were trying to get an idea of, you
18 know, how many of these people have moved on. I
19 know we have got people at Fed-Ex, we have got
20 people at Jet Blue, got people at America West, got
21 people all over, so we are trying to get an idea
22 really of the 1700 people we have out there, how

313

1 many, really, are thinking about coming back, so
2 that you can tell a guy who is number 1700 on the
3 list, hey you have got 1700 guys ahead of you or you
4 can say, yes, you are 1700 on the list but
5 realistically maybe only about 600 or 700 are going
6 to come back.

7 So the guy, it may change his idea and
8 what his expectations are. So we decided to attempt
9 to do, to poll the furloughed pilots to see if we
10 can get an idea of what their intentions are. It is
11 on a totally non-binding basis. We told them that
12 it is just trying to get an idea of how we are going
13 to do that.

14 So what we did was we communicated with
15 the furloughed pilots, and if you flip to Exhibit 20
16 here, what I did was I sent a cover letter out and
17 this was done pretty much the same way as the
18 furlough updates are. We did it through everybody
19 that had an e-mail address on the file, we e-mailed
20 them this list of questions.

21 And we had set up a Web-based system where
22 they could they could enter their response to these

314

1 four questions. There is drop down menu, go in this
2 their ALPA number to get onto the Website, and drop
3 down menu, and they entered their choices and the
4 database was updated every time somebody did that,
5 and --

6 Q Did you tell the people who participated
7 in the survey that their results would be kept
8 confidential in terms of the anonymity of what they
9 said?

10 A Yes, we told them that this is, you know,
11 if they are worried about, you know, saying they are
12 going to come back and they didn't want their
13 employer to know anything about it, you know, it is
14 totally anonymous in the sense, I mean it was not
15 anonymous in that we had to keep track of who
16 responded. And, you know, that is why they had to
17 go on with a password, so that I couldn't, you know
18 if I was a furloughed guy, I couldn't go in and say
19 all the guys senior to me are not coming back.

20 We couldn't do that, but basically
21 everybody could enter their own information. It was
22 using, basically using the same system that ALPA

315

1 uses for voting. You go in and enter a password,
2 and the people who did not have access to the Web
3 site, people who work for other ALPA carriers do not
4 have access to the Website, what we did with those
5 people was we sent mailing with a copy of this, for
6 them to mail the information back to the ALPA
7 office, and then I would just enter the information
8 manually into the data base.

9 Q So you kept track of who had responded and
10 who hadn't responded?

11 A We kept track of who had responded and
12 who hadn't, and a pilot, up until the survey was
13 open for a couple months and they were able to go in
14 and make a change that they wanted to, at any time
15 up until the survey closed.

16 And we -- initially we did an e-mail, we
17 sent out two or three reminders through e-mail
18 letting them know. And like I say, the people we
19 didn't have e-mail addresses on we mailed the
20 information to them.

21 Q But did you promise them that you wouldn't
22 tell Jet Blue whether --

316

1 A Right.

2 Q -- what they said?

3 A As a matter of fact, when we mailed out
4 the survey at first we thought well, we will just
5 mail a post card out with these questions on the
6 back and they can put them on there, put a stamp on
7 it and sent it back. Then we thought, you know,
8 just to make sure that their identity was protected
9 even one step further, we decided it was cheaper to
10 do it that way.

11 We weren't going to make them do it that
12 way. We made them put it in an envelope to send it
13 back to there was no chance of anybody seeing what
14 the results were.

15 Q These questions were designed to get you
16 the best information available so you could advise
17 the furloughed employees of their prospects of
18 returning?

19 A Yes. If you will notice the questions, we
20 split it up between Airbus-Boeing fleet and the 190,
21 because the pilots of the 190 are so low, we didn't
22 want to skew it one way or another for somebody who

317

1 didn't want to come back and work for \$40 an hour,
2 and we wanted to give them the idea of, the
3 furloughed pilot has the opportunity to bypass
4 coming back for a 190 position. That is why we
5 separated out the questions to say that okay, are

6 you going to come back to a job at \$40 an hour or
7 are you going to hold off for Airbus or Boeing job.

8 Q So there is no legal consequences if a
9 pilot on furlough says I am going bypass recall to
10 the Embraer, is that right?

11 A That is right. He can bypass -- normally
12 in the way our contract is, a pilot can bypass
13 furlough.

14 Q Bypass recall?

15 A Bypass recall until he is the bottom
16 person on the list. If he is the bottom person on
17 the list and you are offered a slot, if you refuse
18 it then you are off the list.

19 Now, with the 190 they can bypass that
20 even if they are the bottom person on the list, just
21 because of the pay rate.

22 Q And that is the contract arrangement that

318

1 you worked out?

2 A Yes.

3 Q So you asked about whether they would come
4 back for a 190 position and also whether they would
5 come back on for an Airbus or Boeing position?

6 A Airbus and Boeing.

7 Q In 21 would you tell us what information
8 is displayed here?

9 A This the initial information -- the
10 information on 21 you will see out of all the
11 pilots, there were 916, if you look at the bottom

12 right all the way over there, 916, that is the total
13 number that responded either through direct entry
14 into the Website, through sending me an e-mail with
15 the answers to the questions or sending one of the
16 postcards. Not one of the postcards but one of the
17 mail entries.

18 Q So just to see how this is read, under
19 Airbus-Boeing where it says definitely and 30 days,
20 281, that means what, the 281 --

21 A Out of the 916 pilots responded, 281 of
22 them said that if you offer me a recall to Boeing or

319

1 Airbus I will come back within 30 days.

2 Q Okay, and then 51 definitely said they
3 would definitely come back if they had six months?

4 A They would come back within six months,
5 yes.

6 Q And then over on the other side you had,
7 under probably not, you had 53. What is the three
8 number there under probably not, what were the three
9 saying probably not to?

10 A Under probably not, under the four-year
11 line.

12 Q What does that mean, that they are not
13 going to come back within four years?

14 A Right.

15 Q They probably wouldn't come back even
16 within four years?

17 A Right.

18 Q And what is the 53 next to delay mean?

19 A They, one of the questions was delay as
20 long as possible, I believe is the way it was -- or
21 was it defer as long as possible.

22 Q Delay as long as possible?

320

1 A Delay as long as possible, and
2 essentially, I mean if you look at the reality of
3 it, like I say we have a lot of pilots at Fed-Ex or
4 Jet Blue with, you know, other carriers.

5 We have pilots working for some carriers
6 who, you know, they want to come back in a
7 heartbeat, and then we have somebody that is working
8 for Southwest or Fed-Ex, they may never come back.

9 However, they don't want to close this
10 door because the history of the industry is such,
11 who knows what is going to happen? You never know.
12 If you would have told somebody three years ago that
13 US Airways was going to buy Delta for \$8 billion
14 they would probably have thrown you in the looney
15 bin, you know.

16 So there are people that are saying well,
17 I want to maintain my position on the list, you
18 know, I might be working at Fed-Ex today but maybe
19 three or four years from now I might not like it
20 there, and I may want to come back. So there are
21 some of the people who are saying probably not, and
22 I am going to delay my decision as long as possible.

1 Q Okay, the 916 out of how many people sent
2 you responses one way or another? What was the
3 total population you were surveying?

4 A We were surveying 1713 pilots. If you
5 would look, that number is at the top of Exhibit 23,
6 we will get to that later, but 1713 were the total
7 number of pilots that we surveyed.

8 Q So there is something like 797 you didn't
9 you didn't get responses from?

10 A That is correct.

11 Q What did you do to find out how they feel
12 about coming back?

13 A We, you know, initially we got a pretty
14 good response, there was a pretty good burst of
15 activity, then it kind of tapered off a little bit.
16 We send out another e-mail reminder and we would get
17 some more responses. Then once we started inputting
18 the mail in responses we got, and then it kind of,
19 after sending out a few reminders it kind of tapered
20 off, you know. You would get a hit now and again
21 where somebody entered something in there, but for
22 the most part it tapered off. It was sitting in

1 there in the high 800s or around 900.

2 In fact it was pretty good, it was over
3 50 percent response rate, which was pretty good for
4 this, but we decided, well, how can we judge what

5 everybody else is doing? And so we decided that it
6 would, let's make it a personal attempt to try and
7 contact some of the people who hadn't responded.

8 And we knew we couldn't make 797 phone
9 calls, so decided to just say okay, let's take, I
10 just picked a round number of 100. I figure well,
11 it is more than 10 percent, and we will start with
12 100, and so we took the people who were left, 797
13 and just sent an Excel spreadsheet, did a random
14 number generator, just randomly picked out 100
15 people to go ahead and contact personally to see
16 what type of, to see if they would answer it over
17 the phone, you know.

18 We would make a phone call and say okay,
19 notice you haven't responded, you know, maybe you
20 didn't get the information, or maybe you didn't have
21 time, but would you mind answering the four
22 questions.

323

1 Q And so you made these phone calls to 100
2 people?

3 A Well, initially with the random number
4 generator we came up with 100, for some reason there
5 was a duplicate in there and there were a couple in
6 there who had been recalled, so essentially we got
7 down to 95. 95 pilots are the ones that we actually
8 attempted to contact, and I split it up with a
9 number of people assisting me with that, and we made
10 the attempt to contact them and it was -- those were

11 the only people we worked with.

12 If we didn't contact somebody we didn't
13 pick somebody else up off the list. Of those '95
14 people we contacted, we made multiple attempts
15 contacting them, we ended up getting through to 75.

16 The 20 we didn't contact, some of those
17 were due to bad phone number. We were using both
18 the ALPA database and the company database to get
19 phone numbers. Sometimes they, you know, they
20 didn't have updated numbers, or we even went so far
21 as to look on the Internet. Just some people just
22 had moved and everything else, so that is where that

324

1 20 comes in there where people, no response from
2 those people, so --

3 Q Take a look at Exhibit 22, please?

4 A Okay.

5 Q And this is the 75 --

6 A Yes, we ended up getting successfully
7 contacted.

8 Q And you got the results similarly
9 displayed as with the 916 who had voluntarily given
10 responses?

11 A Correct.

12 Q I guess these people voluntarily gave
13 responses too?

14 A Yes, but they just had to be reminded, had
15 to be prodded a little.

16 Q So you recorded their responses here on

17 Exhibit 22?

18 A That is correct.

19 Q All right. In Exhibit 23 would you
20 explain what information is shown on this page?

21 A Like I say, the number we started with was
22 the 1713, and we had 916 of those responded as we

325

1 previously talked about in Exhibit 21.

2 Q Right.

3 A And of the negatives, negative responses
4 mean people who in our opinion are not going to
5 return. And what this 295 number is, is if you will
6 look, if you want to refer back to 21, that includes
7 everybody, the 18 people in the definitely not
8 column, includes all the 73 people in the probably
9 not, and then we took the people who in the other
10 columns who, basically three or more years out said
11 they are not going to come back.

12 Because that is, you know, it is pretty
13 far down the road, and chances are, you know, they
14 are probably not going to come back. If they are
15 thinking today that they are not going to come back
16 for at least three years, there is a lot of things
17 that can change there.

18 So we just made the assumption that they
19 will probably not be coming back. So essentially if
20 you take anybody, the three years or four years and
21 the max delays, and then the probably nots, and the
22 definitely nots, that is where the 295 comes in.

1 Q Okay. And then of the 797 who did not
2 respond, you explained that you started out with 95
3 randomly chosen names, and 37 in that category were
4 similarly negative as the --

5 A Using the same criteria that we used for
6 the negative responses, yes.

7 Q 20 you already mentioned was the people
8 who you couldn't get through to at all?

9 A That is correct.

10 Q Then so you add those two together, the
11 thirty-seven and the 20 and got 57?

12 A Yes.

13 Q And that is 60 percent of the 95 you
14 started out with?

15 A Yes.

16 Q And then how did you calculate the next
17 figure?

18 A Well, if you look at the people who didn't
19 respond, you could say that well, I mean you could
20 make you could make the assumption that they didn't
21 respond because they not coming back because I don't
22 care. I think that would be a pretty extreme

1 assumption to say that.

2 So -- but, there is also you can make the

3 point that well, the fact that they either haven't
4 kept their number up with the company or they
5 haven't responded to this may mean there is probably
6 more of them leaning to not coming back than the
7 people who took the effort to make the, you know,
8 enter the information.

9 So to try and validate that is why we went
10 ahead and did this. And so if you take the
11 percentages that we got out of the 95 and just carry
12 them across for the 797, if you say 60 percent of
13 these people are not going to come back, 60 percent
14 of those we surveyed, of the random survey, if you
15 apply that to the 797 who did not respond, that is
16 where we came up with the 478.

17 Q Okay. And then how did you get the 773 at
18 the bottom of the page?

19 A That is just basically the 295 and the
20 478, the 295 from the upper one are the ones that
21 actually responded, and then the 478 that we are
22 assuming are not going to come back based on our

328

1 random sampling.

2 Q And so then your conclusion was that is 45
3 percent of the 1713 furloughed pilots?

4 A That is correct.

5 Q And you feel comfortable that, even though
6 that is nearly half of the furloughed pilots
7 ultimately not coming back, that is an accurate
8 measure?

9 A To the best we can tell by using the
10 assumptions we made.

11 Q And these numbers are similar but not
12 identical to the numbers in Exhibit 20 -- I am
13 sorry, 19, on page 3?

14 A Yes.

15 Q Where you gave a furlough survey results
16 to the people that got this e-mail blast?

17 A Right, these were more of a rounding thing
18 to, they weren't quite as accurate as, like I say 40
19 pilots, where this would one is 37.

20 Q Uh-huh?

21 A So one difference you will notice in here
22 is that the last sentence says that, the last

329

1 sentence, if you apply that 42 percent to the
2 approximately 855 pilots who did not respond.

3 Whereas here we are using 60 percent
4 because initially when I did this I only included
5 the probably not and the definitely not. I didn't
6 take into account those who said they weren't coming
7 back for three or more years.

8 Q So which do you think is more accurate,
9 the Exhibit 23 analysis or what you had in the
10 e-mail blast?

11 A Well, I would say that the -- maybe you
12 can look at it as a range, you know, and I think it
13 is pretty accurate that it is going to fall
14 somewhere within that range. Because just from the

15 people I have spoken to, and I mean if you actually
16 look at Exhibit 24 --

17 Q Okay.

18 A -- which --

19 Q Tell us what that is first?

20 A Exhibit 24 is a list of all the pilots who
21 have been recalled from the first recall which was
22 March of '06, up until the most recent one they

330

1 concluded which was, is going to be a class date of
2 the first week of January.

3 And I mean just on this top page, this
4 first page here, so the people who say they have
5 passed, I mean I know a number of these people
6 personally because they were either in my new hire
7 class or fairly close to me seniority wise, and I
8 can go down where approximately half of these
9 people, they are at Fed-Ex or Jet Blue or Southwest
10 and I would be willing to bet that they are probably
11 not going to come back.

12 I would think that particularly the senior
13 people, if you are looking at this here, there is
14 pretty close to a 3 to 1 ratio here, of people who
15 you look here there are 321 have been offered recall
16 and 108 accepted. So that is right a little less
17 than 33 percent have accepted. And that comes
18 pretty close to, if you look at Exhibit 21 -- I am
19 sorry, 23, right here we are showing you have
20 32 percent are not going to come back.

21 Q Uh-huh.

22 A Right now they are running about

331

1 30 percent. Right now it is showing about
2 60 percent are not coming back, if you look at that
3 Exhibit 24, you know, because there is -- but the
4 point I am trying to make here is that the more
5 senior guys there is probably going to be fewer
6 people coming back out of this first group here.

7 And, I think as we go down through the
8 list we will probably get more acceptances because
9 guys have -- as these guys, these guys are passing
10 because they found better opportunities.

11 Q Uh-huh.

12 A And so I don't think our, the fact that we
13 are saying 32 percent are not coming back, on our
14 survey and the reality is 60, you know, in this
15 60 percent are not coming back. So I don't think
16 our figures are out of line. We are actually being
17 more conservative in our figures than what reality
18 is showing now.

19 CHAIRMAN NICOLAU: Excuse me, Dan.

20 Mr. Colello, this last exhibit, recall to what?

21 THE WITNESS: To US Airways.

22 CHAIRMAN NICOLAU: I know, but to what

332

1 aircraft?

2 THE WITNESS: Right now this number, this
3 108 --

4 CHAIRMAN NICOLAU: Yes.

5 THE WITNESS: 20 of those have been to the
6 190s.

7 CHAIRMAN NICOLAU: And the other --

8 THE WITNESS: All the rest have been to
9 Boeing and Airbus.

10 BY MR. KATZ:

11 Q Just to clarify this for the record, the
12 108 is slightly more than 33.3 percent of 321, isn't
13 it?

14 A Right, it is about 34 or something like
15 that.

16 Q Yes, between 33 and 34 percent. So you
17 have got 33, that leaves you 66, 67 percent who are
18 bypassing recall on the first pass?

19 A Right.

20 Q But the survey results are trying to
21 measure who is going to ultimately come back after
22 the company has gone all the way down to the bottom

333

1 of the list and starts offering recall to people on
2 the way up where there are legal consequences --

3 A Right.

4 Q -- to turning it down, right? So it is
5 two different things in Exhibit 24 and Exhibit 23?

6 A Yes, it is. They are two different things
7 but -- all right.

8 Q Did you want to say something else?
9 A No, I was just -- if you look at the
10 survey results individually, it seems like the
11 people, more of the people near the bottom of the
12 furlough list, there is a greater percentage of them
13 who say they are going to come back than at the top
14 of the list.
15 Q I see, that is something that doesn't show
16 here but that is based on your observation --
17 A Right.
18 Q -- of who the responses came from; is that
19 right?
20 A Right.
21 Q Okay. All right.
22 A So, that is why this percentage here will

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1 probably change over time as they start recalling
2 more people. But I think our results here are
3 fairly accurate, you know, the best you can as far
4 as trying to predict something in the future.
5 Q And Exhibit 24 has the latest information
6 available on who has accepted recall and who has
7 passed?
8 A This is accurate as of yesterday.
9 MR. KATZ: Thank you, Mr. Colello. No
10 further questions.
11 CHAIRMAN NICOLAU: Mr. Freund, what is
12 your call?
13 MR. FREUND: Again, maybe if I could ask a

14 couple preliminary questions and think about it over
15 lunch to see if I have any other questions.

16 CHAIRMAN NICOLAU: That is fine.

17 CROSS-EXAMINATION

18 BY MR. FREUND:

19 Q My preliminary questions may not be enough
20 to have justify walking across the room but that
21 said let me just take a quick peak here.

22 I am looking at the certified seniority

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1 list. I just want to make sure I have got everybody
2 placed properly in time and space. And that shows
3 you at seniority position No. 3538 on the certified
4 list. Dan is going to flip you to that page or flip
5 that page to you more accurately?

6 A Yes.

7 Q That is you?

8 A Yes.

9 Q Okay. And so you were furloughed, two
10 periods of furlough -- no, one I am sorry, one
11 period of furlough starting on June 4th, 2003?

12 A Yes.

13 Q And you said you were recalled just this
14 past June; is that right?

15 A No, I -- recalled to the main line in
16 March.

17 Q In March, I am sorry.

18 A Of '06. But I was working for, in
19 November, I got furloughed in June of '03 and in

20 November of '03 I was working for the 170 division,
21 and then went directly from there to here, in March.

22 Q In March of --

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1 A '06.

2 Q -- of 06.

3 Exhibit 19, please, for just one quick
4 second, I am not going to ask you anything
5 substantively about it, to 19 at this point, just so
6 I can understand what this document represents. Is
7 this of a kind that you put out to the pilots on a
8 regular basis?

9 A Yes.

10 Q How often do you put it out?

11 A I mean I, as an example I took over this
12 job in February, I believe I put one out in
13 February, one in March, one in June, and then this
14 one. There is no set timetable for them.

15 Q And how do these go out, do these go out
16 on the web set or get mailed --

17 A They get e-mailed to everybody in that we
18 have an e-mail address in the file, and they get
19 mailed to the others plus it is posted on the ALPA
20 Website.

21 Q With respect to -- well, let me ask a
22 broader question. Did you conduct a survey in

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1 connection with the Wilson Center or any other
2 surveying organization?

3 A We basically consulted them to get some
4 ideas but no, we did not pay them to do it.

5 Q But you talked to the Wilson Center about
6 how to go about doing surveys?

7 A Right.

8 Q I guess that may then answer my more
9 precise question I was going to ask, which was with
10 respect to Exhibit 20, whether the Wilson Center
11 participated in the design of the survey instrument
12 or not?

13 A No, as far as we wrote the questions
14 ourselves.

15 Q Okay. And did they participate in --
16 well, let me back up, in this Exhibit 19, where you
17 said even professional who said we would be lucky to
18 get 20 percent response rate, was that the Wilson
19 Center folks that talked to you about that?

20 A Yes.

21 Q With respect to your decision to do the
22 random sampling of the nonresponses, was that based

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1 on again conversations with the Wilson Center or did
2 you guys just figure out on your own that would be a
3 useful thing to do?

4 A Well, there was -- you wanted to try and
5 get information from as many pilots as we could and

6 this was just an effort on our part to go ahead and,
7 you know, without badgering people, to try and, you
8 know, try and get one more shot at any answers from
9 them.

10 Q I am not being critical by asking the
11 question, I just wondered sort of what the source
12 was of your view about doing a random sample of the
13 nonresponses, I just wondered if that was a Wilson
14 Center suggestion or you guys just sort of decided
15 to do it on your own?

16 A Well, we decided to do it and then checked
17 with, you know, we decided to come up with the 100,
18 and then check with an expert to see, well is that
19 something that was, would be an accurate number, and
20 they actually says, yeah, about 85 out of that would
21 be good. So it turned out okay.

22 Q Then I think the last preliminary question

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1 I have and then we will break, is looking at
2 Exhibit 24. Am I correct that Exhibit 24 lists
3 every seniority number from 3177 to 3512 inclusive,
4 that is there is not, there are no seniority
5 positions, seniority numbers for pilots that are not
6 within that -- that are within that range that are
7 not on the sheet?

8 A There are seniority numbers that are not
9 on the sheet because this came off a company
10 document, and the company documents that this came
11 off of is what is called our APL which is our

12 Affected Pilot List. It is a list of all the
13 furloughed pilots and it has people in here who have
14 since retired, either retired or resigned.

15 So if you will look at -- there are some
16 spaces in here where there may be a gap in the
17 seniority number.

18 MR. KATZ: Last page has several.

19 BY MR. FREUND:

20 Q Yes, if you could maybe just point us to a
21 couple --

22 A Yes, I'm sure between that and Sullivan

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1 3503 and 3505, I would have to get the source
2 document, but probably number four and five have
3 probably since retired, since this document.

4 MR. GILLEN: Resigned, either or?

5 THE WITNESS: Actually, if you look the at
6 it will show people who have resigned, retired or
7 died.

8 BY MR. FREUND:

9 Q And you extracted all of those?

10 A Yes, because they weren't offered recalls.
11 Especially the dead ones.

12 I have flown with some guys who seemed
13 like they are dead.

14 Q And then really this probably is the last
15 of the questions, preliminarily. You went down to
16 3512, I take it, because that was the most junior
17 number you had to get to in order to get the last

18 person who had accepted the recall?

19 A Yes. On this company document that is the
20 last person who has accepted a recall as of for the
21 first class in January.

22 MR. FREUND: I think that is all I have

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1 got at the moment.

2 CHAIRMAN NICOLAU: Before we break,
3 Mr. Colello, just so I don't have to worry about it
4 over lunch, on exhibit B-24 who is first person?

5 THE WITNESS: That is me.

6 CHAIRMAN NICOLAU: Why is it, why do you
7 have seniority 3177 and then the certified list have
8 a different number, 3538? Just sort of help me out.

9 You don't have to do it now but I would
10 like an answer --

11 MR. KATZ: The certified list is May 19.

12 CHAIRMAN NICOLAU: Okay.

13 THE WITNESS: Of '05.

14 MR. KATZ: Of '05.

15 THE WITNESS: These are January of '06
16 numbers.

17 CHAIRMAN NICOLAU: All right, I just
18 wanted to make sure.

19 MR. KATZ: There has been a lot of
20 attrition.

21 CHAIRMAN NICOLAU: I just looked. I
22 wanted to know, and wondered how many Dean Colello's

1 there were.

2 So it is about 20 minutes to 1:00; about
3 20 minutes to 2:00, is that all right?

4 MR. KATZ: That is fine.

5 MR. FREUND: Yes.

6 CHAIRMAN NICOLAU: Okay.

7 (Whereupon, at 12:39 p.m., the deposition
8 was recessed, to be reconvened at 1:40 p.m. this
9 same day.)

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1 AFTERNOON SESSION (1:51 p.m.)

2 Whereupon,

3 DEAN COLELLO

4 resumed the stand and, having been previously duly

5 sworn, was examined and testified further as
6 follows:

7 MR. FREUND: Are we ready to go?

8 CHAIRMAN NICOLAU: Yes.

9 MR. KATZ: I thought I had some of those
10 exhibits -- yes, here they are.

11 CROSS EXAMINATION (Resumed)

12 BY MR. FREUND:

13 Q I have just got a couple questions for
14 you.

15 Did I understand correctly that you sent
16 out in one fashion or another 1713 of the original
17 surveys?

18 A Yes.

19 Q Did that include the CEL pilots?

20 A Yes, because they are on our list -- well,
21 now, the CEL pilots that are on the Airways list.
22 There are some that are not on our list. But the

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1 ones that are on our list, yes.

2 Q Okay. When did the survey documents
3 actually go out?

4 A When did we start the survey?

5 Q Yes, when did you start the survey?

6 A The survey started in June of '06.

7 Q June of '06, and when did you get the, in
8 the time range between June '06 and November '06,
9 which is when you published the result, right, in
10 November '06?

11 A Right.

12 Q When in that sort of time continuum would
13 you say you had the sort of in the continuum between
14 June of '06 when you started and November '06 when
15 you published, when would you say you kind of got to
16 the 916 number that represents the pilot inputs from
17 the original survey?

18 A I would say the bulk of it probably came
19 within about the first three months or so, then it
20 kind of tapered off. Like I say, in that three
21 months we had sent out a couple of reminders.

22 Q So, you got a big bunch at the front and

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1 then it tapered off and finally roughly at about
2 three months you got the number 916?

3 A Yes.

4 Q Then it was after that that you went to
5 the follow up survey?

6 A Yes. After.

7 Q And when was that?

8 A We did that basically in probably October
9 is when we, late September or early October we were
10 making those calls, and basically -- probably
11 throughout the month of October, you know, making
12 calls and waiting for returns.

13 Q So it is surely the case that at the time
14 that the pilots were responding to your survey that
15 obviously they didn't know what the combined
16 collective bargaining agreement was going to look

17 like, that was going to govern the new airline after
18 it was fully integrated?

19 A That is right; nobody does.

20 Q Right, nobody knows that.

21 And they obviously didn't know what their
22 seniority number would be on the combined airline.

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1 I take it -- well, you know that there was
2 just recently a report, I guess you can call it
3 that, which by the -- I will call it the age
4 sixty-five commission, you know that, the special
5 panel that was established to make recommendations
6 going to age sixty-five?

7 A Right.

8 Q And you know they just recently issued a
9 report, not coming to any conclusion, right?

10 A Yes.

11 Q But all the responses that you got came
12 before there was any activity at all, that is an
13 overstatement, certainly before that report was
14 issued, correct?

15 A Well, yes, but that is not -- I don't
16 think the pilots were in the vacuum to think that
17 there was no discussion on the age sixty-five, but
18 as far as the report, yes.

19 Q Right. Up until the time the report was
20 issued some pilots might have thought the report was
21 going to say keep it at age 60, other pilots might
22 have thought was going to say go to age sixty-five,

1 all of that was up for grabs at that point, correct?

2 A Correct.

3 Q It might still be up for grabs?

4 A Yes.

5 Q But at the point of the survey they didn't
6 know what that commission was going to report,
7 correct?

8 A Correct.

9 Q And even within your own airline on the
10 age sixty-five question, there was a fair amount of
11 debate back and forth during that time period,
12 correct?

13 A Yes.

14 Q On whether your pilot group ought to be in
15 favor of age sixty-five or opposed to age
16 sixty-five?

17 A There was a poll taken, that was I believe
18 in September or something like when that was taken.
19 So I would say the bulk of these people probably had
20 responded prior to that poll results coming out.

21 Q The poll was actually taken in September
22 or the poll results were announced in September?

1 A I can't remember exactly when they came
2 out. I seem to think it was around that time frame,

3 but off the top of my head I can't remember what the
4 exact dates were.

5 Q The question on whether there should or
6 should n't even be a poll was something that was
7 debated hot and heavy on your Chat Board, right?

8 A Well above my pay grade. I don't know, as
9 far as --

10 Q Well, maybe above your pay grade to decide
11 whether there is or isn't going to be a poll, but
12 that question was debated hot and heavily whether
13 there should or should n't be a poll?

14 A I am not sure.

15 Q But be that as it may, the whole age
16 sixty-five question, and more to the point, the
17 commissions report was -- came out after your survey
18 was conducted, correct?

19 A Right.

20 Q And your survey was conducted before US
21 Airways announced that it was going to make a bid
22 for Delta, correct?

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1 A That is correct.

2 Q So the pilots who responded to that
3 could n't have, would n't have known about that
4 possibility, correct?

5 A Correct.

6 Q Nor would they have known about the, to
7 state the obvious, any other circumstance in the
8 economy that either affected -- affected either

9 adversely or affected positively US Airways
10 prospects in the industry, correct?

11 A Well, it is a snapshot. I mean it is just
12 like in the November 2004, we took a snapshot of the
13 President. I am sure there are people who would
14 change their mind now if they had known back then.

15 The same thing with this. People took
16 another a snapshot and base their decision based on
17 what they know at the time.

18 MR. FREUND: Correct. That is all I have
19 got.

20 MR. KATZ: Let me just follow up, if I
21 may.

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1 REDI RECT EXAMI NATION

2 BY MR. KATZ:

3 Q The testimony you gave before the break on
4 Exhibit 24, you indicated a subjective impression
5 about how the one third figure that is shown on
6 Exhibit 24 might change as you went through the
7 remainder of the furloughed pilots. Do you recall
8 that testimony?

9 A Yes.

10 Q Did you do any additional analysis over
11 the lunch break to either verify or corroborate or
12 investigate the subjective impression you testified
13 about before the break?

14 A Yes, I did.

15 MR. FREUND: Let me interject. Again I am
16 not going to object, I just want to observe that
17 this redirect is beyond the scope of my cross. I
18 don't have a problem with that, but I just want to
19 make sure that the rules are going to be operate
20 both ways during the course of this case.
21 CHAIRMAN NICOLAU: You have made your
22 point.

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1 BY MR. KATZ:

2 Q Do you remember what I asked?

3 A Yes.

4 Q Please enlighten us?

5 A Well, I had made a statement that I felt
6 that as it got more junior on the list that the
7 acceptance rate would be higher than this 1 out of
8 3.

9 Q What did you could to analyze whether that
10 was correct?

11 A Over the lunch break I looked at the
12 database for this and just at a quick look and a
13 quick number count of some things, and actually it
14 appears, if you look at the guys right at the bottom
15 which are generally the CEL guys, about 100 guys who
16 are the most recently furloughed ones, and they had
17 a fairly high acceptance rate.

18 But according to the survey results, but
19 as I looked through the seniority list and divided
20 it up into certain areas, it came out it was fairly

21 close to the numbers that we have here in exhibit
22 24, as far as the 32 percent.

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1 So -- basically it would, what I had
2 stated off the top of my head really wasn't
3 supported by the numbers that I looked at over the
4 lunchtime.

5 Q I guess what you are saying is it was true
6 with respect to the very bottom of the list --

7 A Very bottom.

8 Q -- who were the CEL pilots, but when you
9 looked at it over the entire range --

10 A Over the spectrum of the whole 1700, it
11 was more in line with what the 32 percent acceptance
12 or the, this 1 to 3 rate that we are talking about.

13 Q The 108 out of 321?

14 A Right.

15 MR. KATZ: Thank you. That is all I have
16 on redirect.

17 RE-CROSS EXAMINATION

18 BY MR. FREUND:

19 Q I am not sure I understood that so I have
20 got to ask a question or two.

21 MR. KATZ: You could ask him to repeat.
22 That might make it clearer, but I am not sure.

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1 BY MR. FREUND:
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2 Q If I understood you correctly, over lunch
3 you looked at the -- well, let's just back up.
4 Looking at Exhibit 24, just by looking at the green
5 versus black, it looks like as you go more junior
6 there are more people who are passing, correct?

7 A Correct.

8 Q And is what you are saying that if you go
9 to the pilot inputs, that is the 900 -- go to the
10 database that makes up the pilot inputs that make up
11 the 916 responses, you get a different conclusion?

12 A No, I was saying, in my testimony earlier
13 --

14 Q Uh-huh.

15 A -- I had said that this, we were referring
16 to Exhibit 24 --

17 Q Yes?

18 A -- as basically taking about a three, you
19 have to call three pilots to get one to accept it.

20 Q All right?

21 A And earlier I had said that the guys at
22 the bottom of the list, I said as you went more

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1 junior I made the assumption that you would have a
2 higher acceptance rate.

3 Q Okay, even though on Exhibit 24 it doesn't
4 really seem to show that?

5 A Yes, these are the senior guys at the top.

6 Q So there is just a relative higher versus
7 lower?

8 A Right.

9 Q And on this little snapshot it looks like
10 the guys who are more junior are within this
11 snapshot are accepting at a considerably less than a
12 32 percent rate?

13 A Yes, and that -- I mean I just am making
14 an assumption here, but it is possible that as you
15 get more junior on this the guys that are left in
16 just 190 positions, that is just an assumption, that
17 could be very well be why as you get more junior on
18 this small snapshot these 300 guys, why the pass
19 rate is higher on the more junior guys.

20 Q You don't know that one way or another?

21 A I don't know that. That is just an
22 assumption of mine.

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1 Q So then over lunch, tell me again what you
2 did?

3 A Well, basically I just looked at the
4 database to see --

5 Q Again let's be clear, the database was
6 the --

7 A The 1713.

8 Q Was really the 916. You don't have a
9 database for 1713?

10 A Right. I looked at the responses of the
11 916 to see if in fact that there were, the guys at
12 the bottom of the list, there were more of those
13 saying they were going to come back than the guys in

14 the middle or at the top, and it seemed to be fairly
15 linear.

16 I mean, if you look at the bottom 100
17 guys, you know, the CEL guys, like I say, the guys
18 most recently furloughed, most of them say they will
19 come back tomorrow, but if you look at the Lowell
20 spectrum of it, it looked fairly constant.

21 Q Can you sort of printout a document that
22 reflects that? I mean you must have looked at

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1 something other than just kind of eyeballing the
2 database?

3 MR. KATZ: Why don't you give him the
4 numbers that you calculated.

5 THE WITNESS: Well, I mean I just looked,
6 just real quick looking at the numbers 69 -- if you
7 just split the seniority list in half, I came up
8 with --

9 BY MR. FREUND:

10 Q Let's try to be precise --

11 A Split the 916 in half.

12 Q Okay, 916 in half?

13 A To see if there is any difference at the
14 bottom half of that versus the top half, and if you
15 look at this 295 negative responses, okay, I mean
16 the bottom half had a 147, and so really, the bottom
17 half had about half of that, so it was -- pretty
18 close, but --

19 Q But the what did the bottom quarter have?

20 A I mean I didn't sit there and, I didn't
21 have time to split it up and make a whole
22 spreadsheet on it. I was just doing a quick -- a

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1 quick look at it.

2 Q I don't know that it is worth our time to
3 ask for the underlying material, but we may want to
4 ask for the underlying material so we can take a
5 look at it ourselves.

6 If you don't mind I am going to hold on
7 that question.

8 CHAIRMAN NICOLAU: Will you reserve until
9 you make up your mind whether you want to see it or
10 not.

11 MR. KATZ: My one caution would be we
12 would need to have some kind of assurance that you
13 would respect the confidentiality of these
14 individuals.

15 MR. FREUND: Sure.

16 MR. KATZ: Of these individuals who
17 responded.

18 CHAIRMAN NICOLAU: Sure.

19 MR. KATZ: That their names wouldn't get
20 out because that is what they were promised.

21 BY MR. FREUND:

22 Q I am sure the database is such that you

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1 could delete the names off entirely?

2 A Right, we could just give you -- yes,
3 delete the names off or just leave seniority numbers
4 on in --

5 Q Could seniority sometimes give it away?

6 A I don't know what you want to do with it.

7 MR. FREUND: I am making much to do about
8 nothing because frankly I don't understand the
9 significance of this case or what this panel decides
10 to do. I am just kind of a curious guy that makes
11 me want to ask questions.

12 That is all I have got for the witness at
13 the moment.

14 MR. KATZ: Nothing further. Thank you,
15 Dean.

16 CHAIRMAN NICOLAU: Thank you.

17 MR. KATZ: Our next witness is Captain Bob
18 Kirch.

19 Whereupon,

20 ROBERT KIRCH

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

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1 DIRECT EXAMINATION

2 BY MR. KATZ:

3 Q Would you state your name and residence
4 for the record, please?

5 A Robert Kirch, Stowe, Vermont.

6 Q And your employment?
7 A US Airways, pilot.
8 Q And what are you flying now?
9 A A 737 captain based at Philadelphia.
10 Q How long have you been employed as a pilot
11 at US Airways or its predecessor carriers?
12 A 20 -- 21, whatever, 21 years, about.
13 Q Where did you start, which airline?
14 A I was with Piedmont.
15 Q Can you name a few of the positions that
16 you held as a pilot for Piedmont and US Airways over
17 the years?
18 A Uh-huh, started out as a 727 flight
19 engineer with Piedmont, did a short stretch as a 737
20 line check airman, as an engineer that is, engineer
21 check airman, then 737 F0, 767 international F0, and
22 then a 737 captain.

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1 Q How long have you been a captain on the
2 737?
3 A About since nine last time which were
4 sitting before Mr. Nicolau, whatever that was. I
5 upgraded right after that last hearing.
6 MR. KATZ: 1998 --
7 CHAIRMAN NICOLAU: That far back, is that
8 what you are saying?
9 THE WITNESS: Right after that, yes, I
10 checked out to captain.
11 BY MR. KATZ:

12 Q You have been involved in ALPA work then,
13 haven't you?

14 A For quite some time.

15 Q Would you describe some of that, please?

16 A Started out as an engineer rep in my
17 original base in Norfolk. Then was on the MEC again
18 as a co-pilot rep in Baltimore. I also served on
19 the Piedmont merger committee, in the U.S.
20 Air-Piedmont merger, and then was on the US Airways
21 merger committee for the Shuttle merger, and then of
22 course this merger.

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1 Q It sounds like you have done quite a bit
2 of different flying for Piedmont and U.S. Air over
3 the years, domestic and international; is that true?

4 A Yes.

5 Q What sort of international flying have you
6 done?

7 A Well, I flew trans Atlantic for 10 years,
8 started out with our second, when we got our second
9 route, Pittsburgh to Frankfurt, and then basically
10 was flying 767 to Europe through a good bit of our
11 growth in Europe, a lot of new cities, a lot of new
12 places. And really enjoyed that flying, that was
13 nice flying.

14 Q You were here when Dave Ciabattini
15 testified yesterday?

16 A Yes.

17 Q Was it yesterday, I guess it was?

18 A Yes.

19 Q And do you generally agree with his
20 testimony about the international flying?

21 A I certainly would. I mean clearly the
22 seniority speaks to the general pilot's valuation of

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1 that flying compared to the other flying.
2 Personally I just, I really enjoyed the flying the
3 767. In fact I used to talk about it so much when I
4 came home, my wife, one of my birthdays, gave me a
5 license plate that said 767 on it.

6 But just a really nice airplane to fly.
7 The 75 is nice but the 76 is the Cadillac of the
8 two. And flying to Europe, that being said it is
9 just a whole different world. It is a different
10 airline. I mean you really feel that when you are
11 among the international crews and you take off and
12 you head for the coast and you are out of all the
13 ATC issues, everything we have to normally deal with
14 in the U.S., particularly the northeast.

15 And, you know, I would have to kick myself
16 sometimes saying, "Hey, you are sitting in a cafe in
17 Paris. This isn't Erie or Elmyra, and you know.

18 I just really enjoyed it. I really do
19 look forward to being able to do that as captain.

20 Q And at US Airways is there a separate bid
21 for international flying, how does that work?

22 A Yes, the -- well, you have to -- there are

1 two 767-757 bids, domestic and international. And
2 then there are 330 which is all international. When
3 you are flying the 767 -- well, the -- I am letting
4 a little of the vernacular slip in here.

5 We normally refer to the international as
6 76 and the domestic as 75. That is primarily
7 because when you are flying, the bid is called 75-76
8 international. You will rarely see a 757 because
9 you are flying mostly trips that 75 doesn't have the
10 range to do.

11 Yes, we have got a few doing the shorter
12 trans Atlantic flights to just into the UK or
13 Portugal, but the 76 is doing all the rest of the
14 stuff all over Europe. And of course it does the
15 greater variety of destinations.

16 If you are flying we call it 757, because
17 when you are flying 757-6 domestic you will rarely
18 see 767. It is not pure, they do crossover
19 occasionally because of where our maintenance
20 hangars are located. It is not uncommon for a 767
21 to fly from Charlotte to Philadelphia with a
22 domestic crew and then go to Europe.

1 So I like I say, it is not a perfect
2 division but the in terms of predominantly what you
3 are flying it will be vastly one way or the other.
4 That is why the pilots just to refer 76 or 75 and 76

5 means the 76-75 international bid.

6 Q That is the shorthand amongst the U.S. Air
7 pilots?

8 A Right.

9 Q And the special provisions of the
10 collective bargaining agreement that Dave Ciabattoni
11 referred to, those apply to the international bid
12 whether it is a 75 flying to Portugal or 767 flying
13 to Rome?

14 A Correct. That is a separate contract
15 division, that deals with that whole package of
16 flying.

17 Q And the basic collective bargaining
18 agreement would apply to the 75-76 domestic pilots
19 even to those occasional 767 legs that are mixed in
20 with the 757?

21 A That is right.

22 Q Okay, have you prepared a volume of

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1 exhibits regarding employment data?

2 A I have.

3 Q Let's distribute that at this time. And
4 we can slip Dean Colello's into the back of that
5 book.

6 A Okay.

7 Q Let's flip to Exhibit 1, if you don't
8 mind. And in was part of the materials we submitted
9 with our prehearing statement of position to the
10 merger committee. Would you take us through this

11 document and how you prepared it, what it shows?

12 A What this is, just to give you a handy
13 summary of everything that is in the seniority lists
14 that follow, without having to count up all the
15 jobs.

16 Look for a second just at the US Airways
17 flying jobs, listed down the left side you have our
18 bid positions, 737, which of course includes the two
19 300 and the 400 models, A320 which includes the 319,
20 320 and 321, the 75 and 76 which of course I just
21 talked about, that is the 75-76 domestic bid which
22 we call 75, and then the 75-76 international bid

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1 which we refer to as the 767, and then the Airbus
2 330 which is all international, and then the Embraer
3 planes which are the 170s operating as the mid
4 Atlantic division.

5 Included in all -- well, these numbers, if
6 you go through the seniority lists that we will get
7 to in a moment, this just gives you the sum of all
8 the different types of flying that we have, matched
9 up with the numbers of airplanes that we had on
10 May 19th, which is of course the announcement of the
11 merger, and the constructive notice date, and then
12 we just multiplied out what the staffing rates
13 actually are.

14 Same information on the America West side,
15 that is based on their certified list which was
16 dated September 27th, and down below that are just

17 the counts of the non-flying pilots, and in our case
18 of course we had 1472 pilots on furlough, with a
19 total of 5098 pilots for US Airways and 1894 for
20 America West.

21 Q The ages, are they calculated as of
22 May 19, 2005?

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1 A That is correct. And that is also true
2 for the America West side, though it is dated
3 September 27th. Of course we used the same date for
4 both of the average age calculations so you had an
5 apples to apples comparison.

6 Q When you do the staffing calculation that
7 is based on total pilots in both sides, right?

8 A That is correct.

9 Q I notice one airplane, the 767 and also
10 the A330, that is two airplanes, where there seems
11 to be a much higher proportion of co-pilots than
12 captains. Can you explain that, please?

13 A That of course is three pilot crews where
14 you have got two co-pilots and one captain on the
15 international flying, and of course you can see
16 there is no more indication that virtually all of
17 the 76 flying is international because you have got
18 about the same proportion of captain co-pilots as
19 the 330.

20 Q It does appear that the staffing on the
21 international airplanes is much higher?

22 A Yes. Well, that is -- those airplanes are

1 in the air, you know, enormous amount of time, I
2 mean 16, 17, 18 hours a day. So of course that
3 reflects in the crew complements.

4 Q So it is partly the IRO and partly the
5 nature of the flying, the stage --

6 A That is correct.

7 Q Let's move on to the certified list. We
8 have been referring to this document because it was
9 attached to our arbitration statement of position.
10 What can you tell us about the certified seniority
11 list that will be helpful?

12 A Let me just run across the obvious, the
13 column headings, and with US Airways, when we talk
14 about the seniority numbers, at US Airways we only
15 renumber the list once a year. It is renumbered at
16 the beginning of January each year.

17 This list has the retired, deceased and
18 resigned pilots removed. We didn't just create new
19 seniority numbers that aren't company seniority
20 numbers. So you will notice that there are missing
21 numbers, and that is why.

22 We did put a number count down the side of

1 the chart, that continuous small number count just
2 gives you, so when you are flipping down the chart

3 you know how far down the list you are, because the
4 seniority numbers of course have a lot of gaps.

5 The status is generally non-flying status
6 with the exception of supervisors and management, so
7 you can see use the number two guys the 330
8 supervisor, those are our check airmen, they are of
9 course all line qualified and do line flying.

10 Birthday, date of hire, now tenure is the
11 amount of time the guy has been around on our list
12 basically through the date of this list. So it is
13 the date of hire through May 19th, 2005.

14 Length of service is the same thing,
15 without any intervening furlough time. And it does,
16 just to be clear, it does include any time in the
17 mid Atlantic division of US Airways.

18 The next columns are in pairs, furlough
19 start one, furlough end one; furlough start two,
20 furlough end two. And those, of course, are start
21 and end dates for furloughs.

22 And then again just to, you know, to

370

1 provide all the information, we have got the MDA
2 start and end dates. So all the raw data pertaining
3 to our pilots is displayed here in a fairly concise
4 format.

5 Q Okay, any aspects of the list that you
6 particularly wanted to point out to us as we are
7 going through this?

8 A If you flip down to, we were talking about

9 the wide body international or the 767, just if you
10 look on page 19, looking at the numbers on the left
11 as line 747 --

12 Q That is a coincidence.

13 A That is the position of our junior trans
14 Atlantic captains. There actually are a couple
15 below that, if you look on, let's see, where are
16 they? Actually all the way down on page 23 you will
17 see a couple more down there at line numbers 922 and
18 923. These are management and supervisor pilots who
19 are not, they aren't indicative of the seniority.

20 The hold backs of course, sometimes the
21 management people don't really need the seniority to
22 have the jobs so we have excluded them.

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1 Captain Clegg back there on line 747 is
2 the junior international 76 captain. And if we flip
3 on further it drops down to page 81, line 3303, you
4 will see Dean Colello that just testified, and of
5 course he, if you look over to the right here you
6 will see that he is the first guy with furlough
7 time. He is the senior pilot who was furloughed, of
8 course he is recalled now.

9 But, notice that he has a tremendous
10 length of service. Basically he is only, though he
11 was on furlough he still has over 16 years of
12 service with the company.

13 If you just page through the next few
14 pages, looking down those lengths of service

15 columns, you will see that the service time of
16 pilots we have got on furlough is, stays quite high,
17 very -- not far off their actual tenure time.

18 And it is not, you go through quite a few
19 pages actually where this is still the case until
20 you get down to page 93. And if you look at that
21 length of service time you will notice a significant
22 drop.

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1 Pilot on line 3770, Sistrunk, if I have
2 pronounced that correctly, he actually only has six
3 years of service. And this is our reason for
4 proposing a date of hire list adjusted for furlough.
5 We don't feel it would be reasonable to compare
6 pilots in such a position with a 15-year America
7 West pilot when in fact in fact he has only got six
8 years of service.

9 And as you go on down the list you will
10 see that the furlougees drop, their length of
11 service time drops off quite a bit. And again, you
12 know, just pointing out the same thing.

13 Q Okay, what about the next exhibit, Exhibit
14 3, have you set that document up in a similar
15 fashion so it compares apples to apples and oranges
16 to oranges?

17 A Yes it is set up exactly the same, and --
18 yes, format is identical.

19 Q When you calculated employment tenure and
20 length of service have you calculated it to the same

21 point in time, May 19th, 2005?

22 A That is correct, and these are noted in

373

1 the legend there I didn't specifically mention that
2 but just as a reference, yes. They are calculated
3 exactly the same way, May 19.

4 And of course as you look down all these
5 pilots that are on the first page their length of
6 service and tenure time are identical because they
7 don't have any furlough time, which of course would
8 be listed in those next columns if they did.

9 So if anybody wanted to check the
10 arithmetic and see why the length of service time is
11 less than the tenure, the explanation is right
12 there.

13 Q And senior group of pilots at America West
14 who are still on the list were hired in June of
15 1983?

16 A That is right.

17 Q They have nearly 22 years of service as of
18 the date of the announcement of the merger?

19 A That is correct.

20 Q Okay, let's look at Exhibit 4. Did you
21 prepare these charts -- what did you prepare them to
22 show?

374

1 A If I may, let me back up, I did miss one
Page 107

2 thing on the last chart.

3 Q Okay.

4 A We can just back a page at the bottom of
5 the America West chart.

6 Q Sorry.

7 A I think we do want to note the longevity
8 that we are dealing with at the bottom of the
9 America West chart. When we talk about Dave O'Dell,
10 their bottom pilot, he has only been around as of
11 the merger just over a month, so he is still in
12 school. I mean he hasn't even been to the line yet.

13 And that of course, if you are looking up
14 there, you have very low tenure times going quite a
15 ways up because of their recent hiring going right
16 up to just before the merger.

17 Q So, O'Dell is the junior pilot in that
18 class that began April 4, 2005?

19 A That's correct.

20 Q Just a little over a month before the
21 announcement of the merger?

22 A Right.

375

1 Q Thank you.

2 Now, what does Exhibit 4, show, please?

3 A Now, what we have done here is just added
4 up the attrition, this is the age 60 attrition, as
5 of May 19th, and for the America West pilots, as it
6 is noted down in the lower left corner, as of the
7 date of these lists, and of course America West's

8 list was September 27, 2005. Shows the number of
9 age 60 attritions on each year going all the way out
10 about 15 years or so.

11 And, you know, clearly here, we have got
12 enormous amount of attrition. Compared to the
13 America West pilots, roughly you can just eyeball
14 it, we are looking at about four times the attrition
15 for as far out as you would want to look.

16 Q All the computer did here is count up the
17 birthdays of people who would be reaching age 60 in
18 each of these years?

19 A Right. The first, 2005, you know these
20 numbers are obviously a little lower because it is a
21 partial year, but it is just counting everybody who
22 had a 1945 birthday. And then the same thing in the

376

1 subsequent years.

2 Q If their name is on the list and their
3 birthday is that year they are in this count?

4 A Right.

5 Q Okay, Exhibit 5?

6 A This exhibit, it is the same numbers, just
7 cumulative. It is just adding them up going across.
8 Of course you notice 2005 are the same numbers and
9 then they are added up. As you look across there
10 you just see the enormous magnitude of the attrition
11 we are talking about. You know, you go out to, I
12 mean we cross over 1000 pilots who will be gone by
13 prior to 2010. We are not even going very far into

14 the future. Go out to 2020 we have got more pilots
15 leaving than we have active jobs.

16 Q All right, and Exhibit 6 actually shows
17 the year by year data in a different fashion?

18 A Yes, what we did here, and our purpose
19 here was, we feel that looking forward it is not
20 realistic to project growth in a merged airline.

21 Now, pilot advancement and job promotional
22 opportunities are obviously a factor of one or two

377

1 things. It is either net fleet growth or attrition,
2 nothing magical about that. And since we are not
3 talking about, we don't think it is realistic to
4 project growth into a merged seniority list,
5 basically attrition is the story, in terms of
6 anybody's job opportunities or advancement
7 opportunities into the future.

8 And what we have done here is each
9 vertical bar there just represents 100 percent of
10 the attrition for that year, and the division in
11 there between blue and the orange is where that
12 attrition came from, who put that into the pot.

13 And I think what is important to consider
14 here is whatever anybody wants to say about how we
15 got here or whatever, that attrition is there going
16 forward. The only question before us is how are we
17 going to divide it up.

18 And, clearly, you know, you can again just
19 eyeball across there. As far out as you could

20 possibly want to look, 80 percent of it is coming
21 from US Airways.

22 Q And that represents 80 percent of the

378

1 age-related promotional opportunities, doesn't it?

2 A That is correct.

3 Q Now, Exhibit 7 is another seniority list
4 but it is not in the same order as the ones we were
5 looking at before, is it?

6 A What we did here is just provided a
7 reference. It is kind of helpful just to be able to
8 look at their attrition.

9 All we did, first of all is took the
10 May 19 list and the America West in the next Exhibit
11 Number 8, we took those seniority lists and sorted
12 them by birthday. And so what you see there when
13 you look at the top of Exhibit 7 is the pilots, of
14 course the list was dated May 19th so the first
15 person hitting age 60 is on May 22nd, 1945, or that
16 is the birthday.

17 And if you wanted to you could go down
18 there and count all the 1945 birthdays and it would
19 come to, I believe the number was 81 or whatever
20 chart shows.

21 Q Well, in fact, the computer has counted
22 those for us. If you look down on page three at

379

1 line No. 81 you see someone who was born the day
2 after Christmas in 1945, and he is the last 1945
3 pilot on the US Airways list?

4 A That is correct. And you can keep on
5 going down there. If you want to look at the
6 cumulative numbers, essentially the numbers down the
7 side became the cumulative numbers and they of
8 course match the cumulative chart. We took this out
9 to I believe it is 2020, basically as far as the
10 charts go.

11 Q And in Exhibit 8 we have done the same
12 thing, or the computer has done the same thing, with
13 the America West seniority list?

14 A That is correct.

15 Q So that corroborates the attrition charts
16 that precede these two seniority lists, right?

17 A That is correct.

18 Q Now, there is a slightly different subject
19 in Exhibit 9. Would you explain to us why you have
20 displayed their information here?

21 A Age 60 attrition is only part of the
22 story. Obviously we have people leaving the list

380

1 both at US Airways and America West for other than
2 age 60 reasons; medical, a guy just decided to leave
3 early, deaths unfortunately, you know, any number of
4 reasons.

5 But what we did here is just look back on

6 our seniority list back to the year 2000 and just
7 compared each list, one to the next, and made a list
8 of the pilots who in 2001 or the pilots that were on
9 the 2000 list and not on the 2001 list, and then we
10 broke them down to who hit their age 60 birthday in
11 that year and that determined, that split the group
12 between age 60 and what we considered early. Again
13 that is just who didn't hit their 60th birthday in
14 the year 2000.

15 So in that first one we had 68 pilots
16 retiring for age 60 and 111 retiring for other
17 reasons or leaving the list for other reasons, for a
18 total of 179. We continued to do that across for
19 all the years and then all the way on the right is
20 just averages of those numbers.

21 Q So the far right column is the seven-year
22 average of age 60 attrition and other attrition?

381

1 A That is correct, that is the average of
2 our actual experience.

3 Q And it looks to be about 80 percent as
4 much as the age 60, is the other?

5 A That would be correct.

6 Q All right, exhibit 10, is a graphic
7 depiction of the information that was in Exhibit 1?

8 A That is correct, just showing the
9 difference in the average ages, which of course is
10 the driving factor for the differences in the
11 attrition.

12 Q And this shows what we would expect, that
13 the US Airways pilots are older on average?

14 A Yes.

15 Q Would you flip to Exhibit 11 please. This
16 one looks very similar to the format of Exhibit 1,
17 can you tell us what the difference is here?

18 A Well, we have moved ahead now to July 1,
19 2006, for both sides.

20 Dan mentioned in his opening statement in
21 general our reason for doing that. And what that
22 comes from is we have had a lot of discussions, even

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1 today, regarding airplanes going away, coming.

2 Normally it would be reasonable to say a
3 constructive notice date, that is when we ought to
4 take a snapshot of everything and anything after
5 that is merger related, and those are the jobs that
6 everybody brought to the merger, and it is fairly
7 clean cut.

8 But in this merger it is a little bit
9 different in that to be fair, we had airplanes going
10 away after May 19th that were announced prior to the
11 merger that were related to our bankruptcy that
12 really had nothing to do with the merger. So you
13 know, that was part of the number. I don't remember
14 off the top of my head what was the total number
15 was. I think it is about 60 airplanes total.

16 But of those 60 airplanes that we lost
17 over the last couple years, 15 of them were part of

18 that discussion we had earlier today regarding 25
19 airplanes leaving the fleet as part of the merger
20 announcement.

21 Q That was the exhibit that Mr. Freund
22 cross-examined Mr. Barry about that was from May 19,

383

1 2005, the actual press release announcing the
2 merger?

3 A That is correct. And so 25 additional
4 airplanes for hopefully good management reasons,
5 whatever, you know, they decided needed to come out
6 of the fleet.

7 And you know, we can argue about the
8 semantics about well, what did the words mean or US
9 Airways or whatever, but the reality is what the
10 company actually did was took 15 airplanes out of
11 our fleet, 15 additional airplanes or what we had
12 already announced, and the America West pilots
13 experience a net loss of about 10 airplanes out of
14 their side.

15 Now, 15 to 10 is about the relationship of
16 our active jobs, and we feel that represents a fair
17 sharing of the pain that came with this merger.

18 Now, on the other side, much that equation
19 of course is the tremendous job security that we and
20 the America West pilots are going to enjoy going
21 forward that comes from having over \$3 billion in
22 the bank.

1 And we think it is reasonable, you know,
2 there was a cost to get --

3 MR. FREUND: I am just going to interject
4 for a moment.

5 I sort of thought that the purpose of
6 having a hearing where witnesses are going to
7 testify about the facts was that they would testify
8 about facts, and not where they would make their
9 arguments.

10 We have got plenty of time to make
11 arguments. So we are just taking up what I would
12 regard as valuable time to delve facts, having
13 Captain Kirch make Dan's arguments for him.

14 CHAIRMAN NICOLAU: I thought he was trying
15 to explain why the chart is as it is.

16 MR. KATZ: That is exactly what he is
17 explaining.

18 MR. FREUND: I think he went well beyond
19 that.

20 CHAIRMAN NICOLAU: Well, let's see that he
21 doesn't. Okay.

22 BY MR. KATZ:

1 Q You may continue, Captain Kirch?

2 A The purpose in selecting July 1 was to try
3 and determine what was an equitable starting point,
4 an equitable accounting of the jobs brought to the

5 party here.

6 And for the reasons I just went through,
7 we felt that, you know, obviously jobs are driven by
8 airplanes. And at that point in time we had an
9 equitable sharing of the pain.

10 We were, I can't remember exactly where we
11 heard this, but when, you know, after the
12 announcement that 25 additional airplanes were going
13 to come out of the fleet we were told that, you
14 know, the pain would be shared equitably, somewhere
15 from management, like I say I don't remember where.

16 But the bottom line is what the company
17 did do. They took 15 airplanes additionally out of
18 our fleet and the America West guys lost a net of
19 ten airplanes and so we felt that offered us a point
20 where we had a reasonable sharing of the pain and
21 gave us a snapshot point where we could look at the
22 jobs as they stood.

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1 Now, I have to say as far as how the jobs
2 stood, we will get to this a little bit later, but
3 for the 10 airplanes that the America West pilots
4 lost, there wasn't really that much of a job count
5 loss, where it was significantly higher on our side.

6 But nonetheless, somewhere along the line
7 you have got to just kind of draw a line and say,
8 okay, this is what we think is fair and this is
9 where we have drawn the line.

10 Q So you are saying the job count loss was
Page 117

11 greater on the US Airways side, picking the July 1
12 date, than it was on the America West side?

13 A Much higher even when you consider that of
14 course we had 40 some other airplanes that went away
15 that were not related to this 25 we are talking
16 about.

17 Q All right, let's look at this exhibit 11,
18 Captain Kirch, and one thing that I see offhand is
19 that while there were Embraer jobs on the May 19th
20 there are no Embraer jobs on this chart.

21 A Yes. We hit a point there where, I think
22 this is was covered previously, that US Airways had

387

1 an option to sell the Embraers to Republic, and I
2 believe in the end of June, obviously the merger
3 management made that decision, the decision was
4 played to selling those airplanes.

5 By the time we got to July 1, '06, those
6 airplanes were actually gone. But of course the
7 merged management also decided to bring back
8 Embraers and now they are back again as of today.

9 So, it is kind of a little shuffle of
10 Embraers going out and coming back, and oddly it
11 turned out to be 25 left and 25 are coming back.

12 But in the meantime, unfortunately, we had
13 pilots that wound up back on furlough because of
14 that, and this happens to hit right in that window.

15 Q In our fleet witness who is coming next we
16 will talk about the actual terms of the airplane

17 transactions that are involved, right?

18 A Yes.

19 Q But that is the explanation for why there
20 were previously Embraer positions listed as of
21 May 19th but there are none listed as of July 1?

22 A Right we are in that window where they

388

1 went away and where it is coming back.

2 Q And they are actually coming back right
3 now?

4 A Yes. Right.

5 Q And have you changed the time that you are
6 calculating the average age to July 1, 2006?

7 A Yes.

8 Q And presumably you have also changed the
9 population of people who have been, whose age has
10 been averaged; right?

11 A That is correct. You know, these counts
12 go with the list that follow in the next two tabs
13 and again they are just simple counts. They give
14 you a nice summary, again, of what is going on as of
15 that date, without having to try and count names
16 going down the list.

17 Q And the total number of pilots at US
18 Airways has dropped from 5098 to 4951?

19 A That is correct.

20 Q And at America West it dropped from I
21 think it was 1894 to 1853?

22 A I think that is correct.

1 Q Okay. And this is again a summary for
2 seniority list information?

3 A Yes.

4 Q Have you included the back-up data in
5 exhibits 12 and 13?

6 A That is correct.

7 Q So this is the list for US Airways pilots
8 looking at Exhibit 12, that is set up in the same
9 fashion as the list we looked at earlier, but it has
10 been aged a year and a couple of months?

11 A Right. Of course all the actual attrition
12 has been removed. We have added just so that you
13 keep score on this thing, we have shown both the '05
14 and '06 seniority numbers, so if there are any
15 questions like we ran into before, just look at this
16 July list and we have got the code for both plus of
17 course the employee numbers if you are trying to
18 track pilots back through this.

19 Q So you can flip back and forth using the
20 2005 seniority list?

21 A Right. And I should note, on the America
22 West, they only update their seniority list or they

1 update their seniority list twice a year, January 1
2 and July 1.

3 So if you were to look back at, well,
4 actually on their list here there would be no
5 missing numbers. And on this list, just for
6 clarification, also, we did not remove anybody.
7 Every single seniority number is accounted for, but
8 of course if you look down that you will see quite a
9 few people who are retired, deceased or resigned.

10 But, for the sake of accounting with what
11 is happening with every single seniority number they
12 are included here. So this is our '06 numbers.

13 But you will notice on the America West
14 list there is I believe almost no retired, deceased
15 or resigned, and the reason for that is they just
16 updated their list, where we wouldn't do that until
17 the following January.

18 Q In order to see how the seniority numbers
19 were back and forth, why don't we use that pilot you
20 showed us Captain Clegg who was the junior wide body
21 international captain, apart from management
22 supervisors. I think he was in line 747, but -- he

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1 is seniority number 810 in 2005?

2 A Okay. All right, so he is now 710 on page
3 13.

4 Q Okay, so if we go to page 13, he is at the
5 very last line?

6 A Right.

7 Q And he is still got number 810?

8 A So he is 810, now he is 710 on the '06

9 list. So that means that just for the balance of
10 '05, in other words from May 19th through the end of
11 the year he moved up 100 numbers. Plus, this number
12 810 doesn't reflect any of the '06 attrition yet, I
13 am sorry, the number 710, any retired, deceased or
14 resigned people that you see above him of course
15 haven't been removed yet. So his effective
16 seniority is better than 710. He picked up that 100
17 numbers just between May 19th and December 31st.

18 Q I see. And up to July there is
19 additional --

20 A There would be additional attrition of
21 course between January and July.

22 Q And Exhibit 13 is the America West list?

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1 A Yes.

2 Q And we see at the top people who were
3 hired in June of 1983, still half a dozen of those
4 at the top of the America West list?

5 A Yes.

6 Q And flipping to the last page, these
7 calculations of tenure and length of service, on
8 both exhibits 12 and 13, are apparently still being
9 done as of May 19th, 2005; is that right?

10 A That is right, for our purposes we took
11 the constructive notice date as the measurement for
12 length of service.

13 Q Okay. Would you turn to Exhibit 14,
14 please, and tell me what additional analysis appears

15 there?

16 A There is one thing that I think I forgot
17 to mention here going through that I wanted to show
18 with reference to the senior -- I am sorry the
19 junior 767 captain. Can we go back to that or --

20 Q Okay, let's go back to that now.

21 A Okay, if we go back for a moment to
22 Exhibit 2, page 19, again line 747 Captain Clegg

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1 there is our junior 76 captain. Some discussion,
2 the America West pilots had pointed out that their
3 number 1 pilot, we can kind of take a look over
4 there in the next Tab 3, Captain McNerlin, if we
5 note his date of hire which was 6-1-83, that he
6 would be placed I believe, down our list, if we go
7 down, about two, if I have counted 257 numbers below
8 our junior wide body captain, to page 23. If you
9 look at line -- oh oops, I am sorry, wrong note
10 here.

11 I am sorry, the next page here, page 25.
12 You will see our June 1, '93 class. And if you look
13 by Captain McNerlin's birthday 6-23-47, since we do
14 our classes and of course in integration we do this
15 way as well, where the common class date would go by
16 birthday, Captain McNerlin would become pilot, would
17 be -- we will say 992 on the list, if you look at
18 the numbers on the left.

19 He would be just senior to our Captain
20 Brush, or actually he would be -- did I look at that

21 right? His birthday, 6-23, yes, he would fall in
22 between, I don't even know how to pronounce that

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1 one. Well, just above Captain Brush, by his
2 birthday and his date of hire.

3 And so we have got 257 numbers between
4 there, and the America West pilots are making the
5 point that this is a very unreasonable place for
6 Captain McNerlin to be placed. Clearly, you know,
7 the attrition here is enormous, as we have shown,
8 and there are 257 pilots in there who have real job
9 opportunities coming to them to be wide body
10 captains, to be in the seniority position of Captain
11 Clegg.

12 And with the attrition numbers we are
13 talking about that is going to happen very quickly.
14 If we flip ahead to, now let's jump then ahead to
15 Exhibit 12, and if we go to page 16, on page 16 in
16 the lower left there you will find Captain Lavoie
17 who now is our junior wide body captain, again
18 disregarding some management pilots that are holding
19 the position.

20 And then if we look down about 71 numbers
21 again, if I have counted it, on page 18 if we look
22 at seniority No. 946 we will again find that June 1,

395

1 '83 class of ours, and now it looks like Captain
Page 124

2 McNerlin would be the No. 1 by his birthday. He
3 would be the No. 1 guy in that class, so he would be
4 No. 946, by date of hire integration, but now he is
5 only 71 numbers out of being a wide body captain and
6 there is in just over a year. He has moved up that
7 much.

8 Q So there is only 71 people between him and
9 the senior international wide body captain?

10 A That is correct, and you know, a very
11 short time, and it speaks both to the opportunities
12 that will be available to our pilots, the pilots in
13 that 251 on our side, the difference between 251 and
14 71 if I am remembering those numbers right, are all
15 pilots on our side, we are saying when we looked at
16 it May 19th, that these guys have a realistic
17 expectation to achieve a job opportunity in the near
18 future. We are showing they are there already, in
19 just that sort period of time. And also Captain
20 McNerlin has moved real close to it.

21 Q All right now let's turn to Exhibit 14,
22 please.

396

1 A What we have got here is the actual
2 attrition for the balance of '06. I know we are not
3 quite done '06, but at this point going from the
4 company records there and this exhibit and number 15
5 behind it for the America West pilots, show the
6 actual attrition from July 1 through the end of '06.

7 Obviously we know most of the attrition
Page 125

8 because nobody doesn't just suddenly decide to
9 retire with no notice. The company pretty much
10 knows. Well, obviously they know the age 60 attrition
11 and pretty much know the non-age 60 attrition. So
12 this is all the known attrition through the balance
13 of the year.

14 Now, if we go and look again here --

15 Q Everybody on the first page of Exhibit 14
16 was hired before that June 1983 group of America
17 West pilots were hired at America West; is that
18 right?

19 A The June '83, that is correct. So all of
20 the -- so all of them and the first guy on the next
21 page, are senior or would be senior to where Captain
22 McNerlin is put in. So now of those 71 people that

397

1 we talked about before, if I have counted it up
2 right, 53 of them are gone in just the time through
3 the end of the year.

4 Q The 53 more scheduled or actual
5 retirements or other departures from US Airways
6 list, senior to June of '83?

7 A That is right.

8 Q Just in the last six months of the year?

9 A That is correct. So in all likelihood,
10 while we were at 71 we just took out 53, pretty
11 clearly Captain McNerlin will be in wide body
12 seniority before we can get this integration done at
13 the rate our pilots are retiring.

14 Q As will the other America West pilots who
15 were hired in June of 1983?

16 A Certainly; and as I recall there were
17 some, Captain McNerlin I think retires in '07, but
18 there are several others in there that are going to
19 be around and have birthdays in their '50s, so think
20 are going to be there for the while.

21 Q As we would expect from the previous
22 analysis you put in, the list of attrition folks at

398

1 America West in Exhibit 15, is much shorter?

2 A That is correct. We see the magnitude of,
3 you know, here is a six-month snapshot of the actual
4 attrition with the names spelled out.

5 Q Exhibit 16, Captain Kirch, who are these
6 folks?

7 A We have, a while back we had an EEOC
8 settlement with a number of pilots, and this is just
9 explaining a little bit of oddities in our list.

10 These are 4 pilots who still remain on the
11 list that were subjected to this ruling, and this
12 just detailed the specific provision that is
13 pertained to these pilots and also notes the payroll
14 numbers so you can find them on the list.

15 Q We are not asking for any special
16 treatment for these people, are we?

17 A No, this is just disclosure.

18 Q For the information of the panel?

19 A Yes.

20 Q All right, you have done some analysis in
21 Exhibit 17, please explain that to us.

22 A This is taking the columns of job counts

399

1 out of those two exhibits we looked at before,
2 May 19th and July -- May 19th '05, the announcement
3 date of the merger and July 1, '06, what we feel is
4 a reasonable starting point, for us, and showing the
5 changes in job counts, and then doing the same thing
6 for the two lists that are in this book for the
7 America West pilots.

8 And as I said before, you can see that
9 even considering that we of course lost more
10 airplanes, the numbers are not at all proportional.
11 The America West pilots were really not harmed very
12 much in terms of their net loss of 110 airplanes.

13 Q And this is really a simple effort at
14 subtraction, taking the two summaries that were set
15 up in the same fashion?

16 A These are all actual job counts and just
17 doing the simple arithmetic.

18 Q So even though they lost 10 airplanes
19 there is only 44 fewer jobs?

20 A That is correct.

21 Q At America West.

22 All right, what is Exhibit 16, Captain

400

1 Kir ch?

2 A Exhi bi t --

3 CHAIRMAN NICOLAU: 18.

4 BY MR. KATZ:

5 Q I am sorry, 18, yes, I got arithmetically
6 dyslexic.

7 A Well, as I showed, this attrition is a
8 huge thing all through what is going to be happening
9 in the foreseeable future. And obviously has a huge
10 impact on the allocation of jobs going forward.

11 You know, first we were looking at the top
12 of the list, you know, the premium wide body flying
13 and how fast that is moving, and now we are looking
14 in these charts at the very bottom of the list.
15 What these charts are is a look at our very bottom
16 pilot on the seniority list, first -- well, he is on
17 furlough, Ettore Varini, I said that one right.

18 Let me just take you through the chart a
19 little bit. The blue bar, the triangle there on the
20 bottom is the cumulative age 60 attrition. And this
21 is going forward from July 1, '06.

22 The next bar is cumulative non-age 60

401

1 attrition. Now we are projecting this forward.
2 Obviously this gets into actuary-type stuff which
3 will be covered later on, but these, it is a preview
4 of those numbers. But this is a cumulative non-age
5 60 attrition that is anticipated going forward.

6 And then, so these are vacancies. So if
7 you combine the two together, these are anticipated
8 cumulative vacancies going forward that will give
9 recalls obviously, and the yellow band there
10 represents 190 jobs that, according to the schedule
11 of deliveries we have of the 25 190s that are
12 coming.

13 Now, what we did in the three charts here
14 is giving three different views of it, and
15 essentially what we are showing here is when Ettore
16 Vari ni can anticipate being recalled.

17 Now the first chart looks at if you just
18 consider age 60 attrition. Now the slope of the
19 black line coming in from the left is a view of the
20 population of the furloughees. In other words, we
21 have about 1700 of them now on the left there and
22 you have both attrition of the furloughees and, yes,

402

1 we actually do have attrition, people retiring and
2 hitting age 60 among the furloughees.

3 And you also have what we incorporated
4 into that line also is the results of that furlough
5 study that said that 45 percent of the furloughees
6 were ultimately not going to accept recall. Now, of
7 course against that we also have that our current
8 experience is even higher than that.

9 But, in terms of, you know, trying to be,
10 to do a conservative assessment of this, we put the
11 45 in here, and so what this line represents is, you

12 could look at it and say that if there is X number
13 of vacancies going to the furloughees, you have an
14 additional factor that depletes the furlough
15 population for the guys that aren't accepting
16 recall.

17 And it is on that same time schedule of
18 the vacancies, obviously the vacancies are being
19 offered to the population of furloughees, and you
20 are not taking one furlougee out of the pool for
21 every vacancy, you are taking something more than
22 that because you now know that other guys aren't

403

1 going to accept the recalls.

2 So that is what generates the line sloping
3 down from the left. Where that line -- now this
4 black line is specific to each chart so, in the
5 first chart where their line crosses the top of the
6 blue band is where the number of jobs is going to
7 reach the number of furloughees left. And so under
8 what you could really say is a worst case scenario,
9 our very bottom furlougee is going to be offered a
10 recall by October 2009.

11 Q Simply based on age 60 attrition?

12 A Just on age 60 attrition. And on the next
13 chart the black line is based on age 60 and non-age
14 60 attrition. In other words, those vacancies, you
15 have a faster vacancy rate coming in, so it affects
16 both lines, but where those lines cross now Ettore
17 Varini, if you want to include the non-age 60

18 attrition, he would be recalled by November 2008.

19 Q Let me just stop you there for a moment.

20 The projection of the amount of non-age 60 attrition
21 is a product of the actuarial report?

22 A Yes.

404

1 Q That our expert will present tomorrow
2 morning?

3 A That is correct.

4 Q And the numbers have simply been taken
5 from that and included here?

6 A Right.

7 Q All right, how about the third page of
8 Exhibit 18?

9 A Now, the third page, if you wanted to
10 include the vacancies that are being generated by
11 the 190s, then Ettore Varini would receive his
12 recall by play 2008. When you consider it is very
13 unlikely we are going to get this merger done before
14 July or, you in, June 2007 that is a fairly
15 remarkable demonstration of the size of the
16 attrition we are talking about, and the impact it is
17 going to have on the pilot group.

18 And of course that directly translates
19 into the job opportunities that pilots, you know, to
20 be fair on both sides are looking ahead to, but
21 obviously it enormously has a bigger impact on our
22 pilots.

1 Q With regard to these Embraer positions
2 that are part of the analysis in the last page of
3 Exhibit 18, have you followed the announced delivery
4 schedule for the Embraers?

5 A Yes. Just the first 25 are in here.

6 Q And--

7 A And of course they deliver, you can see
8 kind of where that orange band is getting wider, the
9 width of it stops growing somewhere at the end of
10 about 2008, which is about when the 25th Embraer
11 airplane gets delivered.

12 Q In fact what is the staffing assumption of
13 pilots per airplane that is used here?

14 A It is the same five crews per plane that
15 was used in the Embraer arbitration work.

16 Q So five crews per airplane is the
17 assumption?

18 A Yes.

19 Q And that brings Mr. Varini back in
20 May 2008?

21 A That is correct.

22 MR. KATZ: I thank you, Captain Kirch.

1 The remainder of the exhibits in this book
2 have already been covered. That completes our
3 direct examination.

4 CHAIRMAN NICOLAU: Your view, have a few
Page 133

5 questions?

6 MR. FREUND: I have just a couple of
7 questions, again in the nature of preliminary
8 questions, just so I can understand a little
9 construction and then I would like to take a break,
10 and we may want to -- a long break. I am not sure.

11 CROSS-EXAMINATION

12 BY MR. FREUND:

13 Q I think I may just have one or two
14 questions preliminarily. But, preliminary to my
15 first question, when you and I last had an
16 opportunity to have a conversation across the table
17 like this you had what I would describe as the
18 fairly annoying tendency to say whatever it is you
19 wanted to say on cross-examination rather than
20 answering my question. So I would like to urge you
21 very much --

22 A I will try to stay with your question.

407

1 Q Otherwise I am going to have to ask
2 Mr. Nicolau to give you that instruction.

3 So, let's just start with the last exhibit
4 first, Exhibit 19 -- I am sorry, 18, 18. I'm not
5 sure I understood, I mean if you look at the three
6 pages, the slope of the furlougee line is different
7 in each of the three pages?

8 A That is correct.

9 Q And I am, either you testified to it and I
10 didn't understand what you said, or you didn't

11 testify to why that slope is different?

12 A That represents the -- what you have to
13 consider is that if the population -- if we are
14 doing a higher attrition rate because of considering
15 additional factors, non-age 60 attrition or
16 vacancies created by the 190s, basically all the
17 vacancies that are going to create recalls or you
18 know, move people up the list, the furlough
19 population is going to get depleted faster if you
20 are drawing more people out of it in a given amount
21 of time. So the slope, that slope would increase
22 because of that.

408

1 Q Okay. So --

2 A The black line is unique to each chart
3 because you are looking at a different attrition
4 rate.

5 Q So in all other respects the black line is
6 the same from chart to chart, that is the age 60
7 attritions from the black line are the same, from
8 chart to chart, the early retirement --

9 A Yes.

10 Q -- attrition assumptions are the same in
11 the black line from chart to chart, the only thing
12 that changes is that because you are creating, you
13 are looking at a larger pool of vacancies some
14 furloughed pilots are coming back sooner and
15 therefore depleting from the list --

16 A Exactly.

17 Q -- as each chart goes on?
18 A Uh-huh.
19 Q Okay. And just to be clear, the last --
20 the pilot that we are following on these three
21 charts is --
22 A Ettore Varini.

409

1 Q -- is what we have commonly referred to as
2 a CEL pilot, correct?
3 A He is the bottom CEL pilot.
4 Q Back when you were talking, when you were
5 telling us about Exhibit Number 1, you told us that,
6 I think you said that the US Airways, the
7 supervisory pilots do line flying, was that your
8 testimony?
9 A That is correct.
10 Q So looking at Exhibit Number 1, when you
11 are talking about non-flying jobs --
12 A Right, you will see no supervisors or
13 management listed there. They are included in the
14 numbers above.
15 Q So supervisors and management are included
16 in your flying job positions?
17 A Right. In fact, the easy way if you look
18 at one of the senior lists, in fact, let's just look
19 a second at No. 2, if you look down there -- well,
20 the second line.
21 Q Yes.
22 A Wherever you see an equipment designation

1 or, you know, a full position there, they are
2 counted in the top. So you will see a supervisor,
3 supervisors and management are the only case where
4 you are going to see an equipment description or
5 position description and a status.

6 Q Okay?

7 A And that is again just, I guess it is a
8 disclosure thing.

9 Q All right. Good. I am not asking the
10 questions about that to quarrel with you, I just
11 want to understand the way that this is constructed?

12 A Understood.

13 Q As long as we are on Exhibit 2, on page 19
14 you said to us that Captain -- I want to call him
15 Captain Qui gg, but I won' t; Captain Clegg --

16 A Right.

17 Q -- is the bottom international captain?

18 A Correct. Again, I say again, when we
19 say -- you know essentially we are saying, that is
20 the seniority in our system it takes to hold that
21 job.

22 We didn' t count, you will notice a couple

1 other 76s below that, but they are management,
2 supervisor types that probably didn' t really need

3 the seniority number to get that position.
4 Q Yes, right, I think you told us that --
5 A Okay.
6 Q --in your direct testimony.
7 You didn't reach that 747 position, you
8 didn't get to that 747 position based on any
9 stovepipe analysis of what the bottom international
10 captain would be, did you?
11 A No.
12 Q That is, this is --
13 A This is real world.
14 Q -- the person who just happens to be, by
15 reason of the choices the pilots above him have
16 made, is actually as of that day, as of the snapshot
17 day sitting in a 747 -- in a 76 captain position?
18 A Right, you could say that is how the
19 pilots valued the jobs, that is how they ranked them
20 with their feet.
21 Q Right, right. Let's see if there is
22 anything else.

412

1 I had a note on Exhibit 9 that I wanted to
2 ask a question about. Well, I know that it is the
3 case that for furloughed pilots who took jobs over
4 at America West, they retained their number on the
5 US Airways list, correct?
6 A That is correct.
7 Q They are the famous two number pilots that
8 we actually have to talk about at some point?

9 A Right.

10 Q So they remain on your, they remain on
11 your list as well, correct?

12 A That is correct.

13 Q Pilots on your -- furloughed pilots on
14 your list who have taken jobs at other carriers
15 other than America West remain on your list as well,
16 correct?

17 A That is correct.

18 Q Until their right to return is no longer
19 there?

20 A Correct.

21 Q So they -- no matter where they went, if
22 they were on furlough they weren't required to

413

1 resign their position on your list?

2 A That is correct.

3 Q Are there any pilots on your list who were
4 not furloughed and who left your list to go to
5 another carrier who remain, whose numbers remain on
6 your seniority list?

7 A Okay, a pilot who is not furloughed --

8 Q Who resigned to leave to go to another
9 carrier?

10 A Any pilot who is not furloughed and
11 resigned would either be -- well, they would show up
12 immediately on the next iteration of our, you know,
13 the next list has resigned, and then when the list,
14 the next January they would be removed.

15 So you could have a situation where you
16 might have some of them still on the list if you are
17 looking the a list later in the year, but they would
18 be noted as resigned once the list is just cycled
19 the next time the company updates.

20 MR. FREUND: Okay. I think that is it for
21 preliminary questions at this time.

22 CHAIRMAN NICOLAU: Let's go off the record

414

1 for a minute.

2 (3:25 p.m. -- recess -- 4:53 p.m.)

3 MR. KATZ: We can start. We have one more
4 question if you don't mind.

5 CHAIRMAN NICOLAU: Go ahead.

6 REDIRECT EXAMINATION

7 BY MR. KATZ:

8 Q We will produce more of these but we have
9 one to share at the moment, and Jeff can use this
10 until the others arrive, they are printing off the
11 machine now, and the one final question is what is
12 this, Bob?

13 A Jeff, you shouldn't have left me to think
14 about this. See what happens.

15 Q It is three pages, basically -- go ahead.

16 A It is the same thing again, the same three
17 looks, the same looking at three different things.
18 But we are looking at, perhaps in the original one,
19 the first three that you have already, assume
20 45 percent of the pilots are not going to take

21 recall, you know basically the furlough results.
22 But that, when we think about it, is

415

1 really more of an end result as opposed to when
2 Varini would first get his recall. That is more it
3 goes down, back up and people have to make their
4 final decisions. And of course, as I mentioned
5 before it would be extremely conservative compared
6 to what we are actually experiencing in that it is
7 taking in the neighborhood of 300 calls to get 200
8 or to get 100 guys back.

9 So what we simply did here is says, okay,
10 what it would look like if you assumed that for
11 every pilot, for every recall it took three, you had
12 to go through three pilots to do it, naturally that
13 would deplete the furlougee pool a whole lot
14 quicker, so the charts you have in front of you just
15 reflect that.

16 So what you have got is on the first one
17 if you want to consider just age 60 attrition,
18 Varini would be back in January 2009, and -- well,
19 we will go through it real quick, and then if you
20 are considering age 60 plus other attrition, it
21 would be April 2008, and if you included the
22 vacancies created by the addition of 190 positions,

416

1 then it would be December 2007.
Page 141

2 Now the box, take a look at the box that
3 is up there. We just put a little explanation to
4 perhaps help understand this better. Essentially
5 you can see for Varini to be recalled there would
6 need to be 569 vacancies. If you multiply that
7 number times three, again remember you are going to
8 go through three people to get everyone recall, you
9 would have to go through another 1138 guys,
10 bypassing 1707, which is Varini's number in August
11 of 06.

12 In other words we started this a month
13 after July 1 list, and then his status starts in
14 August. So you have got his number comes up a
15 little bit just because of that attrition. So to
16 get to 1707 that is how the number goes out.

17 If you look at the crossover point on each
18 one of these charts it is at about 600 or 500 --
19 what are we, 569. It is at about 569, is the point,
20 the number of vacancies it takes going to the
21 furloughs to get Varini back, when you assume it
22 takes three furloughs to fill every vacancy.

417

1 MR. KATZ: So we are calling this
2 Exhibit 18-A, and ask that all these, Exhibit 1
3 through 24, be accepted into evidence.

4 CHAIRMAN NICOLAU: Any objection?

5 MR. FREUND: I probably won't but why
6 don't I cross him first and why don't we see where
7 we are?

8 CHAIRMAN NICOLAU: Okay. Now everybody
9 doesn't have this yet, right.

10 MR. KATZ: Right, the remainder are being
11 printed as we speak.

12 CHAIRMAN NICOLAU: Okay, you don't need
13 mine to print?

14 MR. KATZ: No.

15 CHAIRMAN NICOLAU: Your witness.

16 MR. FREUND: Mr. Nicolau, and
17 distinguished board members, just as a predicate I
18 just want to say the following. I am going to ask
19 this witness questions because he is there and he
20 has testified some things on direct examination. I
21 don't want anybody who is sitting at the head of the
22 table to think that because I am asking questions

418

1 about this attrition-based analysis that I think it
2 has any bearing or any relevancy to the decision
3 that this board should make. But because we have
4 got a witness up and because it is predicated on the
5 large notion that US Airways could continue to
6 exist, it couldn't. But because he is there I am
7 going to ask him some questions.

8 CHAIRMAN NICOLAU: Okay.

9 RECROSS EXAMINATION

10 BY MR. FREUND:

11 Q Let's look at Exhibit 1 for a moment,
12 please. Just to clarify, again this is probably in
13 the nature of a question I should have asked you

14 before we broke, so that we would have a more
15 complete understanding of the data. You have
16 supervisors and management pilots included in your
17 flying jobs box, correct?

18 A Yes.

19 Q And you do the same thing on the America
20 West side of the equation?

21 A Yes.

22 Q Okay. At US Airways do management pilots

419

1 bid lines of flying each month?

2 A Not each month, they have a rotation thing
3 that I am not that up on, exactly how their flying
4 schedule is, but they do fly the line. They don't
5 fly it all the time and the amount, I am not sure
6 of.

7 Q So we will probably pursue that a little
8 bit more if there is somebody who can answer on our
9 own, but do you have a chain saw map notion?

10 A I would be guessing. I am really not
11 familiar with it.

12 Q I think I asked that question in the
13 broadest possible terms, I said supervisory pilots.
14 Is there a difference between line check airmen in
15 terms of bidding lines of flying as opposed to SIM
16 pilots as opposed to pure management pilots in terms
17 of how and when they bid the line?

18 A As far as the data that is here, the ones
19 that are noted as supervisors, or I should say

20 anybody who is a SIM instructor-check airman, they
21 show up as a supervisor. I am not sure exactly how
22 a line check airman shows up, if he is not a

420

1 supervisor, but just does a line check, I am not
2 sure how they show up.

3 Q But my question is, there are no
4 supervisory pilots of any kind that are excluded
5 from your top box, of flying jobs?

6 A No.

7 Q And so included in your top box of flying
8 jobs are line check airman, he -- well, will why
9 don't you just give us the list of categories of
10 supervisory pilots who are included in your flying
11 jobs?

12 A My understanding is supervisors are
13 instructors of one form or another, check airmen. I
14 am not sure, as I said before, how the company notes
15 a line check airman and exactly, what their deal is,
16 I am not quite sure about how that works. You know,
17 if it is other than somebody who works in the SIM.

18 But basically the designation here comes
19 from the company's designations which covers, well,
20 if you are first officer it says instructor. If you
21 are a captain it says supervisor, but both of those
22 for our purposes are called supervisors. And it is

421

1 as the company designates them.

2 We didn't make any determination as to
3 what their, exactly what job they are doing on what
4 day or what, you know, what encompassed that title,
5 but that is the title the company has on the
6 seniority list for them.

7 Q But included in that group, in the
8 supervisory group, if I understand you correctly,
9 are instructors who instruct on the SIM, right?

10 A Yes.

11 Q And the line check airmen?

12 A I am not sure about line check airmen.

13 Q You are not sure whether they are --

14 A I don't know exactly how the company
15 designates them.

16 Q So you don't know whether line check
17 airmen are designated with the initials SUP on their
18 seniority list on your seniority list?

19 A Correct.

20 Q Now, with respect -- is there any other
21 category of supervisor who is --

22 A I believe, my recollection is on the

422

1 company's list it will either say supervisor or
2 instructor, but that is basically all
3 training-related pilots, and they are the ones that
4 we have just called supervisors, we didn't separate
5 instructors.

6 And then management is like chief pilots,
7 vice president of flight -- well, yes, you know,
8 management, not instructor-related pilots.

9 Q So then let's do the easy part first.
10 Management pilots, are management pilots included in
11 your, they are on your seniority list, correct?

12 A Yes.

13 Q Are they included in your box of flying
14 jobs?

15 A Yes. If you look on any seniority list, I
16 mean you can add up and verify the numbers, if they
17 have got airplane position they are in the count.
18 And that -- if you also look, anybody who has SPV or
19 MGT there, whose airplane position, and he they do
20 fly, how much I am not exactly sure.

21 Q That is my question, I want to stay with
22 the MGT pilots for a moment.

423

1 A Okay.

2 Q Do you know whether they bid lines of
3 flying every month? I think your answer to that
4 earlier was you didn't think they bid lines of
5 flying every month?

6 A I am -- I wouldn't say they bid lines of
7 flying every month, certainly the vice president of
8 flying doesn't fly a full line of flying.

9 Q I am sure that is right. Do you have any,
10 again either specific or chainsaw knowledge about
11 how often management, let's stay with management

12 pilots, bid lines of flying?

13 A I would say certainly considerably less
14 than what a line pilot does. How much I really have
15 no way of measuring, I mean obviously a senior vice
16 president doesn't do a lot of flying.

17 Q With respect to supervisors, underneath
18 supervisors again I think you said there were
19 instructors, and -- well, there are instructors in
20 the SIM and then there are line check airmen, am I
21 getting that right?

22 A No, the company designations, the training

424

1 pilots as opposed to management pilots --

2 Q Right?

3 A -- will be designated on the company's
4 list as either supervisor or instructor, and I think
5 the only difference is whether you are a captain or
6 co-pilot. And you know, the instructors by our
7 contract cannot do check rides or do anything where
8 your license is on the line. That has to be a check
9 airman, and that would be a captain.

10 But that is really, for our purposes, they
11 are both training pilots and, you know, so we just
12 call them all supervisors for this purpose to keep
13 it simple.

14 Q As between instructors and check airmen
15 then, again I assume your answer is going to be the
16 same, that is your understanding is that they bid
17 lines of flying but you don't know the extent to

18 which they bid lines of flying?

19 A Right, and I do not -- as far as people
20 designated as supervisors or instructors I don't
21 know how much of that they do. And as far as pilots
22 who don't do line checks, check airmen of course

425

1 sometimes do line checks, sometimes do SIM, they can
2 do either one. There are some times guys that do
3 just line checks. They probably fly virtually a
4 full line of time, and the idea of it, of course, is
5 they are instructors.

6 But I am not sure how the company
7 designates them, whether they are designated as a
8 supervisor or just as a line pilot, I am not sure.

9 So as a result we haven't done anything
10 creative of in terms of if the company calls them a
11 supervisor or instructor, they show up here as a
12 supervisor. So I don't really know where those line
13 check airmen fall in it.

14 Q Okay, and you did the same thing with
15 respect to the West side, that is you included
16 management and supervisor pilots in the flying
17 positions?

18 A Yes.

19 Q And you probably know even less about the
20 way in which the West side works with respect to
21 supervisors and management --

22 A We only know what the guys have told us.

1 Q Okay. Let's stay with Exhibit 1 for a
2 moment, the positions that you show for -- you have
3 breakdown of between 757 and 767 --

4 A Uh-huh.

5 Q -- captain positions respectively, and
6 first officer positions respectively; right?

7 A Correct.

8 Q I want to just make sure I understand what
9 you told us. Does that mean that -- let's stay with
10 the 767 for the moment, does that mean looking at
11 your box that there are 98 767 captain positions or
12 does that mean there are 98 767/757 international
13 captain positions?

14 A The second. As I said before, these are
15 the bid positions. If you look at one of our bids
16 when it says 757/6 international, that is kind of a
17 vernacular problem. We just always call it 76, and
18 75/76 domestic, those counts are shown here as 757s.

19 Q So why don't we, since we don't all speak
20 the same vernacular, why don't we all write on our
21 little exhibit book next to the 757 box, why don't
22 we write 75/767-D and next to your 767 why don't we

427

1 write 757/767-I, that would describe the reality at
2 US Airways, correct?

3 A Those are the bid positions or that is how
4 it is bid.

5 Q All right so, with that in mind, and the
6 A330 is fundamentally all international?

7 A Yes.

8 Q We have to say fundamentally because there
9 may be some domestic lines that are actually --

10 A It can be A330 I think, as Dave testified
11 yesterday. As far as my knowledge, the only time
12 that plane flies and not going to Europe is San
13 Juan. I mean -- and that is paid, international --
14 well, not internationally. That is a sore point.

15 Q Sore or not, we will call it for purposes
16 of this proceeding, we will call that, we will put a
17 little "I" next to that too. We will just treat
18 that as an "I" and we won't quibble whether San Juan
19 is international or not or gets an override or
20 doesn't get an override.

21 There is no, actually there is no override
22 for the A330 for international is there? There are

428

1 just A330 rates?

2 A Well, I believe the override is built into
3 everything they do, depending on --

4 Q There is a rate for the A330?

5 A Right.

6 Q It includes whatever economic benefit
7 there is from the fact that it is flying
8 internationally?

9 A If you are referring to the published pay
10 rate, like if you look at one of our pay charts, say

11 A330 12th year pay whatever it is.

12 Q Yes.

13 A I don't believe that includes the
14 international override that they get for virtually
15 everything they do, or I guess actually for
16 everything they do. I don't think there is any
17 virtually in it.

18 Q I think we will pursue that a bit later?

19 A That is what I think it is. We can
20 certainly check it.

21 Q Okay. With respect to the 757-6 lines
22 there is a published pay rate for 75-76. That is

429

1 the same for 75s or 76s, and then there is an
2 international override for the international
3 operation, correct?

4 A Correct, and when I was doing that we got
5 the override for everything we did.

6 Q That is fine.

7 A Right.

8 Q But my question is just, look at the book
9 and try to parse what is going on, 75-76 has the
10 same pay rate. And when you fly, when you take
11 it -- when you get an international line you get an
12 override for that?

13 A Well, it really wasn't that way when I --

14 Q I don't care what it was, I mean what is
15 it is as you sit here today?

16 A Okay. We would have to check it but my,

17 it has been where you get it -- okay, leave it, I
18 don't know.

19 Q I don't care, but as we sit here today?

20 A I am not sure through some concession
21 whether they have taken it out for some particular
22 route and not another, I don't know.

430

1 Q So for purposes of the next question I am
2 going to assume that the 98 75/76 international
3 captain's and the 87 A330 international captain's
4 represent the international captain positions at US
5 Airways, correct?

6 A Well, they are the position that is the
7 total in those two bid positions, yes.

8 Q And that, as pathetic as my math is, I
9 think I can add those up and get 185 positions,
10 right?

11 A The math is right, yes.

12 CHAIRMAN NICOLAU: That is close.

13 THE WITNESS: Looks like it.

14 BY MR. FREUND:

15 Q And I think you told us that flying
16 international captain was the clearly the most
17 desirable position at US Airways, correct?

18 A As a category, you know, if you look at
19 the different categories or the different bid
20 positions we have, and applied any kind of measure
21 of the averages, it will be way ahead of even 757/6
22 domestic.

1 Q And that is for anyone who wants the good
2 pasta in Italy, that being the case you told us that
3 it takes getting down to position number 747, before
4 you get to the last international captain,
5 Mr. Clegg, correct, Captain Clegg?

6 A Correct.

7 Q So I can't do the math of subtracting 185
8 from 747, but whatever that produces, those number
9 of pilots, whatever that is, have chosen, who are
10 senior to captain Clegg, have chosen not to bid an
11 international captain position?

12 A They have seniority to do it and they have
13 chosen not to; correct.

14 Q Let's go back to Exhibit 1 for a moment,
15 please.

16 Just so the record is clear, your flying
17 jobs box up in the upper left hand corner adds up to
18 295 pieces of equipment as of May 19th, 2005,
19 correct?

20 A Correct.

21 Q And included in that number are the 25
22 EMB, at that point they were 170s?

1 A That is correct.

2 Q 25 EMB 170s that had already, indeed about

3 four months before that had already been the subject
4 of a negotiated transaction to dispose of them,
5 correct?

6 A The company negotiated an option to sell
7 them which had not been exercised up to that point,
8 that is correct.

9 Q Right. Back in February the company had
10 negotiated an option to dispose of the 25 EMB 170s?

11 A Yes.

12 Q And Mr. Nicolau has more information than
13 he probably wants in connection with the CEL pilots,
14 but included in that packet of information is an
15 arbitration award that describes that whole series
16 of transactions?

17 A I don't know if the arbitration -- you are
18 saying what the arbitration award contained
19 describing the transaction?

20 Q Yes, the Wexford arbitration award?

21 A You have lost me there. What is the
22 Wexford arbitration award?

433

1 CHAIRMAN NICOLAU: The Krinsky award,
2 wasn't it.

3 MR. FREUND: The Krinsky award.

4 THE WITNESS: Oh, okay, sorry. You are
5 talking the grievance?

6 BY MR. FREUND:

7 Q Correct?

8 A Okay.

9 Q That describes the transaction?

10 A I had absolutely nothing to do with that
11 so I really don't know anything about it.

12 Q Then I won't ask you any questions about
13 it. It is there. I would --

14 CHAIRMAN NICOLAU: It describes the
15 transaction.

16 MR. FREUND: Although it was submitted for
17 the CEL matter, obviously we would ask you to take a
18 look at it in connection with these pieces of
19 equipment.

20 CHAIRMAN NICOLAU: Okay.

21 BY MR. FREUND:

22 Q In addition to those 25 aircraft, so that

434

1 if you took those 25 aircraft off for present
2 purposes and you were down then to 270 aircraft,
3 there were as of May 19th within those 270 aircraft,
4 additional aircraft that had already been announced
5 were going to be returned, correct?

6 A That is correct. I spoke to that already.

7 Q And on the other side of the equation,
8 that is the September 27, 2005 aircraft, you have
9 142. That I take it measures the actual aircraft
10 that were on the property of America West as of
11 September 27th, 2005, correct?

12 A Correct.

13 Q As you sit here today, if you ratchet back
14 to May 19th, 2005 do you know how many aircraft

15 there were?

16 A On America West?

17 Q Yes.

18 A I would have to look it up. Off the top
19 of my head I would rather not guess.

20 Q That is fine, it was some number. We will
21 put it in later.

22 But, your 142 aircraft count does not

435

1 include any of the A 320 aircraft that would have
2 been delivered and that were announced and
3 reaffirmed by America West in April of 2005,
4 correct, the 22 aircraft?

5 A Well, the 142 is what was on the property
6 on that date.

7 Q So the answer is, it does not include
8 those aircraft, correct?

9 A Correct.

10 Q Let's turn to Exhibit 4, please.

11 Exhibit 4, 5 and 6 are all snapshots of
12 the same data looked at in different ways; is that
13 correct?

14 A Correct.

15 Q So I am going to ask you about Exhibit 4,
16 a series of questions about Exhibit 4, but I think
17 the questions that I am asking you would apply
18 equally to Exhibit 5 and Exhibit 6, and if they
19 don't, tell me; okay?

20 A Okay.

21 Q Exhibit 4, if I understand it, includes
22 all age 60 retirements by year for each airline?

436

1 A Correct.

2 Q And that includes for each airline, pilots
3 who in any given year would retire at age 60 from a
4 first officer position, correct?

5 A Sure.

6 Q It includes pilots who would retire from,
7 on the east side pilots who would retire from
8 furlough positions, right?

9 A That is correct.

10 Q It includes pilots who would retire from a
11 long-term medical leave, correct?

12 A Correct.

13 Q It would include pilots who would retire
14 from a leave of absence position, other than
15 medical, correct?

16 A Correct.

17 Q It would include management pilots who
18 would retire, correct?

19 A Correct.

20 Q And supervisory pilots who would retire?

21 A Correct.

22 Q And again, am I correct that with respect

437

1 to each one of those questions and each answer you
Page 158

2 gave me, the answer would be the same for Exhibit 5
3 and Exhibit 6?

4 A That is true.

5 Q So when we turn to Exhibit 6, although the
6 title of the chart is Source of Merged Age 60
7 Retirements by percentage, 2005 to 2020, I think if
8 I remember correctly your testimony on direct was
9 that this was a, the reason you made this chart was
10 because you didn't want to assume for whatever
11 choice, whatever reason you had, you didn't want to
12 assume any growth aircraft.

13 And this chart then reflects your
14 understanding of the source of jobs that would be
15 available on the merged airline in each of these
16 years on a year by year basis; is that correct? Am
17 I summarizing your testimony fairly clearly?

18 A Yes.

19 Q Okay?

20 A That is correct.

21 Q But because of, because these numbers,
22 these retirement numbers include first officer,

438

1 people who retired off of first officer positions,
2 people who retired off of furlough, people who
3 retired off of medical, long term medical, people
4 who retired off of leaves of other kinds, we will
5 leave supervisor and management aside for the
6 moment, it does not actually reflect a percentage of
7 the source of jobs that would be created at each

8 airline, does it?

9 A I don't think I would agree with that.
10 You can look at the list we put there that show
11 exactly who we are counting, and what job they are
12 in on May 19th or September 27th. Now of course you
13 have to consider that by the time they attrit,
14 especially with the number of people we are talking
15 about, they would have moved up into other
16 positions. So if a guy is a company pilot now that
17 certainly gives no indication at all, when he
18 retires --

19 Q We can cut this short. Anybody who
20 actually retires in any given year from a furloughed
21 position is not creating a job, correct?

22 A Well, if he is not -- if you are talking,

439

1 if you have considered who is on furlough in the
2 year that you are talking about that is correct.

3 Q That is what I am saying. If in 2013 10
4 guys who are on furlough hit age 60, those 10
5 retirements are not creating jobs, correct?

6 A If there were not -- if there were pilots
7 still on furlough then retiring on furlough doesn't
8 create a job for anybody, and that is of course
9 something we take into account in any analysis going
10 forward. It is the accurate flow of jobs down
11 through the multitude of jobs and position that is
12 we have.

13 Q I am just looking at this document?

14 A Sure.

15 Q Because this document again, while it is
16 titled Source of Merged Age 60 Retirements By
17 Percentage, you described it in the context of this
18 being the source of jobs at the airline on a going
19 forward basis, correct, isn't that --

20 A Correct, yes.

21 Q And -- all I am saying is, and I think you
22 are agreeing with me, is if in 2010 there are 10 in

440

1 that year, there are 10 folks who in that year are
2 on furlough and who hit age 60, that does not create
3 any jobs for anybody, does it?

4 A You are saying -- you are asking me two
5 different questions. You are asking if a pilot who
6 retires, who is on furlough at the moment he
7 retires, does he leave a job behind, no.

8 Is this an accurate portrayal of the
9 distribution of the source of vacancies for people
10 to mover up in, these are percentages, and you have
11 to assume, we have no reason to think that the
12 effect on the America West side of that sort of
13 thing versus the effect on the U.S. Air side of
14 things is any different.

15 So when you talk about percentage between
16 the two I don't though that I can agree with your,
17 what you -- your first question that you essentially
18 asked in there.

19 Q Well, one thing that is different is that
Page 161

20 there aren't any America West pilots on furlough?

21 A That would be true.

22 Q So there aren't any America West pilots in

441

1 this analysis who will retire from a furloughed
2 position, correct?

3 A That will be correct. However, of course
4 there is America West in other kind of non-flying
5 position.

6 Q I understand, I am talking, my question to
7 you is about furlough?

8 A Okay.

9 Q And you agree, I am correct --

10 CHAIRMAN NICOLAU: You are correct.

11 BY MR. FREUND:

12 Q Now, when you have no reason to assume
13 that with respect to the other kinds of
14 circumstances that America West is any different
15 than US Airways with respect to the retirement of
16 pilots in non-flying positions, have you looked at
17 the difference between the two with respect to
18 pilots on long term medical leave?

19 A Have we looked at it? The -- this
20 analysis is exactly what we have portrayed. Like
21 you said, it is a fixed set of data that is stated
22 number of different ways.

442

1 Any analysis that we use that projects job
2 opportunities into the future takes into account
3 that for both sides. So to that extent, of course
4 yes, we have looked at it, we have taken it into
5 account. It doesn't show here because this is made
6 off of that, however, I would say that the
7 percentage distribution, you are getting down into
8 do we have a larger percentage of guys retiring off
9 of supervisor than America West does, or do we have,
10 you know, and that -- that is, I don't know that you
11 could necessarily draw the conclusion that one side
12 or the other has a greater percentage. So to the
13 extent that the percentages are equal, these are
14 accurate.

15 Q Okay. One more category while we are on
16 this set of charts and then I think we will move on
17 to another point.

18 When someone retires from a first officer
19 position at US Airways as things presently stand,
20 that creates a vacancy for furloughed pilots to
21 fill, correct?

22 A I think any, any vacancy, yes. I mean it

443

1 could be captain as well?

2 Q I didn't ask you about captain --

3 A Yes, any active job vacancy will do that.

4 Q I want to stay with first officer please.

5 A Okay.

6 Q When a pilot retires from a first officer
7 position at US Airways that creates a vacancy for a
8 pilot who is on furlough to fill, correct?

9 A Right.

10 Q When a pilot retires from America West
11 from a first officer position there are no
12 furloughed pilots to fill that position, there are
13 no America West furloughed pilots to fill that
14 position, correct?

15 A That is correct.

16 Q Exhibit 9, please. Exhibit 9, I think is,
17 am I right, that Exhibit 9 is -- just a minute.
18 Exhibit 9 is the first of your exhibits that deals
19 with early retirements?

20 A I think so.

21 Q And your definition of early retirement is
22 anybody who retires before they turn 60?

444

1 A In this chart this is a fairly simple
2 straightforward analysis. If we essentially just
3 talk, took the 2000 list compared to the 2001 list,
4 made a list of everybody who wasn't on the 2001 list
5 but was on the 2000 list, and then we looked and
6 said, okay, did he hit his 60th birthday in 2000?
7 If he did he was counted as an age 60 attrition. If
8 he didn't, he was counted as an early attrition.

9 Q I can't help but notice that there is a
10 very significant spike in early retirements in the
11 year 2005?

12 A Uh-huh.

13 Q You probably noticed that too, can't miss
14 it. Do you think that might be because pilots
15 understood and believed that US Airways was going
16 down the tubes and that they ought to be the first
17 at Jet Blue rather than the last at Jet Blue?

18 A That certainly could be an explanation.

19 Q Exhibit 11, please? I don't want to get
20 in an argument with you about the correct number of
21 aircraft on each side, you have already told us
22 that. In your earlier Exhibit 1 you didn't take

445

1 into account the additional A 320 aircraft order
2 that America West has previously announced, that is
3 leaving for another day.

4 I also don't want to get into a quarrel
5 about with you about the relevance of your choice of
6 July 1st, 2006. You used it, that is fine. We
7 disagree with it, but I am not going to ask you any
8 questions about it.

9 Except one. And that is, on the day
10 before the merger announcement there would have been
11 no basis for pilots of US Airways or the pilots of
12 America West to have assumed that as of July 1st,
13 2006 these would have been the fleet compositions,
14 would there?

15 A I am not sure I really even know the
16 answer to that. I mean these numbers are what was
17 one that date.

18 Q Correct?

19 A Nothing more than that. As far as what
20 somebody might have thought might have happened
21 looking at what are we asking --

22 Q There wouldn't have been any factual basis

446

1 on which a pilot at either America West or US
2 Airways would have said or concluded that on
3 July 1st, 2006, the fleet composition would be as
4 you have them on this exhibit?

5 A I don't think there would be any basis for
6 any pilot ever to know what the fleet count was
7 going to be almost anytime in the future in this
8 business.

9 Q I think that is probably correct to some
10 free?

11 CHAIRMAN NICOLAU: Then why are you asking
12 us if you know?

13 BY MR. FREUND:

14 Q Staying with that exhibit, your 757 count
15 on your side includes, if I understand correctly,
16 three 757's that were delivered to the company after
17 the merger announcement date that were the subject
18 of an agreed upon condition and restriction that we
19 have been, that we have submitted to the panel,
20 correct?

21 A That is correct.

22 Q You put them on your side but they, there

1 is something that deals with them already, correct?

2 A Yes, this is simply that is where they are
3 sitting on today, that is all it is.

4 Q Simply where they are sitting.

5 And, again, I think you have already
6 answered this, it does not include in the, on the
7 America West side the announced A 320s that were the
8 subject of the April order, correct?

9 A The -- wait a minute.

10 Q Not the April order, they were the subject
11 of the April announcement reconfirming the order for
12 22 A 320s?

13 A Yes, it is just the planes on the property
14 on that date.

15 Q Right. And it reduces the America West
16 fleet from whatever it was on May 19th by decisions
17 that were made by the company post merger
18 announcement, correct?

19 A Or in conjunction with the merger
20 announcement.

21 Q Well, we have a debate about either, but
22 either in conjunction on your terms or post merger

1 in our terms, correct?

2 A I mean it is in that effect of everything.

3 Q It includes decisions that were played to
4 reduce the America West fleet that were made after

5 the merger was announced?

6 A It includes -- certainly it would include
7 decisions made before, after, how ever we got there
8 it includes it all.

9 Q It, to put it in plainer terms, it takes
10 off of the fleet that was in existence at America
11 West on May 19th, 2005, those aircraft that were
12 removed from the America West fleet after the merger
13 was announced, correct?

14 A Takes into account airplanes that were
15 removed after the merger is announced, yes.

16 Q Okay.

17 Let's turn to exhibit 14, please.
18 Exhibit 14 is just a fairly thin, I don't mean that
19 pejoratively. It is basically intending to show the
20 number of retirements that are going to take place
21 at, I guess 14 is US Airways, that are going to take
22 place at US Airways for the second half of 2006?

449

1 A Well, it is not ones that are going to, in
2 most cases the ones that already did.

3 Q Either did --

4 A Most of it is history.

5 Q Of course we are sitting here in December?

6 A Right.

7 Q And this gives use an interesting snapshot
8 of the term early retirement?

9 A Yes.

10 Q Because you --
Page 168

11 A On this one -- go ahead, I am sorry,
12 excuse me.

13 Q You have identified, you have
14 distinguished between retired, which I assume means
15 age 60 retirement, and others that you mark as
16 early, correct?

17 A Yes.

18 Q Okay. So let's just look at the first
19 early retirement, which is Captain Burns, he is on
20 the line that is marked as 139, I guess?

21 A Right, he is about two months early.

22 Q He is about two months early?

450

1 A Right.

2 Q And then if you go down to line 191,
3 Captain Bowser, he is about six days early, right?

4 A Yes.

5 Q And if you go down to Captain Barber he is
6 about four months early, correct?

7 A Right. Perhaps I should say here, that
8 this one, the earlies are just if it was prior to
9 their birth date. The methodology is not identical
10 on the other one. The other was a very simple, as I
11 explained, so that the definitions really isn't,
12 don't carry between them.

13 Q But let's just finish the exercise because
14 I did it and we may as we will do it since I took
15 the time to do it.

16 Line 258, Captain Remis retired three days
Page 169

17 early, correct?

18 A Yes. And I think I messed up, where are
19 you here again?

20 CHAIRMAN NICOLAU: 282 --

21 MR. FREUND: Line 258 I think.

22 THE WITNESS: Okay, got you.

451

1 BY MR. FREUND:

2 Q He retired three days early?

3 A Yes.

4 Q And then two spots down Caceres retired
5 four days early?

6 A Yes.

7 Q And then if you jump down to line 817,
8 Gieseke retired a month early, correct?

9 A Yes.

10 Q If you turn over to the next page, 1287,
11 Sockwell appears to have retired four days early?

12 A Sockwell --

13 Q I am sorry. Angel?

14 A Oh.

15 Q 1337? Angel, four days early.

16 A Yes, yes.

17 Q Sockwell -- skip Sockwell.

18 And then go all the way down to 2385,

19 Mr. Stell --

20 A 2385 --

21 Q Do you think he just had a problem

22 subtracting since he seems to have retired to the
Page 170

1 day on his 59th birthday rather than his 60th
2 birthday?

3 MR. GILLEN: He lost the family bible with
4 the birth date.

5 BY MR. FREUND:

6 Q And if he did have trouble subtracting I
7 am glad he retired.

8 And again I understand this is just a
9 snapshot of six months, but it looks to me like
10 essentially everybody, you know, but maybe two
11 scattered exceptions, everybody below on the second
12 page position 1382 are real or really below 1371,
13 really below 1281, if you want to be precise about
14 it, looks like essentially everyone below 1281 who
15 either will or has retired in the second half of
16 2006, retired from either first officer position or
17 from medical or leave of absence of one kind or
18 another, am I --

19 A The positions are stated, that is the last
20 position they held. Wait a minute, these positions
21 are --

22 Q I guess really to be fair --

1 A Yes, I am thinking these are the positions
2 they held on July 1, but in fact I am pretty sure

3 that is what it is, they are the positions they held
4 on July 1, '06, so somebody retiring in December,
5 the company is certainly not training him on a new
6 position, but that is what the data is.

7 Q And actually I think I was unfair to a
8 couple of people, because it looks like the, again
9 without -- with a caveat of a couple of exceptions
10 it looks like you go down below position 1495,
11 Dickens, before you start hitting the first officer
12 positions; is that right?

13 A Well, yes, it is what it is, I mean what
14 the data says.

15 MR. FREUND: Give me about five minutes, I
16 think I may be done.

17 CHAIRMAN NICOLAU: Okay.

18 (5:45 p.m. -- recess -- 5:50 p.m.)

19 CHAIRMAN NICOLAU: Any more questions of
20 the witness.

21 BY MR. FREUND:

22 Q Just a couple, maybe just one.

454

1 When we are talking about percentages of
2 retirements from non-flying positions, remember we
3 had a little --

4 A In terms of the source.

5 Q Source, yes, your exhibit or whatever
6 exhibit number that was, you said, I could have the
7 court reporter go back and find it but I don't think
8 my question is worthy of that exercise.

9 But you said something to the effect of
10 well, in terms of thinking about how retirements are
11 going to play out in term, again, or job creation in
12 terms of retirement from non-flying positions, there
13 isn't any particular reason to believe that sort of
14 the ratio of non-flying positions to flying
15 positions on the one side is any different than the
16 ratio of non-flying positions to flying positions on
17 the other?

18 A Attrition for non-flying positions and the
19 kind of numbers you are talking about are going to
20 be tiny in the scale of the chart.

21 Q That is why I said it is probably not
22 worth the effort of having the court reporter to go

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1 back to find the exact set of words.

2 But if you turn to Exhibit 11-A, the
3 flying positions that you show on that chart reflect
4 2611 on one side and 1704 on the other side,
5 correct?

6 A Correct.

7 Q And the non-flying positions that you show
8 on that chart show 632 on the east side and 149 on
9 the west side, correct?

10 A That is correct.

11 Q And that would not be in the same -- that
12 number at least, those numbers at least would not be
13 in the same proportion --

14 A That of course is no indication of the

15 positions being vacated on a given point in
16 retirement.

17 Q Of course, of course?

18 A Right.

19 Q That is all I have.

20 CHAIRMAN NICOLAU: Any redirect, Dan?

21 REDI RECT EXAMI NATION

22 BY MR. KATZ:

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1 Q Let me just follow up with Exhibits 5 and
2 6, I think it is; looking at Exhibit 6, the source
3 of merged age 60 retirements by percentage, if you
4 pick out a year like 2012 where the percentages
5 pretty much, 20 percent America West, 80 percent US
6 Airways, you were asked on cross-examination about
7 what if one of these pilots is on furlough at the
8 time he reaches age 60, does that create a job.

9 A Right.

10 Q Now, flip back one exhibit to Exhibit
11 Number 5, and tell me approximately how many people
12 will have reached age 60 by that point in time, is
13 it nearly 2000?

14 A Wait, on -- 20 --

15 Q 2012 we are talking about?

16 A 1664, is that what you are referring to?
17 Oh, you went two back.

18 Q No, here in Exhibit 5, but you have got US
19 Airways and America West pilots who are leaving and
20 it is nearly 2000 when you add them up?

21 A Yes.

22 Q So the sum of 2000 people have left the

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1 list?

2 A Yes, uh-huh.

3 Q So assuming these airlines are continuing
4 to operate and are about the size that they are now
5 without any growth, what is the likelihood in your
6 view of the 2000 pilots having left and the people
7 we are talking about in this case still being on
8 furlough?

9 A Well, I think as you have shown it is not
10 likely we are going to have anybody on furlough at
11 that point.

12 Q In fact, your Exhibit 18-A shows that
13 everybody back from furlough who wants to be, on the
14 third page, by a year from now, right?

15 CHAIRMAN NICOLAU: That is what it says.

16 THE WITNESS: Yes.

17 BY MR. KATZ:

18 Q And counsel for the America West pilots
19 went through a number of categories of people who
20 are not in line captain jobs, and asked about
21 whether a promotional opportunity is created by
22 their reaching age 60 and leaving the list.

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2 management and supervisory people and never came
3 back to it. So let me ask you about that. What
4 about the management and supervisory people when
5 they reach age 60 and leave the list?

6 A Well, you have to assume, number one, that
7 those jobs are going to have to be refilled, I mean
8 we are not going to leave the position empty, so
9 that does create vacancies, I mean somebody is going
10 to move up.

11 Q Aren't there requirements in the FARs for
12 the base, chief pilot and assistant chief pilot and
13 people to do all the checks and that stuff?

14 A Yes.

15 Q So when one of those people leaves there
16 is a promotion in store for someone?

17 A That is true.

18 Q And when people who are in long term
19 disability leave, does that give any immunity from
20 disease or injury to the others on the list?

21 A Hardly.

22 Q Isn't it likely that somebody is going to

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1 replace them on LTD?

2 A You hate to -- yes.

3 Q We are talking about the entire
4 population. I am not going to pick anybody in
5 particular out --

6 MR. FREUND: That is good.

7 BY MR. KATZ:

8 Q But that process goes on all the time
9 doesn't it?

10 A Certainly.

11 Q Same with people who might be on a leave
12 of absence of some sort other than medical leave of
13 absence, is that true?

14 A Yes.

15 Q There was a lot of focus on Exhibit 14,
16 and with how they weren't really very early in their
17 early retirement, and I would like you to look at
18 Exhibit 9 and tell me whether that line of
19 cross-examination affects the analysis that you laid
20 out in Exhibit 9, showing something like early
21 retirements reaching 80 percent to the level of
22 regular?

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1 A No.

2 Q Why not?

3 A Well, number one you are looking at
4 for the most part of this chart, this is historic
5 going back a whole bunch of years, you are looking
6 at different pools of people, and different lengths
7 of time, so I mean it is not really comparable at
8 all.

9 Q Well, what was the standard you used for
10 Exhibit 14, wasn't it whether somebody was even one
11 day early?

12 A Yes, that is what I explained before, that
13 they are not the same measure of early.

14 Q It was the entire year?

15 A For Exhibit 9, correct. At least that was
16 just a very simple look at it.

17 Q Where they are on the list one year and
18 not the next?

19 A Correct.

20 Q So that would also include people who died
21 before reaching the age of 60 and didn't show up on
22 the next years list for that?

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1 A Correct.

2 Q Okay.

3 CHAIRMAN NICOLAU: It would include people
4 who left too, wouldn't it?

5 MR. KATZ: Or resigned or were fired.

6 CHAIRMAN NICOLAU: Right.

7 THE WITNESS: Any reason; they didn't have
8 their 60th birthday yet in that year.

9 CHAIRMAN NICOLAU: Not just early
10 retirement, it is not being on the list.

11 MR. KATZ: Right, that's what I wanted to
12 clarify. That concludes my redirect.

13 CHAIRMAN NICOLAU: Anything?

14 MR. FREUND: Just one or two.

15 RE CROSS EXAMINATION

16 BY MR. FREUND:

17 Q The management positions and supervisory
18 positions, when they are vacated, those are not
19 seniority based filled positions, are they?

20 A Well, they are certainly not awarded by
21 seniority, but I think it is probably an accurate
22 assumption to assume that the approximate seniority

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1 of the different positions remains relatively the
2 same.

3 Q All I am saying is it is not driven by the
4 seniority --

5 A No, you don't bid for vice president for
6 flying, that is true.

7 Q And I don't really want to quibble where
8 you say Exhibit 9 particularly.

9 But Exhibit 9 could in fact reflect
10 somebody who retired two days before his 60th
11 birthday, five days before his 60th birthday, six
12 months before his 60th birthday, because if their
13 60th birthday was in year two and they retired in
14 year one, whatever their birthday, they wouldn't be
15 on the list in year two, correct?

16 A Yes -- I think. I am sorry, I think I
17 lost you. I mean simply if they disappeared off the
18 list between 2000 and 2001, the only thing that
19 split them between the two lines is did they have
20 their 60th birthday --

21 Q That could be a two-day early retirement
22 or it could be an 11-month and 29-day early

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1 retirement?

2 A And in this case it might be counted as an
3 age 60 retirement.

4 Q You don't know the answer to that
5 question?

6 A You mean in each case, I mean know that if
7 he retired -- if his 60th birthday was in the year
8 2000 we counted him as an age 60 retirement and that
9 could be anything from one day early to -- I am
10 sorry, you got that range obviously.

11 MR. FREUND: Got it. That is all I have
12 got.

13 MR. KATZ: Nothing further from us.

14 CAPTAIN BRUCIA: You guys just confused me
15 on your last one.

16 I understood you to say in Exhibit No. 9
17 that an early retirement would have been anything
18 other than the year he turned 60.

19 THE WITNESS: Right.

20 CAPTAIN BRUCIA: Okay. Jeff, are you on
21 the same page with that?

22 MR. FREUND: Yes.

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1 CAPTAIN BRUCIA: Fine. I don't have any
2 further questions.

3 CHAIRMAN NICOLAU: Just the one thing.
4 You had indicated that management and supervisory
5 and higher positions aren't driven by seniority,

6 right?

7 THE WITNESS: Well, I would say
8 supervisory positions do have a seniority element in
9 them because they are tied to equipment. You are an
10 instructor for a 330 and a 330 instructor you have
11 to be able to hold the position with your seniority
12 to be able to be a check airman on that position.

13 So, by that very definition a 330
14 instructor is going to be a lot senior to a 73
15 instructor, so there is a seniority element that is
16 in there. So the distribution of those guys
17 probably is going to stay about the same.

18 CHAIRMAN NICOLAU: But that is not the
19 same for management?

20 MR. GILLEN: It is status only, isn't
21 it --

22 THE WITNESS: Management are whoever they

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1 choose to hire, that is whoever it happens to be.
2 Senior management isn't probably going to be
3 somebody that is 20 years old but --

4 CHAIRMAN NICOLAU: You never know.

5 THE WITNESS: Yes.

6 CHAIRMAN NICOLAU: If there is no further
7 questions of Captain Kirch, thank you.

8 We are going to end tomorrow at 3:00.

9 What time do you want to start?

10 MR. KATZ: Do you have a preference --

11 MR. FREUND: Just because I have got some

12 other clients, my preference -- why don't we go off
13 the record.

14 CHAIRMAN NICOLAU: Okay.
15 (Discussion off the record).

16 CHAIRMAN NICOLAU: Well, we will recess
17 until 9:30 tomorrow morning and we will be ending at
18 3:00.

19 (Whereupon, at 6:05 p.m., the hearing was
20 recessed, to be reconvened at 9:30 a.m., on December
21 6, 2006.)

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C O N T E N T S

WITNESS	EXAMINATION
KEVIN BARRY	
by Mr. Katz	RDX 246, RDX 301
by Mr. Freund	RCX 257, RCX 303
DEAN COLELLO	
by Mr. Katz	DX 305, RDX 351
by Mr. Freund	CX 335, RCX 353
ROBERT KIRCH	
by Mr. Katz	DX 360, RDX 415, 456
by Mr. Freund	CX 407, RCX 419, 462

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