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17 BEFORE THE ALPA ARBITRATION BOARD

18

19 - - - - -x

20 THE CREW MEMBERS OF :

21 U. S. AIRWAYS :

22 Plaintiff, :

1 vs. :

2 THE CREW MEMBERS OF :

3 AMERICA WEST AIRLINES

4 Defendant.

5 - - - - -X

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9 Washington, DC

10 December 5, 2006

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14 REPORTED BY:

15 DONALD R. REPORTER

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1 Hearing before the ALPA Arbitration Board, on
2 December 5, 2006, in Washington, D.C. at the
3 Marriott Wardman Park, 2660 Woodley Road, Northwest,
4 at 10:00 a.m. before DONALD R. THACKER, a Notary
5 Public within and for the District of Columbia, when
Page 7

6 were present on behalf of the respective parties:

7

8 DANIEL M. KATZ, ESQ.

9 JASON WHITEMAN, ESQ.

10 Katz & Ranzman

11 5028 Wisconsin Avenue, Northwest, Suite 250

12 Washington, D.C. 22036

13 On behalf of U.S. Airways

14

15 JEFFREY R. FREUND, ESQ.

16 Bredhoff & Kaiser, PLLC

17 805 15th Street, Northwest, Suite 1000

18 Washington, D.C. 20005

19 On behalf of America West Airlines

20

21

22

6

1 P R O C E E D I N G S

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

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

7 CHAIRMAN NICOLAU: Proceed.

8 MR. KATZ: Thank you.

9 Whereupon,

10 KEVIN BARRY

11 was called as a witness and, having previously been
Page 9

12 duly sworn, was examined and testified as follows:

13

14 REDIRECT EXAMINATION (Resumed)

15 MR. KATZ:

16 Q Kevin, would you remind us, when you were

17 talking about the ALPA activities that you had

18 previously engaged in at the very outset of your

19 testimony yesterday, you mentioned something to do

20 with the Shuttle merger in addition to being merger

21 representative, would you remind us what that was,

22 please?

7

1 A Yes, after the Shuttle merger I became a

2 member of the joint negotiating committee. For
3 those that are not understand that, it is two
4 members of each committee gets together to take the
5 best out of each contract to put a combined
6 together.

7 Q What was your experience in service on the
8 ALPA joint negotiating committee for the
9 shuttle-U.S. Airways merger contract?

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

14 I kind of expected kind of a cold shoulder
15 when I are started doing the joint negotiating work,
16 but in reality Jerry McGucken and Kim Schneider
17 warmly welcomed myself. And Ken followed this

18 commi ttee and expl ained us to that the merger is
19 over, the arbi tration is over, we are here to get
20 the best contract that we have and I can honestly
21 say not once did I hear anybody on the U. S. Ai rways
22 side that it is going to cost us money to bring you

8

1 guys up from \$126 an hour, which is our captain rate
2 to the \$150 plus that U. S. Ai r was making. They
3 said we are one company, we are one contract, we are
4 uni on, this is what we do. And I was very glad to
5 fi nd that to be the case.

6 I find in this situation a little
7 di sturbing the fact that the other side has

8 presented that it is a liability to bring us to what
9 they perceive to be a higher pay rate, which in
10 reality as we will see Doug Parker's tape here, we
11 will see that Doug Parker explain that absent this
12 merger America West would have experienced pay cuts,
13 if you are lows, reduction in aircraft, and all the
14 issues, so I think as a synergy of the merger.

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

20 Again, you will see to Doug Parker talk
21 that in the tape, that due to the slide and the
22 yield that they were experiencing, and we all knew

1 what gas prices were at that time; we were putting
2 them into our car.

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

8 CHAIRMAN NICOLAU: Yes, there is no more
9 exhibits in this volume.

10 BY MR. KATZ:

11 Q Okay, this appears to be a reprint from
12 yesterday's Wall Street journal article headed U. S.
13 Airways sweetens deal with pilots. What is there

14 about this article that we should draw our attention

15 to?

16 A Well it is talking that U.S. Airways or

17 LCC the combined company now in an attempt to maybe

18 reach some labor peace, has decided to offer the

19 America West contract to all employees.

20 He goes on to talk about that. On the

21 last page here the last paragraph, management's

22 objective is to put these two contracts together

10

1 without increasing the cost to the firm at all,

2 Parker said in a conference call basically saying

3 that the contracts are the same, or he essentially

4 identical in terms of cost to the company at both
5 airlines.

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

8 A Correct.

9 Q And now what are they saying?

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

14 Q And they quota union spokesperson whose
15 name I am not going to try to pronounce in the
16 middle of the page as saying they, management, think
17 they need to solve of some of their labor problems
18 prior to making this Delta deal successful. So is
19 it apparently all pass view that there is some

20 leverage with the company wanting to pursue Delta at

21 this time?

22 A Oh there is some significant leverage to

11

1 this. I think if you remember the United U.S.

2 Airways deal the United pilots got a wonderful

3 contract with the possibility of another merger

4 coming down the line, so here is our opportunity to

5 get great gains for both pilot groups I think.

6 Q And are there in fact aspects that you are

7 aware of where the America West contract is

8 deficient as compared to the U.S. Airways pilots

9 contract?

10 A Say that again, sir.

11 Q Where the America West contract is

12 deficient as compared to the U.S. Airways pilots

13 contract, the 757 rates, for example?

14 A For example, the 757-767 rates our rates

15 are higher, we pay a different rate for equipment,

16 they pay a straight rate for all three pieces of

17 equipment.

18 We have international rates on those

19 pieces of equipment, we also have the A330 which

20 pays significantly above that -- we also have what

21 we call the defined contribution plan on our side

22 which is currently a ten percent pay over and above

1 that goes into a defined contribution plan to us
2 which is a tax deferred item.

3 Q Is that better than America last?

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

9 Q All right, so the objective of the pilot
10 group is to get one contract that has got the west
11 best of both contracts?

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

13 Q Now, to get back to this video that we are
14 going to show in a moment, can you just put in
15 context what it is we are about to see, it is a

16 meeting on January 25th in Phoenix, what is the
17 nature of the meeting?

18 A It is again, as I said yesterday prior to
19 us not showing this tape, it is a brown bag lunch
20 that Doug Parker or one of his people in his office,
21 most of them are held by him, comes to the pilots
22 and flight attendants and sometimes combined groups,

13

1 and explains to them what is going on, state of the
2 airline and then does a Q and A at the end.

3 Q Okay and we have provided a transcript and
4 will provide or have provided a DVD or a CD of the
5 entire exchange between Mr. Parker and the assembled

6 pilots and flight attendants, in tab 34 is the
7 transcript.

8 A Correct.

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

12 A Correct.

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

17 A Yes, as was mentioned in AWA counsel
18 opening statement and also in their statement of
19 position, that they call this an acquisition of U.S.
20 Airways, you will hear Doug Parker explaining how it
21 actually happened and you will actually hear that it

22 was a legally vice versa.

14

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

9 You will also hear him talk about the fact
10 that as I said previously that had this merger not
11 occurred that America West would have been facing

12 pay cuts, reduction in aircraft, and the like.

13 Q All right, is that it, shall we show this

14 clip now, it is about ten minutes, I think.

15 A I've got a couple other things to add

16 here. I am referring to my notes. If you will

17 follow just for a second, also again if you look at

18 Exhibit 38 that we had for Bear Stearns you will

19 hear him talk about, you know, possibility of

20 liquidity problems, basically cash problems, and

21 that is what is backed up in the Bear Stearns

22 report, and the idea that some of the fees that they

15

1 have would have to be returned, and you will hear

2 him talk about some of those issues.

3 MR. KATZ: All right, thank you.

4 (The video clip is shown but not
5 reported.)

6 BY MR. KATZ:

7 Q Thank you. I am going to show you,
8 Mr. Barry, a section of the transition agreement
9 which is a joint exhibit in this case, it is
10 section eight D, and let me just read it, it is very
11 short, it says subject to any applicable statutory
12 limits employer contributions to the associations
13 applicable 401 K or defined contribution plan will
14 be 10 percent of the pilots eligible earnings as
15 defined in the applicable plan without an employee
16 or employer matching contribution. Note, for
17 America West pilots contributions will be effective

18 January 1, 2006.

19 And what you referred to this issue was
20 that issue straightened out for the America West
21 pilots in the transition agreement.

22 THE WITNESS: It was. I may have misstated

16

1 and said that there was a matching ten percent but
2 now they can put in ten percent without the company
3 having to match it I believe is what it is saying
4 here, let's see, subject to-he-yes, I believe that
5 is correct, I believe there used to be a match
6 required before and now there is not.

7 Q So this issue was resolved at the time of
8 the consummation of merger in December 2005?

9 A Correct.

10 Q I just wanted to clarify that for the
11 record?

12 A My apologies if I misstated.

13 Q Not at all.

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

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

20 CHAIRMAN NICOLAU: Why don't we wait for
21 redirect.

22 MR. FREUND: Yes, why don't we wait for

1 redi rect.

2 MR. KATZ: Fi ne.

3 CROSS EXAMI NATION

4 BY MR. FREUND:

5 Q Kevi n, I am not going to ask you any
6 questions about the 401 K. We will explain to the
7 panel the way the 401 K and profi t sharing works at
8 a proper time, Kevi n I hate to do because you are a
9 really nice guy and I like you, but when Dan throws
10 you to the wolves, the wolves have to do what the
11 wolves have to do.

12 So yesterday we established that you are
13 not an expert in financi al analysi s, you are not an
14 expert in bankruptcy, you are not an expert in

15 transactions, meders and acquisitions, correct?

16 A Yes, sir, we did establish that.

17 Q So today we can also probably establish

18 that you are not an expert in securities law,

19 correct?

20 A That would also be correct.

21 Q So if I said the words Sarbanes-Oxley to

22 you would you even know what I know what I was

18

1 talking about?

2 A I didn't do very well in Latin. That is a

3 joke.

4 Q If I asked you what the legal obligations

5 were with respect to a corporate executive when he
6 was making four for washed looking statements about
7 his company as opposed to when he was making
8 backward looking statements, you wouldn't be able to
9 tell me the difference in legal obligations, would
10 you?

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

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

21 it stood today because there wasn't America West, at
22 that point, he was describing what he thought

19

1 America West would have faced had the transaction
2 not occurred, correct?

3 A The company as CEO of the company he has
4 probably more than you and I have but he was
5 explaining, yes.

6 Q But that was just a hypothetical scenario
7 at that point because the transaction had occurred
8 and he wasn't really talking about what was going to
9 happen of the company that he was then the CEO of?

10 A Right, he was trying to answer the

11 questions of someone saying why did we do this
12 merger.

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

16 A Correct.

17 Q Okay. Now, do you know that before the
18 merger was announced that there were presentations
19 made by the company and by Mr. Parker in particular
20 to the investment community, correct?

21 A Correct.

22 Q And do you remember, and if you don't

1 remember, that is fine, but I just want to see now
2 if you remember, whether in one of those
3 presentations there was a very express discussion
4 about liquidity and liquidity issues for America
5 West?

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

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

14 A I think I remember something about that.

15 Q Okay, and you remember or do you remember
16 that, I am not going to ask you about the details,

17 we will put the details in later, but do you
18 remember him saying after or as part of that
19 discussion we don't lose any sleep over liquidity
20 issues here?

21 A I think the comment I remember was we
22 weren't sweating the cash position. It may not have

21

1 been, but it was Mr. Kirby. But as he said in the
2 tape I --

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

4 A I thought I was.

5 Q No you weren't?

6 A Okay my yes was do you remember Mr. Parker

7 saying words to the effect of we don't lose any
8 sleep over liquidity issues at the company, this
9 is --

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

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

13 A I believe it was Kirby, I have looked at
14 so many financial reports I believe that that was
15 Mr. Kirby that may have made that statement.

16 Q Okay, and sitting here today, you can't
17 tell me, can you, what the legal obligations were
18 with respect to Mr. Kirby's and/or Mr. Parker's
19 statements at the time he made them in April as
20 distinguished from what legal implications, what
21 legal obligations, if any, there were when he was
22 talking to employees in this lovely little tape we

1 just saw?

2 A If I could answer this question, I think

3 what he was talking about was two different issues

4 --

5 Q

6 CHAIRMAN NICOLAU: No --

7 MR. FREUND: Just answer my question.

8 CHAIRMAN NICOLAU: The question was

9 whether there was a difference between legal

10 obligation regarding future and past.

11 THE WITNESS: I don't understand the legal

12 obligation as far as the future and past, that is

13 correct.

14 MR. FREUND:

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

16 A word or two about your discussion of the

17 two collective bargaining agreements.

18 You said that you were on a joint

19 negotiating committee of the shuttle and U.S.

20 Airways seniority integration?

21 A That is correct.

22 Q There is a joint negotiating committee in

23

1 connection with the U.S. Airways-America West

2 transaction, correct?

3 A That is correct. 1205RUFF

4 Q You are not on that committee, correct?

5 A I am not.

6 Q Are you aware at all of any of the work of

7 that committee?

8 A I have seen bits and pieces of it. This

9 is such a full-time job to be honest with you I was

10 kind of concentrating on this. I have been asked

11 questions by pilot on the line and I refer them to

12 the JNC, so I have limited knowledge.

13 Q So I am not going to ask you any detailed

14 questions and we will certainly put on witnesses

15 that will describe the work of that committee, but

16 let me just ask you, just so that we can preface

17 this for the board, whether you know if it is or is

18 not the case that there is a costing to parity

19 exercise that is being engaged in by the joint

20 negotiating committee and the company?

21 A I would assume that that is done in any

22 negotiation.

24

1 Q Okay. You are not privy to the details of

2 the costing to parity issue are you?

3 A I am not at this time.

4 Q Right. If I understood your testimony

5 correctly you said that you were a little disturbed

6 in the context of this case that the America West

7 pilots were pointing to the contract benefits that

8 the a U.S. airways pilots were going to get as a

9 result of this transaction as sort of part of the
10 case, did I understand your testimony correctly on
11 that?

12 A One more time, please.

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

15 Did I understand you are defendant to be
16 that you shall a little disturbed at the fact that
17 the America West pilots were raising the issue of
18 the cost to the company and arising from the ad had
19 benefits that the U.S. Airways pilots were going to
20 receive as a result of this transaction in this
21 case, is that --

22 A Yes, I always find it objectionable when

1 the union is not about everybody getting the same
2 pay rate for sewing doing the same job.

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

8 A I have.

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

15 A That is true but I still find it

16 objectionable.

17 Q Okay. And not only do they get raised in

18 seniority integration cases but in an exhibit that

19 your colleague put in yesterday, Exhibit 5, there is

20 a document that is called a final order from the

21 United States Department of Transportation in

22 connection with the Piedmont-empire transaction, and

26

1 I am going to just read from the second to the last

2 page of that document, and that is at tab five, it

3 is at the top second to last page of tab five, where

4 in explaining why it is that the kept of

5 transportation was not going to interfere with what

6 had been done in connection with seniority
7 integration, the assistant secretary said "moreover
8 the applicants and the Piedmont pilots have shown
9 that the acquisition will improve rather than injure
10 the wages and working conditions of the empire
11 employees. The great majority of the empire
12 employees will receive med pay increases since
13 Piedmont has higher pay scales than empire, and no
14 empire employee will receive less pay."

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

21 taken into account by the United States government,
22 correct.

27

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

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

8 CHAIRMAN NICOLAU: Can you.

9 THE WITNESS: I think I can answer it.
10 This is a department from the Department of
11 Transportation, I don't think they are a unionized

12 organization, so they are giving a different point
13 of view.

14 MR. FREUND:

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

16 I have never found it particularly useful
17 to cross-examine somebody about documents that he
18 didn't author, the witness didn't author or on
19 subjects that discuss subjects about which the
20 witness is not an expert, but since you took us
21 through, trippingly through a bunch of documents and
22 asked us to look at them I just thought I would ask

1 you to take us through a couple more little pieces

2 of some of those documents?

3 A As a non expert, sure.

4 Q As a non expert, right.

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

7 A I have it, sir, yes.

8 Q Okay, if I this, if I read their
9 correctly, talks about the first Chapter 11 that
10 U.S. Airways was in, is that -- am I correct about
11 that?

12 A I are correct.

13 Q Okay, now, yesterday when we were talking
14 about this U.S. Airways stock I asked you questions
15 about the effect of the bankruptcy, the effect of
16 bankruptcy two, sometimes referred to as chapter 22,
17 as opposed to Chapter 11, bankruptcy two for U.S.

18 Airways and you told me, which was correct, that the
19 shareholders equity was wiped out entirely in
20 bankruptcy two, correct?

21 A The U.S. Airways shareholders equity was
22 wiped out in bankruptcy as is traditional in

29

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 the
9 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.

1 Q So consistent QT plan of reorganization
2 confirmed by the U.S. bankruptcy court on
3 March 18th, 2003 the company's prior common stock
4 has been cancelled, new restricted stock is being
5 distributed in accordance with post petition
6 agreement. "

7 So am I understand go that correctly to
8 mean that in bankruptcy one the shareholders of U.S.
9 Airways were wiped out and then again in bankruptcy
10 two the shareholders for U.S. Airways were wiped
11 out?

12 A I would say that is correct.

13 Q So it is not just ones that the

14 shareholders were wiped out, but twice.

15 Oh, and I was going to raise this at a

16 different point, but as long as we are talking

17 about -- we have looked at some words that say plan

18 of reorganization. Yesterday in kicks with your

19 defendant about the extension of exclusivity, I

20 think if I remember your testimony correctly you,

21 when you were describing the deal that the company

22 cut with the credit card companies you had side the

31

1 credit card companies had signed onto our plan, do

2 you remember that?

3 A Yes, I misspoke, there was --

4 Q There was no plan?

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

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

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

13 Q I will ask it differently so that you are
14 answer actually matches the question.

15 A Okay.

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

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

20 of reorganization.

21 Q And you, not just at that point but you

22 are not aware of any plan of reorganization that was

32

1 extant at any time prior to the plan of

2 reorganization that encompassed the merger

3 transaction?

4 A I was not privy to any of that so the

5 information I have says know there was not a plan.

6 Q Okay.

7 Let's look forward, jump forward to

8 Tab 18, please. Now, Tab 18, if I remember your

9 testimony correctly, was you described as an article

10 in the newspaper, I guess, Pittsburgh post Gazette
11 that from the reporters perspective describes how
12 the transaction ultimately came to be, correct?

13 A That is correct.

14 Q Okay, and at some later point in your
15 testimony, not related to this article, if I
16 remember correctly, you had made reference to
17 companies other than U.S. Airways -- I am sorry,
18 strike that companies other than America West having
19 an interest in a transaction of one kind or another
20 with U.S. Airways?

21 A That was in this news story that I was
22 reporting on.

1 Q Yes, I don't think you pointed to the news
2 story when you gave us that testimony, but you did
3 at some point, you did describe that there were some
4 other, that you understood there were some other
5 companies that had an interest in U.S. Airways?

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

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

12 So Dave seeing gal was at one point the
13 CEO of U.S. Airways, correct?

14 A Correct.

15 Q And this article describes the seeing gal,

16 at least in part of the seeing gal era of U. S.

17 Airways insofar as its transaction with America West

18 is concerned, correct?

19 A I am sorry, one more time.

20 Q This article describes at least in part --

21 A I'm trying to read here --

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

34

1 A Well, you are going to ask me a question

2 about it and I want to being able to answer it.

3 Q Let's see if you can answer it without

4 looking at it and if you need to look at it then you

5 can look at it?

6 A All right.

7 Q This article describes at least in part
8 the Segal era of U.S. Airways insofar as its
9 potential transaction with America West is
10 concerned, correct?

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

14 Q We are going to read that together and I
15 will just read it and you tell me if I'm reading it
16 correctly and if what I am reading encompasses your,
17 the substance of the testimony that you gave about
18 other companies having an interest in U.S. Airways,
19 so I am reading from the bottom of the page which
20 reads as follows, Segal was convinced that for U.S.
21 Airways to avoid the fate of failed carriers such as

22 eastern airlines, which I know you know about, and

35

1 Pan Am, both of which I liquidated in the 1980s, he
2 would have to bring U.S. Airways costs down further
3 and position the airlines for consolidation with
4 another carrier. He explored several options."
5 And then I am not going to read specifically the
6 options except one of them describes a relationship
7 with United, another describes a relationship with
8 Virgin Atlantic, and a third describes a
9 relationship with the carrier dividing the company
10 into two separate companies, and then picking up
11 again, the article reads "but U.S. Airways

12 ultimately rejected those options. United didn't
13 have any interest in the deal and was too distracted
14 by its own struggles in bankruptcy, virgin Atlantic
15 wanted lots of U.S. Airways assets, namely gates,
16 planes, airport equipment, to help launch a new U.S.
17 Air line but all it would offer in return was the
18 virgin brand name, U.S. Airways also turned down
19 several inquiries from other carriers including
20 southwest, jet blue airways and Air Tran Airways
21 about acquiring the company's assets but not its
22 employees. In the end only America West wanted

36

1 both."

2 Was that the material that you were
Page 57

3 referring to when you were talking about other
4 companies, about the possible other transactions
5 involving U.S. Airways?

6 A No, what I was referring to, and I
7 probably was a B student in English so I really
8 don't understand the difference between paragraphs
9 and a line here, but it seems to me I was talking
10 about the previous and not the time of Dave Segal
11 because the new paragraph starts off talking about
12 Dave Segal and what I referred to about other, again
13 through this news story, is actually talking about
14 the, I believe the America West U.S. Airways deal
15 and not Dave Segal. If you look down through the
16 story Segal isn't mentioned until the bottom on the
17 next to the last paragraph, and the paragraph before

18 that I think refers to the America West U.S. Airways

19 deal. I don't think it refers to what you are

20 talking about about Dave Segal and other airlines.

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

22 said?

37

1 A Okay the way I read their --

2 Q Which is the this paragraph?

3 A Excuse me, but there are several twist as

4 long the way, including the people familiar with the

5 event, America West was not the only carrier to

6 express interest in U.S. Airways, nor was America

7 West the only partner U.S. Airways pursued." Now

8 when you talk about it on the next page nowhere

9 there is it mentioned America West, those are two
10 different time periods, I am getting that
11 impression.

12 CHAIRMAN NICOLAU: Well, the paragraph
13 that followed talked about what happened before with
14 America West.

15 THE WITNESS: Right.

16 CHAIRMAN NICOLAU: With Segal.

17 THE WITNESS: Are you talk asking me when
18 I am talking about other people interested that I am
19 referring to the Segal paragraph or am I referring
20 to the America West agreement.

21 MR. FREUND:

22 Q I am asking you whether aside from -- let

1 me change the question so we can make sure we are
2 clear about this?

3 A Please.

4 Q Aside from the paragraphs on the second
5 page of this article the deal with united, virgin
6 Atlantic, raking U.S. Airways into jet blue, air
7 Tran, are you aware of any other airline companies,
8 putting America West aside, that U.S. Airways had
9 any discussions with about a possible transaction?

10 A Other than what I read in the story, no I
11 do not.

12 Q I think that is all I have on that
13 exhibit.

14 Your observation about your not doing too
Page 61

15 well in English either is a good lead in into my
16 next set of questions.

17 CHAIRMAN NICOLAU: B isn't bad is it.

18 MR. FREUND: No, he is actually doing
19 fine. I didn't say it, he did.

20 MR. GILLEN: Look at our President.

21 MR. FREUND: Let's turn to Tab 19.

22 THE WITNESS: All right.

39

1 Q Now, the panel, the board is going to be
2 able to read there for itself and indeed in will be
3 other witnesses who will testify about this, but
4 since you testified about it on direct I sort of

5 very an obligation to ask you a question or two.

6 This is the famous 25 additional aircraft that are

7 going to be returned, do you remember your testimony

8 about that?

9 A Yes, sir, I do.

10 Q Okay. There is a yellow highlighted

11 paragraph on the second page of that, I am sorry,

12 the third page of this document, that says U.S.

13 Airways projects returning 25 additional aircraft by

14 the end of 2006 in addition to the 46 aircraft that

15 U.S. Airways already has announced it plans to

16 return." Do you see that sentence?

17 A Correct.

18 Q And you told us yesterday that you

19 understood the words U.S. Airways in the phrase U.S.

20 Airways projects returning 25 additional aircraft,

21 that you understood those words U. S. Airways to mean
22 the combined company that is U. S. Airways, America

40

1 West, together, correct?

2 A That is what I understand that to say.

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

9 A I do see that.

10 Q You are not telling us that those 46 that

11 the use of the word U.S. Airways in connection with
12 those 46 aircraft was the combined company, are you?

13 A I think in this first document they
14 probably neglected to put out new could as compared
15 to U.S. Airways so I think it changes here, I think
16 they are talking about U.S. Airways in the first
17 sentence, they are talking about the combined come
18 pan any and in the second sentence when they say
19 U.S. Airways means the combined company because we
20 had announced our returns of the aircraft and
21 America West had not yet returned any aircraft.

22 Q I had a very precise question which you

1 neglected to answer?

2 A I am sorry.

3 Q The second phrase in the first sentence

4 that says "in addition 46 aircraft that U.S. Airways

5 has already announced it plans to return ", the

6 words U.S. Airways in that phrase refers to U.S.

7 Airways, not the combined company, correct?

8 A No I would say it doesn't, because at that

9 time, if I can ask you a question-

10 Q No you can't?

11 A At that time America West had not

12 announced any return of aircraft, so therefore, when

13 they say in addition to the 46 that U.S. Airways,

14 they are again talking about the combined company.

15 That is the way I read it. Like I said I got a B.

16 Q Well, now we are going to combine your

17 English skills with your bankruptcy skills, you
18 know, don't you, that prior to the merger
19 announcement, prior to the merger announcement U.S.
20 Airways in bankruptcy had announced that it was,
21 through its GECAS transaction was returning 46
22 aircraft, correct?

42

1 A Correct.

2 Q So when it says in addition to the 46
3 aircraft that U.S. Airways already has announced it
4 plans to return, that was referring to the 46
5 aircraft that U.S. Airways, not U.S. Airways
6 combined with America West, U.S. Airways in the

7 bankruptcy processed announced it was going to

8 return, correct?

9 A No I think again, I know what you are

10 trying to get me to say but this is what I

11 interpret, I interpret that they are talking about

12 the combined company because if you put the combined

13 company together there were only 46 airplanes

14 announced at this time and all of them were come out

15 of the U.S. Airwayside.

16 Q Kevin, before the merger was ever

17 announced U.S. Airways, when America west so far as

18 the world was concerned was nowhere in the picture,

19 U.S. Airways, the company, had announced had that it

20 was returning go 46 aircraft, correct?

21 MR. KATZ: I am going to object I think we

22 are going over this ground again, he is asked and

1 answered that already.

2 CHAIRMAN NICOLAU: Not quite.

3 Had U.S., already made that announcement,
4 prior to any merger?

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

8 MR. FREUND:

9 Q 46, correct?

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

12 MR. FREUND: I am asking. I have got a

13 witness on the stand.

14 CHAIRMAN NICOLAU: If he knows.

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

16 apologize.

17 MR. FREUND:

18 Q Let's keep doing English. Let's go to the

19 paragraph before that paragraph, the first paragraph

20 under fleet/route system. The first sentence reads

21 U.S. Airways slash U.S. Airways express currently

22 149 --

44

1 A 179.

2 Q I am sorry, 179 cities, that is referring

3 to the company U.S. Airways the company's stand
4 alone?

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

6 Q Then it goes on and says America West
7 slash America West Express serves 96 cities, so the
8 use of the term America West in that sentence refers
9 to America West standing alone correct?

10 A Correct.

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

13 A I do.

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

17 A Right.

18 Q So in that aircraft when it uses the term

- 19 airways stand alone its referring to the term
- 20 America West stand alone and when it uses the term
- 21 combined airline when it is using it is talking
- 22 about the twp companies together, correct?

45

1 A Correct.

- 2 Q Okay. Now in the second par, the one we
- 3 have just been parsing together, the first sentence
- 4 uses the term U.S. Airways twice, correct?

5 A Correct.

- 6 Q Once in connecti on wi th 25 addi ti onal
- 7 ai rcraft, correct?

8 A Correct.

9 Q And once in connection with 46 aircraft
10 that we have, you don't remember the number, but
11 that the aircraft that U.S. Airways stand ago loan
12 had already announced it was returning.

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

16 A Yes, I do.

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

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

1 Q And then indeed in that have sentence it
2 juxtaposes the notion of combined airline, I am
3 sorry, with America West standing alone, because the
4 sentence reads the combined airline, the big one,
5 also will take delivery of 13 Airbus A 320 family
6 aircraft previously ordered by America West
7 airlines, so that have sentence distinguishes
8 between one of the airlines stand alone and the
9 combined carrier does it not?

10 A Yes, that does.

11 Q Okay, thank you.

12 Let's move forward to Exhibit 23?

13 CHAIRMAN NICOLAU: Did you say 23.

14 MR. FREUND: 23, please.

15 23, I think you described to us as a form

16 425 which had in it some questions and answers in

17 connection with a transaction; is that right?

18 THE WITNESS: 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 U.S. Airways just tank

22 and go belly up, that way there is no bothering with

47

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. U.S. Airways employs 30,000
17 people, if U.S. Airways goes belly up so do 30,000
18 jobs, sure, it is not our responsibility to save
19 those jobs, but it is a welcome by-product of an
20 already positive merger." Is there a reason that

21 you didn't tell us about that little piece of that

22 answer when you were describing this question and

48

1 answer yesterday?

2 A No, I have it highlighted, I probably just

3 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 MR. FREUND: 30, please.

10 You didn't testify about this subject in

11 your direct testimony yesterday but since you

12 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 THE WITNESS: Hawaii proving runs prove
17 successful.

18 Q Hawaii proving run proves successful?

19 A I have it.

20 Q This describes proving run on
21 November 18th in preparation for the 757 service to
22 Honolulu; is that correct?

49

1 A Yes, it does.

2 Q And I just want to read the first sentence
3 of the second paragraph which reads as follows "as
4 the flight took off first officer slash assistant
5 manager of flight operations regulatory compliance,
6 Jim Brucia noted, quote, America west started down
7 the road of the 757 E tops, T-0-P-S, certification
8 in 1991, now that we are en route to Hawaii on our
9 first flight test we have accomplished what previous
10 management teams had envisioned ", do you see that?

11 A I do.

12 Q Did I read that correctly?

13 A I think you did.

14 Q Does this report, do you have any reason
15 to doubt that this reports accurately the history of
16 the Hawaiian flying that the company is now doing?

17 A Well, it seems like a long time to do an

18 he top certification from 1991 to 2006 or 2005, that
19 is -- we bought three seven five 7's and had them
20 ETOPS in a matter of a couple months.

21 Q Any question is -- so are you telling us
22 that that is a basis for you having doubt as to when

50

1 the planning for a Hawaii flying was begun at
2 America West?

3 A I don't doubt that the planning may have
4 been done in 1991, but if you recall, under
5 synergies with the statement that they filed with
6 the SEC one of the things under synergies of the
7 merger was return to Hawaii leads me to believe that

8 without the synergy of the merger there would have
9 been no return to Hawaii.

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

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

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

14 Q There is Doug parkers piece of that annual
15 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 six, 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 six, the one that starts

1 with former, do you see that?

2 A Which paragraph are we looking at.

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

6 CHAIRMAN NICOLAU: Former furloughed U. S.
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 U. S. Airways
12 employees are being offered opportunities to come
13 back to work as openings provide and we are planning

14 to bring back 55 pilots as we add new international
15 flying this summer and then it goes on to describe
16 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 all the questions I
21 have got on that, on the subject of your economic
22 presentation. But I do want to switch subjects on

52

1 you briefly, and if you can get a copy of the U.S.
2 Airways certified seniority list in front of you
3 that would be kind of helpful for what we are about

4 to do.

5 A I have it.

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

8 While its firing up I will ask you another
9 question. You told us about how AFA is doing
10 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 testify Todd that yesterday and the fact
21 that the America West flight attendants were trying
22 to change that to my recollection.

53

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 name
7 and equitable.

8 Q But you are also aware are you not that
9 there have been times in all past history when it is

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

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: Oh, good.

10 Q I had asked your colleague who testified
11 before you yesterday about one particular name on
12 the seniority list, you were here when I asked that
13 question, and I had asked whether he was, whether
14 the name that I had pointed out and I don't remember
15 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 and speculated that it might have been
21 an absolute tell pilot and Dan said there is going
22 to be somebody that is going to be able to testify

55

1 about the absolute tell case and that turns out to
2 be, right?

3 A That is me, right.

4 Q Just so you no, 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. Nicolaou 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 Schonover.

21 Q We will use seniority numbers then,

22 seni ori ty No. 1542.

56

1 A Lewi s.

2 Q Seni ori ty No. 1648?

3 A New shooter.

4 Q You have got more grids on thi s document

5 than --

6 A Lots of i nformati on. Nol an.

7 Q Nol an?

8 A Tri pl e 851 empl oyee number.

9 Q Tri pl e 851 empl oyee number, Captai n Nol an,

10 320 captai n, DCA, date of bi rth 10-8-45?

11 A 10-6-45, make sure we get the ri ght guy.

1205RUFF

12 Q 10-6-45, date of hire 4-18-72, sandwiched

13 between down go 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 was

20 he an empire pilot?

21 A He was a shuttle pilot and still is.

22 Q Okay. Scrolling down to seniority

57

1 position number 1928, Whiteman?

2 A Okay.

3 Q I think we previously established from
4 your colleague that Mr. Whiteman 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 Whiteman is not
9 a shuttle pilot?

10 A He is not a shuttle pilot that is correct.

11 Q So we won't bother you with him?

12 A Okay.

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

16 Then we jump down to seniority position
17 two oh five two, the famous Mr. Babi arz --

18 A Babi arz.

19 Q Babi arz, thank you, he was a Shuttle

20 pilot?

21 A Former pilot known as a Shuttle pilot,

22 right, Tom Babi arz La Guardi a.

58

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

2 A Correct.

3 Q He is sandwiched between two pilots who

4 have dates of hire of June 3rd, 1985 correct right?

5 A Your observation is correct.

6 Q Then we jump than down to seniority

7 position 2130, Mr. Wills?

8 A Yes, sir.

9 Q Shuttle pilot, right?

10 A Yes.

11 Q With a date of hire of January 8, 1973,

12 sandwiched between two pilots with dates of hire of

13 January 20th, 1986, correct?

14 A That is correct.

15 Q Position number, I promise you we are not

16 going to do with this everybody, position No. 22

17 ten, Mr. Collins?

18 A Collins I have him, he is a shuttle pilot,

19 now he is flying the A three 30 in filly.

20 Q And he has a date of hire of January 29th,

21 1973 and he is sandwiched between two March 3rd,

22 1986 pilots, correct?

1 A Correct.

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

4 A Mr. Henderson.

5 Q Mr. Henderson, shuttle pilot?

6 A Yes, sir.

7 Q Date of hire of September 18th, 1980,

8 correct?

9 A Correct.

10 Q Sandwiched between two pilots whose date

11 of hire was March 2, 1987, correct?

12 A You are correct again.

13 Q I am looking for you?

14 A Oh, you need to go way up to the top of
Page 95

15 the list.

16 Q Okay, what is your seniority --

17 A I never looked, believe it or not, I hate

18 to say that but I never look.

19 Let's see. Oh can you do a name search.

20 Q Yes?

21 A There you go.

22 MR. KATZ: Control X.

60

1 MR. FREUND: Is it E or A.

2 THE WITNESS: I am disappointed, I could

3 spell your name.

4 Q My name is spelled the natural way?

5 A I had highlighted you in red, 3298.

6 A Am I a red book filing, 3298, there I am,

7 yes, sir.

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

9 A That is correct.

10 Q Sandwiched between two pilots Mr. Barry,

11 sandwiched between two pilots whose date of hire was

12 February 1, 1988, correct?

13 A Yes, sir, correct. One of which is in

14 this room.

15 Q Which one?

16 A Mr. Obermeyer.

17 MR. KATZ: Richard.

18 MR. FREUND: That is all I have of this

19 witness.

20 CHAIRMAN NICOLAU: Anything.

21 MR. KATZ: I guess I would ask a couple of
22 questi ons.

61

1

2

REDIRECT EXAMINATION

3

BY MR. KATZ:

4

Q It would seem then that the integration of

5

the shuttle pilots into the U.S. Airways list wasn't

6

by date of hire?

7

THE WITNESS: As I testified to, we didn't

8

ask for it and therefore I don't think -- we didn't

9

get it.

10

Q And the U.S. Airways pilots didn't ask for

11 it and they didn't get it?

12 A That is correct.

13 Q Mr. Freund asked you questions about

14 securities law and backwards looking statements and

15 forward looking statements. When you saw Mr. Parker

16 in that video and watched him as he explained the

17 situation to the assembled room of pilots and flight

18 attendants on January, I think it was 25th, 2006,

19 did you have any reason to question his sincerity?

20 A No, and I have looked at, even though that

21 was in front of the America West pilots in Phoenix,

22 he has the same statement when he talks to the

1 pilots and flight attendants in Charlotte. It
2 doesn't change.

3 Q Are you aware whether some of the pilots
4 and flight attendants in that room may have been
5 shareholders?

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

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

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

13 Q Mr. Freud asked you some questions on
14 cross-examination about some alleged statements
15 where Mr. Parker is report Todd have said that he
16 wasn't losing any sleep over liquidity, back before

17 the announcement of the merger, do you recall that
18 question?

19 A I do.

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

22 A I have no idea what his medication

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1 schedule was.

2 Q That is all I have.

3 CHAIRMAN NICOLAU: Any questions.

4 MR. FREUND: I have one, I have one

5 question maybe that I could ask before the panel

6 does.

7 CHAIRMAN NICOLAU: All right.

8 MR. FREUND: And again I apologize to you,

9 Mr. Nicolau.

10 There is a line in Mr. Nicolau's award in

11 connection with the ultimate decision that he

12 reached in the shuttle case, and I don't have it in

13 front of me so I can't quote it precisely but it

14 essentially says that much time and attention was

15 spent on date of hire in the course of the

16 shuttle-U.S. Airways arbitration. You are not

17 telling us, are you, that the subject of date of

18 hire was not subject discussed during the course of

19 that arbitration.

20 THE WITNESS: I am not sure what Mr. Flick

21 law meant and as I talked about it I didn't mean to

22 what he said in his award but when we describe

1 pilots in the process we always describe their name
2 seniority number position date of birth date of hire
3 maybe that is what he was referring to, I don't
4 know.

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

8 MR. KATZ: Nothing further.

9 CHAIRMAN NICOLAU: Thank you, Kevin.

10 Shall we take a break before our next
11 witness.

12 THE WITNESS: Jeff, you are still on my

1205RUFF

13 Christmas card list.

14 CHAIRMAN NICOLAU: We are going to take

15 about ten minutes.

16 (11:30 a.m. -- recess -- 11:53 a.m.)

17 MR. KATZ: We are going to call Dean

18 Colello as our next witness.

19 Whereupon,

20 DEAN COLELLO

21 was called as a witness and, having first been duly

22 sworn, was examined and testified as follows: Sworn

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1 sworn.

2 CHAIRMAN NICOLAU: Would you give the

3 reporter the spelling of your last name please.

4 THE WITNESS: COLELLO, first name is Dean.

5 CHAIRMAN NICOLAU: Thank you.

6 DIRECT EXAMINATION

7 BY MR. KATZ:

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

10 A Dean Colello and I live in Madison,
11 Wisconsin.

12 Q And what is your employment, sir?

13 A I am a first officer with U.S. Airways.

14 Q How long have you been employed as a pilot
15 with U.S. Airways?

16 A Since July of '88.

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

19 A I have -- the members of services chairman
20 for the membership services committee, and as part
21 of that committee also oversees the furloughed
22 administrator duties, I also do the furlough

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1 administrative duties and I am also the note taker
2 for the negotiating committee.

3 Q For the joint negotiating committee?

4 A Yes actually our negotiating committee and
5 also the joint --

6 Q For both the separate U.S. Airways
7 committee?

8 A Yes.

9 Q And the joint negotiating committee?

10 A Yes.

11 Q Very good.

12 Were you on furlough for a while?

13 A Yes, I was furloughed in June of oh three.

14 Q When were you recalled?

15 A I was, began flying for the one 70

16 division of the U.S. Airways in November of oh

17 three, and then in March of '06 came back to the

18 mainland.

19 Q What were the duties of the furlough

20 administrator position that you held?

21 A He essentially a job of an administrator

22 is just looking out after the furloughed pilots,

1 keeping them informed of what is going on and if
2 they have any concerns, if there are any problems
3 try and handle them from somebody who is actively in
4 the company as opposed to the pilots who are out on
5 the street, if they have any questions, if they have
6 any problems, either dealing with the company or
7 dealing with the ALPA national or whatever, make
8 sure they are advised of what is going on with the
9 company, what is going on with the union.

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

12 A Yes he.

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

15 A Yes.

16 Q And what sort of inquiries would they
17 have?

18 A The biggest question is particularly once
19 we started recalls the biggest question I would get
20 from furloughed people is, you know, what was the
21 latest seniority, you know, for the guy that got
22 recalled, can you tell me when I am going to come

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1 book or what does it look like, what have you heard,
2 how many people are they recalling, basically the
3 concern of the people on the street is what are my
4 opportunities, A, am I going to come back and, B,
5 how long is it going to take to get back.

6 Q You tried to provide accurate he he enough
7 and up-to-date information when furloughed pilots
8 call in on that subject?

9 A Yes I try to keep in contact with the
10 company office that handled the furloughs and try
11 and get an idea of when there what their pro
12 jections are, a the love time you don't find out
13 until just prior to the announcement but we try and
14 do our best the keep abreast of what the plans are
15 for recalls.

16 Q Do you from time to time send out mailings
17 or he e-mails to the furloughed pilots in this
18 section?

19 A Yes I makeup furlough administrator
20 updates that cover the gamut of recall information,

21 you know, one of the questions -- another question
22 that came up after the merger was can I, because as

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1 a furloughed pilot you can still non rev, the
2 question is can I non rev on the west side now, we
3 cover things like that, we cover what the
4 projections are and keeping them advised and make
5 sure they keep up there address information and all
6 that so we send e-mail updates, the update is
7 managed now through an e-mail blast and ALPA
8 national and then for people we don't have an e-mail
9 address on we usually mail a copy to them.
10 Q And you have sent several of these over
11 the years?

12 A Yes I have been the doing furlough
13 administrator since February, so since February I
14 have probably sent four of them out.

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

17 CHAIRMAN NICOLAU: Since February of this
18 year.

19 THE WITNESS: Yes, sir.

20 MR. KATZ: We are going to give out the
21 binders with the next witness but for the moment
22 they are going to go in the back of that binder, it

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1 is a very slim binder, as you will see.

2 But pending the binder let's just work
3 with these documents, and you have a set of these,
4 Mr. Colello.

5 THE WITNESS: Yes.

6 Q Thanks. Now, would you tell us what
7 Tab 19 is, please?

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

10 Q And you mentioned that the first item that
11 the company is in the pro process of completing the
12 latest recall, 20 pilots were recalled to the
13 Embraer 190 first officer positions, right?

14 A Yes.

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

17 A Yes.

18 Q Is that positions, the 30 created by
19 attrition of the pilots senior to the recall, the
20 furloughed pilots?

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

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1 Q Under future recalls you say the company
2 is planning to recall approximately 30 pilots per
3 month, for at least six months beginning in
4 January 2007?

5 A Yes.

6 Q Have you been advised of anything more
7 recent than that from management?

8 A Well, we just had a bid come out to cover
9 February and one of the drivers for that bid they
10 said that they will be recalling 40 pilots, and
11 that, I assume that is included in this, you know,
12 their plans forth 180 plus that they are planning to
13 recall next year, but there will be 40 that they are
14 beginning to recall now. This initial -- the
15 recalls I talk about in the first paragraph herfe
16 are for classes that go to the first week in
17 January, and then there is going to be an initial 40
18 that they are sending letters out starting today.

19 Q When would there class begin?

20 A There will be classes starting later in
21 January.

22 Q Later in January?

1 A Yes.

2 Q And am I reading this correctly, that the
3 30 per month is, you say it is exclusive of 190
4 positions?

5 A That is correct.

6 Q So those are not jobs generated by the
7 Embraers?

8 A That is true, right, it is just the 30 per
9 month are just to cover attrition and the Embraer if
10 they staff it at ten pilots per aircraft which is
11 about average then there will be an additional five
12 per month, because one airplane a month is coming on
13 average.

14 Q Then you have a paragraph describing the
15 recall process and exactly what happens?

16 A Right.

17 Q And let me ask you to flip to third page,
18 at the bottom there is something called furlough
19 survey results?

20 A Yes.

21 Q Would you tell us what this furloughed
22 survey is and why you conducted it?

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1 A Well, to try and give the pilots a little
2 more accurate information rather than somebody
3 calling me up and saying what are my chances of

4 getting recalled, where do I fit into the system,
5 and we knew there were a lot of people out there, we
6 have had people on furlough since, you know, end of
7 2001, so we have had people on the street foreclose
8 to five years, and realistically are these people
9 sitting by their phone every day waiting for the
10 call from U.S. Airways to come back, a lot of them
11 probably not, so we were trying to get an idea of,
12 you know, how many of these people have moved on, I
13 know we have got people at Fed-Ex, we have got
14 people at Jet Blue, got people at America West, got
15 people all over, so we are trying to get an eye tea
16 really of the 1700 people we have out there how
17 many, really, are thinking about coming back, so
18 that you can tell a guy who is number 1700 on the
19 list, hey you have got 1700 guys ahead of you or you

20 can say, yes your 1700 on the list but are realize
21 particularly maybe only about six or 700 are going
22 to come back, so the guy -- it may change his idea

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1 and what his expectations are. So we decided to
2 attempt to do, to poll the furloughed pilots to see
3 if we can get an idea of what their intentions are,
4 it is on a totally non binding basis, we told them
5 that it is just trying to get an idea of how we are
6 going to do that, so what we did was we communicated
7 with the furloughed pilots and if you flip to
8 exhibit 20 here, what I did was I sent a cover
9 letter out and there was done pretty much the same

1205RUFF

10 way as the furlough updates are, we did it through
11 everybody had an e-mail address on the file, we
12 e-mailed them, this list of questions, and we had
13 set up a web based system where they could they
14 could enter their response to these four questions,
15 there is drop down menu, go in this their ALPA
16 number to get onto the web site and dropped down
17 menu and they entered their choice he is and the
18 database was updated every time somebody did that,
19 and --

20 Q Did you tell the people who participated
21 in the survey that there results would be kept
22 confidential in terms of the anonymity of what they

75

1 said?

2 A Yes, we told them that this is, you know,
3 if they are worried about, you know, saying they are
4 going to come back and they didn't want there
5 employer to know anything about it, you know, it is
6 totally anonymous in the sense, I mean it was not
7 anonymous in that we had to keep track of who
8 responds had, and, you know, that is why they had to
9 go on with a password so that I couldn't, you know
10 if I was a furloughed guy I couldn't go in and say
11 all the guys senior to me are not coming back, we
12 couldn't do that but basically everybody could enter
13 their own information, it was using basically using
14 the same system that ALPA uses for voting, you go in
15 and enter a password, and the people who did not

16 have access to the web site, people who work for
17 other ALPA carriers do not have access to the web
18 site, what we did with those people was we sent
19 mailing with a copy of this, for them to mail the
20 information back to the ALPA office, and then I
21 would just enter the information manually into the
22 data base.

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1 Q So you kept track of who had responded and
2 who hadn't responded?

3 A We kept track of who had responded and
4 who hadn't, and a pilot up until the survey was open
5 for a couple months and they were able to go in and

6 make a change that they wanted to, at any time up
7 until the survey closed. And we -- initially we
8 did an e-mail, we sent out two or three reminders
9 through e-mail letting them know, and like I say the
10 people we didn't have e-mail addresses and we mailed
11 the information to them.

12 Q But did you promise them that you wouldn't
13 tell jet blue whether --

14 A Right.

15 Q -- what they said?

16 A As a matter of fact, when we mailed out
17 the survey at first we thought well, we will just
18 mail a post card out with these questions on the
19 back and they can put them on there put a stamp on
20 it and sent it back then we thought you know, just
21 to make sure that their identity was protected even

22 one step further we decided it was cheaper to do it

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1 that way we weren't going to make them do it that
2 way we made them mute it in an envelope to send it
3 back to there was no chance of anybody seeing what
4 the results were.

5 Q These questions were designed to get you
6 the best information available so you could advise
7 the furloughed employees of their prospects of
8 returning?

9 A Yes, if you will notice the questions we
10 split it up between an heir bus-Boeing fleet P and
11 the one '90, because the pay rates of the 190 are so

12 Iow we di dn' t want to skew i t one way or another for
13 somebody who di dn' t want to come back and work for
14 \$40 an hour, and we wanted to give them the idea of,
15 the furloughed pilot has the opportunity to buy pass
16 coming back for a 190 position, that is why we
17 separated out the questions to say that okay are you
18 going to come back to a job at \$40 an hour or are
19 you going to hold off for an heir bus or Boeing job.

20 Q So there is no legal consequences if a
21 pilot on furlough says I am going to buy pass recall
22 to the Embraer is that right?

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1 A That is right, he can bypass -- normally
2 in the way our contract is, a pilot can bypass

3 furlough.

4 Q Bypass recall?

5 A Bypass recall until he is the bottom

6 person on the list, if he is the bottom person on

7 the list and you are offered a slot, if you remember

8 fuse it then you are off the list.

9 Now, with the 190 they can bypass that

10 even if they are the bottom person on the list just

11 because of the pay rate.

12 Q And that is the the contract arrangement

13 that you worked out?

14 A Yes.

15 Q So you asked about whether they would come

16 back for a 190 position and also whether they would

17 come back on for an Airbus or Boeing position?

18 A Airbus and Boeing. ^{1205RUFF}

19 Q In 21 would you tell us what information
20 is displayed here?

21 A There the initial information -- the
22 information on 21 you will see out of all the pilots

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1 there were 916 if you look at the bottom right all
2 the way over there, 916, that is the total number
3 that responded either through direct entry into the
4 web site, through sending me an e-mail with the
5 answers to the questions or sending one of the
6 postcards, not one of the postcards but one of the
7 mail entries.

8 Q So just to see how this is red, under

9 Airbus-Boeing where it says definitely and 30 days,

10 281, that means what, the 281 --

11 A Out of the 916 pilots responded 281 of

12 them said that if you offer me a recall to Boeing or

13 Airbus I will come back within 30 days.

14 Q Okay and then 51 definitely said they

15 would definitely come back if they had six months?

16 A They would come back within six months,

17 yes.

18 Q And then over on the other side you had,

19 under probably not, you had 53 -- what is the three

20 number thereunder probably not, what were the three

21 saying probably not to?

22 A Under probably not, under the four-year

1 line.

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

4 A Right.

5 Q They probably wouldn't come back even
6 within four years?

7 A Right.

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

9 A They, one of the questions was delay as
10 long as possible, I believe is the way it was -- or
11 was it defer as long as possible.

12 Q Delay as long as possible?

13 A Delay as long as possible, and

14 essentially, I mean if you look at the reality of
Page 129

15 it, like I say we have a lot of pilots at Fed-Ex or
16 jet blue with, you no, other carriers, we have
17 pilots working for some carriers who, you know, they
18 want to come back in a heartbeat and then we have
19 somebody that is working for southwest or Fed-Ex
20 they may never come back. However, think don't want
21 to store this door because the history of the
22 industry is such who knows what is going to happen,

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1 you never know, if you would have told somebody
2 three years ago that U.S. Airways was going to buy
3 Delta for \$8 billion they would probably have thrown
4 you in the looney bin, you know.

5 So there are people that are saying well,
6 I want to maintain my position on the list, you
7 know, I might be working at Fed-Ex today but maybe
8 three or four years from now I might not like it
9 there and I may want to come back, so there are some
10 of the people who are saying probably not, and I am
11 going to delay my decision as long as possible.

12 Q Okay, the 916 out of how people sent you
13 responses one way or another, what was the total
14 population you were surveying?

15 A We we are surveying 1713 pilots, if you
16 would look at that number is at the top of
17 Exhibit 23 we will get to that later, but 1713 were
18 the total number of pilots that we surveyed.

19 Q So there is something like 797, you didn't
20 you didn't get responses from?

21 A That is correct.

22 Q What did you do to find out how they feel

82

1 about coming back?

2 A We, you know, initially we got a pretty
3 good response, there was a pretty good burst of
4 activity then it kind of tapered off a little bit,
5 we send out another e-mail reminder and we would get
6 some more responses, then once we started inputting
7 the mail in responses we got, and then it kind of,
8 after sending out a few reminders it kind of tapered
9 off, you know, you would get a hit now and again
10 where somebody entered something in there, but for

11 the most part it tapered off, it was sitting in
12 their in the high 800s or around 900.

13 In fact it was pretty good, it was over
14 50 percent response rate which was pretty good for
15 this, but we decided we will how can we judge what
16 everybody else is doing, and so we decided that it
17 would, let's make it a personal attempts to try and
18 contacted some of the people who hadn't responded,
19 and we knew we couldn't make 797 phone calls, so
20 decided to just say okay, let's take, I just picked
21 around number of a hundred, I figure we will it is
22 more than ten percent, and we will start with a

1 hundred and so we took the people who were left, 797
2 and just sent an Excel spreadsheet did a random
3 number generator, just randomly picked out 100
4 people to go ahead and contact personally to see
5 what type of, to see if they would answer it over
6 the phone, you know, we would make a phone call and
7 say okay, notice you haven't responded, you know,
8 maybe you didn't get the information, or maybe you
9 didn't have time but would you mind answering the
10 four questions.

11 Q And so you made these phone calls to a
12 hundred people?

13 A Well, initially with the random number
14 generator we came up with 100, for some reason there
15 was a duplicate in there and there were a couple in
16 there who had been recalled so essentially we got

17 down to '95, '95 pilots are the ones that we
18 actually attempted to contact, and I split it up
19 with a number of people assisting me with that and
20 we made the attempt to contact them and it was --
21 those were the only people we worked with. If we
22 didn't contact somebody we didn't pick somebody else

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1 up off the list, of those '95 people we con-
2 tacted, we made multiple attempts contacting them,
3 we ended up getting through to '75, out 20 we didn't
4 contact some of those were due to bad phone number,
5 we were using both the ALPA database and the company
6 database to get phone numbers, sometimes they, you

7 know, they didn't have updated numbers, or we even
8 went to far as to look on the Internet, just some
9 people just had moved and everything else, so that
10 is where that 20 comes in there where people, no
11 response from those people, so --

12 Q Take a look at Exhibit 22, please?

13 A Okay.

14 Q And this is the '75 --

15 A Yes we ended up getting successfully
16 contacted.

17 Q And you got the results similarly
18 displayed as with the 90016 who had voluntarily
19 given responses?

20 A Correct.

21 Q I guess these people voluntarily gave
22 responses too?

1 A Yes but they just had to be remember blind
2 had, had to be prod had a little.

3 Q So you recorded there responses here on
4 Exhi bi t 22?

5 A That is correct.

6 Q All right in Exhi bi t 23 would you explain
7 what information is shown on this page?

8 A Like I say the number we started with was
9 the 1713, and we had 916 of those responded as we
10 previously talked about in Exhi bi t 21, right?

11 A And of the negatives, negative responses
12 mean people who in our opinion are not going to

13 return, and what this 295 number is, is if you will
14 look, if you want to refer back to 21, that includes
15 everybody, the eighteen people in the definitely not
16 column, includes all the 73 people in the probably
17 not, and then we took the people who in the other
18 columns who basically three or more years out said
19 they are not going to come back, because that is,
20 you know, it is pretty far down the road, and
21 chances are, you know, they are probably not going
22 to come back, if they are thinking today that they

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1 are not going to come back for at least three years,
2 there is a lot of things that can change there.

3 So we just made the assumes that they will
4 probably not be coming back, so essentially if you
5 take anybody, the three years or four years and the
6 max delays and then the probably nots and the
7 definitely nots that is where the 295 comes in.

8 Q Okay, and then of the 797 who did not
9 respond, you explained that you started out with 95
10 randomly chosen names, and 37 in that category were
11 similarly negative as the --

12 A Using the same criteria that we used for
13 the negative responses, yes he.

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

16 A That is correct.

17 Q Then so you add those two together, the
18 thirty-seven and the 20 and not 57?

19 A Yes.

20 Q And that is 60 percent of the 95 you

21 started out with?

22 A Yes.

87

1 Q And then how did you calculate the next

2 figure?

3 A Well, if you look at the people who didn't

4 respond, you could say that well, I mean you could

5 make you could make at sums that they didn't respond

6 because they not coming back because I don't care, I

7 think that would be a pretty extreme assumption to

8 say that, so -- but, there is also you can make the

9 point that well, the fact that they either haven't
10 kept their number up with the company or they
11 haven't responded to this may mean there is probably
12 more of them leaning to not coming back than the
13 people who took the effort to make the, you know,
14 enter the information. So to try and validate that
15 is why we went ahead and did this, and so if you
16 take the percentages that we got out of the '95 and
17 just carry them across for the 797, if you say
18 60 percent of these people are not going to come
19 back, 60 percent of those we surveyed, of the random
20 survey, if you apply that too the 797 who did not
21 respond that is where we came up with the 478.

22 Q Okay. And then how did you get the 773 at

1 the bottom of the page?

2 A That is just basically the 295 and the
3 478, the 295 from the upper one are the ones that
4 actually responded, and then the 478 that we are
5 assuming are not going to come back based on our
6 random sampling.

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

9 A That is correct.

10 Q And you feel comfortable that that, even
11 though that is nearly half of the furloughed pilots
12 ultimately not coming back, that that is an accurate
13 measure?

14 A To the best we can tell by using the

15 assumptions we made.

16 Q And these numbers are similar but not

17 identical to the numbers in Exhibit 20 -- I am

18 sorry, 19, on page three?

19 A Yes.

20 Q Where you gave a furlough survey results

21 to the people that got this e-mail blast?

22 A Right, these were more of a rounding thing

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1 to, they weren't quite as accurate as, like I say 40

2 pilots, where this would one is 37.

3 Q Uh-huh?

4 A So one difference you will notice in here

5 is that the last sentence says that you the last

6 sentence, if you apply that 42 percent to the
7 approximately 855 five pilots who did not respond
8 whereas here we are using 60 percent because
9 initially when I did this eye only included the
10 probably not and the definitely not, I didn't take
11 into accounts those who said they weren't coming
12 back for three or more years. So --

13 Q So which do you think is more accurate,
14 the Exhibit 23 analysis or what you had in the
15 e-mail blast?

16 A Well, I would say that the -- maybe you
17 can look at it as a range, you know, and I think it
18 is pretty accurate that it is going to fall
19 somewhere within that range. Because just from the
20 people I have spoken to, and I mean if you actually

21 Look at Exhibit 24 --

22 Q Okay?

90

1 A -- which --

2 Q Tell us what that is first?

3 A Exhibit 24 is a list of all the pilots who
4 have been recalled from the first recall which was
5 March of '06, up until the most recent one they
6 concluded which was, is going to be a class date of
7 the first week of January, and I mine just on this
8 top page, this first page here, so the people who
9 say they have passed, I mean I know a number of
10 these people personally because they were either in
11 any my new hire class or fairly close to me

12 seni ori ty wi se and I can go down where approxi matel y
13 hal f of these peopl e, they are at Fed-Ex or jet blue
14 or southwest and I woul d be wi lli ng to bet that they
15 are probabl y not going to come back. I woul d thi nk
16 that parti cularl y the seni or peopl e, i f you are
17 looki ng at thi s here, there i s prett y cl ose to a
18 three to one rati o here, of peopl e who you look here
19 there are three hundred 21 have been offered recal l
20 and 108 accepted, so that i s ri ght a l i ttle l ess
21 than 33 percent ver y accepted. And that comes
22 prett y cl ose to, i f you look at Exhi bi t 21 he -- I

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1 am sorry, 23, ri ght here we are showi ng you have

2 32 percent are not going to come back.

3 Q Uh-huh?

4 A Right now they are running about

5 30 percent, right now its showing about 60 percent

6 are not coming back, if you look at that Exhibit 24,

7 you know, because there is -- but the point I am

8 trying to make here is that the more senior guys

9 there is probably going to be fewer people coming

10 back out of this first group here, and I think as we

11 go down through the list we will probably get more

12 acceptances because guys have -- as these guys,

13 these guys are passing because they found better

14 opportunities.

15 Q Uh-huh?

16 A And so I don't think our, the fact that we

17 are saying 32 percent are not coming back, on our

18 survey and the reality is 60, you know, in this
19 60 percent are not coming back, so I I don't think
20 our figures are out of line, we are actually being
21 more conservative in our figures than what reality
22 is slowing now.

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1 Q

2 CHAIRMAN NICOLAU: Excuse me, Dan,
3 Mr. Colello this last exhibit recall to what.

4 THE WITNESS: To U.S. Airways.

5 Q I know but to what aircraft?

6 A Right now this number, this one hundred
7 eight --

8 CHAIRMAN NICOLAU: Yes.

9 THE WITNESS: 20 of those have been to the
10 one '90s.

11 CHAIRMAN NICOLAU: And the other --

12 THE WITNESS: All the rest have been to
13 Boeing and Airbus.

14 MR. KATZ:

15 Q Just to clarify this for the record, the
16 100 eight is slightly more than 33.3 percent of 320
17 one isn't it?

18 A Right, it is about 34 or something like
19 that.

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

1 A Right.

2 Q But the survey results are trying to
3 measure who is going to ultimately come back after
4 the company has gone all the way down to the bottom
5 of the list and starts offering recall to people on
6 the way up where there are legal consequences --

7 A Right.

8 Q -- to turning it down, right?

9 Q So it is two different things in
10 Exhibit 24 and Exhibit 23?

11 A Yes, it is -- they are two different
12 things but -- all right; .

13 Q Did you want to say something else?

14 A No, I was just -- if you look at the
15 survey results individually, it seems like the
16 people, more of the people near the bottom of the
17 furlough list, there is a greater percentage of them
18 who say they are going to come back than at the top
19 of the list.

20 Q I see, that is something that doesn't show
21 here but that is based on your observation?

22 A Right.

94

1 Q Of who the responses came from; is that
2 right?

3 A Right.

4 Q Okay.

5 All right?

6 A So that is why this percentage here will
7 probably change over time as they start recalling
8 more people, but I think our results here are fairly
9 accurate, you know, the best you can as far as
10 trying to predict something in the future.

11 Q And Exhibit 24 has the latest information
12 available on who who has accepted recall and who has
13 passed?

14 A This is accurate as of yesterday.

15 Q Thank you, Mr. Colello, no further
16 questions.

17 CHAIRMAN NICOLAU: Mr. Freund, what is
18 your call?

19 MR. FREUND: Again maybe if I could ask a

20 couple preliminary questions and think about it over

21 lunch to see if I have any other questions.

22 CHAIRMAN NICOLAU: That is fine.

95

1 CROSS EXAMINATION

2 MR. FREUND:

3 Q My preliminary questions may not be enough

4 to have justify walking across the room but that

5 said let me just take a quick peak here. I am

6 looking at the certified seniority list, I just want

7 to make sure I have got everybody placed properly in

8 time and space. And that shows you at seniority

9 position No. 3538 on the certified list, Dan is

10 going to flip you to that page or flip that page to

11 you more accurately?

12 A Yes.

13 Q That is you?

14 A Yes.

15 Q Okay and so you were furloughed, two

16 periods of if you are-low -- no, one I am sorry, one

17 period of furlough starting on June 4th, 2003?

18 A Yes.

19 Q And you said you were recalled just this

20 past June is that right?

21 A No, I -- recalled to the main line in

22 March.

1 Q In March I am sorry?

2 A Of 06. But I was working for, in November

3 I got furloughed in June of '03 and in November of

4 oh three I was working for the 170 division, and

5 then went directly from there to here, in March.

6 Q In March of oh --

7 A 06.

8 Q -- of 06.

9 Exhibit 19, please, for just one quick

10 second, I am not going to ask you anything

11 substantively bit, to 19 at this point, just so I

12 can understand what this document represents. Is

13 in of a kind that I put out to the pilots on a

14 regular basis?

15 A Yes.

16 Q How often do you put it out?

17 A I mean I, as an example I took over this

18 job in February, I believe I put one out in

19 February, one in March, one in June, and then this

20 one. There is no set timetable for them.

21 Q And how do these go out, do these go out

22 on the web set or get mailed --

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1 A They get he he e-mailed too everybody in

2 that we have an e-mail address in the file, and they

3 get mailed to the others plus its posted on the ALPA

4 web site.

5 Q With respect to -- we will let me ask a

6 broader question. Did you conduct a survey in
7 connection with the Wilson center or any other
8 surveying organization?

9 A We basically consulted them to get some
10 ideas but no we did not pay them to do it.

11 Q But you talked to the Wilson center about
12 how to go about doing surveys?

13 A Right.

14 Q I guess that may then answer my more
15 precise question I was going to ask which was with
16 respect to Exhibit 20 whether the Wilson center
17 participated in the design of the survey instrument
18 or not?

19 A No, as far as we wrote the questions
20 ourselves.

21 Q Okay. And did they participate in --

22 well, let me back up, in in Exhibit 19, where you

98

1 said even professional pollsters who said we would
2 be lucky to get 20 percent response rate, was that
3 the Wilson center folks that talked to but that?

4 A Yes.

5 Q With respect to your decision to do the
6 random sampling of the nonresponses was that based
7 on again conversations with the Wilson center or did
8 you guys just figure out on your own that that would
9 be a useful thing to do?

10 A Well, there was -- you wanted to try and
11 get fear from as many pilots as we could and this

12 was just an effort on our part to go ahead and, you
13 know, without badgering people, to try and, you
14 know, try and get one more shot at any answers from
15 them.

16 Q I am not being critical by asking the
17 question, I just wondered sort of what the source
18 was of your view about doing a random sample of
19 the noon responses, I just wondered if that was a
20 Wilson center suggestion or you guys just sort of
21 decided to do it on your own?

22 A Well, we decided to do it and then checked

1 with, you know, we decided to come up with the 100,
2 and then check with an expert to see we will is that

3 something that was, would be an accurate number and
4 they actually says about 85 out of that would be
5 good, so it turned out okay.

6 Q Then I think the last preliminary question
7 I have and then we will break, is looking at
8 Exhibit 24. Am I correct that Exhibit 24 lists of
9 seniority number from 3177 to 3512 inclusive, that
10 is there is not, there are no seniority positions,
11 seniority numbers for pilots that are not within
12 that -- that are within that range that are not on
13 the sheet?

14 A There are seniority numbers that are not
15 on the sheet because this came off a company
16 document, and the company documents that this came
17 off of is what is called our APL which is our

18 affected pilot list, it is a list of all the
19 furloughed pilots and it has people in here who have
20 since retired, either retired or resigned, so if you
21 will look at -- there are some spaces in r
22 where there may be a gap in the seniority number.

100

1 MR. KATZ: Last page has several.

2 MR. FREUND: Yes if you could maybe just
3 point us to a couple --

4 THE WITNESS: Yes, I'm sure between that
5 and Sullivan 3503 and 3505, I would have to get the
6 source document but probably number four has
7 probably since retired since this document.

8 MR. GILLEN: Resigned, either or?
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9 THE WITNESS: Actually if you look the at
10 it will show people who have resigned, retired or
11 died.

12 MR. FREUND: And you extracted all of
13 those.

14 THE WITNESS: Yes because they weren't
15 offered recalls. Especially the dead ones.

16 I have flown with some guys who seemed
17 like they are dead.

18 MR. FREUND:

19 Q And then really this probably is the last
20 of the questions, preliminarily, you went down to
21 3512, I take it, because that was the most junior
22 number you had to get to in order to get the last

1 person who had accepted the recall?

2 A Yes, on this company document that is the
3 last person who has accepted a recall as of for the
4 first class in January.

5 Q I think that is all I have got at the
6 moment.

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

10 THE WITNESS: That is me.

11 Q Why is it, why do you have seniority 3177
12 and then the certified Lisa have different number?

13 A The --

14 CHAIRMAN NICOLAU: 3538, just sort of help
Page 163

15 me out.

16 THE WITNESS: You don't have to do it now

17 but I would like an answer --

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

19 CHAIRMAN NICOLAU: Okay.

20 THE WITNESS: Of '05.

21 MR. KATZ: Of '05.

22 THE WITNESS: These are January of '06

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1 numbers.

2 CHAIRMAN NICOLAU: All right, I just wanted

3 to make sure.

4 MR. KATZ: There has been a lot of

5 attrition.

6 CHAIRMAN NICOLAU: I just looked I wanted

7 to know what in and wondered what they were.

8 So it is about 20 minutes to one, about

9 20 minutes to two, is that all right.

10 MR. KATZ: That is fine.

11 MR. FREUND: Yes.

12 CHAIRMAN NICOLAU: Okay.

13

14 (Whereupon, at 12:39 p.m., the deposition was

15 recessed, to be reconvened at 1:40 p.m. this same

16 day.)

17

18

19

20

21

22

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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

12 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 170013 of the original
17 surveys?

18 A Yes.

19 Q Did that include the CEL pilots?

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

1 the won't once that are on our list, yes.

2 Q Okay.

3 When did the surveys documents actually go
4 out?

5 A When did we start the survey.

6 Q Yes when did you start the survey?

7 A The survey started in June of '06.

8 Q June of '06, and when did?

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

12 A Right.

13 Q When in that sort of time continuum would
14 you say you had the.

15 Sort of in the continuum between June of
16 06 when you started and November '06 when you

17 published, when would you say you kind of got to the
18 916 number that represents the pilot inputs from the
19 original survey?

20 A I would say the bulk of it probably came
21 within about the first three months or so then it
22 kind of tapered off. Like I say in that three

105

1 months we had sent out a couple of reminders.

2 Q So you got a big bunch at the front and
3 then it tapered over and finally roughly at about
4 three months you got the number 916?

5 A Yes he he.

6 Q Then it was after that that you went to

7 the follow up survey?

8 A Yes. After.

9 Q And when was that?

10 A We did that basically in probably October

11 is when we, late September or early October we were

12 making those calls, and basically -- probably

13 throughout the month of October, you know, making

14 calls and waiting for returns.

15 Q So it is surely the case that at the time

16 that the pilots were responding to your survey that

17 obviously they didn't know what the combined

18 collective bargaining agreement was going to look

19 like that was going to govern the new airline after

20 it was fully integrated?

21 A That is right, nobody does.

22 Q Right, nobody knows that.

1 And they obviously didn't know what their
2 seniority number would be on the coming bind
3 airline.

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

10 A Right.

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

13 A Yes.

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

18 A Well, yes, but that is not -- I don't
19 think the products were in the vacuum that think
20 there there was no discussion on the age sixty-five,
21 with you as far as the report yes he.

22 Q Right up until the time the report was

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1 issued some pilots might have thought the report was
2 going to say keep it at age 60, other pilots might

3 have thought was going to say go to age sixty-five,

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

5 A Correct.

6 Q It might still be up for grabs?

7 A Yes.

8 Q But at the point of the survey they didn't

9 know what that commission was going to report,

10 crick?

11 A Correct.

12 Q And even within your own airline on the

13 age sixty-five question, there was a fair amount of

14 debate back and forth during that time period,

15 correct?

16 A Yes.

17 Q On whether you are pilot group ought to be

18 in favor of age sixty-five or opposed to age

19 sixty-five?

20 A There was a poll taken, that was I believe

21 in September or something like that when that was

22 taken, so I would say the bulk of these people

108

1 probably had responded prior to that poll results

2 coming out.

3 Q The poll was actually taken in September

4 or the poll results were announced in September?

5 A I can't remember exactly when they came

6 out, I seem to think it was around that time frame

7 but off the top of my head I can't remember what the

8 exact dates were.

9 Q The question on whether there should or
10 shouldn't even be a poll was something that was
11 debated hot and heavy on your chatted board, right?

12 A We will above my pay grade, I don't know,
13 as far as --

14 Q We will maybe above your pay grade to
15 decide whether there is or isn't going to be a poll
16 but that question was debated hot and heavily
17 whether there should or shouldn't be a poll?

18 A I am not sure.

19 Q But be that as it may, the whole age
20 sixty-five question and more to the point, the
21 commissions report was -- came out after your survey
22 was conducted, correct?

1 A Right.

2 Q And your survey was conducted before U. S.

3 Air ways announced that it was going to make a bid

4 for Del ta, correct?

5 A That is correct.

6 Q So the pilots who responded to that

7 could n' t have, would n' t have known about that

8 possi bi li ty, correct?

9 A Correct.

10 Q Nor would they have known about the, to

11 state the obvi ous, any other circumstance in the

12 economy that ei ther affected -- affected ei ther

13 adversely or affected posi ti vely U. S. Ai rways

14 prospects in the industry, correct?

15 A We will it is a snapshot, I mean it is
16 just like in the November 2004 we took a snapshot of
17 the president I am sure there are people who would
18 change their mind now if they had known back then,
19 the same thing with this, people look another a snap
20 shot and base their decision based on what they know
21 at the time.

22 Q Correct. That is all I have got.

110

1 MR. KATZ: Let me just follow up if I

2 play.

3 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 THE WITNESS: 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.

111

1 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 one out of

8 three.

9 Q What did you do 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 a hundred
16 guys who are the most recently furloughed once and
17 they had a fairly high acceptance rate, but
18 according dot survey results, but but as I looked
19 through the seniority list and divide had it up into
20 certain areas it came out it was fairly close though
21 the numbers that we have here in exhibit 24, as far
22 as the 32 percent. So -- basically it would, what I

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1 had stated off the top of my head really wasn't

2 supported by the numbers that I looked at over the
3 lunchtime.

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

6 A Have bottom.

7 Q Who were the CEL pilots but when you
8 looked at it over the entire range --

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

12 Q The 108 out of 321?

13 A Right.

14 Q Thank you, that is all I have on redirect?

15

16 RE CROSS EXAMINATION

17 BY MR. FREUND:
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18 Q I am not sure I understood that so I have
19 got to ask a question or two?

20 MR. KATA: You could him to repeat, that
21 might make it clearer, but I am not sure.

22 BY MR. FREUND:

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

6 A Correct.

7 Q And is what you are saying that if you go

8 to the pilot inputs, that is the 900 -- go to the
9 database that makes up the pilot inputs that makeup
10 the 90016 responses, you get a different conclusion?

11 A No, I was saying, in my testimony earlier

12 --

13 Q Uh-huh?

14 A -- I had said that this, we were referring

15 to Exhibit 24 --

16 Q Yes?

17 A -- as basically taking about a three, you

18 have to call three pilots to get one to accept it.

19 Q All right?

20 A And earlier I had said that the guys at

21 the bottom of the list, I said as you went more

22 junior I made the assumes that you would have a liar

1 acceptance rate.

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

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

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

7 A Right.

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

12 A Yes, and that -- I mean I just am making
13 an assumption here but it is possible that as you

14 get more junior on this the guys that are left in
15 just 190 positions, that is just an assumption, that
16 could be very well be why as you get more junior on
17 this small snapshot these 300 guys why the past rate
18 is higher on the more junior guys.

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

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

22 Q So then over lunch tell me again what you

115

1 did?

2 A We will basically I just looked at the
3 database to see --

4 Q Again let's be clear, the database was

5 the --

6 A The 1713.

7 Q Was really the 916, you don't have a

8 database for 1713?

9 A Right, I looked at the responses of the
10 nine 16 to see if in fact that there were, the guys
11 at the bottom of of the list, there were more of
12 those saying they were going to come back than the
13 guys in the middle or at the top, and it seemed to
14 be fairly linear. I mean if you look at the bottom
15 hundred guys, you know, the CEL guys like I say the
16 guys most recently furloughed most of them say they
17 will come back tomorrow, but if you look at the
18 Lowell spectrum of it it looked fairly constant.

19 Q Can you sort of printout a document that

20 reflects that, I mean you must have looked at
21 something other than just kind of eyeballing the
22 database?

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1 MR. KATZ: Why don't you give him the
2 numbers that you calculated.

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

7 MR. FREUND:

8 Q Let's try to be remember precise --

9 A Split the 916 in half.

10 Q Okay, 916 in half?

11 A To see if there is any difference at the
12 bottom half of that versus the top half and if you
13 look at this 200 '95 negative responses, okay, I
14 mean the bottom half had a 147, and so really, the
15 bottom half had about half of that, so it was --
16 pretty close, but --

17 Q But the what did the bottom quarter have?

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

22 Q I don't know that it is worth our time to

1 ask for the underlying material but we may want to
2 ask for the underlying material so we can take a
3 look at it ourselves.

4 If you don't mind I am going to hold on
5 that question.

6 CHAIRMAN NICOLAU: Will you preserve until
7 you make up your mind whether you want to see it or
8 not.

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

13 MR. FREUND: Sure.

14 MR. KATZ: Of these individuals who
15 responded.

16 CHAIRMAN NICOLAU: Sure.

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

19 MR. FREUND: I am sure the database is
20 such that you could delete the names off entirely.

21 THE WITNESS: Right, we could just give
22 you -- yes, delete the flames off or just leave

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1 seni ori ty numbers on in --

2 Q Cou ld seni ori ty sometimes woul d gi ver i t a
3 way go?

4 A I don' t know what you want to do wi th i t.

5 Q I am ma ki ng much to do about no thi ng

6 because frankly I don't understand the significance
7 of this case or what this panel finds to do, I am
8 just kind of a curious guy that makes me want to ask
9 questions. That is all I have got for the witness
10 at the moment.

11 MR. KATZ: Nothing further. Thank you,
12 Dean.

13 CHAIRMAN NICOLAU: Thank you.

14 MR. KATZ: Our next witness is Captain Bob
15 Kirch. Sworn sworn.

16 Whereupon,

17 ROBERT KIRCH

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

20

21 DIRECT EXAMINATION

1 BY MR. KATZ:

2 Q Would you state your name and residence

3 for the record, please?

4 A Robert Kirch, Stowe, Vermont.

5 Q And your employment?

6 A U.S. Airways, pilot.

7 Q And what are you flying now?

8 A A 737 captain based at Philadelphia.

9 Q How long have you been employed as a pilot
10 at U.S. Airways or its predecessor carriers?

11 A 20 -- 21, whatever, 21 years, about.

12 Q Where did you start, which airline?

13 A I was with Piedmont. Can you name a few

14 of the positions that you held as a pilot for

15 Piedmont and U.S. Airways over the years.

16 A Uh-huh, started out as a 727 flight

17 engineer with Piedmont, did a short stretch as a 737

18 line check airman, as an engineer that is, engineer

19 check airman, then 737 F0, 767 international F0, and

20 then a 737 captain.

21 Q How long have you been a captain on the

22 seven 30 seven?

1 A About since nine last time which were

2 sitting before Mr. Nicolau, whatever that was, I

3 upgraded right after that last hearing.

4 MR. KATZ: 1998 --

5 CHAIRMAN NICOLAU: That far back, is that

6 what you are saying?

7 THE WITNESS: Right after that, yes, I

8 checked out to captain.

9 BY MR. KATZ:

10 Q You have been involved in ALPA work then

11 haven't you?

12 A For quite some time.

13 Q Would you describe some of that, please?

14 A Started out as an engineer rep and my

15 original base in Norfolk, then was on the MEC again

16 as a company pilot rep in Baltimore, I also served

17 on the Piedmont merger committee, in the U.S. Air

18 Piedmont merger, and then was on the U.S. Airways

19 merger committee forth shuttle merger and then of

20 course this merger.

21 Q It sounds like you have done quite a bit

22 of different flying for Piedmont and U.S. Air over

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1 the years, domestic and international; is that true?

2 A Yes.

3 Q What sort of international flying have you

4 done?

5 A Well, I flew trans Atlantic for 10 years,

6 started out with our second, when we got our second

7 route, Pittsburgh to Frankfurt, and then basically

8 was flying 767 to Europe through a good bit of our

9 growth in Europe, a lot of new cities, a lot of new
10 places. And really enjoyed that flying, that was
11 nice flying.

12 Q You were here when Dave Ciabattini
13 testified yesterday?

14 A Yes.

15 Q Was it yesterday, I guess it was?

16 A Yes.

17 Q And do you generally agree with the
18 testimony about the international flying?

19 A I certainly would, I mean clearly the
20 seniority speaks to the general pilots valuation of
21 that flying compared to the other flying.

22 Personally I just, I really enjoyed the flying the

1 seven 67, in fact I used to talk about it so much
2 when I came home my wife, one of my birthdays gave
3 me a license plate that said 767 on it, but just a
4 really nice airplane too fly, the 75 is nice but the
5 76 is the Cadillac of the two and flying to Europe,
6 that being said it is just a whole different world,
7 it is a different airline, I mean you really feel
8 that when you are among the international crews and
9 you take off and you lid for the coast and you are
10 out of all the ATC issues everything we have to
11 normally deal with the in the U.S. particularly the
12 northeast, and you know, I would have to kick myself
13 sometimes saying, " Hey, you are sitting in a cafe
14 in Paris, this isn't Erie or Elmyra, and you know.

15 I just really enjoyed it, I really do look
16 forward to being able to do that as captain.

17 Q And at U.S. Airways is there a separate
18 bid for international flying, how does that work?

19 A Yes, the -- well, you have to -- there are
20 two 767-seven 57 bids, domestic and international,
21 and then there are 330 which is all international.
22 When you are flying the 767 -- well, the -- I am

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1 letting a little of the vernacular slip in here. We
2 normally refer to the international as 76 and the
3 domestic as 75, that is primarily because when you
4 are flying seven, the bid called seven five-seven

5 six international you will rarely see a 757 because
6 your flying mostly trips that 75 doesn't have the
7 range to do, yes, we have got a few doing the
8 shorter trans Atlantic flights to just know to the
9 UK or Portugal but the 76 is doing all the rest of
10 the stuff all over Europe and the of course it does
11 the greater variety of destinations. If your flying
12 we call it 757 because when you are flying 757-6
13 domestic you will rarely see 767, it is not pure,
14 they do crossover occasionally because of where our
15 maintenance hangars are located it is not uncommon
16 for a 767 to fly in Charlotte to Philadelphia with a
17 domestic crew and then go to Europe, so I like I say
18 it is not a perfect division but the in terms of
19 predominantly what you are flying it will be vastly
20 one way or other that is why the pilots just to

21 refer 76 or 75 and 76 means the 76-75 international

22 bid.

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1 Q That is the shorthand amongst the U.S. Air

2 pilots, right?

3 Q And the special provisions of the

4 collective bargaining agreement that Dave Ciabattoni

5 referred to, those apply to the international bid

6 whether it is a 75 flying to Portugal or 76 seven

7 flying to Rome?

8 A Correct, it is a separate contract

9 division, that deals with that whole package of

10 flying.

11 Q And the basic collective bargaining
12 agreement would apply to the 75-76 domestic pilots
13 even to those occasional 767 legs that are mixed in
14 with the 757?

15 A That is right.

16 Q Okay, have you prepared a volume of
17 exhibits regarding employment date?

18 A I have.

19 Q Let's distribute that at this time. And
20 we can slip Dean Colello's into the back of that
21 book.

22 A Okay.

1 Q Let's flip to Exhibit 1, if you don't
2 mind. And in was part of the materials we submitted
3 with our prehearing statement of position to the
4 merger committee. Would you take us through this
5 document and how you prepared it, what it shows?

6 THE WITNESS: What this is just to give you
7 a land did I summary of everything that is in the
8 seniority lists that follow, without having to count
9 up all the jobs. Look for a second just at the U.S.
10 Airways flying jobs, listed down the left side you
11 have our bid positions, 737, which of course
12 includes the two 300 and the 400 models, A320 which
13 includes the 319, 320 and 321, the 75 and 76 which
14 of course I just talked about, that is the 75-76
15 domestic bid which we call 75, and then the 75-76
16 international bid which we refer to as the 767, and

17 then the Airbus 330 which is all international and
18 then the Embraer planes which are the 170s operating
19 as the mid Atlantic division.

20 Included in all -- we will these numbers
21 if you go through the seniority lists that we will
22 get to in a moment this just gives you the sum of

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1 all the different types of flying that we have,
2 matched up with the numbers of airplanes that we had
3 on May 19th which is of course the announcement of
4 the merger and the constructive notice date and then
5 we just multiplied out what the staff go rates
6 actually are.

7 Same information on the America West side,
8 that is based on their certified list which was
9 dated September 27th, and down below that are just
10 nine counts of the non flying pilots, and in our
11 case of cures we had 1472 pilots on furlough, with a
12 total of 5098 pilots for U.S. Airways and 1894 for
13 America West.

14 Q The ages are they calculated as of May 19,
15 2005?

16 A That is correct, and that is also true
17 forth America West side, though it is dated
18 September 27th, of course we used the same date for
19 both of the average age calculations so you are
20 added an apples to apples comparison.

21 Q When you do the staff go calculation that
22 is based on total pilots in both sites, rights?

1 A That is correct.

2 Q I notice one airplane, the 767 and also
3 the A330, that is two airplanes, where there seems
4 to be a much higher proportion of co-pilots than
5 captain's, can you explain that, please?

6 A That of course is three pilot crews where
7 you have got two co-pilots and one captain on the
8 international flying and of course you can see there
9 is no more indication that virtually all of the 76
10 flying is international because you have got about
11 the same proportion of captain co-pilots as the
12 3:30.

13 Q It does appear that the staffing on the
14 international airplanes is much higher?

15 A Yes. Well, that is -- those airplanes are
16 in the air, you know, enormous amount of time, I
17 mean 16, 17, 18 hours a day, so of course that
18 reflects in the crew complements.

19 Q So it is partly the IRO and partly the
20 nature of the flying, the stage --

21 A That is correct.

22 Q Let's move on to the certified list we

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1 have been referring to this document because it was
2 attached to our arbitration statement of position.

3 What what can you tell us about the certified
4 seniority list that will be helpful?

5 A Let me just run across the obvious, the
6 column headings, and with you airways when we talk
7 about the seniority numbers, at U.S. Airways we only
8 remember number the list once a year, it is remember
9 number at the beginning of January each year.

10 This list has the retired, deceased and
11 resigned pilots removed, we didn't just create new
12 seniority any numbers that aren't company seniority
13 numbers so you will notice that there are missing
14 numbers and that is why we did put a number count
15 down the side of the chart that continuous small
16 number count just gives you so when you are flipping
17 down the chart you know how far down the list you
18 are, because the seniority numbers of course have a

19 lot of gaps.

20 The status is generally non flying status
21 with the exception of supervisors and management, so
22 you can see use the number two guys the 330

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1 supervisor those are our check airmen they are of
2 course all line qualified and do do line flying.

3 Birthday, date of hire, now tenure is the
4 amount of time the guy has been around on our list
5 basic will I threw the date of this list, so it is
6 the date of hire through May 19th, 2005.

7 Length of service is the same thing,
8 without any intervening furlough time. And it does

1205RUFF

9 just, to be clear, it does include any time in the
10 mid Atlantic division of U.S. Airways. The next
11 columns are in pairs furlough start one, furlough
12 end one, furlough start two, furlough end two, and
13 those of course are start and end dates for
14 furloughs and then again just to, you know, to
15 provide all the information, we have got the MDA
16 start and end dates so all the raw data pertaining
17 to our pilots is displayed here in a fairly concise
18 format.

19 Q Okay, any aspects of the list that you
20 particularly wanted to point out to us as we are
21 going through this?

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

1 the wide body international or the 767, just if you
2 look on page 19, looking at the numbers on the left
3 as line 747 --

4 Q That is a coincidence?

5 A That is the position of our junior trans
6 Atlantic captains. There actually are a couple
7 below that, if you look on, let's see, where are
8 they, actually all the way down on page 23 you will
9 see a couple more down there at line numbers 922 and
10 923, these are management and supervisor pilots who
11 are not, they aren't indicative of the seniority,
12 the hold backs of course sometimes the management
13 people don't really need the seniority to have the
14 clubs so we have excluded them.

15 Captain Kl egg back there on line 747 is
16 the junior international 76 captain, and if we flip
17 on further it drops down to page 81, line 3 three
18 zero three, you will see Dean Colello that just
19 testified, and of course he he, if you look over to
20 the right here you will see that he is the first guy
21 with furlough time, he is the senior pilot who was
22 furloughed, of course he is recalled now. But,

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1 notice that he has a tremendous length of service,
2 basically he is only, though he was on furlough he
3 still has over 16 years of service with the company.

4 If you just page through the next few

5 pages, looking down those lengths of service

6 columns, you will see that the service time of
7 pilots we have got on furlough is, stays quite high,
8 very -- not far off their actual tenure time and it
9 is not, you go through quite a few pages actually
10 where this is still the case until you get down to
11 page 93, and if you look at that length of service
12 time you will notice a significant drop, pilot on
13 line 3770, Cistrunk, if I have pronounced that
14 correctly, he actually only has six years of service
15 and this is our reason for proposing a date of hire
16 list adjusted for furlough, we he don't feel it
17 would be reasonable to compare pilots in such a
18 position with a fifteen-year America West pilot when
19 in fact in fact he has only got six years of
20 service.

21 And as you go on down the list you will

22 see that the furloughs drop, their length of

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1 service time drops off quite a bit, and again, you

2 know, just pointing out the same thing.

3 Q Okay, what about the next exhibit, Exhibit

4 3, have you set that document up in a similar

5 fashion so it compares apples to apples and oranges

6 to oranges?

7 A Yes it is set up exactly the same, and --

8 yes, format is identical.

9 Q When you calculated employment tenure and

10 length of service have you calculated it to the same

11 point in time, May 19th, 2005?

12 A That is correct, and these are noted in
13 the legend there I didn't specifically mention that
14 but just as a reference, yes, they are calculated
15 exactly the same way, May 9 taint, and of course as
16 you look down all these pilots that are on the first
17 page there length of service and tenure time are
18 identical because they don't have any furlough time
19 which of course would be lifted in those next
20 columns if they did, so if anybody wanted to check
21 the arithmetic and see why the length of service
22 time is less than the tenure the explanation is

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1 right in.

2 Q And senior group of pilots at America West
3 who are still on the list were hired in June of
4 1983?

5 A That is right.

6 Q They have nearly 22 years of service as of
7 the date of the announcement of the merger?

8 A That is correct.

9 Q Okay, let's look at Exhibit 4. Did you
10 prepare these charts -- what did you prepare them to
11 show?

12 A If I may, let me back up, I did police one
13 thing on the last chart.

14 Q Okay?

15 A We can just back a page at the bottom of
16 the America West chart.

17 Q Sorry?

18 A I any we do want to note the longevity
19 that we are dealing with at the bottom of the
20 America West chart, when we talk about Dave O'Dell,
21 their bottom pilot, he has only been around as of
22 the merger just over a month, so he is still in

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1 school, I mean he hasn't even be to the line yet.

2 And that of course if you are look looking
3 up there you have very low tenure times going quite
4 a ways up because of their recent hiring going right
5 up to just before the merger.

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

8 A That's correct.

9 Q Just a little over a month before the
10 announcement of the merger?

11 A Rights.

12 Q Thank you.

13 Now, what what does Exhibit 4, show,
14 please?

15 A Now what we have done here is just added
16 up the attrition, though this is the age 60
17 attrition, as of May 19th, and for the America West
18 pilots as its note the down in the lower left corner
19 as of the date of these lists and of course America
20 West's list was September 27, 2005. Shows the
21 number of age 60 attritions on each year going all
22 the way out about 15 years or so.

1 And, you know, clearly here we have got
2 enormous amount of attrition. Compared to the
3 America West pilots, roughly you can just eyeball it
4 we are looking at about four times the attrition for
5 as far out as you would want to look.

6 Q All the computer here is count up the
7 birthdays of people who would be reaching age 60 in
8 each of these years?

9 A Right, the first 2005, you know these
10 numbers are obviously a little lower because it is a
11 partial year, but it is just counting everybody who
12 had a 1945 birthday. And then the same thing in the
13 subsequent years.

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

16 A Right.

17 Q Okay, Exhibit 5?

18 A This exhibit, it is the same numbers, just
19 cumulative, it is just adding them up going across
20 of course you notice 2005 are the same numbers and
21 then they are added up, as you look across there you
22 just see the enormous magnitude of the attrition we

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1 are talking about, you know, you go out to, I mean
2 we cross over 1000 pilots who will be gone by prior
3 to 2010. We are not even going very far into the

4 future, go out to 2020 we have got more pilots

5 leaving than we have active jobs.

6 Q All right, and Exhibit 6 actually shows

7 the year by year data in a different fashion?

8 A Yes, what we did here, and our purpose

9 here was we feel that looking forward it is not

10 realistic to project growth in a merged airline, now

11 pilot advancement and job promotional opportunities

12 are obviously a factor of one or two things, it is

13 either net fleet growth or attrition, nothing

14 magical about that. And since we are not talking

15 about, we don't think it is realistic to project

16 growth into a merged seniority list, basically

17 attrition is the story, in terms of anybody's job

18 opportunities or advancement opportunities into the

19 future. And what we have done here is each vertical

20 bar there just represents 100 percent of the
21 attrition for that year, and the division in there
22 between blue and the orange is where that attrition

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1 came from, who put that into the pot.

2 And I think what is important to consider
3 here is whatever anybody wants to say about how we
4 got here or whatever, that attrition is there going
5 forward, the only question before us is how are we
6 going to divide it up.

7 Q And, clearly, you know, you can again just
8 eyeball across there as far out as you could
9 possibly want to look 80 percent of it is coming

10 from U. S. Airways?

11 Q And that represents 80 percent of the

12 age-related promotional opportunities doesn't it?

13 A That is correct.

14 Q Now, Exhibit 7 is another seniority list

15 but it is not in the same order as the ones we were

16 looking at before, is it?

17 A What we did here is just provided a

18 reference. It is kind of helpful just to be able to

19 look at their attrition.

20 All we did, first of all is took the

21 May 19 list and at America west in the next Exhibit

22 Number 8, we took those seniority lists and sorted

1 them by birthday, and so what you see there when you
2 look at the top of Exhibit 7 is the pilots, of
3 course the list was dated May 19th so the first
4 person hitting age 60 is on May 22nd, 1945, or that
5 is the birthday, and if you wanted to you could go
6 down there and count all the 1945 birthdays and it
7 would come to I believe the number was 81 or
8 whatever chart shows.

9 Q In the computer has counted those for us
10 if you look down on page three at line No. 81 you
11 see someone who was born the day after Christmas in
12 1945, and he is the last 1945 pilot on the U. S.
13 Airways list?

14 A That is correct. And you can keep on
15 going down there, if you want to look at the

16 cumulative numbers, essentially the numbers down the
17 side became the cumulative numbers and they of
18 course match the cumulative chart. We took this out
19 to I believe it is 2020, basically as far as the
20 charts go.

21 Q And in Exhibit 8 we have done the same
22 thing or the computer has done the same thing with

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1 the America West seniority list?

2 A That is correct.

3 Q So that corroborates the attrition charts
4 that precedes these two seniority lists, right?

5 A That is correct.

6 Q Now there is a slightly different subject
7 in Exhibit 9. Would you explain to us why you have
8 displayed their information here?

9 A Age 60 attrition is only part of the
10 story. Obviously we have people leaving the list
11 both at U.S. Airways and America West for other than
12 age 60 reasons, medical, a guy just decided to leave
13 early, deaths unfortunately, you know, any number of
14 reasons, but what we did here is just look back on
15 our seniority list back to the year 2000 and just
16 compared each list one to the next and made a list
17 of the pilots who in 2001 or the pilots that were on
18 the 2000 list and not on the 2001 list and then we
19 broke them down to who hit their age 60 birthday in
20 that year and that determined, that split the group
21 between age 60 and what we considered early.

22 Again that is just who didn't hit their

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1 60th birthday in the year 2000.

2 So in that first one we had 68 pilots

3 retiring for age 60 and 111 retiring for other

4 reasons or leaving the list for other reasons for a

5 total of 179. We continued to do that across for

6 all the years and then all the way on the right is

7 just averages of those numbers.

8 Q So the far right column is the seven-year

9 average of age 60 attrition and other attrition?

10 A That is correct, that is the average of

11 our actual experience.

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

14 A That would be correct.

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

17 A That is correct, just showing the
18 difference in the average ages which of course is the
19 driving factor for the differences in the attrition.

20 Q And this shows what we would expect, that
21 the U.S. Airways pilots are older on average?

22 A Yes.

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1 Q Would you flip to Exhibit 11 please. This
2 one looks very similar to the format of Exhibit 1,

3 can you tell us what the difference is here?

4 A We will we have moved ahead now to July 1,
5 2006, for both sides.

6 Dan mentioned in his opening statement in
7 general our reason for that go that, and what that
8 comes from is we have had a lot of discussions, even
9 today, regarding airplanes going away, coming.
10 Normally it would be reasonable to say a
11 constructive notice date that is when we ought to
12 take a snapshot of everything and anything after
13 that is merger related and those are the jobs that
14 everybody brought to the merger and it is fairly
15 clean cut, but in this merger it is a little bit
16 different in that to be fair we had airplanes going
17 away after May 19th that were announced prior fought

18 merger that were related to our bankruptcy that
19 really had nothing to do with the merger, so you
20 know, that was part of the number, I don't remember
21 off the top of my head what was the total number was
22 I think it is about 60 airplanes total, but of those

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1 60 airplanes that we lost over the last couple
2 years, 15 of them were part of that discussion we
3 had earlier today regarding 25 airplanes leaving the
4 fleet as part of the merger announcement.

5 Q That was the exhibit that Mr. Freund
6 cross-examined Mr. Barry about that was from May 19,
7 2005, the actual press release announcing the
8 merger?

9 A That is correct. And so 25 additional
10 airplanes for hopefully good management reasons,
11 whatever, you know, they decided needed to come out
12 of the fleet, and you know, we can argue about the
13 semantics about we will what did did the words mean
14 or U.S. Airways or whatever, but the reality is what
15 the company actually did was took 15 airplanes out
16 of our fleet, 15 additional airplanes or what we had
17 already announced, and the America West pilots
18 experience a net loss of about 10 airplanes out of
19 their side. Now, 15 to 10 is about the relationship
20 of our active jobs, and we feel that that represents
21 a fair sharing of the pain that came with this
22 merger.

1 Now, on the other side much that equation
2 of course is the tremendous job security that we and
3 the America West pilots are going to enjoying go
4 forward that comes from having over \$3 billion in
5 the bank. And we think it is reasonable, you know,
6 there was a cost to get --

7 MR. FREUND: I am just going to interject
8 for a moment.

9 I sort of thought that the purpose of
10 having a hearing where witnesses are going to
11 testify about the facts was that they would testify
12 about facts. And not where they would make their
13 arguments, we have got plenty of time to make
14 arguments, so we are just taking up what I would

15 regard as valuable time to delve facts, having

16 captain Kirch make Dan's arguments for him.

17 CHAIRMAN NICOLAU: I thought he was trying

18 to explain why the chart is as it is.

19 MR. KATZ: That is exactly what he is

20 explaining.

21 MR. FREUND: I think he went well beyond

22 that.

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1 CHAIRMAN NICOLAU: Well, let's see that he

2 doesn't. Okay.

3 MR. KATZ: You may continue, captain

4 Kirch.

5 THE WITNESS: The purpose in selecting
6 July 1 was to try and determine what was an
7 equitable starting point, an equitable accounting of
8 the jobs brought to the party here. And for the
9 reasons I just went through, we felt that, you know,
10 obviously jobs are driven by airplanes, and at that
11 point in time we had an equitable sharing of the
12 pain. We were, I can't remember exactly where we
13 heard this, but when, you know, after the
14 announcement that 25 additional airplanes were going
15 to come out of the fleet we were told that, you
16 know, the pain would be shared equitably, somewhere
17 from management, like I say I don't remember where,
18 but the bottom line is what the company did do, they
19 took 15 airplanes additionally out of our fleet and
20 the America West guys lost a net of ten airplanes

21 and so we felt that that offered us a point where we
22 had a reasonable sharing of the main and gave us a

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1 snapshot point where we could look at the jobs as
2 they stood.

3 Now, I have to say as far as how the jobs
4 stood, we will get to this a little bit later, but
5 for the ten airplanes that the America West pilots
6 lost, it wasn't really that much of a job count
7 loss, where it was significantly higher on our side.
8 But nonetheless, somewhere along the line you have
9 got to just kind of draw a line and say this is what
10 we think is fair and this is where we have drawn the

11 line.

12 Q So you are saying the job count loss was
13 greater on the U.S. Airways side, picking the July 1
14 date than it was on the America West side?

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

19 Q All right, so let's look --

20 A Or --

21 Q Let's look at this exhibit 11, captain
22 Kirch and one thing that I see offhand is that while

1 there were Embraer jobs on the May 19th there are no
2 Embraer jobs on this chart.

3 A Yes, we hit a point there where I think
4 this is was covered previously, that U.S. Airways
5 had an option to sell the Embraers to Republic, and
6 I believe in the end of June obviously the merger
7 management made that decision, the decision was
8 played to selling those airplanes. By the time we
9 got to July 1, oh sticks, those airplanes were
10 actually gone, but of course the merged management
11 also decided to bring back Embraers and now they are
12 back again as of today.

13 So it is kind of a little shuffle of
14 Embraers going out and coming back and oddly it
15 turned out to be 25 left and 25 are coming back, but
16 in the meantime unfortunately we had pilots that

17 wound up back on furlough because of that, and this
18 happens to hit right in that window.

19 Q In our fleet witness who is coming next we
20 will talk about the actual terms of the airplane
21 transactions that are involved, right?

22 A Yes.

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

4 A Right we are in that window where they
5 went a back and where it is coming back.

6 Q And they are actually coming back right

7 now?

8 A Yes.

9 A Right.

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

12 A Yes.

13 Q And presumably you have also changed the
14 population of people who have been, whose age has
15 been averaged; right?

16 A That is correct. You know, these counts
17 go with the list that follow in the next two tabs
18 and again they are just simple counts, they they
19 give you a flies summary again of what is going on
20 as of that date without having to try and count
21 names going down the list.

22 Q And the total number of pilots at U.S.

1 Airways has dropped from knife oh nine 8:00 to 4:00

2 nine five one?

3 A That is correct.

4 Q And at America West it dropped from I

5 think it was 1894 to 1853?

6 A I think that is correct.

7 Q Okay. And this is again a summary for

8 seniority list information?

9 A Yes.

10 Q Have you included the back-up data in

11 exhibits 12 and 13?

12 A That is correct.

13 Q So this is the list for U.S. Airways
14 pilots looking at Exhibit 12, that is set up in the
15 same fashion as the list we looked at earlier, but
16 it has been aged a year and a couple of months?

17 A Right, of course all the actual attrition
18 has been removed. We have added just so that you
19 keep score on this thing we have shown both the '05
20 and '06 seniority numbers so if there are any
21 questions like we ran into before just look at this
22 July list and we have got the code for both plus of

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1 course the employee numbers if you are trying to
2 track pilots back through this.

3 Q So you can flip through the using the
4 2005?

5 A On the America West only updates their
6 seniority list or they update their seniority list
7 twice a year January 1 and July 1, so if you were to
8 look back at, we will actually on their list here
9 there would be no policing numbers, and on this list
10 just for clarification, also, we did not remove
11 anybody, every single seniority number is accounted
12 for but of course if you look down that you will see
13 quite a few people who are retired, deceased or
14 resigned, but for the sake of accounting with what
15 is happening with every single seniority number they
16 are included here, so this is our 06 numbers but you
17 will notice on the America West list there is I
18 believe almost no retired deceased or resigned and

19 the reason for that is they just updated their list
20 where we wouldn't do that until the following
21 January.

22 Q In order to see how the seniority numbers

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1 were back and forth, why don't we use that pilot you
2 showed us captain Clegg.

3 Who was the junior wide body
4 international captain apart from management
5 supervisors, I think he he was in line 747, but --

6 Q He is seniority number 810 in 2005?

7 A Okay. All right, so he is now 710 on page
8 13.

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

11 A All.

12 A Right.

13 Q And he is still got number 810?

14 A So he is 810 now he is seven ten on the 06
15 list so that means that just for the balance of '05,
16 in other words from May 19th through the end of the
17 year he moved up 100 numbers. Plus, this number 810
18 doesn't reflect any of the '06 attrition yet, I am
19 sorry, the number 710, any retired, deceased or
20 resigned people that you see above him of course
21 haven't been removed yet, so his effective seniority
22 is better than seven ten, he picked up that hundred

1 numbers just between May 19th and December 31st.

2 Q I see. And up to July there is

3 additional --

4 A There would be additional attrition of

5 course between January and July.

6 Q And Exhibit 13 is the America West list?

7 A Yes.

8 Q And we see at the the top people who were

9 hired in June of 1983, still half a dozen of those

10 at the top of the America West list?

11 A Yes.

12 Q And flipping to the last page, these

13 calculations of tenure and length of service, on

14 both exhibits 12 and 13, are apparently still being

15 done as of May 19th, 2005; is that right?

16 A That is right, for our purposes we took
17 the constructive notice date as the measurement for
18 length of service.

19 Q Okay. Would you turn to Exhibit 14 please
20 and tell me what additional analysis appears there?

21 A There is one thing that I think I forgot
22 to mention here going through that I wanted to show

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1 with reference to the senior -- I am sorry the
2 junior seven 67 captain, can we go back to that or
3 --

4 Q Okay, let's go back to that now?

5 A Okay, if we go back for a moment to

6 Exhibit 2, page 19, again line 747 captain Clegg
7 there is our junior 76 captain; some discussion, the
8 America West pilots had pointed out that their
9 number one pilot, we can kind of take a look over
10 there in the next Tab three, captain McNerlin, if we
11 note his date of hire which was six-one-'83, that he
12 he would be placed I believe, down our list, if we
13 go down, about two, if I have counted 257 numbers
14 below our junior wide body captain, to page 23. If
15 you look at line -- oh oops, I am sorry, wrong note
16 here.

17 I am sorry, the next page here, page 25.
18 You will see our June 1 '93 class, and if you look
19 by captain McNerlin's birthday six-23-47 since we do
20 our classes and of course in integration we do this

21 way as well, where the common class date would go by
22 birthday, captain McNerlin would become pilot, would

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1 be -- we will say nine nine two on the list, if you
2 look at the numbers on the left.

3 He would be just senior to our captain
4 brush, or actually he would be -- did I look at that
5 right? His birthday, 6-23, yes, he he would fall in
6 between I don't even know how to pronounce that one,
7 we will just above captain brush, by his birthday
8 and his date of hire.

9 And so we have got 257 numbers between
10 there and the America West pilots are making the
11 point that this is a very unreasonable place for

12 captain McNerlin to be placed. Clearly, you know,
13 the attrition here is enormous as we have shown, and
14 there are 20050 seven pilots in there who have real
15 job opportunities coming to them to be wide body
16 captain's, to be in the seniority position of
17 captain Clegg. And with the attrition numbers we
18 are talking about that is going to happen very
19 quickly. If we flip ahead to, now let's jump than
20 ahead to Exhibit 12, and if we go to page 16, on
21 page 16 in the lower left there you will find
22 captain Lavoie who now is our junior wide body

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1 captain, again disregarding some management pilots

2 that are holding the position, and then if we look
3 down about '71 numbers again, if I have counted it,
4 on page 18 if we look at seniority number nine 46 we
5 will again find that June 1, '83 class of ours, and
6 now it looks like captain McNerlin would be the
7 number one by his birthday he would be the number
8 one guy in that class so he would be No. 946, by
9 date of hire integration, but now he is only '71
10 numbers out of being a wide body captain and there
11 is in just over a year. He has moved up that much.

12 MR. KATZ:

13 Q So there is only 71 people between him and
14 the senior international wide body captain?

15 A That is correct, and you no, a very short
16 time, and it speaks both to the opportunities that
17 will be available to our pilots, the pilots in that

18 251 on our side, the difference between 251 and 71
19 if I am remembering those numbers right are all
20 pilots on our side, we are saying when we looked at
21 it May 19th that these guys have a realistic
22 expectation to achieve a job opportunity in the near

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1 future, we are showing they are there already, in
2 just that sort period of time. And also captain
3 McNerlin has moved real close to it.

4 Q All right now let's turn to Exhibit 14,
5 please.

6 A What we have got here is the actual
7 attrition for the balance of 06, I know we are not

8 quite done 06, but at this point going from the
9 company records there and this -- this exhibit and
10 number 15 behind it for the America West pilots show
11 the actual attrition from July 1 through the end of
12 06, obviously we know most of the attrition because
13 nobody doesn't just suddenly decide to retire with
14 no notice, the company pretty much no, sir --
15 obviously they no the age 60 attrition and pretty
16 much know the non age 60 attrition, so this is all
17 the known attrition through the balance of the year.

18 Now if we go and look again here --

19 Q Everybody on the first page of Exhibit 14
20 was hired before that June 1983 group of America
21 West pilots were hired at America West; is that
22 right?

1 A The June '83, that is correct. Zoo all of
2 the -- so all of them and the first guy on the next
3 page are senior or would be senior to where captain
4 McNerlin is put in, so now of those '71 people that
5 we talked about before, if I have counted it up
6 right, 53 of them are gone in just the time through
7 the end of the year.

8 Q The 53 more scheduled or actual
9 retirements or other departures from U.S. Airways
10 list, senior to June of '83?

11 A That is right.

12 Q Just in the last six months of the year?

13 A That is correct.

14 A So in all likelihood, while we were at 71
15 we just took out 53, pretty clearly captain McNerlin
16 will be in wide body seniority before we can get
17 this integration done at the rate our pilots are
18 retiring.

19 Q As will the other America West pilots Iore
20 hired in June of 1983?

21 A Certainly; and as I recall there were
22 some, captain McNerlin I think retires in '07, but

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1 there are several others in there that are going to
2 be around and have birthdays in the '50s, so think
3 are going to be there for the while.

4 Q As we would expect from the previous
5 analysis you put in, the list of attrition folks at
6 America West in Exhibit 15 is much shorter?

7 A That is correct. We see the magnitude of,
8 you know, here is a six-month snapshot of the actual
9 attrition with the names spelled out.

10 Q Exhibit 16, captain Kirch, who are these
11 folks?

12 A We have, a while back we had an EEOC
13 settlement with a number of pilots and this is just
14 explaining a little bit of oddities in our list.
15 These are 4 pilots who still remain on the list that
16 were subjected to this ruling, and this just
17 detailed the specific provision that is pertained to
18 these pilots and also notes the payroll numbers so
19 you can find them on the list.

20 Q We are not asking for any special
21 treatment for these people, are we?

22 A No, this is just disclosure.

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1 Q For the information of the panel?

2 A Yes.

3 Q All right, you have done some analysis in
4 Exhibit 17, please explain that to us?

5 A This is taking the columns of job counts
6 out of those two exhibits we looked at before,
7 May 19th and July -- May 19th oh five, the
8 announcement date of the merger and July 1, '06,
9 what we feel is a reasonable starting point, for us,

10 and showing the changes in job counts, and then
11 doing the same thing for the two lists that are in
12 this book for the America West pilots, and as I said
13 before, you can see that even considering that we of
14 course loss more airplanes, the numbers are not at
15 all proportional. The America West pilots were
16 really not harmed very much in terms of there net
17 loss of ten airplanes.

18 Q And this is really a simple effort at
19 subtraction, taking the two summaries that were set
20 up in the same fashion?

21 A These are all actual job counts and just
22 doing the simple arithmetic.

1 Q So even though they lost 10 airplanes
2 there is only 44 fewer jobs?

3 A That is correct.

4 Q At America West.

5 All right, what is Exhibit 16, captain
6 Kirch?

7 A Exhibit --

8 CHAIRMAN NICOLAU: 18.

9 BY MR. KATZ:

10 Q I am sorry, 18, yes, I got arithmetically
11 dyslexic.

12 A Well, as I showed, this attrition is a
13 huge thing all through what is going to be happening
14 in the foreseeable future, and obviously last a huge
15 impact on the allocation of jobs going forward. You

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16 know, first we were looking at the top of the list,
17 you know, the premium wide body flying and how fast
18 that is moving, and now we are looking in these
19 charts at the very bottom of the list. What these
20 charts are is a look at our very bottom pilot on the
21 seniority list, first -- we will he is on furlough,
22 Ettore Varini, I said that one right.

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1 Let me just take you through the chart a
2 little bit, the blue bar, the triangle there on the
3 bottom is the cumulative age 60 attrition, and this
4 is going forward from July 1, '06. The next bar is
5 cumulative non age 60 attrition, now we are

6 projecting this forward obviously this gets into
7 actuary-type stuff which will be covered later on,
8 but these, it is a preview of those numbers. But
9 this is a cumulative non age 60 attrition that is
10 anticipated going forward and then, so these are
11 vacancies, so if you combine the two together these
12 are anticipated cumulative vacancies going forward
13 that will give recalls obviously, and the yellow
14 band there represents 190 jobs that according to the
15 schedule of deliveries we have of the 25 one '90s
16 that are coming.

17 Now, what we did in the three charts here
18 is giving three different views of it, and he
19 essentially what we are showing here is when Ettore
20 Vari ni can anticipate being recalled. Now the first
21 chart looks at if you just consider age 60

22 attrition. Now the slope of the black line coming

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1 in from the left is a view of the population of the
2 furlougees, in other words we have about 1700 of
3 them now on the left there and you have both
4 attrition of the furlougees and, yes, we actually
5 do have attrition, people retiring and hitting age
6 60 among the furlougees, and you also have what we
7 incorporated into that line also is the results of
8 that furlough study that said that 45 percent of the
9 furlougees were ultimately not going to accept
10 recall. Now, of course against that we also have
11 that our current experience is even higher than

12 that. But, in terms of, you know, trying to be, to
13 do a conservative assessment of this, we put the 45
14 in here, and so what this line representatives is,
15 you could look at it and say that if there is X
16 number of vacancies going to the furlougees you
17 have an additional factor that depletes the furlough
18 population for the guys that aren't accepting
19 recall, and it is on that same time schedule of the
20 vacancies, obviously the vacancies are being offered
21 to the population of furlougees and you are not
22 taking one furlougee out of the pool forever

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1 vacancy you are taking something more than that
2 because you now know that other guys aren't going to
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3 accept the recalls, so that is what generates the
4 line sloping down from the left. Where that line --
5 now this black line is specific to each chart so, in
6 in the first chart where their line crosses the top
7 of the blue band is where the number of jobs is
8 going to reach the number of furlougees left, and
9 so under what you could really say is a worst case
10 scenario our very bottom furlougee is going to be
11 offered a recall by October 2009.

12 Q Simply based on age 60 attrition?

13 A Just on age 60 attrition. And on the next
14 chart the black line is based on age 60 and non age
15 60 attrition, in other words those vacancies, you
16 have a faster vacancy rate coming in, so it affects
17 both lines, but where those lines cross now Ettore

18 Varini, if you want to include the non age 60

19 attrition, he would be recalled by November 2008.

20 Q Let me just stop you there for a moment.

21 The projection of the amount of non age 60 attrition

22 is a product of the actuarial report?

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1 A Yes.

2 Q That our expert will present tomorrow

3 morning?

4 A That is correct.

5 Q And the numbers very simply be taken from

6 that and included here?

7 A Right.

8 Q All right, how about the third page of
Page 263

9 Exhibit 18?

10 A Now, the third page, if you wanted to
11 include the vacancies that are being generated by
12 the one '90s, then Ettore Varini receive his recall
13 by play 2008. When you consider it is very unlikely
14 we are going to get this merger done before July or,
15 you in, June 2, 0007 that is a fairly remarkable
16 demonstration of the size of the attrition we are
17 talking about and the impact it is going to have on
18 the pilot group, and of course that directly
19 translates into the job opportunities that pilots,
20 you know, to be fair on both sides are looking ahead
21 to, but obviously it enormously has a bigger impact
22 on our 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 Q I thank you, captain Kirch.

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1 The remainder of the exhibits in this
2 book have already been covered, that completes our
3 direct examination.

4 CHAIRMAN NICOLAU: Your view, have a few

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

12 CROSS EXAMINATION

13 BY MR. FREUND:

14 Q I think I may just have one or two
15 questions preliminarily. But, preliminary to my
16 first question, when you and I last had an
17 opportunity to have a conversation across the table
18 like this you had what I would describe as a fairly
19 annoying tendency to say whatever it is you wanted
20 to say on cross-examination rather than answering my

21 question. So I would like to urge you very much

22 very much --

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1 A I will try to stay with your question.

2 Q Otherwise I am going to have to ask

3 Mr. Nicolau to give you that instruction.

4 So, let's just start with the last exhibit

5 first, Exhibit 19 -- I am sorry, 18, 18. I'm not

6 sure I understood, I mean if you look at the three

7 pages, the slope of the furlougee line is different

8 in each of the three pages?

9 A That is correct.

10 Q And I am, either you testified to it and I

11 didn't understand what you said or you didn't
12 testify to why that slope is different?

13 A That represents the -- what you have to
14 consider is that if the population -- if we are
15 doing a higher attrition rate because of considering
16 additional factors, non age 60 attrition or
17 vacancies created by the 190s, basically all the
18 vacancies that are going to create recalls or you
19 no, move people up the list, the furlough population
20 is going to get depleted faster if you are drawing
21 more people out of it in a given amount of time. So
22 the slope, that slope would increase because of

1 that.

2 Q Okay. So --

3 A The black line is unique to each chart
4 because you are looking at a different attrition
5 rate.

6 Q So in all other respects the black line is
7 the same from chart to chart, that is the age 60
8 attritions from the black line are the same, from
9 chart to chart, the early retirement --

10 A Yes.

11 Q -- attrition assumptions are the same in
12 the black line from chart to chart, the only thing
13 that changes is that because you are creating, you
14 are looking at a larger pool of vacancies some
15 furloughed pilots are coming back sooner and
16 therefore depleting from the list --

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17 A Exactly.

18 Q -- as each chart goes on?

19 A Uh-huh.

20 Q Okay.

21 And just to be clear, the last -- the

22 pilot that we are following on these three charts

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1 is --

2 A Ettore Varini.

3 Q Is what we have commonly referred to as a

4 CEL pilot, correct?

5 A He is the bottom CEL pilot.

6 Q Back when you were talking, when you were

7 telling us about Exhibit Number 1, you told us that
8 I think you said that the U.S. Airways the
9 supervisory pilots do line flying, was that your
10 testimony?

11 A That is correct.

12 Q So looking at Exhibit Number 1 when you
13 are talking about non flying jobs --

14 A Right, you will see no supervisors or
15 management listed there they are included in the
16 numbers above.

17 Q So supervisors and management are included
18 in your flying job positions?

19 A Right in fact the easy way if you look at
20 one of the senior lists, in fact let's just look a
21 second at number two, if you look down there well
22 the second line.

1 Q Yes.

2 A Wherever you see an equipment designation
3 or you know a full position there they are counted
4 in the top. So you will see a supervisor,
5 supervisors and management are the only case where
6 you are going to see an equipment description or
7 position description and a status.

8 Q Okay?

9 A And that is again just, I guess it is a
10 disclosure thing.

11 Q All right. Good. I am not asking the
12 questions about that to quarrel with you I just want

13 to understand the way that this is constructed?

14 A Understood.

15 Q As long as we are on Exhibit 2, on page 19

16 you said to us that captain -- I want to call him

17 captain Qui gg, but I won' t; Captain Cl egg?

18 A Right.

19 Q Is the bottom international captain?

20 A Correct. Again, I say again, when we

21 say -- you know essentially we are saying that is

22 the seniority in our system it takes to hold that

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1 job, we didn' t count, you will notice a couple other

2 76 he is below that but they are management

3 supervisor types that probably didn't really need
4 the seniority number to get that position.

5 Q Yes, right, I think you told us that?

6 A Okay.

7 Q In your direct testimony.

8 You didn't reach that 747 position, you
9 didn't get to that 747 position based on any
10 stovepipe analysis of what the bottom international
11 captain would be, did you?

12 A No.

13 Q That is this is --

14 A This is real world.

15 Q -- the person who just happens to be by
16 reason of the choices the pilots above him have made
17 is actually as of that day, as of the snapshot day
18 sitting in a 747 -- in a 76 captain position?

19 A Right, you could say that is how the
20 pilots valued the jobs, that is how they ranked them
21 with their feet.

22 Q Right, right.

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1 Let's see if there is anything else.

2 I had a note on Exhibit 9 that I wanted to
3 ask a question about. Well, I know that it is the
4 case that for furloughed pilots who took jobs over
5 at America West they retained their number on the
6 U.S. Airways list, correct?

7 A That is correct.

8 Q They are the famous two number pilots that

9 we actually have to talk about at some point?

10 A Right.

11 Q So they remain on your, they remain on
12 your list as well, correct?

13 A That is correct.

14 Q Pilots on your -- furloughed pilots on
15 your list who have taken jobs at other carriers
16 other than America West remain on your list as well,
17 correct?

18 A That is correct.

19 Q Until their right to return is no longer
20 there?

21 A Correct.

22 Q So they -- no matter where they went this

1 if they were on furlough they weren't required to
2 resign their position on your list?

3 A That is correct.

4 Q Are there any pilots on your list who were
5 not furloughed and who left your list to go to
6 another carrier who remain, whose numbers remain on
7 your seniority list?

8 A Okay, a pilot who is not furloughed --

9 Q Who resigned to leave to go to another
10 carrier?

11 A Any pilot who is not furloughed and
12 resigned would either be -- we will they would show
13 up immediately on the next iteration of our, you
14 know, the next list has resigned, and then when the

15 list, the next January they would be removed, so you
16 could have a situation where you might have some of
17 them still on the list if you are looking the a list
18 later in the year, but they would be noted as
19 resigned once the list is just cycled the next time
20 the company updates.

21 Q Okay.

22 MR. FREUND: I think that is it for

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1 preliminary questions at this time.

2 CHAIRMAN NICOLAU: Let's go off the record
3 for a minute.

4 (3:25 p.m. -- recess -- 4:53 p.m.)

5 MR. KATZ: We can start. We have one more
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6 question if you don't mind.

7 CHAIRMAN NICOLAU: Go ahead.

8 MR. KATZ: We will produce more of these
9 but we have one to share at the moment and Jeff can
10 use this until the others arrive, they are printing
11 off the machine now, and the one final question is
12 what is this, Bob.

13 THE WITNESS: Jeff, you shouldn't have left
14 me to think about this. See what happens.

15 BY MR. KATZ:

16 Q It is three pages, basically -- go ahead.

17 A It is the same thing again, the same three
18 looks, the same looking at three different things,
19 but we are looking at we were looking at perhaps in
20 the original one, the first three that you have

21 already, assume 45 percent of the pilots are not
22 going to take recall, you know basically the

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1 furlough results, but that we think about it is
2 really more of an end result as opposed to when
3 Varini would first get his recall, that is more it
4 goes down, back up and people have to make their
5 final decisions and of course, as I mentioned before
6 it would be extremely conservative compared to what
7 we are actually experiencing in that it is taking in
8 the neighborhood of 300 calls to get 200 or to get
9 100 guys back.

10 So what we simply did here is says okay,

11 what it would look like if you assumed that for

12 every pilot, for every recall it took three, you had
13 to go through three pilots to do it, naturally that
14 would deplete the furlougee pool a whole lot
15 quicker so the charts you have in front of you just
16 reflect that, so what you have got is on the first
17 one if you want to consider gist age 60 attrition,
18 Varini would be back in January 2009, and -- well,
19 which will go through it real quick and then if your
20 considering age 60 plus other attrition, it would be
21 April 2008, and if you included the vacancies
22 created by the addition of 190 positions, then it

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1 would be December 2007.

2 Now the box, take a look at the box that
3 is up there, we just put a little explanation to
4 perhaps then understand this better. He 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 bypassing
10 1707, is Varini's number in August of 06, in other
11 words we started this a month's after July 1 list,
12 and then his status starts in August, so you have
13 got his number comes up a little bit just because of
14 that attrition, so to get to 1707 that is how how
15 the number goes out. If you look at the crossover
16 point on each one of these charts it's at about 600
17 or 500 -- what are we, 569. It is at about 569, is

18 the point, the number of vacancies it takes going to
19 the furlougees to get Varini back when you assume
20 it takes three furlougees to fill of vacancy.

21 MR. KATZ:

22 Q So we are calling this Exhibit 18-A and

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1 ask that all these Exhibit 1 through 24 be accepted
2 into evidence.

3 CHAIRMAN NICOLAU: Any objection?

4 MR. FREUND: I probably won't but why
5 don't I cross him first and why don't we see where
6 we are.

7 CHAIRMAN NICOLAU: Okay. Now everybody

8 doesn't have this yet, right.

9 MR. KATZ: Right, the remainder are being
10 printed as we speak.

11 CHAIRMAN NICOLAU: Okay, you don't need
12 mine to print.

13 MR. KATZ: No.

14 CHAIRMAN NICOLAU: Your witness.

15

16 CROSS EXAMINATION

17 BY MR. FREUND:

18 Q Mr. Nicolaou, and distinguished board
19 members, just as a predicate I just want to say the
20 following. I am going to ask this witness questions
21 because he is there and he has testified some things
22 on direct examination, I don't want anybody who is

1 sitting at the head of the table to think that
2 because I am asking questions about this
3 attrition-based analysis that I think it has any
4 bearing or any relevancy to the decision that this
5 board should make but because we have got a witness
6 up and because it is predicated on the large notion
7 that U.S. Airways could continue to exist, it
8 couldn't, but because he is there I am going to ask
9 him some questions.

10 CHAIRMAN NICOLAU: Okay.

11 MR. FREUND:

12 Q Let's look at Exhibit 1 for a moment,

13 please. Just to clarify, again there is probably in

14 the nature of a question I should have asked you
15 before we broke so that we would have a more
16 complete understanding of the data, you have
17 supervisors and management pilots included in your
18 flying jobs box, correct?

19 A Yes.

20 Q And you do the same thing on the America
21 West side of the equation?

22 A Yes.

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1 Q Okay. At U.S. Airways do management
2 pilots bid lines of flying each month?

3 A Not each month, they have a rotation thing

4 that I am not that up on exactly how their flying
5 schedule is, but they do fly the line, they don't
6 fly it all the time and the amount I am not sure 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 cane saw map notion?

10 A I would be guessing, I am really not
11 familiar witness.

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 a
22 line check airman shows up, if he is not a

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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 fly being jobs?

6 A No.

7 Q And so included in your top box of flying
8 jobs are line check airman, he -- we will why don't
9 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 a
15 line check airman and exactly, what their deal is I
16 am not quite sure about how that works. You know,
17 if it is other than somebody who works in the sim.

18 And -- but basically the designation here
19 comes from the company's designations which covers,
20 we will if your first officer it says instructor if
21 you are a captain it says supervisor but both of
22 those for our purposes are called supervisors and it

1 is as the company designates them, we didn't make
2 any determination as to what their exactly what job
3 they are doing on what day or what, you know, what
4 encompassed that title, but that is the title the
5 company has on the seniority list for them.

6 Q But included in that group, in the
7 supervisory group if I understand you correctly, are
8 instructors who instruct on the SIM, right?

9 A Yes.

10 Q And the line check airmen?

11 A I am not sure about line check airmen.

12 Q You are not sure whether they are --

13 A I don't know exactly how the company
14 designates them.

15 Q So you don't know whether line check

16 airmen are designated with the initials SUP on their

17 seniority list on your seniority list?

18 A Correct.

19 Q Now, with respect -- is there any other

20 category of supervisor who is --

21 A I believe, my recollection is on the

22 company's list it will either say supervisor or

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1 instructor but that is basically all training

2 related pilots and they are the ones that we have

3 just called supervisors, we didn't separate

4 instructors, and then management is like chief

5 pilots, vice president of flight -- well, yes, you

6 know, management, not instructor related pilots.

7 Q So then let's do the easy part first.

8 Management pilots, are management pilots included in

9 your, they are on your seniority list, correct?

10 A Yes he.

11 Q Are they included in your box of flying

12 jobs?

13 A Yes. If you look on any seniority list, I

14 mean you can add up and verify the numbers, if they

15 have got airplane position they are in the count.

16 And that -- if you also look, anybody who has SPV or

17 MGT there whose airplane position and he they do

18 fly, how much I am not exactly sure.

19 Q That is my question, I want to stay with

20 the MGT pilots for a moment.

21 A Okay.

22 Q Do you know whether they bid lines of

182

1 flying every month, I think your answer to that

2 earlier was you didn't think they bid lines of

3 flying every month?

4 A I am -- I wouldn't say they bid lines of

5 flying every month, certainly the vice president of

6 flying doesn't fly a full line of flying.

7 Q I am sure that is right. Do you have any,

8 again either specific or chainsaw knowledge about

9 how often management, let's stay with management

10 pilots, bid lines of flying?

11 A I would say certainly considerably less

12 than what a line pilot does, how much I really have
13 no way of measuring, I mine obviously a senior vice
14 president doesn't do a lot of flying.

15 Q With respect to supervisors, underneath
16 supervisors again I think you said there were
17 instructors, and -- we will there is instructors in
18 the SIM and then there are line check airmen, am I
19 getting that right?

20 A No, the company designations, the training
21 pilots as opposed to management pilots.

22 Q Right?

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1 A Will be designated on the company's list
2 as either supervisor or instructor and I think the

3 only difference is whether you are a captain or
4 co-pilot, and you know, the instructors by our
5 contract cannot do check rides or do anything where
6 your license is on the line, that has to be a check
7 airman and that would be a captain but that is
8 really for our purposes, they are both training
9 pilots and, you know, so we just call them all
10 supervisors for this purpose to keep it simple.

11 A As between instructors and check airmen
12 then, again I assume your answer is going to be the
13 same, that is your understanding is that they bid
14 lines of flying but you don't know the extent to
15 which they bid lines of flying.

16 A Right, and I do not -- as far as people
17 designated as supervisors or instructors I don't

1205RUFF

18 don't know how much of that they do, and as far as
19 pilots who don't do line checks, check airmen of
20 course sometimes do line checks, sometimes do SIM,
21 they can do either one, there are some times guys
22 that do just line collection, they probably fly

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1 virtually a full line of time and the eye tea of it
2 of course is they are instructors but I am not sure
3 how the come pan any designates them whether they
4 are designated as a supervisor or just as a line
5 pilot I am not sure, so as a result we haven't done
6 anything creative of in terms of if the company
7 calls them a supervisor or instructor they show up
8 here as a supervisor, so I don't really know where

9 those line check airmen fall in it.

10 Q Okay, and you did the same thing with
11 respect to the west side, that is you included
12 management and supervisor pilots in the flying
13 positions?

14 A Yes.

15 Q And you probably know even less about the
16 way in which the west side works with respect to
17 supervisors and management --

18 A We only know what the guys have told us.

19 Q Okay. Let's stay with Exhibit 1 for a
20 moment, the positions that you show for -- you have
21 breakdown of between 757 seven and 767 seven --

22 A Uh-huh.

1 Q -- captain positions respectively and
2 first officer positions respectively; right?

3 A Correct.

4 Q I want to just make sure I understand what
5 you told us. Does that mean that -- let's stay with
6 the 767 for the moment, does that mean looking at
7 your box that there are 98 767 captain positions or
8 does that mean there are 98 767/757 international
9 captain positions?

10 A The second. As I said before, these are
11 the bid positions. If you look at one of our bids
12 when it says 757/6 international, that is kind of a
13 vernacular problem we just always call it 76, and
14 75/76 domestic, those counts are shown here as 757s.

15 Q So why don't we, since we don't all speak
16 the same vernacular, why don't we all write on our
17 little exhibit book next to the 757 box, why don't
18 we write 75/767-D and next to your 767 why don't we
19 write 757/767 I that would describe the reality at
20 U.S. Airways, correct?

21 A Those are the bid positions or that is how
22 it is bid.

186

1 Q All right so, with that in mind, and the
2 A330 is fundamentally all international?

3 A Yes.

4 Q We have the very to say fundamentally

5 because there may be some domestic lines that are
6 actually --

7 A It can be A330 I think is, as Dave
8 testified yesterday, as far as my knowledge the only
9 time that plane flies and not going to Europe is San
10 Juan. I mean -- and that is paid, international --
11 we will not not internationally, that is a sore
12 point.

13 Q Sore or not, we will call it for purposes
14 of this proceeding, we will call that we will put a
15 little I next to that too, we will just treat that
16 as an I and we won't quibble whether San Juan is
17 international or not or gets an override or doesn't
18 get an override.

19 There is no actually there is no override
20 for the A330 for international is there there are

21 just A330 rates?

22 A Well, I believe the offer ride is built

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1 into everything they do, depending on --

2 Q There is a rate for the A330?

3 A Right.

4 Q It includes whatever economic benefit

5 there is from the fact that it is flying

6 internationally?

7 A If you are referring to the published pay

8 rate like if you look at one of our pay charts say

9 A330 12th year pay whatever it is.

10 Q Yes.

11 A I don't believe that includes the
12 international override that they get for virtually
13 everything they do, or I guess actually for
14 everything they do, I don't think there is any
15 virtually in it.

16 Q I think we will pursue that a bit later?

17 A That is what I think it is, we can
18 certainly check it.

19 Q Okay, with respect to the 757-6 lines
20 there is a published pay rate for 75-76 that is the
21 same for 75s or 76s and then there is an
22 international override for the international

1 operation, correct?

2 A Correct, and when I was doing that we got

3 the offer ride for everything we did.

4 Q That is fine?

5 A Right.

6 Q But my question is just, look at the book

7 and try to parse what is going on, 75-76 has the same

8 pay rate and when you fly, when you take it -- when

9 you get an international line you get an override

10 for that?

11 A Well, it really wasn't that way when I --

12 Q I don't care what it was, I mean wait is

13 as you sit here today?

14 A Okay we would have to check it but my, it

15 has been where you get it -- okay, leave it, I don't

16 know.

17 Q I don't care, but as we sit here today?

18 A I am not sure through some concession

19 whether they have taken it out for some particular

20 route and not another, I don't know.

21 Q So for purposes of the next question I am

22 going to assume that the 98 75/76 international

189

1 captain's and the 87 A330 international captain's

2 represent the international captain positions at

3 U.S. Airways, correct?

4 A Well, they are the position that is the

5 total in those two bid positions, yes.

6 Q And that as pathetic as my math is I think

7 I can add those up and get 185 positions, right?

8 A The math is right, yes.

9 CHAIRMAN NICOLAU: That is close.

10 THE WITNESS: Looks like it.

11 MR. FREUND:

12 Q And I think you told us that flying
13 international captain was the clearly the most
14 desirable position at U.S. Airways, correct?

15 A As a category, you know, if you look at
16 the different categories or the different bid
17 positions we have and applied any kind of measure of
18 the averages it will be way ahead of even 757/6
19 domestic.

20 Q And that is for anyone wants the good
21 pasta in Italy, that being the case you told us that
22 it takes getting down to position number 747, before

1 you get to the last international captain,

2 Mr. Clegg, correct, captain Clegg?

3 A Correct.

4 Q So I can't do the math of subtracting 185

5 from 747, but whatever that produces, those number

6 of pilots, whatever that is, have chosen, though are

7 senior to captain Clegg have chosen not to bid an

8 international captain position?

9 A They have seniority to do it and they have

10 chosen not to; correct.

11 Q Let's go back to Exhibit 1 for a moment,

12 please.

13 Just so the record is clear, your flying
14 jobs box up in the upper left hands corner adds up
15 to 295 pieces of equipment as of May 19th, 2005,
16 correct?

17 A Correct.

18 Q And included in that number are the 25
19 EMB, at that point they were 170s?

20 A That is correct.

21 Q 25 EMB 170s that had already indeed about
22 four months before that had already been the subject

191

1 of a negotiated transaction to dispose of them,
2 correct?

3 A The company negotiated an option to sell
4 them which had not been exercised up to that point,
5 that is correct.

6 Q Right back in February the company had
7 negotiated an option to dispose of the 25 EMB 170s?

8 A Yes.

9 Q And Mr. Nicolau has more information than
10 he probably wants in connection with the CEL pilots
11 but included in that packet of information is an
12 arbitration award that describes that whole series
13 of transactions?

14 A I don't know if the arbitration -- you are
15 saying what the arbitration award contained
16 describing the transaction.

17 Q Yes, the Wexford arbitration award?

18 A You have lost me there. What is the

19 Wexford arbitration award.

20 CHAIRMAN NICOLAU: The Krinsky award,

21 wasn't it.

22 MR. FREUND: The Krinsky award.

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1 THE WITNESS: Oh, okay, sorry. You are

2 talking the grievance.

3 Q Correct?

4 A Okay.

5 Q I described the transaction?

6 A I had absolutely nothing to do with that

7 so I really don't know anything about it.

8 Q Then I won't ask you any questions about

9 it, it is there I would --

10 CHAIRMAN NICOLAU: It describes the France
11 action.

12 MR. FREUND: Although it was submitted for
13 the CEL matter obviously we would ask you to take a
14 look at it in connection with these pieces of
15 equipment.

16 CHAIRMAN NICOLAU: Okay.

17 MR. FREUND: In addition to those 25
18 aircraft, so that if you took those 25 aircraft off
19 for present purposes and you were down then to 270
20 aircraft, there were as of May 19th within those 270
21 aircraft, aircraft that additional aircraft that had
22 already been announced were going to be returned,

1 correct?

2 THE WITNESS: That is correct, I spoke to

3 that already.

4 Q And on the other side of the equation,

5 that is the September 27, 2005 aircraft, you have

6 142, that I take it measures the actual aircraft

7 that were on the property of America West as of

8 September 27th, 2005, correct?

9 A Correct.

10 Q As you sit here today if you ratchet back

11 to May 19th, 2005 do you know how many aircraft

12 there were?

13 A On America West?

14 Q Yes.

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15 A I would have to look it up. Off the top
16 of my head I would rather not guess.

17 Q That is fine, it was some number. We will
18 put it in later.

19 But, your 142 aircraft count does not
20 include any of the A 320 aircraft that would have
21 been delivered and that were announced and
22 reaffirmed by America West in April of 2005,

194

1 correct, the 22 aircraft?

2 A Well the 142 is what was on the property
3 on that date.

4 Q So the answer is it does not include those
5 aircraft, correct?

6 A Correct.

7 Q Let's turn to Exhibit 4, please.

8 Exhibit 4, 5 and 6 are all snapshots of
9 the same data looked at in different ways; is that
10 correct?

11 A Correct.

12 Q So I am going to ask you about Exhibit 4,
13 a series of questions about Exhibit 4, but I think
14 the questions that I am asking you would apply
15 equally to Exhibit 5 and Exhibit 6, and if they
16 don't, tell me; okay?

17 A Okay.

18 Q Exhibit 4, if I understand it, includes
19 all age 60 retirements by year for each airline?

20 A Correct.

21 Q And that includes for each airline, pilots
22 who in any given year would retire at age 60 from a

195

1 first officer position, correct?

2 A Sure.

3 Q It includes pilots who would retire from,
4 on the east side pilots who would retire from
5 furlough positions, right?

6 A That is correct.

7 Q It includes pilots who would retire from a
8 long-term medical leave, correct?

9 A Correct.

10 Q It would include pilots who would retire
11 from a leave of absence position, other than

12 medi cal , correct?

13 A Correct.

14 Q It would include management pilots who

15 would retire, correct?

16 A Correct.

17 Q And supervisory pilots who would retire?

18 A Correct.

19 Q And again, am I correct that with respect

20 to each one of those questions and each answer you

21 gave me the answer would be the same for Exhibit

22 five and Exhibit 6?

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1 A That is true.

2 Q So when we turn to Exhibit 6, although the
3 title of the chart is source of merged age 60
4 retirements by percentage, 2005 to 200020, I think
5 if I remember correctly your testimony on direct was
6 that this was a, the reason you made this chart was
7 because you didn't want to assume for whatever
8 choice, whatever reason you had, you didn't want to
9 assume any growth aircraft, and this chart then
10 reflects your understanding of the source of jobs
11 that would be available on the merged airline in
12 each of these years on a year by year basis; is that
13 correct? Am I summarizing your testimony fairly
14 clearly?

15 A Yes.

16 Q Okay?

17 A That is correct.

18 Q But because of, because these numbers,
19 these retirement numbers include first officer,
20 people who retired off of first officer positions,
21 people who retired off of furlough, people who
22 retired off of medical, long term medical, people

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1 who retired off of leaves of other kinds, we will
2 supervisor and management aside for the moment, it
3 does not actually reflect a percentage of the source
4 of jobs that would be created at each airline, does
5 it?

6 A I don't think I would agree with that.

7 You can look at the list we put there that show

8 exactly who we are counting and what job they are in
9 on May 19th or September 27th. Now of course you
10 have to consider that by the time they attrit,
11 especially with the number of people we are talking
12 about they would have moved up into other positions
13 so if a guy is a company pilot now that certainly
14 gives no indication at all when he retires --

15 Q We can cut this short, anybody who
16 actually retires in any given year from a furloughed
17 position is not creating a job, correct?

18 A Well, if he is not -- if you are talking,
19 if you have considered who is on furlough in the
20 year that you are talking about that is correct.

21 Q That is what I am saying, if in 2013 ten
22 guys who are on furlough hit age 60 those ten

1 retirements are not creating jobs, correct?

2 A If there were not -- if there were pilots
3 still on furlough then retiring on furlough doesn't
4 create a job for anybody and that is of course
5 something we take into account in any analysis going
6 forward, it is the accurate flow of jobs down
7 through the multitude of jobs and position that is
8 we have.

9 Q I am just looking at this document?

10 A Sure.

11 Q Because this document again while its
12 titled source of source of merged age 60 retirements
13 by percentage you described it in the context of

14 this being the source of jobs at the airline on a
15 going forward basis, correct, isn't that --

16 A Correct, yes.

17 Q And -- all I am saying, is and I think you
18 are agreeing with me, is if in 2010 there are 10 in
19 that year, there are 10 folks who in that year are
20 on furlough and who hit age 60, that does not create
21 any jobs for anybody, does it?

22 A You are saying -- you are asking me two

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1 different questions. You are asking if a pilot who
2 retires, who is on furlough at the moment he retires
3 does he leave a job behind, no. Is this an accurate

4 portrayal of the distribution of the source of
5 vacancies for people to move up in, these are
6 percentages, and you have to assume, we have no
7 reason to think that the effect on the America West
8 side of that sort of thing versus the effect on the
9 U.S. Air side of things is any different, so when
10 you talk about percentage between the two I don't
11 though may can agree with your, what you -- you are
12 first question that you essentially asked in there.

13 Q We will one thing that is different is
14 that there aren't any America West pilots on
15 furlough?

16 A That would be true.

17 Q So there aren't any America West pilots on
18 in this analysis who will retire from a furloughed
19 position, correct?

20 A That will be correct however of course
21 there is America West in other kind of non flying
22 position.

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1 Q I understand, I am talking, my question to
2 you is about furlough?

3 A Okay.

4 Q And you agree, I amount correct --

5 CHAIRMAN NICOLAU: Your correct.

6 BY MR. FREUND:

7 Q Now, when you you have no reason to assume
8 that with respect to the other kinds of
9 circumstances that America West is any different

10 than U.S. Airways with respect to the retirement of
11 pilots in non flying positions, have you looked at
12 the difference between the two with respect to
13 pilots on long term medical leave?

14 A Have we looked at it? The -- this
15 analysis is exactly what we have portrayed, like you
16 said it is a fixed set of data that is stated number
17 of different ways.

18 Any analysis that we use that projects job
19 opportunities into the future takes into account
20 that for both sides. So to that extent of course
21 yes, we have looked at it, we have taken it into
22 accounts, it doesn't show here because this is made

1 off of that, however I would say that the percentage
2 distribution, you are getting down into do we have a
3 larger percentage of guys retiring off of supervisor
4 than America West does or do we have, you know, and
5 that -- that is, I don't know that you could
6 necessarily draw the conclusion that one side or the
7 other has a greater percentage. So to the extent
8 that the percentages are equal these are accurate.

9 Q Okay. One more category while we are on
10 this set of charts and then I think we will move on
11 to another point.

12 When someone retires from AA first officer
13 position at U.S. Airways as things presently stand,
14 that creates a vacancy for furloughed pilots to
15 fill, correct?

16 A I think any, any vacancy, yes.

17 Q I mean it could be captain as well?

18 Q I didn't ask you about captain --

19 A Yes, any active job vacancy will do that.

20 Q I want to stay with first officer please?

21 A Okay.

22 Q When a pilot retires from a first officer

202

1 position at U.S. Airways that creates a vacancy for

2 a pilot who is on furlough to fill, correct?

3 A Right.

4 Q When a pilot retires from America West

5 from a first officer position there are no

6 furloughed pilots to fill that position, there are
7 no America West furloughed pilots to fill that
8 position, correct?

9 A That is correct.

10 Q Exhibit 9, please. Exhibit 9, I think is,
11 am I right, that Exhibit 9 is -- just a minute.
12 Exhibit 9 is the first of your exhibits that deals
13 with early retirements?

14 A I think so.

15 Q And your definition of early retirement is
16 anybody who retires before they turn 60?

17 A In this chart this is a fairly simple
18 straightforward analysis. If we essentially just
19 talk, took the 2000 list compared to the 2001 list,
20 made a list of everybody who wasn't on the 2001 list
21 but was on the 2000 list and then we looked and said

22 okay did he hit his 60th birthday in 2000, if he did

203

1 he was counts had as an age 60 attrition, if he

2 didn't he was counts had as an early attrition.

3 Q I can't seem but notice that there is a

4 very significant spike in early retirements in the

5 year 2005?

6 A Uh-huh.

7 Q You probably noticed that too, can't miss

8 it. Do you think that that might be because pilots

9 understood and believed that U.S. Airways was going

10 down the tubes and that they ought to be the first

11 at jet blue rather than the last at Jet Blue?

12 A That certainly could be an explanation.

13 Q Exhibit 11, please?

14 Q I don't want to get in in an argument with

15 you about the correct number of aircraft on each

16 side, you have already told us that, in your earlier

17 Exhibit 1 you didn't take into account the

18 additional A 320 aircraft order that America West

19 has previously announced, that is leaving for

20 another day, I also don't want to get into a quarrel

21 about with you about the relevance of your choice of

22 July 1st, 2006, you used it, that is fine, we

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1 disagree with it, but I am not going to ask you any

2 questions about it.

3 Except one. And that is, on the day
4 before the merger announcement there would have been
5 no basis for pilots of U.S. Airways or the pilots of
6 America West to have assumed that as of July 1st,
7 2006 these would have been the fleet compositions,
8 would there?

9 A I am not sure I really even know the
10 answer to that. I mean these numbers are what was
11 one that date.

12 Q Correct?

13 A Nothing more than that. As far as what
14 somebody might have thought might have happened
15 looking at what are we asking --

16 Q There wouldn't have been any factual basis
17 on which a pilot at either America West or U.S.

18 Airways would have said or concluded that on

19 July 1st, 2006, the fleet composition would be as

20 you have them on this exhibit?

21 A I don't think there would be any basis for

22 any pilot ever to know what the fleet count was

205

1 going to be almost any time in the future in this

2 business.

3 Q I think that is probably correct to some

4 free?

5 CHAIRMAN NICOLAU: Then why are you asking

6 us to do that now.

7 MR. FREUND:

8 Q Staying with that exhibit, your 757 count

9 on your side includes, if I understand correctly,
10 three 757's that were delivered to the company after
11 the merger announcement date that were the subject
12 of an agreed upon condition and restriction that we
13 have been, that we have submitted to the panel,
14 correct?

15 A That is correct.

16 Q You put them on your side but they, there
17 is something that deals with them already, correct?

18 A Yes, this is simply that is where they are
19 sitting on no day, that is all it is.

20 Q Simply where they are sitting.

21 And, again, I think you have already
22 answered this, it does not include in the, on the

1 America West side the announced A 320s that were the
2 subject of the April order, correct?

3 A The -- wait a minute.

4 Q Not the April order, they were the subject
5 of the April announcement reconfirming the order for
6 22 A320s?

7 A Yes, it is just the planes on the property
8 on that date.

9 Q Right. And it reduces the America West
10 fleet from whatever it was on May 19th by decisions
11 that were made by the company post merger
12 announcement, correct?

13 A Or in conjunction with the merger
14 announcement.

15 Q Well, we have a did he debate about
16 either, but either in conjunction on your terms or
17 post merger in our terms, correct?

18 A I mean it is in that effect of everything.

19 Q It includes decisions that were played to
20 reduce the America West fleet that were made after
21 the merger was announced?

22 A It includes -- certainly it would include

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1 decisions made before, after, however we got there
2 it includes it all.

3 Q It, to put it in plainer terms, it takes
4 off of the fleet that was in existence at America

5 West on May 19th, 2005, those aircraft that were
6 removed from the America West fleet after the merger
7 was announced, correct?

8 A Takes into account airplanes that were
9 removed after the merger is announced, yes.

10 Q Okay.

11 Let's turn to exhibit 14, please.

12 Exhibit 14 is just a fairly thin, I don't mean that
13 pejoratively, it is basically intending to show the
14 number of retirements that are going to take place
15 at I guess 14 is U.S. Airways, that are going to
16 take place at U.S. Airways for the second half of
17 2006?

18 A Well, it is not ones that are going to, in
19 most cases the ones that already did.

20 Q Either did --
Page 335

21 A Most of it is history.

22 Q Of course we are sitting here in December?

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1 A Right.

2 Q And though gives use an interesting

3 snapshot of the term early retirement?

4 A Yes.

5 Q Because you --

6 A On this one -- go ahead, I am sorry,

7 excuse me.

8 Q You have identified, you have

9 distinguished between retired which I assume means

10 age 60 retirement and others that you mark as early,

11 correct?

12 A Yes.

13 Q Okay. So let's just look at the first

14 early retirement which is captain Burns, he is on

15 the line that is marked as 139, I guess?

16 A Right, he is about two months early.

17 Q He is about two months early?

18 A Right.

19 Q And then if you go down to line 191,

20 Captain Bowser, he is about six days early, right?

21 A Yes.

22 Q And if you go down to captain Barber he is

1 about four months early, correct?

2 A Right. Perhaps I should say here, that
3 this one, the earlies are just if it was prior to
4 their birth date. The methodology is not identical
5 on the other one, the other was a very simple as I
6 explained so that the definition really isn't,
7 doesn't carry between them.

8 Q But let's just finish the exercise because
9 it did it and we may as well do it since I took
10 the time to do it.

11 Line 258, captain Remis retired three days
12 early, correct?

13 A Yes, and I think I messed up, where are
14 you here again.

15 CHAIRMAN NICOLAU: 282 --

16 MR. FREUND: Line 258 I think.

17 THE WITNESS: Okay, got you.

18 Q He retired three days early?

19 A Yes.

20 Q And then two spots down Caceres retired

21 four days early?

22 A Yes.

210

1 Q And then if you jump down to line 817,

2 Gi eseke retired a month early, correct?

3 A Yes.

4 Q If you turn over to the next page, 1287,

5 Sockwell appears to have retired four days early?

6 A Sockwell --

7 Q I am sorry, Angel ?

8 A Oh.

9 Q 1337?

10 A Angel , four days early.

11 A Yes, yes.

12 Q Sockwell -- skip Sockwell .

13 And then go all the way down to 2385,

14 Mr. Stell --

15 A 2385 --

16 Q Do you think he just had a problem

17 subtracting since he seems to have retired to the

18 day on his 59th birthday rather than his 60th

19 birthday?

20 MR. GILLEN: He lost the family bible with

21 the birth date.

22 MR. FREUND: And if he did have trouble

1 subtracting I am glad he retired.

2 And again I understand there is just a

3 snapshot of six months, but it looks to me like

4 essentially everybody, you know, but maybe two

5 scattered exceptions, everybody below on the second

6 page position 1382 are real or really below 1371,

7 really below 1281, if you want to be precise about

8 it, looks like he essentially everyone below 1281

9 who either will or has retired in the second half of

10 2006 retired from either first officer position or

11 from medical or leave of absence of one kind or

12 another, am I --

13 THE WITNESS: The positions are stated,
14 that is the last position they held. Wait a minute,
15 these positions are --

16 Q I guess really to be fair --

17 A Yes, I am thinking these are the positions
18 they held on July 1, but in fact I am pretty sure
19 that is what it is, they are the positions they held
20 on July 1, '06, so somebody retiring in December the
21 company is certainly not training him on a new
22 position but that is what the data is.

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1 Q And actually I think I was unfair to a
2 couple of people, because it looks like the, again

3 without -- with a caveat of a couple of exceptions
4 it looks like you go down below position 1495,
5 Dickens, before you start hitting the first officer
6 positions; is that right?

7 A Well, yes it is what it is, I mean what
8 the data says.

9 Q

10 MR. FREUND: Give me about five minutes, I
11 think I may be done.

12 CHAIRMAN NICOLAU: Okay. (5:45 p.m. --
13 recess -- 5:50 p.m.)

14 CHAIRMAN NICOLAU: Any more questions of
15 the witness.

16 BY MR. FREUND:

17 Q Just a couple, maybe just one.

18 When we are talking about percentages of

19 retirements from non flying positions, remember we

20 had a little --

21 A In terms of the source.

22 Q Source, yes, your exhibit or whatever

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1 exhibit number that was, you said I could have the

2 court reporter go back and find it but I don't think

3 it is worthy of my question is worthy of that

4 exercise, but you said something to the effect of

5 well in terms of thinking about how retirement are

6 going to to play out in term, again in or or job

7 creation in terms of retirement from non flying

8 positions there isn't any particular reason to

9 believe that sort of the ratio of non flying
10 positions to flying positions on the one side is any
11 different than the ratio of non flying positions to
12 flying positions on the other?

13 A Attrition for non flying positions and the
14 kind of numbers you are talking about are going to
15 be tiny in the scale of of the chart.

16 Q That is why I said it is probably not
17 worth the effort of having the court reporter to go
18 back to find the exact set of words.

19 But if you turn to Exhibit 11-A, the
20 flying positions that you show on that chart reflect
21 2611 on one side and 1704 on the other side,
22 correct?

1 A Correct.

2 Q And the non flying positions that you show

3 on that chart show 632 on the east side and 149 on

4 the west side, correct?

5 A That is correct.

6 Q And that would not be in the same -- that

7 number at least, those numbers at least would not be

8 in the same proportion --

9 A That of course is no indication of the

10 positions being vacated on a given point in

11 retirement.

12 Q Of course, of course?

13 A Right.

14 Q That is all I have.

15 CHAIRMAN NICOLAU: Any redirect, Dan?

16

17 REDI RECT EXAMI NATI ON

18 BY MR. KATZ:

19 Q Let me just follow up with Exhibits 5 and

20 6, I think it is; looking at Exhibit 6, the source

21 of merged age 60 retirements by percentage, if you

22 pick out a year like 2012 where the percentage

215

1 percentages pretty much, 20 percent America West,

2 80 percent U.S. Airways, you were asked on

3 cross-examination about what if one of these pilots

4 is on furlough at the time he reaches age 60 does

5 that create a job.

6 A Right.

7 Q Now, flip back one exhibit to Exhibit

8 Number 5, and tell me approximately how many people

9 will have reached age 60 by that point in time, is

10 it nearly 2000?

11 A Wait, on -- 20 --

12 Q 2012 we are talking about?

13 A 1664 is that what you are referring to,

14 oh, you went two back.

15 Q No, here in Exhibit 5 but you have got

16 U.S. Airways and America West pilots who are leaving

17 and it is nearly 2000 when you add them up?

18 A Yes.

19 Q So the sum of 2000 people have left the

20 list?

21 A Yes, uh-huh.

22 Q So assuming these airlines are continuing

216

1 to operate and are about the size that they are now
2 without any growth, what is the likelihood in your
3 view of the 2000 pilots having left and the people
4 we are talking about in this case still being on
5 furlough?

6 A Well, I think as you have shown it is not
7 likely we are going to have anybody on furlough at
8 that point.

9 Q In fact, your Exhibit 18-A shows that
10 everybody back from furlough who wants to be on the
11 third page, by a year from now, right?

12 CHAIRMAN NICOLAU: That is what it says.

13 THE WITNESS: Yes.

14 MR. KATZ:

15 Q And counsel for the America West pilots
16 went through a number of categories of people who
17 are not in line captain jobs, and asked about
18 whether a promotional opportunity is created by
19 their reaching age 60 and leaving the list, and he
20 kind of put to one side the management and
21 supervisory people and never came back to it. So
22 Let me ask you about that, what about the management

217

1 and supervisory people when they reach age 60 and

2 leave the list?

3 A Well, you have to assume number one that
4 those jobs are going to have to be refilled, I mean
5 we are not going to leave the position empty, so
6 that does create vacancies, I mean somebody is going
7 to move up.

8 Q Aren't there requirements in the FARs for
9 the base, chief pilot and assistant chief pilot and
10 people to do all the checks and that stuff?

11 A Yes.

12 Q So when one of those people leaves there
13 is a promotion in store for someone?

14 A That is true.

15 Q And when people who are in long term
16 disability life, does that give any immunity from
17 disease or injury to the others on the list?

18 A Hardly.

19 Q Isn't it likely that somebody is going to
20 replace them on LTD?

21 A You hate to -- yes.

22 Q We are talking about the entire

218

1 population, I am not going to pick anybody in

2 particular out --

3 MR. FREUND: That is good.

4 MR. KATZ: But that process goes on all

5 the time doesn't it.

6 THE WITNESS: Certainly.

7 Q Same with people who might be on a leave

8 of absence of some sort other than medical leave of
9 absence, is that true?

10 A Yes.

11 Q There was a lot of focus on Exhibit 14,
12 and with how they weren't really very early in their
13 early retirement, and I would like you to look at
14 Exhibit 9 and tell me whether that line of
15 cross-examination affects the analysis that you laid
16 out in Exhibit 9, showing something like early
17 retirements reaching 80 percent to the level of
18 regular?

19 A No.

20 Q Why not?

21 A Well number one your look looking at for
22 the most part of this chart this is historic going

1 back a whole bunch of years you are looking at
2 different pools of people, and different lengths of
3 time, so I mean it is not really comparable at all.

4 Q Well what was the standard you used for
5 Exhibit 14, wasn't it whether some had body was even
6 one day early?

7 A Yes that is way explained before, that
8 they are not the same measure of early.

9 Q It was the entire year?

10 A For Exhibit 9, correct. At least that was
11 just a very simple look at it.

12 Q Were they on?

13 Q Where they are on the list one year and

14 not the next?

15 A Correct.

16 Q So that would also include people who died

17 before reaching the age of 60 and didn't show up on

18 the next years list for that?

19 A Correct.

20 Q Okay.

21 CHAIRMAN NICOLAU: It would include people

22 who left too, wouldn't it?

220

1 MR. KATZ: Or resigned or were fired.

2 CHAIRMAN NICOLAU: Right.

3 THE WITNESS: Any reason, they didn't have

4 their 60th birthday yet in that year.

5 CHAIRMAN NICOLAU: Not just early

6 retirement, it is not being on the list.

7 MR. KATZ: Right, that's what I wanted to

8 clarify. That concludes my redirect.

9 CHAIRMAN NICOLAU: Anything?

10 MR. FREUND: Just on or two.

11 RECROSS EXAMINATION

12 BY MR. FREUND:

13 Q The management positions and supervisory

14 positions, when they are vacated, those are not

15 seniority based filled positions are they?

16 A Well, they are certainly not awarded by

17 seniority but I think it is probably an accurate

18 assumption to assume that the approximate seniority

19 of the different positions remains relatively the

20 same.

21 Q All I am saying is it is not driven by the

22 seni ori ty --

221

1 A No, you don't baste vice president for

2 flyi ng, that is true.

3 Q And I don't really want to quibble where

4 you say with the nine particular ly.

5 But Exhi bi t 9 could in fact reflect

6 somebody who retired two days before his 60th

7 bi rthday, fi ve days before his 60th bi rthday, si x

8 months before his 60th bi rthday, because if their

9 60th bi rthday was in year two and they retired in

10 year one, whatever their birthday they wouldn't be

11 on the list in year two, correct?

12 A Yes -- I think. I am sorry, I think I

13 lost you. I mean simply if they disappeared off the

14 list between 2000 and 2001, the only thing that

15 split them between the two lines is did they have

16 their 60th birthday --

17 Q That could be a two-day early retirement

18 or it could be an 11-month and 29-day early

19 retirement?

20 A And in this case it might be counted as an

21 age 60 retirement.

22 Q You don't know the answer to that

1 question?

2 A You mean in each case, I mean know that if
3 he retired -- if his 60th birthday was in the year
4 2000 we counted him as an age 60 retirement and that
5 could be anything from one day early to -- I am
6 sorry, you got that range obviously.

7 Q Got it. That is all I have got.

8 MR. KATZ: Nothing further from us.

9 CAPTAIN BRUCIA: You guys just confused me
10 on your last one.

11 I understood you to say in Exhibit
12 Number 9 that an early retirement would have been
13 anything other than the year he turned 60.

14 THE WITNESS: Right.

15 MR. BRUCIA: Okay. Jeff, are you on the

16 same page with that?

17 MR. FREUND: Yes.

18 MR. BRUCIA: Fine. I don't have any

19 further questions.

20 CHAIRMAN NICOLAU: Just the one thing.

21 You had indicated that management and supervisory

22 and higher positions aren't driven by seniority,

223

1 right?

2 THE WITNESS: Well, I would say supervisory

3 positions do have a seniority element in them

4 because they are tied to equipment, you are an

5 instructor for a 330 and a 330 instructor you have

6 to be able to hold the position with your seniority

7 to be able to be a check airman on that position.

8 So, by that have definition a 330

9 instructor is going to be a lot senior to a 73

10 instructor, so there is a seniority element that is

11 in there. So the distribution of those guys

12 probably is going to stay about the same.

13 CHAIRMAN NICOLAU: But that is not the

14 same for management.

15 MR. GILLEN: It is status only isn't it --

16 THE WITNESS: Management are whoever they

17 choose to hire, that is whoever it happens to be.

18 Senior management isn't probably going to be

19 somebody that is 20 years old but --

20 CHAIRMAN NICOLAU: You never know.

21 THE WITNESS: Yes. If there is no further

22 questions of Captain Kir ch, we are going to end

224

1 tomorrow at 3:00 o'clock. What time do you want to
2 start?

3 MR. KATZ: Do you have a preference --

4 MR. FREUND: Just because I have got some
5 other clients my preference -- why don't we go off
6 the record.

7 CHAIRMAN NICOLAU: Okay.

8 (Discussion off the records).

9 CHAIRMAN NICOLAU: Well, we will recess
10 until 9:30 tomorrow morning and we will be ending at
11 3:00.

1205RUFF

12 (Whereupon, at 6:05 p.m., the hearing was recessed,

13 to be reconvened at 9:30 a.m., on December 6, 2006.)

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1 C O N T E N T S

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3 WITNESS EXAMINATION

4 WITNESS

5 By Attorney1 ^

6 By Attorney2 ^

7

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11

12 EXHIBITS

13

14 EXHIBIT NUMBER IDENTIFIED

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16 ^ - ^ ^

17 ^ - ^ ^

18 ^ - ^

1205RUFF
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19 (6:06 p.m.)

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