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THE CLERK: All rise.

3

THE COURT: Good morning.

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Please be seated.

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First off, my apologies for

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the delay. Something came up, so I

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appreciate your patience.

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MS. PARCELLI: Good morning,

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your Honor, Carmen Parcelli on

10

behalf of the APFA.

11

We would like to call Leon

12

Szlezinger. Mr. Szlezinger's

13

declaration is APFA Exhibit 600.

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LEON SZLEZINGER,

15

called as a witness, having been

16

first duly sworn, was examined

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and testified as follows:

18

CROSS EXAMINATION

19

BY MS. PARCELLI:

20

Q. Mr. Szlezinger, can you please

21 state your name for the record.

22 A. Leon Szlezinger.

23 Q. And by whom are you employed?

24 A. I'm employed by Jefferies &
25 Company, which is a large investment bank

2

1

2 headquartered here in New York, with

3 about 3,000 people.

4 Q. And what does your work for

5 Jefferies involve?

6 A. So Jefferies offers the
7 services that a typical large investment
8 bank would offer, including M&A advisory
9 both on the buy side and sell side,
10 financing, and then what I would sort of
11 call special services which includes
12 advisory to special committees,
13 valuations, and restructuring. My role,
14 I'm a managing director in the
15 restructuring and recapitalization group

16 I'm also a member of Jefferies' fairness
17 opinion review committee.

18 Q. And how long have you been
19 doing that work for Jefferies?

20 A. I've been at Jefferies for
21 coming on three and a half years.

22 Q. Can you briefly describe your
23 professional experience prior to
24 Jefferies and your educational
25 background?

3

1
2 A. Sure. So I graduated from the
3 University of Manchester in England with
4 a degree in economics in 1997. I then
5 joined Pricewaterhouse in London, spent
6 three years becoming a chartered
7 accountant, which is a leading business
8 and finance qualification. I was at
9 Pricewaterhouse from 1997 to 2001. All
10 of that time specializing in financial

11 advisory services generally, being
12 corporate recovery, litigation support,
13 valuation. I became a partner at
14 Pricewaterhouse in 1999. Joined KPMG as
15 a partner in 2001. I was a partner there
16 until our group was sold to Mesirow
17 Financial in 2004. And then became a
18 senior managing director of Mesirow
19 Financial Consulting, which is the firm
20 that's advising the creditors' committee
21 in this case. I was a senior managing
22 director there for a little over four
23 years, I think, until I joined Jefferies.

24 Q. And can you list just a few of
25 the significant Chapter 11 cases in which

4

1
2 you've been involved in and briefly
3 describe your role?

4 A. Sure. So I'm currently the
5 financial advisor to the Eastman Kodak

6 creditors' committee. I probably
7 shouldn't say too much about that case
8 since it's a large ongoing case, but
9 suffice it to say I'm very involved in
10 business plan issues. I was the
11 financial advisor to the unsecured
12 creditors' committee in the Delphi case.
13 I was involved in business plan issues
14 and many other things over a long running
15 case.

16 In the Enron case I had a
17 couple of different roles. I was the
18 financial advisor to an overseas bank
19 with up to a billion dollars of exposure
20 to one of Enron's subsidiaries, EOTT,
21 Enron Oil Trading and Transportation.
22 And I advised the bank with respect to
23 the decisions that they to to make as to
24 whether or not to continue to support
25 that company. And I'm proud to say it

1

2 was one of the few Enron companies that
3 completed a stand-alone restructuring.

4 I was also the advisor to a
5 group of banks that were being sued by
6 the Enron estate in the so-called mega
7 claim litigation, where they had
8 liability of up to -- in excess of 20
9 billion dollars. I was there expert
10 looking in a large suit, very involved in
11 looking at Enron's business plans and the
12 way the company was calculating to meet
13 those plans. I was the financial advisor
14 to banks in Parmalat with respect to the
15 operations in Brazil and their decisions
16 as to whether or not to support Parmalat
17 Brazil's restructuring.

18 Q. I think that's plenty, thank
19 you. Have you previously testified in
20 Chapter 11 cases?

21 A. I have. I've testified with
22 matters relating to business plan,
23 valuation, financing, M&A processes, the
24 way auctions have been conducted.

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MS. PARCELLI: Your Honor, we

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would like to proffer Mr.

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Szlezinger as an expert witness

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regarding the evaluation of

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business plans in the restructuring

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context.

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THE COURT: Any objection?

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MR. POLLACK: No objection,

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Judge.

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THE COURT: All right.

11

Q. Mr. Szlezinger, so you know

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have in front of you what's been marked

13

as APFA Exhibit 600, right?

14

A. Do I.

15

Q. And is this an expert

16

declaration that you've prepared in

17

connection with these section 1113

18

proceedings?

19

A. It is.

20 Q. And do you adopt and
21 incorporate your declaration as your
22 testimony here today?

23 A. Yes, I do.

24 Q. Now, when did Jefferies first
25 become involved in the American Airlines

7

1
2 bankruptcy case?

3 A. In around about the middle of
4 December 2011, I was called by the APFA
5 and asked if I would work with them and
6 have been working with them as the lead
7 financial advisor since that time.

8 Q. And as a lead financial
9 advisor, can you describe what that role
10 entails here?

11 A. Sure. So Jefferies assembled
12 a team of seven primary people that
13 includes a couple of people from our
14 aviation industry group, one managing

15 director, and my role has been to
16 essentially lead that team throughout our
17 services to -- we are providing to the
18 APFA. Our engagement is a broad based
19 advisory assignment in which we're
20 helping them with respect to blank
21 issues, supporting them through the 1113.
22 Essentially helping them with anything
23 that comes up through the bankruptcy,
24 including their role in negotiating,
25 reviewing, plan reorganization and

8

1
2 confirmation, going through confirmation
3 hearings and also supporting them as
4 their -- with respect to unsecured credit
5 committee meetings, they're a member of
6 the unsecured creditors' committee and
7 I'm one of their representatives on the
8 committee.

9 Q. And you mentioned in that list

10 that your work includes review of the
11 American business plan, correct?

12 A. Yes.

13 Q. Can you briefly describe a
14 little more what that work specifically
15 has entailed?

16 A. Absolutely. So as I said, we
17 were retained in the middle of December
18 2011. And so after we were retained we
19 did the typical I think work that one
20 does to get going on an assignment. We
21 met with our client to really understand
22 their perspective, we met with their
23 industry expert, Mr. Akins, who you heard
24 from yesterday. We met with obviously we
25 spent a lot of time with our own internal

9

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2 industry group. We met with other
3 financial advisors in the case, including
4 the creditors' committee's financial

5 advisors on behalf of them, and of course
6 we met with, I said our client.

7 And we really got ourselves up
8 to speed, including, you know,
9 understanding the historical context in
10 the industry, how that changed over time,
11 where American's results had been to
12 really be up to speed when the business
13 plan came out.

14 The business plan came out in
15 February and we utilized that knowledge
16 and of course met with the company, sat
17 through their presentations, and we
18 started diligencing the business plan and
19 the sort of, you know, underlying
20 business model which I'll refer to in a
21 minute, I'm sure, BPM, the business plan
22 model, which really is the foundation for
23 the business plan.

24 Q. Now, has the business plan or
25 the business plan model undergone any

1

2 change during the course of the
3 bankruptcy case first issued out in
4 February?

5 A. Yes, there are a couple of
6 different changes. The initial business
7 plan model, which we got I think during
8 the first week of February, was BPM 1.
9 BPM 1 changed to BPM 2. The reason BPM 1
10 was updated to BPM 2 was that the company
11 changed its position with respect to the
12 pension plans and moved from termination
13 of the plans to a freeze of the plans.
14 And so in order to reflect that and, I
15 want to be careful here with respect --

16 Q. There's a little bit of
17 confidential information tied up with
18 that topic.

19 A. So in order to reflect that
20 change and a rights offering which was
21 proposed in a certain amount, in order to
22 fund that change, those changes needed to

23 be reflected in the model and that is BPM
24 2. BPM 2 then got revised to BPM 3. The
25 reason for that rescission was that as

11

1
2 financial advisors to different
3 stakeholders continued their diligence,
4 they, I would say, pointed out to
5 Rothschild several issues or errors with
6 respect to the business plan model and I
7 think the reason for -- well I know the
8 reason for the updating was to reflect
9 the correction of those errors and a
10 couple of other issues that were not
11 errors, but primarily all of those issues
12 and that's how we got to BPM 3.

13 Q. Now, have these changes that
14 you just described in the business plan
15 model, have they resulted in any change
16 in the amount of concessions that
17 American is asking from its labor groups?

18 A. So let me explain the changes
19 from BPM 2 to BPM 3 because I think
20 that's important. What BPM 3 is, if you
21 like, a better financial position for the
22 company than BPM 2. That's because the
23 correction of these errors, the updating
24 of these other issues led to more cash,
25 and again I'm being careful with the

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1
2 amounts, more cash during the period of
3 the business, six year period of the
4 business plan, and less debt, substantial
5 amounts.

6 Though the way that the
7 company constructed BPM 3 is that it had
8 those beneficial pieces that it updated,
9 and it made, it sort of -- those were
10 the, you know, it was sort of a give and
11 take as a result of that, they reduced
12 the amount of the rights offering that I

13 had referred to before that they had
14 originally proposed to fund the changes
15 in the pension plan.

16 And so that was beneficial to
17 it. The change they made in the rights
18 offering was essentially beneficial to
19 unsecured creditors generally because it
20 reduced the dilution that unsecured -- it
21 reduces the dilution that unsecured
22 creditors suffer, but nothing was done to
23 -- with respect specifically to the labor
24 ask.

25 Q. In your view, could American

13

1
2 have reduced its labor ask as a result of
3 the changes that you've described?

4 A. I believe so, yes.

5 Q. Now, I believe you referenced
6 that you had done due diligence on the
7 business plan. Can you just sort of

8 explain what you mean by the due
9 diligence process?

10 A. Yes, of course. So due
11 diligence is one of those terms that we,
12 you know, financial professionals sort of
13 take for granted but it's what's referred
14 to I think in the financial community
15 generally as evaluating a business plan,
16 understanding a business plan, changing
17 some of the assumptions to see how it
18 works in different circumstances,
19 reviewing documents that are related to
20 the business plan, relevant to the
21 business plan, and generally doing a full
22 scale investigation of how the business
23 plan is being constructed and how it
24 performs under -- how it might perform
25 under different circumstances.

14

1

2 Q. Do you typically generate

3 information requests to the company in
4 connection with doing your due diligence?

5 A. We do. That's always the
6 first step in any due diligence. You
7 would generate an information request.

8 Q. When you do diligence on a
9 business plan, do you typically find that
10 the company has modeled both upside and
11 downside scenarios?

12 A. So typically, when a company
13 builds a business plan it will go through
14 a fairly long process of running
15 different scenarios and ultimately sort
16 of concluding on what we call book ends,
17 essentially. There's an upper book end
18 and a lower book end and the upper book
19 end is really, you know, an upside
20 scenario that a company is comfortable
21 with. The lower book end is a downside
22 in order that the company is comfortable
23 with. And, you know, somewhere it could
24 be in the middle or it could be skewed
25 one way or another. There is what they

1

2 fix on is their business plan. That

3 would be the company's base case.

4 So that's what we typically

5 see, we typically see a base case. When

6 the business plan is presented to us it's

7 normally the base case, this is the case

8 that the company believes and then as we

9 get into the diligence, we look at the

10 model that underlies that, we'll see,

11 we'll see, you know, an upper scenario, a

12 lower scenario, maybe we'll see several

13 scenarios, but that's generally what we

14 finds as we go through diligence.

15 Q. So, Mr. Szlezinger, can I ask

16 you, can you summarize for us here just

17 what's set forth in your declaration

18 regarding American's current business

19 plan and Jefferies' evaluation of it?

20 A. Yes, of course. So as we did

21 our diligence, as we went through our

22 process, I would say we found a number of
23 matters that were concerning to us.

24 Those are, I'll give some
25 specific examples, a lack of competitive

16

1
2 response. You know, a highly competitive
3 industry. So that was something that we
4 were focused on.

5 The code share, I'm not sure
6 if I can talk about the party or not.

7 Q. No, you cannot.

8 A. But the code share. We
9 certainly had some issues with respect to
10 that assumption.

11 Fuel pricing and the
12 assumption that was there. The general
13 environment on GDP throughout the plan
14 period. It's a six year plan period --

15 MR. POLLACK: Excuse me,
16 excuse me. At this point, Judge,

17 I'm going to interpose an
18 objection. If you look at the
19 declaration none of this detail,
20 significant portions of what we're
21 now hearing is not detailed in the
22 declaration. I believe he's
23 testifying relative to paragraph 20
24 which is the only paragraph in the
25 declaration that addresses the

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2 review process.

3 MS. PARCELLI: He listed all
4 of these things he just ticked off
5 in that paragraph.

6 THE COURT: Give me a minute.

7 MS. PARCELLI: Sure. It's
8 page 6.

9 THE COURT: I'm going to ask
10 the witness to just step out in the
11 hallway for a few minutes while the

12 lawyers and I just have a brief
13 discussion because I think it's
14 better to do it up front than
15 they've this issue come up
16 repeatedly.

17 (Whereupon, the witness
18 departed the courtroom.)

19 THE COURT: In looking at the
20 declaration, I was when I read it
21 sort of struck by the phrasing in
22 paragraph 20 saying I've reviewed
23 the declaration of Dan Akins and
24 there are significant concerns
25 regarding the achievability of the

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1
2 AMR business plan and then there
3 are additional things that are
4 discussed.

5 And obviously I know from
6 various experts there's reliance on

7 other folks and then there are
8 other things that expert brings to
9 bear personally. So I'm trying to
10 get a sense of where the line is
11 here. If that is identified in the
12 Akins declaration significant
13 concerns about achievability means
14 where is his reliance on that and
15 where is -- what is his, his
16 personal, what he brings to the
17 table.

18 MS. PARCELLI: No, your Honor,
19 I understand. You know, I think
20 perhaps this could have been
21 phrased a little better. I think
22 the intent of the text here is to
23 say that these things are
24 identified and sort of set forth in
25 Mr. Akins' declaration, but that

2 there is independent sort of
3 assessment and valuation, he
4 explained how Jefferies has sort of
5 its own aviation group. It is not
6 intended to say that he's merely
7 sort of incorporating and relying
8 on Mr. Akins's sort of highlighting
9 of these concerns about the
10 business plan without having done
11 some independent assessment
12 himself.

13 THE COURT: Well, but it is
14 phrased in a way where it says
15 identified in the Akins'
16 declaration and then it says Mr.
17 Akins is not the only source to
18 point out these concerns. It
19 mentions Wall Street analysts. And
20 although it does go on to say, I
21 guess, without saying it's my
22 opinion, but just a prudent
23 investor would do this, that and
24 the other thing.

25

So what's your intent, is your

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2

intent to go through each of the

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things that you're talking about,

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or are you doing a top level?

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MS. PARCELLI: Yes, it is not

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our intent to go through each of

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these things. He was merely, you

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know, summarizing I think in not a

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verbatim fashion obviously to this

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paragraph of his declaration. I

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think he was pretty much done sort

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of with a recitation of the source

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of his concerns and the next

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question was going to get to what

15

did Jefferies seek to do in light

16

of the concerns that it had.

17

That's it.

18

THE COURT: Do you have an

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objection to proceeding that way?

20 MR. POLLACK: Well, a couple
21 of things, Judge. I would note you
22 identified the exact concern that
23 forms the basis of our objection.
24 As we read this declaration and
25 this paragraph it's quite clear

21

1
2 that he is tying his concerns to
3 Akins' declaration and Wall Street
4 analyst reports and gives no
5 indication, let alone detail --

6 THE COURT: Well those last
7 couple of sentences are not tied to
8 Akins or Wall Street and says a
9 prudent investor would do the
10 following, it would be prudent to
11 do the following, and it's a
12 little, it's a little unclear, but
13 reading that broadly.

14 In your view, what is he

15 offered -- let me ask the party
16 offering him first, what is he
17 offering an opinion on? We
18 obviously know what he's qualified,
19 but what is he offering an opinion
20 on?

21 MS. PARCELLI: Primarily it
22 gets to there were these concerns,
23 primarily Mr. Akins was a source,
24 partly Wall Street analysts are a
25 source and Jefferies' internal work

22

1
2 is a source and what Jefferies
3 wanted to do in response to the
4 concerns they saw that were
5 problematic in the business plan.
6 That's the thrust of it, your Honor
7 and that's where we're going.

8 THE COURT: When you say what
9 Jefferies wanted to do, that's

10 discuss in the subsequent
11 paragraph?

12 MS. PARCELLI: Exactly.

13 THE COURT: You don't have a
14 quibble with what's discussed in
15 the subsequent paragraphs sort of
16 back and forth?

17 MR. POLLACK: No. I would
18 note for the record --

19 THE COURT: Let me see if I
20 understand your objection. Your
21 objection is diving into detail in
22 terms of unpacking various things
23 lying behind what's identified in
24 paragraph 20 because you didn't
25 know them to be offering detailed

23

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2 opinions on those issues?

3 MR. POLLACK: That's correct,
4 specifically with regard to what

5 Jefferies did around any of those
6 issues because it's not detailed in
7 his declaration.

8 THE COURT: I think what I'd
9 like to do is split the baby here a
10 little bit. His written direct is
11 his written direct. And I did not
12 take paragraph 20 when I read it,
13 so I think this may allow you both
14 to get something out of this but
15 also to back up a little bit, I did
16 not take it to be any sort of in
17 depth analysis of the things Mr.
18 Akins had discussed. So I'll take
19 it as a top level, but obviously
20 given what he does for a living,
21 he's not somebody who's going to
22 simply take an opinion and not, if
23 he thinks it's crazy.

24 So I think with that what I
25 ask is we don't spend a lot of time

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unpacking each of those things

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because I don't know that there's a

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whole lot of detail in here on

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that. And the line as to what the

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basis is for that and where it

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comes from certainly I don't see in

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this Jefferies conducted an

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independent analysis and I don't

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see that, but there is sort of some

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fudge factor in here.

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So let's do that. Because

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clearly it's in here, I'll take it

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for what it's worth. These experts

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are not, they always when asked

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will always say I always exercise

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my independent judgment when I'm

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provided with any for example on

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which I'm supposed to rely and

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assumptions, etc., etc. So I think

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we all know that.

22

So with that said, let's have

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a question or two and I think we

24 can move on to really what the
25 substance of his, of his in depth

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1
2 discussion is.

3 MS. PARCELLI: Maybe I should
4 have said this at the outset. I
5 think he was pretty much finished
6 with that answer and I think we
7 were ready to move on.

8 THE COURT: But I understand
9 the idea is to just said how to
10 understand the answer in the
11 context of what he's offering an
12 opinion on. But I think if you ask
13 that question you will know what
14 the answer is, it's going to be he
15 as an expert, I always -- so all
16 right, with that we can ask the
17 witness to come back in. I just
18 wanted to make sure we didn't have

19 a recurring problem in terms of
20 where to draw the lines.

21 (Whereupon, at this time the
22 witness returned to the courtroom.)

23 THE COURT: Thanks for your
24 patience, sir. I think it was
25 productive.

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2 Q. Mr. Szlezinger, I think where
3 we left off you had been explaining
4 concerns that Jefferies had. Can you now
5 tell us what Jefferies sought to do in
6 response to those concerns you've
7 described?

8 A. Yes. So pretty typically in
9 any due diligence, there is an analysis
10 called sensitivity analysis or stress
11 testing. And the reason it's called
12 stress testing really it's sort of
13 self-evident, but essentially it means

14 looking at the assumptions that are the
15 bedrock of a plan and testing them.
16 Generally, you know, more in a sort of
17 negative way.

18 So if the company's assumption
19 that, you know, fuel is going to move in
20 one way turns out not to be correct, and
21 it actually moves in a different way, how
22 would the results in the plan, you know,
23 what would happen to the results. Would
24 they go up, would they go down, would
25 they stay the same.

27

1
2 And so what we did was we saw
3 all of these issues, these assumptions
4 that are the bed rock of the plan, as I
5 say, and we sought to try and alter them,
6 vary them, stress test them.

7 We sought to do that ourselves
8 initially. But thought it was very

9 important to understand what the company
10 had done in that regard and requested
11 that from the company; both sort of
12 comprehensive downside scenario, but also
13 individual scenarios, to try and
14 understand, you know, how they saw
15 things.

16 Q. And when you went to the
17 company in this regard, what was the
18 response that you got from them regarding
19 the stress testing?

20 A. So we sent them a couple of
21 different information requests in this
22 regard, but essentially we got a response
23 back from them that I refer to in my
24 declaration that essentially says, you
25 know, there's a lot of interactions with

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1
2 this model, it's undoubtedly a
3 complicated model, there's no question

4 about that, there's a lot of
5 interactions, you move one thing, another
6 thing moves, and what they said was in
7 order to, number one, they hadn't done a
8 downside scenario, and number 2, in order
9 to do the type of complex sort of
10 analysis it would take four to six weeks,
11 and they had, I think they implied their
12 resources were tied up in the bankruptcy
13 case and so they wouldn't do that.

14 Q. With regard to, I think you
15 mentioned that Jefferies had tried to do
16 some of this work itself. Did you --
17 after speaking with the company, what was
18 your take on your ability to do that?

19 A. Well, I think they were very
20 clear. My team attended a meeting and at
21 the meeting the company was very clear,
22 with respect to testing one-off
23 variables, again, I go back to fuel which
24 is a very easy sort of, thing to get, you
25 know, our heads around. We, you know,

1
2 you can change the price of fuel, but
3 there are a lot of these other
4 interactions and we wouldn't recommend
5 you doing that because just changing the
6 fuel assumption in the plan won't
7 necessarily yield reliable results.

8 And because of all these
9 interactions, it's much more
10 comprehensive than that's and that's how
11 we got into the four to six week time.

12 Q. Just to clarify, when you said
13 we wouldn't recommend, that was the
14 company's advisors said they wouldn't
15 recommend doing that?

16 A. Primarily the company. You
17 know, we attended meetings with a lot of
18 advisors at them as well as the company,
19 but I think that primarily came from the
20 company.

21 Q. Now, have you had an

22 opportunity to review testimony given
23 during this trial by McKinsey's Alex
24 Dichter, specifically as it relates to
25 evaluation of upside and downside

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1
2 scenarios against the business plan?

3 A. Yes, I have.

4 Q. Can you tell me what is your
5 sort of reaction to Mr. Dichter's
6 testimony in this regard?

7 A. I was concerned. You know,
8 there are three things that stick in my
9 mind from Mr. Dichter's testimony which I
10 was concerned about. Number 1, he was
11 questioned about upsides. I think he
12 responded that they would be fantasy and
13 imprudent. That's concerning because any
14 well constructed plan based off of
15 reasonable assumptions could have upside
16 to it. If the assumptions are reasonable

17 it could have upside to it.

18 Secondly, with respect to
19 downside scenarios, he said that because
20 of the press of time, I think he talked
21 quite a lot about the sort of short time
22 period in which they had to do their
23 work, because of the press of time he
24 hadn't done downside scenarios. He
25 generally understood that they would be

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2 negative and could be very negative
3 because, as he described it, I think he
4 said the airline business is a sensitive
5 business, which is the whole point of
6 running sensitivities.

7 And then the third thing he
8 said that sort of sticks in my mind, he
9 had done some back of the envelope
10 calculations to make sure that the model
11 was sort of working in the right way.

12 You know, I just -- I don't think I
13 should be advising my clients based off
14 of back of the envelope type calculation.

15 Q. Now, Mr. Szlezinger, let's
16 switch gears a little bit. Can you
17 summarize the views that are set forth in
18 your declaration regarding American's
19 consideration of alternatives to its
20 stand-alone business plan?

21 A. Yes. I think to summarize, as
22 I talked about in my declaration,
23 American and the UCC have entered into
24 some sort of, into a protocol agreement
25 whereby they will --

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2 MR. POLLACK: Excuse me, I
3 believe the terms of this agreement
4 are confidential if you're about to
5 get into those.

6 THE COURT: I think we can ask

7 this on a top level. I don't think
8 there's a desire to get into the
9 details.

10 THE WITNESS: I will wasn't
11 going to get into the details, your
12 Honor.

13 THE COURT: I'm not going to
14 blame counsel, we've had various
15 confidential information slip out
16 at various times and I know it's a
17 challenge so I'm not casting any
18 aspersions, so I never object to
19 anybody, including yourself if you
20 think you're about to stumble on to
21 something that's confidential to
22 point it out at the time.

23 So I think the question was a
24 fairly top level question, so if
25 you would be so kind to ask it

2 again.

3 MS. PARCELLI: Sure. I mean
4 as far as that the protocol exists,
5 I think UCC counsel has made that
6 clear.

7 THE COURT: I think that's
8 right.

9 MS. PARCELLI: But that's the
10 extent of it, so, that's fine.

11 THE COURT: Various witnesses
12 have access to more than the top
13 level. I don't. It sounds like he
14 does. So if you would just ask him
15 a question to elicit the top level.

16 Q. So Mr. Szlezinger, to just get
17 back to the line of inquiry, you were
18 discussing the views that you set forth
19 in the declaration with respect to
20 American's consideration of alternatives
21 to a stand-alone business plan. Can you
22 describe what your opinion is with
23 respect to that?

24 A. Yes. So what I was going to
25 say without getting into it in any way

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2 deep at all is that that exists and my
3 understanding of that is that American is
4 considering alongside the UCC strategic
5 alternatives generally. That's all I was
6 going to say.

7 You know, obviously, there is
8 a party there that has been pressing to
9 get into detailed sort of negotiations.

10 With that transaction
11 potentially not very far down the road,
12 and that being a transaction which I
13 think there are many views from well
14 regarded parties, including well regarded
15 analysts, that transaction could yield a
16 better outcome for American's
17 stakeholders, but particularly the APFA
18 both in terms of the viability of a
19 combined entity, in terms of the number
20 of jobs that are preserved, and generally

21 the financial rewards that are available
22 potentially that my client should look
23 and see what, you know, look to wait and
24 see whether or not that deal unfolds and
25 does in a short period of time become

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2 realistic.

3 Q. Can you relate this
4 consideration of alternatives a little
5 more broadly to your experience in other
6 restructuring matters? I mean would it
7 be something that was typically inquired
8 into?

9 A. Yes, I mean generally when I
10 advise any client as they look to put
11 their resources into one specific deal,
12 we would say, okay, we should look wider
13 as well to see if there are other, you
14 know, clear opportunities that may yield
15 the same, better, worse results and

16 presumably, you know, if there's
17 something there that is a realistic
18 alternative, then -- which could yield
19 better results then I would advise them
20 as between the two.

21 Q. And in your view, are there
22 advantages for American to doing a merger
23 during the bankruptcy as opposed to after
24 emergence from bankruptcy?

25 A. I think there's a couple of

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2 things. First of all, clearly it's a
3 highly competitive industry. It's a
4 industry that, you know, American has
5 explained to us, you know, as the
6 industry has consolidated, how the two
7 larger carriers have, if you like, got
8 away from American, particularly in the
9 last year, how that has sort of
10 accelerated.

11 If you wait for a transaction
12 a year, a year and a half, however long,
13 that gap that's opened up I think is
14 likely to continue opening up and to get
15 wider, which is going to put them at more
16 of a strategic disadvantage, number 1.

17 Number 2, again, a highly
18 competitive industry in which there are
19 other parties that will have interests in
20 making sure that, you know, a third sort
21 of mega carrier, if you like, isn't
22 created, and therefore, somebody like a
23 Delta could come forward and do something
24 with respect to US Air or pieces of US
25 Air or something like that.

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2 And thirdly, delay causes a
3 permanent loss of the synergies that
4 would presumably be achieved by putting
5 these two entities together. So that if

6 you delay two years you'll lose two years
7 of synergies permanently. And so if you
8 delay a year you lose a year of synergies
9 permanently and so I think that's also an
10 important consideration.

11 Q. Now, Mr. Szlezinger, in light
12 of what you said regarding your inability
13 to do stress testing on the business plan
14 and in light of what you said about
15 American's failure to really look at
16 alternatives to the current stand-alone
17 to date, what has your advice been to
18 your client, APFA?

19 A. I've advised my client that
20 with respect to the stand-alone plan,
21 that they should not move forward and
22 sign up to a deal until they are being
23 advised by their advisors and they
24 themselves are confident and comfortable
25 that the business plan is, is achievable,

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2 and with respect to alternatives that are
3 there, they should also be reviewing and
4 understanding short term alternatives
5 that could be better outcomes and not,
6 obviously not choosing a worse outcome as
7 that would not be favorable to their
8 members.

9 MS. PARCELLI: Pass the
10 witness. Thank you.

11 THE COURT: Cross.

12 MR. POLLACK: Good morning.
13 For the record, Mark Pollack on
14 behalf of the debtors.

15 CROSS EXAMINATION

16 BY MR. POLLACK:

17 Q. Good morning, Mr. Szlezinger.

18 A. Good morning.

19 Q. Despite your considerable
20 expertise, you do not hold yourself out
21 as a subject matter expert with regard to
22 the airline industry; is that correct?

23 A. That's correct.

24 Q. And in particular, you have no
25 prior experience in developing business

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2 plans for commercial airlines?

3 A. By commercial airlines?

4 Q. I'm excluding the cargo
5 carriers that we talked about last week,
6 US passenger airlines.

7 A. That's correct.

8 Q. And as we discussed last week,
9 all the opinions you intend to offer in
10 this case are included in your written
11 declaration, correct?

12 A. I think so.

13 Q. You're not offering opinions
14 beyond those that are set forth in your
15 written testimony, correct?

16 A. I don't think so. I mean I
17 just testified, so you heard what I said,
18 but I think that basically relate to my

19 declaration.

20 Q. I just want to clarify a few
21 points then. Your declaration does not
22 include any opinion on any of the
23 following subjects, I'm going to review
24 some of those subjects with you. For
25 example, your declaration does not

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1
2 include an opinion on whether the relief
3 that American's requesting in this 1113
4 proceeding is necessary for its
5 successful reorganization, correct?

6 A. I think that's correct United
7 Airlines.

8 Q. More particularly, your
9 declaration offers no opinion as to
10 whether the scope clause relief sought in
11 American's motion is necessary for its
12 successful reorganization, correct?

13 A. That's correct.

14 Q. And by scope clause you know
15 I'm referring to both the code sharing
16 and the re-gauging relief requested in
17 the motion, right?

18 A. Yes.

19 Q. Your declaration does not
20 speak to the necessity of either, fair?

21 A. It doesn't speak to the
22 necessity of them.

23 Q. Your declaration does not
24 offer an opinion and doesn't speak to
25 whether the work rule or other

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2 productivity changes in American's 1113
3 motion are necessary for a successful
4 reorganization?

5 A. That's correct.

6 Q. Your declaration does not
7 speak to whether the requested labor cost
8 savings in American's 1113 motion are

9 necessary for its successful
10 reorganization, correct?

11 A. That's correct.

12 Q. In that regard, your
13 declaration does not address whether
14 American's existing labor costs are at,
15 above or below those of its peers, your
16 declaration does not compare its labor
17 cost structure, correct?

18 A. That's correct.

19 Q. With respect to a few of the
20 targeted metrics that the business plan
21 is built around, your declaration does
22 not address whether the EBITDAR margins
23 in American's business plan are
24 reasonable, does it?

25 A. I think we talked about it in

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2 my deposition. It's not addressed but I
3 had some views which we discussed at my

4 deposition.

5 Q. I'm just asking you now as to
6 what opinions are contained in your
7 declaration.

8 A. Okay.

9 Q. It does not contain a been
10 opinion as to whether the EBITDAR margins
11 in the business plan are reasonable, does
12 it?

13 A. No.

14 Q. Nor does it include an opinion
15 as to whether those target EBITDAR
16 margins are necessary for American's
17 successful reorganization, does it?

18 A. No.

19 Q. And likewise, your declaration
20 does not address the liquidity or debt
21 levels that are targeted by American's
22 business plan, does it?

23 A. No.

24 Q. Now, as we discussed in your
25 deposition last week, there are several

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2 matters where I think we see eye to eye
3 and I just want to confirm some of those
4 now to shorten our examination here today
5 if you agree with me.

6 You agree, among other things,
7 that the trend in it is US airline
8 industry is moving towards the increased
9 utilization of large regional jets, don't
10 you.

11 A. Yes, generally.

12 Q. And conceptually you agree
13 that American's effort to re-gauge its
14 fleet through regional jets will enable
15 American to better align its capacity
16 with the industry demands, don't you?

17 MS. PARCELLI: Objection; your
18 Honor. We just went through, if I
19 may do a little bit of a speaking
20 objection, we just went through a
21 long list of what his declaration
22 doesn't address and now we're

23 asking questions about things that
24 we've established that his
25 declaration doesn't address.

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2 THE COURT: Well, there is a
3 slight difference though in posture
4 and there's a little latitude in
5 cross. I understand, but I don't
6 certainly what he's not offering an
7 opinion on if we spent too much
8 time on that we could be here all
9 day. So I think in the interest of
10 efficiency and the fact that I have
11 his declaration and heard his
12 testimony, I just ask we don't
13 belabor the point.

14 MR. POLLACK: I won't, Judge.

15 THE COURT: I think the, I
16 agree with the objection except
17 talking about real particular

18 levels of granularity. The more we
19 get to specifics, if he has an
20 opinion about something generally
21 he doesn't have an opinion about
22 the specifics of it. So if you
23 could keep that line of cross to a
24 more general level.

25 Q. In the course of your work for

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2 the APFA you reviewed and became familiar
3 with the disclosure statements filed by
4 the other airlines in their bankruptcy
5 proceedings?

6 A. I generally reviewed some of
7 them.

8 Q. And based on that review, you
9 became aware of the targeted EBITDAR
10 margins that those airlines projected in
11 their plans of reorganization, didn't
12 you?

13 A. Again, generally I think
14 that's right.

15 Q. And generally you're aware
16 that those airlines' targeted EBITDAR
17 margins that exceeded those of its
18 industry peers at the time of their
19 emergence, didn't you?

20 A. I think that I would say that
21 the analysis that they did at that point
22 in time may have been relevant to them at
23 that point, but I'm not sure how I sort
24 of necessarily tied that into where
25 American is today.

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2 Q. I accept your point, that
3 there are relevance questions to
4 consider, but I'm just asking about the
5 quantum now. Do you recall based upon
6 your familiarity with those disclosure
7 statements that the targeted EBITDAR

8 margins sought by those airlines exceeded
9 those of its peers at that time?

10 A. Generally I think that's
11 right, although they didn't achieve them.

12 Q. I understand. Thank you. Now
13 in your declaration and your testimony
14 this morning, you spoke of the changes to
15 the business plan resulting in business
16 plan model 2.0 and later 3.0, correct?

17 A. Yes.

18 Q. The initial change that
19 resulted in business plan 2.0 resulted
20 largely from American's decision to
21 freeze rather than terminate certain of
22 its pension plans you testified to,
23 correct?

24 A. Correct.

25 Q. And you know that among the

3 that for the flight attendants, right?

4 A. That's correct.

5 Q. And as a result of that
6 decision, American required substantially
7 more cash over the six year period of its
8 business plan than it had originally
9 projected; isn't that correct?

10 A. More cash?

11 Q. Yes.

12 A. I'm not sure I agree with your
13 characterization of substantially more
14 cash. But more cash.

15 Q. We're not going to get into
16 the specific numbers. I believe they're
17 referenced in your declaration, but those
18 are confidential.

19 A. I'm not sure they're
20 referenced in my declaration.

21 Q. Without regard to the amount
22 of additional cash, you do understand
23 that the change in business plan 2.0
24 presupposed that American would raise
25 that additional quantum of cash through a

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2 rights offering, wasn't that correct?

3 A. Yes.

4 Q. And you accepted, I believe
5 you testified earlier this morning, that
6 a rights offering would be dilutive to
7 the interest of the unsecured creditors,
8 right?

9 A. Unsecured creditors generally,
10 yes.

11 Q. And when the changes from 2.0
12 to 3.0 occurred a few weeks later, those
13 changes reduced the amount of cash that
14 American would need at the end of its --
15 throughout its business plan period;
16 isn't that right?

17 A. Yes, that is correct.

18 Q. And again, we're not going to
19 talk about the specific numbers here, but
20 the, American's proposal was to reduce

21 the amount of the rights offering that it
22 had implemented in connection with
23 business plan 2.0; isn't that right?

24 A. That's correct.

25 Q. So you agree that it was a

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2 parallel change, with the first change
3 they proposed the rights offering, with
4 the second they reduced the amount of
5 that rights offering, didn't they?

6 A. I wouldn't necessarily call
7 that a parallel change. There were a
8 number of different changes going on and
9 whilst they did reduce the amount of the
10 rights offering, I think we have to look
11 at that in the context of the credit
12 metrics because they've done this
13 analysis to say okay, if we raise X in a
14 rights offering, that lines up all of our
15 credit metrics and everything, therefore,

16 you know, that's a way in which we could
17 emerge. These other changes happen.
18 Changing, making the change in the --
19 reducing the rights offering, you know,
20 created different credit metrics. So you
21 could have kept the credit metrics at the
22 same level without necessarily doing
23 anything to the rights offering. So I
24 think all these things worked together
25 and it's not as simple as saying oh, we

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2 could just go, you know, reduce the
3 rights offering.
4 Q. In fact, at the time that
5 American issued its business plan 3.0,
6 you're aware that its advisors, Mr.
7 Resnick in particular, amended his
8 declaration to reflect the view that the
9 amount in need of a rights offering would
10 later be assessed closer to the time of

11 emergence, right?

12 A. I think I talked in my
13 declaration about the fact that he said
14 basically it's too early now to know the
15 state of finances at the end of the case,
16 therefore, I don't know what a rights
17 offering is going to look like and I made
18 the comment that he no one had done that
19 same analysis with respect to labor.

20 Q. When American identified
21 additional cash needs when it moved from
22 business plan 1 to business plan 2, it
23 did not increase the requested labor
24 concessions it was seeking, did it?

25 A. No, it did not.

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2 Q. In paragraph 20 of your
3 declaration you reference the work that
4 Mr. Akins has done. And you repeat the
5 concerns that you've identified in your

6 declaration, correct?

7 A. I certainly mention Mr. Akins'
8 declaration, yes.

9 Q. And without getting into --
10 well, you heard Mr. Akins' testimony
11 yesterday, correct, you were in court
12 yesterday?

13 A. I heard most of it.

14 Q. You heard him testify that
15 there are no guarantees that American
16 will be able to achieve the goals in its
17 business plan, right?

18 A. I don't specifically remember,
19 but I mean generally I think that's
20 right.

21 Q. Do you remember his view that
22 American's business plan is subject to
23 risk?

24 A. Yes.

25 Q. And American's proposed

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2 metric, the EBITDAR margin is subject to
3 risk, you'd agree with that, wouldn't
4 you?

5 A. Yes.

6 Q. You'd also agree that the
7 liquidity target that is the basis of
8 American's business plan is subject to
9 risk?

10 A. I think everything in there is
11 subject to risk.

12 Q. And just as there are no
13 guarantees for American's business plan,
14 there were no guarantees the other
15 airlines would hit the targets they saw
16 in their plans of reorganization, were
17 they?

18 A. Well I think you have to make
19 the distinction because you have to look
20 up what they were using EBITDAR targets
21 for. There's a variety of things you
22 could use those sort of targets for. So,
23 for example, if they're using those
24 targets as an aspirational goal that all

25 of the stakeholders buy off on and they

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2 put into a plan of reorganization, in the
3 forecast in a plan of reorganization and
4 it's the basis for a plan that all of the
5 stakeholders get around and agree on,
6 that's one thing.

7 If they're using those targets
8 in order to back-solve up to a labor ask,
9 that's another thing. So I think there's
10 really a distinction between the targets
11 that you're pointing out in a plan of
12 reorganization at the end of a case to
13 the targets that, to American's target
14 and the purpose that it's being used for
15 here.

16 Q. And although we may disagree
17 as to the viability of the plan, you do
18 understand and accept, don't you, that
19 American's business plan is being put

20 forth as its avenue for success, correct?

21 A. I'm not sure that American's
22 business plan as we see it today is not
23 going to undergo any changes whatsoever
24 before we get to a plan of reorganization
25 if that was what the question is.

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2 Q. But you do understand that in
3 connection with this bankruptcy
4 proceeding, American's stand-alone plan
5 is its plan by which it's going to ask
6 all stakeholders to review and evaluate,
7 don't you?

8 A. As we sit here today, my
9 understanding is that this is the plan
10 that they are pushing forward. Whether
11 or not that changes as we go through the
12 case, I don't know. I think there's a
13 long time between now and confirmation.

14 Q. As you testified on your

15 direct examination, you would
16 characterize the airline industry as
17 particularly competitive, right?

18 A. Yes.

19 Q. Subject to a number of
20 external stresses that are very difficult
21 to control or predict?

22 A. There have certainly been a
23 lot of external stresses on this industry
24 over the last ten years.

25 Q. Included among them is the

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2 high fuel price volatility?

3 A. Yes.

4 Q. And would you agree with me
5 that in view of the unpredictability of
6 these external stresses, airlines need to
7 plan a sufficient liquidity cushion to
8 succeed in the face of these external
9 variables?

10 A. I think every business,
11 whether it's in this industry or another
12 industry, needs to have built into a
13 reasonable amount of, you know, I mean
14 like, I don't know cushion, but a
15 reasonable amount of a buffer in case
16 there's an external shock, but I don't
17 think, you know, that -- that amount
18 needs to be reasonable, yes.

19 Q. And you're aware based on your
20 review of the other analyst reports that
21 for the US airline industry in particular
22 they've identified 20 percent as a
23 reasonable amount of liquidity for US
24 airlines, don't you?

25 A. I've seen 20 percent, a ratio

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2 of 20 percent of cash to revenue as being
3 quoted in the industry at times.

4 Q. And do you understand that

5 today, in today's market that is what is
6 typically identified as a liquidity
7 target?

8 A. I've certainly seen that in
9 various industry sort of publications.

10 Q. If American were to reduce its
11 outlook in its business plan and assume
12 that it would generate reduced revenues,
13 then in order to hit its EBITDAR margins
14 as they're targeted, they would have to
15 adjust their costs, wouldn't they?

16 A. I'm sorry, can you ask that
17 one again.

18 Q. Sure. If you assume that
19 American under-performs its business plan
20 and achieves lower revenues than
21 projected, in order to maintain the
22 margin level that it is seeking it would
23 have to adjust its costs, wouldn't it?

24 MS. PARCELLI: Objection.

25 Again, I think we're far afield of

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2 the scope of the direct, of the
3 declaration and the direct.

4 THE COURT: My concern is I
5 think some of this is, if -- unless
6 you can point me somewhere in the
7 declaration, isn't this sort of
8 what's baked into paragraph 20 that
9 we were just talking about in terms
10 of the scope, are we talking about
11 the various and what was his
12 independent analyses versus what
13 was somebody else's analysis and
14 how much he had sort of an
15 independent view. I don't know,
16 maybe I'm missing something. Is
17 there somewhere in the declaration
18 that you can point to where there's
19 this kind of -- again, I'm happy to
20 have top level cross on things that
21 somebody may have not considered
22 because it goes to overall

23 credibility and things of that

24 sort.

25 But when we get into a level

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2 of specificity I want it to be tied

3 to something where he's offering an

4 opinion, because if we've had a

5 discussion about where to draw that

6 line between him and another

7 witness.

8 So let me ask you where you're

9 going here?

10 MR. POLLACK: Well, I'm tying

11 this more to his actual testimony

12 this morning, Judge, that he deems

13 the business plan inadequate for

14 its lack of downside testing and

15 what I'm asking for, the

16 implications of if he did such

17 downside testing, what that would

18 yield.

19 THE COURT: I'm not sure how
20 you get there from this particular
21 question, but I'll give you a
22 question or two to get there. But
23 if you can make that connection
24 that's fine. But we need to get
25 there.

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2 Q. We're going to turn to the
3 specific criticism of the sensitivity
4 testing that you address in your
5 declaration. But do I understand
6 correctly, that one of your criticisms is
7 that American's business plan didn't
8 examine potential downside economic
9 scenarios?

10 A. Yes, generally that's right.
11 It didn't examine different scenarios.

12 Q. And it didn't account for the

13 possibility that it may not be able to an
14 achieve all the revenue that it's
15 targeted, right?

16 A. I don't really think I said
17 that. I think what I said was that it
18 needs to run different scenarios and see
19 how the business would react to those
20 different scenarios. Is there a way that
21 you could reconfigure a network and
22 maintain revenue at the levels they're
23 projecting. Is there a way that, you
24 know, different, how different
25 interactions work when you make those

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2 types of changes. I don't think I'm as
3 focused on where you seem to be going,
4 which is is that well, of course, down
5 side is worse, therefore why bother.

6 Q. No, no, let me rephrase the
7 question.

8 If in your downside scenario
9 planning you found that the revenues
10 generated would be less than those
11 targeted, in order to hit the earnings
12 margin, do you accept the proposition
13 that American would have to reduce its
14 labor -- its cost structure?

15 A. Not necessarily. I mean I
16 think it depends on the interaction
17 between fixed costs and variable costs.
18 I also think that, you know, a piece of
19 this that you haven't mentioned is the
20 profit share which is here. So, you
21 know, that could, you could still meet
22 the margins and the profit share be
23 eviscerated and isn't that an important
24 consideration.

25 Q. You know that the profit share

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2 kicks in at dollar one, don't you?

3 A. I do know that, yes.

4 Q. And your declaration does not
5 speak to whether there are additional
6 non-labor cost savings available to
7 American beyond those in the business
8 plan, does it?

9 A. No.

10 Q. Let's turn to the sensitivity
11 testing that you criticized American for,
12 and as I understand your position, it is
13 American didn't conduct sufficient
14 testing and American failed to provide
15 you and your team with the ability to do
16 so itself; is that right?

17 A. Not quite. I think you said
18 American didn't provide --

19 Q. Provide you with --

20 A. You said sufficient testing.
21 I'm not aware of any testing. So that's
22 the distinction there.

23 Q. Let's talk about what American
24 did, your understanding of what American
25 did then. You indicated this morning

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2 that you did review the testimony of Mr.
3 Dichter, didn't you?

4 A. I reviewed as much as I could
5 and what seems to be relevant.

6 Q. You understand that McKinsey
7 played an integral role in the
8 development and formulation of the
9 revenue plan that is part of American's
10 business model?

11 A. Yes, yes.

12 Q. Do you recall in the course of
13 your review of the testimony, do you
14 recall Ms. Parcelli asking Mr. Dichter
15 specifically about the sensitivity
16 testing that McKinsey performed?

17 A. I certainly read testimony
18 with respect to the sensitivity. I'm not
19 sure who was asking the question.

20 Q. Let's focus then on what the
21 testimony was. You're aware that Mr.

22 Dichter testified that McKinsey in his
23 words systematically tested the
24 assumptions in the models to be sure it
25 was behaving consistent with their

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2 expectations?

3 A. No, I'm not aware of that.

4 Q. You don't have that testimony
5 in mind?

6 A. The testimony I have in mind
7 was the testimony when he said they did
8 some back of the envelope, that's his
9 term, checks to make sure that the model
10 was sort of functioning in the right way.

11 Q. Do you recall that Mr. Dichter
12 provided specific examples of the testing
13 that McKinsey did, in other words, that
14 they altered various inputs by specified
15 percentages to see if the outputs behaved
16 consistent with their expectations?

17 A. He was talking extremely
18 generally. I have reviewed that
19 testimony, I reviewed it this morning.
20 He was talking extremely generally about,
21 you know, if you make this sort of change
22 would this sort of outcome come out.

23 Q. Do you recall that he
24 testified that they tested those
25 assumptions against 30 years worth of

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2 industry data where the correlations
3 between capacity and revenue were highly
4 correlated?

5 A. No, I don't. I recall that he
6 said they have an understanding of how
7 those things should generally work based
8 on 30 years of understanding, which is
9 different from I think what you just
10 said.

11 Q. Do you dispute that there are

12 very close historical correlations

13 between capacity and revenue?

14 A. There are general historical
15 correlations. How much, if I -- if I had
16 a private equity client who asked me to
17 do this type of diligence and I went back
18 to them and said here are some
19 sensitivities based on general
20 understandings from the last 30 years, I
21 would probably get fired. So I'm not
22 sure why I shouldn't do the same type of
23 analysis that I would do for that type of
24 clients for the APFA.

25 Q. All right. You're aware that

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2 McKinsey also looked at potentially
3 downsizing American, whether it made
4 sense to do so, aren't you?

5 A. I think there was a general
6 comment about that.

7 Q. Are you aware that McKinsey's
8 analysis very quickly indicated that
9 there would be very strong negative
10 results from downsizing the airline?

11 A. As I said, he said it was a
12 sensitivity. Sorry, a sensitive
13 business. He said really didn't do much
14 in the way of sensitivity analysis. He
15 made a general comment about how he
16 didn't think reducing the level --

17 THE COURT: Let me cut you off
18 here. Your counsel will ask all
19 the questions that may -- I
20 understand your desire to put
21 things in a greater context. But
22 for cross I just ask that you
23 direct yourself to the particular
24 question. If it's a yes or no
25 question, ask it yes or no or it

2 can't be answered yes or no or we
3 may be here for an exceedingly long
4 time.

5 MR. POLLACK: Thank you,
6 Judge.

7 Q. To make sure that we're
8 speaking of the same topic now, do you
9 recall his testimony that they evaluated
10 whether reducing the cornerstone from
11 five to four or three made economic
12 sense?

13 A. I don't recall him saying five
14 to four to three, no. He said there was
15 some testimony generally, again, general
16 testimony with respect to reducing, but I
17 don't think he said five to four to
18 three.

19 Q. Do you recall his testimony
20 that he shared his evaluation with the
21 executives at American Airlines and they
22 decided not to pursue a smaller airline
23 model?

24 A. I don't recall that.

25 Q. Now, your criticism is that

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2 American and its advisors neglected to
3 test for a variety of downsides with
4 specific variables such as fuel as you
5 testified to, right?

6 A. Well, they may have tested.
7 They didn't provide them to us. The
8 reason I say that is that there was a
9 comment that they made to us, again, I
10 think I referred to it in my direct, in
11 my declaration about the fact that they
12 had, that there was no non-privileged
13 analysis that they would provide to us.

14 Q. Let's talk about the direct
15 exchange on this subject between
16 American's representatives and your team.
17 First of all, you didn't participate in
18 all of those exchanges, did you?

19 A. Not all of them, no.

20 Q. And there were several
21 meetings, more than one meeting in fact
22 where the business plan and the revenue
23 model were addressed by American's team
24 and your colleagues?

25 A. There were a few meetings I

68

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2 think so, yes.

3 Q. You attended some but not all,
4 correct; is that right?

5 A. Correct.

6 Q. And you're aware that there
7 was a specific meeting convened in early
8 March for the purpose of walking the APFA
9 representatives, including Mr. Akins and
10 Jefferies' representatives through the
11 business plan and revenue model, wasn't
12 there?

13 A. There was such a meeting, yes.

14 Q. And you didn't attend that

15 meeting, did you?

16 A. No.

17 Q. But you have spoken with your
18 colleagues that did attends the meeting,
19 right?

20 A. I have, yes.

21 Q. And based on that discussion,
22 do you have an understanding of what was
23 discussed and occurred at that meeting?

24 A. Several discussions about the
25 meeting.

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2 Q. Based on those discussions,
3 you understand that at that meeting in
4 March American's representative,
5 American's team walked through the
6 business plan, actually opened the model
7 and described for your colleagues where
8 they could find certain inputs and
9 outputs?

10 A. I think that's generally
11 correct.

12 Q. They also did the same with
13 the revenue plan, didn't they, they
14 opened that up and walked through them
15 the inputs and outputs?

16 A. I'm not sure that they walked
17 them through all of the inputs and
18 outputs, but they did show them some
19 things in the model.

20 Q. And they specifically
21 demonstrated how any number of variables
22 could be adjusted if you wanted to do so,
23 didn't they?

24 A. They were very clear at the
25 meeting.

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2 Q. Please answer the question.

3 Did they demonstrate how variables could
4 be adjusted?

5 A. Not in a reliable manner.

6 Q. We'll get to that. Did they
7 show your colleagues that if they wanted
8 to adjust the fuel price assumption, if
9 you will, they could do so and
10 demonstrate how to do that?

11 A. That you could physically make
12 a change to the model without regard to
13 what the output would be, yes.

14 Q. And as you just testified,
15 they told your colleagues then that it
16 would be inadvisable and unreliable to do
17 that, right?

18 A. Correct.

19 Q. And they explained the reason
20 for their views, didn't they?

21 A. They did.

22 Q. They explained with fuel as an
23 example, you would need to know the
24 reason that you assume the fuel price
25 increase, right?

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2 A. Amongst other things, yes.

3 Q. Because if the fuel price
4 increase resulted from terrorist
5 activities or reduced supply coming out
6 of the Middle East, then you would assume
7 that that might increase, that might have
8 a corresponding effect on passenger
9 demand, right?

10 A. It could.

11 Q. And if demand goes down, then
12 revenues would go down, right?

13 A. Generally.

14 Q. Well they explained their
15 thinking, didn't they?

16 A. They explained that there are
17 interactions in the model and I'm not
18 sure that we dispute that.

19 Q. And on the other hand, if the
20 reason for a fuel price increase was that
21 GDP generally goes up, then you'd expect
22 that demand would go up, right?

23 A. Generally.

24 Q. And you don't dispute that in
25 that scenario then the revenues would be

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2 expected to increase, right?

3 A. These are very general things
4 that you're pointing out. They really
5 don't relate to the type of interactions
6 and complexities of downside scenarios
7 that somebody trying to do comprehensive
8 diligence really wants to undertake. So
9 I'm not sure I understand.

10 Q. Well, I'm using the example
11 you gave this morning of adjustments in
12 fuel prices. American Airlines'
13 representatives specifically walked
14 through with your team why it would be
15 inadvisable to adjust the whole model
16 based upon an assumed fuel price
17 increase, didn't they?

18 A. I believe that's right.

19 THE COURT: Let me ask a
20 question. For a lot of these where
21 you're trying to get an upside, a
22 downside, I assume you're dealing
23 with people who have a proprietary
24 model, right? Is that common that
25 you run into that issue?

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2 THE WITNESS: Yes. I mean
3 absolutely. Depending on who
4 you're working for, yes.

5 THE COURT: So if you want to
6 share that information, so one side
7 versus the other, we have our
8 proprietary model but you want to
9 know what the upside and the
10 downside are, how do you work
11 through that problem to be
12 transparent without giving away the
13 proprietary model?

14 THE WITNESS: I mean if you're
15 talking about -- it depends who
16 you're dealing with. If you're
17 dealing with a financial investor
18 you generally would sign a
19 nondisclosure agreement and
20 exchange models without too many
21 concerns.

22 If it's a strategic, then
23 you're obviously a bit more
24 cautious. And you try and put in
25 place some checks and balances.

74

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2 But usually reasonable people sort
3 of get, you know, work through that
4 process.

5 But so for the most part,
6 there is sharing of information.

7 The other way that it can be
8 done, and this is more what you see

9 with analysts, these analysts will
10 set up their own model because
11 they're having sort of continuing
12 discussions with the company and
13 really understand the business,
14 getting a feel, so they'll set up
15 their own model to mirror the
16 company's proprietary model and of
17 course they don't know that it
18 really does, but they'll have an
19 ongoing discussion and they'll get
20 the feel that they've set up a
21 model that's fairly similar and
22 then they'll work through the
23 sensitivity process.

24 THE COURT: Thank you.

25 Q. Quickly with respect to upside

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2 testing. Do you recall Mr. Dichter's
3 testimony that based upon his airline

4 industry experience, that relatively few
5 upside scenarios ever materialize, don't
6 you?

7 A. I think he said that.

8 Q. And you don't have any basis
9 to dispute that, do you?

10 A. Not really, no. I mean it
11 depends, it would depend obviously on the
12 time horizon, the general economic
13 environment that you're in. So, you
14 know, I'm not sure specifically what he
15 was referring to.

16 Q. It is not your testimony, is
17 it, that American's motion here should be
18 denied because there's a possibility that
19 it may out-perform its business plan?

20 A. I mean you pointed out the
21 things that are in and not in my
22 declaration, so.

23 Q. Is that your view?

24 A. Say it again, I'm sorry.

25 Q. That this court should reject

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2 American's request due to the possibility
3 that it might actually do better than it
4 is targeting?

5 A. That's not what I'm saying.

6 Q. I didn't think so. Lastly,
7 with respect to consolidation, a few
8 questions around this subject.

9 You have no understanding of
10 the extent to which American Airlines is
11 considering consolidation opportunities,
12 do you?

13 A. I have an understanding that
14 they've entered into a protocol in order
15 to consider strategic alternatives and,
16 again, I want to be really careful on
17 this because I'd like to say some things
18 that I probably can't, but I don't know
19 why they would have entered into that
20 type of protocol if they weren't going to
21 consider strategic alternatives.

22 Q. But you have no firsthand
23 knowledge of where they are in their
24 analysis or the timetable for doing so,
25 do you?

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2 A. I think I have some knowledge
3 on the timetable. I think that I need to
4 be careful.

5 Q. All right, we'll stay away
6 from that then.

7 This isn't the first time that
8 US Airways has expressed an interest in
9 merging with another carrier, is it?

10 A. That's my understanding.

11 Q. Do you know that they had
12 previously sought and expressed an
13 interest in merging with United Airlines
14 as well as Delta Airlines?

15 A. I do not know.

16 Q. Were you in court for the

17 testimony of Ms. Glading earlier this
18 week?

19 A. Actually, unfortunately I
20 missed it.

21 Q. Have you had a chance to
22 review her testimony?

23 A. I haven't.

24 Q. Have you had a chance to
25 review the conditional term sheet that

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2 the APFA entered into with US Airways?

3 A. I've looked at some of the
4 terms specifically, and I've looked at
5 some others sort of more generally.

6 Q. Based on your review, you
7 understand that that term sheet is
8 conditional, there are contingencies that
9 are enumerated, aren't there?

10 A. There's certainly a term in
11 there that says that the APFA wants to do

12 diligence on a combined plan in the same
13 way that it wants to do diligence on the
14 American plan. It doesn't say that about
15 the American plan, it says that it wants
16 to do diligence on a combined plan.

17 Q. And there is no combined plan
18 to diligence today, is there?

19 A. There may be. Not that I've
20 seen.

21 Q. Not that you've seen, right.
22 Do you consider US Airways to
23 be a viable stand-alone entity?

24 A. It appears to be.

25 Q. In your view, do you believe

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2 it to be?

3 A. I'm not in -- you know, I
4 don't have the sort of material,
5 nonpublic information, but from what I've
6 seen, yes, it appears to be.

7 Q. And you're aware of the
8 debtor's position in this proceeding that
9 a robust stand-alone plan needs to be
10 developed before alternatives to that
11 plan are considered, aren't you?

12 A. I've heard that view.

13 Q. You've reviewed the testimony
14 of Mr. Resnick and Mr. Dichter around
15 that subject?

16 A. Yes.

17 Q. And you spoke of synergies in
18 your testimony this morning. You
19 recognize that there can be negative
20 synergies in mergers sometimes as well,
21 right?

22 A. There are much more synergies,
23 but there can be.

24 Q. And in particular, you can
25 have negative synergies associated with

2 the integration of different cost
3 structures, right?

4 A. I would call them costs of
5 integration, I don't know if they're
6 negative synergies, but there are costs.

7 Q. Well, with respect to two
8 airlines, for example, if one airline has
9 a cost structure appreciably above that
10 of the other, do you accept that in a
11 merger environment typically those labor
12 costs migrate up towards the higher level
13 as opposed to down?

14 A. I haven't done that analysis.

15 Q. You don't know that?

16 A. I haven't done that analysis.

17 Q. And you are aware that with
18 respect to each of the other network
19 carriers which has consolidated over the
20 course of the past several years, they
21 did so following their emergence from
22 bankruptcy, didn't they?

23 A. Those were different
24 circumstances.

25 Q. I understand the different

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2 circumstances. I'm asking you now for
3 the sequencing they followed. Do you
4 understand that they consolidated
5 following their emergence?

6 A. I think that two consolidated
7 outside and one consolidated inside.

8 Q. And in each of those
9 situations, do you understand that they
10 first restructured their labor costs
11 through 1113 proceedings and otherwise?

12 A. Again -- ask the question
13 again, I'm sorry.

14 Q. You understand that, with
15 respect to, and we'll take it one by one
16 if you wish, with respect to United
17 Airlines, before it later consolidated,
18 it first went through a restructuring
19 where it realigned its labor costs
20 pursuant to 1113 motions, not once, but

21 twice?

22 A. I think that's right.

23 Q. And Delta Airlines also
24 realigned its labor costs before it later
25 consolidated?

82

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2 A. I think that's right.

3 Q. And lastly, US Airways, do you
4 have the same understanding that before
5 it merged with America West it went
6 through bankruptcy twice and realigned
7 its cost structure?

8 A. I don't think that's quite
9 right. I think it merged during the
10 second bankruptcy, so I don't think it's
11 right to say it went through bankruptcy
12 twice before it merged.

13 MR. POLLACK: Thank you. I
14 have nothing further at this time,
15 your Honor.

16 MS. PARCELLI: A brief break,

17 your Honor?

18 THE COURT: Sure.

19 (A recess was taken.)

20 THE CLERK: All rise.

21 THE COURT: Please be seated.

22 Redirect.

23 MS. PARCELLI: Your Honor, we

24 have no redirect but we have a

25 little housekeeping.

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2 THE COURT: All right.

3 MS. PARCELLI: I just wanted

4 to move our exhibits in. We have

5 APFA 600, which is the Szlezinger

6 deck declaration. We have APFA

7 400, which is the declaration of

8 Alex Rohan. We also have APFA

9 Exhibit 800, which is the

10 declaration of Paul Knupp, along

11 with accompanying exhibits which is
12 801 through 854.

13 THE COURT: Any objection?

14 MR. POLLACK: Judge, none to
15 the declarations. With respect to
16 the 54 exhibits, I would just like
17 the opportunity over our next break
18 to review with my colleagues
19 whether we have -- I know we made
20 certain objections, I just don't
21 have the details in mind at the
22 moment.

23 THE COURT: That's fine.

24 MS. PARCELLI: I can show you
25 the list. You didn't.

84

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2 MR. POLLACK: If counsel
3 represents we didn't, so be it.

4 THE COURT: It sounds like he
5 wasn't ready to get to that part of

6 the program yet, that's fine.

7 MS. PARCELLI: I didn't mean
8 to jump the gun on you, Mark.

9 THE COURT: Sir, you are free
10 to go and thank you for your
11 testimony.

12 So we have one witness done.
13 What's next?

14 MS. PARCELLI: That concludes
15 the APFA's case.

16 THE COURT: I was hoping you
17 were going to say that. Thank you
18 very much.

19 And so my thought would be
20 that we could probably get in the
21 opening now that you reserved on
22 and then we could start a witness
23 or do that after lunch depending on
24 what you'd like to do.

25 MS. LEVINE: Fully, your

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2 Honor, we had planned subject to
3 the court's discretion to cross Mr.
4 Brundage, then open, then presents
5 our case.

6 THE COURT: That's fine as
7 well. Why don't we do that.

8 MS. LEVINE: So for the
9 record, Sharon Levine, Lowenstein
10 Sandler with my colleagues Jack
11 Sherwood, Paul Kizel and Tania
12 Ingman, on behalf of the Transport
13 Workers Union of America, or the
14 TWU.

15 THE COURT: Thank you. Let me
16 if you'd like to do the cross first
17 and so you're happy to do the
18 opening after that?

19 MS. LEVINE: Yes.

20 MR. DUFFIELD: Todd Duffield,
21 with Paul Hastings for the debtor.
22 We'd like to call Mr. Jeff
23 Brundage. I'm going to do a very

24 brief direct and then pass the
25 witness.

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2 THE COURT: Welcome back.

3 MR. BRUNDAGE: Thank you, sir.

4 MR. DUFFIELD: Does he need to
5 be sworn again?

6 THE COURT: I think he's still
7 under oath because he was, with the
8 understanding you were quite
9 possibly going to be recalled, so
10 you understand you're still under
11 oath?

12 MR. BRUNDAGE: Yes, sir.

13 THE COURT: Proceed.

14 MR. DUFFIELD: Thank you, your
15 Honor.

16 JEFFREY BRUNDAGE,
17 resumed, having been previously
18 duly sworn, was examined and

19 testified further as follows:

20 REDIRECT EXAMINATION

21 BY MR. DUFFIELD:

22 Q. Mr. Brundage, has your
23 employment with American Airlines changed
24 since the last time you testified?

25 A. It has.

87

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2 Q. And how has it changed?

3 A. When I was last here I was the
4 senior vice president of human resources
5 and today I'm a senior advisor to the
6 company.

7 Q. And what was the impetus for
8 that change?

9 A. About 12 years of labor
10 relations at American Airlines and the
11 opportunity that we had a great successor
12 in place, Denise Lynn, our CEO, Tom
13 Horton has been very, very public of the

14 fact of the changes we're making, he
15 wants to see some new management in place
16 and this was a perfect opportunity to
17 make that change.

18 Q. Since you last testified, has
19 the situation changed with regard to the
20 TWU?

21 A. It has.

22 Q. And how has it changed?

23 A. We now, we're very pleased to
24 have five ratified agreements from
25 proposals that we made after the start of

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2 the hearing, and we still have two
3 proposals that have not passed
4 ratifications.

5 Q. Which five ratified?

6 A. It would be easier for me to
7 tell you which two didn't, but I can --
8 the fleet service clerks, the facilities,

9 the -- let me sort it out here.

10 MS. LEVINE: Your Honor, maybe
11 I should open first.

12 THE COURT: Well I think for
13 my purposes, I'm sure you'll get in
14 the record who's resolved it, so
15 why don't you simply tell us which
16 two have not because those are the
17 only things that 1113 is as a
18 technical matter still in front of
19 me. So who are those two?

20 THE WITNESS: The maintenance
21 agreement and the stores agreement.

22 MR. DUFFIELD: Thank you, your
23 Honor.

24 Q. Now, are there common terms
25 that the company's proposing across all

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2 work groups in this 1113 proceeding?

3 A. Yes, there are.

4 Q. Can you give us some example
5 of some of those common terms?

6 A. Yes, changes to the retiree
7 benefits, the active medical benefits and
8 for all of the non-pilot employees,
9 changes to the pension benefit.

10 Q. And were those common terms
11 included in the five proposals that were
12 ratified by the TWU?

13 A. Yes, they were.

14 Q. How does the active medical
15 proposal that was ratified by the fleet
16 service clerks, for example, compare with
17 the active medical proposal that was made
18 to the M&R group?

19 A. It's identical.

20 Q. How does it compare with the
21 proposal that was made to the pilots?

22 MS. LEVINE: Your Honor,
23 objection. Two objections. First
24 of all, it's outside the scope of
25 the direct -- it's outside of the

1
2 scope of the issues that are
3 currently before the court since
4 we're only dealing with M&R and
5 stores, number 1.

6 Number 2, we haven't resolved
7 yet which is the offer that your
8 Honor is considering for 1113
9 reasons, so we were under the
10 impression that we were litigating
11 overly the March 22 offer and
12 testimony with regard to what may
13 or may not have passed and drawing
14 inferences from what may or may not
15 have passed is, if everything else
16 is inappropriate for this hearing
17 we respectfully submit that that's
18 inappropriate as well.

19 THE COURT: One, I don't have
20 Mr. Brundage's prior testimony in
21 front of me, either literally or
22 sort of in the limited space in my

23 brain such that I can determine how
24 this fits in. So I'm going to let
25 -- I'm going to let counsel give

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2 sort of ease into it because -- and
3 this is a fairly top view kind of
4 question.

5 The parties' pleadings as to
6 what agreements I should consider
7 and how were helpful to some
8 extent, but they also in other ways
9 shed more heat than light. So what
10 is missing from them is really to
11 the extent the parties agree on
12 what although I could tell they
13 disagreed on various things, but
14 not exactly how they disagreed.

15 So I'm not going to make a
16 ruling now as to what's in front of
17 me. I made the ruling about 2003

18 because I know that's clearly not
19 in front of me in terms of as a
20 technical 1113 matter. So I'm not
21 going to parse discussions that
22 have occurred after the bankruptcy.
23 People have talked about all sorts
24 of discussions going back to the, I
25 believe it's the April before the

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2 bankruptcy and it's all sort of
3 gone in. So I'm not going to start
4 parsing that now.

5 But what I would ask is I
6 don't know, I assume this testimony
7 is going to the fact that to the
8 extent you offer prior opinions,
9 that would still seem to fit here,
10 that they're related to things of
11 other unions that were identical to
12 what's still at issue, then they

13 are what they are.

14 So that's fine. So bottom
15 line, I'm going to let this
16 questioning go for a little bit and
17 we'll see where we are.

18 MS. LEVINE: Then just along
19 those lines, we then reserve the
20 right to call Tim Gillespie who was
21 the fleet service witness from the
22 Transport Workers Union if --

23 THE COURT: I'm just still in
24 the preliminaries trying to figure
25 out what unions are in, what unions

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2 are out and what are the basic
3 terms. I'm not sure why that has
4 any ability to anybody's right to
5 recall anybody.

6 I haven't gotten to anything I
7 think is relevant, this is all

8 background from where I'm sitting
9 so I'm not sure why it's provoking
10 such a strong response.

11 So let me hear the questioning
12 and let me figure it out. We're
13 five minutes in and we're just
14 talking about which unions have
15 ratified and which haven't, what
16 are the basic issues that are still
17 out there.

18 So given the blizzard of
19 details I've heard about other
20 things, I can't imagine that it's
21 not appropriate to get some basic
22 lay of the land so I have a compass
23 of where the hell I am.

24 So proceed.

25 MR. DUFFIELD: Thank you, your

3 Q. Mr. Brundage, did the
4 proposals that ratified contain any me
5 too provisions?

6 A. Yes, they did.

7 Q. And what do those provisions
8 say?

9 THE COURT: Counsel, I don't
10 know why that matters. If we're
11 talking about what's in front of me
12 and what's not in front me. If
13 it's not in front of me, it's not
14 in front of me. So why is this
15 legally relevant? Can you give me
16 a proffer as to why it's legally
17 relevant to what I have to decide?

18 MR. DUFFIELD: One of the
19 things you'll be deciding is
20 whether we've been fair and
21 equitable across all work groups
22 and these me too provisions speak
23 to that. I have one other question
24 and we'll move off it fairly
25 quickly. But it's relevant for

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2 purposes of your determination of
3 what would be fair and equitable..

4 THE COURT: Is there an
5 objection?

6 MS. LEVINE: Yes, your Honor.

7 THE COURT: Basis?

8 MS. LEVINE: All that's before
9 this court is M&R and stores. That
10 was our understanding and our
11 agreement. To the extent we're
12 going to draw inferences and
13 conclusions from what happened in
14 the fleet and other negotiations,
15 we disagree with their conclusions
16 and we didn't understand that that
17 was part of what your Honor was
18 going to be considering today.

19 If in fact the purpose of this
20 now is to take those term sheets

21 and to have this court draw
22 inferences from those term sheets,
23 we respectfully submit that that's
24 a --

25 THE COURT: Again, I think I

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2 see this as essentially some
3 background subject to argument
4 about its relevance and I think
5 we're probably spending more time
6 talking about it than it will take
7 to actually do it.

8 So I'm going to let it in
9 subject to the parties' rights to
10 make whatever arguments they want
11 to make about it, but I don't want
12 to spend a lot of time on it, so.

13 Q. Mr. Brundage, the question was
14 what do these me too provisions provide?

15 MS. LEVINE: Your Honor,

16 objection. The scheduling order --
17 THE COURT: Overruled. I got
18 it. I understand your objection.
19 Again, I don't want to get bogged
20 down in this on a micro level. You
21 can argue whatever you want to
22 argue about it, I'm not -- I
23 haven't been asked to make any
24 inferences as to anything yet. So
25 I have a proffer as to why it's

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2 relevant and again, I don't want to
3 get bogged down in this so I'm
4 going to allow the question.
5 MS. LEVINE: Could we just add
6 to the question for the record that
7 we believe it violates the
8 scheduling order that the parties
9 agreed to as well.
10 THE COURT: Overruled, yes,

11 go, please.

12 Q. Mr. Brundage?

13 A. Could you ask it again,

14 please.

15 Q. What do the me too provisions

16 provide for?

17 A. We agreed with the TWU that we

18 would not begin to implement any of the

19 provisions of the agreements that were

20 struck, the five agreements, until such

21 time as we either have consensual

22 agreements with all of the groups on the

23 -- at the company, or we have the ability

24 to unilaterally implement as a result of

25 the 1113 proceeding.

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2 THE COURT: I'm going to take

3 that testimony subject to arguments

4 about relevance and how it fits in

5 at a later time. So all right,

6 proceed.

7 MR. DUFFIELD: Thank you, your
8 Honor.

9 Q. How did the company approach
10 the 1113 negotiations with each of the
11 TWU groups?

12 THE COURT: Let's focus on the
13 two that we have here. Again, I
14 thought we were sort of setting the
15 stage as to what happened in terms
16 of why I only have two still. But
17 now I do want to focus on the two
18 if we're talking about the
19 requirements of 1113. I think we
20 need to be precise as to the two
21 unions that are still in front of
22 me for that purpose.

23 Q. So, Mr. Brundage, how did the
24 company approach the 1113 negotiations
25 with regard to the M&R and the stores

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2 groups?

3 A. We took the same approach with

4 M&R and stores from the company's

5 perspective. We started out with all of

6 the unions on February 1st as we

7 previously mentioned. The CEO provided

8 an overview of the company's direction.

9 Ms. Goulet then presented the business

10 plan to all of the unions in attendance.

11 And I did a high overview of the requests

12 that we were making of labor. When that

13 concluded, we broke into individual

14 groups so that each of the unions would

15 have the, a direct conversation with the

16 table spokespersons to talk about those

17 provisions that were going to be unique

18 to each of those groups.

19 Q. And how did the approach the

20 company took with regard to M&R to stores

21 compare with the approach the company

22 took with regard to the pilots and flight

23 attendants?

24 A. It was identical.

25 Q. And were the unions's

100

1

2 approaches the same?

3 A. They were not. As is
4 characteristic in any bargaining, each
5 union has its own characteristics and
6 approaches. And as a result of that, I
7 would say that each was on a slightly
8 different course.

9 Q. When you met with the TWU
10 initially to begin negotiations, did the
11 company give the TWU, and here I'm
12 focusing on M&R and stores, a cost
13 savings target?

14 A. We did. We had a total cost
15 savings target for the TWU, and then the
16 M&R total was 210 million. And the
17 target for the stores group was 18
18 million.

19 Q. And what did the company say

20 about those targets?

21 A. We explained that those
22 targets were as a result of all of the
23 work that had been done to develop the
24 business plan and that we felt that those
25 were the appropriate targets for us to

101

1
2 achieve so that we would be successful in
3 the restructuring.

4 THE COURT: What was the
5 number for the two unions?

6 MR. DUFFIELD: 210 for the
7 maintenance M&R and 18 for the
8 stores.

9 THE COURT: Thank you.

10 Q. Did the company ever tell the
11 TWU that those targets were take it or
12 leave it?

13 A. We never used the term take it
14 or leave it. We were very

15 straightforward that we believed that the
16 1113 standard was dramatically different
17 than the typical type of bargaining that
18 we had always done. And I think both on
19 the union's side and the company's side,
20 we would typically make proposals that,
21 from the company perspective were more
22 beneficial to the company than we
23 expected to achieve and I think the union
24 would do the exact same thing and we all
25 understood we were going to attempt to

102

1
2 try to find a middle ground between those
3 two positions.

4 But in this circumstance, as I
5 understand the standard from our
6 attorneys and experience, it's the
7 debtor's obligation to ask only for what
8 it needs to successfully restructure the
9 company, and we made it clear from day

10 one that we had done a lot of work to
11 determine what we believed that to be,
12 and that we were not in the traditional
13 section 6 circumstance and that we were
14 in fact asking for what we believed was
15 necessary. But we went on to explain
16 that we were open to finding alternative
17 ways to achieve those savings than those
18 we initially proposed, and we had some
19 discussion about the fact that although
20 we had great confidence in our business
21 plan and we believed we had gotten it
22 right, if there were thoughts about how
23 we could modify the business plan that
24 might produce a different outcome for the
25 labor ask, we were willing to entertain

103

1

2 that.

3 Q. Did the TWU ever propose a

4 different target for the M&R group?

5 A. No, they did not.

6 Q. Did the TWU ever propose an
7 alternate cost savings target for the
8 stock clerks?

9 A. No, they did not.

10 Q. Did the TWU ever present a
11 counterproposal to the company for the
12 M&R group that hit the \$210 million
13 target?

14 A. No, they did not.

15 Q. Did the TWU ever present a
16 counterproposal to the company for the
17 stock clerks that hit their target?

18 A. Can I ask you to qualify that
19 question a little bit. Are you talking
20 about a proposal on the targeted amount
21 of savings?

22 Q. No. Proposal of terms that
23 would have valued out at the target?

24 A. We never received proposals
25 from either of those groups which we

1

2 believe achieved the targets.

3

MR. DUFFIELD: No further

4

questions at this time, your Honor.

5

THE COURT: All right.

6

CROSS EXAMINATION

7

BY MR. SHERWOOD:

8

Q. Good afternoon, Mr. Brundage.

9

MR. SHERWOOD: Your Honor,

10

Jack Sherwood, Lowenstein sand

11

letter for the TWU.

12

Q. Do you have a copy of the

13

declaration you submitted with you?

14

A. No, I do not.

15

MR. SHERWOOD: Your Honor, may

16

I approach and give the witness a

17

copy?

18

THE COURT: Sure.

19

MR. SHERWOOD: Would your

20

Honor like to have one, too?

21

THE COURT: If you happen to

22

have one handy, if not, I can grab

23 one from chambers. Thank you very
24 much.
25 Q. Mr. Brundage, let me just ask

105

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2 you to clarify what you were just
3 discussing with your counsel about
4 counterproposals from the M&R group and
5 the stores. There were counterproposals
6 by both of those groups during the course
7 of the negotiations; is that right?

8 A. That's correct.

9 Q. But you're just saying that
10 the counterproposals didn't make a
11 different proposal with respect to the
12 target numbers?

13 A. Yes, sir.

14 Q. Let me ask you what, in terms
15 of the -- you also testified I think a
16 few minutes ago that you dealt with all
17 of the groups the same way, right?

18 A. Yes, sir.

19 Q. And if I understand it
20 correctly, you basically went to all of
21 the groups, you gave them target numbers,
22 and you indicated to them that they were
23 all going to share the pain to the tune
24 of about 20 percent across the board; is
25 that right?

106

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2 A. That's correct.

3 Q. Now, were you, and I won't
4 spend a lot of time on the old
5 negotiations, but you do say in your
6 declaration at paragraph 9 that in 2003
7 there were 1.6 billion dollars of union
8 concessions that were negotiated as part
9 of the out of court that we've all heard
10 about, correct?

11 A. Yes, sir.

12 Q. Now, were you involved with

13 the company and with those negotiations
14 at that time?

15 A. In 2003?

16 Q. Yes, sir.

17 A. Yes, sir.

18 Q. So at that point in time, were
19 the labor costs adjusted in a way to make
20 the American labor cost competitive with
21 other airlines?

22 A. Well, actually, we looked at
23 our ability to generate a revenue premium
24 and it was versus Southwest airlines and
25 we established what we believed we needed

107

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2 in labor cost savings and then from that
3 total savings target we made proposals to
4 each of the unions as to what their
5 appropriate share of that target should
6 be.

7 Q. So was there some analysis

8 back in 2003 as to what the appropriate
9 share for each group would be?

10 A. Considerable.

11 Q. So it wasn't an across the
12 board cut like is being proposed -- like
13 was proposed before with this bankruptcy;
14 is that right?

15 A. That's correct.

16 Q. Now, if you could look at your
17 declaration at paragraph 27 and footnote
18 19. We can read those together. And I
19 think just to summarize what I think
20 you're talking about in your declaration
21 here, you know, you talk about the 20
22 percent across the board cut and then at
23 the beginning of paragraph 27 you say,
24 "This methodology is a familiar one to
25 airline employees in Chapter 11," right?

108

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2 A. Yes, sir.

3 Q. Is that your view, that this
4 idea of an across the board cut, same
5 percentage for each union is something
6 that is routinely done in airline
7 bankruptcies?

8 A. I believe that if we look back
9 at the airline bankruptcies, each had
10 unique circumstances, and if the employee
11 costs were significantly different across
12 groups in terms of where they were in
13 collective bargaining, and so if one
14 group happened to be, have a brand new
15 agreement, let's say it was industry
16 leading and another group had been in
17 negotiations for a considerable period of
18 time, so adjustments had been made so
19 that those groups would not be
20 disproportionately advantaged or
21 disadvantaged by their relative position
22 to the bargaining cycle.

23 So in that circumstance the
24 direct across the board approach would
25 not be the approach you would take.

1

2 But if you have a circumstance
3 where somehow those costs through a
4 process have been harmonized or have been
5 aligned and so that everyone is somewhat
6 similarly situated, then we, I believe
7 that the fairest way to approach it is in
8 fact to take an across the board
9 percentage of total labor cost approach.

10 Q. Okay, but are you familiar
11 with any prior airline bankruptcies where
12 an across the board, uniform cut approach
13 was taken without regard to the
14 harmonizing of the labor groups to their
15 peers in the industry?

16 A. One more time, please.

17 MR. SHERWOOD: Can the court
18 reporter read it back, your Honor?

19 THE COURT: Sure.

20 (Record read as requested.)

21 A. No.

22 Q. So let me just ask you what
23 you know about the examples that you cite
24 in footnote 19. One was United. And
25 would you agree that in the United case

110

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2 that there was, there was an effort on
3 behalf of United to correct the
4 imbalances that existed between the labor
5 groups before the across the board cuts
6 were made?

7 A. As a result of, I understand,
8 to be conditions or requirements of the
9 debtor-in-possession financing, they had
10 certain labor cost savings they needed to
11 achieve. And as a result of that, they
12 did take the approach you're describing
13 of harmonizing the rate.

14 And then later on, they
15 subsequently went back in for additional
16 savings through the 1113 process at which

17 point in time after they had concluded
18 that harmonization effort, took the
19 across the board approach.

20 Q. And what about in Delta?

21 A. Well, in Delta it was the
22 pilot group primarily affected and Delta
23 achieved savings, in fact, if I remember
24 correctly, Delta did an agreement about a
25 year or so in advance of their filing and

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2 got some savings in that agreement and
3 made some adjustments and then went back
4 again as they began their 1113 process,
5 and that's where this footnote comes
6 from. So they had taken previous action
7 to their 1113 filing to harmonize, the
8 pilots, vis-à-vis their other competitors
9 in the industry, and then used the across
10 the board approach in their 1113 filing.

11 Q. Would you agree that in the

12 Delta situation that the compensation
13 levels that Delta was seeking to get to
14 were based largely on market-to-market
15 comparisons?

16 A. I don't -- I don't refer to
17 that in my declaration and I don't know
18 that. I was referring to this notion
19 that they were attempting to harmonize,
20 you know, rates, along where they saw.
21 So I guess they had to use the market to
22 do that.

23 Q. So just to sum up, in your
24 testimony in paragraph 27 and footnote 19
25 in your declaration, you're not

112

1
2 suggesting that in the Delta and United
3 cases that those airlines, their
4 management groups went to labor, the
5 various labor groups and said take a
6 uniform cut without regard to where the

7 labor group stood in relation to its

8 peers, are you?

9 A. I agree.

10 Q. You agree that you're not

11 saying that?

12 A. I agree that management did

13 not do that.

14 Q. Now, in paragraph 19 of your

15 declaration, Mr. Brundage, you refer to a

16 labor gap analysis that was prepared.

17 Can you, I think it's 19, it's on page 11

18 and 12, and at the top of page 12, you

19 talk about --

20 MR. SHERWOOD: Your Honor, I

21 don't know about confidentiality,

22 so I'm not going to say any numbers

23 unless I clear it with these guys

24 first.

25 THE COURT: My understanding

2 is I don't see any highlighting or
3 menacing red lettering, so I
4 understood that all of this was
5 public.

6 MR. DUFFIELD: Correct.

7 Q. At the start of page 12 you
8 talk about the labor gap analysis that
9 existed across the American union groups.
10 Do you see that?

11 A. Yes, sir.

12 Q. And of that gap, would you
13 agree that certain labor groups
14 contributed to the gap more than others?

15 A. Yes, sir.

16 Q. I'd like to hand the witness
17 an exhibit that was previously marked.

18 MR. SHERWOOD: This was not
19 previously marked, we've premarked
20 it as TWU Exhibit 6. I'd like to
21 hand it to the witness and a copy
22 to the court. I'm going to treat
23 this as confidential unless I'm
24 told otherwise. I'm not going to

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2

THE COURT: I appreciate your

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trying to avoid those problems.

4

Thank you. Certainly to the extent

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you have questions about where

6

those lines are and want to ask

7

something, I have seen people

8

whisper a question in advance, not

9

to the witness, but to counsel just

10

to so you get the information you

11

need.

12

Q. All right, Mr. Brundage, I've

13

shown you TWU 6. Have you had a chance

14

to look through it and do you recognize

15

it?

16

A. I don't know the source of the

17

document. Its format is one that we

18

traditionally use. And the data is data

19

that I've seen on multiple occasions in

20 different things that American's
21 produced. I can't tell you where, who
22 produced it or when it was produced.

23 Q. I just want to draw your
24 attention to page 5 of that exhibit.

25 A. Yes, sir.

115

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2 Q. Is this data that you're
3 familiar with on page 5?

4 A. Yes, sir, it is.

5 Q. Without referring to numbers,
6 if you don't want to, am I right in
7 understanding that this is data that was
8 maintained by American in November of
9 2011 that related to the compensation
10 levels of the M&R group at American?

11 A. This data appears to be public
12 data that came out of labor contracts and
13 what it describes is a pay rate. So I
14 wouldn't describe it as compensation, but

15 it is clearly a representation of AA's
16 pay rate versus the industry.

17 Q. Okay. And you see American on
18 the -- in the bar on the right side
19 there, correct?

20 A. Yes, sir.

21 Q. And is that, is that
22 information concerning American's M&R pay
23 rates, is that generally accurate?

24 A. Yes, sir, I believe it to be.

25 Q. And just so I'm clear, I think

116

1
2 we know what U A stands for, that's
3 United, correct?

4 A. Yes.

5 Q. And US is US Air?

6 A. Yes.

7 Q. D L, do you know what that
8 stands for?

9 A. Delta.

10 Q. To the left one?

11 A. We have AirTran, Continental,
12 and JetBlue.

13 Q. B6 is JetBlue?

14 A. Yes.

15 Q. And what's WN?

16 A. Southwest.

17 Q. Oh, okay.

18 THE COURT: Which one is
19 AirTran?

20 THE WITNESS: FL.

21 THE COURT: FL. Thank you.

22 Q. So I'd like to show you
23 another document now. And this one has
24 previously been marked as APFA 4.

25 MR. SHERWOOD: Your Honor, can

117

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2 I approach the witness and hand him
3 a copy?

4 THE COURT: Absolutely.

5 MR. SHERWOOD: And would the
6 court like a copy?

7 THE COURT: I have a copy,
8 thanks.

9 Q. Once again, I think this is
10 confidential so I'm going to try to be
11 very careful with my questioning here:
12 But Mr. Brundage, can you tell me whether
13 you recognize the document that's been
14 marked as APFA 4?

15 A. Yes, it's a document prepared
16 by American for the PBGC advisors.

17 Q. And if you could turn to page
18 14 of that document.

19 A. Yes, sir.

20 MR. SHERWOOD: I'm going to ask
21 counsel if I can actually refer to
22 the numbers in the green column on
23 the right.

24 MR. DUFFIELD: Which page?

25 MR. SHERWOOD: Page 14.

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2 THE WITNESS: You offered the
3 opportunity for people to speak up.
4 I don't believe this has ever been
5 public.

6 MR. DUFFIELD: That's correct,
7 your Honor, it's not public
8 information.

9 MR. SHERWOOD: I'll be careful
10 and we won't mention any of the
11 numbers.

12 Q. You've identified the
13 document. Is it fair to say that this,
14 the title of this page, M&R benchmarking,
15 right?

16 A. Yes, sir.

17 Q. And by benchmarking that's
18 sort of a process whereby the airline
19 says where do we stand versus the
20 competition on our labor costs for M&R;
21 is that fair?

22 A. Well we've had a lot of
23 testimony on this whole benchmarking and

24 I just -- I mean to answer your question
25 completely, this is a methodology that

119

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2 we've used where we evaluate another
3 carrier's contract provisions, not
4 necessarily their seniority or operation
5 or other, you know, factors, we simply
6 take the verbatim aspects of their
7 contract and we put it on our population
8 and we compare that result to what our
9 known costs are. So that's it is
10 benchmarking you're describing.

11 Q. Let's look at the green column
12 and without referring to any numbers, is
13 it fair to say -- first of all, those
14 numbers, they are in millions, right?

15 A. Correct.

16 Q. And if a number is in
17 parentheses, would that suggest that
18 American is sort of doing worse than the

19 competition in that category?

20 A. Yes, parentheses, worse than

21 OA.

22 Q. And if it's not in

23 parentheses, then you are doing better

24 than the competition to that extent,

25 fair?

120

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2 A. That's fair.

3 Q. So in terms of the outsourcing

4 row, okay, without saying the number, you

5 were at a disadvantage there, fair to

6 say?

7 A. Yes, sir, that's what the

8 chart represents.

9 Q. And in the lower right-hand

10 corner there is the sum of the elements

11 and the number in the lower right-hand

12 corner is sort of the cumulative

13 disadvantage that this benchmarking shows

14 that American had vis-à-vis its peers on
15 M&R, right?

16 A. Yes, sir.

17 Q. Let's turn to page 23 of this
18 document. Now, again, without talking
19 about numbers, let's just get right down
20 to the lower right-hand corner. And is
21 it fair to say that this is sort of the,
22 this is sort of a summary of what
23 American needed in terms of outsourcing
24 in order to sort of bridge the gap
25 between it and the other airlines?

121

1

2 A. What page were we just on
3 previously?

4 Q. Yes, I've got it for you.

5 Page 14.

6 A. 14. Okay.

7 Q. But I'm on page 23.

8 A. Okay, I see it.

9 Q. And, you know, without
10 disclosing the number, would you agree
11 that this is sort of a, this term sheet
12 is sort of a summary of the underlying
13 data for the outsourcing ask that you
14 were going to make to M&R in order to
15 bridge that gap that existed between you,
16 American and the other airlines?

17 A. I'm struggling a little bit
18 because I'm not drawing a direct tie to
19 this sheet. That's exactly what it
20 appears to represent.

21 Q. Do you know what the ask was
22 from the M&R group in terms of a dollar
23 amount?

24 A. \$210 million.

25 Q. No, that's the whole, the

1
2 whole ask. How much of it related to
3 outsourcing, if you know?

4 A. I don't.

5 Q. I might be able to help you
6 with that later.

7 A. Okay.

8 Q. Anyway, so we have this number
9 on page 23 which seems to be a summary of
10 concessions required for outsourcing.
11 Can we agree on that?

12 A. Well if you'll allow me to
13 just go back and look here and just make
14 sure I understand the context. I'm very
15 good with this package up to page 16 and
16 beginning on page 17 I'm having a little
17 bit of a challenge with it, so. Yes, a
18 summary.

19 Q. So if you take the number
20 that's on page 23.

21 A. Yes.

22 Q. Which is the summary of the
23 outsourcing ask, and you go back to page
24 14 on the outsourcing column, and
25 assuming you got that number --

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2 THE COURT: Can I ask counsel,
3 just when you say summary of
4 number, I don't want to hear the
5 number obviously, but can you point
6 me to which, there are a lot of
7 numbers on page 23 and I just want
8 to be precise which number.

9 MR. SHERWOOD: Your Honor,
10 it's the number, I'm looking at the
11 number subtotal and the column six
12 year average.

13 THE COURT: The lower right?

14 MR. SHERWOOD: Yes, the lower
15 right.

16 THE COURT: That's what I
17 thought, but just to be clear.

18 Thank you.

19 Q. Mr. Brundage, if you got, if
20 you got what is reflected on page 23, and
21 you made a proposal to the M&R group,

22 would you agree that if that was
23 accepted, that the outsourcing
24 disadvantage would be fixed or at least
25 substantially fixed?

124

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2 A. I wouldn't. And it's because
3 we're really looking at two dramatically
4 different things here. The one, what you
5 pointed me to on page 14, is simply a
6 method that we use to try to approximate
7 what another carrier's contract produces
8 in terms of costs or savings on American.

9 And it is a whole of
10 assumptions and averages and we've talked
11 about it previously, but it's really
12 designed more as a directional indicator
13 and each carrier is specific to how they
14 do things.

15 So what you're looking at here
16 is an average of a whole bunch of

17 carriers.

18 So we compete with every one
19 of these carriers. So although we're --
20 without using any numbers, there's a
21 pretty big variance across that line
22 depending on whether you're the carrier
23 on the left or the carrier on the right.

24 And so this is just, it's a
25 directional guidance and it's an average.

125

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2 I think when we get back to
3 the back, what we put in are what we
4 believe the values are based on our real
5 costs.

6 So I just -- it's hard to
7 equate those two.

8 Q. All right, but --

9 A. In our cost -- I'm sorry.

10 Q. On page 23, the number in the
11 lower right-hand corner, okay?

12 A. Yes, sir.

13 Q. Is that, when you say M&R term
14 sheet, am I correct in understanding that
15 this is sort of the backup for what
16 American was asking from the M&R group,
17 you know, with respect to the outsourcing
18 issue?

19 A. Well, this was a valuation of
20 what we believed outsourcing these
21 functions would produce.

22 Q. Okay. And you discussed with
23 the M&R group during the negotiations,
24 right, that was part of the negotiation?

25 A. Yes.

126

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2 Q. And going back now to 14, page
3 14, assuming you got that from the M&R
4 group, would you agree that the
5 outsourcing deficit that's reflected in
6 the green column on page 14 vis-à-vis the

7 airlines to the left on a weighted
8 average basis, would be wiped out?

9 A. I don't think that you could
10 compare simply the outsourcing line of
11 our ask of the M&R group because we made
12 a proposal in total of which it was a
13 portion. We could have, we could have
14 asked for significantly more outsourcing
15 and no other changes. Or we could have
16 asked for significantly less outsourcing
17 and other changes.

18 So the 14 is a reference point
19 for us to understand where we think the
20 competitive situation is.

21 But as I testified earlier,
22 that's not what we used to develop the
23 ask.

24 Q. I'm not asking what you
25 developed. What I'm asking you simply is

2 if you got the number that you requested,
3 that you arrived at on page 23, would
4 that eliminate your negative variance to
5 the airlines listed on page 14?

6 A. The number on 23 and the
7 number on 14 are very close.

8 Q. All right. So let me ask you
9 this, staying with 14, assuming that the
10 outsourcing problem on page 14 in the
11 last column, assuming that was taken care
12 of, wouldn't you agree that the overall
13 weighted average issue where you are a --
14 behind the industry, that that would go
15 away as well?

16 A. Yes, and it points us to slide
17 13 in the earlier deck you gave us where
18 you compared, where you asked me to look
19 at to compare the rates.

20 Q. If your counsel wants to ask
21 that, he can. Do you need that to answer
22 this question? My question is simply
23 this. If you take out the outsourcing
24 deficit reflected on page 14, would you
25 agree that, just adding the numbers, that

1
2 the number in the lower right-hand corner
3 would change from a disadvantage to an
4 advantage?

5 A. Yes, sir.

6 Q. I want to hand the witness
7 another document, TWU 7. Again, Mr.
8 Brundage, let's be careful of this
9 document because it's marked
10 confidential. I'd ask you just to look
11 at it, let me know if you recognize its
12 and then I'd ask you to specifically
13 focus on page 13 of that document.

14 A. I do recognize the document
15 and I'm opening to 13.

16 Q. Can you generally, without
17 disclosing any of the numbers, tell us
18 what is reflected on page 13?

19 A. 13 sets out what we have
20 suggested is our labor cost gap to our

21 competitors.

22 Q. Now, in the bottom column
23 there's a total labor gap number. Do you
24 see that?

25 A. Yes, sir.

129

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2 Q. Let's not say what that is,
3 but is there any relationship between
4 that number and the total labor savings
5 that American has been looking for from
6 its unions in connection with this
7 motion?

8 A. It was used as a reference
9 point to triangulate against what the
10 labor ask was that was produced by the
11 business plan.

12 Q. And these various
13 subcategories above, there's one, two,
14 three, four, there's six of them, are
15 those -- were those -- are those

16 generally at least accurate as to the
17 extent of the various categories'
18 contribution to the labor gap?

19 A. Again, using averages they
20 are.

21 Q. And let me start at the top?

22 MR. SHERWOOD: And is it okay
23 if I say the categories on the left
24 without saying numbers?

25 MR. DUFFIELD: Sure.

130

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2 Q. The first category is
3 contractual, do you see that?

4 A. Yes.

5 Q. And the second one is retiree
6 medical and pension under-funding. Is
7 the pension under-funding, retiree
8 medical and pension under-funding, isn't
9 that normally included within
10 contractual.

11 A. In our case, and we were very
12 specific on February 1st when we made the
13 initial presentation to the unions and in
14 fact it was part of my presentation, and
15 we were clear to explain that although we
16 were proposing at that point termination
17 of the pension plans, that it included,
18 we had included the termination, the
19 go-forward pension costs as part of that
20 line.

21 So that was under the savings
22 line, first line in our presentation.

23 Second line in the
24 presentation, were those additional costs
25 that resulted from the under-funded

131

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2 portion of the pension.

3 So in the earlier analysis
4 that we looked at on page -- well, I
5 don't have it in front of me, but the

6 page where we talked about using that
7 methodology of using the averages,
8 pension under-funding of the -- compared
9 to the other carriers would not have been
10 included in that because it's just a
11 contractual provision.

12 Q. Well these other categories,
13 without saying what they are, okay, and
14 without saying the numbers, let's just
15 call them the bottom four categories, did
16 the company do anything to determine how
17 much of each particular gap category was
18 attributable to the M&R group?

19 A. We have done some of that
20 analysis: I don't have it in front of me
21 and I can't recollect it, but over time
22 we have looked at -- just based on the
23 size of the group one of these items, for
24 instance, makes no reference to M&R
25 whatsoever. It's unique to the pilot

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2 group.

3 Q. And what about fleet mix, does
4 the M&R group contribute in any way
5 shape, or form towards that gap number?

6 A. No, sir.

7 Q. And what about other, do you
8 know whether the M&R group contributes in
9 any way, shape or form to that number?

10 A. I think it's very possible,
11 there could be some M&R contributions to
12 that number.

13 Q. But you don't know what the
14 number is?

15 A. I do not.

16 Q. Are what percentage it is?

17 A. I do not.

18 Q. What about seniority?

19 A. Clearly.

20 Q. They do contribute?

21 A. Yes.

22 Q. And do you know what
23 percentage it is?

24 A. I don't have a breakout in
25 front of me.

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2 Q. Do you think that American in
3 terms of M&R people has a seniority
4 advantage or disadvantage vis-a-vis other
5 airlines?

6 A. I believe the longevity of our
7 employees results in higher costs at
8 American than any other domestic carrier
9 we compete with.

10 THE COURT: Counsel, I don't
11 know when you want to take a break.
12 It's reaching that time.

13 MR. SHERWOOD: I wish you
14 could say ten minutes, your Honor,
15 but it's probably --

16 THE COURT: I didn't want to
17 cut you off your examination. I'm
18 just saying I didn't want to

19 interrupt you in the middle of a
20 topic. So I would just ask you
21 whether you find it an appropriate
22 time to break and maybe it will be
23 helpful to take a look at whatever
24 else you want to cover. So let me
25 know.

134

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2 MR. SHERWOOD: Can I have one
3 minute, your Honor?

4 THE COURT: Sure.

5 MR. SHERWOOD: This could be a
6 good time.

7 THE COURT: Certainly.

8 MR. SHERWOOD: This could be a
9 good time. Your Honor, this would
10 be a good time to break.

11 THE COURT: I saw you using
12 various charts in juxtaposition, so
13 I didn't want to interrupt your

14 flow on that.

15 MR. SHERWOOD: I don't have a
16 flow.

17 MR. DUFFIELD: Your Honor, the
18 debtor has a mediation session with
19 Judge Peck today at 1:30, Mr.
20 Brundage wanted to participate in
21 that. Is there any way we could
22 push until then, would you be able
23 to finish by then? And then we can
24 break for lunch at that point, and
25 release Mr. Brundage.

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2 THE COURT: I don't want to
3 put counsel at a disadvantage, so
4 I'll ask counsel what he'd like to
5 do. If you have a preference one
6 way or the other. Again, I know
7 you may want discussions, so that
8 will take place in other places

9 that don't involve me. Do you have
10 a preference? If he wants to take
11 a break now I'll let him do that.
12 If you want to proceed, I'll let
13 you do that, whatever you prefer.

14 MR. SHERWOOD: I think we'd
15 like to break. I'm sorry.

16 THE COURT: All right. So why
17 don't you talk, I would assume
18 we'll just come back and then
19 finish it up and then so I don't
20 think it will do too much damage to
21 other things that may be going on.
22 All right, so let's come back at --
23 do you have a preference as to when
24 to come back depending on other
25 circumstances or just stick with

136

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2 the traditional hour?

3 MR. DUFFIELD: Traditional

4 hour is fine.

5 THE COURT: Thank you.

6 (Luncheon recess: 1:07 p.m.)

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2 A F T E R N O O N S E S S I O N

3 2:13 p.m.

4 THE CLERK: All rise.

5 THE COURT: Please be seated.

6 Proceed.

7 JEFFREY BRUNDAGE,

8 resumed, having been previously

9 duly sworn, was examined and

10 testified further as follows:

11 CONTINUED CROSS EXAMINATION

12 BY MR. SHERWOOD:

13 Q. Good afternoon, Mr. Brundage.

14 I'm going to show you two exhibits.

15 These are AA Exhibits 1206 and 1205.

16 MR. SHERWOOD: Your Honor, do

17 you need copies?

18 THE COURT: If you would be so

19 kind. Thank you very much.

20 Q. Are you familiar with 1205 and

21 1206?

22 A. I don't believe that I've ever

23 looked at these two documents before.

24 Q. Do they, do the numbers on
25 them -- let's look at 1205.

138

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2 A. Yes, sir.

3 Q. You testified on direct that
4 the cost savings that the company sought
5 from the M&R group was \$210 million. Do
6 you remember that?

7 A. Yes, sir.

8 Q. And you'd agree that AA
9 Exhibit 1205 appears to seek total
10 savings in about that range?

11 A. That's correct.

12 THE COURT: Counsel, let me
13 just clarify. I see it says
14 private confidential at the time.
15 Is this private and confidential,
16 or --

17 MR. SHERWOOD: I'm trying not

18 to refer to any of the numbers.

19 MR. DUFFIELD: I think they're
20 public.

21 MR. SHERWOOD: These have been
22 marked as debtor exhibits.

23 MR. DUFFIELD: They're in
24 evidence already.

25 MR. SHERWOOD: They're in

139

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2 evidence already and they're
3 public?

4 MR. DUFFIELD: Yes.

5 THE COURT: Thank you.

6 Q. So these are documents that
7 have already been put into evidence. Do
8 you know what the ask was to the M&R
9 group as of the date of this document,
10 which I believe is February 1st, 2012?

11 A. Yes, sir. \$210 million.

12 Q. Do you know -- if you look

13 above to the outsourcing column.

14 A. Yes, sir.

15 Q. Does that refresh your
16 recollection as to the amount that
17 American was seeking from the M&R group
18 with respect to outsourcing in February
19 of 2012?

20 A. Yes, sir.

21 Q. And turning to the next
22 exhibit, 1206, which is in evidence, the
23 total savings that was sought, this seems
24 to reflect that the total savings sought
25 from the stores group as of February 1st,

140

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2 2012, was 20 million dollars, right?

3 A. Yes, sir.

4 Q. Now, during the course of the
5 negotiations did American's position
6 change with respect to the total savings
7 requested from the stores group in the

8 amount of 20 million dollars?

9 A. Not that I'm aware of.

10 Q. And during the course of the
11 negotiations, did American's positions
12 change with respect to the total savings
13 of 212 million dollars that was being
14 sought from the M&R group?

15 A. No, sir, not that I'm aware
16 of.

17 Q. And in regard to the
18 outsourcing subtotal of 130.3 million in
19 Exhibit 1205, to your knowledge, did that
20 number change during the course of the
21 negotiation between the M&R group and the
22 airline?

23 A. This document is dated
24 February 1st and I don't believe it
25 changed after the February 1st term

3 THE COURT: Counsel, you
4 mentioned a 130 number in 1205.
5 Outsourcing, I just want to make
6 sure I'm looking in the right spot.

7 MR. SHERWOOD: Your Honor,
8 it's in the middle there is, on the
9 left-hand side there's a group
10 called outsourcing and then there's
11 a subtotal number off to the right.

12 THE COURT: So it's all the
13 way to the right-hand side, the
14 subtotal.

15 MR. SHERWOOD: Six year
16 average, your Honor.

17 THE COURT: Six year average,
18 the subtotal. Thank you.

19 Q. Now, did American seek any pay
20 cuts from the M&R or the stores group in
21 connection with their proposals to those
22 groups prior to the bankruptcy?

23 A. Our prior proposals attempted
24 to maintain rates of pay.

25 Q. Were there any cuts from the

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2 existing rates of pay for either of the
3 groups?

4 A. Not that I'm aware of.

5 Q. Do you recall one of the
6 issues that American sought to address
7 was elimination on restrictions of OSM
8 utilization in the base operation, do you
9 remember that issue?

10 A. I do, sir.

11 Q. And if I'm right about this,
12 that's an issue that where you warrant
13 the OSM workers to be able to work in
14 places where they're prohibited by the
15 contract from working right now and the
16 AMTs do that work, am I summarizing that
17 generally?

18 A. I believe you are. We
19 proposed that we would have more folks
20 without a license or performing work that

21 didn't require a license than the OSM
22 classification.
23 Q. Right, and the OSM
24 classification, they get paid about \$10
25 an hour less than the AMT classification?

143

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2 A. On average, yes.

3 Q. You've got to let me finish.

4 A. I apologize.

5 Q. That's okay. They get paid
6 \$10 an hour less, right?

7 A. Yes.

8 Q. So would you agree that would
9 you agree that as a practical matters if
10 OSMs are going to be doing work that AMTs
11 used to do, that this will result in a 10
12 dollar an hour pay cut for many of the
13 members of the M&R union?

14 A. If a person currently is a
15 licensed mechanic, accepts a job as an

16 OSM, it would be at the lower rate.

17 Q. Let's talk about outsourcing
18 for a few minutes. Would you agree that
19 generally speaking, of all of the issues
20 that are negotiated between the airline
21 and particularly the M&R group and the
22 stores group, that outsourcing is a very
23 big issue to the union?

24 A. Yes, sir.

25 Q. And outsourcing is

144

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2 particularly troubling to a union,
3 especially in this negotiation because so
4 many jobs are going to be lost, right?

5 A. Yes, sir.

6 Q. So it's fair to say that
7 during the course of the negotiation the
8 TWU certainly sought to minimize the
9 level of outsourcing that American was
10 proposing, correct?

11 A. Yes, sir.

12 Q. I think you previously
13 testified though that American did not
14 move at all from February 1st, 2012 to
15 March 22nd, 2012 with respect to the
16 outsourcing ask from the M&R group or the
17 stores, true?

18 A. That's true.

19 Q. Now, I understanding that the
20 outsourcing ask, not in terms of dollars,
21 but in terms of percentage, is something
22 like 40 percent of the current work
23 that's being done, American wants the
24 right to outsource that work, right?

25 A. Hours performed.

145

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2 Q. In order to reach its goals,
3 does American need to use all of that 40
4 percent capacity or can it meet its goals
5 with less than that?

6 A. We negotiated a number of what
7 I would describe as unique and new
8 significant, we proposed unique and new
9 significant cultural changes to how we do
10 work, especially in the base. And if
11 those changes are in fact successful, we
12 likely may not need to use the full
13 amount of outsourcing up to the 40
14 percent?

15 MS. LEVINE: Your Honor, I got
16 the --

17 THE COURT: I want one person
18 to handle a witness, so.

19 Q. Did unique and different
20 things you were just discussing, were
21 those negotiated before the bankruptcy or
22 recently?

23 A. More recently.

24 Q. Let's stick to the March 22nd
25 proposal that was on the table, all

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2 right?

3 A. Okay.

4 Q. With respect to that proposal,

5 the 40 percent, 40 percent was still the

6 benchmark, right, you wanted to get the

7 ability to outsource up to 40 percent,

8 right?

9 A. Yes, sir.

10 Q. And getting back the my

11 question, again focusing on March of this

12 year, did the airline need all of that 40

13 percent in order to attain its objective

14 from the M&R group?

15 A. No. If I can continue a

16 little bit. There's a -- there's an

17 issue that we addressed with our joint

18 venture with Rolls Royce at Taesl.

19 Q. Your counsel can ask you that.

20 I want to move this along. Unless you

21 really, unless it's relevant to the

22 question.

23 A. I think it's very relevant

24 because we don't control about 5 percent

25 of the work. That 5 percent of the work

147

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2 is part of this joint venture and that is
3 included in that 40 percent. So we don't
4 need it as long as we have the joint
5 venture. But if the Rolls Royce folks
6 were to pull out we would need that.

7 Q. You'd need all of the 40
8 percent?

9 A. We'd need that full 5 percent
10 of the 40 percent which I'm suggesting is
11 a little bit of head room.

12 Q. So you're saying there's 5
13 percent head room?

14 A. 5 percent head room related to
15 Taesl.

16 THE COURT: What's the last
17 word, it begins with a T?

18 THE WITNESS: It's a joint
19 venture between American Airlines

20 and Rolls Royce. T-a-s-e-l, I

21 believe.

22 MR. DUFFIELD: I believe it's

23 T-a-e-s-l.

24 THE COURT: T-a-e-s-l, thank

25 you.

148

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2 Q. I guess my question is to the
3 extent that all of the 40 percent is not
4 used or needed by the airline going out
5 into the future, during the course of the
6 negotiations did American agree to
7 compensate, put a value on that nonuse in
8 the terms of the negotiations?

9 A. No, we did not.

10 Q. Now, do you know how, in the
11 course of these negotiations, did the TWU
12 request from the company information such
13 as RFPs from outside vendors so that they
14 could properly value the ask for

15 outsourcing?

16 A. I don't know the answer to
17 that question.

18 Q. You don't know whether they
19 asked or you don't know whether it was
20 provided?

21 A. Well, if I can be allowed just
22 to describe my role a little bit. It was
23 one of oversight. I did not participate
24 in any of the direct negotiations with
25 the TWU. I did participate in phone

149

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2 calls and I heard a lot of the dialogue,
3 and so I can comfortably say that he know
4 there was some dialogue over RFPs. But
5 that is the extent of my knowledge.

6 Q. And just -- you understand
7 that the loss of, that the M&R group
8 stands to lose 4200 employees as a result
9 of outsourcing?

10 A. Yes, sir.

11 Q. And 270 is the number for
12 stock clerks, right?

13 A. Yes, sir.

14 Q. Do you know whether in trying
15 to arrive at a value for outsourcing,
16 whether outside quotes or RFPs were used
17 from real vendors?

18 A. I know that the organization
19 has attempted to track to the best of
20 their ability the rates and that are in
21 the marketplace. We have done a little
22 bit of outsourcing, and I know that we
23 obviously have no real rates for that.
24 But I also know that we were obligated to
25 make some assumptions about what we would

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2 be able to negotiate in the future, and
3 those rates would be dependent upon the
4 availability of dock lines, the

5 availability of vendors and a whole host
6 of other circumstances which we really
7 won't know until we actually commission
8 the work. So we used the best available
9 information that we had at the time to
10 develop our proposals.

11 Q. But you didn't use actual RFPs
12 from outside vendors for the work that
13 you intend to outsource, right?

14 A. No, sir, I do not believe we
15 did.

16 Q. And during the course of the
17 negotiations, did the TWU reject the
18 concept of outsourcing entirely? Did
19 they just say no outsourcing, not a
20 single job?

21 A. No, sir.

22 Q. So they did consent to some
23 outsourcing, just not as much as you guys
24 wanted to do, right?

25 A. As much as we needed for the

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2 business plan.

3 Q. Now, are you familiar with an
4 issue during negotiation where there was
5 a proposal by the union to use M&R cabin
6 cleaners as opposed to an outside vendor
7 to do the cabin cleaning work?

8 A. I am familiar that there was
9 an issue, yes.

10 Q. And do you agree that in
11 discussing that issue the M&R group
12 offered to use, to use M&R cabin cleaners
13 to clean the aircraft at a rate which
14 they contended was lower than the outside
15 vendor rate?

16 A. You've caught me on the extent
17 of my knowledge. I don't know that for
18 sure.

19 Q. You don't know anything other
20 than the fact that it was an issue?

21 A. All I know is there was a
22 debate, there was a discussion and

23 proposal back and forth about an
24 alternative method of doing some of the
25 cabin cleaning and I believe it was in

152

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2 Tulsa, and you now have a hundred percent
3 of what I know.

4 Q. Do you know whether the
5 airline rejected the proposal by the TWU?

6 A. I don't.

7 Q. With respect to that issue?

8 A. I don't.

9 MR. DUFFIELD: Your Honor,
10 just so the record is clear, when
11 we're talking about the exchange of
12 proposals for the negotiations,
13 we're talking about negotiations
14 that happened prior to the
15 commencement of the hearing,
16 correct?

17 MR. SHERWOOD: Yes, that was

18 my intention, your Honor.

19 Q. You understood that I was
20 talking about prior to the hearing,
21 right?

22 A. Yes, sir.

23 Q. Do you know whether during the
24 course of the negotiations before March
25 22nd, 2012, that the TWU representatives

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2 were seeking information concerning the
3 proposed cuts in compensation and head
4 count that were going to be proposed for
5 management and nonunion employees?

6 A. Yes, sir.

7 Q. And do you recall during the
8 discussions that the TWU was seeking
9 information concerning management bonuses
10 of more than 200 million dollars since
11 2006?

12 A. To that I am not, I do not

13 know that they specifically asked for
14 information regarding that subject.

15 Q. Let me ask you first, were
16 there -- were there more than 200 million
17 dollars in management bonuses to
18 American's management given since 2006?

19 A. There have been no cash
20 bonuses paid to management since the year
21 2001 for performance in the year 2000.
22 But I am being very specific here because
23 there absolutely was an issue about our
24 long term incentive compensation program.

25 But in every respect from a

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2 compensation perspective, it is
3 absolutely true that no cash bonuses were
4 paid.

5 Q. Were noncash bonuses paid?

6 A. There was long term incentive
7 compensation paid.

8 Q. And what was the value of that
9 long term?

10 A. It was stock based incentive
11 compensation over, on a three year
12 program and in -- over that entire period
13 of time for all the managers in the
14 company you're probably pretty close.

15 Q. And did the TWU
16 representatives request information about
17 that during the course of negotiations?

18 A. I don't know about during the
19 course of the negotiations. But an
20 extraordinary amount of information was
21 provided to the TWU over the course of
22 the past decade because we've had a
23 series of arbitrations and a whole host
24 of other times when that issue was
25 completely filleted.

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2 MR. SHERWOOD: I'm sorry, your

3 Honor, there's one thing I need. I
4 think I just have one more
5 question. I'm sorry I don't have
6 the piece of paper I need.

7 Q. Now getting back to the M&R
8 group, I mean basically they perform
9 largely maintenance functions for the
10 aircraft, correct?

11 A. Yes, sir.

12 Q. During your history with them
13 at American, did management encourage the
14 M&R group to improve their productivity
15 with respect to the maintenance work that
16 was being done at the airline?

17 A. Yes, sir, they did.

18 Q. And how would you describe the
19 performance of the TWU and particularly
20 the M&R group in terms of their
21 initiatives designed at improving
22 productivity for the airline?

23 A. Well, as you know, the M&R
24 group really is split into two groups.
25 We have our base mechanics and we have

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2 our line mechanics. I'm not aware of a
3 lot of work that was done with the line
4 mechanics, but I do know the base
5 mechanics, in fact worked quite hard with
6 us to try to improve efficiency.

7 Q. Are you familiar with an
8 initiative that they undertook with
9 respect to C checks on MD80 aircraft?

10 A. Yes, sir.

11 Q. Was that a successful
12 initiative?

13 A. Yes, sir, it was.

14 Q. What about efforts to reduce
15 the number of AMTs necessary to perform
16 certain maintenance tasks, was that
17 initiative of theirs that they carried
18 out successfully?

19 A. I think if you're referring to
20 the MD 80 line, they reduced the number
21 of mechanics and reduced the amount of

22 time.

23 MR. SHERWOOD: Your Honor, if
24 I could have a minute, I think I'm
25 almost through, but I don't want to

157

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2 sit down just yet.

3 MR. DUFFIELD: Your Honor,
4 when he's done, I may ask for a
5 short break to review my notes as
6 well. Maybe it makes sense to take
7 a five minute break for both of us
8 to review our notes and then go
9 straight through.

10 THE COURT: I have another
11 case that I have to deal with at
12 3:30 on a conference call. People
13 don't have to leave, but I'm just
14 trying to, if people need breaks
15 I'm trying to work around that.
16 But there hasn't been sort of --

17 well, let's take five minutes.

18 (A recess was taken.)

19 THE CLERK: All rise.

20 THE COURT: Please be seated.

21 All right, just a couple of things

22 I want to address as procedures.

23 One is as I said, I do have a very

24 quick phone call at 3:30 in another

25 case. That won't take long, but

158

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2 I'll need to take a break then. If

3 we're in the middle of something I

4 can have them wait for a few

5 minutes, but I don't want to do

6 that for too long.

7 The second is in thinking

8 about the case going forward, we're

9 now at the end of week 2, we

10 clearly are having a week 3 and not

11 in a minor way. We expect I think

12 to finish the unions' case sometime
13 I guess, the best guesstimate would
14 be Monday or Tuesday. I know
15 there's an intent to have a
16 rebuttal case of a couple of days.
17 I've seen reference to that scary
18 term surrebuttal case, but I can't
19 imagine, I mean the sort of
20 diminishing principles that that
21 would be too lengthy.

22 So I would think that we are
23 looking likely to be done sometime
24 near the end of next week as I'm
25 going to lose a little bit of time

159

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2 on a couple of other things
3 including an omnibus on American.
4 So that explanation leads to
5 the following observation. The
6 statute provides for a 30 day

7 timetable to issue a decision from
8 the start of the hearing. As I do
9 the math, that currently would be
10 June 6th for a number of reasons
11 that I don't think anyone counted
12 the two weeks there was a break.

13 It has not escaped my notice
14 that most of these 1113 proceedings
15 are -- I don't know that I've seen
16 one that's been as lengthy as this.
17 And I know some of them have been
18 two or three days. This by the
19 time we're done, this three week
20 record will be considerable and so
21 the question is how do proceed in
22 light of that. I have some ideas
23 and I have some views that I could
24 share, but that may not be the most
25 productive way to kick off that

2 conversation. So what I'd like to
3 do is given the way the statute
4 works I'd like to hear from the
5 debtors as to what they contemplate
6 going forward scheduling-wise.

7 MR. GALLAGHER: Thank you,
8 your Honor. Jack Gallagher for the
9 debtors. As far as scheduling with
10 regard to the decision, we are
11 eager to accommodate the court and
12 we understand that your Honor has
13 suggested two or three worth
14 additional time, and just looking
15 at a calendar, if June 22nd is
16 acceptable to your Honor, that's a
17 date we would be happily consent
18 to.

19 THE COURT: All right. I
20 appreciate that. Again, there's a
21 very considerable factual record
22 here and I think it deserves to be
23 handled, whoever wins or loses,
24 appropriately, particularly because

25 I would expect any decision I would

161

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2 issue would certainly have high
3 likelihood of appeal and I think
4 it's only fair for the reviewing
5 court to have an appropriate
6 detailed decision. So thank you
7 for that. So I will do everything
8 in my power to issue a decision by
9 that date. That's the 22nd is a
10 Friday. Thank you.

11 MR. GALLAGHER: Thank you,
12 your Honor. In light of that
13 extension, the due date for the
14 findings of fact and conclusions of
15 law?

16 THE COURT: I think that sings
17 I'll have the benefit of the
18 evidence being concluded when it's
19 concluded, my thought would be that

20 June 6th, that Wednesday would be a
21 useful date and so if that's
22 acceptable to the parties, if you
23 would get me something by that
24 date. And I think what I had been
25 discussing was something in the --

162

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2 that is page limited because I
3 really, there's a lot details here,
4 I keep using the word granularity,
5 but and the parties' briefs
6 certainly have provided a lot of
7 that, but what I'm looking for is
8 much more, much more of a grappling
9 with the big themes of the case.

10 So my intent would be to have
11 each union's brief be 30 pages and
12 the debtor's be 75. I confess I
13 can't say sitting right here
14 whether that is a wise page

15 limitation. I know some page
16 limitation is wise. So I'll
17 entertain reargument if somebody
18 has little bit of wiggle room. But
19 the intent is to have something
20 that is not a laundry list of every
21 single fact that we've dealt with
22 here because I don't think that's
23 going to be as helpful to me as
24 something that is a much more
25 cogent summarizing of the

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2 positions.

3 MR. GALLAGHER: Thank you,
4 your Honor.

5 THE COURT: So we have 15
6 minutes we might as well make hay
7 while the sun shines.

8 MR. SHERWOOD: Your Honor, I
9 have no further questions on cross.

10 I do want to move into evidence TWU
11 7 and 6 if those have not been
12 introduced into evidence before.
13 So I'd ask that those be accepted
14 into the record as evidence.

15 THE COURT: All right. Any
16 objection?

17 MR. DUFFIELD: No objection,
18 your Honor.

19 THE COURT: All right, they
20 are received.

21 One other thing we should put
22 on our list of scheduling is I
23 think we earlier referred to sort
24 of as a true-up as to what the
25 record consists of. I think I have

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2 a pretty good idea, but for
3 purposes of appellate review,
4 again, just to be careful, you all

5 can discuss that and let me know
6 next week when you'd like to do
7 that. That's obviously less
8 important, but just I think it
9 would be a good thing to do once
10 the trial concludes.

11 Is there any redirect?

12 MR. DUFFIELD: No, your Honor.

13 THE COURT: All right, you're
14 excused. Thank you.

15 MS. LEVINE: Your Honor, I
16 don't think my opening is going to
17 be very long because I understand
18 all the papers your Honor has
19 already received and what you've
20 already heard. I'm just not sure
21 if it's really going to be 11
22 minutes.

23 THE COURT: I'm happy to take
24 a break now. I don't want to do
25 violence to your presentation by

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2 cutting it off midstream. Let me
3 see if I can rustle up the parties
4 and I'll deal with that call very
5 quickly and come out as soon as
6 it's done. Thank you.

7 (A recess was taken.)

8 THE CLERK: All rise.

9 THE COURT: Please be seated.

10 MS. LEVINE: Thank you. Your
11 Honor, Sharon Levine, Lowenstein
12 Sandler, for the Transport Workers
13 Union.

14 THE COURT: I think we're
15 missing a party. So you may want
16 to wait for them.

17 MR. BUTLER: Move for summary
18 judgment.

19 THE COURT: I was going to say
20 now's the time to make that big
21 ask. I understand why they
22 wouldn't be here, because I
23 estimated 15 minutes and actually

24 took 15 minutes, which is not,
25 which is unusual, so.

166

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2 While you were all gone we
3 worked the entire matter out.

4 All right, so let me hear the
5 opening.

6 MS. LEVINE: Thank you, your
7 Honor. Again, Sharon Levine with
8 Paul Kizel, Tania Ingman,
9 Lowenstein Sandler, for the
10 Transport Workers Union, or the
11 TWU.

12 Your Honor, we'd like to
13 address just a couple issues at
14 this time given the way the trial's
15 been structured. Your Honor has
16 substantial briefing and you will
17 hear substantial testimony both
18 from Don Videtich of the Transport

19 Workers Union and from Tom Roth
20 from the Labor Bureau along with
21 our advantage banker from Accordia
22 Group, Henry Owsley.

23 But just to touch upon some
24 issues that are not fully vetted in
25 our brief, with the court's

167

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2 permission, first we would like to
3 clarify that although out of our
4 seven bargaining units five voted
5 to accept the company's last offer,
6 and I would note for the record
7 since there was some colloquy about
8 it before those five bargaining
9 units are the food service clerks,
10 dispatchers, ground school
11 instructors, maintenance controls
12 technicians and simulator
13 technicians. Two of the groups,

14 mechanics & related, stores voted
15 no. None of those votes should be
16 taken as an affirmation of this
17 process or of this business plan as
18 fair or appropriate. Quite simply,
19 they're not. Our members have been
20 faced with a horrible Hobson's
21 choice, a Sophie's Choice. Either
22 they take huge concessions, face
23 huge layoffs and potentially get
24 early out remediation, or they get
25 fired. There is no middle ground.

168

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2 We are facing 9,000 job loss, 4600
3 with the two groups who actually
4 voted no.
5 So if you happen to need help
6 there, if you happen to have moved
7 for American to a location that's
8 now perhaps where American is the

9 sole employer which does apply to a
10 lot of our work force, you don't
11 really have the opportunity to go
12 someplace else or to do something
13 different. This is a cataclysmic
14 decision that these folks are
15 making.

16 THE COURT: Let me just give
17 you the comfort, and perhaps I
18 understand better the point you
19 were trying to make earlier, but I
20 am not taking in any way, shape or
21 form the yes votes to say anything
22 about the business plan. It just
23 means that they're not litigants in
24 the 1113 process and they may have
25 lots of views about the business

169

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2 plan, but they don't have to,
3 they're not here for purposes of

4 the limited purpose we're here for.

5 MS. LEVINE: Just two more
6 sentences on that. So despite the
7 fact that they are being asked to
8 accept concessions that they view
9 as below market, even below market
10 to the other carriers who have gone
11 through the bankruptcy process and
12 even below market to the network
13 carriers it's important to note
14 that although there's been some
15 testimony that alludes to the fact
16 that post-1113 relief it's possible
17 for negotiations to continue.

18 We're not talking about
19 reconsidering the level of wages or
20 reconsidering benefits for existing
21 employees. Once those jobs are
22 gone, they're gone. So we're in a
23 little bit of a different
24 situation.

25 Turning now to the, what I'll

1
2 refer to as the 1113 business plan.
3 More difficult here, your Honor, is
4 that we're faced with negotiating
5 against what we believe is at best
6 a business plan that is not fully
7 formed by any of the constituents
8 in this case and at worst is a
9 business plan that's being put up
10 for purposes of just labor
11 negotiations.

12 You've heard the creditors'
13 committee say in no uncertain terms
14 that they support abrogation of
15 these collective bargaining
16 agreements but that for purposes,
17 for any other purpose they reserve
18 all of their rights, even clarified
19 again yesterday in connection with
20 the cross examination of Mr. Akins,
21 they reserve all of their rights

22 with regard to this business plan
23 for any other purpose, so when it
24 comes time to negotiate the real
25 exit strategy, the real business

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2 plan with the bondholders, with the
3 trade creditors, with the other
4 constituents besides labor, nobody
5 is bounds by this business plan
6 that your Honor is being asked to
7 be bound by today.

8 Similarly, the Pension Benefit
9 Guaranty Corp., although they have
10 actually negotiated a pension
11 freeze, and there is no pending
12 distressed termination or other
13 termination as part of these 1113
14 proceedings, they have been here
15 reminding your Honor that they too
16 reserve all of their rights with

17 regard to this business plan for
18 any other purpose because this
19 capital structure, this business
20 plan is not the business plan that
21 they're committed to as the source
22 of a company that's going to
23 actually fund and pay the pension
24 obligations that the debtor is
25 agreeing to keep going with.

172

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2 And perhaps your Honor even
3 more important, the debtor's own
4 witnesses, the debtor's investment
5 banker testified that prior to the
6 bankruptcy filing and even during
7 the course of this bankruptcy case
8 the debtors were looking at mergers
9 and consolidations as well as
10 working through their business
11 plan. And we also heard testimony

12 that the business plan is still
13 evolving. We've seen three
14 generations of it just through the
15 course of this trial. Coupled with
16 that, we see the new McKinsey
17 retention application that's being
18 expanded to support the looking at
19 all the other alternatives.

20 On top of that, your Honor, we
21 have an actual protocol that's in
22 place between the committee and the
23 debtor to look at strategic
24 alternatives and baked into that
25 process necessarily is comparing

173

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2 those strategic alternatives to a
3 stand-alone business plan, which we
4 fully expect will develop and
5 improve through the course of that
6 ongoing dialogue and through the

7 course of looking at what other
8 alternatives are out there.

9 And we have US Airways which
10 you've heard a banter of testimony
11 about with regard to the nature and
12 extent of its interest, sitting on
13 the sidelines looking at a process
14 that is seeking labor concessions
15 without any accounting for
16 synergies.

17 That's an opportunity to that
18 should be explored and it should be
19 explored with labor at the table.

20 There is no other stakeholder
21 in this case that's being asked to
22 commit to, to invest in, to take a
23 level of concessions solely based
24 upon this business plan which we
25 submit is at best premature and at

2 worst really just put up for this
3 purpose.

4 Your Honor, as the reason for
5 the timing of the 1113 hearing now,
6 as opposed to at a later date, and
7 by the way, you haven't heard from
8 any of the labor groups that they
9 fully expect to emerge from
10 bankruptcy with the status quo, our
11 concern is that the process here is
12 flawed.

13 We've heard the debtor refer
14 to sequencing, not liquidation, not
15 blowing a DIP covenant, sequencing.
16 We interpret sequencing as coming
17 after labor first, taking excessive
18 concessions from labor, below
19 market concessions from labor and
20 then once you have that better
21 base, you get to negotiate the real
22 business plan, the real exit
23 strategy, the real transaction with
24 whoever the ultimate owner may be
25 with the real parties in interest

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2 which apparently don't include
3 labor. We like a seat at the
4 grown-up table.

5 The process here, your Honor,
6 is unusual. Let's talk about what
7 normally happenings. In bankruptcy
8 cases you see Chapter 11s fall into
9 a number of different categories.
10 There's a prepackage or a
11 pre-arranged bankruptcy where the
12 debtholders have agreed to the
13 capital structure coming in,
14 they've already committed to a
15 business plan and often in that
16 process labor is asked, either as
17 part of the prepackaged
18 negotiations to commit in advance
19 to concessionary bargaining or in
20 the Chapter 11 case to commit to

21 concessionary bargaining to buy
22 into a business plan that everybody
23 has already indicated is the
24 business plan.

25 In a normal, more traditional

176

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2 Chapter 11, which perhaps is what
3 this is, there's a process where
4 everybody works together to develop
5 the plan and then you exit from
6 bankruptcy with a business plan
7 where all the constituents
8 participate in its development.

9 That actually, although it
10 hasn't been portrayed that way is
11 what was really happening at US
12 Air, Northwest, United and Delta.
13 At US Air, everybody in the case
14 knew and was buying into the
15 transformation to a low cost

16 carrier and everybody knew that all
17 of the costs and all of the fleet
18 were being marked to a low cost
19 carrier, including America West.

20 In Northwest, everybody was
21 looking at the fact that they were
22 matching themselves to Delta as
23 well as moving their costs down to
24 match what was then market for a
25 network carrier. Same thing with

177

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2 United, when United went through
3 its first 1113 process that was a
4 little bit of an aberration because
5 they were expecting ATS B
6 financing, that fell through. They
7 needed to develop a second business
8 plan, they didn't do it in a
9 vacuum, they did it with the
10 committee, they did it with the ad

11 hoc holders, they did it with the P
12 B GC, they did it with the labor
13 groups. They worked through a
14 process, everybody bought into the
15 business plan and then there was,
16 and then there was an emergence
17 with a capital structure that
18 people believed would create a
19 sustainable go forward business
20 that would be a good investment,
21 that would be a good customer, that
22 would be a good employer.

23 And as it turned out, a good
24 merger candidate.

25 Even when labor concessions

178

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2 come at the beginning of a case,
3 your Honor, they come at the
4 beginning of a case because of DIP
5 covenant defaults or because of, in

6 the case of US Airways, what people
7 believed would be impending
8 liquidation. They don't come
9 because of sequencing.

10 So even in the case of a DIP
11 covenant, while there's banter and
12 commentary about the fact that
13 labor organizations sometimes fear
14 that negotiations between the
15 debtor and the DIP lender often
16 include DIP covenants that are
17 designed to put pressure on labor,
18 it's less egregious actual actually
19 than what's happening here, because
20 in those cases you have a market
21 tested cash flow, a market tested
22 model that forms the DIP, that
23 forms the DIP financing, so you
24 have holders who are either new to
25 the credit coming in and actually

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2 lending new money on that business
3 model, or you have existing holders
4 already in the credit who are
5 re-upping, who are reconfirming
6 that they want to commit new clean
7 dollars to that model. So you
8 don't have a situation where you
9 have liquidity, no emergency, and a
10 stand-alone business plan that
11 nobody is saying is the real plan,
12 and then asking labor to take below
13 market concessions so we can get on
14 with the real case.

15 Your Honor, under 1113 there's
16 an obligation to prove nine
17 elements that have come out under
18 the case law. Those nine elements
19 were intended to protect the labor
20 negotiations and give them a
21 greater protection than you have
22 under 365. If need, if good faith
23 can be proven by a fictitious

24 business plan, or by a best and
25 admittedly unproven and uninvested

180

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2 in business plan, then you're back
3 to the low end of the debtor's
4 business judgment, because the
5 debtor's business judgment is here
6 is it would be a good thing to take
7 unnecessary concessions against
8 labor to negotiate with the other
9 real parties in interest. That
10 takes us back to before Lorenzo's
11 Continental and it does so at a
12 point in time when people are
13 telling us that we're not even
14 entitled to a rejection damage
15 claim or they're negotiating with
16 us and telling us that we're not
17 entitled to a claim as part of the
18 settlement discussion, or they're

19 pointing to case law and saying
20 that in addition to the labor
21 restrictions on the right to
22 strike, you have bankruptcy
23 restrictions on the right to
24 strike.

25 So we're taking 1113 out of

181

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2 the code and we're dropping the
3 standard to even below 365.

4 Your Honor, labor should be
5 permitted to participate alongside
6 of all the other stakeholders in
7 this case in fully vetting an
8 appropriate exit strategy.

9 Even Mr. Brundage just
10 testified that the TWU has always
11 been cooperative with American
12 Airlines to try and do what's best
13 for its members and for the

14 airline. But we need to be given
15 that opportunity. We need to be
16 able to participate, truly
17 participate in that process.

18 Your Honor, it's also
19 troubling that the TWU has been
20 negotiating, and I understand your
21 Honor doesn't want us to go into
22 the past ten years, so I'm just
23 going to fast forward to the 1113
24 process. We've been in Dallas
25 night and day. We've been at the

182

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2 bargaining table night and day,
3 we've been very, very creative with
4 the company to try and come up with
5 alternatives to this large amount
6 of outsourcing that we've been
7 confronted with. The debtor made
8 its first proposal on February 1.

9 We didn't leave until we came --
10 until we got to the point where it
11 was March 22 and even then we kept
12 working at it. We've made
13 counterproposals that were designed
14 to meet the debtor's stated need
15 even though we didn't believe in
16 them, even though we didn't believe
17 in the business plan and even
18 though we're scared of this
19 process. We made those proposals
20 with an eye towards meeting the
21 need that the debtor stated they
22 needed and at the eleventh hour,
23 your Honor, they told us they
24 didn't buy our valuations or they
25 didn't buy the fact that they

183

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2 weren't entitled to all the
3 outsourcing they were seeking.

4 And while I won't go into
5 chapter and verse, the testimony
6 that you're going to hear through
7 the direct testimony, going back to
8 the fact that this is not a newly
9 baked business plan, it was the
10 telling to us as was alluded to by
11 Mr. Brundage, that they're looking
12 for outsourcing based upon expert
13 testimony of estimates. And not an
14 RFP with a real outsourcing
15 solution that provenly saves money
16 at a specific situation, which is
17 what we've seen in other
18 circumstances. I can't even get an
19 insurance company to take a look at
20 a fender-bender unless I show them
21 an estimate. They're asking for
22 hundreds of millions of dollars of
23 us based on anecdotal testimony.
24 If they really expected to execute
25 on this business plan, if they

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2 really needed these savings
3 immediately, they would be ready to
4 pull the trigger and they would be
5 talk into us about exactly what
6 they intended to do when they
7 terminated us and exactly how they
8 would move forward with this
9 implementation of that aspect of
10 their business plan.

11 They're not doing that, Judge,
12 because they're not ready to do
13 that. Sequencing.

14 Your Honor, to sum up, after
15 years of negotiations and then
16 months more of negotiations, the
17 TWU worked tirelessly to try and
18 figure out a way to mitigate the
19 harm that's being imposed upon the
20 4600 at risk employees in M&R and
21 in stores.

22 We would respectfully submit

23 that this 1113 process, despite
24 those efforts has not been one
25 that's been run the way the law

185

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2 anticipated chapter 1113 processes
3 to work. We need to be part of the
4 true business plan alternatives,
5 regardless of whether it's US Air,
6 regardless of whether it's a
7 further developed stand-alone plan,
8 regardless of whether it's an
9 another alternative that hasn't
10 even come to fruition yet.

11 The debtor has confirmed on
12 its direct testimony that it has a
13 fiduciary duty to all of its
14 stakeholders and that labor, that
15 we, that the TWU is one of those
16 stakeholders. We need your Honor's
17 help to make them honor that

18 obligation.

19 Thank you.

20 THE COURT: Thank you.

21 Let me ask which witness you
22 intend to go forward first just
23 because I guess in the perfect
24 world it would be nice to actually
25 be able to finish a witness, but I

186

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2 think it's contemplated that we
3 would end today at five. So I
4 don't know if that's -- but again,
5 if you want to start a more
6 complicated witness. I know you
7 had mentioned essentially your
8 investment advisor, right. So
9 those witnesses tend to be a little
10 bit more lengthy. So what are your
11 plans?

12 MR. SHERWOOD: We're planning

13 on Tom Roth and I think the direct
14 of Mr. Roth would probably be about
15 a half hour, 45 minutes.

16 THE COURT: All right then I
17 guess the thought is we would end
18 up continuing his testimony on
19 Monday. All right. That's fine.

20 MR. SHERWOOD: I don't know
21 that there's a material difference
22 between the length between him and
23 the other witness.

24 THE COURT: I just mentioned
25 if you had two witnesses here you'd

187

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2 do the short one and release them,
3 but that's fine. It's your case
4 and I don't want to interfere with
5 it, I just wanted to throw it out
6 there for what it's worth.

7 MR. SHERWOOD: We call Tom

8 Roth to the stand, your Honor.

9 THOMAS ROTH,
10 called as a witness, having been
11 first duly sworn, was examined
12 and testified as follows:

13 MR. SHERWOOD: Your Honor,
14 does the court have a copy of his
15 declaration?

16 THE COURT: I do indeed.
17 Thank you.

18 MR. SHERWOOD: I'd like to
19 approach and hand the witness a
20 copy.

21 THE COURT: Absolutely.

22 MR. SHERWOOD: For the record,
23 we're going to mark the declaration
24 with all the exhibits attached as
25 TWU 1.

3 BY MR. SHERWOOD:

4 Q. Mr. Roth, can you tell us
5 where you're currently employed?

6 A. I'm employed at the Labor
7 Bureau, Incorporated.

8 Q. And what is the business of
9 Labor Bureau, Incorporated?

10 A. The Labor Bureau is a private
11 consulting firm. We provide financial
12 and economic consulting services to labor
13 organizations, principally in connection
14 with their collective bargaining and
15 related activities.

16 Q. How long have you been
17 employed there?

18 A. The firm is approximately 88
19 years old, but I've been with the firm
20 for 38 years.

21 Q. You've been with Labor Bureau,
22 Inc. yourself for 38 years?

23 A. Yes.

24 Q. And what is your position with
25 the firm?

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2 A. I'm the president of the
3 organization.

4 Q. And just, can you just expand
5 a little bit on of the focus of the Labor
6 Bureau, Inc., what do you guys do? What
7 kinds of services do you provide to your
8 clients and who are your clients?

9 A. Approximately half of my time
10 is spent in providing support, which
11 ranges from managing collective
12 bargaining negotiations to simply
13 providing the financial and economic
14 analysis for my clients at the collective
15 bargaining table.

16 The other half of my time is
17 spent in the preparation and presentation
18 of economic evidence before various
19 boards of arbitration, factfinding panels
20 or in judicial proceedings.

21 My practice is focused, as is
22 the Labor Bureau's, principally in the
23 transportation sector and that would
24 include airlines, railroads, passenger
25 railroads, freight railroads, commuter

190

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2 railroads and major urban transit
3 systems, including the MTA at New York,
4 in New York City and Boston, Washington
5 and similarly sized cities.

6 Q. So in the course of your
7 business, do you normally engage in
8 analysis of terms of collective
9 bargaining agreements?

10 A. Yes, that would be central to
11 the practice.

12 Q. And do you in that regard, do
13 you engage in valuations of particular
14 contract terms in the course of
15 negotiations between labor and

16 management?

17 A. Yes.

18 Q. Now, and in the course of your
19 career, have you engaged in what I'll
20 call compensation analysis, comparing
21 compensation to one labor group versus
22 another labor group at a different place?

23 A. That's absolutely. Over the
24 years, you know, we have developed a
25 database as well as corresponding

191

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2 economic models that analyze collective
3 bargaining agreements and other terms and
4 conditions of work and are able to
5 quantify those terms.

6 Q. Have you ever appeared as an
7 expert witness before?

8 A. I have on many occasions. I
9 have, for instance, in terms of judicial
10 proceedings, I have provided expert

11 reports in approximately 120 cases. And
12 appeared in either deposition or trial in
13 about half of those cases. I have
14 appeared in 20 to 25 presidential
15 emergency boards where I prepared and
16 presented evidence on behalf of labor
17 organizations involved. That represents
18 approximately half of all emergency
19 boards --

20 Q. Holds on, let's just step
21 back, step back. What is, what is a
22 presidential emergency board?

23 A. Under the railway and labor
24 act which of course covers the airline
25 and railroad sectors, the National

192

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2 Mediation Board which is an agency of the
3 federal government, has jurisdiction
4 over, over the -- over the negotiations
5 between the parties. And in the event

6 that the National Mediation Board
7 determines that an impasse persists, the
8 NMB can release what they call release
9 the parties and to self-help which
10 involves either a right to strike on
11 behalf of the employees or right to
12 lockout and impose terms by the employer.

13 There's what is called a 30
14 day cooling off period following the
15 release, and the parties can exercise
16 self-help after that 30 days unless the
17 president of the United States intervenes
18 and appoints a panel, typically of
19 professional arbitrators who hear the
20 case in trial of this kind, where
21 evidence is produced, and then make
22 recommendations.

23 Those recommendations are
24 reviewed by the parties over the course
25 of the following 30 days and often result

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2 in consensual, voluntary collective
3 bargaining agreements and if not, the
4 parties at the end of that period can
5 proceed onto self-help. But as the
6 record indicates, presidential emergency
7 boards have been highly successful in
8 making recommendations that form the
9 basis of voluntary agreements in both the
10 airline and in the railroad sectors.

11 Q. Let me just ask you to focus
12 on your experience in airline cases.
13 Have you represented any labor groups in
14 the context of an airline case collective
15 bargaining situation?

16 A. I have. Both in traditional
17 negotiations and in crisis bargaining
18 such as 1113 (c) cases or in labor cost
19 restructuring cases which are designed to
20 preempt Chapter 11 filings.

21 Q. And in the course of those
22 engagements, have you brought to bear
23 your experience on pricing and evaluation
24 of CBA terms?

25 A. Absolutely.

194

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2 Q. And have you brought your
3 experience to bear on comparative
4 compensation analysis?

5 A. Yes.

6 MR. SHERWOOD: At this time
7 I'd like to have Mr. Roth
8 designated as an expert in pricing
9 and valuation of CBAs and
10 compensation analysis.

11 THE COURT: Any objection?

12 MR. DUFFIELD: No objection,
13 your Honor.

14 THE COURT: All right.

15 Q. Okay. Mr. Roth, I've handed
16 you a binder with your declaration and
17 that has been marked for the record as
18 TWU 1. Do you adopt that declaration as
19 your direct testimony in this case?

20 A. Yes, I do.

21 Q. And are there any errors or
22 typos in that declaration that you want
23 to bring to our attention?

24 A. Actually, there is one that
25 I've -- three that I've uncovered since

195

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2 this was filed. The first occurs at
3 table 1.

4 Q. Right.

5 A. Which is on page 4 of the
6 document. There are two changes there
7 that are not particularly material to my
8 testimony today, but the numbers that --
9 on the first column under head count in
10 the body of the table associated with the
11 instructor ground service and the
12 instructor pilot simulator are reversed.
13 Those should be 93 and 70 rather than 70
14 and 93.

15 The second, again, of no
16 material consequence here, is the maximum
17 wage rate for the simulator technicians.
18 That should be, that's 30 cents higher
19 than what is shown because longevity was
20 omitted inadvertently.

21 Q. And then getting to the
22 attachment.

23 A. Yes, the third one, more
24 meaningful in terms of our understanding
25 of my declaration is attachment A,

196

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2 that's, that TWU proposal there, your
3 Honor, should be dated March 21st rather
4 than March 25th.

5 THE COURT: And that's Exhibit
6 A; is that correct?

7 MR. SHERWOOD: It's attachment
8 A, attachment A to TWU 1 which is
9 in the binder as tab 1. It's in

10 the front of the binder.

11 Q. Okay. So can you just briefly
12 describe what you understood your role to
13 be upon being engaged by the TWU in this
14 case?

15 A. Yes. In the normal course of
16 my work involving the airline industry,
17 as I indicated, I've worked in a number
18 of traditional airline negotiations where
19 we are making progressive changes and I
20 have done so on the major network
21 carriers for the past 20 years. But I've
22 also been engaged in labor cost
23 restructuring cases on 13 or 14 prior
24 occasions, prior rounds of bargaining.

25 Q. What was your role here

197

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2 though?

3 A. Well my role here as well as
4 in those prior cases, was to perform a --

5 to determine whether the targets, the
6 savings targets that were set for the TWU
7 were appropriate under all the
8 circumstances.

9 Secondly, I was engaged to
10 develop costing models so that we can
11 value the changes that are contemplated
12 by the respective parties' proposals to
13 the collective bargaining agreement.

14 Third, I was to develop models
15 which would enable the TWU to compare
16 total compensation between their key
17 classifications and those performing
18 comparable work elsewhere in the
19 industry.

20 Fourth, I was advising on the
21 design of various benefit programs,
22 pension programs, defined contribution
23 programs and various return packages that
24 might be included in the proposals that
25 are passed by the union.

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2 And then I think that's about
3 it.

4 Essentially, the TWU retained
5 me in this case to help their lead
6 negotiators navigate the 1113 (c)
7 process.

8 Q. Let me stop you there because
9 that was really where my next question
10 was going.

11 So when were you engaged, I
12 mean the date of your engagement?

13 A. On or about February 1, 2012.

14 Q. And did you participate in any
15 way with the TWU representatives with the
16 bargaining which occurred between early
17 February and March 22nd?

18 A. I did.

19 Q. Did you attend meetings and so
20 forth?

21 A. I attended the meetings and
22 met regularly and actually continuously

23 with the lead negotiators for the TWU.

24 Q. And you had direct meetings

25 with the airline and its negotiators,

199

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2 correct?

3 A. I did, right.

4 Q. Just generally tell us what

5 you did in this case and what you do

6 normally in order to kind of get up to

7 speed with respect to the terms and

8 conditions of a collective bargaining

9 proposal?

10 A. Okay, I think I understand the

11 question. I mean the first thing I would

12 do is after having signed the

13 confidentiality agreements that were

14 required to obtain the information is to

15 gather the necessary information and do

16 some threshold diligence on the process

17 and where the parties were.

18 And that would include, of
19 course, collecting the collective
20 bargaining agreements, collecting the
21 term sheets representing the proposals
22 that are made by the debtor in this case,
23 and collecting all the supporting
24 information that has been passed by the
25 employer, both publicly and otherwise,

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2 regarding their comparative analysis with
3 other airlines. I looked at the business
4 plan, of course, and studied it.

5 I focused on, collected and
6 focused on the labor pricing, labor
7 costing models that the debtor had
8 developed for purposes of valuing changes
9 that they had proposed in the TWU labor
10 agreements.

11 I'm sure I'm missing -- and of
12 course I bring with me my -- the

13 information that Labor Bureau maintains
14 in a very extensive database, both with
15 respect to terms and conditions of work
16 for similar situated workers elsewhere in
17 the airline industry.

18 Q. Let me stop you there. In
19 terms what your company brings to the
20 table and what you do, is it part of your
21 business to be familiar with what has
22 happened, what is happening, what has
23 happened in past collective bargaining
24 agreements in the railway and airline
25 industry?

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2 A. Absolutely, yes.

3 Q. And so you have a database of
4 things like that?

5 A. We have a database, for
6 example, on airline wages and terms and
7 conditions that date back, goes back to

8 the 1950s.

9 Q. In addition to that, you've
10 been involved personally in some of the
11 airline bankruptcies that we've heard
12 talk of, right?

13 A. I've been involved in all of
14 the recent major 1113 (c) cases involving
15 ground employees.

16 Q. Let me move on because all of
17 this is in your escalation, I just want
18 to kinds of summarize this so we can move
19 it along a little bit.

20 Now, are you familiar with the
21 proposals that have been made by the
22 debtor to the M&R group and the store
23 clerks?

24 A. I am.

25 Q. And given the state of affairs

202

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2 at this point in time, let's focus your

3 testimony, even though you've reported on
4 all of the TWU groups, let's try to focus
5 on the M&R group and the clerks, okay.

6 A. Understood.

7 Q. First of all, can you just
8 tell us what the M&R group is, like what
9 group of employees, union employees at
10 American would fall under the category of
11 the M&R group?

12 A. Yes. I mean by way of
13 reference, your Honor, I have prepared in
14 the declaration table 1 and as you can
15 see there is 11,457 employees at this
16 point in time, which is on or about
17 January 2012 in the M&R group. The key
18 classifications are those which are the
19 most populace in the M&R category, and
20 they would be the base AMTs or aviation
21 maintenance technicians and the line
22 AMTs. And you can see they make up about
23 55 -- I'm sorry, 45 percent of the entire
24 population of the M&R group.

25 The other major classification

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2 of work within that M&R category would be
3 the plant maintenance mechanics, which is
4 approximately 1700 of them. And those
5 would be the mechanics, skilled mechanics
6 who maintained the facilities as opposed
7 to the aircraft of the airline.

8 Q. So that there are
9 approximately 11,500 employees in the M&R
10 core group; is that right?

11 A. That's right.

12 Q. And what do you understand to
13 be the ask in terms of amount of savings
14 that American was seeking from the M&R
15 group under their March 22nd, 2012
16 proposal?

17 A. That's approximately 213
18 million dollars per year, which is an
19 average over a six year period commencing
20 in year 1, which was modeled as 2012.

21 Q. And --

22 A. Under the business plan.

23 Q. And sticking with that March
24 22nd proposal, do you have an
25 understanding as to how many lost jobs

204

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2 that would translate to for the M&R
3 group?

4 A. Yes. By my calculations, that
5 involved, that proposal involved the head
6 count change of approximately 4,620
7 positions, about 3800 of them would be,
8 would be directly outsourced. That is to
9 say positions that would be back-filled
10 by outsourcing. The balance would be
11 lost due to productivity improvement. So
12 I think the answer to your question is
13 approximately 4600.

14 Q. And just to clarify what you
15 just said, of that 4600 or so, about 3800
16 would be lost due to outsourcing,

17 correct?

18 A. That's correct.

19 Q. Now just a little on stock
20 clerks, what are the stock clerks and
21 what do they do?

22 A. The stock clerks, well, they
23 work in the same kinds of a shoulder to
24 shoulder with the AMTs at the base and
25 they maintain the inventory that is

205

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2 necessary for the repair of the aircraft
3 and there are approximately 1300 of them,
4 they make up approximately 6 percent of
5 all. TWU groups and that's the sole
6 classification, if you will, under these
7 -- under the stock clerk collective
8 bargaining unit which is a separate TWU
9 group for collective bargaining purposes.

10 Q. Under the March 22nd, 2012
11 proposal, how many of the stock clerks

12 stand to lose their jobs?

13 A. About 270. And that would be
14 the number of positions that would be
15 adversely affected, would be abolished,
16 some of them through productivity and
17 some of them through direct outsourcing.

18 Q. Now the ask from American from
19 the stock clerks, what was the dollar
20 value of that under the 3/22/12 proposal?

21 A. Under the March 22nd term
22 sheet, it's approximately 21 million
23 dollars per year average over the six
24 year period.

25 Q. Now, let's turn now to your

206

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2 conclusions. Based on your work and your
3 experience, what were your concerns with
4 the March 22nd proposal from the
5 perspective of the TWU during the course
6 of the months of February and March of

7 this year?

8 A. Well following my kind of
9 initial investigation and analysis of the
10 term sheets in performing the valuations
11 and performing some essentially
12 preliminary analysis and investigation,
13 they identified four problems, if you
14 will. All of which could serve as
15 significant, material barriers to a
16 successful negotiations.

17 The first one would be the
18 manner in which the debtor had
19 distributed the required, the allegedly
20 required labor savings.

21 The second would be the extent
22 to which the debtor's position focused on
23 outsourcing. I saw immediately that
24 approximately 61 percent of the total
25 savings target for the M&R group, for

2 example, was associated directly with
3 outsourcing and I knew based on all my
4 experience that that, if it was a
5 problem, that if unaddressed, would be,
6 again, a significant problem in reaching
7 that consensual agreement.

8 The third area or the third
9 problem that I saw immediately was
10 differences that I had with the debtor
11 and the company's analysis, or valuation
12 of changes. So we had value differences
13 that I -- that were based not so much on
14 math, but based upon methodology.

15 Q. Right.

16 A. That I knew would serve as a
17 problem.

18 And then finally, when going
19 into these negotiations in an effort to
20 provide some advice to my -- to the M&R
21 group, I knew that they were at the
22 bottom of the industry in terms of total
23 compensation, at or near the bottom of
24 the industry. I mean I knew that going

25 in because I maintain these files, I

208

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2 maintain their contracts and I knew this
3 from other work that I'm currently doing,
4 for example, on United Airlines. So when
5 I saw on the face of the term sheet the
6 significant additional cuts in
7 compensation, I knew that driving the
8 total compensation for the AMTs down
9 further, below the form in the market
10 rates in the industry would also pose a
11 major problem.

12 Q. When you say the AMTs, do you
13 mean the AMTs and the other members of
14 the M&R group?

15 A. Well the AMTs would be the --
16 I would regard that, the AMT is the in
17 the base actually, he does both base and
18 line, I would regard them as the key
19 classification within the M&R group.

20 They make up 40 or 45 percent of the
21 entire population.

22 There is no problem from an
23 analyst standpoint in making job
24 comparisons or wage and total
25 compensation comparisons to other

209

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2 airlines, because there are similarly
3 situated employees with identical job
4 descriptions.

5 So that for analytical
6 purposes would be the key classification
7 and that's the one to which I'm
8 referring.

9 Q. All right. I want to just
10 briefly ask a few questions about each of
11 the conclusions that you've reached. And
12 let's start with the one about
13 allocation. By allocation, do you mean
14 that, you know, the contribution to the

15 solution should be allocated in
16 proportion to the contribution to the
17 problem?

18 A. Well that's exactly what I
19 mean. I approached the negotiations
20 reflecting on practice and precedent in
21 the industry, and the manner in which the
22 debtors in prior cases, for example, and
23 companies generally have approached the
24 question of determining how an overall
25 labor cost savings target would be

210

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2 distributed among its labor groups, and
3 reflecting on that experience, I
4 immediately determined that what the
5 formula that the debtor here had applied
6 was ill-advised and in fact totally
7 inconsistent with all prior practice and
8 precedent in both in 1113 (c) cases and
9 in other consensual workouts.

10 Q. What was your understanding of
11 the formula that American applied in this
12 case?

13 A. Well, they essentially arrived
14 at a number that they thought was in the
15 aggregate necessary to reduce labor
16 costs. And by the way -- I should add at
17 this point that it is it was not within
18 my scope to question or determine whether
19 or not that overall aggregate target of
20 1.25 billion dollars in labor cost
21 savings was appropriate. As we know by
22 this extensive record, there are other
23 experts who have challenged the propriety
24 of that number and of course challenged
25 the entire business plan, the extent to

211

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2 which it itself was simply used as an
3 instrument to cut labor costs. I am not
4 opining on that and nor was that part of

5 the scope of my work in this case. But I
6 don't want -- I don't want what I say in
7 terms of avocation to be --

8 THE COURT: If you're not
9 opining on it let's just move on.
10 He'll ask the questions, you'll
11 give the answers and we'll move on.

12 Q. Now was the method used by
13 American, the 20 percent cut method, was
14 that the right method in --

15 A. No, absolutely not. There was
16 a --

17 THE COURT: The court reporter
18 is going to take down what both you
19 say, so if you're talking at the
20 same time, we're going to get a
21 muddled transcript. So let's try
22 that again.

23 Q. Was that the method that
24 you've seen used in other airline cases?

25 A. I've not seen it used before

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2 ^ ??.

3 Q. And by virtue of the use of
4 the 20 percent across the board method,
5 was that in any way prejudicial to the
6 TWU group?

7 A. It was. It created a savings
8 target that was unnecessary and
9 excessive, and well above what the level
10 of concession would be in order to reach
11 market rates in the industry for this
12 group.

13 Q. And have you, were you able to
14 quantify that in your report?

15 A. I was.

16 Q. And is that set forth in table
17 10 of your report? I'm sorry. I have
18 the wrong table.

19 THE COURT: Where is it in
20 your report, can you tell us that?

21 THE WITNESS: Was there a
22 question, your Honor?

23 Q. There is a table in your

24 report. We're just looking at the table?

25 A. That would be tables 8, 9 and

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2 10, that series of tables where I
3 developed the extent to which the ask for
4 the TWU exceeded what was appropriate
5 under -- under all the circumstances.

6 Q. Can you just quickly walk us
7 through the table 8, first of all, and
8 tell us what that reflects?

9 A. Table 8 is our numbers which
10 are simply lifted from the company's
11 sources and specifically here what the
12 company referred to is the labor cost gap
13 analysis. This was the effort that the
14 company made in determining the extent to
15 which its labor agreements were driving
16 labor costs which would exceed that of
17 the competition.

18 And so if you see the numbers

19 in -- parenthetically, would mean that
20 this was a disadvantage to American
21 Airlines. In total and averaging across
22 the all labor groups and across all
23 airlines, competitive airlines that was
24 selected by the debtor, there was a 600
25 million dollar annual gap.

214

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2 That is to say that the -- its
3 contract, if the average of the other
4 contracts were applied, their labor
5 expenses would be \$600 million different.

6 Again, this was controlling
7 for the demographics among and between
8 the airlines and essentially taking the
9 terms of these collective bargaining
10 agreements elsewhere in the industry and
11 applying them to the demographics as to
12 say the service curve of the -- at
13 American Airlines.

14 Q. Now, table 9, what does that
15 reflect?

16 A. That's simply a percentage
17 distribution of the numbers that we saw
18 in table 8, indicating that approximately
19 32.2 percent of the \$600 million was
20 associated with a -- with a disadvantage
21 that was driven by the TWU collective
22 bargaining agreements.

23 Q. And table 10?

24 A. Table 10 is a reconstruction
25 of the one -- of the 1.1 million dollar,

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2 or billion dollar ask which the debtor
3 seeks in the aggregate of labor
4 redistributed based upon the labor cost
5 gap analyses that they -- that the
6 company performed.

7 Q. All right, now if you look at
8 the TWU line on able 10, and if you

9 compare the 390.5 million dollars number
10 to the 350 million dollar number.

11 A. Yes.

12 Q. What does that get you?

13 A. Well that's -- the 390 million
14 dollar per year is the average annual
15 labor cost savings target that was
16 assigned to the TWU under the debtor's
17 1113 (c) ask, and if you redistribute
18 that based upon the company's gap
19 analysis, that is to say the extent to
20 which the TWU was contributing to the
21 alleged labor cost problem, that ask
22 would be reduced by 41 million dollars
23 per year.

24 Q. So during the course of
25 discussions, was, were the

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2 representatives of American made aware of

3 this issue?

4 A. Yes, absolutely.

5 Q. And certainly was the TWU
6 aware of this issue?

7 A. The TWU was made aware, the
8 leadership of the TWU and the chief
9 negotiators were made aware of the issue.

10 Q. And so in terms of this first
11 issue, does paragraph 24 of your
12 declaration sort of sum up your
13 conclusion?

14 A. Yes, I think that if you are
15 going to ask of the TWU labor cost
16 concessions that in total are 41 million
17 dollars a year more than what the typical
18 and common approach to allocation would
19 produce, that causes a barrier toward
20 consensual agreement.

21 Q. What about outsourcing,
22 outsourcing was your next, was your next
23 concern, why is outsourcing a problem
24 from the perspective of the M&R group,
25 why don't you just explain that?

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2 A. First of all, it was the
3 magnitude of the outsourcing. Again, 61
4 percent, looking at the M&R group alone,
5 61 percent of the total labor cost
6 concession target of 213 million dollars
7 was directly associated with outsourcing.
8 So that's a huge piece of the target.

9 Labor -- outsourcing is not
10 only the most painful form of concession,
11 it's the form of concession that produces
12 the least amount of credit toward the
13 target because while the outsourced
14 employee forfeits a hundred percent of
15 his compensation, the value that that
16 termination produces is only a fraction
17 of the -- of the total labor cost of that
18 individual because you have to back-fill
19 that position with a vendor. The work
20 doesn't go away, it just gets exchanged
21 from doing it inn in-house and doing it

22 -- outsourcing it.

23 On average, it's like 13 cents
24 on the dollar. For every, for every one
25 -- for every dollar of labor costs that

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2 you save by eliminating a terminated
3 employee, you're producing about 13 cents
4 toward the labor cost target.

5 So when you are seeking 61
6 percent of the 200 or 130 million
7 dollars, approximately, of the labor cost
8 target through this form of concession,
9 it is a -- it creates a serious problem
10 that becomes, if not resolved, they're
11 oftentimes insurmountable because you're
12 asking people to vote to affirm the
13 termination of their own jobs and of
14 course that does not present an
15 economically logical decision for an
16 individual.

17 Q. Can I just make sure I
18 understand something. So if the union is
19 being asked to reach an outsourcing goal
20 and is asked to giving up like a hundred
21 jobs, the union doesn't get credit for
22 the entire cost of that hundred jobs,
23 instead, it only gets credit for the net
24 of those hundred jobs less the cost to
25 replace them with an outside vendor, is

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2 that what you're saying?

3 A. Exactly.

4 Q. And you say that for each job
5 lost the union only gets about 13 cents
6 on the dollar?

7 A. That would be on average.
8 Because the balance would be the expense
9 to the company for replacing the
10 individual service.

11 Q. So in the course of the

12 negotiation, did the TWU focus on
13 providing alternatives to outsourcing?

14 A. Absolutely. When you look at
15 the offer that was made by the TWU that
16 is in evidence here, I believe that's
17 dated March 21st, you'll see that while
18 the union was willing to outsource
19 certain noncore functions like the cabin
20 cleaning, for example, they were
21 nevertheless very much focused on
22 preserving as many jobs as possible
23 through a reorganization of work, and to
24 change the manner in which the aircraft
25 were maintained.

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2 And in that way, you would, if
3 you increased productivity of the work
4 force, you can preserve jobs, but more --
5 and as significantly, you get more value
6 for the jobs that are lost. So that if I

7 improve productivity so as to enable the
8 employer to diminish its, the size of its
9 work force, those jobs that become
10 redundant about be valued at a hundred
11 percent of their worth. So if a person
12 -- so it's dollar for dollar and that's a
13 significant difference in the form of the
14 concession.

15 So obviously, the TWU and its
16 negotiators were very much interested in
17 converting what would otherwise be an
18 outsourced position to the abolishment of
19 a position that would, again, through
20 productivity improvements save jobs and
21 creates greater value.

22 Q. Now, with regard to the
23 employees, the M&R employees that lose
24 their jobs through outsourcing, were
25 they, do you understand whether or not

2 they were to receive severance pay?

3 A. Under the company's proposal
4 of March 22nd, they would receive what
5 was contractual severance pay which had a
6 maximum of 13 weeks of pay. That was,
7 that was status quo, if you will. That's
8 not a new benefit, but that's existing
9 contract language.

10 Q. So that was in the collective
11 bargaining agreement?

12 A. The current collective
13 bargaining agreement. And by the way,
14 there was also a 1250 relocation
15 allowance that under the March 22nd would
16 be eliminated. So it -- that form of
17 benefit went both ways.

18 Q. Did the company charge this
19 amount against the 212 million dollar ask
20 that --

21 A. My understanding is that based
22 upon what my -- my reading of the
23 valuations, the severance pay was not
24 charged against the 213 million dollar
25 per year ask. So that cost was not

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2 added, if you will.

3 Q. Let's talk about the third
4 concern you mentioned which was the
5 valuation of the contract changes which
6 you speak about in your declaration. But
7 one of the things you talk about is
8 terminal values. Can you explain to the
9 court what you mean by terminal values.
10 And just, I haven't done this, but there
11 are some highlighted pieces in your
12 declaration. Those are confidential so
13 if you need to talk about those --

14 A. Understood.

15 Q. -- do so generally.

16 A. Right. Well, as a general
17 proposition, your Honor, terminal value
18 is, is the value that's associated with
19 the contract change that exists when the
20 contract change is fully implemented.

21 That is -- and if you think
22 about it, contract changes that produce
23 savings will have a different savings
24 profile. Some changes that go into
25 effect in year 1 can be implemented

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2 immediately, let's say a wage cut, or
3 let's say an increase in the employee
4 contribution to medical care. Those
5 savings are realized immediately and they
6 care -- they have a savings profile, if
7 you will, that's constant and flat.

8 There are other kinds of
9 savings, however, that are not
10 implemented immediately and they are
11 deferred in their implementation. They
12 nevertheless are structural changes which
13 are very, which represent great sacrifice
14 to the employees, but in terms of the
15 value, they grow over the period of the

16 -- over the six year business plan.

17 And so they are, because they
18 are not implemented immediately, they are
19 discounted to the employee -- to the --
20 against the target in the first few years
21 of the agreement.

22 A third type of terminal value
23 involves a contract change that starts
24 out with a very low savings and then not
25 only grows over the course of the six

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2 year business plan, but continues to grow
3 incrementally in the years that follow.
4 And perhaps is not fully realized in
5 terms of its value to the company in
6 terms of -- in terms of cash flow until,
7 you know, it could be seven, eight, ten
8 years beyond the immediate effective
9 date.

10 So when you make a contract

11 change that involves these large terminal
12 values that do not become realized until
13 down the road, they represent huge
14 sacrifices of the employees, major
15 structural changes in the way we do
16 business, yet the value that is
17 associated with those changes is
18 diminished.

19 And when you diminish any of
20 the value to a contract change because of
21 its -- because you ignore terminal
22 values, that only means that you have to
23 throw more bodies on the fire, you have
24 to terminate more positions in order to
25 make up for the difference between what

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2 you're producing with that change and
3 what the -- what the savings target is.

4 So the more terminal value
5 problems there are, the worse it is for

6 the TWU.

7 Q. Well, can you just refer to
8 paragraph 36 of your declaration and just
9 -- is this a specific example of how the
10 terminal value issue is working against
11 the TWU?

12 A. Yes. I mean --

13 MR. DUFFIELD: I'm going to
14 object to the question. I've been
15 pretty patient, but he's asked a
16 lot of leading questions directing
17 him to something and I haven't
18 objected.

19 THE COURT: Who, what, where,
20 why, when and let him talk.

21 So can you give us an example
22 of terminal values and how they
23 work?

24 A. Yes, your Honor. In fact,
25 there are several, you know, real

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2 examples, examples that we confronted at
3 the bargaining table. One of them is
4 what we, has been referred to as phasing.
5 And this involves outsourcing in
6 particular.

7 Outsourcing, unlike
8 productivity improvement or custom
9 compensation, involve a delay from the
10 time you agree to the change and the time
11 you implement it, ostensibly because the
12 employer is out seeking in -- negotiating
13 contracts with a replacement vendor.

14 And so under the model that is
15 produced by the employer in this case,
16 the outsourcing of nearly all the AMT, I
17 should say, involve -- are not actually
18 implemented until two years out. That is
19 to say beginning in the third year you
20 get full value for these major structural
21 changes.

22 So as a matter of fact, if you
23 took their proposal, that the one that

24 comes to mind is their March 22nd
25 proposal, and if you look at the

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2 outsourcing line which ends in an average
3 of approximately 130 million dollars over
4 the course of the year, if you -- that
5 130 million dollars is about 13 million
6 dollars per year less than what the year
7 6 value is. In other words, it's been
8 discounted because of the length of time
9 it takes to phase in the outsourcing.

10 My position -- that would be
11 one example would be phasing.

12 A second example would be,
13 let's say progression, your Honor. Under
14 the TWU agreement you have
15 classifications that involve wage
16 progressions. So you're hired at a low
17 rate and then you progress automatically
18 up over time and you get to the top rate

19 after five, six, seven years, let's say.

20 Under the March 22nd demand of
21 the employer here, they are insisting on
22 a lengthening of that progression which
23 over the long run of course will lower
24 average rates for that classification.
25 Yet, under the business plan for the M&R

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2 group, there is no growth in total
3 employment over the time -- over this
4 time. In fact, because of the change in
5 the, in the fleet plan, the M&R group is
6 actually diminishing and will only be
7 about diminishing by about 15 percent
8 over the course of the six years.

9 So we're not going to have any
10 new hires. We are not going to have any
11 -- we're going to have a lot of people
12 furloughed, laid off because of
13 outsourcing, with recall rights. So

14 since this new hire progression that they
15 are demanding applies to new hires only,
16 it has no value over the course of the
17 six year period.

18 And while it is a demand of
19 the employer under the March 22nd
20 proposal, it has zero, makes zero
21 contribution to the TWU and the M&R ask.

22 So this is a perfect example
23 of how the management understands that
24 this is a structural change, it carries
25 value for it, it has permanence to it

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2 because it's going to enable them to
3 maintain reduced labor costs going out
4 into the future, yet it makes zero
5 contribution to the savings target over
6 the course of the six years.

7 This is an example of where I
8 would propose and I have proposed that we

9 use acceptable statistical methods to
10 recognize the terminal value that that
11 change produces.

12 So those are two classic
13 examples.

14 Q. Let me ask you about vendor
15 rates. Does the issue of what vendor
16 rates are applied in the outsourcing
17 concept, does that have an impact on
18 valuation?

19 A. Absolutely. And this is
20 another that falls under the category of
21 the valuation problems that the TWU
22 encounters. When you are demanding from
23 the employee group this much outsourcing,
24 you cannot be, in my judgment, cavalier
25 about the determination of the vendor

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2 rate which of course is driving the
3 entire value that's associated with

4 outsourcing and the credit that the
5 organization gets towards the savings
6 target.

7 If you are exaggerating the
8 cost of the vendor who is replacing the
9 American Airlines employee, then
10 obviously you narrow the difference, the
11 difference, which is the savings, and
12 diminish the value for making the change.

13 The carrier here, which I
14 found astounding, recognizes at the
15 get-go, that it has no reliable
16 datapoints when it comes to determining
17 the vendor cost.

18 And that's their term, not
19 mine. No reliable datapoints. So it
20 seems to me that if you have no reliable
21 information on what the cost of the
22 vendor will be, you should not be making
23 a demand of this significance, 40 percent
24 of jobs, 60 percent of the ask,
25 associated with outsourcing.

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2 This is not, by the way, in my
3 experience in the prior 14 cases that I
4 have helped manage, how business was
5 done. Typically, the RFP was the basis
6 of making the estimate. Here it's not.

7 Q. Why don't we switch to your
8 last issue. And I believe you mentioned
9 that the M&R group was at the bottom of
10 the wage scale; is that right?

11 A. That's correct.

12 Q. And why did that concern you
13 with respect to the TWU and these
14 negotiations?

15 A. Well, we -- I knew going in
16 here that the contract, the TWU contract,
17 particularly its M&R agreement, which we
18 are discussing here, was superior from
19 the employee's perspective in terms of
20 scope. That is to say it its limitations
21 on outsourcing were stronger than that
22 which you would typically find elsewhere

23 in the industry.

24 And its limitations on
25 outsourcing were the terms of their

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2 contract which were kind of almost
3 exclusively driving the difference in
4 cost between their contract and the
5 competition and the market rates in the
6 industry.

7 And once you rectify the
8 outsourcing product, you neutralize that
9 to the other airlines, you have
10 eliminated, you have more than eliminated
11 the cost disadvantage associated with the
12 M&R contract.

13 When you then proceed as the
14 debtor does and demanding cuts,
15 additional cuts in compensation, you then
16 overkill, you're taking what the lowest
17 paid AMTs in the industry and driving

18 them further to the bottom of the
19 industry and that is unnecessary if your
20 objective is to neutralize or if it's
21 obviously completely unnecessary if your
22 objective is to establish competitive
23 labor costs.

24 Q. Can you just refer to
25 paragraph 54 of your declaration. There

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2 is a visual, there's a chart there that
3 reflects total compensation per work
4 hour. Can you explain to the court what
5 that is?

6 A. Yes, this is the application
7 of my total compensation model which of
8 course was not developed for purposes of
9 this case, but one which I have applied
10 in my negotiations in this industry and
11 elsewhere. All I did here is populate
12 the model with the terms of -- that were

13 being proposed by American for the M&R
14 group, and in this instance the key
15 classification, line mechanic, and
16 demonstrated that while we were presently
17 at \$46.88 per hour, on a 30 year career
18 average basis, it's below the next lowest
19 at US Air, at US Airways at 49.43. Under
20 the debtor's additional demands, that
21 rate would be driven down \$44.

22 So again, this is simply
23 conforming my conclusion that this is
24 unnecessary and kind of overkill when it
25 comes to the demands that it makes beyond

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2 the outsourcing that it is proposing.

3 Q. And what about paragraph 56,
4 that appears to relate stock clerks?

5 A. This is the same analysis for
6 stock clerks who are presently at 31.23,
7 would be the lowest among the competitive

8 group, and under the management's
9 proposals here that would be driven down
10 further to \$28.73. Again, totally
11 unnecessary if your interest is to make
12 -- is to establish competitive labor
13 costs.

14 Q. Now, do you have APFA 4 there,
15 up there?

16 A. I don't know. Is it here
17 somewhere?

18 Q. It should be. I want you to
19 be careful with this because it is a
20 confidential document.

21 A. I understand.

22 Q. Were you here this morning
23 when we questioned Mr. Brundage about
24 page 14 of this document?

25 A. I was.

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2 Q. And just generally, does this

3 document support any of the points that
4 you've made concerning M&R being at the
5 bottom of the wage scale?

6 A. Yes, it does. I mean this
7 clearly is a -- it's a wholly different
8 kind of analysis. These are not cost per
9 hour. These are aggregate annual costs
10 associated with applying the M&R TWU
11 agreement, comparing it with these others
12 and determining what the differences in
13 aggregate costs would be, annual costs
14 would be under the respective contracts.

15 But, yes, it certainly
16 confirms my conclusions which I've drawn
17 in my total compensation analysis.

18 Q. During the course of the
19 negotiation between the airline and the
20 M&R group, did the airline agree to, in
21 its final proposal, reduce its ask for
22 outsourcing?

23 A. It did not. It it's
24 substantially the same. I detected maybe
25 a million dollars difference in the

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2 aggregate which could be formula noise.
3 I don't know how the difference arose,
4 but there's no substantive difference
5 between their position on February 1 and
6 March 22nd that I could detect on
7 outsourcing.

8 Q. Is it your view that it's
9 necessary for American to emerge from
10 bankruptcy with M&R wages at the bottom
11 of the industry?

12 A. No, of course not, not if --
13 those would not be competitive terms,
14 they would be below competition.

15 MR. SHERWOOD: Your Honor, I
16 think I'm at a stopping point right
17 now. I think I'm done.

18 THE COURT: Let me ask you are
19 you at a stopping point or are you
20 done?

21 MR. SHERWOOD: I think I'm
22 done with direct, your Honor. I
23 would move --

24 THE COURT: I ask because, and
25 I don't blame you, but if you're

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2 given the opportunity to mull over
3 it it always has an expanding sort
4 of effect. So all right, then I
5 think we said we were going to quit
6 at five. So --

7 MR. SHERWOOD: Your Honor,
8 before we quit, can I ask that TWU
9 1 be admitted into evidence.

10 THE COURT: I think what we'll
11 do is we'll do the cross first and
12 then we'll -- it has a way of
13 resolving the objections that are
14 often lodged, so it's proven to be
15 efficient. Don't worry, we won't

16 forget that part of the process.

17 All right. You are discharged

18 for today. You're still under oath

19 for Monday. We'll start Monday at

20 noon in light of the calendar that

21 I have on some other things.

22 Anything else that we need to

23 address before we recess? All

24 right. Thank you very much.

25 (Time noted: 5:01 p.m.)