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1                   BEFORE THE ALPA ARBITRATION BOARD

2    - - - - -X

3 THE CREW MEMBERS OF US       :

4 AIRWAYS                       :

5                   Plaintiff,       :

6                   vs.               :

7 THE CREW MEMBERS OF       :

8 AMERICA WEST AIRLINES       :

9                   Defendant.       :

10   - - - - -X

11                   HEARING VOLUME 15

12

13                   GEORGE NICOLAU, Chairman

14                   CAPTAIN STEVE GILLEN, Pilot Neutral

15                   CAPTAIN JIM BRUCIA, Pilot Neutral

16

17                                   Washington, D. C.

18                                   Tuesday, January 23, 2007

19

20                   REPORTED BY:

21                                   DONALD R. THACKER

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2540

1                   Hearing before the ALPA Arbitration Board, on  
2                   Tuesday, January 23, 2007, in Washington, D. C. at  
3                   the Mayflower Hotel , 1127 Connecticut Avenue,  
4                   Northwest, at 9:35 a.m. before DONALD R. THACKER, a  
5                   Notary Public within and for the District of  
6                   Columbia, when were present on behalf of the  
7                   respective parties:

8

9 DANIEL M. KATZ, ESQ.  
10 JASON WHITEMAN, ESQ.  
11 Katz & Ranzman  
12 5028 Wisconsin Avenue, Northwest, Suite 250  
13 Washington, D.C. 22036  
14 On behalf of U.S. Airways

15  
16 JEFFREY R. FREUND, ESQ.  
17 LISA POWELL, ESQ.  
18 ROGER POLLAK, ESQ.  
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20 805 15th Street, Northwest, Suite 1000  
21 Washington, D.C. 20005  
22 On behalf of America West Airlines

2541

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

2 MR. KATZ: We are ready.

3 CHAIRMAN NICOLAU: Okay, let's go.

4 MR. KATZ: We are going to call our next  
5 witness, Captain Philip Carey.

6 Whereupon,

7 PHILIP CAREY

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

10 DIRECT EXAMINATION

11 BY MR. KATZ:

12 Q Captain Carey, have you prepared a handful  
13 of rebuttal exhibits that you would like to present  
14 now?

15 A Yes, I have.

16 Q These will go into the volume of rebuttal

17 exhibits H, starting with No. 9.

18 And let me ask you first if you would tell  
19 the panel, please, to what evidence is Exhibit 9 in  
20 rebuttal?

21 A Exhibit 9, there was a suggestion made in  
22 the America West's testimony that US Airways invoked

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1 the failing carrier doctrine in the US  
2 Airways-United merger, and this document shows that  
3 is not true, that it was not invoked in the US  
4 Airways-United merger or in the US Airways-America  
5 West merger.

6 Q First of all, what is this document? It  
7 looks like an excerpt from some Congressional  
8 hearings?

9 A Yes, this document was a hearing held by  
10 the Committee on Commerce, Science and  
11 Transportation of the United States Senate, and it  
12 had to do with the United Airlines and the US  
13 Airways merger.

14 Q This was in June 2000?

15 A Yes.

16 Q And we have got an excerpt from the  
17 testimony of Albert Foer, F-o-e-r, president of the  
18 American Antitrust Institute. What can you tell us  
19 about that?

20 A Well, on the next page that is labeled at  
21 the top of page 97 Senator Gorton is asking Mr. Foer  
22 some questions, and Senator Gorton's question is, he

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1 talks about Mr. Wolf is eloquent in stating that he  
2 is the only medium sized, I think, mature cost

3 airline left. Does your crystal ball tell you  
4 anything about the survival of US Airways on its  
5 own? And Mr. Foer answers, if you look down to the  
6 second paragraph that starts with, "In the antitrust  
7 laws we have a failing carrier doctrine. If you can  
8 prove that the acquired company is about to fail  
9 then the merger goes through even if it is  
10 anti competitive. That is not at issue here. They  
11 have not raised that."

12 So he shows that US Airways was not a  
13 failing company.

14 Q And behind the blue tab there is a  
15 document on the letterhead of the Department of  
16 Justice, I guess it is a press release, in  
17 connection with the US Air-America West transaction.  
18 Why is that of significance?

19 A Well, this was issued on June 23rd of '05,  
20 and the second paragraph talks that the antitrust  
21 division has concluded that the proposed merger of  
22 America West and US Airways would not reduce

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1 competition and, therefore, has decided to close its  
2 investigation without issuing requests for  
3 additional information.

4 So this shows that the merger was approved  
5 and that the failing company document -- doctrine  
6 was not invoked on this merger either.

7 Q It wasn't necessary to invoke it or  
8 relevant because there was no anti competitive impact  
9 because it was an end-to-end merger?

10 A That is correct.

11 Q Exhibit 10, tell us what we are rebutting  
12 here?

13 A This exhibit is in response to the claim  
14 during the America West pilots' testimony that  
15 America West pilots have been checking out as  
16 captain in seven years, and that historically it has  
17 been seven years for a captain checkout, and that  
18 checkout should continue to be seven years going  
19 forward for all America West pilots.

20 Q How did you analyze and address that  
21 issue?

22 A Well, we took the last pilot on the  
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1 America West seniority list, Dave O'Dell, and we did  
2 some calculations to find out what percentage of  
3 annual growth it would take for Dave O'Dell to check  
4 out as captain. And what we did is we started with  
5 the number of captain positions in September of '05,  
6 and that number was 890, the number of America West  
7 pilots on the list at that date was 1894. Then we  
8 subtracted the attrition for the next six and a half  
9 years for America West, and you can see that they  
10 only have 307 retirements.

11 Q And that would take Mr. O'Dell through his  
12 7th anniversary?

13 A Correct, because he was hired in April of  
14 '05.

15 Q Right?

16 A And on his 7th anniversary, due to  
17 attrition he would be down to number 1587 on the  
18 seniority list. So for that to be a captain  
19 position they would have to add 697 additional

20 captain positions.

21 And for America West to do that the growth  
22 rate for that six and a half year period from when

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1 we did the calculation, would be 78 percent or an  
2 annual growth rate of 12 percent a year.

3 Q Do you think that is a realistic level of  
4 growth to project for America West?

5 A No, I do not. One of the exhibits that  
6 America West pilots put in was project Barbell, and  
7 project Barbell showed that the last five years they  
8 were relatively flat on block hours and fleet.

9 Q So, even the witnesses of the America West  
10 merger committee only were claiming a 3 percent  
11 annual growth rate from the company; is that right?

12 A That is correct.

13 Q All right, so the second page of exhibit  
14 H-10, have you done a further calculation?

15 A Yes, I have. We calculated what Dave's  
16 captain checkout date would be with 3 percent growth  
17 rate annually going forward, and also calculated in  
18 the age 60 attrition, along with that, to determine  
19 if there were a 3 percent growth rate how long would  
20 it take Dave O'Dell to check out as captain.

21 Q Okay, would you take us through this  
22 calculation then, please?

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1 A Sure. If you start at the top there with  
2 the 890 captain positions on the far right column  
3 there and you times that times 1.03, a 3 percent  
4 growth rate. Then the next line would show that

5 would produce 916 captains, and so on down the line,  
6 until you get to the year 2017, there would be 676  
7 pilots attrition, that would bring O'Dell's  
8 seniority number down to 1218, and U.S. -- America  
9 West would have 1261 captain positions at that point  
10 in time. So O'Dell would be able to obtain a  
11 captain position at a 3 percent growth rate in 2017,  
12 12 years after he was hired.

13 Q Okay, by doing the calculation and  
14 offering it to the board are you endorsing the  
15 notion that America West was going to grow 3 percent  
16 a year?

17 A No, I am not.

18 Q This is what would happen if it did in  
19 terms of his ability to be sure and check out as  
20 captain?

21 A Yes.

22 Q Exhibit 11, what does this rebut?

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1 A This exhibit is in response to Bob Mann's  
2 exhibit about the so-called Metrojet bubble.

3 When questioned by attorney Katz about  
4 Airbus deliveries in the same time frame he didn't  
5 seem to know anything about the Airbus deliveries in  
6 1999 and the year 2000. So we prepared a delivery  
7 schedule here from showing the Airbus deliveries to  
8 US Airways and the tail numbers and the delivery  
9 dates.

10 Q What were the deliveries?

11 A Well, the first set pertains to 1998, that  
12 was six, but the bubble that was referred to in  
13 Mr. Mann's exhibit was for 1999, and so if you look

14 down the first page for the '99 deliveries it  
15 continues on to the second page and shows the total  
16 Airbus deliveries for the year 1999 with 26.

17 And then for the year 2000 where he showed  
18 what was the largest Metrojet bubble you can see  
19 there is quite a few Airbus deliveries. And if you  
20 go to page 3 it continues, and the total for the  
21 year 2000 was 42 new Airbus aircraft delivered to US  
22 Airways. So it shows that it wasn't really a

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1 Metrojet bubble, it was an Airbus bubble.

2 Q As the results of delivery of Airbus with  
3 us 319s, 320s and 321s?

4 A That is. That is correct.

5 Q Exhibit 12, please?

6 A This rebuttal exhibit is in response to  
7 the America West merger committee wanting to leave  
8 pilots flying the Embraer 170s at US Airways off the  
9 seniority list. America West pilots who flew 37  
10 seat turbo jet, turboprop, excuse me, aircraft, are  
11 accumulating length of service for those years. And  
12 in return they want to exclude pilots from US  
13 Airways who flew jet aircraft that are twice the  
14 speed and size from their length of service accrual  
15 and remove them from the seniority list.

16 And this shows that in the years '87  
17 through '92 America West operated the Dash 8 turbo  
18 prop aircraft, and if you look at the note on the  
19 bottom it says on August 9th, 1990, the America West  
20 fleet consisted of 92 aircraft, and in the year 1990  
21 11 of those were Dash 8's. And so approximately



22 12 percent of their aircraft in the year '90 were  
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1 Dash 8 aircraft.

2 Q The next page has some additional  
3 documentation on the same issue?

4 A Yes, it shows on a block hour and  
5 departure basis that during the years that I just  
6 stated the block hours and departures were also  
7 about 12 percent, which relates directly to the  
8 number of aircraft.

9 Q If you follow departures, for example, in  
10 the first quarter of 1991, 12.7 percent of the  
11 America West departures were in Dash 8 aircraft?

12 A That is correct, and 58,000 departures.

13 Q And the source of this data is Form 41?

14 A That is correct.

15 Q I think that concludes the --

16 A We have --

17 Q You have one more?

18 A Yes, this is a related exhibit --

19 Q Okay.

20 A -- to the pilots who America West wants to  
21 remove from the seniority list. This first is an  
22 e-mail from a pilot who is a CEL pilot. He was

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1 furloughed from flying the Embraer 170 at US  
2 Airways, and has now exercised his rights as a  
3 furloughed pilot to fly for a jets for jobs carrier  
4 and is presently flying for PSA on the Embraer jet.

5 If you look at the second page, this is on  
6 US Airways letterhead and it is from Theresa Bell,  
7 pilot records administrator, and it refers to the

8 Pilot Record Improvement Act which is also known as  
9 the PRIA, and it shows that Mr. Allen was US Airways  
10 pilot who went to work for jets for jobs and PSA,  
11 and that his records were requested by PSA, and you  
12 look at the box that was checked, shows the  
13 requesting applicant has been identified as a  
14 pilot/former pilot employed at US Airways, records  
15 of the applicant are enclosed.

16 And it shows that he was US Airways pilot  
17 and he had the rights and privileges of a U.S.  
18 airways furloughed pilot and he exercised those  
19 privileges to go to work as a jets for jobs pilot at  
20 PSA.

21 Q And US Airways just transferred his  
22 records over to PSA under this Pilot Records

2552

1 Improvement Act because he was US Airways pilot?

2 A Yes.

3 Q And he had the right to recall at the main  
4 line carrier?

5 A Yes.

6 Q All right, and we have scratched out his  
7 Social Security number because that is private; is  
8 that correct?

9 A Yes.

10 Q Okay, I guess that completes the -- are  
11 you going to do 14?

12 A No.

13 Q Yes, you are go to do 14.

14 A Okay.

15 Q Keep going. The first page of Exhibit 14

16 looks eerily familiar.

17 A Yes, this was an exhibit from our  
18 testimony that shows the comparison of management  
19 and supervisory pilots at America West and US  
20 Airways. And we put this in as part of our  
21 testimony and later on there seemed to be some  
22 confusion as to how many supervisory pilots there

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1 were at America West versus US Airways.

2 Q So you have some backup for this?

3 A Yes, I do.

4 Q Behind that blue divider?

5 A Yes. We received information back on  
6 July 1st --

7 CHAIRMAN NICOLAU: Excuse me, before you  
8 go any further, captain, have the committees  
9 complied with the Board's directive to sit down and  
10 work this issue out?

11 THE WITNESS: We have made contacts and  
12 got no response.

13 MR. BRUCIA: With each other or with the  
14 company?

15 MR. FREUND: Well, they have sat down,  
16 they haven't worked it out. It is an apples --  
17 either we will figure it out with this witness or  
18 otherwise, it is just an apples and oranges kind of  
19 operation between two companies.

20 CHAIRMAN NICOLAU: Okay.

21 MR. FREUND: Hopefully we will be able to  
22 work it out, but we are just --

2554

1 CHAIRMAN NICOLAU: I am sorry, Captain, go  
Page 11

2 ahead.

3 THE WITNESS: Maybe this will help.

4 In July of '05 this sheet indicates that  
5 there were 23 management pilots at America West, and  
6 if you go to the next page it shows there was a  
7 total of 53 supervisory pilots at America West.

8 BY MR. KATZ:

9 Q If I ask you to flip back to the first  
10 page, your old Exhibit E-4, that corresponds to the  
11 numbers in the column for America West under the  
12 1679, you show 53 supervisors and 23 management for  
13 a total of 76 supervisory and management pilots.

14 A That is correct. That is where we got  
15 those two numbers from.

16 Q Okay. Go ahead.

17 A Now, if you go to the other side of the  
18 next blue divider this page shows the extractions  
19 for management and supervisors that were used by Bob  
20 Mann in his seniority integration proposal, and it  
21 shows quite a different number. It shows 17  
22 management pilots and six supervisory pilots. But

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1 if you go back and check the names of the original  
2 23 management pilots that we had listed for America  
3 West, these are the same names. These are the same  
4 23 that were on the July sheet.

5 Q What we don't have is the 53 who were  
6 previously termed supervisors?

7 A That is correct, that is missing from  
8 Mr. Mann's extractions.

9 Q Okay. Then after the next divider you

10 address the US Airways situation?

11 A Yes, these were the number of pilots  
12 extracted by Mr. Mann for his calculation. Once  
13 again, and this is from the May 19th list, and this  
14 lines up directly with the chart on the first page  
15 for US Airways, as does the next couple pages with  
16 the number of supervisory pilots.

17 CHAIRMAN NICOLAU: Totaling 112, is that  
18 what you are saying.

19 THE WITNESS: Yes, 15 management and 97  
20 supervisory pilots.

21 BY MR. KATZ:

22 Q Okay. Then there is one more blue divider  
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1 and some more pages. Who constructed the remaining  
2 pages in Exhibit H-14, Captain Carey?

3 A These exhibits were obtained from the US  
4 Airways training department and it shows the fleet  
5 captain, senior check airman and check airmen and  
6 instructor pilots on all the different types of  
7 equipment at US Airways. And at US Airways fleet  
8 captain is a management pilot, a senior check airman  
9 is a supervisory pilot, a check airman is a  
10 supervisory pilot, and instructor pilots are also  
11 supervisory pilots. Line check airmen are not  
12 listed as supervisory pilots.

13 Q But they are part of the 97 in exhibit  
14 E-4?

15 A Line check airmen are not listed anywhere  
16 on the first page.

17 Q Oh, okay. So that was my question, they  
18 are not part of the 97?

19           A     Right.  The 97 is check airmen and  
20     instructor pilots, it does not include line check  
21     airmen.

22           MR. KATZ:  Thank you, Captain Carey.

2557

1           That completes our direct examination of  
2     this witness.

3           MR. FREUND:  We will need a couple  
4     minutes, half hour maybe at the most.

5           MR. BRUCIA:  Can I ask for a clarification  
6     on something.

7           Phil, the 15 management then, are  
8     represented vis-a-vis this page, they are not here  
9     -- well, we are going to have one on this page,  
10    correct?

11          THE WITNESS:  Correct.  Some of them are  
12    represented there.  The others would be like the  
13    vice president of flying, the director of training.

14          MR. BRUCIA:  All right, so Skinner is the  
15    only one we see on this particular page.

16          THE WITNESS:  Correct.

17          MR. BRUCIA:  And there are 14 others.

18          THE WITNESS:  Correct.

19          MR. BRUCIA:  Thank you.

20          THE WITNESS:  And we have, their names are  
21    listed back a few pages.

22          MR. BRUCIA:  I have it, got it.

2558

1           CHAIRMAN NICOLAU:  Okay, thank you.

2           We will take a break for about a half an  
3     hour.

(10:00 a.m. -- recess -- 10:40 a.m.)

CHAIRMAN NICOLAU: Are you ready?

MR. FREUND: Yes.

CHAIRMAN NICOLAU: Okay.

CROSS-EXAMINATION

BY MR. FREUND:

Q Turn to Exhibit 9. Let me just say before I do that, I am not going to ask Phil any questions about this supervisory issue. I assure the panel that before you leave town on Friday this matter will be resolved to your satisfaction.

CHAIRMAN NICOLAU: You heard that.

MR. BRUCIA: I heard it.

CHAIRMAN NICOLAU: Okay.

MR. FREUND: Bank on it. Take it to the bank.

CHAIRMAN NICOLAU: Uh-huh.

BY MR. FREUND:

Q So, Phil, was Albert Foer employed by U.S.

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1 Airways, so far as you know?

A I don't know.

Q He doesn't purport to be in his testimony, does he?

A No, it says he is the president for the American Anti-trust Institute, but he may hire out his services, I don't know.

Q I am sorry?

A I said he might hire out his services, I don't know.

Q You were employed U.S. Airways in 2000, correct?

13 A Yes.

14 Q Did you ever hear of anybody by the name  
15 of Albert Foer employed in any management capacity  
16 at US Airways?

17 A No.

18 Q And he doesn't purport to be testifying on  
19 behalf of US Airways in this case, does he?

20 A No, he does not.

21 Q And he doesn't purport to be testifying on  
22 behalf of the United States Department of Justice

2560

1 does he?

2 A I am not sure.

3 Q Well, is there any -- I mean you read it,  
4 is there anything anywhere in which you can see that  
5 he says that he is speaking for the Department of  
6 Justice?

7 A I don't remember.

8 Q Do you know, do you have any knowledge of  
9 whether he would have had, whether he would have  
10 been privy to any of the materials that were filed  
11 with the Department of Justice in 2000 regarding the  
12 basis on which the anti-trust exemption was being  
13 sought?

14 A I don't know.

15 Q And turning to the second part of  
16 Exhibit 10, you haven't reviewed any materials  
17 submitted to the Department of Justice in connection  
18 with the application for anti-trust exemption, have  
19 you?

20 A No.



21 Q And all you know from this, all you know  
22 then on the subject is what is contained in this

2561

1 document, this press release, correct?

2 A That is correct, and it makes no reference  
3 to failing carrier doctrine.

4 Q Correct it makes no reference to failing  
5 carrier doctrine one way or the other?

6 A Right, it doesn't say the merger was  
7 granted on the basis of the failing carrier  
8 doctrine.

9 Q Right, they were able to grant the  
10 exemption on another basis, on the ground that it  
11 was not anti competitive?

12 A Yes.

13 Q But you don't know whether the company did  
14 or did not submit any position statements with  
15 regard to the failing company status or the failing  
16 company doctrine in connection with the transaction,  
17 do you?

18 A I have seen no evidence that they have.  
19 If you have some evidence I would be happy to look  
20 at it.

21 Q No, no, but my question is you haven't  
22 seen the materials that the company submitted to the

2562

1 Department of Justice, have you?

2 A I have not.

3 Q So you don't know whether they made any  
4 arguments to the Department of Justice on the  
5 question of whether the failing company doctrine was  
6 applicable --

7 MR. KATZ: I am going to object I think he  
8 is arguing with the witness.

9 CHAIRMAN NICOLAU: Well, if he hasn't  
10 reviewed the materials it is evidence then he  
11 doesn't know whether that contained anything about  
12 the failing company doctrine.

13 BY MR. FREUND:

14 Q Let's turn Exhibit 10 for just a few  
15 moments. First of all, I think you said that your  
16 review, that there were exhibits that were put into  
17 evidence that showed that for the last five years or  
18 so America West ASM growth was relatively flat?

19 A I didn't say ASM.

20 Q What did you say, I am sorry?

21 A I said aircraft and block hours.

22 Q Aircraft and block hours, were relatively

2563

1 flat, and yet within that last five-year period the  
2 seven year upgrade to captain rate continued didn't  
3 it?

4 A I would have to review your historical  
5 data. I think you said it went between seven and  
6 nine years.

7 Q I think we said back around the time of  
8 the bankruptcy it was nine, but after the bankruptcy  
9 it retreated back down to seven. That is what the  
10 evidence shows. If the evidence showed it, what I  
11 asked you would be correct; right?

12 A Yes.

13 Q Not withstanding the flat block hours the  
14 seven years to captain persisted, correct?

15 A Yes.

16 Q And in your calculations, first of all I  
17 am curious as to where you got 890 captain positions  
18 since when we counted there were 988 captain  
19 positions on that list?

20 A That is what we have.

21 Q Okay. But in it were 988 as opposed to  
22 890 that would change all of your math?

2564

1 A Your calculation is probably including  
2 those supervisory pilots that we talked about.

3 Q Maybe. I don't know he --

4 A And there were people on sick leave.  
5 America West has 100 something people on medical.

6 Q Maybe, but whatever the case may be if  
7 there were 988 as opposed to 890 captains, that  
8 would change the math, correct?

9 A If there were, but there aren't, you know.

10 Q Okay. And the math that is contained on  
11 this page treats only with age 60 attrition,  
12 correct?

13 A That is correct.

14 Q That's all I have got on that issue. If  
15 you want to skip over the Metrojet bubble.

16 Now, the CEL pilot question, I thought we  
17 were sort of done with that, but you opened your  
18 testimony on that subject by saying something like  
19 the America West pilots want to get and want to  
20 include longevity credit for flying F-28's but  
21 exclude pilots on the America West side of the  
22 transaction who flew bigger, faster jets, namely the

2565

1 170s?

2 A I think your question is all out of order  
3 there. You said America West wants to get credit  
4 for F-28 flying.

5 Q Correct. Right?

6 A Dash 8?

7 Q I am sorry, Dash 8, Dash 8, Dash 8, thank  
8 you?

9 A Could you just ask the question again,  
10 please?

11 Q Sure. I think you said that America West  
12 pilots wanted to get length of service longevity  
13 credit for Dash 8 flying and while at the same  
14 excluding US Airways pilots who flew the 170s, which  
15 were bigger and faster pieces of equipment?

16 A Yes.

17 Q Okay. But you know that the view of the  
18 America West pilots on that question is not premised  
19 on the size of the jet aircraft at stake, correct?

20 A I don't know what it is premised on  
21 exactly. I know that they left them off the  
22 seniority.

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1 Q Well, you know what it is premised on, you  
2 read our brief in the CEL case, correct?

3 A Yes.

4 Q We never said one word about it being a  
5 small jet, not entitled to honor among this group of  
6 pilots, lawyers and arbitrators, but rather that the  
7 pilots who were at stake, particularly CEL pilots,  
8 were not properly on the US Airways seniority list,

9 correct?

10 A That is your contention.

11 Q That is our contention?

12 A Yes.

13 Q That is my point. My contention, our  
14 contention has nothing to do with the size of the  
15 piece of equipment but whether they are properly on  
16 the seniority list, correct?

17 A Yes.

18 Q Okay. Now, the Dash 8 pilots at America  
19 West, when they were Dash 8 pilots they were  
20 entitled to bid and hold any position on any piece  
21 of equipment at the company, correct?

22 A Yes.

2567

1 Q The CEL pilots, when they were flying the  
2 170s were in fact not entitled to bid and hold  
3 anything other than the 170, correct?

4 A No, when positions become available  
5 someday they would be able to bid up to other  
6 positions.

7 Q That is correct, but they couldn't bid on  
8 a monthly basis a vacancy from their position as a  
9 CEL pilot flying a 170, they couldn't bid to a 737  
10 could they?

11 A They could at some point in time but there  
12 were no vacancies available.

13 Q But I mean they would have to first be  
14 recalled from furlough, then bid, correct?

15 A Correct.

16 Q Okay. A Dash 8 pilot on America West  
17 would not have had to be recalled from anything to

18 bid for 737, correct?

19 A I assume so. I don't --

20 Q Okay. Now, and by the way when I said be  
21 recalled from furlough, those words are in quotes  
22 because it is our view that they are not on

2568

1 furlough.

2 We have run out of exhibit tabs in our  
3 cross-examination exhibits. The last exhibit tab we  
4 have is Exhibit J. This together with three more  
5 pages I am going to pass out we can call Exhibit K  
6 and I will bring some more tabs later.

7 CHAIRMAN NICOLAU: Okay.

8 BY MR. FREUND:

9 Q Do you recognize this as an e-mail that  
10 was sent from Tom Chiodo to Russ Payne as well as, I  
11 guess you, right?

12 A Yes.

13 Q Do you remember receiving this e-mail?

14 A Yes.

15 Q And it contains files that are the  
16 administrative seniority lists of US Airways for a  
17 number of years, correct?

18 A Correct.

19 Q Have you reviewed those administrative  
20 seniority lists?

21 A Somewhat.

22 Q So I am going to show you, I am just going

2569

1 to represent to you that these are what they purport  
2 to be. You can go back and check the digital files

3 if you would like at some point. But I am going to  
4 pass out the last page of the January 2005,  
5 January 2006 and January 2007 administrative  
6 seniority lists from US Airways. There are three of  
7 those '05, three of '06.

8 MR. BRUCIA: Are these organized under K?

9 BY MR. FREUND:

10 Q Yes. And there is '07 for you.

11 A Thank you.

12 Q Now, it is correct, is it not, that Mr.  
13 What is his name, Derek Allen, CEL pilot who sent  
14 the materials that you have described to us, would  
15 be on your, he is on your certified seniority list  
16 below Mr. Aguilar, correct?

17 A That is correct.

18 Q Yet there is no pilot on any of these  
19 seniority lists below Mr. Aguilar, correct?

20 A That is correct.

21 Q And Mr. Aguilar was the last US Airways  
22 pilot who was not in the 190 operation, correct?

2570

1 A That is correct.

2 Q So on the administrative seniority lists,  
3 including through January 2007, US Airways has not  
4 included any of the CEL pilots on the administrative  
5 seniority list, correct?

6 A That is correct on these lists.

7 Q We have the electronic files here, we will  
8 tell you that we punched, just to be absolutely  
9 certain, we have punched Derek Allen's name into the  
10 list to search for it and he doesn't come up. If  
11 you would like to do that which are happy to have

12 you do it. But are you willing to take our word for  
13 it?

14 A Yes, I am willing to take your word for  
15 that, is what these files contain.

16 We talked about earlier about the January  
17 '05 file and that corrections were made to it. I  
18 don't know why the corrections weren't carried over  
19 to '06 and '07.

20 Q Maybe it is because the company doesn't  
21 actually think they belong on the seniority list?

22 A No, I think that they do and I think they  
2571

1 will.

2 MR. FREUND: That is all I have of this  
3 witness.

4 REDIRECT EXAMINATION

5 BY MR. KATZ:

6 Q Let me show you Exhibit B-1, Phil, that  
7 put in by Bob Kirch.

8 A Yes.

9 Q Jeff was haranguing you on  
10 cross-examination about whether there were 890  
11 captains. What does Exhibit B-1 show? Why don't  
12 you just read off the captain numbers for America  
13 West pilots?

14 A Okay captain numbers are for the 737, 215,  
15 583 --

16 Q What is the 583 for, A320s?

17 A A320s, and 92 for 757s.

18 Q Can you add those up?

19 A I can ask for some help, please.



20 Q It comes out to 890?

21 A Thank you.

22 Q And that includes the management people?

2572

1 A Yes.

2 Q And in order to get to 988, what the  
3 America West pilots have done is add in 19 airplanes  
4 worth of captains, at six captains an aircraft to  
5 some other number from May 19th, 2005, to get to  
6 988?

7 A Okay.

8 CHAIRMAN NICOLAU: How many aircraft did  
9 you say?

10 MR. KATZ: 19, times six captains per  
11 airplane, 114 captains added to the May 19th, 2005  
12 figure, is how they got to 988 in their proposal.

13 MR. FREUND: Actually I can tell you that  
14 all we did was count the number of captain positions  
15 that there were on the September 2005 seniority  
16 list.

17 MR. KATZ: Are you going to be subject to  
18 cross? If you want to come over here and sit here  
19 and let me cross-examine you, you can testify.

20 CHAIRMAN NICOLAU: I understand it was the  
21 September list. That is why we were asking  
22 questions about the May list. Okay.

2573

1 BY MR. KATZ:

2 Q So you trust Bob Kirch's analysis of the  
3 September data?

4 A Yes, they didn't include extra airplanes,  
5 they must have included all the pilots who were on

6 medical and not flying.

7 Q All right. Let's talk about the CEL  
8 pilots for a minute. Was there a problem at some  
9 point with the company's computer file?

10 A Yes, there was, and we had documents that  
11 they corrected that, and put the CEL pilots on the  
12 list.

13 Q And we sent those files to the arbitration  
14 panel in connection with the briefing of the issue?

15 A Yes, we have.

16 Q And apparently Mr. Chiodo didn't get the  
17 news?

18 A Looks like it.

19 Q Do you have any doubt that later this year  
20 or early next year the CEL pilots will receive  
21 recall letters to US Airways?

22 A No, I have no doubt, at the rate that the  
2574

1 recalls are progressing.

2 Q And they are legally entitled to that?

3 A Yes, they are.

4 Q What is Mr. Chiodo's job, do you know?

5 A I am not exactly sure what his job is.

6 Q Is he in resource planning?

7 A I believe he is in resource planning out  
8 in Phoenix.

9 Q And does resource planning administer the  
10 bids for Airbuses and Boeing aircraft?

11 A That's correct.

12 Q Do they have anything to do with the bids  
13 or Embraers?

14 A No, they did not.

15 MR. KATZ: I don't have any further  
16 questions for this witness.

17 MR. FREUND: I don't have anything else.

18 CHAIRMAN NICOLAU: Anything?

19 MR. BRUCIA: Nothing.

20 CHAIRMAN NICOLAU: Thank you, Phil.

21 MR. KATZ: Before we call the next witness  
22 there is an issue that has been bouncing around that

2575

1 I need to raise at this time, and that is the  
2 Eischen award.

3 We talked about it at the end of our  
4 hearings in December. We got an e-mail from Jeff  
5 indicating they don't agree with our proposed  
6 condition on the treatment of the Eischen award.

7 And I have the same documents that I  
8 brought in December which are an excerpt from the  
9 transition agreement, talking about the  
10 admissibility or non-admissibility of evidence about  
11 how flying was conducted during the transition  
12 period. And I have an excerpt from the submission  
13 agreement to Mr. Eischen, and I have some copies of  
14 the full decision, and I think I would like to make  
15 a few comments about the issue.

16 CHAIRMAN NICOLAU: Well, the board has  
17 already discussed it and come to an agreement on  
18 what to do about it.

19 MR. KATZ: Well, let me just point out,  
20 because I haven't had an opportunity really to  
21 respond formally to Jeff's position, that I think  
22 the Eischen award is something that you should take

2576

1 into consideration, and that it doesn't make sense  
2 to do as the America West merger committee is  
3 proposing, and just append the Eischen award and say  
4 if you have got problems about Embraer 190 flying go  
5 talk to Mr. Eischen. I think that would set up a  
6 complicated situation where you could have a  
7 question about whether a dispute arises under the  
8 Eischen award or the award that this panel is going  
9 to create, and you would need to have a traffic cop  
10 to say which way the disputes go.

11 It seems to me that what the retention of  
12 jurisdiction in Mr. Eischen's award was about, was  
13 that his function was to determine ALPA's position  
14 in dealing with management on how to allocate the  
15 Embraer 190 flying, since it was coming in during  
16 this transition period.

17 And that his retention of jurisdiction was  
18 aimed at resolving any disputes that might arise  
19 after he had created his award, if there were  
20 discussions between ALPA and the company about what  
21 should happen next.

22 But, the company accepted ALPA's position

2577

1 and implemented it, and so there wasn't really any  
2 need to go back to Mr. Eischen during that process.  
3 But I don't think that he ever intended that he was  
4 going to be involved in interpreting events post  
5 integration of the seniority lists, and applying his  
6 award to disputes that might arise after this panel  
7 had completed its work, issued a decision, there was

8 a merged contract, the FAA had merged the  
9 certificates and we were in a merged operation.

10 I think that the only way to understand  
11 the Eischen award is to see the whole decision. In  
12 order to figure out what his award means, you have  
13 to understand what he thought the issue was in front  
14 of him.

15 CHAIRMAN NICOLAU: Any comment,  
16 Mr. Freund?

17 MR. FREUND: No, I mean I made my  
18 observations.

19 CHAIRMAN NICOLAU: The Board will consider  
20 what you say and this afternoon give you our  
21 decision on this matter.

22 MR. KATZ: Okay.

2578

1 MR. FREUND: I guess maybe I would add one  
2 point. I thought you were going to rule right now.  
3 So, Mr. Eischen was supposed to determine what  
4 ALPA's position was on 190 flying vis-a-vis the  
5 company. This integrated list, including the  
6 division of 190 flying is going to be ALPA's  
7 position in not just the 190 issue but in all the  
8 issues. So I don't think anything Dan says changes  
9 in any way what I said.

10 CHAIRMAN NICOLAU: Okay, thank you.

11 Your next witness?

12 MR. KATZ: This is our last witness,  
13 Mr. Nicolau, and he is going to present not only a  
14 handful of exhibits that get added to this volume H  
15 but the computer printout from the software that you  
16 saw when Rikk Salamat testified in December, but we

17 have a separate volume for the computer printouts.

18 I call Bob Kirch to the stand and we can  
19 distribute all of these exhibits at this time.

20 These are the materials for the Volume H. And  
21 Volume I has the computer materials.

22 CHAIRMAN NICOLAU: When you are ready.

2579

1 Whereupon,

2 ROBERT KIRCH

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

5 DIRECT EXAMINATION

6 BY MR. KATZ:

7 Q Okay. I think we have Exhibit 15 as your  
8 first exhibit in Volume H, Captain Kirch. Can you  
9 tell us what the subject of Exhibit 15 is, please?

10 A This is just an e-mail we got from  
11 Charmane Daugherty, who works in the office of the  
12 vice president of flying, but she is the one that  
13 oversees all the recalls, and she just gave us an  
14 update with what is happening on the recalls and  
15 where we stand on that. And from there question are  
16 going to take this into the latest seniority list we  
17 have and show where we are on the recalls.

18 Q What is the status of the recalls now?

19 A For the moment they have got, I believe it  
20 said 10 more pilots for a February 19 class to fill,  
21 and that is related to previous bids. In a moment  
22 we will look at a bid that just came out which

2580

1 announced an additional what was it, 160, I think.

2 Q Yes, right behind the blue divider is the  
3 first page, the bid, 160 furloughed pilots being  
4 recalled.

5 A Right, 160 pilots being recalled, and she  
6 is noting here that they have already sent out 500  
7 letters offering recalls. The reason for 500, as we  
8 have talked about before, is that we are getting  
9 about one in three actually taking a recall, and of  
10 course that is probably even minimal, because the  
11 last thing the company wants to do is send out a  
12 recall letter to somebody and say oh, never mind.

13 So they try, and if anything to understate  
14 it, but they are confident they need to send 500  
15 letters out to get 160 pilots. And if past history  
16 means anything they will probably be sending out  
17 more letters to fill it.

18 Q In the first page of bid 07-01 is behind  
19 the blue divider in Tab 15?

20 A That is correct, this bid covers this.  
21 This bid will be effective May 1st, and includes the  
22 recall of 160 pilots.

2581

1 Q Okay. And in Tab 16, you have some  
2 summary information about the US Airways positions  
3 in a format that we have seen in your Volume B  
4 exhibits?

5 A This is a cover sheet. Again, just to  
6 save everybody the arithmetic of going through and  
7 figuring out how many jobs there are in the attached  
8 list, it follows right behind this. And again this  
9 is to address the whole issue of furlougees, the  
10 America West pilots who feel furlougees should be

11 treated as second class citizens and disregarded.

12 As you will see here the recalls are going  
13 at an extremely rapid pace down the list. When I  
14 was -- when I testified previously we gave some  
15 projections as to what it looked like, the recall  
16 rate, how fast we would get down the list on the  
17 first pass. And it looks like we are probably even  
18 exceeding that, as tremendous as that looked like.

19 So we wanted to go through that, and show  
20 that it is really true and this is really happening.

21 CHAIRMAN NICOLAU: Captain, what was the  
22 figure of those on furlough as of May 19th, 2005.

2582

1 THE WITNESS: I would have to look back,  
2 it is 17 something, and --

3 CHAIRMAN NICOLAU: I was just asking  
4 someone to look back and give me that figure.

5 MR. KATZ: Here is Volume B, do you want  
6 to take a look at it.

7 THE WITNESS: Yes, that would be for  
8 May 19th we had -- well, we had 1472 on furlough,  
9 but then we also had 300, looks like if I am doing  
10 my math right, 17 -- no, yes, 317 pilots in the  
11 Midatlantic division at that time, which of course  
12 doesn't exist now.

13 CHAIRMAN NICOLAU: So what is the figure  
14 again?

15 THE WITNESS: Well, it will be 1472,  
16 depending on how you want to count the Midatlantic  
17 pilots.

18 CHAIRMAN NICOLAU: What was that figure?



19 THE WITNESS: Their number was 317 on  
20 May 19th.

21 CHAIRMAN NICOLAU: And I take it that on  
22 this exhibit you are proffering here, that 1651

2583

1 includes the 317.

2 THE WITNESS: Yes.

3 CHAIRMAN NICOLAU: Okay.

4 THE WITNESS: Yes, they were furloughed  
5 when Midatlantic shut down.

6 BY MR. KATZ:

7 Q Take a look behind the blue divider at the  
8 actual seniority list as of February 1, 2007,  
9 please. And what is there of significance in this  
10 actual US Airways pilot seniority list?

11 A Looking down the list, first we have added  
12 yet a third column of seniority numbers, but that  
13 is, we re-number the list of January 1st. So we give  
14 you all the numbers. So, if any of these lists you  
15 are trying to trace pilots from one list to another  
16 you have got the common denominator to be able to  
17 find guys through this world of changing numbers.

18 If you flip back to page 19, we are just  
19 going to go down through this list and note a couple  
20 things. Just as we were going back here toward the  
21 furlough guys, if you look on page 19, you will see  
22 a fellow at seniority No. 1116, Chambers, he now is

2584

1 the junior wide body captain, the junior 76  
2 international captain. That is the point in the  
3 list that those jobs have come down to.

4 CHAIRMAN NICOLAU: Am I right in my  
Page 33

5 figures that since May 19 of '05, 138 pilots have  
6 been recalled?

7 THE WITNESS: Sounds about right.

8 CHAIRMAN NICOLAU: Okay.

9 THE WITNESS: Now, if we continue back to,  
10 well, we are just going to note one other thing from  
11 the side of the furloughs. On page 37 you will  
12 notice pilot 2286, Day. Now the significance of  
13 him, if he is the pilot --

14 MR. FREUND: With what was the number, I  
15 am sorry?

16 THE WITNESS: I am sorry 2286, down  
17 number four from the bottom, page 37, he is the  
18 pilot that the America West pilots have put one  
19 number below Dave O'Dell the bottom pilot on their  
20 list. It is just a reference point in our list, and  
21 yet we are talking ballpark, as Jeff likes to say  
22 with chainsaw math, this is, about half our list is

2585

1 below that point.

2 Now, we are going to, if you look down  
3 just a little bit further you will see actually  
4 first officer Day is in a rather large class, on  
5 January 5th 87, we went down to just the youngest  
6 guy in that class, we will pick him up.

7 Spalding at 2301, this is a reference we  
8 will talk about later, but 2301, Spalding, is in  
9 this same -- is in this first class that the America  
10 West pilots put below Dave O'Dell, and we will track  
11 how he is affected later on in the list or later on  
12 in the furloughs.

13 Now, looking ahead a little bit further,  
14 page 53 you will notice a first officer about  
15 midway, a little below the midway of the page is  
16 Patterson, who is the junior pilot on the 190, first  
17 officer 190.

18 MR. FREUND: I am sorry, the number again.

19 THE WITNESS: 3253, just look down the  
20 equipment column, he is the guy with the 190 job  
21 there.

22 MR. FREUND: Okay.

2586

1 THE WITNESS: Now, he has of when this  
2 list was produced he was the junior recall pilot.  
3 As of, well, just prior to when we got this update  
4 from Charmane, going down just a little bit further  
5 3266, Pepper, was the last guy recalled that they  
6 had scheduled a class for in January.

7 BY MR. KATZ:

8 Q That is on Exhibit B-24 in your employment  
9 data book that we show Pepper as having accepted  
10 recall?

11 A Yes. It is a little bit confusing going  
12 through all these names, but just for consistency  
13 with our exhibits, Pepper is here, as of the last  
14 update we had was the last guy recalled. So it had  
15 actually gone a tad below where resource planning  
16 had seen it. Resource planning administers the jobs  
17 but Charmane's office is actually doing the recall,  
18 and they actually produce the company seniority  
19 list; just to keep everything consistent here.

20 Now, if we go down to the page, flip over  
21 to page 54, pilot 3318, you will remember First

22 Officer Hershey, actually I guess he is -- I am not  
2587

1 sure what he is doing right now, but anyway, but  
2 anyway that is the gentleman that you met before.

3 We were actually before we got the update  
4 we were going to tell you he was right in line for  
5 the next recall. As it has turned out the recalls  
6 have already passed him, in that last group that  
7 Charmane talked about a couple guys below him, 3321,  
8 Lengyel, however you say that one, has been offered  
9 the February 5th class.

10 MR. GILLEN: Bob, is there suspense on  
11 when they are supposed to answer? These pilots that  
12 you are referencing, they have been sent a letter  
13 advising, you know, of recall, but when is the  
14 suspense on when they have --

15 THE WITNESS: How long do they have to  
16 reply?

17 MR. GILLEN: Yes.

18 THE WITNESS: It is not a lot of time, but  
19 I am not sure exactly how long the window is.  
20 Obviously the company has got an administrative  
21 thing, they have to move, they can't leave the  
22 offers out here forever, but --

2588

1 MR. GILLEN: I am just curious what he is  
2 going to do, since he came and talked to us.

3 THE WITNESS: Charmane mentioned sending  
4 out 500 letters, so if we look at Lengyel, if we  
5 look 500 letters down, I will save you from doing  
6 the math, flip to page 62, pay lot 3821, Tollefson,

7 will be sent a recall letter, in fact probably has  
8 been sent one already. Now, we had, Tollefson is  
9 873 numbers above Varini, the very bottom guy on the  
10 list.

11 BY MR. KATZ:

12 Q 800 what?

13 A 73, above Varini. Counting every pilot  
14 furloughed or on furlough as of, who had been  
15 furloughed as of May 19th we had 1752. So as you  
16 can see, we have passed the halfway point already  
17 going down this first pass through the list.

18 CHAIRMAN NICOLAU: You mean the letters.

19 THE WITNESS: Well, in terms of who has  
20 been offered recall. Correct.

21 CHAIRMAN NICOLAU: Right.

22 THE WITNESS: And I was looking at he

2589

1 would Varini but that just verifies the numbers that  
2 we just did, so save you the trouble.

3 BY MR. KATZ:

4 Q I think you were going to point out on  
5 page 58 this pilot at No. 3548 Palmese, hired  
6 March 26th, 1990?

7 A Yes, I was. His significance, and we will  
8 see him again in a later exhibit, but if you look  
9 down the length of service numbers you will see,  
10 actually the tenure and the length of service, you  
11 will see where it runs 15 years tenure and all of a  
12 sudden it drops down to six, and you will see about  
13 an eight year gap in the hiring.

14 Palmese is representative of kind of the  
15 last group of people that were hired before we had a

16 gap, and then began hiring in '89 in the last batch  
17 of hiring we did under Steven Wolf, for that last  
18 growth period there.

19 But, he is just a pilot who has a lot of  
20 tenure. Let me back up a bit. Our furlough list  
21 breaks into kind of three groups. You have got one  
22 group that has in the neighborhood of 18 years,

2590

1 16 years, a lot of tenure time and very little  
2 furlough time. If you just look up the list a bit  
3 you will see guys that have 15 years of tenure but  
4 13 years of service time, some very high service  
5 time and relatively little furlough time.

6 Then you will hit a point where the guys  
7 have about 10 years of furlough time but still had a  
8 lot, have been on the seniority list for a long  
9 time, and that is the second group.

10 Then once you get down past that 15 year  
11 point when it drops down to six you get into the  
12 group that has really hasn't been with us on the  
13 list that long and has three or four or less years  
14 of actual service time, just an overall view of the  
15 furlougees since we are talking about them.

16 As you can see we are all the way, we are  
17 now down all the way into the third group in terms  
18 of where recalls are being offered.

19 Q And that is like Tollefson, who still has  
20 2.7 years of service as of May 19, 2005, a lot more  
21 than Dave O'Dell?

22 A Quite a bit more, with Dave's one month.

2591

1 Q Let's look at Exhibit 17, briefly would  
2 you tell us what this is, please?

3 A During our direct case Rikk was  
4 cross-examined quite a bit about the assumptions  
5 that we had built into our model. Well, as it turns  
6 out, though the America West pilots questioned a  
7 number of these assumptions they turned around and  
8 used the same assumptions in their models. And we  
9 thought it would be informative to just go through  
10 some of these points to where essentially the two  
11 groups are in agreement on how these things should  
12 be modeled.

13 First one obviously is that US Air does  
14 survive as a stand alone carrier until the youngest  
15 pilot retires, both models assume the same thing.

16 The second one is that the future fleet is  
17 static beyond whatever starting point, obviously  
18 there is two different starting points, but from the  
19 starting point it is assumed that the fleet stays  
20 static for all analysis into the future.

21 Both sides are assuming that age 60 is  
22 carried forward through the models. As far as

2592

1 determining how pilots will bid, there was a  
2 question about did we consider all the different  
3 reasons pilots bid for this, that or the other  
4 thing. Well, in the end both models award jobs  
5 based on pay. Pilots will be assumed to bid solely  
6 for the best paying job they can get, and that is  
7 again the same in both models.

8 They complained a bit about our pay rates  
9 and how we handled the pay rates. Yet for the

10 forecast period, again looking out into the future,  
11 both models used the higher of the two available pay  
12 rates between the two groups.

13 Q Were you here, Captain Kirch, when Dan  
14 Akins said from the witness stand that the America  
15 West pilots model was not intended to be a realistic  
16 predictor of what any pilot or group of pilots was  
17 going to actually earn?

18 A I read it in the notes. I wasn't here  
19 that day.

20 Q All right.

21 A I remember reading that.

22 Q Is that a common approach to the computer

2593

1 modeling then?

2 A I think it has to be, because the purpose  
3 of the model is to assess, any model in a seniority  
4 integration is to assess how jobs are going to get  
5 allocated going forward, who is going to get what  
6 jobs. So you are really not trying to predict what  
7 any individual pilot is going to make because there  
8 is no way to predict what any individual pilots are  
9 going to bid.

10 So you are really looking at it more in  
11 the aggregate, but really the bottom line is you are  
12 trying to determine how the jobs are going to get  
13 allocated going forward. That is what seniority  
14 does.

15 CHAIRMAN NICOLAU: You mean who is going  
16 to be entitled?

17 THE WITNESS: Right, exactly.



18 BY MR. KATZ:

19 Q So our model is an attempt to measure the  
20 fairness of allocating jobs in various fashions, of  
21 seniority integration methodology?

22 A Exactly.

2594

1 Q Why don't we take note that there are  
2 additional assumptions listed in 17, and flip to 18?

3 A Okay.

4 Q Where we identify a series of errors in  
5 our view in the data and methodology that the  
6 America West merger committee proposal was based on?

7 A That is correct. Then we compiled our  
8 view of where we think there are flaws in the  
9 America West methodology for those points.

10 Q And these have been covered and will be  
11 further covered in briefs, but we thought it would  
12 be helpful to the panel to include this list.

13 Exhibit 19, Captain Kirck, is America West  
14 exhibit No. 29, at least the first page is, which we  
15 have some handwritten marks on. Would you explain  
16 what that is for?

17 A Yes, it basically looks like we are in  
18 agreement as far as the ranking of jobs and we just  
19 drew a line across there indicating where the wide  
20 body, the top two categories of the wide body  
21 international captain jobs.

22 Q Okay. Then the page behind that?

2595

1 A The circles just indicate that the America  
2 West pilots make no differentiation between the  
3 jobs; the captain job is just a captain job, and

4 they just integrate them together.

5 Q We think that is an analytical error?

6 A Yes.

7 Q The wide body international captains are  
8 not the same as other captains?

9 A Yes. Clearly all pilots look at those  
10 jobs at different values.

11 Q Those are the premium jobs?

12 A Yes.

13 Q Speaking of premium jobs, in Exhibit 20  
14 you have responded to some arguments from the other  
15 side that premium captain jobs at US Airways  
16 fluctuate with the seasons?

17 A That is correct. You know, there was an  
18 accusation that there is huge seasonal fluctuation  
19 so we did an analysis of this. What this is, is  
20 these are all effective bid dates since May 19th all  
21 the way to the present. Actually we didn't include  
22 the bid we just got, that just came out, but I can

2596

1 give you the numbers, whatever. But basically this  
2 thing doesn't show, you know, any great seasonal  
3 fluctuation.

4 We also included the 757 domestic, so that  
5 you can see that flying isn't just going back and  
6 forth with domestic and international.

7 Q Do these numbers include management and  
8 supervisors?

9 A They do not. These are just the positions  
10 put up for bid for line pilots.

11 Q So we disagree with the America West

12 content ion about seasonal ity?

13 A I do. There are small variations but that  
14 happens all the time in all the jobs and seasonal ity  
15 is not a huge factor here.

16 Q Exhibit 21 starts addressing the age 60  
17 rule which is through 22 and 23 as well. What  
18 comments do you have about Exhibit 21, Captain  
19 Kir ch?

20 A As you indicated the next three exhibits  
21 address age 60. First is the obvious, there is no  
22 guarantee that age 60 will actually change, and it

2597

1 is still the law.

2 Next we look at, well, suppose it does  
3 change? Well, you don't know what changes the  
4 medical testing or cockpit staffing, factors could  
5 happen that might actually increase attrition. We  
6 will talk about that in a second. But there is just  
7 no way to predict these multiple factors, plus how  
8 or when a change might get implemented.

9 Now, if you were to, if the panel were to  
10 assume that age 60 was going to change and in some  
11 way shift seniority lists as a result towards the  
12 America West pilots, and then the law didn't change,  
13 then the US Airways pilots would be clearly wronged  
14 and it couldn't be fixed, because once the list is  
15 set it is set, we can't redo the list based on  
16 something that changes down the road.

17 Q All right. The second page is headed What  
18 Would Happen If Age 60 Rule Changes to 65? And what  
19 are your thoughts about that?

20 A Well, first of all look at pre-age 60

21 attrition. Well, a good part of our attrition had  
22 nothing to do with age 60 in the first place, so it  
2598

1 is not going to be affected. And you might actually  
2 have pre-age 60 attrition increase, because if the  
3 rule change is accompanied by stricter medical  
4 requirements that may end up picking off pilots  
5 under age 60.

6 Some number of pilots would continue to  
7 work past age sixty, but mortality rates, since  
8 mortality and medical is heavily age-correlated you  
9 are going to have a higher attrition rate for pilots  
10 over age 60 than we currently experience.

11 You have got another factor that actually  
12 our company is particularly concerned with is the  
13 crew pairing issue, because I guess it is assumed  
14 that if they allow pilots to fly over age 60 they  
15 won't allow both pilots to be over age 60. And this  
16 will be an issue, a serious issue to the company on  
17 the smaller fleets or particularly the  
18 international, and especially the 330 where a lot of  
19 the company pilots are almost 60.

20 So you will be constantly running into a  
21 situation of staffing issues of who is going to get  
22 to fly and who isn't and, you know, it is going to  
2599

1 have an impact on how they staff the airline.

2 Q And then the last page of Exhibit 21?

3 A All right, here is, we talked about what  
4 would not happen if the age changed. First of all  
5 attrition is never going to go away, it is never

6 going to stop. Every pilot will eventually retire,  
7 resign or die.

8 All pilots will not continue to age 65.  
9 Obviously personal issues, well, of course guys that  
10 were going out on medical won't have the choice.  
11 Pilots will, just like they do in everything else,  
12 will bid for personal reasons. Somebody, or will  
13 make a retirement decision based on personal  
14 reasons.

15 A pilot may say well, you know, the  
16 mortgage is paid off, in two years or maybe in three  
17 years the kids are out of school, or maybe in a  
18 year, and well, I will work that long and then I  
19 will stop. But certainly everybody isn't going to  
20 come to the same conclusion and fly to 65 just like  
21 everybody doesn't bid for the same job.

22 Attrition again would never go to zero.

2600

1 And any slowing of attrition that might occur would  
2 be considerably less than five years because again  
3 for it to be five years you would have to assume  
4 that every single pilot will work five years longer  
5 than they otherwise would have, and that would be an  
6 extremely unrealistic assumption, especially when  
7 you consider people on medical can't. And then you  
8 have all the matter of personal choices that would  
9 change that number.

10 So the bottom line is that the age 60  
11 thing is quite the quagmire to start with in trying  
12 to gauge any estimate of what its true effect would  
13 be on attrition, because you have got offsetting  
14 issues that can affect it both ways. So to really

15 say what the effects would be, I couldn't begin to  
16 estimate it.

17 Q All right, Exhibit 22, Captain Kirch, is a  
18 recent article from the San Francisco Chronicle  
19 dated January 14, 2007, addressing the age 60 rule  
20 and airline pilots.

21 A Yes, this article just came out Sunday a  
22 week ago. I will just point out a couple things in

2601

1 here. The second to last paragraph on the first  
2 page, it says the FAA is considering changing the  
3 age, talks about the ARC Committee -- well, talks  
4 about the committee that they appointed being split  
5 as to whether to revise or not, that is with regard  
6 to the age 60 rule. That again is the ARC  
7 Committee. The FAA pointed out, healthy older  
8 pilots could have unexpected medical events. That  
9 is in the last paragraph.

10 On the next page, let's look at the 5th  
11 paragraph up from the bottom, beginning "A recent  
12 poll," talks about the association; in a recent  
13 poll, how 56 percent of the ALPA pilots were opposed  
14 to change, 56 to 44.

15 Going to the next page, the third  
16 paragraph down beginning with "The Allied Pilots  
17 Association," the Allied pilots support age 60. And  
18 then they mentioned in the next paragraph after  
19 that, "We view it as a safety regulation, we think  
20 it is highly effective."

21 Dropping down to the third paragraph from  
22 the bottom, it says, "If the FAA is not instructed

2602

1 by Congress to change the rule the agency itself  
2 will decide what to do or not do. A decision will  
3 not come for some months following a period of  
4 public comment, according to an FAA spokesman."

5 Q And in tab 23 we have an excerpt from the  
6 ARC report?

7 A That is the cover, of it, and then we just  
8 skip down to the executive summary, it talks about  
9 how two working groups were formed, one to look at  
10 the reasons for changing it, one to look at for the  
11 reasons not to change it.

12 Then I think we can skip ahead to, well  
13 actually we can skip ahead to a page that has the  
14 number one at the bottom, talks about the makeup of  
15 the committee.

16 Q Right?

17 A And then the next page says the  
18 conclusion. Well, the conclusion of this committee  
19 was the age 60 rule clearly remains contentious  
20 issue.

21 And their recommendation was, after  
22 recognizing the polarized views limiting the Age 60

2603

1 Rule, the ARC's ability to reach a consensus, their  
2 recommendation was merely if the rule changes it  
3 should be prospective.

4 Q Do you agree with the committee that it is  
5 a contentious issue?

6 A To say the least.

7 Q Perhaps we should take a five-minute break  
8 at this point, before we tackle the computer

9 program.

10 CHAIRMAN NICOLAU: Okay.

11 MR. KATZ: Thank you.

12 (11:38 a.m. -- recess -- 11:52 a.m.)

13 BY MR. KATZ:

14 Q Shall we start at the beginning?

15 Exhibit 1, titled "Attrition to July 1, 2007."

16 Would you explain what this document contains.

17 A The next three, the first three kind of  
18 tie together. The proposed list that the America  
19 West pilots put in, the list, the physical piece of  
20 paper list there, is not at all representative of  
21 what the list is going to look like the day it is  
22 implemented.

2604

1 And we have touched on it, that, you know,  
2 they left all the attrition, known attrition in the  
3 list, and when you pull all that out it is going to  
4 change the look of that list a lot.

5 And Exhibit 1 is the list of all the US  
6 Airways pilots who we have identified previously.  
7 And this information, of course, was in our exhibits  
8 through the end of '06, plus the -- and that is all  
9 actual attrition, and then plus the age 60 attrition  
10 through July 1, '07, which is what we look at as the  
11 earliest point that we could integrate the airlines.

12 So, what you have here is a list of all  
13 the US Airways pilots, pages and pages of them, who  
14 will not be around on July 1, '07.

15 Q Now, there is one feature that has been  
16 added to this list, under the LOS column there are



17 these little blocks in groups of five next to  
18 Captain McGlathlin's name, would you explain what  
19 that is, please?

20 A This is just a visual for the length of  
21 the service. Every dot is a year, five dots is five  
22 years obviously. So if you look at the first guy

2605

1 there he is 10, 20, 30, this 39 years of service  
2 which of course matches the number.

3 And this becomes a handy visual, once we  
4 get into merged list, to see just how the  
5 longevities are matching up with how the pilots are  
6 integrated.

7 Q And that calculation is made as in all of  
8 our exhibits as of May 19th, 2005?

9 A That is correct, all tenure numbers and  
10 LOS numbers are May 19th, '05, the announcement of  
11 the merger.

12 Q Okay. There are six pages with US Airways  
13 names in Tab 1, and Tab 2 is the comparable document  
14 for the America West pilots?

15 A That is correct. And it is probably worth  
16 noting, also, the America West pilots you are  
17 talking about at integration date of January 1, '08.  
18 July 1 '07 that we talk about, of course, is  
19 probably the soonest possible you could have an  
20 integration. It will probably slip from that point.

21 If you want to consider January 1, '08  
22 that is probably another 100 pilots out of our list

2606

1 that wouldn't be around at the point the lists are  
2 integrated.

3 Q Out of the US Airways list?

4 A That is correct. That is just the  
5 ballpark number of 200 a year that we are running.

6 Q Explain what Exhibit 3 is?

7 A Now, what we did here simply is crossed  
8 out the people that are exhibit listed in 1 and 2.  
9 The blue ones are U.S. Air pilots crossed out and  
10 the red ones are America West pilots crossed out.

11 Q They are crossed out from the proposed  
12 list of the America West merger committee?

13 A That is correct. You can flip through  
14 there, you know, just take and flip through that  
15 whole list and get a feel for the numbers where they  
16 fall, where they come out of the list, just gives  
17 kind of a nice visual thing of what it is. But if  
18 you, you know, it is particularly evident in the top  
19 of the list, and if you just eyeball down that  
20 looking at the pilots, the color of the pilots that  
21 are still there it is almost all red.

22 Q On the first page there is only four blue  
2607  
1 names; is that right?

2 A Yes. So again we can, you can see the  
3 effect just kind of flipping through it.

4 Q Okay, Exhibit 4, please, this is an  
5 excerpt from exhibit G-11 which is one of our  
6 cross-examination exhibits, it is was a letter from  
7 Jeff Freund to Ron McClinnis -- Rob McClinnis, and why  
8 did we include this page here?

9 A Well, the question comes for the panel  
10 that has, when they deliberate on what to do with

11 this thing, is what do you do with all of this  
12 attrition? How do you construct a list that will  
13 retain some semblance of fairness with the passage  
14 of even a minor amount of time?

15 You are seeing the effect of a very short  
16 period of time, just going from the announcement of  
17 the merger to the implementation of the list, and  
18 you see just how much that attrition changes the  
19 list.

20 And we thought that Jeff and the case he  
21 cited there the Saturn Airways -- I am sorry, Saturn  
22 Airways-Trans International that Dave Heller did,

2608

1 offered a very viable way of addressing the this  
2 situation in a ratioed list, you know, we would say  
3 this is the fault that the America West pilots  
4 should have taken into account. And you can see  
5 what happens when you don't take it into account,  
6 the idea being just simply, just like you would the  
7 other non-flying pilots, you pick a point out into  
8 the future and remove all the pilots who would be  
9 retiring up to that point, integrate the list and  
10 put them back in.

11 Q And then if there is conditions and  
12 restrictions that are necessary to transition to  
13 that point that would not affect these people  
14 because they would be working under conditions and  
15 restrictions?

16 A Exactly.

17 Q Exhibit 5, please.

18 I am sorry, did you have a question?

19 CHAIRMAN NICOLAU: No.

20 BY MR. KATZ:

21 Q Exhibit 5. Tell us about why we put in  
22 United Airlines pay table?

2609

1 A As I mentioned before, the purpose of  
2 these models that look out into the future is to  
3 assess how the merged list is going to allocate  
4 jobs. If the -- well, I won't say the intent. But  
5 if you don't take into account the relative value of  
6 the jobs, in other words their pay difference as the  
7 pilots would look at the value, you will -- you  
8 won't get an accurate -- you will minimize the  
9 effect of the premium jobs.

10 We talked about this before, that you  
11 won't get a true indication of how the list is  
12 affecting the pilots. This is the fault we talked  
13 about with the America West pilots, where they  
14 basically assume all captains are the same.

15 And the way you do that when you plug in  
16 pay rates that are virtually the same between a 76  
17 and a 73, you negate the obvious desirability of the  
18 wide body job, and you won't show in the analysis of  
19 the merged list the effect of allocating those  
20 premium jobs.

21 Now, as I mentioned before when I was  
22 testifying, that what we had put in our model before

2610

1 understated that. We took the America West narrow  
2 body rate that at the time was \$138 an hour and we  
3 mixed it together with our 75 rate, which was I  
4 think 144 something an hour. So you had, I think by

5 more than half, cut the difference between those  
6 jobs, in value. And you know, so we wound up  
7 understating the value of the premium jobs. And of  
8 course the America West pilots took it to the  
9 extreme by virtually eliminating the difference  
10 between or the valuation of the premium jobs.

11 So we said look, why don't we just take a  
12 different airline that has the whole span. The  
13 relative rates, in other words the specific hourly  
14 rate for each job doesn't make any difference,  
15 because when you are looking at these models you are  
16 comparing unmerged to merged. So the rate is also  
17 negated out, you are looking at the difference that  
18 is caused by the integration of the list.

19 So what we did here is we simply took the  
20 United pay rates. United does just like we do, they  
21 pay the 737 and the 319s and 320s the same pay rate.  
22 United has the 757s and 767s and then the 330s are

2611

1 equated with Triple 7s.

2 We did add in the international pay noted  
3 at the bottom as it appears in our contract, and  
4 built this into the model, and ran the model as a  
5 more realistic assessment of the effect of the  
6 premium jobs in the integration.

7 Q So you testified a little while ago that  
8 the purpose of the computer model is to evaluate the  
9 fairness of a proposed seniority integration  
10 methodology; is that correct?

11 A That is correct.

12 Q And so in that effort we have revised the  
13 computer model to use the United pay rates, unmerged

14 and merged, for both pilot groups; is that right?

15 A That is correct.

16 CHAIRMAN NICOLAU: And where is that  
17 document in this.

18 MR. KATZ: That is the remainder of the  
19 book.

20 MR. GILLEN: That is the brick.

21 CHAIRMAN NICOLAU: Okay, well, we will get  
22 there then.

2612

1 MR. BRUCIA: Can I get a clarification  
2 please?

3 MR. KATZ: Sure.

4 MR. BRUCIA: Your note at the bottom has  
5 \$5.33 added to the 75 rate to get the 76  
6 international captain rate, that is in this  
7 tabulated data, that is inclusive of that \$5.33?

8 THE WITNESS: If we can double check that,  
9 I don't believe it is. I think these are exactly  
10 the United pay rates with these added.

11 MR. BRUCIA: So that note means for the  
12 subsequent data we see when you differentiate  
13 between international and a domestic that would be  
14 the differentiation?

15 THE WITNESS: You have got a \$5.33  
16 difference.

17 MR. KATZ: That is exactly right, that is  
18 what was done.

19 This book is from the ALPA web site, the  
20 Exhibit 5 is a repetition of what is on the ALPA web  
21 site for the United Airlines pilot pay, as of that

22 date, for each longevity step shown. Then in the  
2613

1 computer model for the international positions the  
2 computer model has added the international overrides  
3 shown at the bottom of the page.

4 MR. BRUCIA: Thank you.

5 THE WITNESS: The important thing is if  
6 you want a model to produce a good assessment of the  
7 merged list it has to at least reflect the relative  
8 value of the jobs.

9 BY MR. KATZ:

10 Q Exhibit 6 is a two sided exhibit, it is  
11 really two pages, faced together.

12 A The same pattern if we go through a number  
13 of these, if you open it up you will have the  
14 America West proposal on the top and the US Air  
15 proposal on the bottom. And the first one here,  
16 again we have now, as Dan indicated, this doesn't  
17 affect pay rates but the pay rates for the United  
18 rates are built into the model.

19 But this is just talking back the, what  
20 percentage of the pilots will reach the top 10  
21 percent of the list, who gets to be senior. As you  
22 can see premerger both groups, about equal, about

2614

1 60 percent of both pilot groups get to reach the top  
2 10 percent of the list. Obviously it is quite a bit  
3 different for the America West proposal; 28 percent  
4 gain for them, 31 percent loss for us, and the same  
5 numbers for our proposal on the bottom.

6 Q You say the same numbers --

7 A Sorry, I mean the same --

8 CHAIRMAN NICOLAU: This reflects the new  
9 model.

10 THE WITNESS: Yes, of course pay rates  
11 aren't in this exhibit, but the model includes the  
12 pay rates, yes.

13 CHAIRMAN NICOLAU: No, but this exhibit,  
14 you had an exhibit somewhat like this earlier.

15 MR. KATZ: That is correct.

16 CHAIRMAN NICOLAU: Is this the same  
17 exhibit or a different --

18 MR. KATZ: The difference in the exhibit  
19 is that we didn't have the America West pilots  
20 proposal at the time we did the earlier exhibit, so  
21 there is a small variation between the jobs ratio  
22 proposal or jobs ratio integration that we analyzed

2615

1 in December, and the actual proposal that we have  
2 analyze dollars here.

3 CHAIRMAN NICOLAU: All right, now --

4 MR. KATZ: But the data for next exhibit  
5 should be identical to what is in our earlier  
6 analysis for the U.S Air pilots' proposal.

7 CHAIRMAN NICOLAU: But do these  
8 differences reflect the new models that you have  
9 produced here with the United rates.

10 MR. KATZ: Yes, yes. Exhibit 6 doesn't  
11 have anything to do with pay rates. It is not  
12 affected by that. But everything in this book has  
13 the United Airlines pay rates unmerged and merged.  
14 And that is the way we have run the computer model  
15 this time.



16 BY MR. KATZ:

17 Q Exhibit 7 has some detail on the two  
18 proposals in terms of statistical analysis?

19 A Yes, and let me just quickly run down  
20 this. We did, just for the sake of clarity and  
21 understanding, rearrange some of the numbers. The  
22 numbers are the same numbers that have always been

2616

1 in the model, but just to make it a little easier to  
2 understand when you go down this thing.

3 First we look at length of service, you  
4 see the average length of service for the two pilot  
5 groups coming into the merger. And then under the  
6 two proposals we look at how the length of service  
7 difference, in other words this is looking at the  
8 pilot just above you from the other side how  
9 difference, what is the difference in your length of  
10 service, and shows the years gained and lost  
11 measured by a number of, either by an average, a  
12 median, who did the very best and who did the very  
13 worst. So you just kind of get an overall picture  
14 there.

15 Retirement, same kind of picture. You are  
16 looking at, this is basically the data that goes  
17 with the graph we just looked at, who retires in the  
18 top 10 percent unmerged, merged. You subtract the  
19 two and you get the difference, and then it is the  
20 number of pilots who reach the top 10 percent under  
21 each proposal. And then again, looking at  
22 individual percentage changes, two averages and then

2617

1 the best and worst.

2           Looking at the age distribution, of course  
3 this is not affected by any seniority integration.  
4 It is more of a statistical item of the list you are  
5 putting in the model. You have got the averages,  
6 the youngest pilot on each side, then you have  
7 breakdowns of the how many are over 55, over 50 and  
8 of course those are cumulative, so over 50 includes  
9 everybody that is 50 to 55 and 55 to 60.

10           So, when you look at our side, 51 percent  
11 of our pilots are over age 50. And that of course  
12 has an big implication in terms of attrition, but it  
13 also has an implication in terms of the  
14 attrition-based promotional opportunities for the  
15 pilots behind those guys, when you are talking about  
16 half the list disappearing in the foreseeable  
17 future. And then of course you have the same  
18 statistics for our proposal.

19           Q    Okay, and Exhibit 8 is also a lot of  
20 statistics, tell us first before we get into any  
21 individual statistics, why there are three blue  
22 columns on the right and one red column on the left?

2618

1           A    We are responding to quite a bit of  
2 discussion about the furloughs, and their effects.  
3 So we broke them out. And if you look at the red  
4 column and the first blue column, that is the date  
5 that we had before. That is all the America West  
6 pilots and all the US Air pilots.

7           Then we have added two more blue columns  
8 to the right that show the active pilots and the  
9 pilots on furlough at the given point in time that

10 you are looking at.

11 So basically it is a disclosure of  
12 everything. You can, you know, if you get to see  
13 the effect specifically on furlougees separate from  
14 the active pilots or the collective pilot group  
15 either way.

16 Q Any particular comments about the  
17 individual data categories in Exhibit 8?

18 A Let me just briefly again run down the  
19 side. We rearranged these a little bit just again  
20 for clarity. The first number, well, look at the  
21 America West numbers here under their proposal. The  
22 total merged earnings to the airlines 2.7 billion,

2619

1 the numbers are in millions, the surplus earnings,  
2 again which is the number we have talked about  
3 before, that is a gain that didn't come from the  
4 other side.

5 In other words these are furlougees  
6 returning early or it is an America West pilot  
7 achieving a position after our pilots have all  
8 already achieved it. So it is not, it didn't come  
9 at our expense. So when you see they gained \$2  
10 million in earnings, we are separating out, ALPA  
11 merger policy says avoid windfall at the expense of  
12 the other group. So it seems like a logical  
13 analysis to determine what is at the expense of the  
14 other group and what isn't. So clearly surplus  
15 earnings is not at the expense of the other group.

16 And then there is another category there  
17 called cost to employer. Now that is just the  
18 effect of longevity moving through the ranks of the

19 jobs. So it kind of tweaks it both ways, but again  
20 that is a number that is really not germane in the  
21 integration. It is not a number the company is  
22 quibbling about. It is just a fact of life as you

2620

1 move various longevities through the seniority  
2 system.

3           So if you take those two factors out of  
4 the merged list you end up with net merged, and if  
5 you subtract from that what the premerged total  
6 earnings were for the pilot groups, in this case was  
7 2.4 or 2.5 billion for the America West pilots, you  
8 end up with \$251 million worth of earnings that did  
9 come at the expense of the US Airways pilots. And  
10 if you, of course, look over on the other side you  
11 see that there is where the minus is.

12           Looking further over you can see how it  
13 breaks down between the furloughed pilots and the  
14 active pilots, where the loss came from.

15           Q    About 40 percent from the furloughees?

16           A    Right. Now, looking down further, we have  
17 individual earnings, gains and losses. So this is  
18 just looking at what is the average effect on the  
19 pilots, in other words the average America West  
20 pilot gained \$140,000 in their career or median  
21 pilot had \$139,000. The best pilot had 360 -- well,  
22 it would than 370,000, and no pilot loss. And of

2621

1 course you see the individual numbers, how many  
2 pilots gained income, how many had no change, how  
3 many lost income, and then the average and median

4 gains and losses.

5 The average is the 173, the median is  
6 182,000, there side by side, and of course there  
7 were no losses on this one.

8 Now, looking down at this captain  
9 expectancy, the first number is the number of  
10 captains who get their captaincy early. In other  
11 words, under the America West proposal 763 captains  
12 or 763 co-pilots will upgrade to captain early. Now  
13 just doing some quick in your head math, they had  
14 about 1800 pilots, so that is just about all the  
15 co-pilot's will make captain early. Nobody is  
16 delayed.

17 Now, windfall captains is guys that  
18 wouldn't have made captain without the merger. In  
19 other words they were probably older and just didn't  
20 have enough years left to make it, but now due to  
21 the way the seniority integration is put together,  
22 35 guys will now make captain that weren't going to

2622

1 make it before, and nobody who was going to make it,  
2 lost the opportunity to become a captain.

3 The next couple numbers are the average  
4 years early or delayed, and then the total years.  
5 Now, the total years is an aggregate of the average,  
6 plus adding in the years that the windfall guys  
7 gained.

8 So you come out with a -- then if you  
9 subtract what was lost from what was gained you come  
10 out with a net effect of the pilot group. So in  
11 this case we have broken it out also. We have the  
12 WBC captain is the wide body captain, 76

13 international jobs and the 330 jobs, broken out  
14 separately from making captain on the narrow bodies.

15 So you have a total captain years gained  
16 by the America West pilots of 3700 years for narrow  
17 body and 3900 years for wide body. Now of course  
18 wide body they are working on a base of zero, so  
19 that is how many years they would get that they  
20 would not have had, because prior to merger they  
21 didn't have those jobs. Then the average is below  
22 that.

2623

1 Looking across to the right you can see  
2 the effect on the furlough pilots versus the main  
3 line pilots, I shouldn't say main line, the active  
4 pilots. When you look at just the furloughed pilots  
5 you have got 1100 pilots will have their captain  
6 upgrade delayed. 65 will have their wide body  
7 captain delayed. You will 98 that won't make it at  
8 all because of the integration, that were going to  
9 make captain unmerged. Now, because of the way this  
10 list is coming together, won't see captaincy at all  
11 before they retire.

12 You will 487 guys currently on furlough  
13 who will never see a wide body captain job that they  
14 would have seen based on our attrition. Now, that  
15 strikes us as an awful lot to give up for, as you  
16 will see later, a relatively -- well, you know, in  
17 some cases they do benefit from the America West  
18 attrition, in getting to come back a little bit  
19 sooner. But that is a lot to give up for something  
20 that didn't come at the expense of the America West

21 pilots.

22 These captaincies that are given up are

2624

1 going to the America West pilots. So there is a,  
2 you know, that kind of fits into the category of a  
3 windfall gain because it is clearly at the expense  
4 of the other group.

5 Q Captain Kirch, when you look at the other  
6 statistics on the adjusted date of hire list in this  
7 same Exhibit 8, do you see the same kind of drastic  
8 shifts of income in jobs?

9 A It is very small. If you just look at the  
10 yellow lines that is the quick and dirty. If you  
11 look at earnings at the top you are talking, you  
12 know, 1 percent changes. If you look at the captain  
13 years that are moving back and forth, you see some  
14 relatively small numbers. We still end up losing,  
15 even under our own proposal, end up losing wide body  
16 captain years. But you know, eventually we do have,  
17 we are going to be a merged airline and this stuff  
18 is going to get shared. So, again, the numbers are  
19 considerably smaller.

20 Q Let me ask you to flip to Exhibit 9,  
21 please, and this is another form of analysis of the  
22 America West proposal on the top and the US Air

2625

1 pilot proposal on the bottom, analyzing captain  
2 years gained and lost?

3 A That is correct. Each line is a one  
4 percent cut of the list; the horizontal axis is  
5 unmerged seniority percentage. So you notice, of  
6 course, the lines don't start on the left because

7 those guys are already captains. And what you have  
8 is the average gain or loss of the pilots, captain  
9 years of the pilots in that 1 percent cut that were  
10 affected. Like if you look at the very first blue  
11 line there you will see that looks like an average  
12 loss of one year. And it affected two pilots.  
13 There is obviously more than two pilots in a 1  
14 percent cut of our list but only two actually had  
15 loss and the average loss was about one year.

16 Now if you look across there looking at  
17 the whole picture, obviously it is all losses on the  
18 US Air side and all gains on the America West side;  
19 if you look at the bottom on our proposal it is a  
20 mixing go both ways, and much smaller magnitudes.

21 Q So if you look over at say the 83rd or  
22 84th percentile, there are 44 US Air pilots who lost

2626

1 two years, and there are 16, 18 America West pilots  
2 who gained an average of six years?

3 A That is correct.

4 Q Is that how to read it?

5 A That is how you read it.

6 Q What happens on the bottom with the date  
7 of hire proposal?

8 A Well, under our proposal you can see that  
9 the, number one you are talking about magnitudes  
10 that are at the most two years and usually just one  
11 year. And when you consider that we are only, the  
12 models only look at one year intervals, you have got  
13 a bit of rounding on there. So you will have very  
14 small changes by comparison, and they go both ways.



15 Q And there is a lot fewer of them?

16 A Yes.

17 Q Okay, exhibit -- also is this Exhibit  
18 affected by the United pay rate assumption in our  
19 model?

20 A It wouldn't be. There is no dollars in  
21 this. This is just how the jobs get moved around.

22 Q Okay. Exhibit 10, please. This is

2627

1 related to some extent, is it not?

2 A That is correct. What you have here is  
3 again the horizontal axis is unmerged seniority  
4 percentage, where you are on your respective  
5 unmerged list, and on the Y axis going up the left,  
6 is in what year would you have checked out?

7 So the dotted lines are unmerged, and the  
8 solid lines are merged. So what you see in this  
9 case, if you look at the red lines first, you will  
10 see that the dotted lines are -- the dotted line is  
11 considerably above the red line. Now what that  
12 means, of course, that is under the red line the  
13 America West pilots are going to be reaching their  
14 captaincies considerably sooner. Down is good on  
15 this chart. That means an earlier year.

16 And in virtually all cases, well, looks  
17 like there is one point there on the right where the  
18 lines meet each other or cross over. Our pilots are  
19 having their upgrades delayed by the America West  
20 proposal.

21 If you look down on the lower chart you  
22 can see that they -- well, the dotted lines and the

2628

1 solid lines are on top of each other for a good  
2 portion of it, and that of course, a lot of that is  
3 driven by the bidding restrictions that our intent  
4 was that the America West pilots be protected during  
5 that time period, and the chart bears out the  
6 results that they actually are, or that the model  
7 actually shows that it happens.

8 Then you see some small deviations between  
9 the dotted lines and the blue lines, going off to the  
10 right, which is a pretty good indication that the  
11 bidding restrictions were in for the right length of  
12 time. Once the bidding restrictions have come off  
13 the captain upgrades are being allocated at a  
14 reasonable interval, guys are making their upgrades  
15 about when they would have unmerged.

16 Q And do those show that sometimes there is  
17 a slight variance in favor of the red line and  
18 sometimes in favor of the blue line?

19 A That is correct. Kind of as we saw on the  
20 last chart.

21 Q Exhibit 11, is a refinement of that  
22 analysis to the premium captain positions, isn't it?

2629

1 A That is correct, it is the exact same  
2 thing, looking at the wide body captains.

3 Q Again there is no dollars involved in  
4 this?

5 A No. This is just how the jobs are moving  
6 back and forth, who is going to get them. And  
7 really it is looking at the change, what the list is  
8 going to do.

9                   Let me point out one thing just as an  
10 aside here. When you look at the two charts  
11 together sometimes you will see cases where a pilot  
12 may lose on the narrow body but then gain it on the  
13 wide body, or you may see cases where they lose in  
14 both cases, or they gain in both cases. Sometimes  
15 it is interesting to look at the two together.

16           Q    Okay. And the gains in wide body captain  
17 are all on the red bars for both charts?

18           A    That is correct, all we do is lose and the  
19 America West pilots of course are gaining something  
20 they never had an expectation to have.

21           Q    But the loss of premium jobs is reduced in  
22 the date of hire proposal?

2630

1           A    Considerably.

2           Q    Of US Air pilots?

3           A    That is right.

4           Q    Exhibit 12 it does have dollars involved  
5 in it. This is the pay differential, would you  
6 remind us how this chart is set up?

7           A    This is exactly the same analysis pool  
8 that we showed before, that except of course it is  
9 applying to the actual America West proposal. And  
10 there is a dot there for every pilot, and it shows  
11 the career earnings, gains or losses, across the  
12 spectrum of seniority that is on the X axis.

13           Q    In the bottom part of the exhibit it  
14 appears to be fewer dots. Is that because some of  
15 them are on the horizontal axis?

16           A    Exactly. They are all plastered on top of  
17 each other on the zero.

18 Q Meaning that the pay is allocated the same  
19 before and after the merger?

20 A Exactly.

21 Q All right. Exhibit 13, would you explain  
22 that to us, please?

2631

1 A All right, there was a question again,  
2 back looking at the furloughees, that perhaps it was  
3 an unrealistic assumption to assume that every  
4 furlougee would come back, and our model had  
5 originally run that, the America West model runs it  
6 that way.

7 But, we decided to run an analysis, or run  
8 our analysis, assuming one-third of the furloughees  
9 ultimately do not return. And that would seem to be  
10 an extremely conservative look at what is likely to  
11 happen.

12 So again, in an attempt to put in  
13 assumptions that will make the model truly assess  
14 allocation of jobs as it is likely to happen in the  
15 future, we had Rikk run basically a random, Excel's  
16 random process to pick out one-third of the  
17 furloughees as ultimately not coming back at all, so  
18 that is done in the input file. In other words it  
19 affects merged and unmerged, you are just assuming  
20 that whatever effect a third of the pilot  
21 furloughees not returning has -- will be built into  
22 the unmerged and the merged analysis, and will make

2632

1 the comparison. So the remaining exhibits we have  
2 in here have that assumption built in, along with

3 the united pay rates.

4 So if you want to look back and see the  
5 difference in the two, we are going to show the same  
6 spread of charts actually some additional  
7 information, but all the charts that we just looked  
8 at are repeated, so you could look at the  
9 difference. It is not a huge difference. Probably  
10 the biggest factor is that it reduces quite a bit of  
11 the surplus earnings, but that is really not that  
12 germane in the seniority integration anyway.

13 CHAIRMAN NICOLAU: Did you say you have no  
14 following models that have the United pay rates but  
15 do not have the random extract.

16 THE WITNESS: What we just looked at had  
17 just the United pay rates but not -- had every  
18 furlougher returning.

19 CHAIRMAN NICOLAU: Which one? I am sorry.

20 THE WITNESS: The exhibits that we just  
21 looked at are generated that way.

22 CHAIRMAN NICOLAU: All right.

2633

1 THE WITNESS: Now, we are hitting a point  
2 in the book here where we are adding this additional  
3 assumption, and everything after this point has that  
4 assumption built in along with the United pay rate.

5 MR. GILLEN: There is just a little bit of  
6 confusion because when we started out with some of  
7 your initial exhibits, there were some that you  
8 mentioned that weren't any dollar figures involved,  
9 and so this was pure, not involving United rates.  
10 And I think that is probably causing a little bit of  
11 the confusion. So maybe if you can highlight you

12 know which ones did or did not.

13 THE WITNESS: Well, when we said that  
14 something was not affected by the United pay, the  
15 model includes the United pay rates in everything in  
16 this book, but if you are looking at the an analysis  
17 that doesn't have a pay number in it, in other words  
18 it is just who got which job. In other words how  
19 many, you know -- when did a guy get his captain  
20 upgrade, there is no dollar factor in that. That is  
21 just when did the a bid award happen.

22 So if you are looking at an exhibit that

2634

1 is not analyzing dollars then what dollar pay rate  
2 you put in the model doesn't affect that analysis  
3 tool. And that could be germane depending on what  
4 the panel might think in terms of what is a valid  
5 dollar you want to put in.

6 Any of those things that as Dan was  
7 pointing out, any of those exhibits that don't have  
8 dollars in it, it doesn't matter. They are not  
9 affected by what dollar assumption is built in the  
10 model. It is just seniority allocating jobs.

11 BY MR. KATZ:

12 Q But this Exhibit 13 marks the place in the  
13 book where an additional modification of the  
14 assumptions occurs, and the exhibits that follow 13  
15 utilize the assumptions that these people listed on  
16 Exhibit 13 would not accept recall?

17 A Yes, these are the ones that the random  
18 process identified, so it is just so that there is  
19 no question of what was done, who was removed, here

20 is a list of the ones that the random process  
21 selected.

22 Q And in Exhibit 14 we have tried to set out  
2635

1 the various assumptions underlying the way the model  
2 works?

3 A That is correct. Well, I don't really  
4 need to go through it, but we have talked about all  
5 of these points. But this just making it clear  
6 everything that is built into the model. And of  
7 course these are all variables that the model can  
8 deal with putting whatever you want in.

9 Q Exhibit 15, please?

10 MR. BRUCIA: Just a point of  
11 clarification, Mr. Katz. Everything we are going to  
12 see from this point on is involving the randomized  
13 non-returning furloughs.

14 THE WITNESS: One-third of the furloughs  
15 removed.

16 MR. BRUCIA: All the way to 32. From  
17 Exhibit 14 on to the end of the book?

18 THE WITNESS: Exactly.

19 MR. KATZ: It should also say at the top  
20 of the exhibit, one third furlough bypass is the  
21 code for the fact that that analysis includes that  
22 assumption.

2636

1 CHAIRMAN NICOLAU: Okay.

2 BY MR. KATZ:

3 Q Exhibit 15, please. This is showing a  
4 list date of July 1, 2009, Captain Kirch?

5 A This is two years into the integration.

6 This is the point that the 330 protections that the  
7 America West pilots are offering drop out.

8 If you look at this list, again you are  
9 seeing the effect of not taking into account  
10 attrition. You would think that the America West  
11 pilots brought the premium jobs if you looked at  
12 this list. You know, the top of the list is all  
13 America West pilots.

14 And, if you page through here to --

15 Q 14?

16 A -- 14, you will see that pilot we pointed  
17 out, or actually there is 1116 down the list, this  
18 is the wide body captain territory. In other words  
19 1116 on the merged list is where, is how far down,  
20 1116 is the unmerged number. 1116 is how far down  
21 our list 76 international jobs went. That was the  
22 guy I pointed out before.

2637

1 Q D.C. Chambers.

2 A D.C. Chambers, so at the top 1116 is at  
3 least in our bidding what it takes to hold the wide  
4 body captain job.

5 Now, if you look just above that line  
6 there you will see that the blue number, the  
7 premerger number is 528. That means there are 528  
8 guys above that line that are blue, and there are  
9 588 above that line that are former America West.  
10 So you see here very quickly where they actually  
11 outnumber us in that section of the list.

12 Q And those 588 people would be lined up  
13 ready to take the premium flying jobs?



14 A They would, and we will show some more  
15 analysis on that shortly.

16 Q Okay. Do you want to flip to tab 16?

17 A All right the next one, now we have just  
18 bumped it ahead another five years and you see the  
19 effect. Again, it gets worse. The top of the list  
20 keeps getting redder but obviously you would expect  
21 that because the blue guys the ones that are  
22 retiring in greater numbers.

2638

1 And if you flip down again to page 14,  
2 where that wide body captain line is, you have got,  
3 if you look at the two premerger numbers just above  
4 there you have got 350 of US Air pilots and 766  
5 America West pilots.

6 Q Now, you are looking at pilots, pilot at  
7 number 1116, Rosen, who has six red blocks by the  
8 right of his entry, and the pilot adjacent to him  
9 from US Airways, Didero, has 20 blue squares next to  
10 his?

11 A That is right.

12 Q And there are twice as many red numbers as  
13 blue in this portion of the list?

14 A I am not quite sure how you would justify  
15 that.

16 Q All right, Exhibit 17, please.

17 A Now, we just bumped it out another five  
18 years. And as you would expect the America West  
19 pilots have pretty much taken over the seniority  
20 list.

21 Looking again down to that point, you go  
22 pages and pages and pages without seeing any

2639

1 significant number, proportionately at least, number  
2 of America West pilots and --

3 Q You said America West pilots?

4 A I mean US Airways pilots, blue pilots.

5 Q Thank you.

6 A And now you have got 158, looking at page  
7 14 again, you have 158 US Airways pilots in the wide  
8 body captain territory with 958 America West pilots.

9 Q And the junior US Airways pilot in the  
10 premium flying category has nearly 19 years of  
11 service and the red pilots adjacent to him we are  
12 were still on probation at the time the merger was  
13 announced in May 2005?

14 A That is correct.

15 Q Now, if you flip another page after the  
16 wide body international territory, and get to page  
17 16 we still see Dave O'Dell, but now he has moved up  
18 to No. 1272?

19 A Let me get back with you. That's correct.  
20 And then you see the staple point where the rest of  
21 our pilots are put on the list.

22 Q And at that stage there are only 191

2640

1 remaining US Airways pilots who were senior to  
2 O'Dell?

3 A I would say at this point the America West  
4 pilots have pretty much taken over the list.

5 Q Okay. All right, Exhibit 18?

6 A Now, in this one we are looking at the  
7 other way. Here is our proposal and this is to

8 compare to what we just looked at. We are looking  
9 now at the same to 2019.

10 And again you will note we have got a lot  
11 of blue at the top of the list but if you flip down  
12 to page 14, like we have been doing before, you will  
13 see on page 14, you will see that there are 581,  
14 under our proposal there are 581 America West pilots  
15 who are now in wide body captain territory.

16 And we, if you look, you have to look all  
17 the way at the top of the page there to find the  
18 blue guy, there are 535 US Airways pilots in wide  
19 body captain territory, based on our proposal. So  
20 even in our proposal the America West pilots  
21 eventually have the majority of the jobs in this  
22 section of the list.

2641

1 CHAIRMAN NICOLAU: Captain, where are the  
2 adjusted date of hire lists for '09 and '14.

3 THE WITNESS: We didn't prepare, you have  
4 got the list in these other tabs here, that include  
5 other data, but they are the same lists. If you  
6 look back on tab 23 and tab 24.

7 CHAIRMAN NICOLAU: How would you like to  
8 give them to us this way?

9 THE WITNESS: We can do that.

10 CHAIRMAN NICOLAU: Okay, good.

11 THE WITNESS: Sure. A couple points I  
12 would like to make just looking over what we have  
13 just seen. You can see that if attrition is not  
14 about built into the list it will trash any  
15 semblance of fairness very quickly.

16 We are talking about a level of attrition  
Page 75

17 that is virtually unprecedented in merger history,  
18 and it is a result of back in the mid-'80s virtually  
19 all the, or the vast majority of the industry hiring  
20 being done by two airlines, Piedmont and US Air, and  
21 then they went and merged.

22 Now, fast forward and we are here 20 years

2642

1 later and these guys are retiring. So we have got,  
2 you know, as we have put in a number of exhibits, we  
3 have got in excess of 200 pilots a year retiring for  
4 as far out in the future as you could possibly  
5 consider. I mean it goes like at least 15 years  
6 into the future, way beyond any reasonable time  
7 period we would consider in a seniority integration.

8 But, what you see happening here in these  
9 exhibits is that when you put younger pilots ahead  
10 of older pilots they accumulate at the top of the  
11 list, the older pilots disappear, the younger pilots  
12 are still there, and it creates quite a block,  
13 blocking in this case the US Air pilots from getting  
14 to the premium jobs that US Airways brought to the  
15 merger.

16 And, time is the factor that you have to  
17 look at in here. The way the America West pilots  
18 have proposed it, time makes it worse.

19 In other words, blue guys keep dropping  
20 off the list and it keeps getting redder as time  
21 goes on. There is no way you can write bidding  
22 restrictions to fix that, because the problem keeps

2643

1 getting worse.

2 Now, if you contrast that to the US Air  
3 proposal, yes, there is a lot of blue at the top of  
4 it but blue guys are the ones coming off. So over  
5 time the problem fixes itself. It shifts back  
6 towards equity. Well, that is something you can fix  
7 with bidding restrictions. You just put the bidding  
8 restrictions in for a period of time that is  
9 appropriate to reach the equity points, which you  
10 will. Time is now addressing the issue instead of  
11 making it worse. And I think that is a very  
12 critical point that the panel should consider when  
13 you are looking at the list integration.

14 BY MR. KATZ:

15 Q Thank you. Captain Kirch, Exhibit 19,  
16 please.

17 A Okay. 19 is just a graphic that you have  
18 seen before. This time, of course, looking at the  
19 actual America West proposal. This is the shift in  
20 longevity. This is kind of a real world thing that  
21 pilots will always look at. The first thing a guy  
22 does when he gets the merged list is finds his own

2644

1 name and he is going to look above and see what the  
2 date of hire and length of service difference is for  
3 the guy above him.

4 And this gives you a graphic of how, what  
5 the pilot will see when he looks across the merged  
6 list.

7 Q What does he see when he looks at the  
8 America West proposal?

9 A Every single America West pilot is  
10 significantly gaining, and you can see the

11 magnitudes range from anywhere from, looks like  
12 about eight years all the way up to, you really  
13 don't want to look, the single lines that run out or  
14 just odd pilots and you really don't want to focus  
15 on them, but if you look at the end of the red line  
16 is Dave O'Dell obviously, and he is gaining about  
17 18 years.

18 If you look at the US Air proposal at the  
19 bottom, basically it is all just the exceptions, and  
20 of course you would expect that because it is a  
21 length of service integration.

22 Q So the bottom chart is pretty much no

2645

1 differential in length of service?

2 A No, you just have the odd ones. The  
3 Shuttle pilots, Empire pilots, some of the  
4 date-of-hire idiosyncrasies we have in our lists  
5 would create those lines. But again those lines by  
6 and large are single pilots that cause it.

7 Q Exhibit 20 is a match with an exhibit we  
8 had looked at before. And what is the impact of  
9 removing a third of the furloughes on the  
10 assumption that they won't accept recall?

11 A On here it is not a huge difference. You  
12 are basically seeing the same picture, the numbers  
13 are a little bit different. But again, under the  
14 America West proposal, you are seeing a significant  
15 gain in the number of pilots that are going to reach  
16 the top 10 percent of the list and on our proposal  
17 it is pretty much a wash.

18 Q Exhibit 21, please?

19           A     Okay, what I would like to do -- 21 and 22  
20     are paired together. 21 shows the America West  
21     proposal, showing the actual career progression of  
22     each pilot, merged in the white section -- I am

2646

1     sorry, unmerged in the white section; merged in the  
2     yellow section. This shows what their remaining  
3     career will look like, how many years they are going  
4     to spend in each job.

5                 You will see the kind of highlighted in  
6     that dark band there where it just says C and F at  
7     the top that is unmerged, how many years as captain,  
8     would he have had, how many years as co-pilot and  
9     then to the right is the break out of what jobs he  
10    would have held. So basically the right adds up to  
11    what is in that little box that has captain and  
12    co-pilot time.

13            Q     And under the heading NBNF Difference is a  
14    dollar figure that reflects the computers  
15    calculation of the no bump, no flush difference  
16    between the pilots' unmerged and merged careers?

17            A     That is right.

18                 Now, if we skip ahead to page 55, what I'd  
19    like to do is just take two pilots through the  
20    mechanics of this, just so everybody is clear on how  
21    you use this stuff, and then we will pretty much  
22    leave it to the panel to assess it from there.

2647

1                 I am going to look at, you might want to  
2    just mark this, on page 55, US Air pilot 2161.  
3    Mershon, did I say that right? And America West  
4    pilot just below him 2166, Pitts. Now, if we look

5 at the US Air pilot who is right at the top of the  
6 page there we see that he is already a captain  
7 obviously, and he has got 15 years left that will  
8 all be as captain.

9 Then to the right of that you will see the  
10 breakdown of those 15 years, seven will be as a 320  
11 captain, two as a 75, two as a 76, and four as a 330  
12 captain. And then looking over into the yellow, he  
13 is he still has his 15 years as a captain merged,  
14 but he has lost all of his wide body captain time  
15 and he will spend 13 years as a 320 co-pilot and two  
16 years as a 75 co-pilot.

17 MR. GILLEN: Captain.

18 THE WITNESS: I mean captain, excuse me.

19 Thank you.

20 Now, looking at Captain Pitts from America  
21 West, he has got 21 years left which would all be as  
22 a captain of course, unmerged 19 of it, the 320

2648

1 captain, and two as a 75 captain. Merged you will  
2 see he does a bit better where five of those years  
3 move over into 330 and 76 captain.

4 Now, let's flip to tab 22, page 59. You  
5 might want to kind of keep your finger in this spot,  
6 so we are going to page 59 in the next tab, and if  
7 you look down you will see these same two pilots at  
8 2161 and 2166, and what you have in this, the second  
9 analysis that is paired with that first one is the  
10 net result, it is just adding it together. What you  
11 are seeing here is the change.

12 So if you look at Captain Mershon, he is



13 going to lose four years as a 330 captain and two  
14 years as a 76 captain, and if you flip back and look  
15 at the other one you will see that is exactly what  
16 happens. He had four years as a 330 captain and two  
17 years as a 76 captain and that all goes away. And  
18 in its place he will gain six years as a 320  
19 captain.

20 Q The computer has calculated a difference  
21 of \$175,648 --

22 MR. GILLEN: United dollars.

2649

1 THE WITNESS: United dollars, that's  
2 right.

3 BY MR. KATZ:

4 Q They are United dollars, so they are  
5 discounted for present value?

6 A Right, and that is something else, both  
7 sides are using the same discount rates in their  
8 models.

9 And we looked down to Captain Pitts, a few  
10 lines down there. He is showing a gain of two  
11 years, the 330 captain, three years as a 76 captain,  
12 a year as a 75 captain, and that is all in place of  
13 six years as a 320 captain. And if you flip back  
14 you can see how that is a summation of what Exhibit  
15 21 shows.

16 Q Okay, what else?

17 A Now, just since we have picked these two  
18 guys out, we will look at the next two Exhibits, 23  
19 and 24, which will show these same pilots -- we will  
20 take a look at it.

21 Since we looked at them under America West  
Page 81

22 proposal let's look at them under our proposal. You  
2650

1 will find Captain Pitts, under Exhibit 23 on page  
2 110, so we are on page 110 of Exhibit 23, and you  
3 will see that even under our proposal --

4 Q 4393?

5 A Yes, 4393 I am sorry, excuse me. 4393,  
6 about eight up or so from the bottom on page 110,  
7 you will see that even under our proposal he is  
8 still going to wind up gaining wide body captain  
9 years. He is going to have a better career  
10 progression than he would have had unmerged. And if  
11 you will also note, you can take my word for it,  
12 that the unmerged is the same on, he had 21 years,  
13 two of it as a 75 and the unmerged doesn't change,  
14 of course, with the proposal.

15 Q So even on the US Air merger committees  
16 proposal he gains three years of international wide  
17 body captain?

18 A That is right.

19 Q What about the other fellow?

20 A The other fellow, we will find him on page  
21 31. And as you can see his career is unaffected --

22 MR. BRUCIA: His number is?

2651

1 THE WITNESS: Oh, sorry, 1236.

2 MR. BRUCIA: Thank you.

3 THE WITNESS: And you will see he has the  
4 identical career progression, no gain, no loss.

5 Now, we won't do any more of that, chasing  
6 these through here, but what I would like to do is

7 go --

8 BY MR. KATZ:

9 Q Let me just ask you one question.

10 A Oh, I am sorry.

11 Q In terms of page 31, Mershon --

12 A I am sorry, where are you?

13 Q I am in Exhibit 23?

14 A Page 31. Okay.

15 Q And he was hired September 17, 1984?

16 A That is correct.

17 Q And if you go down and flip to the next  
18 page, there is a Chambers here?

19 A 1249.

20 Q At 1249, who was hired a couple days  
21 later, is that the same Chambers who is now holding  
22 a wide body captain bid?

2652

1 A That is correct.

2 Q And he actually shows that on the job  
3 progression list, merged and unmerged, for two years  
4 remaining in his career?

5 A That is right.

6 Q Okay. Did you want to go to Exhibit 24  
7 now?

8 A Actually back to 22 a second. And what I  
9 would like to do here is just page down, it is going  
10 to take a quick overview of the America West  
11 proposal. You can just flip through the pages,  
12 fairly quickly, but keep an eye on the 330 and 76  
13 captain column. You will notice as you go down  
14 there it is all red pluses and blue minuses, as far  
15 as, you know, you can just --

16 CHAIRMAN NICOLAU: Which exhibit are you  
17 on.

18 THE WITNESS: I am sorry on 22. We are on  
19 jobs progression change on the America West  
20 proposal.

21 CHAIRMAN NICOLAU: Right.

22 THE WITNESS: Now if you look at the 330  
2653

1 and the 76 captain column, you will see as you flip  
2 down through these pages that all the red numbers  
3 are positive numbers. In other words, they are  
4 gaining years as wide body captains; and all the  
5 blue numbers that appear in those columns are  
6 negative numbers. And we can just flip fairly  
7 quickly down through here and what I would like to  
8 do is stop you at page 78.

9 MR. GILLEN: Bob, wouldn't by definition  
10 the red numbers all be pluses, in those two  
11 categories?

12 THE WITNESS: No, you could have a case --  
13 oh, a red number, yes.

14 MR. GILLEN: All of the red numbers by  
15 definition would be pluses.

16 THE WITNESS: That is correct, because  
17 they are always working off a base of zero.

18 MR. GILLEN: Right, it is equipment they  
19 didn't have.

20 THE WITNESS: Exactly.

21 Now, on page, looking here at page 78 and  
22 79 you will notice some enormous shifts in dollars.

2654

1 You are hitting a point where America West gains  
2 300,000, US Air losses are bouncing around quite a  
3 bit in here, but you are seeing some significant  
4 gains as you page on down here.

5 As you look at the next page it is the  
6 same thing. And you know, this goes on for page  
7 after page, in terms of the gains the America West  
8 pilots are achieving that are at the expense of US  
9 Airways pilots.

10 Skip ahead now to, let's stop at page 115,  
11 and we find Dave O'Dell there, and this of course is  
12 the staple point in the list. And I mentioned a  
13 pilot Spaulding earlier, he is the very bottom one  
14 on the page there. Now you can see here that he is  
15 losing three years of 330 captain and two years of  
16 76 captain.

17 As it turns out if you were to go back to  
18 Exhibit 22 and actually look at the full progression  
19 would you see that is all he had. He has lost all  
20 of his wide body captain years. And you are talking  
21 pilots here that have in the neighborhood of  
22 18 years of service being placed junior to a pilot

2655

1 with one month of service.

2 One more stop on the way down here. If  
3 you look at page 144 you will find Hershey again at  
4 5197, and he again is losing two years of, he is  
5 losing two years of 76 time and three years of 330  
6 time.

7 BY MR. KATZ:

8 Q Hold it, I am still looking for Hershey.  
9 What page?

10 A I am sorry, page 141.

11 Q What seniority number?

12 A 5197.

13 Q Thank you.

14 A And as you can see, you know, we talked  
15 about him before. He is losing two years of 330  
16 captain time, two years of 76 time. And again, if  
17 you were to go back to the Exhibit 21 and look at  
18 his actual path, you would see that was all the  
19 years he had coming to him as a wide body captain.

20 And you can flip through to the end but  
21 basically the story, that pretty much has told the  
22 story.

2656

1 Q Okay, we have looked at Exhibit 23.

2 A 23 and 24 are again the same pair, full  
3 career progression of each pilot under our proposal,  
4 and then Exhibit 24 is the same seniority list but  
5 showing just the changes.

6 Q All right, Exhibit 25 summarizes some of  
7 the comments that you have made as well as some  
8 others, does it not?

9 A Yes. We are looking here at pilots below  
10 Dave O'Dell and these are the ones that I mentioned  
11 previously, Spaulding, Hershey, Palmese and Vari ni .  
12 Spaulding of course is a current US Airways  
13 co-pilot, he has got 18.4 years, compared to Dave's  
14 0.1, or one month.

15 And if you look across here is the captain  
16 expectation years, which you could go back to that  
17 chart, that shows what year they make it and find

18 them. But he, both under the US Airways proposal  
19 and premerger, he would make captain in 2012. Under  
20 the America West proposal it is pushed off to 2015.

21 Hershey is a similar situation; 13 years  
22 of service, he would get his captain upgrade

2657

1 unmerged at 2015. Our proposal doesn't affect that.  
2 And then it is pushed off to 2017.

3 Palmese, who was kind of the other end of  
4 the recalls, but we have gone beyond that, 2016 our  
5 proposal and premerged, pushed over a year to 2017  
6 under the America West proposal. Even the very  
7 bottom pilot on our list is unaffected by our  
8 proposal but pushed off a year on the America West  
9 proposal.

10 And I skipped over Dave O'Dell. Under our  
11 proposal he would make captain two years sooner,  
12 under the America West proposal he makes captain  
13 seven years sooner. An interesting point here.  
14 Basically, you can't hurt Dave O'Dell. No matter  
15 how you put the list together he is going to gain.  
16 And that is pretty much a function of all the  
17 attrition that is going to be above him on the list.  
18 No matter, in pretty much any conceivable seniority  
19 integration this panel would want to consider.

20 Q Exhibit 26 is the same statistics page  
21 that we saw earlier but done for this exact set of  
22 assumptions.

2658

1 A That is correct, and I don't think we  
2 really, the numbers just reflect the other  
3 assumptions, and are not significantly different.

4 Q Okay. And Exhibit 27 has the same  
5 statistics but they are broken out for active and  
6 furloughed US Airways pilots separately?

7 A Yes, right. The one number that is  
8 probably noticed, noteworthy, when you take out a  
9 third of the furlougees, is that surplus number  
10 basically drops in half. If you look up at the top,  
11 where it says 42 million, that was 80 some million  
12 if you don't, if you leave the furlougees in.

13 But again that is not really, we don't  
14 view that as really germane to the seniority  
15 integration, because it is not something that came  
16 from the other side.

17 Q What the furlougees would lose and result  
18 from gains of the America West pilots is  
19 \$95 million, according to the America West proposal  
20 in Exhibit 27?

21 A That is correct, and you also need to look  
22 down at what happens to their captain jobs.

2659

1 Q What happens to their captain jobs?

2 A You have got for their narrow body captain  
3 jobs you have got a total of, you know, 1364 captain  
4 years delayed in their upgrades, and 1500 plus for  
5 the wide body upgrades are lost, and that again is  
6 directly handed over to the America West pilots.

7 Q And 87 of the furlougees would lose the  
8 ability to get to a captaincy on this --

9 A Yes, they lose it entirely, and 390 would  
10 lose wide body captain entirely.

11 Q And the stats on the bottom page are ones



12 that are similar to what we have showed before?

13 A That is correct.

14 Q Okay, Exhibit 28, Captain Kirch, this is  
15 an important chart, isn't it?

16 A Yes, it is. What this shows, let's start  
17 looking at the left column. Again just like all the  
18 other US Air, for the America West proposal on top,  
19 US Air proposal on the bottom. The first column  
20 just shows the total number of jobs at each side, in  
21 other words in 2006 -- in other words the starting  
22 point, which we look at July 1, '06, so that is the

2660

1 list that we put together, there is 1704 America  
2 West pilots and 3749 US Airways pilots, and that is  
3 active jobs.

4 And then as you look down that column you  
5 just see what attrition is doing to the respective  
6 pilot groups. The first column gives you a look at  
7 the whole pilot group, and of course that column is  
8 really not affected by the seniority integration.  
9 That is just a function of attrition in the list, so  
10 it is the same top and bottom.

11 Now, what gets really interesting in this  
12 thing, let's skip over, you have got the next  
13 columns show wide body captains, narrow body  
14 captains added up, wide body captain of course, is  
15 broken out, you can see the breakout on the right.  
16 But let's look at that wide body captain for a  
17 moment. Under the 330 the America West pilots put a  
18 bidding restriction that would prevent any America  
19 West pilots from bidding those jobs until or for two  
20 years. So if we assume at July 1 '07 integration,

21 the first opportunity for an America West pilot to  
22 bid a 330 captain job would be July 1, '09, and they

2661

1 would end up with 19 of them right off the bat.

2 Now, one year later they are up to 41 and  
3 we are down to 40. In one year they wind up with  
4 more of the jobs we brought than we have.

5 Now, if you look over at the 76 captain,  
6 notice they didn't provide any protection for the 76  
7 captain jobs, they can go for those right away. So  
8 the first integrated bid would be July 1 '07, they  
9 get 29 of the jobs right away. In one year again  
10 they exceed what we have.

11 Q By 2008?

12 A By 2008, they wind up with more of the 76  
13 jobs than we have.

14 Now, keep in mind --

15 Q I'm going to ask, in future years they  
16 continue to get more and more. This never goes back  
17 the other direction, does it?

18 A No, again this makes the point of their  
19 situation, the way they put the list together. If  
20 you don't build attrition into the list, the list  
21 will just keep getting more and more unfair the  
22 further you go out into the future.

2662

1 And you see the effect of the other --  
2 there is no way to fix this situation with bidding  
3 restrictions because it keeps getting worse. All  
4 you wind up doing with bidding restrictions is  
5 creating a pent up demand that as soon as you

6 release it is going to take the jobs. So the longer  
7 you put the bidding restrictions the bigger the pent  
8 up demand that suddenly gets released on the system.

9 Now, another point to consider also is  
10 that both models are allocating the jobs exactly the  
11 same way. The assumptions are the same, the America  
12 West pilots assume pilots are bidding for pay, we  
13 assume pilots are bidding for pay.

14 So, if they were able to do a similar  
15 analysis their jobs are going to, they would show  
16 the exact same thing. If you look over on the 75  
17 captain position the, you will notice by 2000 --  
18 where is it -- 2008, while we brought the lion's  
19 share, we brought considerably more jobs than they  
20 did, by 2008 they have got more than we do. That  
21 took one year.

22 And you see a similar effect if you look

2663

1 at the 320 captain positions. There it takes three  
2 years and then they outnumber us. One other  
3 interesting thing to note, if you look all the way  
4 to the right, the 76 first officer position, in the  
5 year 2014 there are no America West pilots in that  
6 position. Now, what that is saying is they are all  
7 above it. By 2014 every America West pilot, every  
8 America West co-pilot is at least a wide body  
9 captain, I mean excuse me, is a wide body first  
10 officer.

11 Q So on an entitlement analysis, stove pipe  
12 analysis, there is only 27 of them left on the A330  
13 as a co-pilot, everybody else is a captain on it?

14 A Yes. Right, and you see when you look at

15 our proposal, of course, keep in mind we have  
16 bidding restrictions in effect until, not including  
17 2014, and you can see then where you start having  
18 the America West pilots move into the jobs and they  
19 still over time move into them at a pretty good rate  
20 on the wide body captain jobs, and you look at the  
21 76, you know, the first year there are seven, eight,  
22 and again this of course is assuming no growth.

2664

1 They will still move into the jobs anyway.

2 Q Exhibit 29, please? We saw this in the  
3 other series earlier, the wide body international  
4 captain years, gained and lost.

5 A Right.

6 Q Again distributed the same way?

7 A Yes, 29 and 30, and 30 is the narrow body  
8 captains, the same picture.

9 Q 30 would be the same picture as we saw  
10 earlier, their proposal transferring captain years  
11 to themselves and taking them from US Airways  
12 pilots?

13 A Correct.

14 Q Our proposal distributing them evenly?

15 A That is correct.

16 Q Exhibit 31?

17 A 31 is again the charts that show when,  
18 what year pilots will check out, merged and  
19 unmerged, and as you can see, same picture, the  
20 America West pilots gain considerably and we lose  
21 under their proposal, under our proposal it is  
22 pretty much a wash.

2665

1 Q Exhibit 32 is the pay differential where  
2 there is a dot for each pilot?

3 A Same situation again, the assumptions  
4 really don't, that assumption really didn't change  
5 anything here, every single America West pilot gains  
6 and every single US Air pilot loses. Under our  
7 proposal you have got a mix back and forth.

8 MR. KATZ: Okay, thank you Captain Kirch.  
9 That completes our direct examination.

10 CHAIRMAN NICOLAU: Are you ready?

11 MR. FREUND: I actually believe that the  
12 longer the break we take, the shorter my  
13 cross-examination will be.

14 MR. KATZ: We will come back today then.

15 CHAIRMAN NICOLAU: Okay, it is 1:15, what  
16 do you want to do, 3:00?

17 MR. FREUND: Yes, 3:00.

18 CHAIRMAN NICOLAU: 3:00.

19 MR. FREUND: I really don't think I will  
20 have a long cross-examination.

21 CHAIRMAN NICOLAU: All right.

22 MR. FREUND: Make it 3:30.

2666

1 MR. KATZ: All right.

2 CHAIRMAN NICOLAU: Okay.

3 (Whereupon, at 1:10 p.m., the hearing was  
4 recessed, to be reconvened at 3:30 p.m. this same  
5 day.)

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1 AFTERNOON SESSION (3: 35 p. m. )

2 CHAIRMAN NICOLAU: Okay, we are back on  
3 the record.

4 CROSS-EXAMINATION

5 BY MR. FREUND:

6 Q Okay, Bob, so remember you and I had some  
7 rules. I was going to ask questions and you were  
8 going to answer the questions rather than give  
9 speeches. Do you remember those rules?

10 A What is that?

11 Q Do you remember that rule?

12 A Oh, I will --

13 Q You agreed you would do it last time and  
14 you were really good. Remember that you were really  
15 good?

16 A Okay.

17 Q So you are going to do the same thing this  
18 time; okay?

19 A Whatever you would like.

20 Q Okay, that is what I would like.

21 We are going to spend just a very little  
22 time on just a couple of exhibits.

2668

1 You spent a lot of time in your deposition  
2 this morning talking about the, I think you called  
3 them the premium jobs, the wide body international  
4 captain positions, correct?

5 A Yes.

6 Q Let's just take a quick peak so we know  
7 what we are talking about at the first page of  
8 tab 16?

9 MR. BRUCIA: Volume, Jeff?

10 MR. FREUND: Sorry, we are only going to  
11 be looking at H. You can just put it away as far as  
12 I am concerned. I have got no use for it.

13 So the jobs that we are talking about, the  
14 wide body captain positions, just so we can be  
15 clear, are the ones that you have in the box the  
16 B767 captain positions, 95 of them, and the A330  
17 positions, 76 of them.

18 A Right.

19 Q My pathetic math brings that to a total of  
20 171 jobs, correct?

21 A Correct.

22 Q So out of the entire population of pilots

2669

1 and combined universe and out of the entire  
2 population of pieces of equipment in the combined

3 universe, the focus of your presentation was  
4 principally on those 171 jobs, correct?

5 A No, not at all. We talked about, probably  
6 spent more time talking about attrition, the effect  
7 of attrition than we did about jobs.

8 Q Right, but you had a lot of analysis about  
9 extra time in wide body positions, delay to getting  
10 to wide body captain positions, fair enough?

11 A Sure, we talked about narrow body captain  
12 positions, we talked about furloughs, we talked  
13 about all kinds of stuff.

14 Q Okay. I am going to come back to that in  
15 a minute but now if you will just flip over to 17.

16 I think it is important that we go through  
17 17 with some care so that the panel can clearly  
18 understand the difference in the modeling  
19 methodology. So, the title of your Exhibit 17 is  
20 Assumptions in the US Airways Merger Committee's  
21 Computer Model to Which the America West Merger  
22 Committee Objected on Cross-Examination But Has Now

2670

1 Agreed. So, I am not sure what you mean by "but has  
2 now agreed"?

3 A That after many questions relating to the  
4 assumptions the America West model turned out to do  
5 it the same way we did.

6 Q Oh, I don't think that is right at all.  
7 Let's go through them.

8 A Okay.

9 Q Let's take the first one. US Airways  
10 would have survived as a stand alone carrier through



11 the retirement of the youngest pilot on the US  
12 Airways seniority list, and you say that the  
13 assumption, that is the assumption on which the east  
14 modeling is based, correct?

15 A Both models assume that.

16 Q But I am only asking about the east, so  
17 remember my --

18 A The east model assumes that we are -- well  
19 obviously that all the pilots that are here are  
20 still employed by the airline until they hit age 60  
21 or leave the list for other reasons.

22 Q Let's do this the way we have done it

2671

1 successfully in the past. I am going to ask you a  
2 question, you are going to listen to the question  
3 and you are going to answer the question.

4 The US Airways, east modeling assumption  
5 is based on the proposition that US Airways would  
6 have survived as a stand alone carrier, correct?

7 A The model assumes that every pilot  
8 currently on the list that we start with stays on  
9 the list until they retire.

10 CHAIRMAN NICOLAU: But flying for US  
11 Airways.

12 THE WITNESS: Yes, correct.

13 BY MR. FREUND:

14 Q But I want to go back and let's just read  
15 the words on the assumptions. The assumption is US  
16 Airways would have survived. I am focusing on that,  
17 US Airways would have survived as a stand alone  
18 carrier through the retirement of the youngest pilot  
19 on US Airways seniority list. I am not talking, and

20 this assumption isn't talking about the integrated.  
21 I am talking about the stand alone assumption,  
22 correct?

2672

1 A Correct.

2 Q Now, it is correct, isn't it, it is  
3 correct that the west model is based on the same  
4 assumption, correct?

5 A Correct.

6 Q But you understand that in our case we  
7 have put in evidence which the west committee  
8 believes is exactly contra to that assumption,  
9 correct?

10 A We are only stating here what the models  
11 are based on.

12 Q Yes, I understand that, but I just want to  
13 make sure everybody is clear on every piece of this  
14 moving part. And it is correct that the west model  
15 is based on the assumption that U.S. Airways would  
16 have remained as a stand alone carrier, correct?

17 A That is what this says.

18 Q Okay, but it is also correct, is it not,  
19 you have been here for the whole arbitration, it is  
20 also correct, is it not, that the west committee has  
21 introduced evidence which it contends, you may  
22 disagree with it, but which it contends,

2673

1 demonstrates exactly the opposite?

2 A I am aware of that.

3 Q Okay. And if we had, if the west  
4 committee had based a model on that assumption, what

5 would the career earnings of US Airways pilots on a  
6 stand alone basis have been?

7 A The, you would have no stand alone model,  
8 it would assume that we aren't sitting here today.

9 Q It would be zero; correct? Correct?

10 A You would have nothing. You wouldn't have  
11 a model.

12 Q Well, it is not a model, because --

13 A There would be nothing in it.

14 CHAIRMAN NICOLAU: Mr. Freund, number one  
15 is easy.

16 MR. FREUND: I think it is easy. That is  
17 why I am a little troubled by this witness's  
18 answers. I would like to make sure that he is going  
19 to follow the rules and answer the questions.

20 BY MR. FREUND:

21 Q What would the career earnings, in a model  
22 that compared US Airways pilots' career earnings on

2674

1 a stand alone basis, had the airline liquidated as  
2 compared, to the earnings in an integrated list,  
3 what would the stand alone earnings for the stand  
4 alone side of the model have been for the US Airways  
5 pilots' earnings.

6 A I presume what you are saying is if you  
7 plugged in airline that didn't exist you wouldn't  
8 have airline, you would have nothing in the model to  
9 run.

10 Q You would have zero?

11 A You would have no pilots.

12 Q The career earnings would be zero?

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

14 CHAIRMAN NICOLAU: You know, he is going  
15 to try and answer No. 2 more directly.

16 BY MR. FREUND: Okay.

17 Q The second assumption is that US Airways  
18 and America West fleets, on a stand alone basis, and  
19 the combined fleet on a stand alone and merged  
20 basis, did not change after July 1st, 2006. All  
21 right. Now, I don't think it is enough to say that.  
22 We ought to try to parse what the model is actually  
2675

1 based on.

2 Am I correct that the east model is based  
3 on the US Airways fleet of 224 aircraft?

4 A It is based not specifically on the  
5 aircraft but on the jobs as they existed on July 1,  
6 '06.

7 Q Correct, and that was an airline that was  
8 comprised of 224 aircraft, correct?

9 A Correct.

10 Q And so the jobs that fit into the east  
11 model are whatever the jobs are that are associated  
12 with a fleet of, an east fleet of 224 aircraft. On  
13 the west model is based on the jobs associated with  
14 the west fleet on July 1st, 2006, correct?

15 A In our model, yes.

16 Q In your model, that is all I am looking  
17 for is your model. I will tell you when we come to  
18 our model.

19 A Okay.

20 Q On your model it is based on jobs  
21 associated with the west fleet as of July 1, 2006,

22 and that was 134, jobs associated with 134 aircraft,  
2676

1 correct?

2 A I think so.

3 Q And then your model runs, and it uses  
4 those fleet numbers both for the stand alone  
5 analysis and the integrated analysis, correct?

6 A Correct.

7 Q So when calculating the stand alone  
8 earnings for US Airways pilots and stand alone  
9 earnings for America West pilots it uses those fleet  
10 numbers, or the jobs associated with those numbers?

11 A The job numbers, yes.

12 Q In contrast, you understand that the west  
13 assumptions are different in that respect, correct?

14 A The --

15 Q The west model, I should say?

16 A As of -- say it again.

17 Q You understand that the jobs, or more  
18 particularly that the fleet which produced jobs was,  
19 there was a different set of assumptions about the  
20 fleet both on stand alone basis and on a merged  
21 basis in the west model than what you just described  
22 to me as the east model, correct?

2677

1 A That is correct.

2 Q You understand that the, in the west model  
3 the east stand alone fleet and jobs associated with  
4 the east stand alone fleet began with 270 aircraft  
5 and associated jobs and reduced to 211 aircraft and  
6 associated jobs, correct?

7 A Correct.

8 Q And that the west stand alone fleet and  
9 associated jobs began with 144 aircraft and  
10 increased to 161 aircraft, correct?

11 A I understand the west model added to those  
12 positions for those numbers.

13 Q Not only added those positions but with  
14 respect to the east stand alone it started with the  
15 aircraft that were on the property on May 19th,  
16 2005, and reduced it -- which was 270, correct?

17 A Correct.

18 Q And reduced it down to 211, correct?

19 A Right, it tracks out the airplanes that  
20 were going to go away that we knew about prior, and  
21 then subtracted all 25 of the airplanes that were  
22 not concurrent with the merger.

2678

1 Q That brings it, the west model down from  
2 270 to 211 on the stand alone basis?

3 A Yes.

4 Q And that on the west stand alone fleet the  
5 144 aircraft that it used to begin here, were the  
6 aircraft on the property in May 19, 2005, correct?

7 A Yes.

8 Q And then increased it to the 161 aircraft  
9 number that we have spent a lot of time talking  
10 about?

11 A Yes.

12 Q That was the stand alone.

13 And then you also understand, do you not,  
14 that on the integrated fleet or the integrated set  
15 of assumptions, our model utilized a fleet that

16 began at 270, or at least on the east side a fleet  
17 that began at 270 aircraft, ratcheted down to 224  
18 aircraft and then ratcheted back up to 236 aircraft  
19 and remained steady thereafter?

20 A You said 270 down to --

21 Q 270 down to 224 and back up to 236, with  
22 the addition of the three additional 757s and the

2679

1 addition of the Embraer 190s?

2 A Oh, you are adding the 190s. I would have  
3 to double check the numbers but you added I think  
4 what, a dozen 190s maybe --

5 Q A dozen 190s and the three 757's.

6 A Okay, and did you subtract out the three  
7 75s that were leaving or you left them in?

8 Q We cancelled them out, went down to 121  
9 then back up to 124 -- 221 --

10 A You have got me confused.

11 Q 221?

12 A Okay.

13 Q 270 to 221 to --

14 A You went to 211, right, not 221.

15 Q 270, this is on the merged scenario, not  
16 the stand alone.

17 A Okay.

18 Q The merged, 270 down to 221 but back up to  
19 224 because of the addition of the three new 75s,  
20 and then up to 236 for the EMB 190s?

21 A So you added the three 76s -- or 75s, and  
22 then you did or didn't take them back out?

2680

1 Q Took them out back down again to 221, and  
Page 103

2 we put the three in that took it to 224; then we put  
3 the 12 190s in. Isn't that the way it went, it went  
4 down to --

5 A Something doesn't seem right. I need a  
6 piece of paper to keep score on these things. It  
7 gets confusing, let me just write them down.

8 Q Write them down as we go.

9 A We are talking the US Air view of the  
10 merged fleet, is that what we are talking about.

11 CHAIRMAN NICOLAU: The America West view  
12 of the merged.

13 THE WITNESS: I am sorry, of the merged  
14 scenario. Through the transition period or --

15 BY MR. FREUND:

16 Q Starting on May 19th, 2005?

17 A Okay.

18 Q Started at 270, right?

19 A Right.

20 Q Reduced to 221, and then increased to 224  
21 by reason of the addition of the three 757's, and  
22 then increased to 236 by reason of the EMB 190s?

2681

1 A 36 -- okay.

2 Q I mean --

3 A I am just confused here because I thought  
4 you were going down to 211 somewhere.

5 Q We already went down to 211 when we were  
6 talking about --

7 A And then came back up again on the merged.

8 Q I am going to start again, Bob.

9 A I have got the numbers here, I can follow



10 through. I have lost track of where you were there.  
11 I suppose we can simplify this in what we are saying  
12 from the second point here, is from the point that  
13 you merged, a merged fleet, it was static beyond  
14 that, that is all we are saying.

15 Q I just want to parse this a little more  
16 carefully than you did.

17 A Okay.

18 Q Because there is much more to it than just  
19 from the time it merged, reached a merged fleet and  
20 static thereafter. The US Airways fleet in the  
21 merged, now let's talk about real world for a  
22 moment, all right?

2682

1 A Okay.

2 Q In the real world the US Airways fleet  
3 after, on and after May 19th, 2005, reduced from 270  
4 aircraft down to 221 aircraft?

5 A Yes.

6 Q Then increased to 224 aircraft with the  
7 addition of the three 757's?

8 A Right.

9 Q And then increased to 236 aircraft with  
10 the addition of the 12 EMB 190s, correct?

11 A Okay. So the three 75s that are going  
12 away concurrent with the 12 190s arriving, were not  
13 taken out?

14 Q Let's just --

15 A These are all airplanes moving in this  
16 time in the merged fleet in the real world.

17 Q In the real world. Let's go back to your,  
18 to the assumption you used. You used an assumption

19 of 224 east aircraft, correct?

20 A Well, we just used the jobs as staffed  
21 that fleet --

22 Q The jobs associated with 224 aircraft?

2683

1 A All right.

2 Q And that 224 aircraft includes the three  
3 new 757s, right?

4 A That is correct.

5 Q So all I am saying, all I am asking you is  
6 if you understand that in the west modeling we  
7 started with the 270 aircraft that were, that the  
8 east had on May 19, 2005, we reduced to 221 and then  
9 back up to 224, which is the number that you told me  
10 that the east used, and then added to that the 12  
11 EMB 190s. Do you follow that?

12 A I follow the numbers you are saying and  
13 just so I understand it then, it appeared that you  
14 have added in the three 75s that came.

15 Q Correct?

16 A Then between the end of '05, I am sorry  
17 the end of '06 and through '07 you have 12 190s  
18 coming in and also in '07 you have three 757s  
19 leaving. The three 757s leaving were not figured  
20 in; is that correct?

21 Q When did you get the 224?

22 A 224 was early last year.

2684

1 Q Okay. And to the 224 you added 12 EMB  
2 190s?

3 A We didn't. You did.

4 Q Correct, the east fleet had 12 EMB 190s,  
5 correct?

6 A There were five scheduled, 12 coming in --

7 Q Over a period of time?

8 A Through the end of this year, if it stays  
9 on schedule. That is the plan, I think. I am  
10 taking your number, but I assume you read our  
11 document or the revised fleet plan, that is correct?

12 Q Tell me where this additional 757s were  
13 leaving the fleet?

14 A That was announced quite a while ago. The  
15 three 75s are going away. I believe one has gone  
16 already and two more are going away in March.

17 Q On your assumptions would that move the  
18 number down from 224 to 221?

19 A No, in our assumptions we left -- we  
20 really didn't factor, didn't deal with the 75s, the  
21 three 75s at all. The reasoning behind that was  
22 number one, they only added if I am not mistaken

2685

1 I like four captains for that. It was basically flown  
2 with the existing pilots and then the planes went  
3 away. It didn't affect the staffing much to begin  
4 with, the net was zero, three came, three went.

5 And then in addition to that when you  
6 consider the extraordinarily high 75 staffing rate  
7 on the America West side we figured all that is a  
8 wash, that's close enough, we will go with those  
9 numbers. That is what we did with it in our model.

10 Q So I am just going to ask you again. I  
11 don't very Dan Akins' exhibit here with me, but do  
12 you remember the exhibit that he put into evidence

13 that reflected the fleet and associated jobs used in  
14 the model and it showed going from 270 down to 221  
15 and then up to 224 and then up to 236?

16 A I don't remember the exhibit that well. I  
17 mean we have got the same document all the way  
18 through the end of last year, and I think you had it  
19 only through February last year or something. The  
20 full year one is in evidence already.

21 Q We will get that you exhibit.

22 A Okay.

2686

1 Q I don't want to dwell on it.

2 A You gave them to us before, I think.

3 Q And in addition the west model for the  
4 integrated fleet used jobs associated with a fleet  
5 that reduced over time from 144 aircraft to 133  
6 aircraft, correct?

7 A The west model, I am sorry, I just kind of  
8 spaced that, say it again.

9 Q The west model for the integrated scenario  
10 used a west fleet that began at 144 aircraft and  
11 reduced to 133 aircraft?

12 A For the merged model --

13 Q Yes.

14 A I would have to go back and look. I don't  
15 remember, to be honest. I thought you were adding  
16 planes to 161.

17 Q I know you know the answers to these  
18 questions.

19 MR. KATZ: You know, I don't think Bob was  
20 even here when Dan Akins testified, and it is kind

21 of an awkward way to prove what is in your exhibits,  
22 to have him repeat it. If it is your exhibits why  
2687

1 don't you just put your exhibits out here.

2 BY MR. FREUND:

3 Q Well, you put in an exhibit which  
4 purported to show the assumptions and it seemed to  
5 me that --

6 A Well, the exhibit I put in deals with the  
7 point from each side decided this is what the fleet  
8 should eventually get to, you did your adjustments,  
9 we took ours from a fixed date. From that point  
10 forward both sides did not factor in any growth,  
11 left it static. That is our only point, was the  
12 second point here, has nothing to do with what went  
13 on before that point.

14 Q Well, I am going to show you what page 18  
15 of Exhibit 29 which were the fleet assumptions in  
16 the pilot earnings model?

17 A Okay.

18 Q Take a look at that.

19 A Okay, I see what it says here.

20 Q Okay. So I am going to represent to you  
21 that in fact is what is in the model?

22 A Right.

2688

1 Q And that is not consistent with, that is  
2 different than what is in the east pilots' model,  
3 correct?

4 A Yes.

5 Q Your next assumption was that, it is  
6 actually contained in the same box, do you have your

7 Exhibit 17 in front of you?

8 A Yes.

9 Q The next part of that assumption, putting  
10 aside the numbers of jobs, was that the -- actually  
11 let's skip down to the next one. All pilots retired  
12 at age 60, that is an assumption in your model,  
13 correct?

14 A That is correct.

15 Q And that is an assumption in our model as  
16 well, correct?

17 A That is all it says.

18 Q Just so the panel knows, we will be  
19 producing an age 65 retirement model as well.

20 So, the next assumption in the east model  
21 is that pilots began in the positions they held on  
22 July 1st, 2006, and then bid to the highest paid

2689

1 position that they could hold. And you say in ours  
2 that the pilots began the positions held on  
3 May 19th, 2005, and then always bid to the highest  
4 paid position they could hold.

5 So, I am correct, am I not, that the east  
6 model doesn't take into account any earnings between  
7 May 19th, 2005 and July 1st, 2006?

8 A The analysis depends --

9 Q That is a yes or no.

10 MR. KATZ: Let him think about the  
11 question and what he wants to say in answer to it.

12 BY MR. FREUND:

13 Q And then I will take a yes or a no.

14 A That is fine. No, our model begins, I am

15 just -- I am talking it through so everybody can  
16 understand. Our model begins on July, takes July 1,  
17 '06 jobs, takes its first merged look on July 1 '07.  
18 So the first earnings comparison is July 1 '07, and  
19 it is just a delta. It is a difference between  
20 merged and unmerged starting at that point.

21 Obviously the airlines aren't merged. And  
22 to your question, we didn't consider any earnings

2690

1 what woulda, coulda, mighta been, had whatever  
2 happened during this interim period prior to when  
3 the airlines merged. Our model deals solely with  
4 analyzing the effect of a merged seniority list, not  
5 issues that occur prior to that point.

6 Q Right, so your model doesn't capture,  
7 either on a stand alone basis or on a post merger  
8 basis, any economic consequences to pilots from  
9 May 19, 2005 through actually longer than I thought.  
10 I thought it was only -- I thought it was through  
11 July 1, 2006, but actually it doesn't capture any of  
12 the economic consequences from May 19th, 2005 to  
13 July 1, 2007, correct?

14 A It doesn't look at all at what happens  
15 prior to integration.

16 Q Right, and by that at all that includes  
17 the economic --

18 A Nothing.

19 Q All right. And I guess you weren't here  
20 so maybe you don't know this, but I will ask you if  
21 you know, whether the west model models both on a  
22 stand alone basis and by a merger/later integrated

2691

1 basis, starting in May 2005, through the last pilots  
2 retirement?

3 A I understand there was something called a  
4 transition period, that you did a separate analysis  
5 of what you thought people should have had based on  
6 various assumptions during that time period.

7 Q And not the first time that you all put  
8 the model and the results of the model into  
9 evidence, but in the exhibits that you introduced,  
10 you used rather than either airlines wage rates you  
11 used United wage rates for the model, correct?

12 A That is what we used right now, yes.

13 Q And used the United wage rates for the  
14 stand alone analysis as well as for the merged  
15 analysis, correct?

16 A Yes. That is important. You, if you  
17 don't use the same wage rates between stand alone  
18 and merged what you end up with output in the model  
19 is measuring pay rate differences, in addition  
20 muddled up with the effect of the seniority  
21 integration.

22 Our purpose here is to evaluate how a

2692

1 seniority integration allocates jobs going forward.  
2 Those other issues you can argue about them and do  
3 what you want with them, but if you mix it all  
4 together you can't tell what the list is doing.

5 Q I don't want to argue with you about it.  
6 I simply want to make sure we all understand what  
7 the differences are. The difference in this  
8 particular point is that the east model uses, first



9 of all it doesn't use the actual wage rates for  
10 either America West or US Airways, correct?

11 A That is correct.

12 Q And but rather uses United wage rates,  
13 correct?

14 A Correct, but the one caveat, that you do  
15 have our international overrides playing a factor  
16 with the 75-76.

17 Q So you use the United wage rates with your  
18 international overrides?

19 A Correct.

20 Q And you used those wage rates both on the  
21 stand alone assumption and on the merged assumption?

22 A Yes.

2693

1 Q All right. And you are aware, are you  
2 not, that the west model used actual wage rates for  
3 the two airlines in the stand alone model, correct?

4 A I believe that. You know, like I say I  
5 wasn't here but I think that is what you did. That  
6 is what my understanding what it did.

7 Q And for the merger scenario it used the  
8 actual wage rates from the respective airlines for  
9 the period May 19th, 2005 through December 31st,  
10 2007, correct? That is, America West pilots got the  
11 America West wage rates for that period of time --

12 A Is that the transition --

13 Q Transition period.

14 A Okay, all right.

15 Q And from that date forward, that is  
16 January 1st, 2008 to the last, until the retirement  
17 of the last pilot, the west model utilized the

18 higher of the two wage rates between the two  
19 contracts, correct, higher of the wage rates between  
20 the two contracts?

21 A Right, that is, that combination was what  
22 we were specifically trying to avoid because it

2694

1 really skewed the results of the model, but that is  
2 what you did, I understand.

3 Q We don't think it skewed it, we think it  
4 is a correct model. So we don't need to argue about  
5 that. At the moment I simply want to make sure that  
6 the record is clear, the panel is clear, and we are  
7 all clear, about the differences in the assumptions?

8 A If what you are saying about your proposal  
9 is correct, then I guess that is what you are  
10 proposal is. I haven't studied enough to be able to  
11 give you testimony on your proposal.

12 Q Okay. And the wage rates that you used as  
13 the United wage rates I think are contained in -- I  
14 lied, we do have to look at this book.

15 A They are there.

16 Q They are there. I just want to make sure  
17 that we -- exhibit --

18 A 5, 1-5.

19 Q Right. And just so we are clear, I guess  
20 the exhibit is clear, this is the United pay table  
21 and as you described, you added the international  
22 override to the captain -- for the 767 international

2695

1 captains?

2 A Right, as it says.

3 Q The next assumptions that we talk about is  
4 you say every furloughed US Airways pilot accepted  
5 recall when first offered, and you stated that the  
6 west model did the same, correct?

7 A Correct.

8 Q In point of fact the, to be clear, the  
9 east model included the CEL pilots and treated them  
10 as furloughed pilots with recall rights?

11 A Right.

12 Q And ran them through the model?

13 A That is right.

14 Q And the west model did not run the CEL  
15 pilots through the model, correct?

16 A I mean I am relying on your description of  
17 your proposal to describe your proposal, but, yes.

18 Q I am just -- I am sorry to be asking you  
19 these questions. You put in an exhibit that talked  
20 about the assumptions and so I just need, and you  
21 described our assumptions, so I just need to ask you  
22 whether you understand the assumptions on the

2696

1 exhibit that you put in evidence?

2 A My understanding is that the America West  
3 thing did not address the CEL recall rights or how  
4 that would be dealt with or what would happen.

5 Q Well, it did address them. It didn't run  
6 their earnings either on a stand alone basis or a  
7 merged basis through the model, correct?

8 A My understanding is it didn't address it  
9 at all.

10 Q Well, do you understand that it did not  
11 run those pilots names, histories, status, anything

12 about them through the pay model?

13 A That is my understanding, yes.

14 Q All right. And understanding that had  
15 they been run through -- and you understand also  
16 that the west pay model, like the east pay model,  
17 produces kind of a gross earnings number?

18 A Yes.

19 Q Among other things, and had they, had the  
20 CEL pilots been run through the west model would it  
21 have produced a higher gross earnings number for the  
22 east pilots? I assume you could answer that

2697

1 intuitively?

2 A Well, let me think about it. Yes, if you  
3 are including more pilots, I am just thinking you  
4 have got offsetting, you know, only so many are  
5 working at a given time, so you have got ones coming  
6 off the top as ones are coming in at the bottom. So  
7 to say that the gross earnings would be greater, I  
8 am not sure. You know, you are talking longevity  
9 difference probably --

10 Q But nobody comes off the top because a CEL  
11 pilot comes in through the bottom, that is every  
12 pilot, if the CEL pilots were run through the model  
13 every pilot above the CEL pilots would have run  
14 through their career in exactly the same way and in  
15 addition 106 CEL pilots would have been run through  
16 the model?

17 A If I understand correctly, the America  
18 West model accumulates all the pilots who were on  
19 the list, then you add more and it is, the entire

20 careers, yes, then it would, if I am understanding  
21 that correctly.

22 Q You are. And you said that the east model

2698

1 did not take into account external events such as a  
2 merger with Delta and the consequent effect of that  
3 merger on the seniority list and the earnings  
4 opportunities for pilots, and you said that the  
5 west, your understanding was that the west model  
6 wasn't saying that?

7 A Neither model did.

8 Q Again for the panel's benefit, on Thursday  
9 we will be talking about that issue as well.

10 And the east model you said did not take  
11 into account any earnings from any source that a  
12 pilot might receive on furlough, correct?

13 A Correct.

14 Q And the west model didn't take that into  
15 account, correct?

16 A Correct.

17 Q And that runs through the assumptions.

18 I want to go back to a little discussion  
19 that you and I were having at your integration in  
20 connection with the pay rates used. You said that  
21 the reason that you used the United pay rates both  
22 before, both for the stand alone model and for an

2699

1 integrated model, was to take effect of wage rate  
2 increases that were occasioned by the merger out of  
3 the mix so that you could measure exclusively the  
4 effect of the integration methodology on pilots  
5 careers, correct?

6           A     If you have got varying pay rates in there  
7     the output of the model, you really don't know what  
8     is causing it. Is it the integrated list itself or  
9     is it because you changed pay rates at varying  
10    points through the thing? You don't know what your  
11    output is telling you at that point.

12          Q     Well, let's try the question again. The  
13    east model, I will do it a different way, the east  
14    model, the intention of the east model was to  
15    narrowly measure only the effect of integration  
16    methodology on pilots careers, correct?

17          A     How they all, both pilots models worked  
18    the same way. They compare a merged scenario to  
19    unmerged scenarios, and look at various merged  
20    scenarios compared to unmerged scenarios, and  
21    purport to say that this integration method or that  
22    integration method is more equitable.

2700

1           Now, our contention is if you start  
2     putting varying pay rates in through the model you  
3     are hiding the effect of the integration on  
4     allocating jobs. In other words, part of what may  
5     look like gains or losses may be just the result of  
6     moving pay rates around, or could be a result of not  
7     properly accounting for the difference in value of  
8     one job or another.

9           These things can all skew the output to  
10    the point where you look at a result and you really  
11    don't know what is causing the difference that you  
12    are talking about.

13          Q     So again, I think that long answer is

14 boiled down to a short answer to the question, that  
15 I asked and that is, the intent of the east model is  
16 to attempt to demonstrate solely the effect of the  
17 seniority integration methodology on the collective  
18 pilots careers, taking out of that equation any  
19 other effects of the merger, and in particular  
20 taking out of that equation the changes in pay  
21 rates, correct?

22 A Well, let me been very short and to the

2701

1 point. Our analysis measures how one merged list  
2 versus another, allocates jobs into the future,  
3 period.

4 Q Taking, and in the process does not take  
5 in though account, intentionally, the effects of pay  
6 rate changes on the economic careers of the pilots?

7 A Right, it excludes that.

8 Q Okay. And you understand that the west's  
9 proposed, the intention of the west's methodology is  
10 to demonstrate the complete or as complete as  
11 possible, short of trying to do a Riggs analysis and  
12 everything associated with it, the economic effect  
13 of the merger capturing both the effect of the  
14 seniority list and the effect of obtaining different  
15 wage rates during the course of the pilot's career?

16 A I understand that the west model  
17 incorporates a whole lot of stuff that include all  
18 kinds of assumptions on what jobs should have been,  
19 might have been, could have been, what rates might  
20 have been, might not have been in terms of would  
21 there have been a restructuring, would there not  
22 have been.

2702

1           You have got a whole lot of different  
2 things built into what the west appears to be  
3 characterizing as their measure of equity. It goes  
4 way beyond the impact of how one merged list stand  
5 up against another merged list. You are adding all  
6 kinds of factors that you are saying one pilot  
7 group, this should be considered a benefit to the US  
8 Air pilots or the America West pilots and should be  
9 quantified, then it is all added together, and now  
10 you really don't know what caused what.

11           Q   Well, the simple reality is, is it not,  
12 Bob, that the intent of the west model, as you  
13 understand it, is to take a particular seniority  
14 integration proposal or several integration  
15 proposals, take wage rates that are as we sit here  
16 today known to, have been in effect and known to be  
17 in effect, on a going forward basis, and look at  
18 those two things in combination, that is wage rate  
19 differentials and the consequence of a seniority  
20 list, and the consequence of fleet changes, and make  
21 an educated assessment of the total pilot career  
22 earnings under two different scenarios, correct?

2703

1           A   Well, I think I have addressed that in  
2 that you know, you are rolling -- we have addressed,  
3 I mean both sides have addressed all these various  
4 points. We have argued over how many airplanes  
5 should the America west pilots be given credit for,  
6 how many whatever.

7                   We have argued over would \$138 an hour



8 really have been starting pay rate of the America  
9 West pilots or would it have ended up lower than our  
10 rate, because of what we feel is structured? All of  
11 those things the America West pilots have mixed  
12 together in their model and come out with the what  
13 the America West pilots presumably view as an  
14 entirely all encompassing measure of equity, but in  
15 our view it is so muddied up the assessment of how  
16 is this integration allocating jobs, that you have  
17 no idea whether the list itself is really equitable  
18 or not, because you are factoring in all these other  
19 things.

20           These other things should be looked at, we  
21 don't disagree with that, but they shouldn't all be  
22 mixed together because you don't know what you have

2704

1 got when you put it in all one big pot. You can't  
2 say this integration is fair over another  
3 integration because you have plugged all of these  
4 other variables in it that hide the effect of the  
5 integration and very noticeably hide it.

6           Q Well, they don't hide the effect, they  
7 simply produce a dollar number which the panel can  
8 look and assess as it sees fit. But it is correct,  
9 is it not, that you understand the intention of the  
10 U.S. -- the America West model is to include in an  
11 analysis of any given list, the economic  
12 consequences of the merger to both pilot groups from  
13 wage rate changes occasioned by the merger?

14           A I mean I think I have answered that. I  
15 mean I just said what I think the America West model  
16 does.

17 Q And your model is, your model is intended  
18 to focus principally, if not exclusively, on the  
19 allocation of jobs?

20 MR. KATZ: I am going to object that is  
21 over and over again been asked and answered.

22 THE WITNESS: True.

2705

1 BY MR. FREUND:

2 Q Let's go back to the exhibit that we  
3 started with which was Exhibit 16, and which is  
4 the --

5 A What was that, Jeff?

6 Q Exhibit 16. Which was you told us, one is  
7 thinking about allocation of jobs, premium jobs, the  
8 171 767 and A330 captain positions, if I remember  
9 your testimony correctly. Turn to page 19 of that  
10 exhibit.

11 A Okay.

12 Q I think you told us that Captain Chambers  
13 was the junior wide body captain on this list, which  
14 is the February 1st, 2007 list?

15 A That is correct.

16 Q And Captain Chambers is seniority number  
17 1116, correct?

18 A Yes.

19 Q So it took getting down to seniority  
20 number 1116 to fill all 171 of those premium highly  
21 sought after --

22 A That is correct.

2706

1 Q -- wide body captain jobs; right?

2 A Yes.

3 Q Let's take a look at page 50, please. Do  
4 you see pilot Beck, No. 3069?

5 A Yes.

6 Q Now, as of May 19th, 2005, Mr. Monda was  
7 the most junior working pilot on the US Airways  
8 list, correct?

9 A Flying Airbus or Boeings, discounting  
10 170s, yes.

11 Q And let's see, where can we find Mr. Monda  
12 on this list? Let's go to page 48 No. 2942?

13 A Got it.

14 Q That is Mr. Monda, so everybody below  
15 Mr. Monda was on furlough as of May 19th, 2005,  
16 correct?

17 A Yes. Well, you know, without getting into  
18 the argument over Midatlantic, yes.

19 Q Without getting into that argument, okay.  
20 So I am looking at Mr. Beck and Mr. Beck is an  
21 international wide body first officer, correct?

22 A That is correct.

2707

1 Q So in order to fill a premium  
2 international, all the premium international wide  
3 body first officer positions the company had to go  
4 beyond the last pilot who was active on May 19,  
5 2005, so let's see, what did we say, 2942 to 3063,  
6 whatever that is, 100 some odd positions into the  
7 furloughed pilots in order to fill all of the wide  
8 body first officers?

9 A Yes, the last few were pretty junior.

10 Q And in fact above Mr. Beck, well position  
Page 123

11 number 3063 is Mr. Gerring, who actually chose to be  
12 a 190 first officer, and he has higher seniority  
13 than Mr. Beck, right?

14 A Some of them didn't have that choice. It  
15 is what was offered to them when they were recalled.  
16 That is not a seniority bid. In fact anything  
17 within that range really had nothing to do with  
18 seniority.

19 Q Anything within what range?

20 A Within where the recalls are, until they  
21 are back for, I am not sure what the time period is,  
22 they are locked into whatever job it was that they

2708

1 got when they came back.

2 Q Well, Mr. Beck, somebody else other than  
3 Mr. Beck, some active US Airways pilot could have  
4 bid for the vacancy that Mr. Beck filled?

5 A Could have been bid for the 76 vacancy,  
6 that is true.

7 MR. FREUND: If we can take five minutes I  
8 may be done.

9 CHAIRMAN NICOLAU: Okay.

10 4:29 p.m. -- recess -- 4:34 p.m.)

11 MR. FREUND: That is all I have.

12 CHAIRMAN NICOLAU: Anything?

13 MR. KATZ: We have no redirect for the  
14 witness.

15 CHAIRMAN NICOLAU: Thank you. Thank you,  
16 Bob.

17 MR. KATZ: That completes the rebuttal  
18 case of the US Airways merger committee.

19 CHAIRMAN NICOLAU: The board needs a  
20 minute or two to discuss one thing. We will go  
21 outside since there are more of you than there are  
22 us, and we will come back and --

2709

1 MR. GILLEN: Render the decision.

2 (4:35 p.m. -- recess -- 4:37 p.m.)

3 CHAIRMAN NICOLAU: So you will be ready to  
4 go on Thursday morning?

5 MR. FREUND: I will be. I had actually  
6 hoped to finish on Thursday but I have just been  
7 advised of a logistical problem with a witness, so I  
8 might have to go into Friday in order to actually  
9 complete.

10 CHAIRMAN NICOLAU: Well, that may be of  
11 some help us to as well.

12 The Board, the way I am going to deal with  
13 the Eischen decision is to put it in our decision,  
14 you know, it is -- I am going to leave that. If  
15 there is ever any quarrel I am going to leave that  
16 to arbitrator Eischen.

17 MR. KATZ: So you are not going to accept  
18 the full decision, you are just going to take the  
19 award.

20 CHAIRMAN NICOLAU: No, the whole thing is  
21 in. Let him decide what it means if it gets to that  
22 point.

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1 MR. KATZ: So if there are questions about  
2 the allocation of Embraer 190 jobs, doesn't go to  
3 arbitrator Eischen, right?

4 CHAIRMAN NICOLAU: Yes. Now, by Friday  
Page 125

5 the panel would like a July 1, 2007 list with the  
6 retired, the resigned, out of the list --

7 MR. GILLEN: And deceased.

8 CHAIRMAN NICOLAU: And deceased, but we  
9 don't know that.

10 MR. BRUCIA: Current to Friday anyway.

11 CHAIRMAN NICOLAU: But what should be on  
12 the list is pilots who are full time resource only  
13 pilots, which is going to require the parties to  
14 come to some mutual agreement by Friday as to what,  
15 the way these check airmen have to be treated.

16 Mr. Freund, you indicated that there was  
17 going to be that and so we want to see that, so we  
18 want to see that list, and also a separate list of  
19 those names that have been redacted.

20 I want you to supply to the panel, whoever  
21 wants to do it, either digitally or in hard copy,  
22 the decisions in Federal Express-Flying Tigers and

2711

1 US Air-US Air Shuttle.

2 Now, I may not have to put this in because  
3 of what Jeff has said, but we were going to suggest,  
4 if it was going to two full days, that you don't  
5 book early flights because we want to talk, but we  
6 may not have to worry about that.

7 MR. FREUND: Right.

8 CHAIRMAN NICOLAU: But I just wanted to  
9 alert you that there is that possibility.

10 MR. KATZ: Let me ask a question. You  
11 said that we should supply the Fed-Ex-Flying Tiger  
12 and the US Air-US Air Shuttle cases, but the US

13 Air-US Air shuttle case is already in one of our  
14 decisions. I think it is the one that we agreed  
15 yesterday to furnish was Alaska-Jet America, as well  
16 as Fed-Ex-Flying Tiger.

17 CHAIRMAN NICOLAU: Look, when we get to  
18 the brief stage you may be giving us a lot of  
19 decisions.

20 MR. KATZ: Sure, but we put in an excerpt  
21 from Alaska-Jet America and an excerpt from  
22 Fed-Ex-Flying Tiger. The entire decision in the US

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1 Air-US Air Shuttle case other than the actual list  
2 is in book in A.

3 CHAIRMAN NICOLAU: It is in book A, fine,  
4 that was way back when, folks.

5 MR. FREUND: If you want it separate we  
6 can give it to you separately, easily enough, or I  
7 can give it to you digitally, PDF --

8 CHAIRMAN NICOLAU: That would be fine.

9 MR. KATZ: Do you want the Alaska-Jet  
10 America decision then?

11 CHAIRMAN NICOLAU: Sure.

12 MR. BRUCIA: And ideally if you can do it  
13 digitally and in hard copy would be most preferable.

14 MR. FREUND: I can do it digitally and  
15 hard copy.

16 CHAIRMAN NICOLAU: Well, which one?

17 MR. FREUND: I can do them all digitally.  
18 Dan, why don't you do them hard copy.

19 MR. GILLEN: In keeping with tradition.

20 MR. KATZ: That is fair enough.

21 CHAIRMAN NICOLAU: Now, in addition to  
Page 127

22 Jeff working on his rebuttal somebody out there that  
2713

1 has got to work on this common definition of what we  
2 mean by a full resource pilot, because what we want  
3 the list to do is to treat on both sides those  
4 individuals with a common definition.

5 MR. KATZ: Can you give us any  
6 enlightenment what you mean by --

7 CHAIRMAN NICOLAU: Yes, Captain Brucia is  
8 ready to do that.

9 MR. BRUCIA: Thanks, Chet.

10 Yes, we have touched on this already.  
11 Again we have gotten some clarification as to  
12 everybody has got there definitions of a line check  
13 airman and what that means. We are talking about  
14 the guys who get scheduled to go fly. If a guy  
15 works in a simulator full time, he is not a  
16 scheduling resource, is the way we are looking at  
17 it, okay.

18 MR. FREUND: Can we sort of say some  
19 things off the record to you guys here just to kind  
20 of highlight what I think the issue is and I don't  
21 want to do this in an adversarial way.

22 MR. BRUCIA: This is a work shop item.

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1 CHAIRMAN NICOLAU: That is fine with us,  
2 off the record.

3 (Discussion off the record).

4 CHAIRMAN NICOLAU: 10:00, all right,  
5 Thursday.

6 (Whereupon, at 4:44 p.m., the hearing was



7 recessed, to be reconvened at 10:00 a.m., on  
8 Thursday, January 25, 2007.)

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WITNESS	EXAMINATION
PHIL CAREY	
By Mr. Katz	DX 2541, RDX 2571
By Mr. Freund	CX 2558
ROBERT KIRCH	
By Mr. Katz	DX 2579
By Mr. Freund	CX 2667

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