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2 THE CLERK: All rise.

3 THE COURT: Good morning.

4 Please be seated.

5 I understand, folks, that
6 relayed to my chambers was an issue
7 about scheduling with a witness and
8 breaks for lunch. I'm happy to do
9 whatever is necessary to
10 accommodate and the only thing I
11 would say is that is that I
12 actually can't be on the bench from
13 one to two so just let me know when
14 you want to break and we'll take it
15 from there. If it's noon, it's
16 noon, if it's 12:30, it's 12:30.
17 And we'll just take it from there.

18 The other thing is we were
19 talking generally about schedule.
20 I did see that we do have an AMR

21 omnibus hearing on the 24th which
22 is a week from Thursday. Not that
23 I'm saying we need to go that long,
24 but to the extent that there's a
25 desire to go consecutively, you all

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2 can guide me on that, that does
3 seem to give a logical out post
4 that we may not want to go past.
5 So in that vein, we should almost
6 work backwards to see how much time
7 we may need to log. If we need to
8 go late a couple of days to do
9 that, so why don't you all chat
10 with each other and see what you
11 think would make sense and I'm open
12 to anything that is reasonable and
13 humane. But just let me know what
14 you think.

15 And it will be a developing

16 situation no doubt in light of
17 cases because that's the way trials
18 work. But we can at least have a
19 plan and then modify it if
20 necessary.

21 All right the next witness.

22 MR. ROSENTHAL: Daniel
23 Rosenthal, for the Allied Pilots
24 Association. The APA calls Allison
25 Clark.

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2 ALLISON CLARK,
3 called as a witness, having been
4 first duly sworn, was examined
5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. ROSENTHAL:

8 Q. Good morning, Ms. Clark.

9 A. Good morning.

10 Q. Where are you currently

11 employed?

12 A. Allied Pilots Association.

13 Q. And what is your position at
14 the APA?

15 A. I'm the director of industry
16 analysis.

17 Q. What are your duties as
18 director of industry analysis?

19 A. In my role what I do is I
20 provide information to the association on
21 airline industry economics and trends. I
22 also assign valuations to contract
23 proposals during negotiations.

24 Q. How long have you been
25 director of industry analysis at APA?

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2 A. For three years.

3 Q. And does your position involve
4 regular discussions with American
5 Airlines?

6 A. Yes, it does.

7 Q. What is the nature of those
8 discussions?

9 A. In the context of
10 negotiations, I'm regularly in
11 discussions with the company's finance
12 team talking about valuations, better
13 understanding how each side is valuing
14 contract proposals. I also meet
15 periodically, every month with the
16 company's finance team led by Brian
17 McMenemy, who was on the stand a couple
18 of weeks ago. He provides a finance
19 brief every month to the unions and I
20 attends on behalf of the APA.

21 Q. Before coming to the APA, did
22 you have any previous experience in
23 financial analysis?

24 A. Yes, I did. I worked for four
25 years at American Airlines and I spent a

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2 year at Countrywide financial, both
3 companies as a financial analyst. And I
4 spent three and a half years at
5 Seven-Eleven headquarters in a financial
6 consulting capacity.

7 Q. Now, before we go any further,
8 you have produced a written declaration
9 for this case; is that right?

10 A. That is correct.

11 Q. And that declaration included
12 some exhibits and charts?

13 A. Yes, it did.

14 Q. Does the binder in front of
15 you contain your declaration which I
16 believe will be at tab 200 and the
17 associated exhibits, 201 through 211?

18 A. Yes, it does.

19 Q. And do you adopt that
20 declaration and those exhibits and charts
21 as your direct testimony in this case?

22 A. Yes, I do.

23 Q. Now, you mentioned that your
24 job includes something which you called

25 valuation which is a term that we've

6

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2 heard in this case. When you use that

3 term, what do you mean?

4 A. When I'm talking about

5 valuations, what we're doing is looking

6 at how different proposals, contract

7 proposals and those changes will affect

8 either how many pilots the American will

9 need to run the operation, how many paid

10 hours in association with those pilots,

11 how many paid hours would be required.

12 And some of the proposals also

13 look at how much did the cost of that one

14 particular head cost the company and how

15 much does each of those paid hours cost.

16 So you can have changes to benefits that

17 would change the different components.

18 And that's what we're looking at from

19 valuations.

20 Q. So that sounds pretty
21 complicated. How do you come up with a
22 valuation?

23 A. What we use, we essentially
24 have an underlying set of data. Most of
25 the data we get comes from the company

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2 itself. So we have a technical analysis
3 and scheduling committee, led by Larry
4 Rosselot, who will be up next I believe.
5 And what they do is they go out and they
6 pull information on a regular basis from
7 databases within the company and that's
8 the source of data that we'll use in our
9 valuations.

10 Q. Did you include an exhibit in
11 your declaration that outlines some of
12 the data and assumptions that you use in
13 doing valuations?

14 A. Yes, I did.

15 Q. Could I direct your attention
16 to Exhibit 203?

17 A. Yes.

18 Q. Is that the chart that you're
19 referring to?

20 A. Yes, that's a list of certain
21 data and assumptions that we use.

22 Q. What role do these valuations
23 play in bargaining?

24 A. They're very important role in
25 bargaining. In fact, it's one of the

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2 initial roles. Understanding how much
3 that the proposal, how much is it going
4 to cost, what's the assigned value to it,
5 what's that impact going to be to the
6 company, what's that impact going to be
7 to the pilots. It's a critical role in
8 the whole negotiations process.

9 Q. Are the valuations that you

10 come up with exact or totally precise?

11 A. No, they're not. As I
12 mentioned, you're going to have some
13 amount of underlying data that's going to
14 be into them, there's going to be a lot
15 consistency with underlying data. Where
16 you start getting into differences is in
17 assumptions and inputs that go into.
18 Methodologies are consistent but you tend
19 to see different valuation, different
20 outcomes when you look at the different
21 assumptions.

22 Q. Now, did you prepare a
23 valuation of the APA's most recent
24 proposal to American Airlines?

25 A. Yes, I did.

9

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2 Q. Could I direct your attention
3 to Exhibit 204.

4 A. Yes.

5 Q. Does that Exhibit reflect your
6 valuation of the APA's latest proposal?

7 A. Yes, it does.

8 Q. I'd like to ask you some
9 questions about numbers on this chart.
10 First of all, what is the number towards
11 the bottom that says total savings
12 non-scope?

13 A. That is, that column is a list
14 of items, list of proposals, APA
15 proposals that would make changes to the
16 current collective bargaining agreement
17 that would provide additional savings to
18 American Airlines.

19 Q. And what is the total number
20 there?

21 A. That totals up to 296 million
22 dollars per year.

23 Q. And on the directly to the
24 right of that, there's a number called
25 total costs. What is that?

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2 A. So what that is is additional
3 proposals that the APA put on the table
4 that would actually increase costs to the
5 company and those are in the context of
6 looking at the list of savings. There
7 are many -- there are fewer of them and
8 that totals up to 24 million.

9 Q. And what is the number all the
10 way at the bottom that says total impact
11 non-scope?

12 A. That's just the net amount of
13 those numbers. So the APA proposal would
14 save 271 million dollars per year for the
15 company.

16 Q. Now, why does it say non-scope
17 by total impact?

18 A. The reason why we're looking
19 at non-scope is my intent there was to
20 try to categorize the -- what the company
21 agrees to are items or proposals that
22 have what they call kind of a tradeable

23 value in negotiations and the company has
24 refused to assign any value, give us any
25 value for scope, so I excluded it for

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2 this context, but I just want to point
3 out that the APA does believe that there
4 is value to scope, they're just not
5 included in these numbers here.

6 Q. Why does the APA believe there
7 is value to scope?

8 A. For several reasons, one of
9 which is the fact that as -- well, what
10 the company is asking, is proposing as
11 far as outsourcing of flying, this is
12 flying that would otherwise be flown by
13 APA or APA pilots or mainline pilots in
14 the future and the way we're looking at
15 it is what is lost wages and benefits
16 from pilots associated with those
17 outsourced jobs.

18 Q. Has the company explained why
19 they think scope should not have any
20 value?

21 A. The context of scope has come
22 into play with, you know, it's not a
23 tradeable item, it's included in revenue
24 and then the, you know, the interesting
25 one which is no other company has ever

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2 had discussions on scope with values in a
3 bankruptcy and that's what they told us.

4 Q. Why do you call that the
5 interesting one?

6 A. Well, I mean just because it
7 hasn't been done before doesn't mean it
8 shouldn't have value, my opinion.

9 Q. Now I'd like to ask you about
10 some specific proposals on this chart.
11 Before we do that, just so everyone is
12 clear, do you know the date of the

13 proposal that we're discussing here?

14 A. The date of the APA proposals?

15 Q. Correct.

16 A. I believe it's as of April

17 9th. I have to go back and look.

18 Q. Let's start with benefits.

19 Are there certain items on this chart

20 that are classified as benefits?

21 A. Yes.

22 Q. Which are those?

23 A. Those under the first column

24 under cost savings it would be the last

25 four items which includes pension,

13

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2 retiree medical, active medical and long

3 term disability.

4 Q. And what is the total amount

5 of savings produced from benefits

6 proposed?

7 A. On an annual basis it comes

8 out to an average of about 168 million.

9 Q. Now I know we have another
10 witness who's going to testify more about
11 this, so just at a high level of detail,
12 does the company agree with your
13 valuation of those benefits proposals?

14 A. No, the company actually
15 doesn't agree with these valuations and
16 you mentioned Chris Heppner, our actuary
17 from see gal will be talking about this
18 in his testimony, but there are different
19 assumptions that the company uses which,
20 as our actuaries have explained to us are
21 not industry standard and those lead to
22 lower valuations, lower values, savings
23 values assigned to these proposals.

24 Q. Now, I'd like to direct your
25 attention to the line that's labeled work

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2 rules and sick which is I believe four

3 from the top on the left-hand side of the
4 chart. What is included in that set of
5 proposals?

6 A. Work rules and sick are, they
7 really have to go together. What it is
8 is it's back to the valuation issue of
9 how many heads does it need, how many
10 heads, when I say how many heads, how
11 many pilots does the company need to run
12 the operation, and with the productivity
13 enhancements that have been proposed from
14 both sides, but with the productivity
15 specific to APA's proposals, and the
16 additional impact that would have on
17 lower sick usage, we value that at 67
18 million for the head count portion plus
19 an additional 3 million under rapid
20 reac accrual.

21 Q. Does the company agree with
22 your valuation of 67 million?

23 A. No, they not.

24 Q. What do they think those
25 proposals is?

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2 A. They think the combination of
3 those proposals is only 22 million
4 dollars.

5 Q. On their valuation is that
6 broken down into separate categories?

7 A. It is. They break it out work
8 rules at 11 million and sick at 11
9 million.

10 Q. That should close one open
11 question from yesterday. Let's close one
12 other. Does the APA proposal include a
13 sick sell-back program?

14 A. The APA's proposal does
15 include a sick sell back program, yes.

16 Q. What does that mean?

17 A. What it is is, the company has
18 mentioned and it's been mentioned before
19 that the claim that the pilots at
20 American Airlines have utilized more sick
21 on average than other carriers, that's

22 the claim. And what the proposals that
23 are on the table are essentially how can
24 we incentivize wellness behavior or
25 wellness in order to help bring the sick

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2 rate down, the sick utilization rate
3 down. And so the sick sell back program,
4 what that does is it allows pilots to
5 monetize their sick day. Today at APA,
6 at American Airlines, pilots, they are
7 unable to put any tiny monetary value to
8 those, so they accrue sick, if they don't
9 use it, it just goes away.

10 What we're saying is creating
11 a program that would allow them to sell
12 back their sick and hopefully incentivize
13 better wellness behavior.

14 Q. Has the APA made any other
15 proposals that it also thinks would
16 decrease sick usage?

17 A. Oh, absolutely. Within the
18 context of work rules there are several
19 proposals. There are several changes to
20 how scheduling is done today that could
21 change behavior, some of which are the
22 preferential bidding system, otherwise
23 known as PBS that we've spoken about,
24 which allows pilots to, ahead of the
25 month, ahead of bidding time explain what

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2 their, what their preferences are for
3 flying, for days off, and then
4 essentially hopefully get lines that are
5 similar that align with what their
6 personal needs are. There is also going
7 to be a trip trading system, the ability
8 for when a pilot does have a trip on
9 their schedule that they need to drop or
10 pass on, there's going to be this really
11 complex, very complex system that's being

12 put into place that will allow pilots to
13 trade those.

14 Several other items, rapid
15 re-accrual helps that behavior as well.
16 And I know there are others I just need
17 to remember.

18 Q. Sure. I think we'll hear more
19 about that from another witness as well.
20 So going back to the sick sell back
21 program specifically, has the company
22 ever agreed that they think that's a good
23 idea to implement?

24 A. Yes. Prepetition that was an
25 item that was on the table from both

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2 sides and in fact, if I recall correctly,
3 I think it was an initial proposal from
4 the company. I'd have to check with our
5 negotiators, but I believe that's the
6 case. And there was an agreement that we

7 would go from, you know, an approach sick
8 policy from an incentive program and the
9 company had agreed and we had I believe
10 an agreement in principle that
11 surrounding this sick sell back program.

12 Q. Did the company ever explain
13 what impact they thought the sick sell
14 back program would have on sick usage at
15 American?

16 A. Yes, they did. The company's
17 valuation on what that, how that would
18 impact the current sick utilization rates
19 at American today, they thought the sell
20 back program would bring it down by 10
21 percent.

22 Q. So just to clarify, was that
23 ten percent based only on the sick sell
24 back program or was it based on the
25 entire package of proposals that APA made

2 at that time?

3 A. Based on discussions with the
4 company at that time, that was for the
5 sick sell back program.

6 Q. Okay. I'd like to just touch
7 on a few more items. Crew rest seats is
8 I think is six or seven up on the top
9 from the left.

10 A. Yes.

11 Q. Do you see that?

12 A. Yes, I do.

13 Q. What is that proposal?

14 A. What that is is the company is
15 required by federal law to provide rest
16 facilities, rest seats for pilots flying
17 long haul missions I should say, what
18 when you need more than two pilots
19 because of the length of time of the
20 trip, they'll have a pilot that will be
21 back, possibly two pilots, depending on
22 the pilot augmentation, that will go back
23 to the cabin and rest. And in
24 situations, some aircraft are equipped

25 with what I believe are called crew rest

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2 facilities. They're also called pods and

3 there will be bunks in there as well as

4 seats. Not all aircraft have that. Not

5 all the aircraft that fly these long

6 missions have that. And what this

7 represents is the proposal by the company

8 to shift pilots from the seats in the

9 cabin into just the crew rest facilities

10 where those are available and then on

11 aircraft where those are not available,

12 to shift them out of first class cabin

13 which is where they're required to seat

14 them in the contract today, into business

15 class.

16 Q. And why did you include on

17 this chart that that proposal would lead

18 to 16 million dollars for the company?

19 A. Well, taking us back to

20 prepetition, the company had included
21 this value, had, one, assigned a value to
22 it and then, two, had included it in our
23 term sheets. So it was, again, back to
24 my concept of tradeable value, it was an
25 item that we had the ability to trade

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2 for.

3 And so that's why I included
4 it here in the spreadsheet.

5 Q. Does the company agree with
6 that 16 million dollar valuation?

7 A. No, they do not.

8 Q. What value do they attribute
9 to crew rest seats?

10 A. Two interesting points on
11 that. One, the value that they had
12 attributed to that prepetition, it
13 changed many times. It started off last
14 summer at about 30 to 35 million dollars

15 per year. It was quickly revised down
16 to 9 million dollars per year, and then
17 subsequent when we were to actually get
18 the spreadsheet and the valuations from
19 the company it was closer to 13 million
20 dollar per year.

21 Q. What does the company
22 currently value that proposal at?

23 A. Oh, zero.

24 Q. Did you also create a
25 valuation of the company's proposal?

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2 A. Yes, I did.

3 Q. Could I direct your attention
4 to Exhibit 208. So the first column of
5 numbers there, which is labeled APA
6 valuation, does that reflect the work
7 that you did in valuing American's
8 proposals?

9 A. Yes, it does.

10 Q. And what is the second column
11 over which is labeled AA valuation?

12 A. That's the company's
13 valuations of their own proposal.

14 Q. How do you know the company's
15 valuation of their own proposal?

16 A. They provided it to us at the
17 table, they provided their spreadsheets
18 with their whole valuation model and
19 their associated summary valuation and
20 that's what it said.

21 Q. So I thought the company was
22 saying that they needed 370 million. Why
23 does this chart say 377?

24 A. Their ask has been that they
25 need 370 million. This particular

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2 spreadsheet that was the valuation as of
3 the time of March 27th showed 377 million
4 dollars in savings.

5 Q. And what is the third column

6 which is labeled AA under-valuation?

7 A. That's just the difference

8 between how we value the company's

9 proposals and their valuation of their

10 proposals and saying that they value them

11 in this context with this 377 at a

12 difference of 83 million.

13 Q. Now this chart also says

14 excluding scope. Was that for the same

15 reason that you described earlier?

16 A. Yes, it is.

17 Q. Have you performed any cost

18 calculations related to the company's

19 scope proposal?

20 A. Yes, I have.

21 Q. What were those calculations?

22 A. I believe the total amount of

23 value which was the approach that we used

24 was -- that I used was very conservative,

25 was about 131 million over the six year

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2 period and it comes out to about 21
3 million per year if you spread that out
4 over the six years.

5 THE COURT: Can I ask you a
6 question about the numbers on here
7 where it says APA valuation and AA
8 valuation. For crew rest seats it
9 has 24 and then it has zero and it
10 has the valuation of 24. How am I
11 to understand those numbers
12 compared to Exhibit 204 which has
13 different numbers for cost savings.

14 THE WITNESS: The 204 -- let
15 me just make sure before I -- the
16 204 exhibit is our valuation of our
17 APA proposals. And what the 208
18 exhibit is is our valuation of what
19 AA has proposed and they have a
20 different crew rest seat proposal.

21 THE COURT: Thank you.

22 Q. Well maybe you could just say
23 one or two words about how the crew rest

24 proposals are different for further
25 clarification?

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2 A. Sure. The company's proposal
3 wants to, the company proposes to shift
4 pilots out of the first class cabin on
5 more equipment and in more situations
6 than what the APA is proposing in return
7 to give back as far as first class seats.
8 And the APA's position, the reason why
9 they're not -- they're not agreeing to
10 the same proposal is because of the
11 adequacy of those seats. So they're
12 saying we'll give up our first class
13 seats and go sit in the crew rest
14 facility if there's adequate seating.

15 And on I believe it's the
16 777-300 aircraft that the company is
17 acquiring, the pilots believe, you know
18 what, we've looked at the pod, we believe

19 that those seats are adequate, we'll
20 give, you know, we'll take those seats
21 and give back our first class seat.

22 On other equipment where they
23 think the seats are not adequate, where I
24 think how they've described it is it's
25 like a movie theatre seat you kind of

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2 pull down off the wall, they are saying
3 look, those are not adequate, we're not
4 going to give up our first class seats.

5 THE COURT: Thank you.

6 Q. So I want to ask you a couple
7 more questions about the 131 million
8 value for scope that you just gave. Are
9 you aware that some of the information
10 related to this is confidential?

11 A. Yes.

12 Q. I'll just direct your
13 attention to paragraph 67 and 68 of your

14 declaration. That includes all of the
15 details which we're not going to get into
16 all of them because of confidentiality?

17 But respecting that
18 confidential information, could you give
19 us any indication of how you came up with
20 the 131 million dollar number?

21 A. Yes. So let me make sure I'm
22 -- let me reread the confidential part.
23 Okay. So -- correct me if I I'm
24 approaching anything that's confidential,
25 but what I tried to look at here was, or

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2 what I looked at here was essentially
3 with the context of outsourcing flying,
4 so flying that we deemed would have been
5 flown by American pilots over the
6 duration of this contract that no longer,
7 seems to no longer be that the plan will
8 be to fly with American Airlines pilots,

9 that was, then those number of hours were
10 quantified using what the productivity
11 rates are for those equipment, we
12 determined, or I determined a head count
13 associated with those hours.

14 Then using average costs of
15 pilots I applied that to the head count
16 savings to get a value and the 131 is the
17 sum of that value over the six year
18 period.

19 Q. When people in case have
20 talked about scope they often break it
21 down to regional jets and code sharing,
22 was this calculation related to both of
23 those?

24 A. No, this was just for regional
25 jets.

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2 Q. So did you do any calculation
3 of any savings that might be produced by

4 code sharing?

5 A. No, I did not do -- I did not
6 -- well, I did do some analysis to look
7 at those numbers, but for the context of
8 my declaration what I'm speaking to you
9 today, I'm talking about the regional
10 jets.

11 Q. I'd now like to direct your
12 attention to Exhibit 202. Do you have it
13 in front of you?

14 A. I do.

15 Q. What does that show?

16 A. So this is a bar chart, side
17 by side bar chart that those on the left
18 how much we -- the value -- excuse me,
19 the value of American's proposals at 460
20 million and on the right it shows
21 compared to the value of APA's proposals
22 at 271 million.

23 Q. And I see two dotted lines on
24 this chart. What do those represent?

25 A. Yes. The top line is the,

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2 reflect the 370 million dollar ask from
3 the company for APA and the second line,
4 hash line is essentially the value of the
5 cost differential attributed to labor
6 cost differential attributed to American
7 Airlines pilots of 260 million.

8 Q. So where did you get that 260
9 number?

10 A. That is a number provided by
11 the company.

12 Q. In what form was it provided
13 by the company?

14 A. This number came from a Board
15 of Directors presentation back from
16 November of 2011. And this was -- when I
17 say Board of Directors, I mean the
18 American Airlines board.

19 Q. Are you aware of the
20 methodology the company used to calculate
21 that number?

22 A. Yes, I am.

23 Q. What is it?

24 A. What the company did here,
25 what the company did here essentially is

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1
2 to try to determine if they had other
3 carriers' contracts at American Airlines
4 would that cost them more or less money
5 than the current contract cost them
6 today.

7 Q. And is that a methodology that
8 you had seen before you looked at the
9 November presentation?

10 A. Yes. The company publicly had
11 -- began announcing a 600 million dollar
12 cost differential a few years ago. I
13 engaged with the company with my counter
14 at the company in the finance department
15 and said can you tell us what our portion
16 of that is, is he said the 600 million

17 includes all labor. He provided us with
18 a range of that. We had further
19 discussions where I asked him if he would
20 share with us the modeling, the
21 methodologies, how did you get to this,
22 and he did. He gave us a copy of their
23 model, a working model, and which had all
24 of the calculations, formulas, everything
25 that was involved, and he subsequently

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1
2 also provided us with a PowerPoint guide
3 to how the, what the methodology was
4 behind this calculation.

5 Q. Did that ever come up in
6 negotiations at other points?

7 A. Yes. Last summer when we were
8 negotiating at the NMB in Washington,
9 D.C. in August, I specifically asked the
10 company how much is it that you're asking
11 us for, what are you asking us for.

12 We've been negotiating for so long and
13 the response was look to the cost
14 analysis, labor cost analysis, that's how
15 much we're asking for.

16 Q. So in any of these
17 conversations did the company ever
18 indicate that they thought there were any
19 problems or things that were excluded in
20 that methodology?

21 A. At that point I'd never heard
22 anything about any other exclusions.

23 Q. Have you ever seen them use a
24 different methodology for calculating the
25 contract gap?

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2 A. Not for calculating the
3 contract gap, no.

4 Q. Are you aware of whether this
5 methodology is the same one that was
6 used, if you reviewed it, the company's

7 SEC filing?

8 A. In the SEC filing I believe it
9 was the 2010 10-K that's published in
10 early 2011, there's a reference in there
11 that the company has a 600 million dollar
12 labor cost differential, so.

13 Q. And do you understand that to
14 be calculated through this methodology
15 that you described?

16 A. That's how I understand that,
17 yes.

18 Q. Do you recall if there was any
19 indication in the filing of any errors or
20 things that were excluded from that
21 number?

22 A. No, the filing I do not recall
23 anything in that context, no.

24 Q. You included with your
25 declaration Exhibit 201. Can we take a

2 look at slide 2 of that and opposing
3 counsel has indicated that this slide and
4 the numbers on it are not confidential,
5 so we can feel free to say the numbers.

6 A. Slide 2: Okay.

7 Q. Does this include the labor
8 cost gap that you just mentioned?

9 A. Yes, it does.

10 Q. Which number on there is that?

11 A. The contractual labor cost
12 gap, 600 million, is under the second
13 bullet or subbullet, the \$600 million.

14 Q. We heard some questioning
15 yesterday about a very similar slide
16 which had these 200 million, 150 million
17 and 200 million numbers. So I just want
18 to ask about those. The first 200
19 million number, do you have an
20 understanding of what that signifies?

21 A. When you read this and it
22 says, and you said I can read this; is
23 that correct?

24 Q. Yes.

25 A. That's it's attributed to

1
2 retiree medical and pension under-funding
3 and it's specific to a book accounting
4 difference. Without having specific
5 information provided by the company that
6 breaks that down, my understanding of
7 this, the way I would understand this to
8 be is a book, essentially a P&L impact in
9 trying to true up medical and pension,
10 the economic costs that were included in
11 the 600 million on retiree medical and
12 pension that this is an additional
13 accounting impact, so probably something
14 that would impact profitability on the
15 P&L. That's how I would understand it.

16 Q. For those who are not
17 financial analysts, what is a P&L?

18 A. It's a profit and loss
19 statement otherwise known as the income
20 statement. So the profitability

21 statement, you know revenues minus
22 expenses and this would be an additional
23 expense on that statement.

24 Q. So just so I understand you
25 correctly, does that correspond to an

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2 actual cash expenditure the company would
3 have to make?

4 A. I don't believe so. That's my
5 understanding. If my understanding is
6 correct then that would not be additional
7 cash.

8 Q. And is that sort of book
9 accounting difference something that the
10 company usually prints up in negotiations
11 when it's talking about value?

12 A. No, we've mostly talked about
13 economic costs since I've been involved.

14 Q. The second number, the 150
15 million, do you have any understanding of

16 what that represents?

17 A. Again, without specific
18 information from the company, my
19 understanding of how it's been portrayed
20 is that the seniority difference is
21 saying, you know, our pilots are our
22 labor, I should say, these are -- these
23 are not for just pilots, these are all
24 labor, these valuations on this page, but
25 that our seniority at American is higher

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2 than other carriers on average, and
3 because there are some compensation
4 components that are driven off of your
5 seniority, that this is a cost to the
6 company, and if they were to have the
7 average seniority at other carriers, they
8 would, they would save 150 million per
9 this -- as they value you it they would
10 save 150 million dollars.

11 Q. So is this, as you understand
12 this, is this seniority difference
13 between American and other airlines a
14 permanent feature of the work force or is
15 this something that could change over
16 time?

17 A. My understanding of this would
18 be that this is a snapshot in time, so as
19 of this point in time these were the
20 valuation the company assigned to
21 differences in seniority between American
22 and other carriers. Now we know that
23 this would change annually, this changed
24 every year and you've got in addition to
25 retirements, expected retirements over

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2 the next few years and over this contract
3 duration, as well as the company's
4 projected growth over this period which
5 would drive the increase, the need for

6 more pilots, you're going to inherently
7 be lowering your average seniority over
8 those years and so that should lower that
9 value.

10 Q. And finally, the last number
11 on the page, the 200 million, do you have
12 any understanding of what that means?

13 A. Again, without the specific
14 detail provided from the company, my
15 understanding of the fleet mix, clearly I
16 don't know what's in other differences,
17 but my understanding of what the fleet
18 mix might drive I believe could be if
19 American has an operation that is
20 different enough that it would drive more
21 employees, either from the context of
22 flying more long haul flights that would
23 drive the needs for more pilots, flying
24 more first class, two cabin or three
25 cabin configurations where you would

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2 require more flight attendants, or a
3 difference in fleet that could
4 potentially drive more -- other
5 employees, grounds employees, agents,
6 management, etc.

7 Q. Could the added costs that are
8 imposed by larger planes and longer
9 flights be offset by any benefits to
10 having those things?

11 A. Well, I mean one would assume
12 that if you are flying this specialized
13 operation your business plan calls for,
14 you know, longer haul flying,
15 international flying, premium cabin
16 service, etc., that there would be an
17 offsetting revenue, that would --
18 hopefully more than offsetting, there's
19 generally more revenue, but nonetheless
20 an offsetting revenue associated with
21 that.

22 Q. And is there anything listed
23 on here that would actually tend to

24 decrease the gap between American and its
25 competitors in terms of labor costs?

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2 A. Yes, the company actually
3 assigns a 1.15 billion dollar total gap
4 including these items that increase the
5 cost, but it's offset by about 150
6 million dollars with the company's
7 calculation and what is profit sharing
8 expense that other carriers have who have
9 been profitable and who have not only
10 been profitable, but who have profit
11 sharing programs in place that would pay,
12 for instance, on first dollar versus
13 American's profit sharing that doesn't
14 pay until the company owns 500 million.

15 So that would be if the
16 company had their profit sharing programs
17 it would cost them 150 million.

18 Q. Let me wrap this up just by

19 asking are any of the numbers on this
20 page specific to pilots?

21 A. None of these numbers are
22 specific to pilots, no.

23 Q. For a number specific to
24 pilots, have you ever seen any cost gap
25 calculation greater than 260 million?

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2 A. Greater than 260 million, no,
3 I have not.

4 Q. Have you ever seen a
5 calculation from the company smaller than
6 260 million?

7 A. Yes, I have.

8 Q. What was that?

9 A. The previous version of this
10 analysis, the one that we had -- that we
11 had been working with as of last summer
12 was 230 million difference. Now, the
13 company presented the 260 million value

14 to their board in November, but we didn't
15 actually see that number until this
16 spring.

17 MR. ROSENTHAL: I have no
18 further questions at this time.

19 THE COURT: Cross examination.

20 CROSS EXAMINATION

21 BY MR. GALLAGHER:

22 Q. Good morning, Ms. Clark.

23 A. Good morning.

24 Q. For the record, my name is
25 Jack Gallagher, for Paul Hastings, I'm

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2 counsel for American Airlines.

3 I do want to, like your
4 counsel, let me interject, I went to law
5 school because I'm not very numeric, so
6 if I misunderstand any of the numbers or
7 any of the financial analysis terms by
8 all means please clarify if my questions

9 are unclear.

10 I believe you testified on
11 direct that one of your duties is to
12 analyze industry economics and trends; is
13 that correct?

14 A. That is one of my -- one of
15 the luxuries that I have when I'm not
16 doing negotiations, that's correct.

17 Q. And what does that consist of?
18 What do you do to analyze industry
19 economics and trends?

20 A. Sure. When I am doing a lot
21 more of that work, what I do is is
22 essentially in my -- I have monthly
23 meetings with the company's finance team
24 where they go through the company's
25 performance, their financial performance

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2 for the previous month, and for the
3 quarter to date at that point in time.

4 We talk about what projections are over
5 the near, short term, we get very little
6 guidance on projections. And I take that
7 information and I present it back to the
8 APA. And I do it within the context of
9 how that looks relative to what we're
10 seeing, what's publicly available for
11 other carriers.

12 Q. So you also look at what other
13 carriers are saying, doing, at least in
14 their published financial reports?

15 A. When I can, yes, I do, yes.

16 Q. And all of the publicly traded
17 carriers publish quarterly financial
18 reports with the SEC, correct?

19 A. They do.

20 Q. And they also publish, file
21 with the Department of Transportation
22 form 41 data on a quarterly basis,
23 correct?

24 A. I believed it's quarterly
25 basis, but.

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2 Q. At the monthly briefings with
3 Mr. McMenemy from American's finance
4 department, do you get to ask questions?

5 A. I do, yes.

6 Q. And there's a dialogue and Mr.
7 McMenemy usually responds?

8 A. Mr. McMenemy does responds.
9 We ask questions when there's time
10 permitted, yes.

11 Q. Now, when you look at the
12 financial reports that all of the
13 airlines file with the SEC, those are all
14 certified by the management of those
15 carriers as accurate under the
16 Sarbanes-Oxley legal requirements, are
17 they not?

18 A. As I understand Sarbanes-Oxley
19 to require, yes.

20 Q. And those financial reports
21 break out labor costs, total labor costs
22 for the company as a separate line item,

23 do they not?

24 A. I believe so.

25 Q. So you can know by looking at

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2 SEC filings what each carrier's total

3 labor costs are, correct?

4 A. Correct.

5 Q. And those reports also give

6 the capacity that the airline flew that

7 quarter in terms of available seat miles,

8 does it not?

9 A. I believe they do. I think

10 there's one carrier that actually shows

11 their year over year changes. It doesn't

12 give as clear information, but for the

13 most part, yes, they do.

14 Q. So generally speaking, you or

15 any other financial analyst just from the

16 published filings at the SEC, can figure

17 out each carrier's labor cost per

18 available seat mile, correct?

19 A. We could.

20 Q. Have you ever done that?

21 A. I have done that.

22 Q. Have you done a comparison of
23 total labor cost between American and its
24 competitors?

25 A. Not as of late, no, I have

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1

2 not.

3 Q. When did you last do that?

4 A. Probably the last one I spent
5 any time or a significant amount of time
6 being able to get into that type of
7 analysis was before negotiations heated
8 up last year.

9 Q. And what did the results show
10 that you did at that time?

11 A. My focus is less on cost per
12 available seat mile since the company has

13 told us their preferred metric is cost
14 per block hour or this labor cost
15 differential, and I can't, I don't recall
16 at that -- what those numbers were.

17 Q. You don't recall calculating a
18 labor cost differential between American
19 and United?

20 A. No, that's not what I said. I
21 recall calculating it. What I don't
22 recall is what those numbers were.

23 Q. How about between American and
24 Delta?

25 A. What those numbers were I

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1
2 don't recall a year ago, no.

3 Q. And have you seen any of those
4 labor cost comparisons at the macro level
5 between carriers done by others?

6 A. On a -- on what type of basis?

7 Q. On any basis?

8 A. Have I seen any labor cost
9 comparisons done on any type of basis by
10 anyone, is that what you're saying?

11 Q. Yes.

12 A. Yes, I have.

13 Q. What have you seen?

14 A. I have seen cost per block
15 hour analyses. I've seen I'm sure cost
16 per ASM analyses.

17 Q. And it's rather easy to
18 determine from doing that macro level
19 labor cost analysis that American's labor
20 cost differential to United and Delta is
21 about 1 billion dollars a year, isn't it?

22 A. I don't know the exact number,
23 no.

24 Q. But analysts can calculate
25 that?

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2 A. Analysts have the ability to

3 calculate labor cost differentials using
4 some sets of metrics, yes.

5 Q. And you have the ability to do
6 that?

7 A. Absolutely, yes.

8 Q. But you just haven't done it
9 lately?

10 A. No, I don't have time to do
11 it.

12 Q. Too busy with more important
13 things?

14 A. Too busy with negotiations,
15 yes.

16 Q. Now, you would agree with me,
17 would you not, that it's relatively easy
18 for a carrier to know its own costs?

19 A. To know their own cost, sure.

20 Q. And American knows its own
21 actual cost structure from the past very
22 well?

23 A. I would hope so, yes.

24 Q. And would you also agree with
25 me that it's much more difficult for a

1
2 carrier to get information, detailed
3 information about the internal costs of
4 another carrier?

5 A. My understanding is that there
6 is a database called, an abbreviation
7 it's called Aircon I think it's like
8 airline conference or something where
9 carriers, management teams actually
10 share, they're all members of this
11 conference and they share data about
12 internal costs and things with each other
13 that's private if you're union you don't
14 have access to that.

15 Q. Do you know what they share?

16 A. We have actually, our
17 association does have an idea of what
18 they share because back I believe it was
19 either during the 2003 restructuring or
20 during the PLI back in 2005, that was one

21 of the engagements the company had with
22 our -- with I think our association in
23 addition to the flight attendants.

24 Q. That was all off the record,
25 was it not?

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2 A. Was it off the record? I
3 believe it was off the record.

4 Q. Figuring out exactly whether
5 another carrier has a cost advantage or
6 disadvantage in detail, and trying to
7 figure out why, that requires a little
8 bit of investigation and detective work
9 beyond published financials, doesn't it?

10 A. To understand in detail what
11 other carriers particular labor costs
12 are? Sure. The information is not
13 readily available publicly, no.

14 Q. And one of the methods that
15 airlines and even unions use to try to

16 figure out what the other carriers' costs
17 are and where they might have an
18 advantage or disadvantage is to model the
19 other carrier's contract on the home
20 carrier's work force, correct, and its
21 operations?

22 A. That's what American has
23 chosen to do, yes.

24 Q. And that's a common practice
25 in the industry, is it not?

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2 A. Well, I don't have any
3 experience with other carriers except
4 that we worked with ALPA and ALPA does,
5 APA's economic and financial analysis
6 team they do that and they had never seen
7 that analysis before, to my recollection.
8 I've also spoken to some of the other --

9 Q. Who told you that?

10 MR. ROSENTHAL: Objection,

11 your Honor. I would ask that Mr.
12 Gallagher allow the witness to
13 finish her answers before he asks
14 another question.

15 MR. GALLAGHER: Then, your
16 Honor, I would ask the witness be
17 responsive to the question.

18 THE COURT: Well you sort of
19 make your own bed and you lie in
20 it. We can be here for a really
21 long time or just a long time. So
22 what I would ask is you try to
23 answer his questions. If there's
24 follow-up and I know witnesses
25 always feel like they're not doing

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2 their duty unless they give the
3 complete story, but cross
4 examination is really to answer the
5 questions that are posed which to

6 the extent they're not yes or no
7 questions though there is always
8 that danger. Just do your best to
9 answer the questions you ask and
10 there may be, there will be
11 follow-up questions by your own
12 counsel.

13 Q. Now, Ms. Clark, when you do
14 that modeling of another airline's
15 contract on your home airline, that
16 doesn't necessarily tell you whether your
17 -- which airline has significant
18 under-funded pension liabilities, does
19 it?

20 A. That particular analysis? I
21 don't believe it does that, no.

22 Q. And it wouldn't tell you which
23 airline had much higher seniority and
24 therefore much higher costs even though
25 it had the same contract terms?

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2 A. It would not talk about
3 seniority because the methodology wasn't
4 set up that way, correct.

5 Q. And it wouldn't tell you what
6 their experience was with the actual
7 utilization of a medical insurance
8 program, even if both had the same terms,
9 one could have very different experience
10 with utilization, correct?

11 A. Yes, I believe it wouldn't
12 tell you that.

13 Q. And it wouldn't tell you if
14 one or the other had more sick leave
15 utilization, for example?

16 A. Sick leave utilization?
17 That's an interesting one actually. It
18 could.

19 Q. It could tell just putting the
20 contract terms on your carrier, it could
21 tell you what the other carrier's
22 utilization was?

23 A. Let me think about that just a
24 second. I'm trying to remember the

25 analysis. We talk -- as I recall, the

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2 model does take into consideration the
3 sick leave accrual and I believe the
4 conversion of the cost of that. And I
5 think if I remember how the company did
6 it, they used, they assumed the company,
7 American's utilization rate, so you're
8 right, it wouldn't take that into
9 account.

10 Q. Now if you would, turn to your
11 Exhibit 201. To page 2 that your counsel
12 asked about.

13 A. Okay. Yes, got it.

14 Q. Now, was this exhibit --
15 strike that.

16 There the company said in this
17 presentation that its labor expense gap
18 to Delta, United and US Airways as of
19 year ending the third quarter of 2011,

20 was approximately 1 billion dollars per

21 year, correct?

22 A. That's what it says, yes.

23 Q. And then it offsets that by

24 excluding profit sharing, it says

25 excluding profit sharing it's only 1.15

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2 billion dollars per year, correct?

3 A. Excluding profit sharing,

4 correct, yes.

5 Q. And then, it goes on to break

6 out the gap, the one billion is broken

7 out in the lines below, correct?

8 A. Yes, that's correct.

9 Q. And 600 million of that, 60

10 percent they call the contractual gap; is

11 that right?

12 A. That's what it says, yes.

13 Q. And as I understand it, the

14 contractual gap is what you measure when

15 you take the other airlines' contract and
16 put it on your airline, correct?

17 A. That's my understanding of it,
18 yes.

19 Q. And you just agreed with me
20 earlier that doesn't give you have the
21 full picture of the cost differential
22 from one airline to another, correct?

23 A. That's correct.

24 Q. Because the other things that
25 are listed here have to be factored in,

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2 correct?

3 A. To the extent that these are
4 accurate numbers, then yes.

5 Q. And you know as a fact that
6 American has more than 4 billion dollars
7 in pension under-funding liabilities, do
8 you not?

9 A. I don't know the exact amount

10 on pension under-funding. I understand
11 there is an under-funding. I also
12 understand that it's different between
13 all of the labor groups, yes.

14 Q. And in total you know it's in
15 excess of 4 billion dollars, do you not?

16 A. Again, I don't know the
17 specific number, but it could be very
18 well.

19 Q. And you know that American has
20 higher than average among the other
21 network carriers pilot sick leave
22 utilization, correct?

23 A. That's what the company has
24 told us.

25 Q. And you don't have any reason

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2 to disagree with that, do you?

3 A. I disagree with a lot of their
4 valuations.

5 Q. That's not my question.

6 A. That particular metric, I
7 think I would have to look at in the same
8 context I look at all the information
9 provided from the company.

10 Q. And that is you look to see
11 the data -- the company actually records
12 each pilot when they call in sick,
13 correct?

14 A. But it --

15 Q. That's an actual measure, is
16 it not?

17 A. When a pilot calls in sick
18 they do have a record of that, they do.

19 Q. So now American's pilot work
20 force is highly senior, would you agree
21 with me on that?

22 A. Are you talking about all
23 their employees or are we talking pilots?

24 Q. Pilots?

25 A. They are highly senior. Is

1

2 that a relative question to other
3 carriers?

4 Q. Yes, relative to other
5 carriers?

6 A. They have a higher seniority
7 than other carriers and they have a lower
8 average seniority than other carriers.

9 Q. Where do they have lower than
10 average seniority?

11 A. I believe that they have, the
12 data I was able to pull that they have
13 lower average seniority than US Airways.

14 Q. US Airways East or West?

15 A. I think the number that I was
16 given was a combination of the two but
17 I'd have to go back and check that, but I
18 believe it was combination of the two.

19 Q. US Airways West, the former
20 America West was a relatively new airline
21 that was started post-deregulation,
22 correct?

23 A. I believe so.

24 Q. Well, when was the last time
25 American hired a new hire pilot?

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2 A. So not a furlough, gosh, I
3 think a new hire pilot was probably back
4 over 10 years ago.

5 Q. And since then, in 2001,
6 American added to its pilot seniority
7 list a very large number of former TWA
8 pilots, did it not?

9 A. They did integrate with TWA,
10 yes.

11 Q. And there were thousands of
12 pilots added to the seniority list, were
13 there not?

14 A. I believe so. I'd have to go
15 back and count in my book.

16 Q. And many of those pilots were
17 on furlough at the time that they were

18 added to the seniority list, were they

19 not?

20 A. They may have been.

21 Q. Well in fact there were a

22 large number who were on furlough at the

23 time and who were added to the bottom of

24 the seniority list; isn't that right?

25 A. Well, at the time that that

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2 happened I was actually a financial

3 analyst at American Airlines and I was

4 not involved in the union at the time.

5 Q. Right, but at this time you

6 are and you've ha to look back at the

7 seniority list more than once in your

8 current employment, have you not?

9 A. Absolutely, yes.

10 Q. And you know there are a more

11 than a thousand former TWA pilots who

12 were on furlough, who remain on furlough

13 today, correct?

14 A. I'm not disagreeing that there
15 are more, I'm saying I don't know the
16 number.

17 Q. Is that a yes or no?

18 A. There could be.

19 Q. Now, those, all of those TWA
20 pilots some of whom are still on
21 furlough, they all were allowed to carry
22 over their seniority for pay purposes to
23 American Airlines, were they not?

24 A. I believe that there was some
25 arrangement like that.

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2 Q. So as those furloughees are
3 recalled, no matter how many years of
4 seniority they have, they won't -- even
5 though they've never flown for American
6 Airlines, they had flown for TWA, they
7 will come in with all the years of

8 seniority they have built up at TWA and
9 slide into that place on American's pay
10 scale, correct?

11 A. I believe so, yes.

12 Q. So when you say seniority
13 differences may change over time, it will
14 be a long time before American's pilot
15 seniority begins to drop down because
16 it's doing significant amount of new
17 hires, won't it?

18 A. I disagree.

19 Q. You disagree because in the
20 future there's growth in American's
21 business plan?

22 A. I disagree because I've seen
23 the company's valuation model. I've seen
24 the projections on when new hires are
25 going to come in and I've seen the impact

3 employee and during the duration of this
4 contract we will see the average cost of
5 wage rate of an employee, pilot, excuse
6 me, drop enough that it's very clear
7 those are new hires associated with that.
8 I don't even have to make that inference
9 because there's a line in the document
10 that says new hire counts and you can see
11 how many new hires the company is
12 planning year over year.

13 Q. Now I understand from your
14 declaration, and I want to talk to
15 paragraph 4 on page 2:

16 A. Page 2?

17 Q. Yes. You say there that you
18 value the company's proposal, and let me
19 make clear to you in my discussion I am
20 only asking questions about the company's
21 proposals.

22 A. Okay.

23 Q. Not APA's proposals?

24 A. Okay.

25 Q. So you value that, the

1
2 company's proposal at 460 million dollars
3 per year, correct?

4 A. That's correct, yes.

5 Q. And the company says that its
6 target that it's seeking from APA is 370
7 million dollars a year, correct?

8 A. That's I understand it, yes,
9 correct.

10 Q. So the difference is
11 approximately 90 million dollars per
12 year, correct?

13 A. Correct.

14 Q. Now, I want to make sure that
15 I understand where that difference comes
16 from.

17 A. Okay.

18 Q. Approximately 77 million, by
19 my count, of that 90 million is composed
20 of three types of, three categories of
21 items: 36 million dollars a year

22 difference in medical benefits; is that
23 correct?

24 A. I'm going to say that you've
25 done the math and so those are the

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2 numbers, but I don't remember exactly the
3 number. I'd have to look at it.

4 Q. Let's look, it's in your
5 declaration, so I don't want to mislead
6 you or misstate it.

7 A. It's towards the back, I
8 think.

9 Q. That would be on page 19 in
10 Exhibit 208 in your declaration. Or
11 Exhibit 208 as a stand-alone exhibit. Do
12 you have that in front of you?

13 A. Page 19, yes, I do.

14 Q. If you would do whatever you
15 need to do, if you need a calculator, we
16 can try to find one.

17 A. Which items we will want --

18 Q. Let's start with benefits. So

19 benefits would include retiree medical.

20 There's a \$20 million difference,

21 correct?

22 A. It says 19, but okay.

23 Q. I'm sorry, it says 58 and 38?

24 A. Right, but I have a footnote

25 that says the double asterisk that

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2 figures may not add up due to rounding,

3 so.

4 Q. We'll go with 19, okay. And

5 the other are active medical, that's 11?

6 A. So 30.

7 Q. Correct?

8 A. Yes.

9 Q. Retirement benefit plan,

10 difference of six, correct?

11 A. Correct.

12 Q. So that's 36 million dollars,
13 is it not?

14 A. That's correct, yes.

15 Q. So 36 million dollars is the
16 difference on benefits.

17 Now most of that difference,
18 the greatest dollar amount turns on
19 assumptions about future medical plan
20 utilization, correct?

21 A. Let me just look real quick at
22 which one that was. The biggest amount
23 is actually the retiree medical. That's
24 not the -- ask your question one more
25 time.

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2 Q. Doesn't retiree medical turn
3 in part about, the cost of retiree
4 medical, doesn't that turn in part about
5 expectations about medical plan
6 utilization?

7 A. It may. I'd need to talk to,
8 probably ask our Segal representative,
9 Chris Heppner, who will be speaking
10 later, he would know exactly which
11 components go into that.

12 Q. So you don't know what
13 components make up the cost difference
14 there?

15 A. What my understanding of the
16 cost difference, my level of
17 understanding of a difference in
18 valuations are what's driving that
19 difference.

20 So when they give us, give me
21 the numbers and say here's how much we
22 think American's valuation is and here's
23 how much American is saying, my question
24 to our consultants is what's driving that
25 difference, yes. I don't question his

2 methodologies.

3 Q. So you don't calculate
4 yourself and you don't make the
5 assumptions?

6 A. That is correct.

7 Q. Another big difference is the
8 24 million dollar difference on crew rest
9 seats, correct?

10 A. That's another big difference,
11 yes.

12 Q. So those two items we're up to
13 60 million dollars right there on those
14 two categories, crew rest and benefits,
15 correct?

16 A. Yes.

17 Q. And my is there's a 17 million
18 dollars on schedule max, work rules and
19 sick, correct, 17 million dollar
20 difference?

21 A. Yes, that's correct.

22 Q. So you agree with me then that
23 those items we've just discussed make up
24 77 of the 90 million dollar difference on

25 the valuation of the company's proposal,

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2 correct?

3 A. Those items make up the
4 majority, yes.

5 Q. And you say in your
6 declaration that this valuation isn't an
7 exact science, correct?

8 A. That's correct.

9 Q. And you also said, I believe
10 on your direct that you think that the
11 data sets and the methodologies that the
12 company and the association are using are
13 pretty close to matched up; is that
14 right?

15 A. Yes.

16 Q. And where the differences are
17 really is about assumptions?

18 A. For the most part. There were
19 a few areas where we had different data

20 sets and we couldn't reconcile the data
21 the company was using versus ours. But
22 for the most part, we, you know, have a
23 good relationship with the finance team,
24 the methodologies, the approaches are
25 very consistent if not exactly the same

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2 but majority of the differences are
3 driven by changes in assumptions,
4 differences in assumptions.

5 Q. And reasonable people can
6 disagree on those, correct?

7 A. I believe so.

8 Q. Even the experts can disagree?

9 A. I believe so, yes.

10 Q. Now, who are your counterparts
11 on the company's side?

12 A. Michael Burtzlaff and Mark
13 Moesner.

14 Q. And they're the actual finance

15 department representatives on the
16 company's negotiating team?

17 A. Correct, yes.

18 Q. And they report to Mr.
19 McMenemy who testified here?

20 A. They do roll up to Brian
21 McMenemy, yes.

22 Q. And Mr. Burtzlaff is the lead
23 for the pilot team?

24 A. He's the lead. Mark Moesner I
25 believe is his boss.

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2 Q. And do you have a good working
3 relationship with Mr. Burtzlaff?

4 A. I have a very good working
5 relationship with him.

6 Q. He's a person of integrity?

7 A. He is.

8 Q. Now, looking at Exhibit 203 to
9 your declaration those first four

10 categories --

11 A. Just one second, sorry. 203,
12 okay, I'm here.

13 Q. This is where you lay out the
14 data and assumptions used by the company
15 and the association, correct?

16 A. That's correct.

17 Q. And I want to make sure that
18 we have an understanding of what those
19 are.

20 A. Okay.

21 Q. The first item you list is
22 volume adjustment. I'm not sure I
23 understand what adjustment means. Does
24 that basically mean the size of the
25 airline over time?

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2 A. Excuse me. Yes. What the
3 volume adjustment is, this was a method
4 that the company used, that I adopted,

5 that essentially allows us on certain
6 proposal where we have value, we have,
7 excuse me, data for a period of time
8 that's already actual data and taking
9 that and saying okay, given this actual
10 data over let's say 2011, here's the --
11 you put -- when you value the proposed
12 contract change it comes up with X amount
13 of dollars in savings or cost.

14 And what we do with that is
15 we, or what the volume adjustment does is
16 say okay, well let's project out what
17 that would look like throughout the
18 duration of the contract. And the volume
19 that they're referring to is a volume of
20 ramp hours, or flying and trying to say
21 okay, based on these adjustments here's
22 how we could see that either savings or
23 cost contract or grow over the duration
24 of a contract, yes.

25 Q. And so that is the size of the

1

2 airline?

3 A. I would agree with that, yes.

4 Q. And for your purposes most
5 immediately in terms of pilot hours or
6 block hours because that's how you
7 measure pilot costs?

8 A. It's a high level macro
9 assumption. There could be some specific
10 differences based on whether that growth
11 was international, that had more pilots
12 on it or less pilots on it. You know,
13 what type of fleet, if you're expanding
14 on a lower -- smaller aircraft that maybe
15 has lower average costs because you have
16 less senior pilots, it could be
17 different, but it's a company accepted,
18 company proposed methodology that we've
19 adopted.

20 Q. And the company's business
21 plan has that data in it going forward
22 for six years, does it not?

23 A. The ramp hour growth data,

24 yes, it does.

25 Q. And the company shared that

72

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2 business plan with you?

3 A. Yes, they have.

4 Q. And both sides are using it,

5 so both sides agree that they're going to

6 look at the airline, the hopes and

7 expectations, it's the best available

8 data we have about what the future looks

9 like?

10 A. It's the best information,

11 yes.

12 Q. Still subject to change,

13 right, there could be an economic,

14 another economic recession, airplane

15 orders could be cancelled, things happen?

16 A. Things happen, correct.

17 Q. And you would agree with me,

18 would you not, that the further out you

19 project the less reliable the projections

20 get?

21 A. I'd agree that's generally the

22 issue with projections, yes.

23 Q. Let's look at the second

24 category data, the seniority list.

25 A. Okay.

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2 Q. Is that just a list of names

3 in rank order?

4 A. Not just the names. It's also

5 the particular demographic information on

6 that list of names. So it includes where

7 they fall in the seniority list, when

8 they were hired, dates of birth, what

9 equipment that they fly, what -- are they

10 international, are they domestic, etc.

11 It has a wide range of information.

12 Q. Does it project out pilot

13 movement upward in aircraft types as they

14 move up as their seniority entitles them
15 to promotions?

16 A. Not directly. It doesn't do
17 any in its own self, its own right, it's
18 just a list of names.

19 Q. But does the model advance
20 those pilots, progress them forwards?

21 A. Yes, using the information
22 that's contained in the seniority list,
23 it does, and it does that based on growth
24 and it does it based on their expected
25 retirements and that's how -- those are

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2 -- that's kind of -- that's the
3 information that we use to project that
4 movement.

5 Q. And does that demographic
6 information also include what medical
7 plan elections that particular pilot has
8 made?

9 A. That particular list does not
10 say anything about medical, no.

11 Q. Where is that data contained?

12 A. My understanding on how it
13 gets back, the data gets to me is that
14 it's provided by American Airlines to our
15 medical department, benefits department
16 at the APA, they work with that
17 information and then provide us summaries
18 on here's, you know, utilization rates.

19 Q. So that's an additional set of
20 data that you use that's not reflected in
21 this chart; is that right?

22 A. That data is used in the
23 context of the valuations on medical and
24 I don't do any of those valuations on
25 medical. Those are done by our

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2 actuaries, so I don't have really a need
3 for those.

4 Q. So you don't use them so
5 they're not in this chart, but they are
6 part of this process?

7 A. That's correct.

8 Q. Now the next category of data
9 listed is historical paid hours. Do you
10 see that?

11 A. Yes, I do.

12 Q. What does that mean?

13 A. As I mentioned in the direct,
14 that when we're looking at valuations,
15 we're looking at the need of pilot head
16 count to run the operation and the number
17 of paid hours that will be -- accompany
18 that requirement because those can
19 differ. When I say they differ, they
20 might not move in unison with each other.
21 So we look at both components.

22 And so we pull actual
23 historical data on paid hours and look at
24 that in association with the heads, the
25 pilot head count for those periods and to

1

2 use that data on a go-forward basis.

3 Q. The fleet delivery schedule.

4 What is that?

5 A. That is the, as it says, the
6 delivery schedule for American's fleets
7 that the -- the fleet, the equipment that
8 they are going to be purchasing.

9 Q. Well does it also include the
10 entire fleet plan, in other words, the
11 planned retirements of aircraft?

12 A. It does, yes.

13 Q. Now, the non-shaded areas are
14 places where the assumption differ; is
15 that right?

16 A. That's correct, yes.

17 Q. And one of those is the
18 average retirement age, correct?

19 A. That is correct, yes.

20 Q. And APA use, you say here,
21 uses the legal retirement age of 65,

22 right?

23 A. That is correct.

24 Q. Age 65 is now mandatory for
25 airline, commercial airline pilots under

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2 federal regulations, correct?

3 A. Correct.

4 Q. And it was age 60 until
5 December 2007 when it was changed by
6 federal law, correct?

7 A. I believe so, yes.

8 Q. That was on a prospective
9 basis?

10 A. What was on a prospective
11 basis?

12 Q. The change in the law. In
13 other words, it didn't -- if you had not
14 reached age 60 yet you could keep on
15 flying?

16 A. Yes.

17 Q. But if you were age 62 you
18 were out of luck, correct?

19 A. Unfortunately, yes.

20 Q. So in APA's costing model all
21 pilots retire at age 65; is that right?

22 A. That is correct, yes.

23 Q. Now, you said the company uses
24 historical data for average retirement
25 age; is that right?

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2 A. That's my understanding of how
3 they use it based on some information
4 sharing that they've done with us.

5 Q. Well they in fact they shared
6 with you 2011 actual retirement data, did
7 they not?

8 A. I believe that that was one --
9 provided in one of the data requests.

10 Q. So you understand that in 2011
11 400 pilots retired; does that sound

12 right?

13 A. In the context of the company
14 about to file for bankruptcy, that sounds
15 about right.

16 Q. And do you know what the ages
17 of those pilots were?

18 A. Off memory, no, I do not.

19 Q. So you don't have a recall?
20 Would it surprise you to learn that 153
21 of them were under age 60?

22 A. Nothing would surprise me
23 given the context of a looming
24 bankruptcy, no.

25 Q. And would it surprise you to

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2 learn that their ages ranged from 50 to
3 63?

4 A. It wouldn't surprise me, no.

5 Q. So if that's -- that's the
6 data that's in American's model, is it

7 not?

8 A. I believe so, yes.

9 Q. So American considers the
10 actual pre-65 retirements and APA ignores
11 them, correct?

12 A. If the company is using that
13 data in their projections then that is
14 highly flawed.

15 Q. So the answer is yes?

16 A. What was your question again.

17 Q. American uses actual data and
18 APA ignores it, correct, yes or no?

19 A. That's correct.

20 Q. Thank you. Now, weighted
21 average cost of capital, what does that
22 mean?

23 A. It's a discount rate that's
24 used to discount future cash flows to try
25 to generate a present value of those cash

2 flows.

3 Q. For which items?

4 A. That was used in context of
5 paycheck process, which is one of the
6 proposals that the APA had to make some
7 changes to how they're paid. I'm trying
8 to think where else that was used.

9 Prepetition it was used more
10 often but I think postpetition that was
11 the only number, the only valuation it
12 was used for, I think.

13 Q. And the paycheck processing
14 proposal as I understand it, would have
15 the company advancing more cash to pilots
16 earlier in connection with their payroll,
17 correct?

18 A. The advance would increase and
19 it would be five days earlier, that's
20 correct.

21 Q. Did the company tell you
22 across the table that that would require
23 them to maintain approximately 20 million
24 dollars a year more in cash on hand just
25 to make that workable?

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2 A. I do not remember a discussion
3 specifically saying that they would
4 require them to hold, to have 20 million
5 dollars more, no.

6 Q. Do you recall a discussion
7 where they said that would require more
8 liquidity by the company to advance the
9 cash to the pilots?

10 A. At a snapshot in time it would
11 -- it would require them to funnel more
12 cash into this, to pay this than it would
13 if they had a current book, that's
14 correct.

15 Q. And do you know what
16 American's actual weighted cost of
17 capital is?

18 A. Their actual, they provide
19 information to us that said it was 13.79
20 percent.

21 Q. So that's what they used for
22 that item?

23 A. Yes, that's what's in their
24 calculation, that's correct.

25 Q. But for the discount rate for

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2 things like medical plan and pension
3 under-funding, they use a standard 8.25
4 percent, correct?

5 A. That would be a better
6 question for Chris Heppner as far as what
7 they used for the medical, what discount
8 rate that they used. My understanding is
9 that for retiree medical again the
10 question I ask is why is it different,
11 what's being used is different is that
12 what they're using is a discount rate
13 much higher than what the industry
14 average is for valuing retiree medical.

15 Q. Well, do you know that?

16 A. That's what I was told by our
17 consultant.

18 Q. But you don't know what the
19 industry average is for retiree medical?

20 A. I leave that to our advisors.

21 Q. So you just don't know,
22 correct?

23 A. I do know based on the
24 advisors telling me that it's 5 percent.

25 Q. Did they tell you what

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2 industry?

3 A. Specifically, let me see if I
4 can remember if they did or not. I don't
5 think it would really in the context of
6 retiree medical matter because that would
7 not be an industry specific.

8 THE COURT: All right, I'm
9 going to ask, he's going to ask a
10 question, you're going to answer

11 the question because we're getting
12 pretty far afield now. And I'm
13 again, your counsel will get up and
14 ask you whatever questions he or
15 she wants to ask you, but I'd ask
16 that you answer the question. So
17 let's get a question and answer.

18 Q. Your Exhibit 208, would you
19 put that in front of you. There you say
20 that the company's valuation of its own
21 proposal was 377 million dollars,
22 correct?

23 A. That is correct, yes.

24 Q. Now, didn't the company
25 negotiators tell your committee more than

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2 once that they were open to any
3 combination of proposals that would yield
4 370 million dollars?

5 A. I don't know that's true or

6 not.

7 Q. Did you attend the meetings
8 the company held on February 1st?

9 A. I was there on February 1st,
10 yes.

11 Q. And in that meeting didn't Mr.
12 Newgren tell APA that the target was 370
13 and that the company was open to
14 discussion of any way to get there?

15 A. I don't recall. I know that
16 the number was 370, but I don't recall
17 specifics, no.

18 Q. Do you recall any discussion
19 about being open to rearranging the
20 furniture?

21 A. They may have talked about
22 that.

23 Q. Do you recall mention of the
24 words true up, that we will true up at
25 the end of the process, we will true up

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2 to make sure we agree on 370 million in
3 valuation?

4 A. I don't -- a lot's happened
5 since February 1st. I don't recall.

6 Q. So you don't deny that it
7 happened, you simply don't remember?

8 A. I'm not denying it, no.

9 Q. And at that same meeting on
10 February 1st, the company negotiators
11 told APA that the company was open to
12 discussion of valuations and assumptions,
13 did it not?

14 A. I would imagine so.

15 Q. Well you were there?

16 A. I was there.

17 Q. Did the company say that or
18 not?

19 A. I don't recall specifically if
20 the company said that. I really don't.

21 Q. It would not have been
22 extraordinary for the company to say
23 something like that, correct?

24 A. No, it would not have been,
25 no.

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2 Q. Because that's what you
3 regularly did?

4 A. That's correct.

5 Q. And you continued to do that
6 during the course of these negotiations,
7 correct?

8 A. To the extent I was involved.

9 Q. Well, during these
10 negotiations the company did change
11 several of their valuations, did they
12 not?

13 A. They did change them, yes.

14 Q. And some of those changes were
15 on the company's own initiative and some
16 were after discussions with APA, correct?

17 A. That's correct.

18 Q. In paragraph 43 of your

19 declaration you say that the company
20 agreed with APA on the valuation of the
21 St. Louis base closure, correct?

22 A. That's correct.

23 Q. That's where the company moved
24 in APA's direction, correct?

25 A. You mean when you say moved in

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2 our direction.

3 Q. They accepted your valuation?

4 A. Oh, yes, correct.

5 Q. And in paragraph 54 of your
6 declaration, you say that there were
7 several other instances in which the
8 company agreed to change its valuation?

9 A. Yes. We had conversations and
10 they agreed to make some changes.

11 Q. And at least twice the company
12 sat down and summarized the changes in
13 valuations that it had made in the course

14 of negotiations and the first time the
15 net credit was 22 million dollars of --

16 A. That sounds right.

17 Q. -- increased value, correct?

18 A. That sounds familiar.

19 Q. And the second time the net
20 value favorable to APA was 7 million
21 dollars, correct?

22 A. It very well could have been,
23 yes.

24 Q. So the total net value savings
25 or credits to APA for valuation purposes

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2 from the company were 29 million dollars,
3 correct?

4 A. I'm not trying to be
5 argumentative. It very well could have
6 been. I don't recall the specific
7 numbers. 922 million sounds very
8 familiar, the 7 in isolation doesn't

9 sounds familiar, but it could be.

10 Q. You're here today as APA's
11 valuations expert?

12 A. I am, yes.

13 Q. So those credits led the
14 company to change its proposal, to pull
15 out terms in order to bring the total
16 cost of the proposal down to 370,
17 correct?

18 A. I guess that's why they did
19 it.

20 Q. And you've been in collective
21 bargaining now for two or three years,
22 correct?

23 A. That's correct, yes.

24 Q. How many times did APA change
25 its valuations in response to discussions

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2 with the company?

3 A. Several times.

4 Q. Did you ever tell the company
5 about that?

6 A. I wasn't physically at the
7 meetings very often. I was only there a
8 handful of times. So I did not
9 personally tell them here's numbers that
10 we've changed. What I did do was make
11 changes if I agreed that they had a
12 methodology that made more sense or if I
13 got new information.

14 Q. So you made those changes
15 inside APA in your internal analyses
16 possibly?

17 A. That's correct.

18 Q. But you didn't share them with
19 the company?

20 A. If our negotiators shared them
21 at the table it's very possible, but I
22 just wasn't in attendance.

23 Q. So you didn't share any
24 valuation changes by APA with the
25 company, you personally?

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2 A. There was one, I'm trying to
3 think back, you could count on one hand
4 the number of meetings I believe that I
5 attended. There was one meeting where we
6 did go through some of the I think with
7 the finance team some of the valuations
8 and I talked through some of the
9 assumptions that I was using, and when
10 they talked through their assumptions
11 that they were using, methodologies, if
12 theirs made -- if I thought I had not
13 captured something and theirs made more
14 sense then I did change it. It's very
15 possible that I vocalized it there at the
16 table, but it would have been in the
17 context of that particular meeting.

18 Q. Very possible, but you don't
19 recall whether you did or not?

20 A. Let me think about that. I
21 think there could have been times where I
22 vocalized it, but, you know, I just don't

23 remember, no.

24 Q. You remember discussing it
25 internally on the APA side?

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2 A. Yes, we had lots of
3 discussions internally.

4 Q. Isn't it a fact that the
5 company negotiators never sought any
6 detailed costing by APA of APA's
7 proposals?

8 A. I can't speak to it, if our
9 negotiators gave them anything or not.
10 They do have one exhibit that shows a
11 valuation that says APA calculated, so
12 they had some information from us.

13 Q. Produced in litigation?

14 A. I'm not following your
15 question now.

16 Q. Let me turn to paragraph 24 of
17 your declaration where you say that in

18 calculating the lineholder, the value of
19 lineholder guarantee, APA used data from
20 the company to determine the value.

21 Did you find that place in
22 your declaration?

23 A. Yes, I did. Paragraph 24?

24 Q. Yes.

25 A. Yes.

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2 Q. Now what data from the company
3 did you use?

4 A. What our technical analysis
5 and scheduling committee does is download
6 periodic information from the company on
7 pilot, pilot activity and in fact they're
8 called pilot activity records and what
9 was pulled from the data was how much in
10 guarantee -- actually for the pilot
11 records it was pulled two ways. One was
12 the number of guaranteed paid hours that

13 were assigned to lineholder guarantee.

14 And my understanding of the
15 other method was looking at how many, how
16 many hours were paid to pilots and there
17 may actually be a notation that it's
18 called lineholder guarantee, I don't pull
19 the data myself, but you can see pilots
20 that were paid at the 64, but that
21 actually, their actual flown hours would
22 have generated paid hours less than that,
23 so that make up.

24 Q. Well in paragraph 25 you say
25 the company used different data. Do you

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2 see that?

3 A. Yes, I do.

4 Q. Now the company tells me they
5 used actual payroll data that showed
6 payments for lineholder guarantee. Is
7 that what the company told you?

8 A. That's what the company told

9 us, yes.

10 Q. And you had the ability to

11 check whether that was actual payroll

12 data or not, did you not?

13 A. We had the ability to pull

14 something similar, yes.

15 Q. And so you had the same data

16 but different values; is that right?

17 A. That's correct.

18 Q. Now, on benefits you say in

19 your declaration that the company refused

20 to employ reasonable assumptions on the

21 valuation of the benefit plan changes; is

22 that right?

23 A. That's correct.

24 Q. Do you know what those

25 assumptions were?

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2 A. Yes. Specific to active

3 medical, the assumption was, the
4 assumption that the company did not take
5 into consideration, my understanding is
6 that they didn't look at the changes in
7 utilization rates. When you change the
8 value of a plan to the cost of a plan,
9 excuse me, to a participant, there are
10 going to be inherent changes in behavior
11 according to that plan based on what
12 their economic -- their cost is going to
13 be and that was the issue for medical.
14 And on retiree medical was a discount
15 rate that was used.

16 Q. So both of those valuations
17 were under the domain of Mr. Heppner at
18 Segal?

19 A. Yes.

20 Q. So you took his word for it on
21 both of those subjects?

22 A. His word, yes.

23 Q. On future retiree medical
24 plans assumptions, what retirement age
25 expectations does APA's costing assume?

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2 A. In my valuation modeling?

3 Q. No, yes, well in APA's
4 valuation modeling for future retiree
5 medical costs, that's hard pilots who
6 retire in the future with medical
7 insurance, what retirement age did you
8 assume?

9 A. I didn't do the calculations.
10 And I tell you I don't know what
11 retirement age that was assumed by our
12 actuaries. I don't know.

13 Q. So that would also be Mr.
14 Heppner's domain?

15 A. That would be, yes.

16 Q. And you would agree with me
17 that pre-65 retirements have much greater
18 medical costs because they're not covered
19 by Medicare?

20 A. That's my understanding of it,

21 yes.

22 Q. I want to talk for a moment
23 about crew rest seats. My understanding
24 is the current contract requires American
25 to reserve two premium class seats on 757

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2 international flights for the use of one
3 pilot; is that correct?

4 A. I believe so, yes.

5 Q. So the pilot gets his own seat
6 in first class or business class,
7 whichever is on that airplane, plus the
8 one next to him is kept empty; is that
9 right?

10 A. That's my understanding.

11 Q. So both of those seats are
12 unavailable for sale to the customers?

13 A. That would be the case, yes.

14 Q. And the same is true for 767
15 international flights that are overnight,

16 which is most of the flights to Europe,
17 correct?

18 A. I believe so, yes.

19 Q. On the 777-200, that's a newer
20 aircraft that actually has two crew bunks
21 built into the airplane, correct?

22 A. Correct.

23 Q. And on that airplane American
24 also is required by contract to make
25 available one first class seat for each

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2 augmented pilot, there could be two
3 pilots onboard, correct?

4 A. That's correct, yes.

5 Q. And that pilot, those
6 augmented pilots then would have the
7 option to be in the bunk, correct, that's
8 one option they would have?

9 A. That's correct, yes.

10 Q. Or to be in the first class

11 seat?

12 A. That's correct.

13 Q. Or to be in one of the two
14 jump seats in the cockpit?

15 A. I suppose so, yes.

16 Q. Now federal regulations only
17 require that there be some rest place,
18 some seat, correct, only one, a seat for
19 the pilot?

20 A. I believe, and I can't cite
21 the regulations, but that they are for a
22 level of adequate rest, so there's some
23 qualification to that type of rest. It's
24 not just that they have to rest.

25 Q. Now the company's proposal, as

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2 I understand it, is for 757 and 767 to
3 eliminate the second seat, the empty seat
4 next to the pilot; is that your
5 understanding?

6 A. I believe so, yes.

7 Q. And the company's proposal for
8 those aircraft is also to move the pilot
9 to business class on flights where
10 there's a three class configuration
11 instead of first class, correct?

12 A. Correct.

13 Q. And that would free up that
14 empty seat for paying passengers and in
15 first class for two paying passengers,
16 correct?

17 A. Correct.

18 Q. Now for the 777-200, where
19 there's a crew bunk and jump seats in the
20 cockpit, the company's proposal is to
21 eliminate the reserved seat for the pilot
22 and simply allow him to stand by for a
23 vacant seat; is that correct?

24 A. I believe so, yes.

25 Q. That's the company's proposal,

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2 okay.

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Now, making those sales

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available for sale to customers does not

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reduce American's cost, does it?

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A. Making those seats available

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to customers. It depends on the

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definition of cost. It's a cost to the

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company especially the cost to the

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company is the inability to recognize

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cash flow from the sale of those seats.

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Q. It's a revenue item, isn't it?

13

A. It has similar impact.

14

Q. Well, if a customer buys a

15

seat, buys one of those seats and pays

16

money for his ticket that's a revenue

17

enhancement for the company, is it not?

18

A. A direct revenue enhancement

19

or not a cost offset.

20

Q. Are you aware that in other

21

airline bankruptcies pilot unions have

22

not received any credit for revenue

23

enhancements?

24

A. I'm aware that in the --

25 everything except Northwest Airlines they

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2 had a bridge agreement before where they
3 actually got value for revenue items. I
4 believe that value was then taken away
5 during the 1113, but I think that's the
6 only airline that had any value
7 assignment there.

8 Q. So that's a yes, correct?

9 A. Yes.

10 Q. You heard Mr. Roghair testify
11 yesterday that in the other airline
12 bankruptcies the unions did not, the
13 pilot unions did not receive credit for
14 scope clause changes, correct?

15 A. That's correct.

16 Q. And scope clause changes are
17 primarily designed to enhance revenue,
18 correct?

19 A. Yes.

20 Q. Now you told us earlier that
21 APA's costing is based upon the size of
22 the airline and fleet and route reflected
23 in American's business plan, correct?

24 A. I'm sorry, say that question
25 again.

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2 Q. You told us earlier that APA's
3 costing is based upon the size of the
4 airline and the fleet and the routes that
5 are reflected in American's business
6 plan?

7 A. Yes, those shall the main
8 components, correct.

9 Q. And that business plan
10 projects growth of the airline, does it
11 not?

12 A. It does.

13 Q. And it projects more pilots
14 than are presently employed, correct?

15 A. Yes, it does.

16 Q. And we all agree that's good
17 for pilots, correct?

18 A. Yes.

19 Q. And not just because they have
20 jobs, but because the faster the growth
21 the more rapidly they can move up the
22 ranks to higher paying airplanes,
23 correct?

24 A. That's correct.

25 Q. And move from first officer to

102

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2 captain, correct?

3 A. That's a correct assumption.

4 Q. That's probably why captain
5 Bates said APA was enthusiastic about the
6 aircraft order, correct?

7 A. I really can't speak to why
8 Captain Bates said what he said.

9 Q. Now in your declaration,

10 attribute 21 million dollars per year in
11 pilot labor cost savings. It's in
12 paragraph 68?

13 A. I'll just flip to that because
14 I know there's some confidential
15 information there. 68?

16 Q. Yes. I'm not going to ask you
17 any question that calls for confidential
18 information and thank you for reminding
19 me. Let's be careful not to breach that.
20 But you assign a 21 million dollar per
21 year pilot labor cost saving to
22 American's proposed scope clause changes
23 relating to regional jets, correct?

24 A. No, that's not what the 21
25 million is.

103

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2 Q. What is it?

3 A. The 21 million is a reference
4 to potential lost wages and benefits to

5 the pilots.

6 Q. Okay. And that's because you
7 assume that some regional -- some routes
8 that were mainline are being dropped and
9 allocated to regional carriers, correct?

10 A. That's correct, yes.

11 Q. So in your view that reduces
12 the company's labor cost?

13 A. I'm not following your
14 question. I'm not saying that the 21
15 million changes, in this context, I'm not
16 saying the 21 million is any reference to
17 company savings. I'm saying this is a
18 projection on lost wages and benefits to
19 the pilots.

20 Q. All right. Well suppose at
21 the same time under the business plan the
22 airline is growing, it's just cutting out
23 the route from Chicago to Des Moines, but
24 adding a route from Chicago to New Delhi.

25 A. So in that zero change, right.

1

2 Q. Well actually that would be a
3 big plus for the pilots, would it not?

4 A. Why would it be a plus for the
5 pilots?

6 Q. Because the route to New Delhi
7 is a lot more flying, a lot more pilot
8 hours?

9 A. In theory, yes. If we talk
10 about New Delhi, yes. I'm sorry I didn't
11 catch the route.

12 Q. Any other route longer than
13 the distance from Chicago to Des Moines
14 would be a plus for the pilots, correct?

15 A. As far as total block hours,
16 yes, that would add to positive block
17 hours.

18 Q. So when you analyzed and came
19 up with this 21 million dollars, did you
20 analyze the economics of the routes that
21 were going to be withdrawn, that you
22 assumed would be withdrawn from the

23 mainline?

24 A. Did I analyze the routes that
25 would be withdrawn. I did look at

105

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2 particular routes that would be withdrawn
3 from mainline and shifted to regionals,
4 yes, I did look at that.

5 Q. You looked at their identity
6 or did you look at their profitability?

7 A. Both, to a certain degree
8 both, yes.

9 Q. And is it fair to say if they
10 were withdrawn they were being withdrawn
11 because American saw an economic
12 advantage to switching them around?

13 A. For the most part they were
14 marginal or unprofitable flying, yes.

15 Q. Now airlines add and drop
16 routes regularly, don't they?

17 A. Yes, I believe so.

18 Q. And that's permitted under the
19 pilot contract?

20 A. To add and drop routes?

21 Q. Yes.

22 A. Yes.

23 Q. And if a carrier adds a route
24 with approximately the same block hours
25 as the route it withdraws that doesn't

106

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2 reduce its costs one bit, does it?

3 A. Say that one more time, I'm
4 sorry.

5 Q. If the carrier adds a route
6 with approximately the same block hours
7 as the route it withdraws that doesn't
8 reduce its costs one bit, does it?

9 A. I think it could if you have
10 different economics on that route.

11 Q. Costs?

12 A. Right.

13 Q. Pilot costs?

14 A. If you -- I'm confused. If
15 you add a route.

16 Q. With the same block hours,
17 same length of route as a route that it
18 drops elsewhere.

19 A. And they're both staying at
20 the mainline.

21 Q. Yes.

22 A. Then it's probably not going
23 to change anything.

24 Q. Now, if American simply --
25 you've identified these routes as being

107

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2 gone from the mainline schedule, correct?

3 A. Yes, correct.

4 Q. And you have assumed that they
5 would be allocated to regional flying?

6 A. Based on the projection that
7 specifically assigned a regional jet in

8 that projection and given today that it's
9 flown with a mainline jet, I derived that
10 because the company said they're going to
11 fly with a regional that they're going to
12 fly with a regional.

13 Q. And if it's marginal flying,
14 the company could just cancel it,
15 correct?

16 A. Sure, they could cancel it.

17 Q. And they could that under the
18 current contract, correct?

19 A. Correct.

20 Q. And that would result in a
21 real pilot loss of jobs?

22 A. Well, if the flying went away
23 I don't understand how that's not a loss
24 of jobs. If it got cancelled it's a loss
25 of jobs potentially. If it got

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2 outsourced it's also a loss of jobs.

3 They're similar I would believe.

4 Q. Would you turn to your Exhibit
5 204.

6 MR. ROSENTHAL: Your Honor,
7 maybe we could take a second here
8 to ask the witness if she is
9 comfortable or needs a break.

10 THE WITNESS: I'm okay right
11 now.

12 THE COURT: All right, I'll be
13 guided by conversations among
14 counsel.

15 THE WITNESS: Maybe if we're
16 still going in about 45 minutes.

17 THE COURT: It's always nice
18 to know there's light at the end of
19 the tunnel, so I think we won't go
20 past 12:30, but if you need a break
21 before then, let us know and we're
22 happy to take a break.

23 Q. Under column cost increases.

24 A. Which exhibit again, 204?

25 Q. 204.

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2 A. Yes.

3 Q. Can you tell us what those
4 items are?

5 A. Absolutely. The first is
6 paycheck processing which we discussed,
7 which is --

8 Q. Let me ask you if you would to
9 give us the short form?

10 A. The what?

11 Q. The concise version.

12 A. Do you want what's included in
13 the proposal or do you want me to just
14 read the name of the proposal.

15 Q. Well why don't you tell us as
16 concisely as you can what it's all about.

17 A. Paycheck processing is moving
18 the advance the pilots receive up five
19 days and increasing it by 2000 dollars.
20 It's a thousand dollars a day, increasing
21 it to 3,000.

22 Q. That's the item that you say
23 will cost the company 2 million dollars
24 per year?

25 A. That's correct.

110

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2 Q. And the company says it will
3 cost more because the company uses its
4 weighted average cost of capital?

5 A. Correct?

6 Q. What's per diem?

7 A. Per diem is when the -- during
8 the time that the pilot is away from base
9 on a trip, they are paid for, you know,
10 incidentals, like eating and if they buy
11 things, some amount of money and it's on
12 an hourly rate.

13 Q. And you value that at 6
14 million dollars a year?

15 A. That's correct.

16 Q. What does the company value it

17 at?

18 A. Well it's not the company's
19 proposal. It's an APA proposal to
20 increase per diem. I don't recall off
21 the top of my head what they valued it
22 at.

23 Q. And vacation, there's an
24 proposal to increase the amount of
25 vacation a pilot accrues?

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2 A. That is correct, yes.

3 Q. That's your costing is 12
4 million dollars a year?

5 A. That's correct, yes.

6 Q. And rigs, regs, that's a work
7 rule provision?

8 A. That's correct, yes.

9 Q. And your proposal is to
10 increase the company's cost by 3 million
11 dollars a year?

12 A. Yes, that's correct.

13 Q. And what's in the other
14 category?

15 A. I'm trying to remember what's
16 in other. Some small items, I think
17 hotels. No, actually hotels I think was
18 a company proposal. I'm trying to
19 remember what was in ours. I should have
20 had that noted. Uniforms, I think we had
21 an proposal on uniforms, a small, small
22 dollar items, but the proposal was to I
23 believe allot some new hire uniforms that
24 doesn't exist today in the contract.

25 Q. So the company pays for

112

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2 uniforms?

3 A. The proposal would be that the
4 company would pay for some amount, either
5 for a new hire, some shirts and a jacket
6 and a hat I believe.

7 Q. So in this concessionary round
8 of bargaining for a company in
9 bankruptcy, APA has proposed 24 million
10 dollars per year in pilot labor cost
11 increases to the company, correct?

12 A. That is correct, yes.

13 MR. GALLAGHER: Your Honor, if
14 it would be appropriate now to take
15 a break now I can check my notes
16 and I think I would be very close
17 to concluding.

18 THE COURT: Why don't we do
19 that. How long do you want the
20 break to be?

21 MR. GALLAGHER: I would say 10
22 minutes, your Honor since they
23 usually stretch to 15.

24 THE COURT: Let's say at noon
25 we'll be back.

2 (A recess was taken.)

3 THE CLERK: All rise.

4 THE COURT: Please be seated.

5 MR. GALLAGHER: Your Honor,

6 I'm pleased to report I have

7 nothing further. Pass the witness.

8 THE COURT: All right.

9 Redirect.

10 REDIRECT EXAMINATION

11 BY MR. ROSENTHAL:

12 Q. Hello again.

13 A. Hello.

14 Q. A couple of things. First of

15 all, do you recall being asked on cross

16 examination about your scope analysis?

17 A. Yes.

18 Q. And do you recall Mr.

19 Gallagher asking you about the impact

20 that would occur if an airline withdrew

21 one route and added a second route?

22 A. If they withdrew one route and

23 added a second route, yes.

24 Q. A few questions about that.

25 First of all, would you still consider

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2 that a loss of flying if it was the case
3 the second route would have been added
4 anyway, if you thought that?

5 A. Ask that one more time, I'm
6 sorry.

7 Q. Sure. If the company took off
8 one route and added a second route, would
9 that still be considered a loss of flying
10 if the company would have added the
11 second route anyway?

12 A. I guess I'm --

13 THE COURT: Let me help out
14 here. What do you consider a loss
15 of flying when you're considering
16 routes that are being added and
17 subtracted?

18 THE WITNESS: Well, in a
19 couple of contexts. In one, the,

20 if the flying that is pulled is
21 from let's say the mainline flying
22 the pilots are doing and it's given
23 to another entity and it's
24 outsourced I consider that a loss
25 of flying.

115

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2 If the flying that was pulled
3 was let's say a certain length or
4 duration and the one that was
5 replaced with at the same carrier
6 was less, was a shorter route,
7 short haul route, then I would say
8 that's a loss of flying.

9 I would also say it's a loss
10 of flying if there is let's say
11 continued growth but if the
12 industry is growing at a certain
13 rate and the rate of growth for
14 American Airlines pilots is less

15 than that, then I would also
16 consider that potential loss of
17 flying as well.

18 Q. Well let me follow up on that
19 last point that you said. Did you review
20 as part of your scope analyst what growth
21 rate American projected in its mainline
22 flying?

23 A. Yes, I did.

24 Q. What was that growth rate?

25 A. Is that something that I can

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2 talk to?

3 MR. GALLAGHER: I don't
4 believe so, your Honor.

5 THE COURT: You may want to
6 refer to her declaration if there
7 are numbers in there, we can speak
8 of it indirectly.

9 Q. Well, let me try to get at it

10 another way. Did you compare that to the
11 growth rate that was expected in regional
12 flying?

13 A. Yes. I compared the growth
14 for, that American had for the mainline
15 flying in comparison to the projected
16 growth that they had for regional flying
17 and compared both of those as well to
18 industry growth expected.

19 Q. Without giving any numbers or
20 specifics, could you tell us the results
21 of that comparison?

22 A. Yes, there was, the growth
23 projected for regional was by far leagues
24 greater than the growth projected for
25 mainline.

117

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2 Q. Okay. I'd also like to ask
3 you about the issue of what retirement
4 age you included in your projections.

5 First, before we ask anything about the
6 substance of that, do you have any sense
7 of what impact the different assumptions
8 about retirement age had on the actual
9 bottom line valuations of the two
10 parties?

11 A. Yes. So if you assume that
12 pilots would retire sooner, let's say,
13 then that will bring in potentially new
14 hires quicker. If you bring in new hires
15 quicker it would take the average cost of
16 a pilot and it would be less. So that
17 when you're now saving heads you would
18 save less money, the average cost of that
19 head savings would be less, would be
20 lower. In the reverse, if you project
21 that they'll stay on longer, then it will
22 be longer till you get new hires coming
23 in, which means your average cost would
24 then be higher and the savings associated
25 with that second scenario, every time you

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2 save a head you're saving a different
3 amount per head than you would if it the
4 retirements were sooner. So it just
5 changes essentially the valuations.

6 Q. So if you had used the
7 company's assumption about average
8 retirement age, I'm sure that you
9 wouldn't know off the top of your head
10 how that would have affected your
11 valuation, but do you have some kind of
12 rough estimate of whether that would have
13 been a made big impact on your valuation
14 or a small impact?

15 A. I don't believe it would have
16 made a material impact, no.

17 And if I could clarify one
18 other point if that's okay.

19 Q. Sure.

20 A. The question the way it was
21 put across was that APA does not look at
22 any historical data when it comes in --
23 when it's signing or making assumption on

24 retirement age. That's not accurate.

25 What I was trying to -- what

119

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2 the comparison was to was using the

3 specific fall of 2011 retirement and we

4 know in the fall of 2011 there was a lot

5 of angst about the performance of

6 American Airlines, its sustainability,

7 whether they were going to file

8 bankruptcy and if that led to pilot

9 retirements, if you use that subset of

10 data in a projection going forward, in a

11 projection that's in the context of a

12 business plan that's supposed to be so

13 successful, one would assume that you

14 wouldn't have that same concern in your

15 pilots.

16 So when I said if the company

17 uses that recent historical pilot

18 retirements e the 400 plus that counsel

19 mentioned, I don't think that that is the
20 appropriate assumption to use in
21 retirements going forward in a successful
22 business plan environment.

23 Q. Before American filed for
24 bankruptcy, when pilots retired were they
25 able to take their accrued pension

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2 benefit as a lump sum?

3 A. Before bankruptcy, they were,
4 yes.

5 Q. And once American filed for
6 bankruptcy, was that possible?

7 A. No, that's not possible.

8 Q. So do you have any perspective
9 on whether that might have affected
10 pilots' thinking in terms of retirement?

11 A. A lot of perspective on that.
12 You know, being in the position I'm in I
13 would get a lots of questions from pilots

14 trying to make the decision, calling me
15 saying do you think American is going to
16 file bankruptcy, I've got to make a
17 decision by Friday on whether I'm going
18 to retire or not so I can get the lump
19 sum factor for my retirement, and of
20 course I'm not able to tell them whether
21 I think the company is going to, you
22 know, that's not a decision I can help
23 them with in any way, but those are the
24 types of decision they were making.

25 I had a pilot call leaving me

121

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2 a message on Friday saying I have to make
3 a decision by 5 o'clock today and whether
4 I can make a retirement or not, and of
5 course I called him Monday, not that I
6 could have told him anything anyway, but
7 that's the type of angst that existed
8 before the company filed.

9 MR. ROSENTHAL: Thank you. I
10 have nothing further.

11 MR. GALLAGHER: No questions,
12 your Honor.

13 THE COURT: Who's the next
14 witness?

15 MR. ROSENTHAL: Larry
16 Rosselot.

17 THE COURT: How long do you
18 expect the direct and the cross to
19 take for this witness? I ask
20 because I just want to find out
21 are we going to get through this
22 witness to start a third witness
23 today, which would break it up,
24 sort of the glass ceiling we've had
25 in this case thus far.

122

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2 MR. ROSENTHAL: My sense of
3 the direct is it may take about 45

4 minutes, your Honor.

5 THE COURT: Mr. Gallagher, any
6 thought about how long cross may
7 take?

8 MR. GALLAGHER: I would
9 estimate an hour, your Honor, but
10 that's sight unseen in terms of the
11 direct.

12 THE COURT: Fair enough.
13 You're right. So who would be the
14 next witness and are they available
15 this afternoon so we can get in
16 some time if it comes to that?

17 MR. ROSENTHAL: I believe the
18 next witness for the pilots is
19 James Eaton and I believe he is
20 here and prepared to testify.

21 THE COURT: Great. All right,
22 so with that, let's proceed and
23 we'll go to a couple of minutes to
24 one.

25 MR. ROSENTHAL: Before we're

1
2 done with Ms. Clark I'd like to
3 move her declaration and the
4 associated exhibits into record?

5 THE COURT: Any objections?

6 MR. GALLAGHER: No objection,
7 your Honor.

8 THE COURT: They're so
9 received and you're excused.

10 MR. ROSENTHAL: The Allied
11 Pilots Association call Lawrence
12 Rosselot.

13 LAWRENCE ROSSELOT,
14 called as a witness, having been
15 first duly sworn, was examined
16 and testified as follows:

17 CROSS EXAMINATION

18 BY MR. ROSENTHAL:

19 Q. Hello, Mr. Rosselot. What is
20 your current employment?

21 A. I'm a pilot for American

22 Airlines.

23 Q. And are you involved with the
24 Allied Pilots Association?

25 A. Yes, I am.

124

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2 Q. How are you involved?

3 A. I am a chairman of the
4 technical analyses and scheduling
5 committee.

6 Q. And what is the technical
7 analysis and scheduling committee?

8 A. We provide the association
9 with advice and guidance and information
10 on pilot schedules, work rules, Federal
11 Aviation Regulations, as well as help in
12 quantifying contractual changes in
13 negotiations.

14 Q. How long have you served as
15 chairman of that committee?

16 A. I've been chairman since May

17 of 2000.

18 Q. Have you served in any other
19 positions in the APA?

20 A. Yes, I have a very short stint
21 on the negotiating committee and I'm also
22 served on the information technology
23 steering committee as well as a few other
24 ad hoc committees.

25 Q. How were you employed before

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1
2 coming to American?

3 A. I was in the United States Air
4 Force from October of 1981 until February
5 of 1991.

6 Q. And what is your educational
7 background?

8 A. I have a BS in aerospace
9 engineering from the University of
10 Kansas, and an MS in systems
11 administration from St. Mary's University

12 in San Antonio, Texas.

13 Q. Now, in the course of your
14 work for APA, do you regularly discuss
15 scheduling and work rule issues with
16 American's negotiators?

17 A. Yes.

18 Q. How long have you been
19 involved in that type of discussion?

20 A. I started with the association
21 in March of '94 and at first it was just
22 working with our negotiators. Eventually
23 we did, we were brought in to, you know,
24 discuss scheduling issues with the
25 company's negotiators, and since I'd been

126

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2 doing it since '94 and we have worked
3 with them, I think I really started
4 working directly with the company in '97.

5 Q. What is the nature of your
6 discussions with the company over those

7 years?

8 A. We talk about the changes and
9 how they will affect manning and the
10 assumptions going forward. The
11 assumptions with respect to pilot
12 behavior, how will the changes affect how
13 much pilots fly, what we, you know,
14 basically what we expect pilots to -- how
15 we expect to react to the different
16 contractual changes.

17 Q. Have you been part of those
18 discussions since American filed for
19 bankruptcy?

20 A. Yes, I have.

21 Q. In the course of your work, do
22 you compare the work rules that are in
23 place at American to those that are in
24 place at other carriers?

25 A. Yes, we do.

2 Q. Can you tell us more about
3 that sort of work?

4 A. We look at what is, what is
5 established in the industry for different
6 contractual, the different contracts and
7 different carriers. In 2005 specifically
8 I worked with, it was during the
9 performance leadership initiative, I was
10 on a team with some members from the
11 American Airlines and some other members
12 from APA, and we worked with the bank
13 consulting group that the company brought
14 in to facilitate an analysis of the
15 contractual differences between the
16 different carriers and how that would
17 affect both productivity and cost.

18 Q. Did you prepare a declaration
19 for this case?

20 A. Yes, I did.

21 Q. Is that declaration in the
22 binder in front of you at tab 600 I
23 believe?

24 A. Yes, it is.

25 Q. Do you adopt that declaration

1
2 and the attached exhibit as your direct
3 testimony?

4 A. Yes, I do.

5 Q. Now let's start by just
6 defining some terms that have come up and
7 may come up and might be confusing to
8 people. First of all, can you explain
9 the difference between a reserve pilot
10 and a lineholder?

11 A. A lineholder is a pilot that
12 actually bids a line that has trips
13 already pre-plotted within the calendar
14 of the month. So those are the trips
15 he's expected to fly.

16 A reserve pilot doesn't have
17 pre plotted trips but rather has days of
18 availability that he is on call to cover
19 whether it's a sick call or some type of
20 other off-schedule operation.

21 Q. And at any given month what
22 portion of the pilots are reserves versus
23 line holders?

24 A. It varies by bid status and by
25 equipment type, but roughly about 25

129

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2 Americas of American Airlines pilots are
3 on reserve.

4 Q. Another term that you use in
5 your declaration is guarantees. Can you
6 explain to us what a guarantee is?

7 A. Guarantees are minimum
8 payments in case of, in case of flying
9 for a particular sequence doesn't meet a
10 certain level.

11 Q. And what does is the purpose
12 of having a guarantee?

13 A. The purpose of having the
14 guarantee is to ensure that when the
15 pilot goes to work is actually is

16 productive and doesn't, you know, is
17 entitled to a certain amount of pay for
18 just, for going, for going to work. And
19 also for ensuring that for the longer
20 he's at work he gets, he's entitled to
21 more pay. So there's different types of
22 guarantees for at least a minimum day or
23 an average day, or what we call a duty
24 rig which is the amount of pay you get
25 for, guaranteed for how much time you're

130

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2 on duty in any given day, and the trip
3 rig which is when you're away from your
4 domicile for the full length of the trip,
5 if it's a multi-day trip, that you're
6 guaranteed a certain ratio of the time
7 you're aware versus for the flying,
8 whichever is greater you're paid.

9 Q. Are you aware of whether those
10 guarantees that you just described are in

11 place at airlines other than American?

12 A. Yes, they are.

13 Q. Which airlines?

14 A. Almost all airlines have some

15 type of guarantee. I mean Continental

16 probably has the worst. They only have

17 one guarantee and that's for when they

18 have layovers of more than 29 hours I

19 believe.

20 Q. Are the guarantees in place at

21 other airlines similar in terms of the

22 actual substance of the terms similar to

23 what's in place at American?

24 A. In most cases the duty rig are

25 normally very close, whether it's one for

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2 two or one for 1.75. Minimum days range

3 between two and three hours per day. The

4 average day is normally in the five, most

5 airlines have a five hour average. There

6 are a couple of airlines with a 5-15 hour
7 average.

8 Q. Finally, we've heard a lot of
9 talk about a preference bidding system.
10 Can you explain from your perspective
11 studying productivity what is the
12 relationship between a preferential
13 bidding system and pilot productivity?

14 A. Preferential bidding systems
15 normally, almost always increase the
16 productivity and the reason for that is
17 it allowance the company to better plan
18 the use of their reserves. Because what
19 we have today with the traditional system
20 of bidding is the lines are already on
21 the calendar and the pilot bids whichever
22 particular line his seniority will hold
23 that best matches his schedule. If he
24 happens to have a week of vacation and
25 there's a trip or two that touches that

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2 vacation, that trip will drop. If he has
3 to go to training for his recurrent that
4 month, the company will, after the bids
5 are awarded will go through and find who
6 has to go to training and plot that
7 training. If it happens to touch one of
8 the trips he's on, that trip will drop in
9 what we call open time because it no
10 longer is covered.

11 And one other piece is if you
12 have a trip that starts at the end of one
13 month that flies into the first days of
14 the next month, and your new line has a
15 trip that starts during those days, that
16 creates a conflict, you can't be on two
17 flights at once and now that trip will
18 drop into open time creating a multitude
19 of open time before the month even starts
20 and the PBS system those trips, those
21 absences, those events are pre-plotted
22 and you build your line with available
23 sequences around those absences.

24 Q. I'd like to talk to you about
25 the proposals that the APA has put forth

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1
2 to deal with productivity. First, before
3 we get into that, how does the
4 productivity of pilots at American
5 compare to other airlines in the
6 industry?

7 A. We are just above Delta as far
8 as productivity goes. So most of the
9 other network carriers are above us in
10 productivity.

11 Q. And can we put a number on
12 that? How do you quantify productivity?

13 A. Well, for that case I'm
14 talking about block hours. In this case
15 a block hour is when the aircraft moves
16 for purpose of flight and comes to rest
17 in flight and the number of crew members
18 versus the number of crew hours that the

19 company has to provide air crews for. So
20 a measure of productivity we look at is
21 the number of block hours per pilot, how
22 many hours the pilot is actually at the
23 controls of the aircraft.

24 Q. And at American currently in a
25 month, how many hours or block hours is a

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2 pilot active?

3 A. It's right around 50 hours per
4 pilot.

5 Q. Does APA believe that the new
6 contract should increase that number?

7 A. I believe we made our position
8 is to increase the productivity of
9 pilots.

10 Q. Is there any specific
11 numerical target that the proposals are
12 shooting for?

13 A. Just, you know, it's going to

14 be -- it's tough to predict but we're
15 making proposals that we think will put
16 the pilots amongst the highest in the
17 industry.

18 Q. Is there a number associated
19 with that?

20 A. We think that it will be in
21 the high fifties, 58, 59 hours.

22 Q. How do APA's proposals, in the
23 union's view, achieve that goal of
24 increasing productivity?

25 A. One of course as we'll talk

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1
2 about is accept the PBS system. The
3 second one is to change the amount of
4 hours that can be scheduled in a month.
5 Currently we have a hard maximum of 78
6 hours and because it's a hard maximum the
7 company can only schedule between about a
8 75 and 76 hours average. Some lines are

9 actually at 78 hours but some are much
10 lower because of the length of the trips
11 and they can't fit them in the schedule.
12 We've agreed to go to an average line
13 value with a window, they can build lines
14 up as high as 88 hours with an average at
15 81, so that will allow them to build
16 fewer lines with far fewer pilots.

17 We've also agreed to allow
18 pilots to pick up more. Currently
19 there's -- the maximum at the end of the
20 month is an 85 credited projection and
21 we've allowed, we've agreed to allow that
22 to go up to FARs at any given month and
23 with the -- with a 12 month look back of
24 90 hours of credit projection.

25 Q. Has the APA made proposals

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2 that are specifically targeted to the
3 usage of sick leave by American pilots?

4 A. Yes, we have.

5 Q. What are those proposals?

6 A. The two that have already been
7 discussed, is one is a sick and save
8 program, is a sell back program where
9 pilots can monetize any unused sick.

10 And the second piece is the
11 change in what we call rapid re-accrual
12 which is where a pilot is on sick for
13 more than 30 days, he will accrue sick,
14 assuming he has a bank worth a certain
15 amount, he will accrue sick at 50 percent
16 greater than the normal until he returns
17 back to that, to that level when he
18 actually went out sick. We've proposed
19 changes to how that is accounted for and
20 then we also think that the change to a
21 PBS system as well as sequence protection
22 will both increase, or decrease the
23 amount of sick.

24 Q. Let's shift to talking about
25 the company's proposals. First of all, I

1
2 think you've already alluded to this a
3 little bit, but are there certain
4 proposals that APA and American have both
5 agreed to implement that have to do with
6 work rules and sick leave?

7 A. Yes. The big one of course I
8 think is PBS and in conjunction with
9 sequence protection for pilots. They're
10 the ones we have both agreed to.

11 Q. You mentioned increasing the
12 maximums and the amount of flying. Is
13 that something that the general principle
14 behind that is something that both sides
15 agree on?

16 A. We both agree on increasing
17 the maximums.

18 Q. How about guarantees, what
19 does American propose to do with those
20 guarantees that you talk about?

21 A. The initial proposal was to
22 eliminate all of the guarantees and

23 introduce a new one for layovers I think
24 greater than 29 hours, similar to the
25 Continental one.

138

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2 Q. And is that proposal to
3 eliminate all guarantees and replace it
4 with that in line with what's in place at
5 other network carriers?

6 A. Like I said the only network
7 carrier that has that one is Continental.
8 There are other network carriers have
9 something significantly better, closer to
10 what we have today.

11 Q. How about on sick leave, what
12 does American propose to do in that area?

13 A. In that area they propose a
14 sick management plan where if you call in
15 sick more than twice, more than 36 hours,
16 then you will have to provide
17 substantiation for that sick usage and

18 they will pay you 60 percent up to the
19 first seven days of that sick.

20 Q. What about the sick sell back
21 program, does American agree with that?

22 A. No, I don't think they do.

23 Q. Has American explained why
24 they think those proposals specifically
25 on sick are important to the airlines'

139

1
2 future?

3 A. It is their position that sick
4 is going to skyrocket as soon as they
5 implement a new contract.

6 Q. Why would the company think
7 that sick is going to skyrocket as soon
8 as they adopt a new contract?

9 A. Their reason is -- I don't
10 think they gave a valid reason.

11 Q. Have they given any reason?

12 A. Other than they think pilots

13 will retaliate.

14 Q. Do they think that will happen
15 even if the company accepts the APA's
16 proposal?

17 A. I believe they do.

18 Q. Has the company given some
19 sort of evidence to back that up?

20 A. No. The only -- their only
21 data that they've -- that they've
22 presented is the fact -- they looked at
23 the highest 12 months in the last decade
24 and said that's what we think sick is
25 going to go to and when we implements the

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2 new contract and we want to go to the
3 lowest 12 months usage in the last
4 decade.

5 Q. Now I'd like to talk to you
6 about what's been referred to in some of
7 the company's declarations as the joint

8 scheduling model. Are you familiar with
9 that term?

10 A. Yes, I am.

11 Q. So what is the joint
12 scheduling model?

13 A. The joint scheduling model is
14 a model the company took from one we
15 restarted and made -- and added
16 modifications to as negotiations
17 progressed based on contractual changes
18 that were being discussed at the time.

19 Q. So what is that model used
20 for?

21 A. It's used, in this case the
22 company is using it to determine the
23 change in block hours and the change in
24 paid hours for the contractual changes
25 that are being discussed.

141

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2 Q. And do you know who

3 specifically first created this model?

4 A. The first model I created and
5 then worked with Mrs. Clark to add the
6 contractual provisions that we were
7 looking at. Over the course of time many
8 items have been added depending on what's
9 -- what the two sides are agreeing to, to
10 try to model the changes in the pilot
11 behavior as well as pilot productivity.

12 Q. And is the APA still using
13 some version of that model?

14 A. After the bankruptcy I made a
15 new model to better reflect the
16 introduction of PBS into the scheduling
17 environment as opposed to what was done
18 before.

19 Q. So you created a new model.
20 Are you, just to clarify, are you still
21 using the prior model, are you using both
22 of them, or --

23 A. I mean I'm not using the joint
24 scheduling model at the time we used and
25 I'm not using the one -- and even when

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2 the company had the joint scheduling
3 model last year, APA had their own model
4 that we used side by side and compared
5 results. I think the last version of
6 that one we had was I want to say
7 October. And then the company took their
8 joint scheduling model and came up with a
9 slight modified version after the
10 bankruptcy filing and presented it in
11 February when they were giving us the
12 term sheet and the different analysis of
13 how they were going to value the changes
14 and that's when I actually I started just
15 prior to that looking at how to make a
16 new model that took PBS into account.

17 Q. So how does the new model that
18 you made account for PBS?

19 A. Well, the difference between
20 the two models is on the initial model we

21 looked at historical perspective of the
22 month. We took what they called the
23 allocated time, which is the time the
24 company plans on flying for the month,
25 and then took the end result from what

143

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2 pilots actually flew and then we start
3 applying the different contractual
4 changes that we were discussing and
5 assumptions on how pilot behavior would
6 affect how much they actually, how much
7 they would -- how much they would fly.

8 In a PBS model the starting
9 point is significantly different because
10 you don't have all those conflicted drops
11 that you do with the traditional line so
12 it's actually much cleaner to start with
13 a new solution, you just have the
14 allocated time which is what they plan to
15 fly, and you could add in the other

16 credited time that they have to account
17 for, which is the training and the
18 vacation and other, you know, whether
19 it's military leaves, and then build the
20 lines around that. Once that's
21 completed, now you can apply the
22 different contractual changes that we'd
23 already discussed and using those
24 assumptions determine what the end result
25 is on how many block hours, or how many

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2 block hours the pilot's going to have to
3 fly.

4 Q. And do you have a view of
5 whether if they continued using the old
6 model instead of creating the new PBS
7 model, whether the results would have
8 been reasonable in your opinion?

9 A. Using the old model did not
10 accurately reflect the change in how the

11 credited time was going to change going
12 from the traditional lines to the PBS
13 lines. So I didn't think it would be
14 prudent to continue to use that when you
15 just had to build a new model and it's
16 really just a starting point and the rest
17 of it flows with all the other
18 contractual changes we've already
19 discussed you can just add those in but
20 really the starting point makes it
21 significantly different.

22 Q. Do you know whether American
23 has continued to use a version of the
24 older model that you created?

25 A. The last time we met that was

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2 still their position was the old model.

3 Q. And did you have an
4 opportunity to review specifically a
5 spreadsheet and the different assumptions

6 that were going into that?

7 A. Yes, I have a copy of that
8 model. They provided us with a copy of
9 that model.

10 Q. And did you, when you looked
11 through it identify any, you know, other
12 parts of it that you thought were not
13 accurate or reasonable?

14 A. In general, I, you know, I
15 looked at -- the productivity was, it was
16 calculated, you know, the productivity
17 that it was determined the pilots were
18 going to fly, the head count, I tried to
19 determine, I tried to measure that with
20 what I thought the change in paid hours
21 would be, and it was my estimation that
22 the paid hours weren't, the reduction in
23 paid hours didn't match what we should be
24 seeing with that type of model.

25 Q. Do you have any sense of the

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2 magnitude of the impact that would have
3 on the bottom line valuation of
4 productivity changes?

5 A. Specifically, the scheduling
6 model, there is two outputs from that
7 model used in their pricing model, and
8 the outputs are the change in block hour
9 and the change in paid hour, and that's
10 put in the pricing model to determine a
11 new, a new change in paid hours.

12 And their pricing model is the
13 model that actually does the calculation
14 for, it does first the calculation for
15 the baseline with no contractual changes
16 and what the total pilot cost is going to
17 be and then it does one for -- it does a
18 calculation for total pilot costs with
19 the new head count derived from another
20 model for pilot -- for block hours. But
21 then to determine the paid hours it uses
22 output from the scheduling model.

23 Q. Let's talk about that other
24 model that you just referenced. Were you

25 referring to the, what's been called the

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2 AAMPL model, A-A-M-P-L?

3 A. It's an optimization program
4 the company uses the AA Manpower Planning
5 model that projects out manning for 48
6 hours. They put in there the parameters
7 for what they assume for how much time
8 the lines -- how high the lines are going
9 to be built, the value, the amount of
10 time that they expect pilots to pick up,
11 they're expected sick usage, they also
12 have in their projected fleet
13 retirements, fleet additions, and the
14 associated training with those, as well
15 as associated recurrent training. And it
16 has a sick usage assumption as well.

17 Q. When did American first tell
18 you about this AAMPL model?

19 A. We found out about the AAMPL

20 model the first week in March, March 6th
21 I think is what my notes tell me is the
22 first time we actually heard the term
23 AAMPL.

24 Q. When you heard about it on
25 March 6th, the company provided you a

148

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2 spreadsheet or some other copy of the
3 model?

4 A. No, they did not.

5 Q. Have they done that since
6 March 6th?

7 A. No, they have not.

8 Q. Have they allowed the APA to
9 sort of test the model or try out
10 different numbers and see what would
11 happen?

12 A. Yes, we asked, once we found
13 out, I mean this is very important
14 because it's projecting the man hour for

15 the pricing model, we asked, we asked to
16 be able to have access to it. And we
17 didn't receive access until March 27th.
18 Just prior to that time, we had been
19 given certain spreadsheets with head
20 count reductions for different values
21 that they placed in the AAMPL. Their
22 initial spreadsheets had our initial --
23 our current table position as well as
24 their table position. It also had three
25 or four different other scenarios. And

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2 then on March 27th we actually were able
3 to sit down with the people that run the
4 model and they let us run, we ran four
5 scenarios in their, being able to change
6 the parameters to reflect different
7 productivity, levels of productivity that
8 we wanted to value to see if they would
9 reach the target, you know, of -- reach a

10 target of productivity that we were
11 willing to accept.

12 Q. So just to be clear, when you
13 say run different scenarios, does that --
14 what does that involve? You type in
15 numbers into something?

16 A. There are -- the input and
17 output for the application is an Excel
18 spreadsheet and they put in the
19 assumptions we talked about, whether it's
20 the average line value, or the average
21 pickup.

22 In addition to that, and --
23 well I assume and also the sick usage.

24 There's also other parameters,
25 the only one we were able to pull out at

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2 the time was the value for how much time
3 before the month they pre plot for
4 training and vacation.

5 We had them change that number
6 because we -- we had them change that
7 number because we thought it was somewhat
8 low with respect to what PBS is.

9 The part we still are unsure
10 of is if there are other parameters in
11 there that don't accurately reflect PBS
12 and without having a copy, without being
13 able to spend more time with the model,
14 or having a copy of it, we can't really
15 make that determination.

16 But having sat there on that
17 day, we were able to make adjustments to
18 the parameters we knew about that we
19 thought would better reflect PBS.

20 In addition to that, we made,
21 we asked them to change the average line
22 values higher and the pickup assumption
23 higher and the sick values what we
24 thought we would be able to obtain with
25 our contractual positions. And had them

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2 run the model. And we did four models,
3 four different runs to establish a
4 sensitivity to see changing different
5 values how much that would change the
6 output?

7 Q. And when you put those numbers
8 in and ran the spreadsheet was there some
9 number that was produced out of the
10 spreadsheet?

11 A. Yes, the spreadsheet produces
12 a head count requirement for the 48
13 months and the company at the time we did
14 each run, at the conclusion they were
15 copying and pasting it to another
16 spreadsheet that we thought they were
17 going to get. At the time we just wrote
18 down the average head count for 2014.
19 2014 is significant in the fact that
20 based on final rule for the flight time
21 duty time changes that are coming from
22 the FARs, and certain aircraft

23 deliveries, that's what the company
24 should be able to see what we felt was
25 the full productivity that we were

152

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2 providing with our contractual changes.
3 So the only values we have are the
4 average head count for 2014. We expected
5 to get the full 48 months head count
6 output for the model but to date we've
7 never seen that.

8 Q. Have you asked for it?

9 A. Yes, we have.

10 MR. ROSENTHAL: No further
11 questions at this time.

12 THE COURT: Cross. Let me ask
13 if you want to start cross and then
14 take a break or whether you want to
15 take a break now and just start
16 after lunch.

17 MR. GALLAGHER: I understand

18 your Honor is unavailable from one
19 to two?

20 THE COURT: One to two.

21 MR. GALLAGHER: So I can go to
22 one if that will suit the court.

23 THE COURT: All right. We'll
24 go for a few minutes.

25 CROSS EXAMINATION

153

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2 BY MR. GALLAGHER:

3 Q. For the record, I am Jack
4 Gallagher, counsel for American.

5 I want to make sure I
6 understand your role in the process.

7 Your declaration is limited to the
8 subject of scheduling and work rules,
9 including sick; is that correct?

10 A. Correct.

11 Q. And you mention in paragraph
12 27 of your declaration that the company

13 and APA are 27 -- excuse me, 17 million
14 dollars apart on those subjects. You say
15 that American under-values its proposals
16 by 17 million dollars in average annual
17 savings, correct?

18 A. Correct.

19 Q. And all of my questions about
20 proposals relate to American's proposals
21 just to clarify. I'm not going to ask
22 you about APA's proposals.

23 Now, how much of that 17
24 million dollars is attributable to PBS?

25 A. It's difficult to say. The

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1
2 scheduling model has a number of
3 different pieces in it and each of them,
4 you know, interact together to give you a
5 final output and the scheduling model
6 doesn't actually give you a specific
7 amount for each of the individual pieces.

8 Q. How much of that 17 million
9 dollar difference is the result of
10 changed reserve utilization?

11 A. Again, the total head count
12 reduction, the head count reduction has a
13 piece for determining the total number of
14 regular pilots or line holders and the
15 total number of reserves and it's
16 difficult to pull out just the reserve
17 piece.

18 Q. Okay. Is it fair to say that
19 the great majority of the savings from
20 the PBS system comes from lowering the
21 number of reserves that are required?

22 A. That is a fair assessment.

23 Q. Okay, thank you.

24 Now, you did state I believe
25 on direct that the company and the

3 right?

4 A. Yes.

5 Q. Did I misunderstand you, is
6 there an agreement, is there a signed
7 agreement on that subject?

8 A. I don't believe so, but the
9 association has agreed to adopt it.

10 Q. In principle?

11 A. Yes.

12 Q. But the association has
13 conditions on that proposed agreement,
14 does it not?

15 A. I'm unsure of what --

16 Q. Do you know if the association
17 has proposed that the association have
18 final approval power over the design of
19 the system and the vendor?

20 A. I don't think we have final
21 approval power over the design of the
22 system. I do know I have people in my
23 shop in the last two weeks have been
24 working with the company to evaluate
25 vendors, the one that the company is

1
2 trying to choose.

3 Q. So you don't know exactly what
4 PBS proposal APA has on the table today,
5 is that right, or as of the start of this
6 hearing?

7 A. I guess we don't know which
8 vendor they're going to choose. Is that
9 your question?

10 Q. No. My question is do you
11 know the terms of the proposal that APA
12 had on the table as of the start of this
13 hearing on PBS?

14 A. It was to accept PBS.

15 Q. And weren't there conditions
16 to that proposal by APA?

17 A. We've asked to be involved and
18 I think the company has accepted our
19 involvement.

20 Q. And hasn't APA insisted on
21 approval rights over the selection of the

22 vendor?

23 A. No, we have not.

24 Q. Okay. Has APA insisted on
25 approval rights over the design of the

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2 plan?

3 A. Not that I'm aware of.

4 Q. And you're as sure about those
5 two items as you are about the rest of
6 your testimony here today?

7 A. I'm not sure that we get to
8 pick the vendor.

9 Q. You mentioned in paragraph 3
10 of your declaration you were involved in
11 the 1997 negotiations process between APA
12 and the company; is that correct?

13 A. Yes.

14 Q. At that time, regional jets
15 were just being introduced into the
16 entire airline industry, correct?

17 A. Correct.

18 Q. And that was one of the major
19 issues in the 1997 negotiations, was it
20 not?

21 A. Correct.

22 Q. And the issue was whether
23 those regional jets would be flown at the
24 mainline carrier or at regional carriers,
25 correct?

158

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2 A. Correct.

3 Q. And how was that issue
4 resolved at American?

5 MR. ROSENTHAL: Objection.

6 This seems completely beyond the
7 scope of the witness' testimony.

8 THE COURT: Can you point me
9 to something where this is within
10 the scope of what this witness is
11 being proffered for?

12 MR. GALLAGHER: Your Honor, he
13 testified in his declaration at
14 paragraph 3 about being involved in
15 the 1997 negotiations. He's being
16 -- and this, I only have a couple
17 questions on it, your Honor.

18 THE COURT: Well I took that
19 as background, that that wasn't
20 being what I suppose you could say
21 that it's relevant to his ability
22 to make conclusions. So I'll allow
23 a few questions on it and see where
24 we go, but certainly you have a
25 right to object to any specific

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2 question.

3 MR. GALLAGHER: May I
4 approach, your Honor?

5 THE COURT: Certainly.

6 Q. Mr. Rosselot, I've shown you a

7 document marked for identification as
8 American Exhibit 1709. Do you have that
9 in front of you?

10 A. Yes, I do.

11 Q. Are you familiar with this
12 document?

13 A. I have seen it before.

14 Q. I'll give you a chance to read
15 through it carefully if you would like to
16 before I ask you questions about it. You
17 just let us know when you're ready.

18 A. Okay, I'm ready.

19 Q. Now, my understanding, Mr.
20 Rosselot is that in 1997 the regional
21 jets went to American Eagle; isn't that
22 correct?

23 A. That's correct.

24 Q. And in 2003 American and APA
25 agreed to this side letter, correct?

2 A. Correct.

3 Q. And in this side letter,
4 American and APA agreed in paragraph 1
5 that APA would have one year period
6 during which it could attempt to show
7 that the regional jets at Eagle, CRJ 700s
8 then at Eagle could be operated on a cost
9 neutral basis under the terms of the
10 labor costs under collective bargaining
11 agreements and if APA made that showing,
12 those regional jets would be brought up
13 to the mainline, correct?

14 MR. ROSENTHAL: I'd like to
15 renew my objection.

16 THE COURT: I'm having trouble
17 seeing the relevance of this given
18 what this witness is proffered for,
19 which as I understand is about
20 scheduling and work rules,
21 including sick.

22 MR. GALLAGHER: Well, your
23 Honor, the scheduling and work
24 rules are the reason why the

25 regional jets cannot be operated on

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a cost neutral basis at the

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mainline. That's exactly what I

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hope to elicit from this witness in

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a moment. The fact is, I'm sure

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the witness would agree with me,

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APA never made the showing, never

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tried to make the showing that's

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reflected in paragraph 1 that they

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could operate regional jets at the

11

mainline on a cost neutral basis.

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And that was because of the

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productivity and work rules.

14

THE COURT: You may be right,

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but my question is where is this

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sort of tied into what this witness

17

is proffered as his testimony?

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MR. GALLAGHER: The reason why

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that can't be done, your Honor, is

20 because of scheduling and work
21 rules, which is the subject of his
22 testimony.

23 MR. ROSENTHAL: If I may, I
24 think that Mr. Gallagher can
25 probably attempt to make that point

162

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2 without using, you know, this
3 specific document and this process.
4 If he wants to try to elicit
5 testimony about regional jets in
6 general and how that affects work
7 rules and sick rules, that might be
8 separate.

9 THE COURT: Well, if he can
10 get into the topic I'm not going to
11 ask him how to ask his questions,
12 subject to your right to object to
13 it. So I'm going to allow it for
14 now, but certainly to the extent

15 that we begin to get into history
16 that this witness may or may not
17 have familiarity with, we may run
18 into problems. But we'll take it
19 as we go.

20 I'm sure you cannot remember
21 the question after all that. So
22 I'll ask Mr. Gallagher to give it
23 another shot.

24 Q. We'll start over. You've seen
25 this letter before, have you not?

163

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2 A. I've seen it before.

3 Q. Were you involved in any of
4 the negotiation of this letter?

5 A. No, I was not.

6 Q. Were you involved in any
7 evaluation by APA of the feasibility of
8 operating the CRJ 700s at the mainline on
9 a cost neutral basis?

10 A. No, I was not.

11 Q. Were you aware of any such
12 effort by APA?

13 A. I was not aware of any effort
14 to actually quantify those costs.

15 Q. Were you aware that APA
16 decided not to engage in negotiations
17 with the company on that subject?

18 A. I believe that is correct.

19 Q. And are you aware of why APA
20 elected not to engage on that subject?

21 A. My recollection is the
22 company's complaint was there are other
23 costs, not just pilot costs were
24 involved.

25 Q. And that would always be the

164

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2 case, would it not?

3 A. I'm not aware of that.

4 Q. Well, the agreement called for

5 being cost neutral as to labor costs
6 under collective bargaining agreements,
7 plural, correct?

8 A. Correct.

9 Q. Now this side letter permits
10 50 CRJ 700s, up to 50 that were then
11 either at Eagle or on order or optioned
12 to go up to American -- excuse me, strike
13 that. I'll start over.

14 This side letter permitted
15 Eagle to operate up to 50 CRJ 700
16 aircraft as an exception to the scope
17 clause, correct?

18 A. Correct.

19 Q. And those aircraft are
20 operated at Eagle at 70 seats, correct?

21 A. Correct.

22 Q. And 47 of them remain at Eagle
23 today, correct?

24 A. Correct.

25 Q. And those are the 47 regional

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2 jet aircraft above 50 seats that Eagle
3 still operates today?

4 A. I believe so.

5 Q. And at one point American had
6 cancelled the order for the last three
7 and tried to reinstate it, correct?

8 MR. ROSENTHAL: Objection.

9 Q. Have those flown at Eagle?

10 THE COURT: Hold on, there's
11 an objection. Again, I believe
12 we're getting a little far afield
13 of this witness' knowledge. And
14 again, cross is cross, but it may
15 be more appropriate for another
16 witness. So let me give you this
17 question and we'll see where we go.
18 So if you could ask it one more
19 time.

20 MR. GALLAGHER: I'm prepared
21 to move on, your Honor.

22 THE COURT: Speaking of moving
23 on, I see it's five to one, so

24 maybe now is a good time to break
25 and we'll come back at two o'clock.

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2 And the witness is still under
3 oath. See you all at two.
4 (Luncheon recess: 12:56 p.m.)
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A F T E R N O O N S E S S I O N

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2:16 p.m.

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THE CLERK: All rise.

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THE COURT: Please be seated.

6

Proceed.

7

MR. GALLAGHER: Thank you,

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your Honor.

9

LAWRENCE ROSSELOT,

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resumed, having been previously

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duly sworn, was examined and

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testified further as follows:

13

CONTINUED EXAMINATION

14 BY MR. GALLAGHER:

15 Q. Mr. Rosselot, welcome back.

16 A. Thank you.

17 Q. I want to turn to the subject

18 of the preferential bidding system.

19 Isn't it true that the company

20 representatives had a hand in the

21 development of the joint scheduling

22 model?

23 A. I'm sorry, could you repeat

24 the question.

25 Q. Isn't it true that company

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2 representatives had a hand or a role in

3 the development of the joint scheduling

4 model?

5 A. Yes, sir.

6 Q. And you said on direct that

7 over time, and I believe you said many

8 items have been added to the joint

9 scheduling model; is that correct?

10 A. That is correct.

11 Q. Who added the many items to
12 the joint scheduling model?

13 A. I believe both parties added
14 items to the joint scheduling model.

15 Q. And was that an iterative
16 process where one would propose and the
17 other would review and then either accept
18 or tinker and both sides ended up
19 agreeing on a particular model?

20 A. That's a fair assessment.

21 Q. So that's why it was called
22 the joint scheduling model, correct?

23 A. Not really. The company
24 always named it the joint scheduling
25 model. When we built it last year, we

169

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2 always had our own model that we kept.

3 It was different but similar.

4 Q. Did you tell the company that
5 you were keeping a second model?

6 A. I'm pretty sure they were
7 aware of the fact that we had our own
8 model.

9 Q. But did you tell them?

10 A. I'm sure we did.

11 Q. Both sides agreed that the
12 joint scheduling model was something that
13 both could agree upon that was useful and
14 it was better than what either had
15 before?

16 A. It was better than what we had
17 before, but both -- we never fully agreed
18 with some of the assumptions and some of
19 the -- some of the calculations that they
20 were doing in their model.

21 Q. In your declaration you say
22 that you created a new costing model
23 post-bankruptcy; is that right?

24 A. That is not correct.

25 Q. I'm sorry?

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2 A. That is not correct. I
3 created a new scheduling model.

4 Q. Okay. And you created that
5 new scheduling model post-bankruptcy?

6 A. Yes, sir.

7 Q. And that was a new system
8 designed to better reflect a PBS
9 environment, correct?

10 A. Yes.

11 Q. And what's the difference
12 between a scheduling model and a costing
13 model?

14 A. The costing model, and my
15 reference to that was the company's
16 costing model that uses inputs from the
17 scheduling model. It projects out the
18 cost over a much longer period of time.
19 The scheduling model was kind of a, not
20 really a snapshot, but kind of a static
21 analysis of changes.

22 Q. All right. And changes in
23 terms of pilot hours or head counts?
24 A. Yes, in scheduling rules.
25 Q. So that the variables are the

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2 rules -- the variable inputs are the
3 different rules and then the outputs are
4 number of pilot hours or number of pilot
5 head count?
6 A. Correct.
7 Q. Did you -- when you created
8 that new scheduling model to reflect PBS,
9 did you review that model with the
10 company?
11 A. Yes, I did.
12 Q. And did they accept it as a
13 valid tool?
14 A. No, they did not.
15 Q. Did they object?
16 A. They -- we met over a number

17 of times over the PBS model, I actually
18 gave them a copy of the Excel file. And
19 we had a number of meetings where we had
20 discussions. They were uncomfortable
21 with the level of paid hours, the change
22 in paid hours that the scheduling, the
23 PBS model was projecting. They did say
24 that they were becoming comfortable with
25 the actual number of, the pilot

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2 utilization or the number of block hours
3 the pilot would fly, but I never really
4 got a full, I'll say buy in.

5 Q. Didn't they tell you that
6 there were glaring holes in your PBS
7 model?

8 A. I don't think they ever used
9 the term glaring holes.

10 Q. They told you there were
11 problems and they objected to it?

12 A. Their objection was they
13 thought that the change in paid hours was
14 not correct.

15 Q. And there were some long
16 discussions about the merits of your PBS
17 model versus the company's updates to the
18 old joint scheduling model?

19 A. We had discussions, yes.

20 Q. And in early March of this
21 year, APA gave American a written summary
22 of your concerns with the valuation, with
23 the scheduling models AA was using?

24 A. That is correct.

25 Q. And that was a three-page

173

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2 written document that -- were you
3 involved in preparing that?

4 A. I prepared that document.

5 Q. And that document was given to
6 the company over the bargaining table,

7 was it not?

8 A. That is correct.

9 Q. And did the company prepare a
10 response?

11 A. They did prepare a response.

12 Q. And that response explained
13 the company's view, correct?

14 A. Yes, yes, it did.

15 Q. And what happened next after
16 you got the company's response?

17 A. Concerning that issue I'm not,
18 I'm not really sure. We started working
19 towards trying to get to the AAMPL model.
20 I did not agree with their assessment of,
21 their response to my concerns.

22 Q. Isn't it true, Mr. Rosselot,
23 that APA never responded or followed up
24 with the company at the bargaining table
25 to defend your PBS model after you got

2 the company's written objections?

3 A. I'm not sure that that's
4 correct. I'm not sure if we met
5 concerning my PBS model after I got their
6 response.

7 Q. Okay. So you're not sure that
8 you met, in other words, APA did not
9 respond to explain or defend your PBS
10 model?

11 A. I think we might have met to
12 talk about the PBS model. My concern,
13 that letter was my concern over their
14 model.

15 Q. And they responded explaining
16 their concerns with your model as well,
17 correct?

18 A. There were discussions
19 concerning my model.

20 Q. And you said that American
21 still uses a version of the old model; is
22 that right?

23 A. That's my understanding they
24 still use what they called their joint
25 scheduling model.

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2 Q. And they gave you a copy of
3 what they're currently using?

4 A. Correct.

5 Q. And that had an updated --
6 they added features to it to try to
7 accommodate and properly reflect PBS,
8 correct?

9 A. I didn't see any changes from
10 the prepetition model that would affect
11 PBS.

12 Q. But you didn't like the
13 results of American's model, correct?

14 A. I wasn't -- no, their -- their
15 output that was given I don't think
16 accurately reflected PBS.

17 Q. And they had the same problems
18 with your model, correct?

19 A. That is correct.

20 Q. Now just so I can understand

21 and get a framework for the magnitude of
22 what's in dispute here in terms of
23 scheduling, the current contract requires
24 that the average pilot monthly work
25 schedule, the line of time, as you call

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2 it, be built to an average of 76 hours,
3 correct?

4 A. That is not correct.

5 Q. I'm sorry, I misunderstood
6 then. What does it require?

7 A. The current contract allows
8 the company to build up to a line of --
9 up to a maximum of 78 hours and because
10 that is a hard maximum they can only get
11 the average 75 to 76 hours depending on
12 the month, the types of trips.

13 Q. So 76 or 75, your 76 is the
14 average but it's not a fixed required
15 average?

16 A. Correct.

17 Q. It is an actual average?

18 A. That is the actual average,
19 yes.

20 Q. So the current actual average
21 is let's say 76, and under APA's proposal
22 the average would be fixed at 81,
23 correct?

24 A. There's a range, 79 to 81.

25 Q. So the average could be no

177

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2 more, for the average line than 81?

3 A. Right.

4 Q. All other lines together would
5 have to not exceed 81.

6 So that would be a five hour
7 per month in the average pilot's work
8 schedule, correct?

9 A. Correct.

10 Q. Now, I thought I understood

11 you to testify on direct that the goal of
12 APA's proposals were to increase pilot
13 block hour utilization by nine hours per
14 month; is that right?

15 A. That is correct.

16 Q. All right. Well if you're
17 only increasing the average schedule by
18 five hours per month, where do you get
19 the nine hours from?

20 A. Another proposal we have
21 presented is changing the maximum that
22 pilots can fly. Today pilots can fly up
23 to 85 hours in a given month. We're
24 proposing to allow them to fly to FARs,
25 which is a hundred hours per month.

178

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2 Q. That's if they voluntarily
3 choose to do so?

4 A. Correct.

5 Q. In other words, if they pick

6 up open time?

7 A. Correct.

8 Q. And suppose there weren't
9 enough volunteers who wanted to fly more
10 hours in a given month?

11 A. Then the number would be
12 lower.

13 Q. You wouldn't get to the 59
14 hour block hour utilization then, would
15 you?

16 A. It's difficult to tell.

17 Q. Because that's trying to model
18 human behavior, correct?

19 A. Correct.

20 Q. Has there ever been a time
21 when APA has encouraged pilots in writing
22 to not volunteer to pick up overtime
23 flying or open time flying?

24 A. Not that I'm aware of. I'm
25 not saying they haven't, but I just don't

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2 remember whether they have put it in
3 writing don't pick up open time.

4 Q. Are you aware that APA filed a
5 lawsuit seeking a declaratory judgment
6 that it had the right to encourage pilots
7 acting in concert not to pick up open
8 time, voluntary overtime flying?

9 MR. ROSENTHAL: Objection.

10 THE COURT: Basis?

11 MR. ROSENTHAL: This is beyond
12 the scope of the testimony.

13 THE COURT: It's cross, I'm
14 going to allow it.

15 A. I do believe I remember a
16 lawsuit concerning that.

17 Q. So APA's proposal is that
18 American should plan to staff the airline
19 hoping that pilots will voluntarily pick
20 up additional time over and above the new
21 monthly schedules that are published by
22 the PBS system; is that right?

23 A. That is correct.

24 Q. PBS by its nature is an item
25 which requires some lead time for

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2 implementation, correct?

3 A. Correct.

4 Q. And it needs time for computer
5 programming, for testing, for educating
6 the pilots on how to use it?

7 A. Yes, sir.

8 Q. So how long is that lead time?
9 When should we assume that PBS will
10 actually be implemented?

11 A. The discussions we had with
12 the company was between one and one and a
13 half years.

14 Q. And that's assuming that APA
15 approves the selection of the vendor,
16 correct?

17 A. I don't -- I'm not -- I'm not
18 aware that we're allowed to approve the

19 vendor. I do know that we are involved
20 in the process and as I think I stated
21 earlier, we've had people review vendors
22 the last two weeks with the company.

23 Q. In fact, the company invited
24 both APA and APFA in to meet with the
25 vendors and hear the different design

181

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2 features, correct?

3 A. I believe that is correct.

4 Q. And that's without having a
5 binding agreement to do PBS, but just as
6 a familiarization effort, correct?

7 A. Correct.

8 Q. Now, one of the major
9 attractions to a PBS system is that it
10 will reduce the reserves, correct?

11 A. Correct.

12 Q. And I think you said on direct
13 that American carries approximately 25

14 percent reserve pilots; is that right?

15 A. Approximately 25 percent of
16 the total pilot force.

17 Q. Okay. And does it -- it
18 ranges up to 30 percent in some
19 categories, doesn't it?

20 A. I believe so.

21 Q. So the average is probably
22 even higher than 25?

23 A. I'm not aware of that.

24 Q. What is the percentage of
25 reserves at other airlines, have you

182

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2 checked on that?

3 A. No, I haven't.

4 Q. You have no idea what the
5 reserve is?

6 A. I have an idea, but I haven't,
7 you know -- I didn't ask --

8 Q. I'm not asking for scientific

9 accuracy. What is your understanding of
10 the reserve percentages at Continental,
11 for example?

12 A. I don't know. I just know a
13 range of what other carriers have.

14 Q. What's the range?

15 A. Anywhere from 12, 13 to 20
16 percent.

17 Q. And which carrier has 12 to 13
18 percent?

19 A. I'm not sure.

20 Q. Would it surprise you if it
21 was Continental?

22 A. Yes, I'd be surprised if it
23 was Continental.

24 Q. Well Continental has PBS in
25 place already, does it not?

183

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2 A. Yes.

3 Q. And if 12 or 13 is the lowest,

4 that means that even with PBS Continental
5 is not lowering than 12 to 13, right?

6 A. Correct.

7 Q. And Delta and United both run
8 15 to 20 percent reserves, do they not?

9 A. I'm not aware of their actual
10 numbers.

11 Q. The other network majors
12 generally run in that range?

13 A. That's approximate.

14 Q. Delta has PBS, does it not?

15 A. Yes, it does.

16 Q. So in your declaration you
17 complain that American under-values PBS
18 because it structured its model for
19 costing on the assumption that PBS would
20 not reduce reserves by more than 50
21 percent; is that right?

22 A. More than 50 percent of the
23 current level.

24 Q. Right. Well now if the
25 current level is between 25 and 30, even

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2 if we go with your 25 number, if we
3 reduce that by half, we get pretty close
4 to the best in class at 12.5 percent,
5 correct?

6 A. Yes, that is correct.

7 Q. So our valuation assumes that
8 we're going to do at least as well as
9 anybody else has done with PBS and with
10 pilot utilization; isn't that right?

11 A. Can you repeat the question.

12 Q. The company's valuation of the
13 PBS, the impact of the scheduling
14 changes, is that the company will do at
15 least as well in terms of reducing
16 resources by 50 percent, that would get
17 us down from 25 percent to 12.5 percent;
18 is that fair?

19 A. That's fair.

20 Q. All right. And that would put
21 us at a level approximately even with the
22 best in the industry, correct?

23 A. Assuming that the entire
24 reserves are at the industry -- at the 25
25 percent before the month, like you

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2 stated.

3 Q. So we'd all agree this would
4 be a good thing, correct?

5 A. Correct.

6 Q. And the issue is how do you
7 value it, correct?

8 A. Correct.

9 Q. And you say we under-value it
10 because we are unwilling to go beyond a
11 50 percent reduction, correct?

12 A. Correct.

13 Q. But nobody else has gotten
14 better than that 50 percent reduction,
15 have they?

16 A. That is correct. Well, better
17 than 12 percent? No.

18 Q. Do you know the dollar value
19 of the difference of the number of
20 reserves projected by the company and
21 projected by you?

22 A. No, the scheduling model, like
23 I said, it has interactions that play
24 together that you can't actually pull out
25 one individual piece to value that piece

186

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2 individually.

3 Q. But all of the scheduling
4 issues together that are the subject of
5 your testimony, the difference in
6 valuation of the company's proposal is 17
7 million dollars, correct? I think you
8 told us that earlier?

9 A. Yes.

10 Q. And of that, the vast majority
11 is related to the reserve reduction
12 consequences of the PBS system, correct?

13 A. A large portion of that is,
14 yes.

15 Q. Now I want to switch subjects
16 and talk about the manpower planning
17 model. You attended the February 2nd
18 meeting, did you not, where American
19 explained its costing methodologies to
20 union representatives?

21 A. I believe I did.

22 Q. And at that meeting, Mr.
23 Burtzlaff, among others, spoke and
24 explained the inputs to American's pilot
25 labor cost model, did he not?

187

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2 A. I don't recall. I mean I
3 don't recall the specifics of the
4 meeting.

5 Q. Do you recall hearing any
6 discussion at that meeting of a pilot
7 head count forecast from crew resources?

8 A. I don't recall that.

9 Q. Well you knew that the company
10 regularly generated a pilot head count
11 forecast from crew resources, did you
12 not?

13 A. Actually, I had no knowledge
14 of it, but I would expect that they
15 would.

16 Q. Right. Because that would be
17 ordinary course of business to try to
18 figure out how many pilots you need to
19 staff the airline?

20 A. Correct.

21 Q. So that's not a surprise,
22 correct?

23 A. What's not a surprise?

24 Q. The existence of a manpower
25 planning model?

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2 A. Correct.

3 Q. Now you testified on direct
4 that you first heard the term AAMPL on
5 March 6th; is that right?

6 A. That's my recollection.

7 Q. And by that you didn't mean
8 that you didn't, had never heard of a
9 manpower planning, a manpower planning
10 model, it's just you hadn't heard the
11 term AAMPL, correct?

12 A. I hadn't heard the term AAMPL
13 and we weren't aware of its importance in
14 the pricing model.

15 Q. But you were aware that it is
16 what it is, a manpower planning tool?

17 A. Sure.

18 Q. Do you know how long that
19 manpower planning tool has been in use at
20 American Airlines?

21 A. They told us three years.

22 Q. And that's for pilots only,
23 right, projecting pilot staffing?

24 A. I'm not aware of that.

25 Q. But it does project pilot

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2 staffing over 48 months, correct?

3 A. That was our understanding.

4 Q. And that's a pretty critical
5 function in the airline business,

6 correct?

7 A. Correct.

8 Q. So you'd expect them to try to
9 get it right, would you not?

10 A. Yes.

11 Q. Now, when you began to discuss
12 manpower planning during the
13 negotiations, isn't it through the
14 company invited you and others from APA
15 to a presentation on the manpower
16 planning model?

17 A. We had a couple of meetings
18 about the manpower planning model in
19 March and then we actually sat down with
20 the company, the people that ran the

21 AAMPL on March 27th.

22 Q. And on that date you were part
23 of the APA group?

24 A. Yes, I was.

25 Q. Now was it before that meeting

190

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2 or during that meeting that the company
3 gave you printouts of the results on
4 various head count scenarios?

5 A. I believe it was before that
6 meeting.

7 Q. I'm going to show you a
8 document marked for identification as
9 Company Exhibit 1713. Do you recognize
10 this document, Mr. Rosselot?

11 A. I've seen a similar document.

12 Q. Have you seen this document?
13 I will represent to you that this
14 document was posted by the company to the
15 IntraLinks website on April 10th, 2012.

16 My understanding is that it is a copy of
17 what was passed out at your March
18 meeting, but I need you to tell me if
19 that's the case?

20 A. This -- I do not remember
21 seeing this at the March meeting. I have
22 a similar charts and I have a different
23 -- I remember seeing a different table
24 with different numbers than this
25 presents.

191

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2 Q. Okay. All right. Then we'll
3 go with it what I represented it to be
4 which is a company information response
5 provided to APA on April 10th.

6 Is the format similar to what
7 you understand the manpower planning
8 model to produce?

9 A. I'm not sure that this is what
10 -- actually this isn't what I remember

11 seeing when they showed us the manpower
12 planning model.

13 Q. By this are you referring to a
14 particular page or to all three pages?

15 A. All three pages. I do
16 remember seeing a chart on page 2 very
17 similar in design and actually probably
18 very close in numbers. The table on page
19 3, the one I have has head counts for
20 four years and for the APA proposal it
21 has 1211, not 1481, but I do have a note
22 on mine saying 1481 because the company
23 told us on March 27th that their latest
24 run had shown a head count savings of
25 1481, not the 1211 that was presented in

192

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2 the chart that I have.

3 Q. Okay. So this is similar to
4 but not exactly the same as the output
5 you were given that day, correct?

6 A. Well, before that day, yes.

7 Q. Yes. Now on that day you met
8 with the subject matter experts who
9 manage and use that model for more than
10 three hours, correct?

11 A. That's approximately the
12 correct amount of time.

13 Q. And during that meeting, the
14 model was, this is a spreadsheet,
15 correct?

16 A. Correct.

17 Q. Projected on a screen and the
18 American representatives explained how it
19 worked and what it was used for, correct?

20 A. Correct.

21 Q. And you got to ask any
22 questions and your questions were
23 answered, correct?

24 A. The ones we asked, yes.

25 Q. And while you were there

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2 American asked you if you wanted to have
3 any scenarios you wanted them to run and
4 they actually did run four scenarios in
5 your presence, walking through them step
6 by step, correct?

7 A. Yes.

8 Q. And they were up on a screen
9 for everybody to see, right?

10 A. Correct.

11 Q. And at the end of that
12 presentation, Dan Herring asked you if
13 APA wanted to see more scenarios run on
14 the model, didn't he?

15 A. I don't know if he offered,
16 but that would seem reasonable.

17 Q. You didn't ask for more
18 scenarios at that point, did you?

19 A. At that time, no, we did not.

20 Q. Now, you say in your
21 declaration that APA asked for printouts
22 of the four scenarios that had been run
23 on the screen that day; is that right?

24 A. We wanted, we would like to

25 receive the outputs from the model.

194

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2 Q. And who made that request?

3 A. We made it at the table at
4 that time and then I believe it was also
5 in some correspondence from the
6 negotiating committee, between
7 negotiating committees asking for the
8 output.

9 Q. And did APA ask for access,
10 later, another round of access to the
11 model itself?

12 A. I don't believe we've asked
13 for another access. We would like to see
14 what the results were of our previous
15 runs.

16 Q. Well in your declaration you
17 say you have been denied access; is that
18 right?

19 A. Correct.

20 Q. Well you didn't ask for
21 access, did you, isn't that what you just
22 said?

23 A. Well, we asked for access
24 originally and haven't been given the
25 complete results.

195

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2 Q. But when you say you were
3 denied that implies to me that you sought
4 something and it was denied,
5 affirmatively denied to you; is that the
6 case?

7 A. The results have been denied.

8 Q. The results, okay. Now
9 American has filed with the court all,
10 every single page of the information
11 request and responses since the start of
12 negotiations, they're outlined in the
13 declaration of Denise Lynn which are
14 Exhibit 1500 and in American Exhibits

15 1501 to 1672.

16 Do you know why none of those
17 requests mentions the manpower planning
18 model?

19 A. No.

20 Q. Now let's talk briefly about
21 changes to head count in American's
22 models. American has changed its head
23 count, the head count projections in
24 response in part to some of the
25 discussions with APA, correct?

196

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2 A. I'm not aware of the reason
3 why they changed their head count.

4 Q. Well wasn't there a discovery
5 of an error where the block hours that
6 the company input in one respect did not
7 conform with the business plan and had to
8 be corrected?

9 A. I'm not aware of any

10 discussion of what the errors that the
11 company found were.

12 Q. You weren't party to those
13 discussions?

14 A. No.

15 Q. Were you at the bargaining
16 table?

17 A. At some sometimes I'm at the
18 bargaining table.

19 Q. Now, it is true, is it not,
20 that American Airlines has the highest
21 pilot sick use in the industry?

22 A. They told us that. We have no
23 way to verify.

24 Q. You have no way to disagree
25 with it either, do you?

197

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2 A. That's correct.

3 Q. But you do get lots of data

4 from the company, you can go in and check

5 the payroll records, correct?

6 A. Yes, we download the activity
7 records which have sick usage on them.

8 Q. And are you aware that in the
9 last two months there's been a dramatic
10 increase in pilot sick?

11 A. I've heard that they've --
12 that there's an increase in sick.

13 Q. Are you aware that American
14 has announced a reduction in its actual
15 flight schedule for the month of June
16 because of insufficient pilots to fly the
17 published schedule?

18 A. I've heard that. Actually,
19 the company sent out an email. What we
20 call an H I 6 message, an electronic
21 mail, telling us they're reducing the
22 schedule, delaying the actual bid awards.

23 Q. And June is peak travel
24 season, is it not?

25 A. Yes.

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2 Q. It's usually the time when the
3 company would like to do as much flying
4 as possible, correct?

5 A. Correct.

6 Q. Do you know why sick leave is
7 increasing?

8 A. I believe yesterday Mr.
9 Roghair testified that there's a very
10 stressful environment leading up to
11 bankruptcy, or actually in bankruptcy,
12 and that based on our discussions with
13 our colleagues former TWA pilots, that it
14 is a normal course to see that increase
15 due to the stress and anxiety.

16 Q. Well, a couple more questions
17 about sick leave usage. Just to clarify
18 for the benefit of the Judge, when a
19 pilot uses ten hours of sick leave, he's
20 paid for ten hours as if he was flying
21 the airplane for those ten hours,
22 correct?

23 A. Correct.
24 Q. And if he doesn't use it he's
25 never paid for it, correct?

199

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2 A. Correct.
3 Q. So one of APA's proposal is a
4 sell back program, correct?
5 A. Correct.
6 Q. The company has not agreed to
7 that, have they?
8 A. Not that I'm aware of.
9 Q. Now that proposal is that
10 American would buy sick leave back from
11 that pilot at that pilot's hourly rate,
12 correct?
13 A. Correct.
14 Q. And that's so they would be
15 paying the pilot for those sick leave
16 hours not used for sick, correct?
17 A. Yes.

18 Q. So how would that save the
19 company money? The company would be
20 paying for the hours it would be buying
21 back.

22 A. The pilots, according to the
23 FARs, as you know, are required to, you
24 know, to ensure that they are, you know,
25 fit for duty. It would depends on what

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2 the rule, you know, it would depends on
3 what their conditions are, whether
4 they're sick, illness, injury, and stress
5 is one of those, depression, are some of
6 the parameters, some of the issues the
7 pilots have to deal with.

8 So there are times when the
9 pilot may feel distress and rather than,
10 you know, go fly he'll call in sick, and
11 I think maybe there are opportunities for
12 the pilot to --

13 Q. Well let me ask you this. If
14 they sell back their hours to the company
15 and then they're feeling stressed, that
16 would give them the perverse incentive to
17 go fly because they sold their hours
18 back, would it not?

19 A. You're assuming that he has no
20 hours left in his sick bank and I don't
21 believe there's any proposal to sell back
22 the entire sick bank.

23 Q. How big are sick banks
24 generally?

25 A. Sick bank can get to a

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2 thousand hours.

3 Q. And that's more than a year's
4 worth of flying, correct?

5 A. Correct. Prior to '03 we used
6 days and it was 198 days. And that with
7 vacation you could be out for almost 18,

8 20 months.

9 Q. Once a pilot has bid for and
10 been awarded his schedule for the
11 following month, that's the line of time,
12 right?

13 A. Yes.

14 Q. Under the contract currently,
15 are there any ways the pilot can change
16 his schedule?

17 A. Yes.

18 Q. How many ways?

19 A. We have what's called a
20 schedule enhancement period which is a,
21 basically a seniority run. The pilots
22 can try to trade or pick up or drop a
23 sequence from their next month.

24 Q. So if I had a wedding coming
25 up next month and in the bidding process

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2 I ended up with a schedule that had me

3 working that day, in the schedule
4 enhancement period I could put up my
5 trip, that particular trip for a trade
6 with somebody else; is that right?

7 A. Yes.

8 Q. What other ways could I change
9 my schedule?

10 A. You could also post it for
11 another pilot to pick up and if some
12 other pilot prefers to fly your sequence,
13 your trip, they could fly the trip.

14 Q. And what other ways could I
15 change my schedule?

16 A. Try to get a removal from the
17 trip from your chief pilot.

18 Q. What other ways? Does
19 American have trip trading with open
20 time?

21 A. That's similar to the system
22 about posting your trip. You could
23 actually rather than post it to be picked
24 up, you could post -- if the manning is
25 such you could drop it right away.

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2 Q. And does American have
3 personal vacation days?

4 A. Yes, but that requires either
5 the ability to remove, get rid of the
6 trip either through somebody else pick
7 \$ing it up or that the system allows it
8 to drop because it was appropriate
9 manning or your chief pilot can let you
10 off and you can use a PVD for that.

11 Q. Because there are -- as long
12 as there's sufficient staffing in the
13 current reserve complement, correct?

14 A. Yes.

15 Q. And usually reserves run down
16 by the ends of the month; is that fair?
17 Oftentimes if we're going to have a
18 reserves problem it's going to be towards
19 the ends of the month?

20 A. There's also usually a problem
21 in the first three or four days.

22 Q. That's because of those

23 month-end conflicts?

24 A. Correct.

25 Q. So with all of those ways in

204

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2 which a pilot can change their schedule

3 consistent with the contract, you say in

4 paragraph 43 of your declaration that

5 there are situations when a pilot is

6 forced to call in sick for family events,

7 is that what you say? I want to make

8 sure I didn't misunderstand you?

9 A. Yes.

10 Q. So in your view pilots are

11 sometimes forced to call in sick for

12 family events?

13 A. There can be an event that

14 could come up at the last minute that may

15 require you to be present in your family.

16 Q. And you couldn't get a

17 personal vacation day, you couldn't get
18 an emergency day off from the chief
19 pilot, all of those. Now, if you
20 couldn't get -- why would a chief pilot
21 deny an emergency day off or a personal
22 vacation day if it was a true family
23 situation?

24 A. It could be the possibility
25 that they think the manning is such that

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2 it could be a problem.

3 Q. Oh, insufficient staffing, not
4 enough reserves; is that right?

5 A. Yes.

6 Q. Ah, and then the pilot is the
7 only pilot available to fly that trip,
8 that could be the case, couldn't it?

9 A. It may be the case.

10 Q. And if it is and he calls in
11 sick for a family event, what happens to

12 the passengers who made their
13 reservations and planned their family
14 events based on that flight taking off on
15 time?

16 A. Crew scheduling has a number
17 of tools available to them to cover those
18 trips.

19 Q. And the primary tool they have
20 is utilization of reserves, correct?

21 A. That is the primary tool.

22 Q. So it dare not get too low on
23 reserves lest we undermine our ability to
24 operate the airline, correct?

25 A. There are other avenues

206

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2 available for crew scheduling.

3 Q.

4 MR. GALLAGHER: I have no
5 further questions, your Honor.

6 THE COURT: Redirect.

7 REDIRECT EXAMINATION

8 BY MR. ROSENTHAL:

9 Q. Hi.

10 A. Good afternoon.

11 Q. Do you recall being asked on
12 cross examination about the sick sell
13 back program that APA has proposed?

14 A. Yes.

15 Q. Under the APA's proposal is a
16 pilot allowed to sell back all of the
17 sick time that they've accumulated?

18 A. No.

19 Q. What are the limits on what
20 they can sell back?

21 A. I am not completely sure of
22 the limits, but I believe it's only the
23 sick accrued, part of the sick accrued
24 during that year.

25 Q. Does the amount of sick that a

2 pilot can sell back depend on how much
3 they've built up in their bank?

4 A. I believe there's a provision
5 if a pilot has a full bank he can sell
6 back more.

7 Q. And what is a full bank?

8 A. A full bank is a thousand
9 hours.

10 Q. So in your opinion, would that
11 provision incentivize pilots to build up
12 a full bank of sick?

13 A. Yes.

14 Q. And once they had built up a
15 full bank of 1,000 hours, do you recall
16 how many of those hours or a rough range
17 of how many of those hours they could
18 sell back?

19 A. I don't recall the actual
20 proposal.

21 Q. A general sense?

22 A. I believe -- I got down to two
23 answers but I'm not real sure which one
24 it is. It's either everything over a

25 thousand hours or 50 percent of the

208

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2 unused piece. I can't remember the exact
3 proposal.

4 Q. Would it refresh your
5 recollection to take a look at Mr.
6 Roghair's declaration where he talks
7 about this proposal?

8 A. Sure.

9 Q. It's Exhibit 400. I believe
10 that paragraph 57 describes APA's
11 proposal. And if you just look at the
12 third full sentence on page 22. Do you
13 see that?

14 A. Okay, yes.

15 Q. So now that you've had a
16 chance to look at that, do you recall
17 under the APA's proposal how many, once a
18 pilot has built up a thousand hours how
19 many he could sell back?

20 A. He could sell back the full 60
21 hours accrued for that year if he didn't
22 use any.

23 Q. Has American previously
24 acknowledged that kind of incentive
25 program would reduce sick usage?

209

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2 A. Yes, they have.

3 Q. Let me also ask about the
4 manpower planning model. Do you recall
5 Mr. Gallagher representing, I don't think
6 it was a question, but he told you that
7 American's Exhibits 1500 to 1670 or
8 something like that didn't include any
9 reference to a request about the AAMPL
10 model?

11 A. I remember his statement about
12 that.

13 Q. Do you know if the APA ever
14 has made a recent request about the AAMPL

15 model?

16 A. It was my understanding that
17 the negotiators asked for access to the
18 AAMPL model.

19 Q. That was in writing?

20 A. I believe so, yes.

21 MR. ROSENTHAL: Thank you.

22 Nothing further.

23 MR. GALLAGHER: No questions,
24 your Honor.

25 THE COURT: All right. I

210

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2 assume you're going to move in the
3 declaration and associated exhibits
4 and then we can let this witness
5 depart.

6 MR. ROSENTHAL: Yes I'd like
7 to do that if opposing counsel has
8 no objection.

9 MR. GALLAGHER: No objection,

10 your Honor.

11 THE COURT: And just for the
12 record, what are those exhibits?

13 MR. ROSENTHAL: It's just
14 Exhibit 601, your Honor.

15 THE COURT: They're received.
16 All right, you're excused.

17 MR. DEAN: I'm David Dean,
18 appearing on behalf of the Allied
19 Pilots Association.

20 We're attempting to catch up
21 with our efficiency today in the
22 schedule and Mr. Heppner's current
23 limbo status. If we could have a
24 10 minute break to discuss exhibits
25 with counsel for the debtor, we

211

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2 believe we can move ahead.

3 THE COURT: Sure, absolutely,
4 I'm happy to do that. Let's take a

5 break then.

6 MR. DEAN: Thank you.

7 THE COURT: Thank you.

8 Counsel, before we do that, my
9 intent was to break today at 5:30,
10 so we'll get as much done as we can
11 between now and then and my
12 understanding is that I'm going to
13 get a filing tonight so that I can
14 take a look at it in response to
15 motions that have been filed.

16 Unless you all work out some grand
17 conclusion, I don't have to --

18 MR. JAMES: Your Honor had
19 mentioned Wednesday morning but I
20 think we can get it in tonight.

21 THE COURT: That's fine,
22 Wednesday morning is fine if that
23 prevents somebody from having to
24 pull --

25 MR. JAMES: We can deliver it

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2 to chambers by 8 o'clock.

3 THE COURT: That's fine.

4 Thank you.

5 (A recess was taken.)

6 THE CLERK: All rise.

7 THE COURT: Please be seated.

8 Call the next witness.

9 MR. DEAN: At this time the
10 APA calls First Officer Eaton.

11 JAMES EATON,
12 called as a witness, having been
13 first duly sworn, was examined
14 and testified as follows:

15 MR. DEAN: Your Honor, Mr.
16 Eaton's declaration begins at 500
17 of the binder you have in front of
18 you and I'm afraid this is another
19 circumstance where the yellow
20 highlighting will be misleading.

21 THE COURT: All right, thank
22 you for that heads up warning. I
23 appreciate that.

24 MR. DEAN: We have some
25 confidential material which I'll

213

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2 draw your attention to and Mr.
3 Eaton I think will be very careful
4 with.

5 THE COURT: Thank you. I
6 appreciate that.

7 DIRECT EXAMINATION

8 BY MR. DEAN:

9 Q. Would you please state your
10 full name for the record.

11 A. James Eaton.

12 Q. By whom are you employed?

13 A. American Airlines.

14 Q. How long have you been
15 employed with American?

16 A. I've been employed by American
17 since October of 1992.

18 Q. Would you briefly summarize

19 for the Judge the positions that you've
20 held at American?

21 A. Sure. I was hired at American
22 as a flight engineer. That was the entry
23 level position at the time. Subsequently
24 a little bit of furlough time, back to
25 the flight engineer 727, I've been a

214

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2 first officer on the MD 80, the on and
3 off the Boeing 737, and for a while I was
4 us a first officer on the Boeing 757/767.
5 We fly it as one airplane.

6 Q. Have you also held positions
7 with American management?

8 A. I have. For a year, one year
9 terminating in I guess June of 2011, I
10 served as a project manager in the
11 customer experience section within
12 company headquarters in Dallas/Fort
13 Worth.

14 Q. What did you do before coming
15 to American?

16 A. I was a pilot in the United
17 States Air Force for six and a half
18 years.

19 Q. And what did you do in the Air
20 Force?

21 A. After initial Air Force pilot
22 training I flew an airplane called the
23 OV10. It's a forward observation
24 airplane. And then I went to fly an
25 airplane called the F15E. It's a night,

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2 all weather fighter airplane.

3 Q. Were you deployed overseas?

4 A. I was. I spent a year in
5 Korea, I spent some time on the ground in
6 Panama, and then I spent about five or
7 six months over in Saudi Arabia.

8 Q. You indicated you were

9 furloughed from American at one point.

10 What did you do while you were

11 furloughed?

12 A. Well, I went, actually I flew
13 very briefly for American Eagle but then
14 went almost straight into graduate school
15 where I got a graduate degree, it was
16 actually two degrees, a Master's in
17 accounting and an MBA.

18 Q. Who did you work with during
19 that time?

20 A. Oh, I worked, well, as an
21 intern, the program had an internship and
22 I interned with Coopers & Lybrand, one of
23 the then Big 6 accounting firms and then
24 I worked with them after graduation until
25 I was recalled to American.

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2 Q. During your time at American,
3 have you also held positions with the

4 Allied Pilots Association?

5 A. Yes, I have.

6 Q. Can you briefly summarize for
7 the Judge the positions you've held?

8 A. Well, let's see, starting in
9 2000 I served as a member of the APA
10 scope committee and I was on that
11 committee from 2000 to 2004. I served as
12 the chairman of that committee from 2003
13 to 2004. Concurrently with my service on
14 the scope committee I was a member of the
15 APA mergers and acquisition committee
16 from 2001 to 2003. Then in 2004 to 2007
17 I was the union's, what I would say the
18 national secretary/treasurer, we only had
19 one secretary/treasurer, but it was one
20 of the three national officers,
21 president, vice president,
22 secretary/treasurer.

23 Q. And then more recently have
24 you also held positions with the Allied
25 Pilots Association in connection with the

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2 bankruptcy proceeding?

3 A. Yes. Actually, I guess the
4 way to say it I was called back to active
5 service with the union in October, I
6 think waits very late October, maybe
7 early November of 2011 and served on a
8 committee that had been created, it was
9 called the contingency advisory
10 committee. One of the things that
11 committee was tasked to study was
12 potential contingencies. One of those
13 contingencies being bankruptcy.

14 And on the date of the
15 bankruptcy filing a new committee was
16 created bald the bankruptcy advisory
17 committee and I was placed on that
18 committee as of I believe it was November
19 29th, that day. And very rapidly they
20 migrated my duties off that contingency
21 committee and I left that behind and

22 focused solely on the bankruptcy advisory
23 committee.

24 Q. Have you also served in
25 connection with the unsecured creditors'

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2 committee?

3 A. Part of my role as a member of
4 the bankruptcy advisory committee is to
5 serve as APA's point person, as I call
6 it, on the creditors' committee, so I
7 attend a lot of creditors' committee
8 meetings.

9 Q. I'd like to turn and focus on
10 the scope related responsibilities that
11 you've had. First, could you describe
12 what are the responsibilities of the APA
13 scope committee?

14 A. The scope committee is charged
15 with, it's actually called the scope
16 compliance committee is the official

17 name, it's really charged with monitoring
18 the company's compliance with the terms
19 and conditions of the scope clause. Over
20 time we also were involved in negotiating
21 portions of the scope clause.

22 Q. And in connection with those
23 negotiations, did you have any occasion
24 to become familiar with what was
25 happening in the industry with regard to

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2 scope?

3 A. Yes. Part of the, in the way
4 one would stay up to speed or get up to
5 speed in scope issues would be to monitor
6 all of the scope provisions of other
7 pilot contracts, to understand new
8 developments as they relate to scope
9 clause.

10 Q. And how did the scope
11 committee accomplish that?

12 A. Well, part of it was just a
13 simple, a document review and request and
14 review from other, other pilot groups.
15 Some of it involved meeting with other
16 pilots. And some of it involved I guess
17 getting briefed on developments as they
18 relate to scope.

19 Q. After you left as chair of the
20 scope committee, in your position as
21 secretary/treasurer did you have any
22 scope related responsibilities?

23 A. I wouldn't call them defined
24 responsibilities. But once one becomes
25 kind of associated with scope, as a

220

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2 national officer, we tended to divvy up
3 certain tasks. So being the national
4 officer at the time with the most
5 relevant scope experience, I still
6 interfaced with the scope committee,

7 stayed I guess apprised of developments
8 as they either negotiated new scope
9 provisions or came to me with questions
10 about old ones.

11 Q. And after you left service as
12 the secretary/treasurer, did there come a
13 time when the association called you back
14 for any role in relation to scope matters
15 prior to the bankruptcy?

16 A. Yes. In 2011, I guess it was
17 either late '10 or very early 2011 I was
18 asked --

19 Q. Let me warn you we've agreed
20 that the specific identities related to
21 this proceeding will be kept
22 confidential, but with that proviso
23 please go ahead.

24 A. I was asked by the APA to be
25 its, I guess its lead witness in an

2 arbitration over a provision of the
3 contract regarding domestic code sharing.

4 Q. And did that proceeding
5 implicate questions of industry
6 standards?

7 A. Yes, it did.

8 Q. And what work did you do in
9 connection with that proceeding in terms
10 of familiarizing yourself with industry
11 standards?

12 A. Well, I had to see really if
13 -- and I guess to step back, I had
14 negotiated some of the provisions for
15 domestic code sharing in 2003, so to see
16 if the industry standard itself had moved
17 between 2003 and 2011. So I had to go
18 back and look at scope clauses and actual
19 performance of other airlines under their
20 scope clauses.

21 Q. Did you work with others
22 within the APA on that project?

23 A. I did. I worked with some APA
24 committee people, including members of
25 the scope committee.

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2 Q. And since taking on
3 responsibilities in the bankruptcy
4 proceeding, specifically with the
5 unsecured creditors' committee, have you
6 had any opportunity to deal with scope
7 related matters?

8 A. I did. I was actually asked,
9 all the labor unions were asked to
10 provide their analysis of the difference
11 between the company's ask and where the
12 labor positions were and make a
13 presentation to the labor subcommittee of
14 the unsecured creditors' committee. So
15 on behalf of APA, since I was already the
16 point person, I spearheaded that effort
17 and gave the bulk of that presentation,
18 including a presentation on where we
19 were, where the company's ask was
20 relative to scope and versus where we

21 were.

22 Q. What's the core provision of
23 the scope clause?

24 A. The core provision is found in
25 section 1 (c) of the APA scope clause.

223

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2 Really what it says is that all flying
3 performed by the company or by an
4 affiliate of the company, all flying on
5 behalf of a company or affiliate shall be
6 done by pilots on the active American
7 Airlines pilot seniority list.

8 Q. Why is that provision
9 particularly important to pilots?

10 A. Well, a pilot's life is
11 governed by seniority. So anything that
12 might adversely affect job opportunities
13 for pilots, because a pilot moves up the
14 seniority list, we know that certain
15 pilots trip out, they either retire, they

16 pass away, but that is really the only
17 way one moves up unless the flying
18 opportunities grow.

19 And if the reverse happens and
20 pilot opportunities shrink, then pilot
21 job opportunities can disappear.

22 Q. Why would a pilot not just
23 chase those flying opportunities by going
24 to whatever other carrier has --

25 A. I think in the airline

224

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2 industry, when one joins an airline, one
3 starts at the bottom of the seniority
4 list. So one has the least control over
5 schedule, you have the greatest risk of
6 furlough or being laid off, and would
7 have the lowest, the lowest earning
8 potential certainly, certainly be at the
9 furthest end of the pay scale first end
10 pay so one could get trapped bouncing

11 from carrier to carrier at the bottom of
12 the pay scale and never have a chance to
13 move up.

14 It's very different from a
15 number of careers where one might leave a
16 company to take an advanced position,
17 either advanced or that pays better.

18 Q. You referenced section 1 (c)
19 of the scope clause. There are other
20 sections of the scope clause?

21 A. Oh, yes.

22 Q. Just generally speaking, what
23 do those other sections concern?

24 A. Really they provide
25 protections -- well, they grant

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2 exceptions to 1 (c), so they grant
3 exceptions to this rule that the, the
4 concept that the pilots own all of the
5 flying.

6 And they permit the company to
7 outsource pilot flying under certain
8 conditions and restrictions. So with
9 certain appropriate pilot protections for
10 pilot jobs.

11 Q. Now you were in the courtroom
12 yesterday?

13 A. Yes, I was.

14 Q. You heard Mr. Mollen ask Mr.
15 Roghair why it should be considered
16 outsourcing if flying on aircraft that
17 are not currently being flown at American
18 are permitted to be flown on behalf of
19 American and other airlines. Do you
20 remember that question?

21 A. Yes.

22 Q. Can you explain why in your
23 view -- well let me start with the first
24 question. What's the smallest aircraft
25 American currently flies?

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2 A. That American mainline
3 currently flies?

4 Q. Yes.

5 A. Would be the MD 80.

6 Q. How many seats does that have?

7 A. 140.

8 Q. So let's focus on that range
9 of seats between 51 and 140 that the
10 record will reflect American is not
11 currently flying. Why would permitting
12 another carrier to fly for American a
13 aircraft in the seat range 51 to 140 be
14 considered outsourcing?

15 A. Well, it's that loss of a job
16 opportunity for a pilot. So we obviously
17 don't know what happens to the MD 80 out
18 in the future, but a pilot has an
19 expectation of the ability to fly an
20 airplane in that range from 51 to 140
21 seats if it was, you know, absent other
22 exceptions in the scope clause.

23 Q. On what is the expectation

24 based that he would fly a aircraft of 51
25 seats?

227

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2 A. Well, we have an exception to
3 the scope clause that -- actually the
4 scope clause limits outsourcing to 50
5 seats and below at commuter carriers but
6 then it provides another exception that
7 says there are 47 Canadair CRJ 700s which
8 are, they're actually configured, well,
9 between 51 and 70 seats, and those
10 airplanes are excepted, but anything else
11 would be flying, by contract goes to
12 American Airlines pilots.

13 Q. Are there any other carriers
14 that have scope clauses that grant to the
15 pilots mainline flying on aircraft with
16 greater than 50 seats?

17 A. Continental Airlines grants
18 mainline pilots 51 seats and above.

19 Q. Is that scope provision still
20 in effect now that Continental was
21 acquired by United?

22 A. Yes.

23 Q. How do you know that?

24 A. There was an arbitration in
25 define, I believe, where -- when United

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2 and Continental merged. The United
3 pilots' scope clause permits flying,
4 outsourced flying up to 70 seats. And
5 the new United management attempted to
6 schedule United commuter flights in that
7 51 to 70 range into Continental hubs
8 which had been, which would have been
9 Newark and Houston, and the Continental
10 pilots filed a grievance saying you can't
11 do that. And the Continental pilots
12 prevailed.

13 Q. Is there any other mainline

14 carrier that flies aircraft in the range
15 of 51 to a hundred seats?

16 A. Yes.

17 Q. Which carrier?

18 A. US Airways.

19 Q. What aircraft do they fly?

20 A. US Airways flies the Embraer
21 EMB 190.

22 Q. Has American flown aircraft in
23 the 51 to 140 seat range in the past?

24 A. Yes, they have.

25 Q. Which aircraft?

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2 A. Well, when we acquired TWA
3 they actually flew the Boeing 717 which
4 is in that range. But and I guess more
5 recently, or up until 2004, they flew an
6 airplane called the Fokker F100, which
7 was configured, I believe it was 97
8 seats. I know it was less than a

9 hundred. I think 97.

10 Q. What was the maximum takeoff
11 weight of the Fokker?

12 A. In our contract the maximum
13 takeoff weight was 99,000 pounds.

14 Q. Have you personally flown
15 routes for American that were later
16 outsourced to regional jets flying on
17 behalf of American?

18 A. Yes, I have.

19 Q. What routes were those?

20 A. Specifically I recall
21 Chicago/Syracuse, LaGuardia/Toronto and
22 LaGuardia/Raleigh-Durham.

23 Q. Returning to the current
24 collective bargaining agreement, you
25 referenced the permitted outsourcing of

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2 commuter flying under the current CBA.

3 Do you consider the current CBA, the

4 collective bargaining agreement, to be
5 consistent with industry standards with
6 respect to permitted commuter
7 outsourcing?

8 A. No, I do not.

9 Q. Why not?

10 A. Well, I think the existing CBA
11 was appropriate for the industry in 2003.
12 In fact, in 2003 we met and negotiated
13 with the company based on their needs and
14 industry related concerns as they stood
15 then.

16 Since then, the industry has
17 changed. So -- and changed in regards to
18 scope issues.

19 Q. Have the APA pilots proposed
20 to the company a loosening of the
21 permitted outsourcing for commuter
22 aircraft in order to enable it to compete
23 in the current industry environment?

24 A. Yes, they have.

25 MR. DEAN: If I may, your

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2 Honor, we've prepared an exhibit
3 that simply summarizes some of the
4 facts already in the record. This
5 is really just to help you.

6 THE COURT: A demonstrative?

7 MR. DEAN: Yes.

8 THE COURT: All right.

9 MR. DEAN: American counsel
10 has okayed this. We'll be making
11 reference to some of the dates for
12 proposals that are on this
13 timeline.

14 THE COURT: So isn't in
15 evidence per se it's just a helpful
16 summary of evidence that's in the
17 record.

18 MR. DEAN: That's correct.
19 We'll mark it just for
20 identification as APA Exhibit 007,
21 so it will become part of that set
22 of exhibits you have that begin

23 with Embraer 190.

24 THE COURT: All right.

25 Q. Now you said that the APA has

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2 made a proposal to the company regarding
3 outsourcing of commuter aircraft. What
4 proposal did they make?

5 A. APA made a proposal on April
6 9th. It's that Exhibit 514. And I can
7 take a look at that if you'd like.

8 Q. Okay, it would be helpful just
9 to follow along. So that's Exhibit 514
10 attached to your declaration. There's
11 nothing about this exhibit in this
12 calculation. So what did the APA propose
13 in regard to commuter outsourcing, just
14 in summary?

15 A. Well it proposed to allow some
16 turboprop airplanes to be flown either at
17 American Eagle or another carrier and it

18 also proposed that the -- to allow
19 outsourcing of up to 150 airplanes
20 configured with 51 to 70 seats and with a
21 gross weight of 80,500 pounds I believe.

22 Q. Were there any conditions on
23 the proposal to be able to outsource
24 those aircraft?

25 A. There were, because -- well,

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2 first of all, 40 -- I think I mentioned
3 there were 47 CRJ 700s that exist at
4 Eagle today. Those airplanes were
5 permitted to simply be replaced or
6 renewed. And then additional aircraft
7 would be brought in provided that
8 American brought to the mainline aircraft
9 in the, a larger, a larger range, I don't
10 know why I'm drawing a blank, but 71
11 seats to a hundred seats.

12 Q. You've heard testimony and I

13 think you heard it from Mr. Roghair
14 yesterday, that there were intensive
15 negotiations leading up to the filing of
16 the bankruptcy. Do you know the
17 relationship between this proposal and
18 what the company communicated in that
19 negotiation regarding its needs?

20 A. Actually it exceeded the
21 company's request or proposal that was in
22 November, I think it was November 14th,
23 2011.

24 Q. Okay. Just looking at the
25 timeline, it indicates that your exhibit

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2 511 is the company proposal?

3 A. Yes.

4 Q. So you can turn to that if you
5 need to, but what did the company propose
6 at that time that it needed in order to
7 be able to compete with commuter

8 outsourcing?

9 A. The company proposed that all
10 incremental new flying above 50 seats
11 would be flown by APA pilots. I'm sorry,
12 incremental jet flying.

13 Q. Taking a look at Exhibit 511,
14 that is the line that's opposite the
15 first bolded text where it says section 1
16 (c)?

17 A. Yes, yes.

18 Q. Do you know how APA's proposal
19 in April related to what had been
20 communicated to the APA about the
21 company's current business plan?

22 A. It was an attempt to match
23 what we saw in the company's business
24 plan regarding these airplanes.

25 Q. I'm going to direct your

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1

2 attention to Exhibit 515 to your

3 declaration. Now this is a confidential
4 exhibit, so without referencing any of
5 the specific numbers on the right-hand
6 side of the exhibit, either of those two
7 columns, in particular the one, the last
8 column on the right, can you explain to
9 us how this APA proposal in April related
10 to this part of the business plan?

11 A. Sure. I'm not even sure if
12 I'm allowed to mention the seat ranges in
13 this plan, so I just want to -- I can
14 talk about it, we'll talk around it.

15 Q. Okay.

16 A. But the company's business
17 plan, if one looks under aircraft by
18 seats and steps down to the second column
19 with numbers of seats, and then looks at
20 the far right column with the number
21 under year end, that number is actually
22 smaller than the number of aircraft that
23 APA proposed to allow.

24 And then if we step down one
25 number, I'm sorry, one row again, into

1
2 the, what would be the third column of
3 aircraft seat range, ranges, that number
4 really ties to that, as the company were
5 to bring on new, larger airplanes, that
6 this would, this would accommodate or
7 match the delivery plan in the business
8 plan.

9 Q. Do you know whether or not the
10 APA had made any proposal to the company
11 with regard to the rates or cost at which
12 any of these aircraft would be flown?

13 A. In, in the -- yes. The APA
14 had approached the company about flying
15 these at market competitive costs.

16 Q. Do you know when that
17 occurred?

18 A. I believe that occurred on
19 March the 22nd.

20 Q. Was APA alone in making that

21 proposal?

22 A. No, APA actually presented or
23 had a discussion with the company with
24 the other two labor unions for the flight
25 attendants and for the TWU.

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2 Q. Do you know the nature of any
3 communication made by those unions?

4 A. I believe Mr. Brundage sent a
5 letter back to our negotiating chairman,
6 Mr. Roghair, with some questions and
7 there was a subsequent meeting where Mr.
8 Roghair answered some of the questions.
9 There was some exchange of conversation,
10 but there was no proposal put forward by
11 the company.

12 Q. Is the proposal that APA made
13 in April regarding commuter outsourcing
14 generally consistent with industry
15 standards?

16 A. Well, on April 19th?

17 Q. Yes.

18 A. I'm sorry, April 9th? Yes.

19 Yes.

20 Q. Okay. Did the APA

21 subsequently enter into an agreement with

22 US Air that concerned, in addition to

23 other things, contractual modifications

24 regarding scope?

25 A. Yes, they did.

238

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2 Q. Can you tell the court just

3 again, the highlights of that agreement?

4 A. In the agreement with US Air

5 the APA agreed to permit outsourcing of

6 regional aircraft up to 81 seats in

7 exchange for a commitment by US Air to

8 add aircraft between 81 and 110 seats

9 that were essentially, that they had a

10 guarantee mechanism. And APA reached an

11 agreement with US Air concerning domestic
12 code sharing and concerning changes to
13 international code sharing.

14 Q. Focusing just on the commuter
15 piece for a moment, I think it would be
16 helpful if you'll turn to Exhibit 517-A.

17 THE COURT: Just before you
18 move on to the next topic, there
19 was a statement made that you
20 thought the APA's proposal was
21 consistent with the industry
22 standard. What was your -- how did
23 you evaluate that?

24 THE WITNESS: My sense of the
25 industry standard is it is

239

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2 somewhere between 70 airplanes --
3 I'm sorry, 70 seat airplanes and 76
4 seat airplanes. I don't know --
5 you know, getting more specific.

6 What we have is we have Continental
7 with 50, we have US Air presently
8 with 90, although it's got to be 88
9 seats and 90,000 pounds maximum
10 gross takeoff weight which actually
11 forces them down into about a 79
12 seat airplane for practical
13 purposes.

14 We have United at 70. And we
15 have Delta technically at 70 with
16 an exception to go up to 76,
17 however, if certain pilots are
18 furloughed on the Delta seniority
19 list then they actually revert back
20 down to 70. So in my mind when we
21 proposed 70 that is right there in,
22 at the standard of the industry.

23 MR. DEAN: Your Honor, we're
24 going to actually take some time to
25 weigh American's current proposal

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2 against a detailed analysis of
3 industry standards that I think may
4 inform your interest in this also.

5 THE COURT: All right.

6 Q. Before we get there, just to
7 be sure that we've covered the basics of
8 the agreement with US Air regarding
9 commuter outsourcing, Exhibit 517-A to
10 your declaration, do you recognize that
11 document?

12 A. I do.

13 Q. That's the scope provisions of
14 the US Air term sheet?

15 A. It is.

16 Q. If you could just take a
17 minute and take a look at the very last
18 page of that exhibit, which is a chart
19 and if you could just explain to us the
20 basics of that chart as it relates to
21 commuter outsourcing and the agreement
22 with US Air?

23 A. Okay. The chart, if we look
24 at the top of the chart first it says in

25 a very large blog, it says R J and

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2 turboprop scope. So it makes no
3 distinction between whether an airplane
4 is jet powered or prop powered. And it
5 has no distinction on the actual gross
6 weight of an aircraft. And what it looks
7 at is the actually off to the far right
8 there's a mainline, narrow fleet that
9 says that today the existing fleet is a
10 total of 802 aircraft, but for the
11 example that it runs through it drops
12 that for easy math 800 aircraft. And it
13 takes a, there's a limit of 110 percent
14 of the mainline narrowbody fleet which
15 gives 880 aircraft as a total limit.

16 Now, it further divides into
17 what they've chosen to call category A
18 aircraft and category B aircraft. And
19 these airplanes are divided up by seats.

20 Below 30 seats is not restricted. And
21 then in category A there's a range of 30
22 to 70 seats. Category B there's a range
23 of 30 to 81 seats, and that should make
24 more sense in a second. And then there
25 are these requirements that 40 percent of

242

1
2 the scope exception would go into
3 category A which if you follow the math
4 it yields 352 airplanes as a maximum.
5 And category B, again, at 35 percent
6 yields 308 airplanes.

7 Now, at present, there are
8 more airplanes in category A than the
9 limit of 352. However, as we see in
10 category B it's actually defined as 30 to
11 81 seats, so a category A airplane can be
12 counted as a category B airplane.

13 And that sets the limits on
14 the number of outsourced regional

15 aircraft.

16 What the agreement also
17 contemplates is this category C which is
18 airplanes that are a maximum of 110 seats
19 that would be flown by APA pilots.

20 And there's a methodology to
21 actually guarantee that airplanes are
22 inducted into category C and suspending
23 for a moment this category A and B
24 notion, I realize this gets a little
25 complicated. For airplanes that are 71

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2 seats and below, for every four airplanes
3 that are either replaced or added in that
4 category, you would induct one new
5 aircraft in category C flown by mainline
6 pilots.

7 If you had an airplane in the
8 80 -- I'm sorry, 71 to 81 seat range, you
9 would induct, for every two airplanes

10 that you replace in that category, you
11 would induct one new airplane into
12 category C. So you had four for one, two
13 for one and all of these airplanes had
14 the date that this agreement goes into
15 effect have to be specifically identified
16 by tail number.

17 So if the new American
18 Airlines were to simply get rid of these
19 airplanes there would be no requirement
20 to add airplanes in category C. However,
21 if they opt to replace airplanes or grow
22 it incrementally, then there's the
23 requirement to add aircraft into category
24 C.

25 Q. Are there any aircraft

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1
2 currently being flown by US Air in
3 category C?

4 A. There are. And there are 15

5 Embraer, EMB 190s that are covered in
6 category C, however, because they're
7 already in existence flown by US Airways,
8 they are counted in the mainline
9 calculation.

10 There are no other, no
11 additional category C airplanes or EMB
12 190s, would be counted in the mainline
13 calculation. They would simply be used
14 to fulfill the requirement, to add
15 aircraft in category C.

16 Q. Just to make sure I understood
17 that, so if after this agreement were to
18 go into effect, if US Air added a 72 --
19 two 72 seat aircraft, what would happen?

20 A. If they added two 72 seat
21 aircraft, they would be required to add
22 one category C aircraft.

23 Q. From day one, the existing 15
24 don't count against that?

25 A. The existing 15 don't count

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2 against that, that's correct.

3 Q. And if they up-gauge, if they
4 took say four 50 seat aircraft and
5 replaced those with two 71 seat aircraft,
6 what would the result be for category C?

7 A. If they removed four 51 seat
8 aircraft there would be no impact.
9 However, the addition of the two 71 seat
10 aircraft would require one additional
11 category C aircraft to be inducted.

12 Q. Do you know what the company
13 proposed for commuter outsourcing as its
14 last proposal before moving to abrogate
15 the contract?

16 A. They proposed it actually in
17 their term sheet.

18 Q. Let me -- what I'd like to do
19 if it would be helpful, I've got AA
20 Exhibit 0918 which is already in
21 evidence.

22 MR. DEAN: We have a copy, if

23 that would be more convenient.

24 THE COURT: Thank you.

25 Q. And I would direct your

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2 attention to the page of this exhibit
3 concerning scope which you may be better
4 at finding than I am.

5 A. It's on page 6.

6 Q. Thank you.

7 A. You're welcome.

8 Q. So page 6 of 7 counting from
9 the front. And on that page what is the
10 part that concerns the outsourcing of
11 commuter aircraft?

12 A. Well, it says they want to
13 change the definition of a commuter air
14 carrier to 88 seats, to be configured a
15 maximum of 88 seats and a maximum takeoff
16 weight not to exceed 114,500 pounds.

17 And then of course it comes up

18 with its own formula, the maximum number
19 of 50 seat or less aircraft would be the
20 limited by 110 percent of the narrowbody
21 aircraft. And the maximum number of
22 aircraft in the 51 to 88 seat range would
23 be the greater of 255 aircraft or the, or
24 50 percent of the total number of
25 mainline aircraft which today would be

247

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2 about 304.

3 Q. Is that proposal consistent
4 with industry standards?

5 A. No, it's not.

6 Q. Why not?

7 A. Well, the -- I guess the first
8 piece is 88 seats, the only airline in
9 the range of industry, remember we talked
10 about Continental with 50 seats and we
11 talked about US Air which does have 88
12 seats, we'll talk about weight limit in a

13 second, but if you look at the rest of
14 the range it's 70 and 76 with certain,
15 the Delta 76 with certain exceptions.

16 Q. I'd like to direct your
17 attention to Exhibit 507 to your
18 declaration. Is this a chart that shows
19 the, I guess starting with the number of
20 outsourced regional jets for each network
21 carrier by the size of the jet, as
22 measured by seat number?

23 A. Yes, the vertical axis would
24 be the number of aircraft and the
25 horizontal axis would be seat ranges,

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2 yes.

3 Q. So you were telling us a
4 moment ago about what was out there in
5 the industry being flown today in these
6 categories, particularly the 70 seat and
7 above. If you could just relate that to

8 this chart, please?

9 A. Right. So if we looked at
10 the, I guess the second category to the
11 left which is 51 to 70, that shows where
12 AA stacks up currently against Delta,
13 United and US Airways.

14 Then we have a column with 70,
15 71 to 76 seats where we see Delta with
16 153. And this is actually flown by the
17 way, in service.

18 And then we have US Airways
19 between 77 and 80 actually flying 76
20 aircraft.

21 And then we have a comparison
22 of where the 1113 term sheet is which is
23 over on the far right between 81 to 88
24 seats with 304 aircraft.

25 Q. Okay. And that's the -- I'm

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2 sufficiently color blind I couldn't

3 characterize that color for you, but what
4 is it?

5 A. Well, if I get it wrong I
6 could lose my license, so.

7 Q. I withdraw the question,
8 forget it.

9 A. That's a little scary, but it
10 appears to be orange to me on the far
11 right-hand side.

12 Q. That correlates with the 536
13 on the left-hand side?

14 A. I'm sorry, I was chuckling to
15 myself, I apologize. It correlates to
16 the number on the far right-hand side?
17 Yes, that's the 81 to 88 seat we had
18 before.

19 Q. And I was just saying that the
20 other part of the proposal is the number
21 of the bar that has the 536 on top of it
22 on the left-hand side?

23 A. Yes, in the 50 seat and below
24 category the other orange bar, 536
25 aircraft, that's the 1113 proposal.

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2 Q. And when you say actually
3 flying, can you explain what you mean?

4 A. Well, what we do is we
5 actually look at the 10-Ks for the most
6 recent reporting period, so the ends of
7 2011 and the companies report the
8 aircraft in service.

9 Q. And do they report the
10 aircraft that are outsourced and in
11 service?

12 A. I think some do and some
13 don't. You actually have to go to some
14 of the other providers to look and
15 compare it.

16 Q. Are the aircraft on this chart
17 outsourced or no?

18 A. All of the aircraft on this
19 chart, with the exception of the 1113
20 proposal, which we don't know yet, are
21 actually outsourced.

22 Q. Now continuing to take a look
23 at where the industry is and particularly
24 in relation to the 1113 proposal, I
25 direct your attention to APA Exhibit 508,

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1
2 the next exhibit in your declaration.
3 Could you explain that exhibit to us.

4 A. Exhibit 508 essentially takes
5 Exhibit 507 and makes it, I guess adjusts
6 it for specific aircraft type. It does
7 not include the AA 1113 proposal, just so
8 that we all understand that.

9 And if one looked from the
10 left side to the right side, we would be
11 pretty much increasing in seat capacity.
12 And I can walk you through it if you'd
13 like.

14 Q. Why don't we keep it high
15 level and just keep going.

16 A. Okay. Basically from the

17 fifth column to the left is the CRJ 200
18 with that highest spike. Those are all
19 50 seat and below aircraft. And then
20 what we see is some CRJ 700s, that are
21 some 51 to 70 seat airplanes and there
22 are a couple of columns CRJ 900 and EMB
23 175, those are depending on the carrier
24 flown at 76 seats or 79 to 80 seats.

25 And then on the far right you

252

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2 see EMB 190, EMB 195 and those are not
3 flown at all by any of these carriers.

4 Q. If you were to put AA's 1113
5 proposal on this chart, where would it
6 go?

7 A. It would, in respect to the,
8 to the aircraft in the 51 to 88 seat
9 category it could be as far as, to the
10 right as the EMB 195 with a single, a
11 single stack.

12 Q. Can you just explain briefly
13 the difference between the Embraer 195
14 and the Embraer 190?

15 A. It -- the Embraer 195 is just
16 a slightly stretched version of the
17 Embraer 190. It still falls under the
18 weight limits that the company's 1113
19 proposal would allow. You could add more
20 seats or carry more fuel or cargo I
21 guess.

22 Q. All right, turning to the next
23 exhibit or I guess that would be Exhibit
24 510 to your declaration. What does this
25 chart summarize?

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2 A. Exhibit 510 compares the
3 existing pilot scope clause and
4 protections in terms of a maximum takeoff
5 weight. Typically also arrayed out by
6 aircraft size and compares it against the

7 company's 1113 proposal.

8 Q. So these weight limits, are
9 these actually flown outsourced out of
10 the industry or is this the maximum
11 allowed under the CBAs, or something
12 else?

13 A. This is the maximum weight
14 limits allowed to be outsourced under the
15 commuter provisions of each CBA.

16 Q. And can you give us a sense,
17 I'm looking at the far right of the
18 chart, the maximum weight limit at any
19 other of these network carriers that are
20 on the chart appears to be 90; is that
21 right?

22 A. Right. And that's at US
23 Airways and they have a 90,000 pound
24 limit that is currently the heaviest
25 allowed, or the heaviest commuter

2 aircraft that's allowed to be flown by
3 outsourced pilots.

4 The company's 1113 proposal
5 proposes 114,500 pounds, which is, I hate
6 to do math on the stand, but 24,500
7 pounds greater, which is a very
8 significant increase.

9 Q. Significant in what respect?

10 A. Well, it's a big number. If
11 we hark back to my 0V10 days you could
12 actually get the weight of two 0V10, you
13 know, in that weight gap, if you many.
14 So it's very significant.

15 Q. Does the 90,000 pound weight
16 limit allow outsourcing of the Embraer
17 190 aircraft, for example?

18 A. No, it doesn't, the Embraer
19 190 weighs, well, just under 114,500
20 pounds, the 195 at 114,500.

21 Q. Turning to the next exhibit
22 that's actually I think in your
23 declaration, but that would be 513 in and
24 the attachments, can you explain that

25 chart?

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2 A. Right. This is the chart that
3 talks about what is permitted under
4 existing pilot CBAs, obviously the
5 exception on the far left of what is in
6 the company's 113 term sheet. And it
7 compares, this is broken up by color and
8 by seat range, so we can see that the
9 term sheet proposes 536 50 seat below and
10 304 in the 77 to 88 seat range.

11 Then we see that Continental
12 has its hard 50 seat limit of 274
13 aircraft.

14 Delta with no limit on 50 seat
15 and below and then limits, that's that
16 255 limit where they have a limit of 135
17 and the 51 to 70 and a limit of 120 in
18 that if they were to increase that from
19 71 to 76 seats that's the piece that

20 comes back to 70 seats if they fly with
21 pilots.

22 Q. Just slow down a minute for me
23 because I definitely don't do math in
24 public. So we're talking about the red
25 column and I hope it's light green column

256

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2 for Delta?

3 A. It is. So yes, for Delta red
4 at 135 and light green at 120.

5 Q. You're just saying there's a
6 relationship between those two?

7 A. There is, the Delta limit I
8 think says 255. In this range, in the 70
9 seat, or 51 to 70, however, 120, up to
10 120 could be flown in the 70 to 76 range.

11 Q. So they're at the max?

12 A. Well, there are, but then
13 there's a growth formula that actually
14 permits Delta because they've grown

15 mainline to exceed that, to exceed that
16 120 seat max. Although they're still
17 required to comply with that 255 total,
18 so.

19 Q. Again, this is the maximum
20 allowed --

21 A. Allowed under the contract,
22 that's correct.

23 Q. And then moving to the United
24 column?

25 A. United, United is an

257

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2 interesting one. They actually limit
3 their outsourcing of commuter flying by,
4 well, it's 70 seats is the maximum.
5 However, they limit it to the amount of
6 block hours flown by mainline. So no
7 regional fee carrier total block hours
8 can exceed, unless the total of regional
9 fee block hours could exceed the total of

10 mainline block hours.

11 Q. Just so the record is clear
12 because I think there was some discussion
13 of this limit yesterday on cross. People
14 were referring to it as an ASM limit.
15 First, is that correct?

16 A. No, that's not correct.

17 Q. What's the difference between
18 a block hour limit and an ASM limit?

19 A. Well an ASM limit would be, I
20 think we may have heard that in someone's
21 testimony, but it's the number of seats
22 times the number of miles. Number of
23 seats in the airplane times the number of
24 miles flown. It's really a measure of
25 the airlines's capacity as opposed to

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2 block hours, which are the actual hours
3 flown by the airplane from the time it
4 starts to the time it ends up at the

5 gate.

6 Q. So if you had a ratio between
7 the mainline and the regional and it was
8 an ASM limit, the fact that there are
9 much larger aircraft at the mainline
10 would have a big impact on that?

11 A. Oh, yes, a 777 or maybe in the
12 United States a 747 flying a really long
13 way across the Pacific generates a
14 tremendous number of ASMs as opposed to a
15 smaller airplane flying short stage.

16 Q. And the relation between,
17 generally between block hours on smaller
18 aircraft and larger aircraft, is there
19 any general way to characterize that?

20 A. I think the block hours, when
21 you get down into the smaller airplanes
22 at a regional level, they actually tend
23 to fly a little bit less in block hours
24 than the mainline aircraft. That's
25 skewed because as you get to longer and

1
2 longer stage lengths for airplanes,
3 they're in the air longer, they have less
4 what I would call dwell time in the hubs,
5 so they're able to generate more block
6 hours per day per aircraft.

7 Q. So now can you explain to us
8 how you apply that block hour limit to
9 United in this chart?

10 A. So what I did was I took
11 United's block hours, now United, you
12 know, to add just a little bit more to
13 this, United, the last time United
14 reported publicly its stand-alone block
15 hours was its 2009 annual report. It was
16 roughly 1.47 million block hours. And
17 what I did was I basically looked at two
18 of United's, its two largest commuters
19 which I think was sky West and republic,
20 and calculated the average number of
21 block hours flown per airplane per day,
22 you can do that through their annual
23 reports. And came up with an average

24 block hour per day of nine and that just
25 to give you some perspective, United

260

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2 mainline flies about 10.3 or something
3 per day. So there is less.

4 And in doing that, calculated
5 that United, if we converted this into a
6 hull limit, and this is strictly to give
7 some idea of magnitude, would be limited
8 to about 450 airplanes. I think the math
9 actually goes to 451.

10 And then in order to break the
11 chart out because United physically flies
12 aircraft today in the 50 seat and below
13 category that is commuters and tried to
14 apply that 451 allocated based on what is
15 being done today.

16 So it's an approximation
17 that's illustrative, but I think one of
18 the points to remember is that if United

19 were to simply switch all to 70 seat
20 aircraft, which they could do, they would
21 have to ground something on the order of
22 80 or so 50 seat airplanes in order to
23 achieve that.

24 Q. So this rationing between the
25 two sizes of aircraft simply reflects the

261

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2 way that it's apportioned today?

3 A. Yes, I tried to apply today's
4 world to what the contractual limits
5 would be in a -- in a chart that compares
6 airplane size by seat.

7 Q. And focusing on AA's 1113
8 proposal, am I correct that there are two
9 purple lines on this chart and one of
10 them is AA's proposal and the other one
11 is US Air?

12 A. That's correct.

13 Q. And that reflects what?

14 A. Well, the US Air one?
15 Q. Yes.
16 A. The US Air one reflects again
17 what US Air's contract allows and we can
18 see in the blue 175 up to 175, 50 seat or
19 less. Up to 97, 51 to 70 seat airplanes.
20 And then up to 93 77 to 88 seat aircraft.
21 Now there's a gap there obviously and
22 it's not to imply that they can't fly
23 between 71 and 76 seats. It's just if
24 they were to do so they would have to
25 reduce the number of 77 to 88 seat

262

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2 aircraft.

3 Q. We talked before about the
4 90,000 pound weight limit at US Air,
5 correct?

6 A. That's correct.

7 Q. What aircraft could they fly
8 in that 93 column?

9 A. US Airways can fly in that
10 column based on weight the CRJ 900.

11 Q. What's the difference between
12 the CRJ 900 and, for example, the Embraer
13 190?

14 A. Well, the Embraer 190 would
15 weigh about 24,000 pounds more than the
16 CRJ 900. The R J 900 could be figured in
17 all coach configuration in 90 seats and
18 it in practical terms if one is going to
19 keep it at that 90,000 pound weight limit
20 and fly it with a two class configuration
21 it's driven down to that 79 seat.

22 Q. So it's impractical to fly it
23 at 88 seats?

24 A. You would pretty much have to
25 fly in an all coach configuration. So if

263

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2 you chose to you could, but then you'd be

3 into this discussion of the high value

4 customer and can you provide the product.

5 Q. Taking a step back, and just
6 to -- we fall into a certain vernacular
7 so I want to be clear when we talk about
8 what they can fly, what we're talking
9 about is what they're permitted to
10 outsource?

11 A. Yes. This is all in the
12 context of permitted outsourcing to
13 commuter carriers.

14 Q. So as we discussed before, US
15 Air can fly an Embraer 190, in fact does?

16 A. They do fly it.

17 Q. They just do it on the
18 mainline?

19 A. They do.

20 Q. Taking a step back from this
21 presentation of the industry standards
22 and just in essence leaving it aside, if
23 AA's 1113 proposal in fact facilitates
24 its business plan, what's the risk to the
25 APA pilots of simply accepting that

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2 proposal?

3 A. Well, the risk here is that if

4 you look over again on the far left side

5 of this chart, that the company could

6 create and control and own an airline

7 that could fly more than 800 airplanes

8 which would be able to employ over 8,000

9 pilots flying these airplanes. 3,000 of

10 those pilot jobs would be at airplanes

11 that are at a gross weight limit that is

12 so far beyond the maximum of the industry

13 that I think it's a substantial risk to

14 the career opportunities to APA pilots.

15 Q. Moving to domestic code

16 sharing, separate subject and maybe the

17 first thing to do is distinguish it from

18 commuter code sharing. What's the

19 difference between the two?

20 A. Well, commuter -- I guess

21 let's step back. You know, computer

22 airlines are really set up to feed hub
23 operations at an airline. And so one
24 grants a commuter exception under the
25 belief that your airline hub does better

265

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2 when it is able to connect people from
3 all types of cities and in some cases
4 small cities that require small
5 airplanes.

6 The domestic code share is
7 different. It's a mainline code share.
8 Generally speaking when you're looking at
9 network carriers they all have hubs. So
10 what you are trying to do is not have
11 feed, that you would normally do it
12 because you have an understanding that
13 you would fly smaller -- smaller
14 airplanes to feed your hub and you don't
15 want your competitor to come in and feed
16 your hub.

17 So what you try to do is set
18 up, again, with network carriers, you
19 want to expand the connectivity of the
20 network so that Company A's hub is over
21 on one place in the country and Company
22 B's hub is in another place.

23 And if you think of it as
24 wagon wheels, you have two separate wagon
25 wheels, they each do their own thing in

266

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2 terms of code sharing and then you
3 connect traffic in between them with some
4 kind of sharing of the traffic.

5 But a domestic code share in a
6 traditional network setting would allow
7 Company A to set up a hub essentially in
8 Company B's hub without flying airplanes
9 with, you know, in Company B's spoke of
10 the market.

11 Q. So, for instance, the question

12 was asked yesterday is it the purpose of
13 all code sharing to feed the hubs. Is
14 that the purpose of all code sharing?

15 A. No, no. I mean it's the
16 purpose of computer code sharing, but
17 that's, that's it. The rest of it is the
18 extending the breadth of your network or
19 in the case of international flying,
20 sometimes access to markets that you
21 don't have the route authority to fly to.

22 Q. What's the current
23 American/APA collective bargaining
24 agreement allowance for the company to do
25 domestic code sharing?

267

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2 A. Presently we work under a
3 system that's called, it's paragraph 1-H
4 of our collective bargaining agreement,
5 and what -- a little bit of I guess --
6 really what that -- what that requires is

7 a period of negotiations. So the company
8 would find a domestic code share partner,
9 enter into an agreement, but then come to
10 the pilots union and set up for a 30 day
11 negotiating period designed to negotiate
12 those protections for the pilots.

13 At the same time, the company
14 and the union would bring in a mediator
15 who would become familiar with these
16 talks and then if those talks did not
17 produce, bear fruit, then you would take
18 ten days with that same mediator and
19 arbitrate and the mediator turns into an
20 arbitrator and then you have an award of
21 protections for the pilots.

22 Q. Can the arbitrator refuse to
23 allow the code sharing altogether?

24 A. No.

25 Q. Did you negotiate that

2 provision with the company?

3 A. I did.

4 Q. Is the current APA/American
5 collective bargaining agreement regarding
6 domestic code sharing consistent with
7 industry standards?

8 A. The current agreement requires
9 that the arbitrator use the existing
10 industry standard in determining, in
11 presenting an award. So it is, by that
12 very nature consistent with industry
13 standards.

14 Q. Aside from the process under
15 section 1-H, have the pilots permitted
16 the company to do any domestic code
17 sharing?

18 A. We do.

19 Q. And what code sharing is that?

20 A. We code share, have a domestic
21 code share relationship with Alaska
22 airlines.

23 Q. Can you describe briefly what
24 the process was for the arrival of that
25 code sharing agreement.

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2 A. Right.

3 Q. By which I mean the agreement
4 between APA and American.

5 A. We were approached and we just
6 really negotiated that provision that we
7 just talked about in 2003 and then later
8 on in 2003 American was, began
9 negotiating directly with Alaska and APA
10 was brought in the process. And we did
11 not use the 1-H mediate/arbitrate
12 procedure by mutual consent. And we
13 negotiated directly with the company and
14 obtained certain protections for flying,
15 for flying that we were permitting to be
16 outsourced to code sharing.

17 Q. What have the pilots proposed
18 in this, in the current negotiations, by
19 which I'm speaking very broadly, prior to
20 this hearing, in terms of modifying the

21 collective bargaining agreement
22 provisions with domestic code sharing?
23 A. The pilots have proposed to
24 directly negotiate protections in
25 relation to the domestic code sharing

270

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2 with three specific carriers.

3 Q. Do you know when the APA made
4 that proposal?

5 A. I believe it was their
6 February 15th proposal. Let me see on
7 that chart. Yes, February 15th, which is
8 Exhibit 516.

9 Q. So that's the third dot over
10 on this timeline.

11 A. Yes.

12 Q. Did you say 516?

13 A. That's what it says on the
14 chart.

15 Q. Okay, well let's -- if we can

16 look at 516 now. This is the APA's
17 proposal. We've agreed with the company
18 that the identities of the -- of the
19 potential code sharing partners will be
20 kept confidential and to assist that
21 effort we're going to keep the basic
22 geographic regions at issue confidential.

23 What we've agreed to do, if
24 you take a look at this APA proposal, on
25 the second page of that proposal, which

271

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2 is this Exhibit 516 attached to your
3 declaration, there is some highlighted
4 language under section 1-H, domestic code
5 share portion of the proposal, and I
6 think you know the carriers involved.

7 A. I do.

8 Q. So the carrier associated with
9 the first location in that list we'll
10 refer to as carrier 1.

11 A. Right.

12 Q. With the second carrier there
13 we'll call carrier 2. And the carrier
14 referred to third we'll call carrier 3.
15 So with that agreement, can you give us a
16 general description perhaps of where this
17 proposal came from, if you know. This
18 proposal in February was in part
19 responsive to what had been communicated
20 about the company's needs. And do you
21 know, for instance, how it relates to the
22 company's proposal that we were referring
23 to earlier from November which was the
24 last best offer before filing bankruptcy?

25 A. I do.

272

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2 Q. Okay. Can you describe that
3 generally to the court, please?

4 A. In general, when we're
5 talking, we're only talking about carrier

6 1 at this point as I understand it.

7 Q. Maybe just to if it would be
8 helpful, Exhibit 511 to your exhibit is
9 that company proposal from November which
10 oddly enough the company did not redact
11 or suggest the redaction of information
12 in. But we're going to treat it
13 confidentially anyway.

14 A. That's fine.

15 Q. And if you could then refer us
16 to parts of the company proposal on
17 which, and describe how they relate to
18 the part of the APA's proposal?

19 A. Okay. So what APA, APA's
20 reply or proposal was to permit the
21 company to place its code on carrier 1
22 into city number 1, to and from 18 cities
23 that are specified. I'm not going to get
24 anymore. I apologize for talking around
25 it. And then the APA and the company

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2 would jointly add two more. So for a
3 total of 20. And all that was requiring
4 was that the company maintain its
5 existing AA flying in city number 1.

6 Q. How does that contrast with
7 what the company had proposed in
8 November?

9 A. What the company had proposed
10 was that prior to initiating a code share
11 they would first add six new mainline
12 departures in city number 1. They
13 further talked about the length of flying
14 and where that would be, or not where it
15 would be, but the length of the flying,
16 and after the company had added six
17 flights they could add their code on as
18 many as 25 markets served by carrier 1,
19 city 1.

20 And then I guess I can flip
21 back to Exhibit 516 because what APA
22 proposed was that now keep in mind APA
23 did, you know, 20 for nothing, if you

24 will, but then says that incrementally,
25 for each additional AA scheduled

274

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2 departure in a certain category for city
3 1, the company would be permitted to add
4 its code on two flights. I'm sorry, on
5 two city carriers from city number 1.

6 Q. So just hypothetically, if in
7 the company's proposal lets assume for a
8 moment that they were going to have the
9 code sharing triggered, the additional
10 code sharing or the code sharing
11 triggered by adding six flights, let's
12 imagine for a moment they plan to add
13 those six flights and that's why they
14 made that proposal, what would be the
15 result of adding six flights under the
16 APA's proposal?

17 A. Adding six flights under the
18 APA's proposal, the company would be at,

19 allowed to code share on 32 city pairs in
20 32 markets.

21 Q. And how did that contrast with
22 where the company was at in November?

23 Let me just take one step back. Is there
24 any, aside from the bankruptcy, was there
25 any material change that you're aware of

275

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2 in terms of the company's needs for this
3 particular code share?

4 A. No.

5 Q. Now, let's go ahead, I don't
6 want to bore the court or take too much
7 time, but if we could maybe just move on
8 from carrier number 1 and talk briefly
9 about carriers number 2 and 3 and again
10 just make the relationship with what the
11 proposal had been earlier.

12 A. Right. Carrier 2 proposed
13 under APA proposed that the company would

14 be able to place its code on carrier 2
15 but it had a set a monthly baseline
16 target of 102 scheduled departures in
17 three certain cities that I'm not going
18 to mention so we don't give this whole
19 thing away.

20 And then APA also said if the
21 company failed to maintain that 102,
22 actually there's -- the limit that has
23 any compliance requirements would be 90
24 percent of that limit and then there's a
25 six month period in which the company

276

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2 could cure and get within, again, back
3 above 90 percent of that 102 limit.
4 Q. Just to intercede, I think
5 yesterday there was a question that
6 suggested that the APA had made a
7 proposal that said that the company could
8 not reduce its flying in any of these

9 three cities. Is that your understanding
10 of that proposal?

11 A. No, it's not at all. In fact,
12 when it says 102 aggregate, so the
13 company could actually reduce flying to
14 zero in two of those cities as long as it
15 had 102 in one city and it could still go
16 to 90 percent of 102 in that one city
17 before it had any ramification.

18 Q. And then if you could, just
19 give us a sense of what the company had
20 proposed in November for the same
21 situation?

22 A. The company had proposed the
23 same cities, 102 aggregate, the same
24 number, and if the -- let's see. There
25 was one other little provision in there

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2 if there was a slot issue and then there

3 was if the -- if AA fell below, again, 90

4 percent of the baseline, the contrast
5 here would be actually, here there was
6 one year cure period and if the company
7 failed to cure it would pull its code off
8 that operation entirely and the APA
9 proposal says six months, but it said,
10 there's a six month cure period, but if
11 they, the company failed to cure then
12 they would have to pull their code off,
13 but only for a one year period.

14 So the other one is complete
15 removal, this one is a one year period
16 from the APA proposal.

17 Q. Having made some of these
18 connections we will move on.

19 In general, do you think the
20 APA's proposal was consistent with
21 industry standards for domestic code
22 sharing?

23 A. Yes.

24 Q. We'll come back to a little
25 bit more about those industry standards

1
2 in a minute, but the APA entered an
3 agreement with US Air on April 13th?

4 A. Yes.

5 Q. And what does that US Air
6 agreement provide for domestic code
7 share?

8 A. The US Air agreement allows
9 for a domestic code share operation with
10 one specific airline, I'm not sure if I
11 -- actually, this document is public,
12 isn't it?

13 Q. Yes, it is.

14 A. With Alaska airlines. And
15 there were no restrictions on that other
16 than that the new American could not
17 place its code on Alaska flights between
18 the mainland and Hawaii. There was
19 another provision where an existing code
20 share within -- within the Islands of
21 Hawaii were permitted, and the APA agreed
22 that the new company would have to

23 maintain average of 10 daily flights
24 between the mainland and Hawaii for AA
25 flying.

279

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2 And then the remainder of
3 domestic code share is at the latitude of
4 the company subject to a limitation of
5 not to exceed 4 percent of the domestic A
6 S Ms of the new corporation.

7 Q. Can you give us any sense of
8 the sort of how you think about a 4
9 percent ASM limit?

10 A. Yes, to put it in perspective,
11 and this is not -- it's a very rough way
12 to apportion it, but it would be similar
13 to saying we know from a previous
14 discussion on US Airways that the
15 combined entity has about 800 airplanes.
16 4 percent of that is 320. Now what you
17 don't know is the size of the airplane.

18 You could have some larger airplanes in
19 that mix. Some of those airplanes could
20 fly internationally. But by and large,
21 you're talking --

22 Q. You lost me when you said 4
23 percent of 800 was 320.

24 A. I'm sorry, 32. I'm sorry.
25 That's the never do math in public

280

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2 discussion.

3 Q. So 32 aircraft and then give
4 us a sense of how you --

5 A. So roughly 32 airplanes.
6 It's, you know, to put that in
7 perspective, you know, JetBlue flies
8 52-ish EMB 190s. It's -- I guess in US
9 Airways' assessment, given that they can
10 do essentially unrestricted with Alaska,
11 it's sufficient to deal with, deal with
12 how their view of their business.

13 Q. Okay. Now there was some
14 discussion yesterday about the fact that
15 US Air is currently in the domestic code
16 share relationship with United.

17 A. Yes.

18 Q. Do you recall that?

19 A. I do.

20 Q. Testimony. And how does that
21 code share relationship play into this
22 term sheet?

23 A. Once the term sheet or once
24 the term sheet goes into effect, the new
25 airline, new American Airlines will be

281

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2 required to serve notice to United, its
3 code share partner of its intent to
4 withdraw from the code sharing agreement,
5 they have to serve that notice within two
6 months and they have two years, up to two
7 years to remove themselves from the

8 agreement with United.

9 Q. Do you have any reason to
10 expect United to care one way or the
11 other whether it accelerates that or
12 slows that down?

13 A. I would think United for their
14 own competitive reasons would not want
15 to have the new American Airlines code on
16 it or be carrying a competitor's code.
17 It would really everybody the old US Air
18 code.

19 So I think their motivation
20 would be to get this off of my airplanes
21 as fast as possible with, you know,
22 contemplating, again, you don't want some
23 poor customers to buy a ticket on, you
24 know, a code share flight, you don't want
25 to inconvenience them. That's why you

282

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2 have that period of time.

3 Q. We haven't talked much about
4 network alliances.

5 THE COURT: Let me ask you
6 first a question about code
7 sharing. Sorry to interrupt
8 counsel. Which is when you're
9 talking about this term sheet it
10 presupposes some sort of a
11 transaction where there's a merger
12 of American and the other airline,
13 correct?

14 THE WITNESS: Exhibit 517-A,
15 yes.

16 THE COURT: Right. So in
17 other words, when we're talking
18 about these, what code share would
19 be permitted, it assumes that fact?

20 THE WITNESS: Yes.

21 THE COURT: Would the need for
22 code sharing be affected by whether
23 or not there is a merger? In other
24 words, would the merged airline in
25 your contemplation be something

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2 that would have a greater or lesser
3 need for code sharing?

4 THE WITNESS: I think a larger
5 merged airline would have a lesser
6 need for domestic code sharing.

7 THE COURT: Thank you.

8 Q. So again, returning to this
9 idea of the overall network alliances, is
10 American part of an international
11 alliance?

12 A. Yes.

13 Q. And what is that?

14 A. The Oneworld Alliance.

15 Q. Is United part of the
16 international alliance?

17 A. Yes, it is.

18 Q. What is that?

19 A. The Star Alliance.

20 Q. Those are competing alliances?

21 A. They are.

22 Q. Is that part of the reason you
23 would expect United not to be interested
24 in carrying the American code?

25 A. Yes, and there may be some

284

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2 requirement within the Star Alliance that
3 prohibits US Air from coding on a Star
4 member if it's also engaged in other
5 airlines alliance.

6 Q. Do you have any reason to
7 expect one way or the other whether a new
8 American that would be the result of a
9 merger would continue in the Oneworld
10 Alliance?

11 A. I believe they have made, the
12 US Air folks have made statements in
13 public saying that if such a transaction
14 were cons made they would intend to have
15 the new American Airlines remain as a

16 member of the Oneworld Alliance.

17 Q. What has AA in its 1113 term
18 sheet demanded with regard to domestic
19 code sharing?

20 A. To revoke all restrictions or
21 pilot protections in respect of domestic
22 code share.

23 Q. And referring back I guess to
24 AA Exhibit 918, this is the book, I guess
25 we've called it at times the last best

285

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2 offer before filing the 1113 motion.
3 Where in this document do they make that
4 proposal?

5 A. On page 6 of 17 in Exhibit
6 918, item number 6, second from the
7 bottom, domestic code share, company may
8 enter into and maintain code share
9 agreements with domestic air carriers.

10 Q. Just directing your attention

11 on the next page, bullet number 9, is
12 that part of the proposal also?

13 A. On page 7?

14 Q. Yes.

15 A. Bullet number 9, the company
16 may in its discretion enter into -- I'm
17 sorry, enter in or continue commuter
18 domestic or international code sharing in
19 any market, yes.

20 Q. Is that proposal consistent
21 with industry standards?

22 A. It is not.

23 Q. One way of doing this that may
24 connect some documents together, I'd like
25 to refer to an exhibit that was used in

286

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2 the cross examination yesterday which is
3 AA Exhibit 0071. This was a Kasper
4 Exhibit. I believe you still have it in
5 front of you. I have copies if that

6 would be helpful.

7 THE COURT: I still have mine.

8 Obviously the witness will need

9 one.

10 A. I have one.

11 Q. Now, there was some suggestion

12 yesterday that other carriers in fact

13 have greatly expanded allowances or

14 abilities to enter domestic code sharing

15 or have historically, and I think there

16 were some questions about this chart in

17 which it was pointed out, for instance,

18 in the US Airways United code share

19 there's 267 routes in which code sharing

20 is allowed versus the American code share

21 with Alaska which is 65. Do you remember

22 that testimony from yesterday?

23 A. I do.

24 Q. Do you find it surprising that

25 there's that difference between the two?

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2 A. No, I don't, because United is
3 a traditional network carrier offers so
4 many more city pair combinations than
5 Alaska, that yes, it would be logical
6 that you could code share on so many more
7 city pairs.

8 Q. United's a bigger carrier than
9 Alaska?

10 A. Yes.

11 Q. Do you know about how much
12 bigger?

13 A. In a guess, about four times
14 bigger.

15 Q. Now, drawing your attention to
16 the next column over from the
17 American/Alaska code share, you've got
18 the Delta/Alaska code share at 104 routes
19 versus 65 seems to be significantly more.
20 Do you know why that's the case?

21 A. I think the Delta/Alaska code
22 share is a little more robust. One of
23 the early domestic code shares in this
24 business was the Northwest and Alaska

25 domestic code share. They developed it

288

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2 fairly extensively and Delta I think
3 inherited some of that relationship with
4 Alaska.

5 Q. Do the Delta pilots have any
6 protections in the context of a code
7 share with Alaska?

8 A. They do.

9 Q. Can we turn, I think there's
10 Exhibit 50 --

11 A. Three.

12 Q. Three, thank you?

13 A. You're welcome.

14 Q. To your declaration, that's a
15 copy of the scope provisions of the Delta
16 contract?

17 A. Yes.

18 Q. And can you point us to the
19 part of that exhibit that contains the

20 protections that the pilots at Delta
21 enjoyed with regard to this code share?

22 A. Yes. It's in paragraph 0
23 which is located on page 1-22. My belief
24 is these pages are sequentially numbered,
25 so 1-22.

289

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2 Q. Just for the record, although
3 this material is highlighted, that
4 highlighting has no relationship with
5 confidentiality.

6 Again, just in the high level
7 overview, can you tell us the nature of
8 the protections that the Delta pilots
9 have in domestic code sharing?

10 A. The most significant
11 protection would be in paragraph 0, item
12 2, where they can't -- Delta and Alaska,
13 well there can be no code sharing between
14 Delta hubs even if a Delta hub is

15 co-located with an Alaska hub.

16 And in four, there is a
17 requirement that in order to continue
18 code sharing with Alaska, between the
19 state of Alaska and the mainland US,
20 Delta has to fly a minimum of 1,419
21 segments annually between the domestic,
22 or the lower 48 and Alaska.

23 And then on the second, on the
24 next page, on 1-23, in bullet 5, this one
25 basically if any flight segment in an

290

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2 Alaska city pair carries -- has more than
3 50 percent of the passengers flying on
4 the Delta code by month, so this is a
5 very, very specific restriction, then
6 they are actually, well, Alaska is
7 limited to not carrying more than 50 --
8 50 percent of the passengers in those
9 specific monthly segments by city pair.

10 Q. In general this entire
11 provision running over to page 1-25,
12 section 0, is a series of protections in
13 the CBA?

14 A. It is all -- yes, everything
15 in that paragraph 0 relates to the Alaska
16 code shares.

17 Q. You spoke earlier about the
18 United/US Air code share agreement. Are
19 there protections in the US Air agreement
20 for domestic code sharing with United?

21 A. Yes.

22 Q. Can you give us a high level
23 overview of what those are?

24 A. Generally speaking, in the US
25 Air agreement I think all I have is US

291

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2 Air's template for how they would
3 approach a domestic code share and they
4 have certain restrictions.

5 Q. Which exhibit is that?

6 A. It would be in Exhibit 50 --
7 wait a second, let me keep my airlines
8 straight. 500 alpha, 505-A. And I think
9 it's towards the back of the agreement.

10 Q. Going back, proceeding back
11 through the provisions for a foreign
12 carrier, and then they beginning the next
13 one back seems to be a code sharing
14 agreement with United Airlines.

15 A. Page 20 at the bottom. I
16 think somebody Bates stamped these so
17 this is APA Exhibit 505-A-28.

18 Q. And again, at a high level can
19 you give us the --

20 A. This basically lays out how US
21 Airways approaches a domestic code share
22 and again, limiting hub to hub flights
23 with certain definitions and
24 restrictions, what they try to do is
25 select a ratio of flying, again, between

1

2 the existing carrier's hubs so that one
3 carrier isn't taking more than whatever
4 its fair share of the flying is and that
5 those -- in this case the US Air pilots
6 aren't losing -- losing flying.

7 Q. Okay. Does the United
8 agreement have similar protections for
9 its pilots?

10 A. The United agreement is a
11 little bit different. In their agreement
12 at a topical level all they do is say
13 that the union and the company shall meet
14 and confer in contemplation of domestic
15 code sharing and attempt to work
16 something out.

17 And then in, specifically in
18 relation to US Air, while United was in
19 bankruptcy they negotiated a specific US
20 Air domestic code share agreement.

21 Q. And is that also attached to
22 your declaration?

23 A. It is. That is in Exhibit
24 504. And I think it is, let me check,
25 it's at the back. The United exhibit is

293

1
2 numbered sequentially until we get to
3 page 17, and then we leap to this US Air
4 code sharing which would be, if you were
5 going counting, you'd count to 18 but
6 then we go to 447 for letter 03-06.

7 Q. Just again, very high level?

8 A. Yes, very high level, again,
9 it looks at the carrier's hubs and limits
10 the amount of code share flying or in
11 some case prohibits code share flying
12 between certain hubs and city pairs.

13 Q. You took a step back and you
14 told us about the general process under
15 the US Air agreement and the general
16 process under the United agreement for
17 reaching new domestic code share. What's

18 the general process under the Delta
19 agreement?

20 A. At Delta the only way that
21 they can negotiate a code share agreement
22 domestically is to negotiate agreement by
23 agreement or with an anticipated carrier,
24 you know, one carrier at a time on an ad
25 hoc basis.

294

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2 Q. Does the proposal that the
3 company has made to APA contain any of
4 these protections in your view?

5 A. It does not.

6 Q. I'm going to wrap this up
7 quickly, so let's talk about
8 international code sharing if we can.
9 You read to us a provision from the
10 company's demand on the union before
11 moving to abrogate. Did it provide any
12 protections for international code

13 sharing?

14 A. In the company's 1113 motion?

15 I'm sorry, the last best offer on March

16 22nd, there were no protections for

17 international code sharing.

18 Q. Is that consistent with

19 industry standards?

20 A. It is not.

21 Q. Can you give us just a general

22 sense of what the industry standards are

23 on protections for pilots in the context

24 of international code sharing?

25 A. Some airlines have baseline

295

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2 ratios. Delta has a provision for

3 limiting, there's a threshold for

4 international code sharing if a certain

5 percentage of your customers are on a

6 code share flight.

7 Let's see. I'd have to go

8 back and actually thumb through some of
9 these to --

10 Q. I'm not going to take --

11 A. Every airline has an
12 international code sharing provision.
13 United has again, a meet and confer with
14 the union discussion.

15 Q. Tell us again briefly what's
16 the current international job --
17 international code sharing job protection
18 in the APA/AA collective bargaining
19 agreement?

20 A. The current provision is a
21 baseline that we negotiated in 2003 that
22 set actually the, if you look at the
23 number of international block hours flown
24 in 2003 and set that as your baseline,
25 there were two provisions in there that,

296

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2 the first, if the company's flying fell

3 below 90 percent of the 2003 baseline,
4 the company would have to get the
5 association's concurrence to enter in a
6 new code share relationship. And again,
7 they have a one year cure period. So you
8 fell below the baseline one year, you
9 wait a year to cure and then you're going
10 to talk about the current.

11 Similarly, same structure only
12 80 percent below the baseline. You would
13 then have to get the association's
14 concurrence to renew or maintain an
15 existing code share relationship.

16 In that baseline relationship
17 the -- I guess over the, whatever it's
18 been since 2003, nine years, eight years,
19 again, I apologize for the math, the
20 provisions have never, the company ones
21 fell below the baseline of 90 percent and
22 cured within a year, so the provisions
23 have actually never been used.

24 Q. Is there any job protections
25 in the, for international code sharing in

1
2 the agreement that the pilots reached
3 with US Airways?

4 A. Yes.

5 Q. What is it?

6 A. A similar baseline, although
7 the baseline was calculated instead of
8 being a 2003 baseline, it actually is
9 whenever this agreement comes into
10 fruition. And at that point we have a
11 baseline.

12 The threshold, instead of
13 being 90 and 80 percent become 91 and 81
14 percent, so they move up a tiny bit.

15 And then there is another
16 provision that would allow for three
17 years, if you will, in a test market. So
18 the new company could fly in a new market
19 and fly in it for up to three years
20 before those hours were counted into the
21 new baseline.

22 Q. Taking a step back in the most
23 general terms, do you know what
24 negotiating positions APA entered the
25 negotiation with US Airways with

298

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2 regarding scope?

3 A. I think they entered about
4 where they were with respect to the
5 company, with American Airlines.

6 Q. And in the most general terms,
7 do you know why they ended up in a
8 different place?

9 A. Yes, they had a back and forth
10 exchange and were able to negotiate and
11 talk about things that were important to
12 one party or the other.

13 Q. Taking an even further step
14 back, would you recommend to the APA
15 board and the APA membership that they
16 accept the company's proposal on scope?

17 A. On scope in the existing 1113

18 term sheet?

19 Q. Yes.

20 A. No, I could not.

21 Q. Why not?

22 A. Well, it revokes any

23 protections for outsourcing under

24 domestic code share, it revokes any

25 protections under international code

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2 share, and then it gives the company the

3 authority to create an airline with,

4 what, 800 and something airplanes, you

5 know, 8,000 pilots and some substantial

6 jets, you know, 3,000 pilots flying up to

7 88 seats and 114,500 pounds.

8 That's essentially the

9 surrender of the scope clause. I mean

10 there would be pieces left on paper, but

11 all of the important or critical parts of

12 the scope clause that protect pilots from
13 seeing their work outsourced would be
14 gone and I could not advocate for that.

15 MR. DEAN: Pass the witness.

16 MR. MOLLEN: As eager as we
17 all were to get this witness
18 completed today, I don't think that
19 that's reasonable. I was going to
20 ask for a brief recess to caucus
21 before we began the cross. I know
22 your Honor has to conclude tonight
23 at 5:30. So perhaps we can start
24 tomorrow morning. I'm eager to
25 start as early as your Honor is

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2 available.

3 THE COURT: That's fine. Let
4 me just ask about scheduling, what
5 things look like moving forward.
6 So we finish this witness in the

7 morning. How long do you

8 anticipate for cross?

9 MR. MOLLEN: 45 minutes.

10 THE COURT: And then the next

11 witness.

12 MR. JAMES: Mr. Heppner from

13 Segal and we have a dispute about

14 whether he will testify.

15 THE COURT: Is there another

16 witness besides Mr. Heppner?

17 MR. JAMES: There is not.

18 THE COURT: So we have to

19 address that tomorrow.

20 MR. JAMES: Correct.

21 THE COURT: What's the

22 intention when that's finished, I

23 assume we go on to the next case?

24 MS. PARCELLI: Yes, the APFA

25 would be prepared to go on, you

2 know, once we wrap up with the
3 pilots' case. Ms. Clayman would
4 have an opening statement and then
5 we would just proceed with
6 witnesses.

7 We're doing a lot of juggling
8 on Thursday with different
9 schedules and we're going to have a
10 late start still on Thursday, your
11 Honor, 10:30?

12 THE COURT: Yes, unless
13 another case that's magically
14 decides they don't need any relief
15 which seems unlikely. So Thursday
16 at 10:30. Let me ask what the -- I
17 think you told me, and I may be
18 misrecollecting looking at my notes
19 saying there were seven witnesses
20 that were contemplated.

21 MS. PARCELLI: Six.

22 THE COURT: Any ball park
23 figure that I won't hold you to but
24 I'm just trying to game plan what

25 this looks like going forward as to

302

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2 how long those six witnesses will
3 take to put on?

4 MS. PARCELLI: So much depends
5 on cross, obviously, your Honor,
6 but we are hopeful to wrap up by
7 Friday end of day.

8 THE COURT: And then I would
9 --

10 MS. PARCELLI: Also, Ms.
11 Levine is not here, but she had
12 indicated a hope, I don't know how
13 realistic, of doing her opening
14 actually like Friday.

15 THE COURT: From your lips to
16 God's ears. And then I guess we
17 just proceed -- the reason I ask is
18 I have a prior calendar on Monday
19 which I can move if I know that we

20 need Monday and we should keep
21 plowing through, so maybe if you
22 want to think about it this evening
23 and let me know sort of where
24 things go.

25 MR. BUTLER: Depending on your

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2 Monday calendar, would it be
3 possible to start on Monday a
4 little bit later?

5 THE COURT: Maybe I'll just
6 keep the calendar then.

7 MR. BUTLER: Can we start at
8 11 or something like that.

9 THE COURT: What I'm trying to
10 do is there are some things I can't
11 really wait on, so, for example, I
12 know I owe the ad hoc committee of
13 passenger service agents a ruling
14 and my intent is to do that

15 tomorrow, take a break and do that
16 on the phone at 12:30. So we can
17 go through the trial for till about
18 12:15 and people can have a more
19 lengthy break. I'll issue that
20 ruling and we can come back.

21 Think about it. I might also
22 curious how long TWU expects its
23 case would be. I don't know if
24 there's any expectation about that
25 yet. Maybe that's too fluid. But

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2 if you would just pass it along
3 that question then we can talk
4 about it tomorrow, then I guess we
5 get into the rebuttal case.

6 MR. MOLLEN: Correct.

7 THE COURT: I'm just trying to
8 get a general game plan for what --
9 how much time next week we'll

10 require as well. Do you have any
11 sense of what your rebuttal case
12 would look like? I realize we
13 haven't finished one union yet.

14 MR. MOLLEN: I think we'll
15 have a better idea of that
16 tomorrow. We're going to meet on
17 that this evening to talk about it.

18 THE COURT: Well let knee know
19 because there's several ways to do
20 it. One is to deal with other
21 calendar matters and just sort of
22 adjust the trial day. The other
23 way to do is is try and clear as
24 much as possible so we can go and
25 I'm happy to go late. So I'm open

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2 to suggestions. So why don't you
3 all think about what you'd like to
4 do. Part of it just has to do with

5 how long you expect things will
6 take.

7 So it's fine. Give me a
8 second here. So as I said, I have
9 some things scheduled for Monday
10 that we need to start late, I can
11 do them if the idea is losing a
12 money may prevent us from finishing
13 when we might otherwise finish
14 before the 24th. That's a whole
15 other different problem. So think
16 about it this evening. I do have
17 currently I have scheduled Monday
18 afternoon as well as Tuesday and
19 Wednesday are all both available,
20 I've blocked them out. The 24th is
21 the omnibus and I believe I also
22 have the 25th partially blocked
23 out. So just to give you some
24 general ideas as what we're looking
25 at.

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All right, with that said, I

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don't know that a break here is

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going to help in terms of things,

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so why don't we just start tomorrow

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and again we'll just take the break

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at 12:20 or so and come back and

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maybe tomorrow is the day to go a

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little bit late to just get a sense

10

of getting through some witnesses.

11

MR. MOLLEN: 10 a.m. tomorrow,

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your Honor?

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THE COURT: 10 a.m. Anything

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else we should discuss? All right.

15

So again, think about scheduling

16

and again, the idea is to sort of

17

game plan out the rest of the trial

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and that what looks like. So talk

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to each other and let me know,

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we'll figure it out. Thank you.

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(Time noted: 5:04 p.m.)

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