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2 THE CLERK: All rise.

3 THE COURT: Please be seated.

4 Good morning. What's next?

5 MR. POLLACK: Good morning,

6 your Honor. We expect to wrap up

7 our rebuttal case if not this

8 morning, early afternoon. We'll

9 call as our next witness Alexander

10 Dichter.

11 THE COURT: You're still under

12 oath. Sorry to see you appear to

13 be in less good shape than you were

14 the last time you were here.

15 MR. DICHTER: Well it was sort

16 of your fault.

17 THE COURT: That's what you

18 get for asking.

19 MR. DICHTER: If I hadn't made

20 that flight last time my wife would

21 never have let me go bicycling the

22 next day.

23 THE COURT: I consider myself

24 far enough away from those chain of

25 events that you probably can't

2

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2 establish cause.

3 MR. DICHTER: As long as no

4 one asks me TO raise my left hand,

5 I'm good.

6 THE COURT: Fair enough.

7 MR. POLLACK: I have a series

8 of questions related to that

9 causation.

10 ALEXANDER DICHTER,

11 resumed, having been previously

12 duly sworn, was examined and

13 testified further as follows:

14 DIRECT EXAMINATION

15 BY MR. POLLACK:

16 Q. Let me begin, Mr. Dichter, by

17 asking do you and your colleagues at

18 McKinsey believe American's stand-alone

19 business plan is a viable path forward?

20 A. Yes, we certainly do. I think

21 it's useful to look at these things in

22 pieces. So if we look at the 1.5 billion

23 in the projected labor cost savings in

24 2017, assuming that the court approves

25 the 1113 application, those cost savings

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2 are reasonably concrete, a lot of

3 analysis behind them, a high degree of

4 confidence that those would hit the

5 bottom line.

6 I'd say the same thing for the

7 600 million or so in bankruptcy related

8 cost savings. Those are concrete, known

9 categories. Again, the approved

10 relatively clear where those would fit in

11 the bottom line.

12 The remaining one billion in

13 projected revenue improvements largely

14 come from significant known, and in some
15 cases benchmarkable, gaps to peers that
16 American proposes to close.

17 A large portion of that
18 billion comes from the down-gauging of
19 narrowbody aircraft into regional jet
20 flying with a commensurate reduction in
21 seats per average departure or average
22 seats per departure which has a very
23 clear effect on revenue.

24 The next largest piece comes
25 from the completion of the joint business

4

1
2 agreements, again, we've got both an
3 internal benchmark there which is we know
4 how much American has delivered to date,
5 and we have external benchmarks as well.

6 A much smaller piece, though
7 still important, comes from the expansion
8 of domestic code sharing where again
9 American has its own experience as well

10 as experience in the industry and a very
11 small, very, very small piece coming from
12 some product upgrades that are proposed
13 that its peers wouldn't necessarily
14 match.

15 Everything else that we've
16 talked about and there's been a fair
17 amount of contention about, investment in
18 fully lie flat seats and Wi-Fi and
19 expanded overhead bins and the next
20 investments in the cornerstones are
21 modeled as reductions in revenue
22 degradation as opposed to closure of
23 revenue gap. And so if we look at that
24 billion, that billion is coming from
25 relatively benchmarkable known, clear

5

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2 actions where we really understand the
3 effect of those.

4 And so I then add that up and
5 say we've got a billion and a half in

6 labor costs that are reasonably certain,
7 again, assuming that the application is
8 approved, I say the same for the 600
9 million in bankruptcy related costs and
10 we view the one billion as being a
11 relatively sure bucket as well.

12 Now, you take 3.1 billion, add
13 it to American's projected sort of steady
14 state results in 2017 and you've got a
15 very healthy airline.

16 Q. In your opinion, is it
17 important to develop a viable stand-alone
18 business plan before American evaluates
19 strategic alternatives to that plan?

20 A. Yes. We think that's very
21 important. Again, as I've stated before,
22 there are two reasons here. One of them
23 to be clear is related not necessarily
24 emergence from bankruptcy, but rather the
25 completion of the 1113 process and that's

2 locking in a competitive cost structure.

3 Mergers are very sensitive to

4 labor cost dyssynergies, they're very

5 sensitive to one-off costs, and by

6 exploring mergers with a noncompetitive

7 labor cost structure you are opening, you

8 and your merger partner up to a potential

9 sizable labor cost dyssynergy, which

10 would both reduce the value of that

11 merger and potentially reduce the number

12 of options that you might have.

13 The second, which is related

14 to emergence from bankruptcy, is the

15 ability to have a valuation benchmark,

16 and so if you are trying to protect the

17 value of the estate for stakeholders, you

18 want not only the largest possible pie,

19 but you'd like the biggest slice of that

20 pie.

21 And so as you're negotiating a

22 deal with a partner, you'd like to have a

23 valuation metric to say this is what this

24 enterprise is worth.

25 And the only way to get that

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2 is to go through this process and let the

3 markets value that plan fairly.

4 Q. Now I want to focus your

5 testimony this morning on the criticisms

6 that have been leveled through the

7 unions' experts, principally, at the

8 revenue model and the targeted

9 incremental piece of revenue that you

10 describe as the billion dollars by 2017.

11 A fundamental criticism that's

12 been raised is that American's problem is

13 a network problem, that its relative size

14 disadvantage to its main competitors,

15 United and Delta cannot be overcome.

16 What's your perspective on that?

17 A. I don't agree. Certainly

18 American has some network deficiencies

19 that he proposes to correct, probably

20 chief among those is fewer large regional

21 jets than its peers.

22 But to look at American and
23 say the fundamental issue here is size
24 and network relative to peers I think
25 misses a couple of important points. I

8

1
2 think one is if you look over the last
3 few years, American in 2010 and 2011, as
4 has been pointed out by many, the two
5 years that we have data on the network
6 strategy, 2011 was actually a very good
7 year. 2011 less good, right, that's
8 split 50/50.

9 Two, what we're talking about
10 here, and a lot of people have talked
11 about the prior revenue premium that
12 American enjoyed as being the benchmark
13 here.

14 I think I agree with what most
15 experts have said which is the landscape
16 here has fundamentally changed, a large
17 Delta and a large United is a very

18 different world than American faced a
19 decade ago. And as a result, I don't
20 think anyone believes that American will
21 get back to a revenue premium relative to
22 peers. What we're suggesting is --

23 Q. Is that what the business plan
24 is seeking?

25 A. No, the business plan is

9

1
2 seeking revenue parity to peers, revenue
3 parity to peers, and right now the gap to
4 parity is relatively small. It's been
5 quoted by some experts as a billion, it's
6 been quoted by others as less than that,
7 there are lots of adjustments you can
8 make, but all quotes are in the range of
9 the billion dollars worth of known
10 improvements that are contemplated in the
11 plan.

12 The second issue relates to
13 size. While there are certainly some

14 benefits to mergers, there's no evidence
15 to suggest that large airlines are
16 necessarily more profitable than smaller
17 ones.

18 In fact, if you were to look
19 at a list of the ten largest airlines in
20 the world and the ten most profitable
21 airlines in the world, relatively few
22 airlines on both lists.

23 Q. Let's talk about American's
24 own experience. If you evaluated
25 American's relative profitability in

10

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2 years when it had a size advantage?

3 A. Yes, we have. And during
4 several of the years in which American
5 had both a size advantage and, by the
6 way, a demonstrated revenue advantage to
7 its peers, it still trailed in
8 profitability driven largely by its
9 uncompetitive cost structure.

10 Q. Have you evaluated US Airways

11 profitability in context of its network

12 size?

13 A. We have. US Airways has a

14 smaller network than American. It has

15 fewer sort of large strategic business

16 cities than American. It has a smaller

17 international network than American.

18 International by the way is where we've

19 seen the bulk of the growth and a lot of

20 the profitability in the industry over

21 the last few years. That said,

22 American's relative margins are close to

23 its peer set. It trails United and Delta

24 by a small amount.

25 Q. You said United, did you mean

11

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2 US Airways?

3 A. Sorry, US Airways relative

4 margins are close to its peer set. It

5 trails United and Delta by a small

6 amount, but not by a large amount.

7 Q. What does US Airways account

8 for its ability to maintain

9 profitability?

10 A. Its more than competitive cost

11 structure.

12 Q. Now, in evaluating network

13 size, in your view is it important to

14 focus on regions or markets?

15 A. Size really matters at a

16 market level, and the reason for that is

17 people tend to live in a given city.

18 Q. Because it's been awhile,

19 let's get our definitions down. When

20 you're referring to markets in the

21 airline context define what you mean?

22 A. What we're really talking

23 about is a city and the airports within

24 that city. So we think about the Chicago

25 market as the combination of mostly

2 Midway and O'Hare, you might throw a
3 couple of small airports into that mix.

4 Q. Go on.

5 A. Sure. People live in cities.

6 They don't tend to live in a broad
7 region, the midwest, for instance. And
8 the choice that particularly high value
9 customers make about their airline of
10 choice in the city in which they live is
11 related very much to the ability of that
12 airline to meet the lion's share of their
13 scheduling needs, have products that
14 match their needs and of course have a
15 competitive frequent flyer program. So
16 size is very, very important at a city
17 level.

18 To say that you're the biggest
19 airline in the midwest or the biggest
20 airline in the northeast, if that's what
21 you meant by regions, is significantly
22 less important.

23 Q. Now, Mr. Akins in particular
24 has criticized the projected growth in
25 American's business plan, and the

1

2 specific number is a nonpublic

3 confidential number, so I don't want you

4 to reference the number, but what work

5 did you and your colleagues do in

6 evaluating that projected growth relative

7 to industry and American's prior

8 experience?

9 A. Sure. Again, that growth over

10 the course of the six year period is in

11 total, right. Some people have talked

12 about the total change and literally if

13 you were to measure where we end up in

14 2017 or where American ends up in 2017

15 versus where American is today, that's

16 within a percentage point or two of

17 American's historical average growth rate

18 over six year periods over the last 12

19 years and the industry average growth

20 rate over the last six years as well.

21 And so --

22 Q. Have you prepared a chart to

23 illustrate your point?

24 A. We have.

25 MR. POLLACK: Your Honor, may

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2 I approach?

3 THE COURT: Yes.

4 Q. I'll give you what's been

5 marked as American Exhibit 1778, portions

6 of which are confidential and they've

7 been highlighted. First of all, can you

8 just describe the data sources that you

9 used for this portrayal?

10 A. Sure. This comes from SEC

11 filings and a source called Innovata

12 which compiles multiple data sources

13 together, so this is all publicly

14 available information with the exception

15 of course of the information in the AMR

16 plan column on the left which comes from

17 the Plan For Success.

18 Q. And without discussing the

19 number of the AMR plan column in the
20 left, is it accurate to say that column
21 depicts the overall growth of the
22 business plan over the six year period?

23 A. That is correct.

24 Q. And how does that compare to
25 American's own growth experience dating

15

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2 back 20 years?

3 A. Again, if you look across it's
4 a 21 year period and look at multiple six
5 year revenue growth snapshots within that
6 period, you're within a percentage point

7 --

8 MR. FLICKER: Be careful.

9 It's something that we produced.

10 Q. We will not get that granular.

11 A. Okay. It compares very well.

12 Q. And again, without -- without

13 disclosing the specific differential, how

14 does it compare to your analysis of how

15 the industry as a whole, US airline
16 industry as a whole has done going back
17 to 2002?

18 A. Yes, so we looked at a six
19 year snapshot of the US total growth.
20 Again, within a percentage point or two
21 of what's proposed in the American plan.

22 Q. In particular, Mr. Akins has
23 questioned the growth assumptions
24 underlining the regional jet flying plan
25 as part of American's business model.

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2 And can you explain, I assume you find
3 those assumptions to be reasonable?

4 A. I do.

5 Q. Can you explain why you deem
6 the planned regional growth in the
7 business plan to be reasonable?

8 A. Sure. Well, I believe Mr.
9 Akins had a couple of issues with the
10 proposed regional jet growth. One was

11 the notion that it ought to invite some
12 sort of competitive response. The vast
13 majority of that growth is in existing
14 city pairs where American is proposing to
15 swap larger aircraft, MD80 class aircraft
16 for larger regional jets and in some
17 cases upgrade some smaller regional jets
18 into larger regional jets.

19 That kind of action, swapping
20 out, you know, four aircraft of one type
21 for another type rarely elicits much
22 competitive response.

23 In fact, when you're reducing
24 the aircraft size in a market you're
25 taking out overall capacity and so that

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2 kind of move is often applauded by
3 competitors as it reduces that market's
4 reliance on lower yield traffic.

5 The second issue I believe was
6 the notion that Mr. Akins didn't see any

7 specificity around that growth. In other
8 words, where those regional jets were
9 going to come from, what type of aircraft
10 and where they were going to shall
11 deployed.

12 Again as I think has been
13 pointed out, the company has and has into
14 evidence a reasonably granular plan that
15 shows city pair by city pair, specific
16 proposed frequencies by class of regional
17 jet. What I mean by that is large,
18 medium or small. That by the way is a
19 very typical way that airlines plan for
20 regional jet capacity inasmuch as once
21 you know how much jets you need of a
22 certain size, you then go out to the
23 available providers of those aircraft and
24 submit a bid and see what comes back.

25 Q. We're going to come back to

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2 the level of granularity in the plan in a

3 few moments, but with regard to this
4 criticism in particular, Mr. Akins used
5 Chicago as an illustrative example and
6 said the plan fails to account for
7 United's likely reaction to American's
8 planned growth in Chicago.

9 A. Sure.

10 Q. What's your reaction to that?

11 A. Again, without getting into
12 specific details, the proposed goal in
13 Chicago over the course of the six year
14 period is both lower than the proposed
15 growth in any other cornerstone and lower
16 than industry demand growth projections
17 over that time.

18 And so a large portion of the
19 activity increase in Chicago is, again,
20 increases in frequencies associated with
21 a smaller aircraft, smaller -- fewer
22 seats per departure.

23 Q. Stepping back then, the
24 criticism has been made that the
25 cornerstone strategy to date has been a

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2 failure and can't be the basis of a

3 viable forward looking business plan.

4 Let me break that down into both

5 components.

6 Do you believe the strategy to

7 date has been a failure?

8 A. No, I don't.

9 Q. And can you amplify your

10 thinking?

11 A. Sure. Again, I alluded to

12 this earlier, but American's revenue

13 performance today relative to peers is,

14 in my view, very explainable by the

15 concrete actions that are proposed in the

16 business plan, meaning post those actions

17 American should have revenue performance

18 at parity with its peers. And so revenue

19 performance at parity with peers is the

20 very definition of a working strategy in

21 a competitive industry.

22 Q. And how does the business plan

23 address American's relative size

24 disadvantage, for one, going forward?

25 A. Sure. It addresses it in a

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2 few ways. First of all, it does make

3 important investments in the corner

4 cities where American is currently strong

5 and so it's -- let's call those

6 enforcement kinds of investments, so

7 taking places where American has strength

8 and making those places stronger still.

9 It --

10 Q. What cities are you referring

11 to?

12 A. Dallas and Miami particularly.

13 In New York and Los Angeles, where there

14 are many players in both cities, American

15 is proposing to take a stronger position,

16 although not necessarily a leading

17 position in those cities, and most of

18 those investments are targeted at closing

19 a growth deficit rather than, you know,
20 necessarily making a big change in market
21 share.

22 So if you look at where
23 American's proposed market share ends up
24 in Los Angeles and New York at the end of
25 the period, it's very close to where it

21

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2 is today.

3 The other key element that
4 addresses size of course is the use of
5 partnerships to expand the network
6 synthetically, both the completion of the
7 joint business agreements and the
8 implementation of enhanced domestic code
9 sharing.

10 Q. We're not going to review the
11 testimony that you've given already in
12 this proceeding, but obviously it's your
13 view that those assumptions are
14 reasonable?

15 A. Yes, absolutely.

16 Q. Now, one of the criticisms

17 that we've heard is that the growth that

18 is embedded in the business plan would

19 lead to supply/demand imbalances in

20 certain regions in certain times and that

21 in those circumstances the business plan

22 fails to adequately account for the

23 pricing impact of any such imbalance.

24 Do you agree with that point?

25 A. I do not.

22

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2 Q. Let me first by asking on what

3 basis did Mr. Akins evaluate the supply

4 and demand projections?

5 A. Mr. Akins I'm sure looked at

6 supply and demand on multiple dimensions,

7 but I believe the analysis that

8 underpinned his criticism was an analysis

9 that looked at American's proposed

10 capacity growth rate in a given year or

11 in a given region-to-region flow compared
12 to industry demand growth and made the
13 assertion that it was somehow imprudent
14 to out-grow industry demand by a large
15 margin. And that if you did out grow
16 industry demand by a large margin this
17 would have a negative impact on revenues,
18 meaning you'd need to discount seats in
19 order to fill the planes.

20 Q. Do you agree is that the
21 appropriate prospective to assess this
22 question?

23 A. No, I don't agree. I think
24 what you have here is a relativity issue
25 and what I mean by that is when an

23

1
2 individual carrier is growing off of a
3 reasonably small base, it can grow a lot
4 without fundamentally altering the
5 supply/demand balance in the industry.

6 So if I've got an airline that

7 has a single flight a day out of a city
8 and I add a second, I've grown by a
9 hundred percent.

10 Now it may be that market is
11 only growing by one percent per year and
12 my 100 percent growth has virtually zero
13 impact on the overall market growth that
14 we're looking at.

15 And so where we see revenue
16 impact certainly is where the joint
17 action of multiple carriers leads to
18 industry capacity growth that is in
19 excess of industry demand growth. That
20 is absolutely the case.

21 Q. And in light of Mr. Akins'
22 criticism, have you evaluated the last 15
23 years worth of industry data on the
24 industry supply and demand equilibrium?

25 A. Yes, we have. The first thing

3 Q. Let me just stop you. You
4 prepared an exhibit to illustration your
5 evaluation, haven't you?

6 A. Yes.

7 Q. Let me give you what we've
8 marked as American Exhibit 1777.

9 A. Thank you.

10 Q. This is not a confidential
11 document.

12 A. So the first thing that
13 occurred to me when I heard this
14 criticism is that carriers out-grow the
15 industry all the time and often by large
16 margins. And by the way, appear to
17 suffer no, at least consistent detriment
18 from those actions.

19 This is a look at the last 15
20 years or so of industry ASM growth,
21 that's capacity growth, available seat
22 mile growth and industry RASM, that's
23 revenue per available seat mile growth.
24 What you've got on the top part of the
25 chart, you've got a solid line which is

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2 the average industry ASM growth in every

3 given year, with ASM growth being on the

4 left-hand side. So in 1996 the industry

5 grew just over 2 percent.

6 The dotted line on the top is

7 the ASM growth of the fastest growing

8 airline in that year. And so in 1997 the

9 industry grew at 2 point something

10 percent, Continental, that's D0, grew at

11 approximately 14 percent. So that's a,

12 you know, six times-ish, five times-ish

13 margin on industry growth rates.

14 So you could look at that top

15 part of the chart and say all right, that

16 only suggests that other carriers have

17 been as reckless as others are claiming

18 American is proposing to be over the

19 course of the next few years. But then

20 you look at the bottom and ask yourself

21 well, what was the RASM, the revenue per

22 available seat mile, so the revenue

23 quality performance growth of the carrier
24 that out-grew the industry by the most
25 and let's compare that to average RASM

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2 growth and let's take 1998 again as an
3 example. In 1998, Continental out-grew
4 the industry by a significant factor.
5 Continental enjoyed revenue quality, so
6 unit revenue growth of 4.5 percent and
7 the industry as an average during that
8 same year had revenue unit growth of 1.2
9 percent.

10 And if you stand back and look
11 at all the datapoints, what you see is in
12 roughly 50 percent of the cases, the
13 airline that outgrew the industry the
14 most was in at least the top half of
15 industry revenue growth performance. The
16 other 50 percent in the bottom half.

17 Q. What does this analysis
18 suggest to you about the correlation that

19 Mr. Akins proposed between American's

20 capacity growth and industry demand?

21 A. It suggests that A, airlines

22 do this all the time. And B, there's no

23 evident correlation between an individual

24 carrier's growth rate relative to

25 industry growth rate and their revenue

27

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2 unit performance.

3 Q. Now part and parcel of the

4 criticism is that the business plan does

5 not account for pricing impacts where

6 there are supply and demand imbalances;

7 is that a fair point?

8 A. No, it's not. So first of

9 all, as I said earlier, it is certainly

10 the case that if the industry as a whole

11 outgrows industry demand for a period of

12 time, you will see an impact on prices.

13 And by the way, that happens

14 from time to time and it happens from

15 time to time because airlines receive
16 aircraft at the same time, because there
17 are new route authorities that open up or
18 new slots that open up in certain markets
19 that require airlines to jump on those
20 opportunities early. It happens
21 sometimes because business customers or
22 high value customers all require a
23 certain set of destinations roughly at
24 the same time as part of a holistic
25 offering.

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2 When that happens, you'll

3 typically see a reduction in industry

4 RASM in that market flow.

5 Q. Let me give you an exhibit to

6 help illustrate that point. This is

7 already in evidence as American 1722.

8 A. Thank you.

9 Q. For the record, this is a

10 confidential exhibit. The highlighted

11 entries are nonpublic.

12 So to get around it just very

13 quickly, what is portrayed with the

14 various bars in this table?

15 A. Sure. This is a look at one

16 of the large region-to-region market

17 flows that are addressed in the model and

18 over a five year period in each year the

19 total projected industry supply growth,

20 ASMs, or available seat miles, against

21 projected industry demand growth, and

22 against that, the calculated PRASM or

23 passenger revenue per available seat mile

24 growth in that flow.

25 Q. Let's look at 2013 as an

29

1

2 example.

3 A. Sure.

4 Q. Without reference to the

5 specific numbers, but in 2013 the supply

6 outstrips the demand; is that right?

7 A. It does.

8 Q. And what assumptions does the

9 business plan make in that circumstance

10 relating to PRASM?

11 A. The business plan and the

12 model calculates that in that flow there

13 will be negative PRASM growth in that

14 year as a result of that imbalance. So

15 we're well aware of that effect and it

16 was directly built into the modeling

17 approach in the construction of the

18 business plan.

19 Q. And in 2014 the opposite is

20 depicted, right?

21 A. That's correct.

22 Q. Where supply does not keep

23 pace with demand?

24 A. Exactly, and you see positive

25 PRASM growth.

1

2 Q. In the out years -- yes, I'm

3 reminded, the industry demand piece for
4 each of these years, that includes
5 American's demand within the industry
6 demand, does it not?

7 A. It does.

8 Q. Now, in the out years, 2015
9 through 2017, you testified previously
10 that the model assumes supply and demand
11 at an industry level grow at equilibrium?

12 A. That's correct, so wherever
13 the jumping off points you sort of
14 maintain that equilibrium going forward.

15 Q. Briefly, again, what is the
16 reason for that assumption?

17 A. The reason for that assumption
18 is you model what you can know and we
19 have a very good view on where capacity
20 is headed and how much industry capacity
21 we will see in 2012, 2013 and 2014.
22 Beyond 2014, it's much harder to predict
23 and so we then revert back to long term
24 assumptions, which is over the long term
25 for the most part industry demand and

1

2 supply grow at roughly the same rate.

3 Q. Now, obviously you see that

4 there is a presumed PRASM impact, we're

5 not going to discuss the number, in those

6 years?

7 A. Yes.

8 Q. What does that represent?

9 A. So that number, as it has been

10 brought up in I believe several experts'

11 testimony is what we call the nominal

12 RASM growth rate. And that came from a

13 30 year statistical analysis of RASM

14 change over time.

15 And several critics have said,

16 you know, why would you project that

17 revenue is just going to continue to grow

18 like that. Sure, maybe it's happened

19 over the last 30 years, but that doesn't

20 mean that it's going to continue to

21 happen like that.

22 Q. Is that the assumption of the

23 business plan?

24 A. No, I do think it's worth

25 noting because I don't think it's come up

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2 in the past, just to be clear about the

3 terminology here, this is a nominal

4 growth rate. What that means is this is

5 the rate by which the number changes

6 every year. Again, without getting into

7 the specific number, I think anyone

8 that's looking at the chart will know

9 that historical inflation has been in

10 excess of this number. And so what this

11 really assumes is a year on year

12 reduction in real prices.

13 And that's a reflex of

14 industry behavior over time. Over time,

15 this industry has passed on technology

16 advantages, cost savings to consumers and

17 with that stimulated growth. Ticket

18 prices have gotten less expensive as a

19 percentage of income, let's say, over the
20 last 20 to 30 years and we expect that
21 they will continue to do so net of fuel
22 effects.

23 So this is a relatively
24 pessimistic assumption. I think a
25 relatively realistic one. It's an

33

1
2 important point to make because we're not
3 saying baseline we do nothing and
4 everything grows. We're actually saying
5 baseline we do nothing and things get
6 slightly worse.

7 Q. Several witnesses have
8 asserted that the plan fails to account
9 for any level of competitive response.
10 We've already touched on some examples,
11 but I want to get your -- first of all,
12 before we get into some of the specific
13 allegations, your general reaction to how
14 you thought about competitive response in

15 putting the revenue model together?

16 A. Sure. First of all, I think

17 there's no question that in response to

18 aggressive actions that fundamentally

19 change the industry landscape it's

20 prudent to think about competitive

21 response and competitive responses are

22 somewhat predictable. What I mean by

23 that again to use an example is if the

24 plan contemplated that American built a

25 hub in Atlanta next to Delta, I think it

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2 would be imprudent not to consider

3 Delta's response, first point.

4 Second point you could

5 triangulate reasonably well on what Delta

6 might do.

7 So I think there are two

8 important questions here. One is what

9 American is planning aggressive or

10 landscape changing in any way. And the

11 second is can you reasonably predict what
12 competitors will do in response to what
13 we would view as much more incremental
14 changes.

15 And so to the first question,
16 again, a few datapoints. One, over the
17 six year period American grows in line
18 with its peers and in line with industry
19 growth rate, first point.

20 Q. To be clear, you're talking
21 about in the aggregate?

22 A. In the aggregate.

23 Q. You recognize there are some
24 exceptions?

25 A. We absolutely do that and as

35

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2 we've discussed it's nearly impossible to
3 grow at all without on occasion in
4 specific markets outgrowing peers.

5 Number 2, American's market

6 share in aggregate does not fundamentally

7 change over that period.

8 Number 3, American's market

9 share in its key cities, and most

10 importantly in competitive cities, does

11 not materially change over that period.

12 And if you look at what

13 American is proposing to do from that

14 viewpoint, and you say why necessarily

15 would any airline do anything specific to

16 block these changes. Competitive

17 responses may happen, they may not. Very

18 hard to predict what those will be.

19 Remember that competitive responses are

20 expensive. Airlines tend to respond

21 competitively when they're either very

22 hurt by your actions or they know for

23 sure that their response can cause you to

24 retreat. When those things are not

25 present, it's very often the case that

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2 airlines continue doing what they were

3 doing beforehand.

4 The second point is that

5 competitive responses can vary

6 tremendously in their nature and their

7 impact. In 2010 Delta Airlines launched

8 a significant expansion of its LaGuardia

9 to Chicago operation. I can't remember

10 the number of flights per day, but it was

11 several and it was a direct attack on a

12 very core market for American.

13 American's response at that time was to

14 offer triple frequent flyer miles to its

15 customers flying between LaGuardia and

16 Chicago. And so that's a competitive

17 response, there's no question.

18 Did Delta model that

19 competitive response? I don't know. Did

20 it change their action? No. Did it

21 fundamentally change the nature of the

22 business case? I suspect not.

23 And so our view again is you

24 model what you can know. And the myriad

25 of small competitive responses that may

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2 or may not happen to these reasonably

3 unaggressive moves, you'd literally be in

4 hundreds if not thousands of game theory

5 iterations to try to capture that and

6 you'd have assumption upon assumption

7 upon assumption and we'd be having a very

8 different conversation right now?

9 Q. Let's drill down to a couple

10 of specific points that have been called

11 out. Witnesses have focused on the

12 aggressive, what's been characterized as

13 an aggressive expansion of American's

14 regional jet flying in its business plan

15 and you previously alluded to

16 down-gauging.

17 Can you specifically address

18 the competitive response analysis as it

19 relates to regional jets?

20 A. Sure. American is certainly

21 proposing to dramatically increase its

22 use of large regional jets, there's no

23 question about that. But if you look at

24 where those jets are going and the
25 capacity that they are replacing, A, a

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1
2 significant amount of that capacity is in
3 existing markets and so this is not like
4 where American is planning to start
5 flying to a market that Delta or United
6 has owned, you know, on its own for years
7 and years and American's planning to jump
8 in as a disrupter to this market. Much
9 of it is markets that it's already flown.
10 Second, a lot of that flying is a
11 reduction in gauge from MD80 class
12 aircraft to small aircraft. Again, that
13 kind of change tends to be welcomed by
14 competitors.

15 Some of that flying will be
16 increased gauge from 50 seat aircraft to
17 70 seat aircraft. That's obviously a
18 change.

19 In some cases, if American's

20 competitors are flying 50 seat aircraft
21 it's possible they might jump in with 70
22 seat aircraft. That's not likely to
23 change the revenue assumptions that we're
24 making here by a material amount.

25 Q. A second challenge has been

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2 leveled against the investment, the capex
3 investments in products and services
4 pointing out that American will never be
5 able to catch up to its peers in that
6 regard. What's your view on that?

7 A. First of all, the products and
8 services that we're talking about here
9 are increasingly table stakes and so
10 we're talking about fully flat seats in
11 international business class, we're
12 talking about wireless connectivity
13 onboard the aircraft, increased overhead
14 bins, in-flight entertainment, things of
15 that nature.

16 While it's certainly possible
17 that there are further product
18 enhancements that we haven't thought of
19 yet, in-flight video conferencing, for
20 instance, I'm not sure, the development
21 and lead time on these kinds of products
22 tends to be quite long. There's nothing
23 that I know of in the next three to four
24 years that United or Delta could do that
25 would be beyond a fully flat seat, beyond

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1
2 Wi-Fi connectivity, beyond an enlarged
3 overhead bin. And once American has
4 caught up to its peers, remember that the
5 plan also contemplates that American
6 would have financial performance
7 commensurate with its peers.
8 And so if in 2015 or 2016 or
9 2017 Delta or United were to make an
10 investment in the next great product
11 enhancement, American could invest

12 alongside them at that time. That's
13 something that American has not been able
14 to do over the last several years as a
15 result of its financial performance.

16 Q. Switching years for a moment.

17 One of the specific criticisms that Mr.

18 Akins made was that the plan's use of

19 forward fuel price surveys -- excuse me,

20 curves, is not an appropriate basis to

21 predict future fuel prices. Can you

22 explain why you elected to use the fuel

23 price curves?

24 A. Sure. Well first of all, you

25 have to use something, and that something

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2 ought to be grounded in a number that

3 everyone understands and that is market

4 based and is accepted for something. If

5 you're speculating on fuel prices, you

6 are essentially suggesting that you know

7 more about where fuel prices are going to

8 head than the market does and if that

9 were the case, American ought to be in

10 the oil trading business and not the

11 airline business.

12 There are multiple forecast

13 mechanisms that airlines use to fund

14 their plans. I've seen multiple airlines

15 use the forward price curve.

16 Just for a second to explain

17 what that is. The forward price curve is

18 a current snapshot of actual forward

19 price contracts for future oil. Meaning

20 today investors are committing to buy oil

21 at multiple points in the future at

22 specific prices.

23 And we assume that in total

24 the market is not stupid, perhaps it's

25 not smart but it's not stupid and so

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2 there's no fundamental reason why the

3 market ought to be systematically wrong

4 about where oil prices are going to head.

5 So that's a reasonable forecast

6 mechanism.

7 Other airlines will use a

8 couple of industry standard forecasts

9 that come from more sort of bottom up

10 supply and demand driven analysis. These

11 are generated by industry associations,

12 by universities, in some cases by banks

13 or consulting firms.

14 It's worth noting those

15 forecasts tend to differ significantly

16 one from another. Some of them are

17 significantly more bullish, some of them

18 are significantly more bearish and so

19 each one of those is essentially a bet or

20 a guess.

21 I've seen a number of airlines

22 that simply have a fixed number. So, for

23 instance, a hundred dollars a barrel

24 which seems like a nice round number,

25 it's somewhere in the vicinity of where

1

2 we are today and it's as good a starting

3 point for oil price assumptions than

4 anything else. I think the only thing I

5 can guarantee you is that none of those

6 forecast techniques will be exactly

7 right, and everybody knows that.

8 Q. So recognizing the variability

9 in forecasting process, what assumptions

10 does the business plan make as to the

11 relationship between future fuel prices

12 and revenues?

13 A. Sure. The business plan

14 recognizes and the model recognizes that

15 industry revenue quality tends to follow

16 fuel price, particularly over time in the

17 long run. So airlines can't be

18 unprofitable forever and so fuel prices

19 increase significantly, we pass on those

20 costs to consumers over time and vice

21 versa.

22 The model assumes a hundred

23 percent link for lack of any better data

24 and so in fact in the model, as some have

25 noted, there is an assumption that oil

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2 prices fall slowly over time, that's the

3 current oil forward price curve and

4 that's where that assumption came from.

5 That actually drags revenues

6 down over time as well. Unit revenue

7 down proportionate to the change in oil

8 price.

9 Q. Let me focus you on that

10 point. Mr. Akins testified as follows,

11 that the model did not assume a decrease

12 in revenue associated with a decrease in

13 fuel prices. "I think it's a one-way

14 valve." Is that accurate?

15 A. No, it's not. I don't know

16 what to say to that other than the model

17 does link fuel price to unit revenue in

18 both directions, and in fact there's a

19 fuel tab in the model that clearly lays

20 out both the projected direction of fuel

21 price change and its impact only revenue.

22 Q. Various witnesses have

23 criticized the company for failing to

24 stress test the business plan, do a

25 sensitivity analysis of the business

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2 plan, examine alternate up side or down

3 side scenarios. Before we wade into the

4 topic, I want to just discuss terms with

5 you.

6 How do you apply and

7 understand sensitivity testing as opposed

8 to scenario testing?

9 A. Sure. I'm not sure that these

10 are defined Webster's definitions, but we

11 tend to think of sensitivity analysis as

12 the impact on a model's result based on

13 the change in an input variable.

14 That is very important to

15 understand, A, whether or not a model is

16 working properly, in other words, are you
17 getting the expected result from that
18 change. And B, to understand
19 particularly in simpler models where the
20 tipping points would be where the model
21 would project an outcome that would cause
22 you to do something different. By the
23 way, we did all that and the model is set
24 up to do that. And the McKinsey team
25 took a variety of stakeholders through

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2 the input tabs in the model and I think
3 left everybody with their own version of
4 it to play with.
5 Scenario development is
6 something quite --
7 Q. Before we get to that. So as
8 you understand and interpret the term
9 sensitivity testing, McKinsey performed
10 sensitivity testing on the model; is that
11 right?

12 A. Yes. We moved all the
13 variables, we verified the model was
14 behaving as we expected it to and that
15 the change in input A resulted in an
16 expected change to the output.

17 Q. So now let's turn to scenario
18 testing. First explain what McKinsey did
19 relative to its assessment of strategic
20 scenarios?

21 A. Sure. Scenario testing is
22 something different and so this is
23 looking at a change in what you would do
24 against a possible change in the market
25 environment. And we started on the first

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2 piece, which is what were the variety of
3 things that American might do differently
4 in the stand-alone plan, and as I've
5 testified earlier, we looked both at a
6 smaller airline, we looked at an airline
7 with fewer cornerstones, we looked at two

8 versions of an airline with fewer
9 cornerstones, one in which the removed
10 cornerstone was redeployed into the
11 following four and one in which that
12 capacity was removed.

13 And as I testified earlier,
14 the size of the negative impact on
15 American's results was large enough that
16 the input change required to cause
17 American to make that action was so great
18 that it was out of the realm of
19 likelihood. And so we stopped that
20 analysis as we suggested earlier.

21 Q. You've been criticized for
22 failing to rigorously analyze an up side
23 scenario for American. Can you explain
24 why you didn't deem that to be prudent?

25 A. Sure. Again, anything is

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2 possible, but it's -- the general point
3 to airline planning is to create a plan

4 that represents our best projection of
5 what will happen given a set of inputs,
6 so given a set of decisions, a network
7 plan, a number of aircraft, a set of
8 destinations.

9 The world is often slightly
10 worse than we imagine it will be. There
11 are often downside shocks along the way.
12 There are occasionally upside shocks, if
13 you will, or up side surprises.

14 While the plan gives American
15 the flexibility to react to those
16 surprises, meaning American's aircraft
17 order has a number of options in it that
18 it can exercise to increase the size of
19 its fleet, to chase higher than expected
20 industry growth, it can delay some, not
21 all, but some retirements to, again,
22 increase the size of its fleet.

23 History suggests that as long
24 as you have the ability to react to that
25 up side, to plan for that up side would

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2 be imprudent and that you never go out of

3 business or file bankruptcy because there

4 was more demand than expected. You get

5 in trouble for things being worse.

6 So you need to make sure that

7 the baseline plan is set up to manage

8 multiple environments.

9 Q. One of the specific objections

10 that's been raised is that American

11 failed to provide route level granularity

12 to permit the unions' various consultants

13 to effectively analyze where the growth

14 was projected in the business plan.

15 Mr. Akins testified in

16 particular that there was no route by

17 route analysis available within the

18 business plan for his analysis. Is that

19 a correct statement?

20 A. No. Again, there's route by

21 route granularity in a couple of places.

22 One, again, I believe in IntraLinks

23 American submitted an exhibit which laid

24 out its proposed network plans route by
25 route, airplane by airplane, number of

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2 frequencies by number of frequencies.

3 Q. Let me stop you there because

4 we're going to use a document to

5 illustrate the point.

6 A. Sure.

7 Q. This is marked as American

8 1776. It's a confidential document in

9 its entirety.

10 A. Now this leads to the second

11 point I was going to make which is that

12 the business plan model or the revenue

13 model actually uses this data in a couple

14 of ways and so this is a screen shot from

15 the revenue model. And what this is is a

16 very granular origin and destination pair

17 by origin and destination pair assignment

18 of capacity and growth that drives

19 American's relative market share versus

20 its peers in a given region-to-region

21 cell flow, right.

22 Q. First of all, let me step back

23 and ask you was this data made available

24 to unions and their advisors?

25 A. Yes.

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2 Q. And in what fashion?

3 A. It's in the model, it's -- I

4 believe that the team when they walked

5 the stakeholders through the model walked

6 through every tab. If they didn't walk

7 through every tab, there are no locks on

8 the model, every tab is well labeled.

9 It's a relatively easy to explore model

10 and every stakeholder was left with a

11 functioning copy of the model.

12 Q. So let me first direct your

13 attention to the three columns, first the

14 market column on the far left?

15 A. Sure.

16 Q. What is depicted there?

17 A. So these are city to city

18 origin and destination pairings. So the

19 first column, column A 5, your Honor, is

20 New York City, that's all of the airports

21 in New York, to south Florida, it's all

22 of the airports in south Florida. Here

23 you've got the total passengers in 2011,

24 the total revenue in 2011, and the total

25 revenue passenger miles in 2011. That's

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2 known data.

3 What we did then was took the

4 American network plan and we assigned

5 that capacity to these origin and

6 destination market pairs.

7 Now that's a little bit of a

8 trick because an airplane flies on a

9 route, whereas passengers often fly

10 multiple airplanes to get between city A

11 and city B.

12 And so we allocated American's
13 capacity to these market pairs according
14 to the historical split of passengers on
15 the routes that connect those city pairs
16 together, which is as good a way to do it
17 as any.

18 And so --

19 Q. That's what's shown for 2011?

20 A. That's what's shown -- no,
21 2011 is actual passengers. But if you
22 look at 2012 capacity growth, that's
23 column W, 2013 capacity growth, 2014,
24 '15, '56, that's columns W through column
25 AA, these are projected capacity growth

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2 based on the actual network plan that
3 assigns that capacity to these origin and
4 destination pairs.

5 Now if you continued on from
6 this you'd eventually see industry
7 capacity growth in these markets, that's

8 again a projection, we don't know
9 exactly, but we've assigned the capacity.
10 American's relative QSI or its market
11 share in those market pairs. And so this
12 works up to provide a coefficient in each
13 cell that adds or subtracts from the
14 revenue quality in a given market flow
15 based on American's relative market share
16 in that cell.

17 And so put differently, it's,
18 A, quite granular, but B works bottom up
19 from the actual network plan.

20 Q. Without getting into any of
21 the numbers here, the numbers are
22 expressed in fractions. What do those
23 fractions relate to?

24 A. Sure. So let's just take an
25 example here and I don't think this gives

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2 anything up confidentially if I just

3 randomly pick a cell, but cell Y 6 is,

4 has the number 1.04 and so that means
5 that in that particular flow 2014 to 2013
6 American's capacity grew by 4 percent
7 relative to the prior year.

8 Q. And that's what's depicted in
9 each of these cells shown on this
10 snapshot?

11 A. Exactly. By the way, the
12 other thing that is worth reflecting on
13 is if you look at, and this is a set of
14 origin and destination pairs that are
15 ranked by size, but if you look at the
16 numbers in these columns, there are a lot
17 that are positive and there are a lot
18 that are negative. So a number of .97
19 indicates a negative 3 percent growth
20 relative to the prior year and so again,
21 to the critics who have said that
22 American is recklessly growing in lots
23 and lots of markets, there's a fair
24 amount of contraction here as well as
25 growth.

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2 Q. And this obviously is a screen

3 shot from a larger dataset?

4 A. Yes.

5 Q. Can you give us an estimate of

6 the volume of this particular tab?

7 A. I think that, I think we

8 probably stopped at somewhere in the tens

9 of thousands of origin/destination pairs.

10 Q. A related criticism that Mr.

11 Akins testified to was that when you look

12 at markets in this fashion, New York City

13 as a whole, south Florida as a whole, he

14 testified that you can't buy a ticket

15 from Chicago to Asia and that this is a

16 faulty perspective do evaluate growth.

17 How do you react to that?

18 A. Yes, again, to the specific

19 point that you can't buy a ticket from

20 Chicago to Asia, Mr. Akins is correct.

21 Save a couple of, you know, travel pass

22 products and things like that. But the

23 issue is that's not how the market

24 necessarily plays out. When you add a
25 flight, let's just give a hypothetical

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2 example, when American adds a flight
3 from, let's say, Chicago to Shanghai,
4 that flight is not just serving the
5 Chicago to Shanghai market. In fact,
6 that flight is serving the bulk of the
7 midwestern market, the northeastern
8 market to virtually all of China, a good
9 portion of Southeast Asia and some of
10 south Asia, perhaps even Australasia in
11 the connection with American's partners.

12 And so the capacity that you
13 put in a market is in fact serving the
14 broad region-to-region pairs in which
15 that route sits.

16 And that's how life plays out
17 as well, right. If there's an earthquake
18 in Japan, just to cite a recent example,
19 while you might scale back your schedule

20 to and from Japan by an amount, the
21 quickest value is you put more of the
22 passengers on the flight to Tokyo
23 connecting on to Beijing, Shanghai and
24 Hanoi than you would otherwise
25 necessarily.

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2 The second issue of course and
3 I believe I testified to this earlier is
4 you really can't predict what competitors
5 are going to do at a route by route
6 level, it's just too dynamic. Reasonably
7 clear what competitors are going to do at
8 a region by region level. And so you can
9 predict demand at a region by region
10 level, you can predict supply at a region
11 by region level and in fact, when you go
12 into the market you are dynamically
13 selling on every given route in that flow
14 a whole region to a whole region and you
15 can react to market changes accordingly.

16 I've seen cases where airlines
17 have added routes, a flight in a given
18 airport to airport that had fewer than 5
19 percent of the passengers on average on
20 that aircraft actually flying between
21 those two cities. The remaining 95
22 percent of the passengers connecting from
23 feed points to points beyond.

24 MR. POLLACK: If I can have a
25 moment, Judge.

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2 THE COURT: Yes.

3 Q. I want to correct a mistake
4 that I made, your Honor. If I can direct
5 your attention to Exhibit 1722 once
6 again. I had asked you I think about the
7 supply assumptions?

8 A. Yes.

9 Q. I think I asked you about the
10 demand assumptions, excuse me. What I
11 meant to ask you is is American's demand

12 compared -- let me rephrase that. Is
13 American's capacity embedded in the
14 industry supply that's reflected on this
15 chart?

16 A. Yes, absolutely.

17 MR. POLLACK: Thank you. With
18 that clarification, nothing
19 further.

20 THE COURT: Just have one
21 question maybe you can help me
22 with, which is we just recently
23 were discussing the limits of using
24 sort of city by city as a metric,
25 that you really had to look region

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2 by region, but earlier I had
3 understood you when talking about
4 moving passengers that you really
5 wanted to be focused on cities and
6 not regions. So can you explain
7 what that --

8 THE WITNESS: Sure, that's a
9 good question. The more specific
10 limit is in -- there's actually
11 three dimensions here. There's
12 route, which is a flight from a
13 given airport to a given airport.
14 There's then origin and destination
15 pair which is a passenger journey
16 between city A, regardless of
17 airport, and city B. And the
18 difference of course is that in the
19 origin and destination pair there
20 are multiple ways that a passenger
21 can go. And so if I'm looking at
22 American Airlines flight XYZ from
23 Chicago to Shanghai or Chicago to
24 Beijing, that's a specific flight
25 and that's the only way you can go

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2 if you're on that flight.

3 However, if you're in the

4 origin and destination pair,
5 Chicago to Beijing, there are
6 almost endless ways that you can
7 go.

8 And of course if you're
9 looking at the region to the
10 region, dramatically more
11 possibilities.

12 And so when you're looking at,
13 and the only place where routes are
14 relevant is in your own economics
15 and that you know exactly what it's
16 going to cost to fly an airplane
17 between those two cities. You know
18 the variety of passengers that you
19 might source, and you can have a
20 reasonable projection of the prices
21 that you might be able to charge
22 them for all of the markets that
23 that flight might serve.

24 But your ability to charge
25 reasonable prices to customers on a

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2 given route is related to your
3 strength of sourcing customers out
4 of different cities and the number
5 of cities that you can source
6 customers from.

7 And so in that Chicago
8 example, if you are strong in
9 Chicago and also strong in New York
10 and in Miami and in, you have
11 partners in London and in Latin
12 America and all of these points
13 have city based strength where your
14 airline is relevant to people,
15 those airlines -- those customers
16 will look at your option to fly to
17 Chicago, connect in Chicago onto
18 Shanghai or on to Beijing
19 favorably.

20 Now, the reason that we've
21 looked at origin and destination
22 pair capacity in this tab here is
23 because the relative market share
24 versus competitors plays out in two

25 ways. It plays out at city level.

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2 Meaning if I've got 75 percent of
3 the capacity out of Dallas, that's
4 a lot better than having 5 percent
5 of the capacity out of Dallas.

6 But it also plays out in an
7 origin/destination flow level. So
8 if I have 75 percent of the options
9 between Dallas and Tokyo, that's a
10 lot better than having 5 percent of
11 the options.

12 Maybe to give you a better
13 example, if you have very high
14 market strength in origin and
15 destination pair out of a city in
16 which you are weak you can still do
17 reasonably well, but typically the
18 only way you get that is by having
19 either a lot of strength on the
20 other end, meaning you're taking

21 people and fanning them out to
22 places that other people couldn't
23 serve or you have a route
24 authority or slot that is somehow
25 protected.

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2 So you see some of that where
3 airlines might have a position in
4 the market where they're reasonably
5 small but they've always owned that
6 frequently see and they're able to
7 do reasonably well because they're
8 strong in the origin and
9 destination pair. Does that help?

10 THE COURT: That helps. Thank
11 you.

12 MR. POLLACK: Thank you,
13 Judge, pass the witness.

14 MR. CLAYMAN: Your Honor, can
15 we have about 30 minutes.

16 THE COURT: Is the thought for

17 everyone to get their cross
18 together, as opposed to individual
19 breaks?
20 MR. CLAYMAN: Right, to the
21 extent we can we're trying to
22 coordinate the cross.
23 THE COURT: That's why I
24 asked. That's perfectly fine.
25 Let's do that.

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2 (A recess was taken.)
3 THE CLERK: All rise.
4 THE COURT: Please be seated.
5 Proceed.
6 CROSS EXAMINATION
7 BY MR. CLAYMAN:
8 Q. Mr. Dichter, my name is Rob
9 Clayman. I represent the Association of
10 Professional Flight Attendants. I just
11 want to ask you some questions about your
12 testimony.

13 Let's first go to your chart,

14 which is Exhibit, AA Exhibit 1778.

15 A. I have it in front of me.

16 Q. Now, the last bar is US

17 carrier total industry for 2002 and 2008,

18 correct?

19 A. Correct.

20 Q. Those other bars that you have

21 that compare American's growth are not

22 for the same period, are they?

23 A. No.

24 Q. And do you know what six year

25 increments they used in preparing this

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2 chart between 1990 and 2011?

3 A. Within that period I believe

4 that this is literally every six year

5 increment in that period.

6 Q. Well, do you know if they took

7 all 21 years and divided it by 3.3

8 percent, approximately, and came up with

9 an average?

10 A. That's a good question. I do

11 not know.

12 Q. So you didn't actually prepare

13 this chart?

14 A. No, my team did.

15 Q. So you don't know the basis

16 for the middle bar then?

17 A. How many six year periods and

18 how they were constructed? I mean

19 there's -- I assume that it was literally

20 every six year period.

21 Q. I'm not asking you to assume.

22 You don't know how it was constructed?

23 A. Right, right.

24 Q. And looking at a chart, or

25 table 1776.

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2 A. Yes.

3 Q. Now, what does SPD stands for?

4 A. That stands for strength,

5 privileged and disadvantage.

6 Q. What is that relating to?

7 A. It's relating to the relative

8 market share position that American has

9 in a given city pair to its peers.

10 Q. Isn't it true, Mr. Dichter,

11 that this analysis is a stand-alone

12 analysis that generates a certain amount

13 of additional incremental revenue apart

14 from the global revenue plan?

15 A. Yes. As I stated in my prior

16 testimony, it feeds into the overall

17 revenue in a given region-to-region flow

18 and adds or subtracts from that revenue

19 based on American's relative strength in

20 that flow.

21 Q. But isn't it true that the

22 business plan comes up with a specific

23 amount of additional revenue generated by

24 SPD?

25 A. Yes.

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2 Q. And that stands apart from the

3 other one billion dollars which we've

4 been talking about in terms of revenue

5 growth; isn't that true?

6 A. It's a separate influence on

7 the model which in some cases raises

8 revenue and some cases reduces revenue,

9 but it is not material to the one billion

10 dollars, you're correct.

11 Q. And does this sheet that you

12 have --

13 A. By the way, neither of the

14 huge variety of network changes is

15 material to the one billion.

16 Q. Looking at this, I take it

17 this is a sample page of what you I think

18 described as a multipage document; is

19 that right?

20 A. Yes, it's a multicolumn and

21 multi-row page or worksheet within an

22 overall workbook. So it's printed on

23 pages of the workbook.

24 Q. And isn't it true that this

25 page or the pages that are representative

68

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2 of the SPD analysis do not include any

3 new routes whatsoever?

4 A. It is, I believe it's the case

5 that the capacity associated with the new

6 routes, because we don't have the

7 historical basis for the percentage of

8 passengers that are flying on those

9 routes are not assigned to these flows.

10 Q. So new routes, which is a

11 substantial portion of the business plan,

12 is it not?

13 A. There's a lot of new routes in

14 the plan, yes.

15 Q. That's not reflected in the

16 SPD analysis, is it?

17 A. Not in the same granular way.

18 It is overall.

19 Q. Is it reflected on these

20 sheets? Yes or no?

21 A. I don't -- I mean I honestly

22 can't tell you --

23 Q. Let me help you if I could.

24 It shows in the fourth column from the

25 left 2011, or the first column to the

69

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2 left after market it shows 2011

3 passengers, revenue, and 2011 RPM. If

4 it's a new route you could not have --

5 A. Of course not.

6 Q. Right, so it doesn't include

7 new routes?

8 A. Yes, but that's the baseline.

9 Remember though so where it does include,

10 you're right in that if there is a,

11 because we're starting with 2011 as the

12 baseline, if there is a new route that

13 creates an entirely new city pair flow,

14 then that is not incorporated here.

15 Q. That's all I wanted to know.

16 A. However, all new routes --

17 Q. That's all I wanted to know.

18 All I wanted to know is whether or not

19 the new routes are reflected in this SPD

20 analysis.

21 MR. POLLACK: Let the witness

22 answer the question.

23 THE COURT: The word is

24 reflected and that's kind of a

25 conundrum.

70

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2 MR. CLAYMAN: I didn't mean

3 that, your Honor.

4 THE COURT: I know, I

5 understand it's cross, but I think

6 he's struggling with the word

7 reflected. I think I understand

8 the testimony about the way the

9 routes are not reflected here -- or

10 I'm sorry, are not specifically

11 identified here. I think if you

12 don't have any other questions on

13 this we'll let that be discussed in

14 redirect.

15 MR. CLAYMAN: Thank you.

16 Q. Turning your attention to

17 American Exhibit 1722.

18 A. Yes.

19 MR. CLAYMAN: Excuse me for a

20 minute.

21 Q. This is marked AMR PRASM

22 development in Asia; is that right?

23 A. Correct.

24 Q. Now, this is the industry

25 supply and the industry growth, correct?

71

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2 A. Correct.

3 Q. And you are aware that under

4 the business plan, American's supply to

5 Asia does not conform to the industry

6 pattern; is that a fair statement?

7 A. I'm absolutely aware of that

8 and as I testified earlier, I think

9 that's not remarkable in any way.

10 Q. I'm not asking for you to tell

11 me if you think it's remarkable.

12 A. Fair point.

13 Q. But just as a hypothetical, if

14 in a particular year where it shows, for

15 example, 4.3 percent growth, if you were

16 to assume that the growth was, just for

17 sake of argument, six times that, that

18 American's supply was six times that of

19 the industry, would you think that would

20 have an effect on pricing?

21 A. Not necessarily.

22 Q. Well, in what case would it

23 have an effect on pricing?

24 A. If that growth contributed to

25 overall industry level growth in that

72

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2 region flow, in excess of industry

3 demand, and --

4 Q. So what I guess -- and so if

5 American were to grow, let's just use a
6 number for sake of argument, let's call
7 it 25 percent, so if American were to
8 grow 25 percent and the industry was
9 growing at a rate of 4.3 percent and
10 capacity was matching fly at 4.3 percent,
11 or if demand was matching capacity at 4.3
12 percent, and you have American growing at
13 a multiple of that, why would -- isn't it
14 true that the plan assumes that American
15 will still maintain its yields even
16 though its growth is a multiple of the
17 industry average?

18 A. It does. And that's
19 precisely, or the fact that that is a
20 reasonable assumption is what we're
21 laying out in Exhibit 1777. In 1998
22 Continental grew at 5 times the industry
23 --

24 Q. That's an overall industry
25 analysis. I want to know in Asia when

1

2 you have a multiple of five times the

3 average industry growth, on what basis

4 can you assume that American can maintain

5 its yield when its capacity so far

6 outstrips the industry average?

7 A. Well, let me just do a little

8 math if my head if that's okay, this is

9 not confidential information, I may get

10 this wrong by one flight or so. But

11 today American has one, two, three, four,

12 five, six, seven I believe daily

13 frequencies between the US and Asia,

14 seven. I might miss one, maybe it's

15 eight.

16 A 50 percent increase on seven

17 is an additional 3.5.

18 Q. Frequencies?

19 A. Frequencies per day, three and

20 a half airplanes additional in the market

21 in a market that has literally a hundred

22 flights a day across carriers is not a

23 material increase in supply.

24 Q. But a 4 percent increase on a

25 hundred flights per day is four flights.

74

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2 So if American is growing by three in

3 that instance, it's basically taking up

4 75 percent of the growth; isn't that

5 right?

6 A. Yes. Now, as it turns out --

7 Q. That's all. It's a yes or no

8 question.

9 A. Yes.

10 Q. And if that is the case and

11 American's growth is out-stripping

12 industry demand, in a normal

13 supply/demand analysis, would that not

14 depress American's pricing in a normal

15 supply/demand analysis?

16 A. In the hypothetical case in

17 which American's frequency growth or seat

18 growth is large enough to either absorb

19 all of or perhaps even exceed the total

20 industry demand growth in absolute terms,

21 but not in a relative term, but in
22 absolute terms, meaning if the industry
23 added 50 thousand passengers of demand in
24 a year and American added 60,000 seats in
25 a year, then yes, absolutely.

75

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2 And not only is that the case,
3 but the model is designed to reflect that
4 through American's contribution to
5 overall industry supply.

6 Q. Is there anyplace in the plan,
7 Mr. Dichter, where American's pricing
8 declines because its growth rate is far
9 higher than the industry average in any
10 of the cornerstone cities?

11 A. Only if the industry growth
12 rate in that city to the relevant
13 destination that's represented in the
14 cell exceeds industry projected demand
15 growth.

16 Q. And isn't it true that in the

17 case of Asia, the projected growth for
18 American exceeds capacity in a number of
19 years?

20 A. It does. Again, off what
21 starts as a very, very small base in one
22 of the highest growing markets in the
23 model.

24 Q. And it also exceeds it in
25 terms of demand, does it not?

76

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2 A. I'm sorry?

3 Q. The supply greatly exceeds the
4 demand in the US to Asia market in the
5 business plan?

6 A. American's relative year on
7 year percentage growth exceeds the year
8 on year percentage growth in demand, that
9 is correct.

10 Q. As far as you know, there is
11 no adverse effect on the pricing of the
12 US to Asia market in the business plan

13 because of those imbalances?

14 A. Only if that increase is

15 sufficient to drive industry growth rates

16 above industry demand. And I'm sorry I'm

17 not being schematic, I'm coming back to

18 what I believe is a fundamental point in

19 my testimony.

20 Q. I'll take a break and see if

21 your statements are as circular as I

22 think they are, or I just don't

23 understand it.

24 MR. POLLACK: Objection.

25 THE COURT: Ask a question,

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2 please.

3 Q. Now looking at chart 1720.

4 A. I don't believe I have that in

5 front of me.

6 Q. I think we can get you a copy.

7 While we're waiting, let me just ask you

8 --

9 MR. POLLACK: I can't find a

10 copy.

11 MR. CLAYMAN: You can't find a

12 copy?

13 MR. POLLACK: No. Rob.

14 Q. That's all right, I can ask

15 you another question.

16 MR. POLLACK: We have it.

17 MR. CLAYMAN: Your Honor, you

18 have a copy?

19 THE COURT: I have it.

20 MR. CLAYMAN: May I approach

21 the witness?

22 THE COURT: Yes, please.

23 THE WITNESS: Thank you.

24 MR. POLLACK: I just want to

25 admonish the witness this is a

78

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2 confidential document.

3 Q. Now, looking at this chart

4 which shows the industry demand and the

5 industry supply for 2013 through 2017,

6 I'm going to try to phrase this obviously

7 not to encroach on the confidentiality,

8 you understand what American's supply

9 increase is in 2013 and '14?

10 A. Yes.

11 Q. Let's just assume for sake of

12 argument it is below the supply numbers

13 that are shown on this chart. Isn't it

14 true that in those two years, that the

15 carriers that are growing faster will

16 capture more of the demand than American

17 would because it is not creating a higher

18 amount of traffic, or a higher amount of

19 supply?

20 A. Yes, broadly.

21 Q. And if American did that for

22 two years in a row, then that would

23 result in American being further behind

24 in terms of its market share overall,

25 would it not?

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2 A. If American grew more slowly,

3 yes.

4 Q. Now, you mention that the

5 purpose or one of the key objectives of

6 the plan is for American not to exceed

7 its peers in terms of revenue

8 performance, but to achieve parity; is

9 that correct?

10 A. I wouldn't state that as an

11 objective. I think it's rather a

12 realistic constraint.

13 Q. Now, when you say parity, is

14 that on an industry basis?

15 A. It is certainly with the large

16 network carriers, yes.

17 Q. And so in the five cornerstone

18 cities, does the plan assume that its

19 revenue performance will exceed those of

20 its competitors?

21 A. We don't model competitor RASM

22 at a cornerstone level and the reason we

23 don't is because we don't have that kind

24 of data. But bottom line is American's

25 market share in those cities remains at

80

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2 more or less unchanged over the course of

3 the period. And that's why the revenue

4 changes that make up the one billion are

5 not associated with the network changes

6 and that we didn't see a basis to assign

7 revenue improvements to those changes.

8 Those changes are designed to stop the

9 decline.

10 Q. Isn't it true that in at least

11 one of the five cornerstone cities

12 American is going to undergo substantial

13 growth and increased market share?

14 A. Which one did you have in

15 mind?

16 Q. I'm not sure if I can say.

17 MR. POLLACK: No.

18 Q. So I can tell you which one

19 it's not, no.

20 THE COURT: Maybe there's a

21 document that would assist.

22 MR. CLAYMAN: I don't actually

23 have a document in front of me.

24 Q. But are you aware that there's

25 one market, one cornerstone city where

81

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2 growth is higher, where the market share

3 will increase over the term of the

4 business plan?

5 A. Yes, but moderately.

6 Q. Would you consider 50 percent

7 moderate?

8 A. 50 percent market share change

9 over the course of the five year period,

10 or the six year period, I don't think

11 there's a cornerstone where American's

12 market share increases by 50 percent.

13 Q. And when does American

14 actually achieve revenue parity with its

15 peers?

16 A. I don't remember in exactly

17 what year.

18 Q. Is it in the first two years?

19 A. I don't remember.

20 Q. So sitting here today, you

21 cannot tell us for how long American will

22 lag behind its peers in terms of revenue

23 performance?

24 A. No.

25 Q. Now, Mr. Dichter, you

82

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2 mentioned that if a carrier has a small

3 number of ASMs and it grew a hundred

4 percent, that may not in and of itself

5 trigger a competitive response; is that

6 right?

7 A. Yes.

8 Q. But isn't it true, Mr.

9 Dichter, that in the airline industry

10 ASMs is not the only factor to which

11 other airlines respond competitively?

12 A. That is true.

13 Q. And that in fact it's often
14 done on a route-by-route basis, and that
15 in point of fact, in Los Angeles, when
16 American added a flight from LA to
17 Shanghai, didn't United shortly
18 thereafter also create the same route and
19 provide the same service?

20 A. Yes, they did.

21 Q. And that was a competitive
22 response based on a single route?

23 A. I wasn't involved in that
24 decision. I don't know exactly why they
25 did it.

83

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2 Q. But it would look from all
3 appearances that they were responding to
4 the fact that American had started
5 service to Shanghai out of LA?

6 A. Yes. Could easily have been
7 that they saw that the DOT happily
8 awarded the frequency and thought if they

9 awarded one, they'd award two.

10 Q. But you don't know if in fact

11 that's what happened?

12 A. I don't know the reason why.

13 I know they announced it within a week or

14 so of American's announcement.

15 Q. Would you expect United to get

16 larger in Chicago the next six years, Mr.

17 Dichter?

18 A. We expected and we've modeled

19 that they will.

20 Q. And does American's market

21 share -- actually, I think that's

22 confidential.

23 But I think you've said that

24 the market share in other cities will

25 not, is not going to grow by very much?

84

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2 A. The overall market change in

3 most cornerstones is quite small and the

4 growth varies by cornerstone. Obviously

5 Chicago has the least amount of growth

6 among the cornerstones then.

7 Q. But in order to maintain its

8 market share, if United is also growing,

9 it would have to grow at relatively the

10 same amount, true?

11 A. Somewhere in the neighborhood,

12 yes.

13 Q. And United is American's, or

14 Chicago is United's chief hub, one of its

15 core hubs?

16 A. One of its core hubs.

17 Q. Do you know how much -- I

18 think the plan assumes that United will

19 only grow by the industry average in

20 Chicago; is that correct?

21 THE COURT: Let me ask are we

22 getting into --

23 MR. FLICKER: Any time we're

24 going to assume what the plan is

25 going to do, we should use that --

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2 THE COURT: I mean again,

3 maybe you can ask the same

4 questions without the documents.

5 MR. CLAYMAN: Let me see if I

6 can.

7 Q. Let me ask you if I can ask

8 this question. The overall growth that

9 is assumed for the industry over the six

10 year period, is that a question I can

11 ask?

12 MR. FLICKER: I don't believe

13 so. Because I think the growth

14 projections by this company in the

15 plan are part of the confidential

16 material?

17 Q. Let me just say then in order

18 for American to maintain its market share

19 in Chicago, it would have to grow as much

20 as, or more, as much as United is

21 growing, correct?

22 A. Yes, within a range, but yes.

23 Q. Now I think you listed some of

24 the certain, I think you said certain, I

25 can't remember precisely the word that

1

2 you used, actions that the company

3 intends to take with regard to code

4 sharing and re-gauging, those items. Now

5 those items are not certain in the sense

6 that contracts have not yet been signed

7 with regard, for example, the carriers

8 that will provide the regional feed?

9 A. No, contracts have not been

10 signed. On the other hand, the average

11 rates that are available in the market

12 are well understood and furthermore, the

13 range of variability on those rates

14 wouldn't change the order of magnitude of

15 the profit impact associated with that

16 flying. In other words, if you look

17 across multiple providers, the rates are

18 in a reasonably narrow range and so

19 obviously we'd like to have the best cost

20 structure you possibly could, you might

21 have a slightly higher cost structure, a

22 slightly lower one, but you're going to
23 end up in a very similar number in terms
24 of its overall contribution to the plan.

25 Q. But in fact, are you aware

87

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2 that American has been negotiating with
3 potential providers of regional feed
4 since the beginning of the bankruptcy, or
5 close to the beginning of the bankruptcy?

6 A. Yes.

7 Q. And we're now in the sixth
8 month of the bankruptcy, or seventh month
9 of the bankruptcy. Let me just see if I
10 can point to you, point some information.
11 Again, let me first find out if this is
12 confidential.

13 MR. FLICKER: The entire
14 document is about the company's due
15 diligence.

16 Q. And so you have no idea how
17 far away they are from executing

18 agreements with the providers of that

19 service?

20 A. I do not.

21 Q. And you understand, I think

22 you had it in your declaration, that

23 there are three different ways that an

24 airline can acquire regional feed; is

25 that right?

88

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2 A. I believe I said something

3 like that.

4 Q. Right. And just very briefly,

5 what are those three ways that they can

6 do that?

7 A. I'm not sure if you're

8 referring to something I expanded on in

9 my deposition or something in the

10 declaration. I think it was in

11 deposition. But basically you can take

12 existing aircraft that are in the market,

13 so in other words, a carrier, regional

14 carrier that has aircraft either because
15 it's speculated on those aircraft or
16 because it's had other contracts end and
17 now has those aircraft available and
18 contract existing planes to fly on the
19 behalf of your carrier.

20 The second would be you buy
21 aircraft that you assign to the regional
22 provider and keep on your books. And the
23 third would be that you buy aircraft and
24 assign to the regional aircraft and
25 transfer those aircraft to the regional

89

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2 provider's books.

3 Q. And you understand that

4 American is currently in negotiations

5 with American Eagle regarding, with the

6 American Eagle employees, do you

7 understand that to be the case?

8 A. I know that those negotiations

9 are ongoing. I don't know anything more

10 about them than that.

11 MR. CLAYMAN: If I may have

12 just a moment.

13 THE COURT: While you're

14 reviewing that, I actually have a

15 question about something you asked,

16 you discussed earlier.

17 That page with the chart for

18 the SPD, cannot be included

19 separate and apart from the

20 revenue, the other revenue

21 projection. Could you explain the

22 relationship between those two?

23 THE WITNESS: Sure. In each

24 cell, I think by now we talked

25 about the idea that there are a

90

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2 bunch cells in the model connect a

3 cornerstone to a region and look at

4 the revenue performance in that, in

5 that market.

6 The drivers of revenue that
7 are calculated in the cell are,
8 number 1, the nominal yield growth
9 that we talked about earlier,
10 that's the 30 year average. Two is
11 supply/demand balance, and that's
12 demand as we talked about before
13 coming from the relative market
14 split, relative GDP growth rates
15 and relative GDP to traffic
16 multipliers.

17 And by the way, the GDP growth
18 rates that are in the model for
19 each region are a bottom up
20 country-by-country weighted
21 average. So when one looks at
22 Europe we're actually looking at
23 Germany times the size of Germany
24 plus Greece times the size of
25 Greece. And you know, we reflect

2 and understand the fact that
3 Germany is both a bigger and faster
4 growing market than Greece.

5 Then there are a bunch things
6 that come into that cell and add or
7 subtract, right. One of the things
8 that comes into that cell and adds
9 or subtracts is the output from
10 this SPD analysis. So we're also
11 looking at in a given cell over
12 time as American's market share in
13 that flow changed substantially or
14 not. And if it's changed for the
15 positive, we assume that American
16 gets a small revenue quality kicker
17 as a result of that and if it's
18 dropped there's a small revenue
19 quality degradation as a result of
20 that.

21 So I believe what, the comment
22 was that this is not directly
23 feeding into the supply/demand
24 balance and that's correct, and
25 that's a choice by the way.

1

2 Because we believe, as we've stated

3 earlier, that when you look at

4 overall supply/demand balance you

5 have to look at it at a larger

6 region basis because you can't

7 assign competitive capacity at a

8 route or at an O&D basis.

9 THE COURT: Thank you. I

10 figured I'd ask that question

11 before you concluded in case you

12 wanted to follow up.

13 MR. CLAYMAN: Thank you, your

14 Honor. I have no further questions

15 at this point. Thank you.

16 CROSS EXAMINATION

17 BY MS. KRIEGER:

18 Q. Good afternoon, Mr. Dichter.

19 Kathy Krieger for the Allied Pilots

20 Association.

21 A. Good afternoon.

22 Q. In your direct testimony I
23 think you referred to, again, getting
24 revenue parity with American's peers
25 which you described as large network

93

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2 carriers. Could you describe for us what
3 large network carriers you're considering
4 as American's peers.

5 A. Again, this wasn't a target
6 per se. It was more of let's call it a
7 reality check and so as we looked at the
8 end revenue quality projection in the
9 model, we compared that to Delta, United,
10 US Airways, to make sure that it was in
11 the range that those other carriers were
12 likely to generate to make sure that we
13 weren't targeting something in excess.

14 Because if the contemplated
15 changes in the plan had resulted in a
16 revenue quality higher than those
17 carriers I think that would have caused

18 us to reflect and say that just doesn't

19 feel likely given the way that the

20 industry works today.

21 Q. You also mentioned in your

22 direct testimony regarding growth in

23 regional flying, that a lot of the flying

24 would be a reduction in gauge and I think

25 you specifically mentioned substitution

94

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2 of larger regional jets for MD80s?

3 A. No, it's the other way around,

4 so -- yes, I guess the English is

5 somewhat ambiguous. You are replacing --

6 Q. You are replacing MD80s with

7 large regional jets?

8 A. Larger regional jets. That's

9 correct.

10 Q. And the MD80s are being flown

11 at the mainline?

12 A. They are currently being flown

13 at the mainline, that is correct.

14 Q. You mentioned in your direct
15 testimony today and also on April 26th
16 when you were here that you believed it
17 was important to develop what you call a
18 viable stand-alone plan as a baseline for
19 assessing alternatives. And I think you
20 specified that a viable plan meant at
21 least that you locked in by contract the
22 labor cost reductions you're referring
23 to?

24 A. Yes, and maybe I should be --
25 maybe I'm not using the term contract

95

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2 appropriately, but get approval for the
3 changes that are suggested in the 1113
4 filing either consensually or through
5 some other mechanism, but get to a point
6 where you know that those changes are
7 going to happen.

8 Q. And you're aware, are you not,
9 that if the 1113 motion is granted all

10 that does is reject the old collective

11 bargaining agreement?

12 A. Yes, I am.

13 Q. That does not impose a

14 contract?

15 A. That's correct.

16 Q. And it doesn't impose any

17 terms?

18 A. No, it doesn't. It does to my

19 understanding create a much higher level

20 of certainty that new terms similar to

21 the ones that are contemplated in the

22 plan will be reached.

23 Q. And you've, I assume you

24 followed the course of this proceeding.

25 Are you saying today that you believe it

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2 is a reasonable certainty that the three

3 unions here will agree to the 1113 term

4 sheets that American proposed that call

5 for the 370 million cost reductions for

6 pilots and the counterpart numbers for

7 the TWU and the APFA?

8 A. I'm saying that a counterparty

9 in an M&A transactions would view

10 American's targeted cost structure as

11 much more likely post the 1113 process

12 than before.

13 Q. Because it's likely that the

14 pilots will agree to the March 22nd term

15 sheet proposal?

16 A. They'll get to a number that's

17 in that rein, that's what's happened in

18 other bankruptcy.

19 Q. In other words, not in fact

20 the 1.5 billion in labor cost reductions,

21 but some number below that but above the

22 current --

23 A. No, what I meant is perhaps

24 not through the specific contractual

25 terms that are proposed, perhaps through

2 others, but that get to a similar number.
3 So in other words, I haven't been through
4 the details, but the proposal that the
5 company has on the table has specific
6 actions that would get to the 1.5
7 billion. And my understanding, again
8 from watching these things over the
9 years, the way these things work is that
10 there are negotiations back and forth,
11 some items move one direction across the
12 table, some items move the other
13 direction and what you finally end up
14 with may not be precisely the same line
15 items that you had hoped for, but get you
16 to a very similar number.

17 Q. And in this case you
18 understand how the actual dollar value
19 that the parties are apart in the
20 proposals?

21 A. No, I don't.

22 Q. You don't know that it's on
23 the order of a hundred million dollars,
24 for example?

25 A. No, I don't.

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2 Q. So you -- let's just assume
3 that American does not reach agreement
4 for 370 million dollars in pilot cost
5 reductions, not by any substitution of
6 different bricks in the edifice, but they
7 don't get that number. What does that do
8 to the business plan?

9 A. Well, you have to look at that
10 hundred million dollars in multiple ways.
11 Over the course of the period that's
12 several hundreds of millions of dollars
13 in reduced cash on the balance sheet.
14 That may have an impact on debt rating.
15 That may have an act -- an impact on your
16 ability to invest in capex, requirements
17 for additional financing. We haven't
18 looked at those kinds of follow-on
19 effects but it's not as simple as saying
20 100 out of 3.1 sounds like a small
21 number. Every bit matters if you believe

22 that EBITDAR target is important, and we

23 believe it is.

24 Q. So the only way your business

25 plan can stand is if American gets

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2 exactly that number that's baked into the

3 plan?

4 A. The only way that you get to

5 the targeted EBITDAR margin is if you get

6 every number that is baked into the plan.

7 Q. And you're relying on there

8 being an actual consensual agreement to

9 that?

10 A. Yes.

11 MS. KRIEGER: Thank you. No

12 further questions.

13 MS. LEVINE: No questions,

14 your Honor.

15 THE COURT: All right,

16 redirect.

17 REDIRECT EXAMINATION

18 BY MR. POLLACK:

19 Q. Very briefly, Mr. Dichter.

20 Ms. Krieger just asked you about the

21 replacement of MD80s. Do you know

22 whether or to what extent American's plan

23 intends to redeploy MD80s on the

24 mainline?

25 A. I don't.

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2 Q. And do you have the SPD tab

3 accessible?

4 A. I do.

5 Q. It's Exhibit 1776. Do you

6 recall the colloquy with Mr. Clayman as

7 to whether the new routes are included in

8 the calculations here?

9 A. Yes.

10 Q. Are they accounted for?

11 A. Yes, I apologize, it's a bit

12 of a compound question. It's exactly

13 right that in the baseline there are no

14 new routes and there are no new routes
15 because it's a baseline. This is our
16 starting point and so the starting point
17 today is the current network.

18 And the mechanics of this
19 analysis are that this is organized by
20 origin and destination flow. And so if
21 we look at new capacity that American is
22 introducing over the course of the next
23 few years, any new route that adds an
24 additional path in an existing origin and
25 destination flow is accounted for in the

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2 sense that if we are increasing options
3 to get from New York to south Florida, we
4 see that.
5 Now, there is, because of the
6 way that the spreadsheet is constructed,
7 if a route generates a brand new origin
8 and destination pair, we don't see that
9 here.

10 MR. POLLACK: Nothing further,

11 Judge.

12 MR. CLAYMAN: Nothing, your

13 Honor.

14 THE COURT: All right. You're

15 excused.

16 MR. POLLACK: I'm reminded,

17 your Honor, to move the

18 introduction of our exhibits which

19 are numbered 1722, 1776 through

20 1778, sequentially.

21 THE COURT: Any objection?

22 MR. CLAYMAN: Yes, your Honor,

23 to 1778. The witness was not able

24 to explain what this chart

25 represents and how it was put

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2 together, particularly with regard

3 to the middle bar. He does not

4 know what 41 represents, whether it

5 was done in six year increments or

6 whether it was done over a 20 year

7 average divided by 3.3. And so

8 there's no validity to the number

9 41.

10 THE COURT: Well, I think I've

11 heard, I think we can excuse this

12 witness. Thank you. And be

13 careful with the bicycles.

14 THE WITNESS: Thank you.

15 THE COURT: I think I've heard

16 testimony about the six year number

17 earlier. I think the testimony I

18 heard from other witnesses was

19 fairly general. So I think that to

20 the extent that he's given a

21 general overview without knowing

22 the numbers, I think I already

23 heard that.

24 So --

25 MR. CLAYMAN: Can I just say,

2 your Honor, that just seems, with
3 all -- that seems to be compounding
4 the generality that should have
5 been cured by the exhibit.

6 THE COURT: No, I guess what
7 I'm saying is there's no testimony,
8 that seems to go any further than
9 what I've already heard. I'm just
10 sort of setting the parameters of
11 the -- I'm not saying I disagree
12 with you, but let me hear from
13 debtors.

14 MR. POLLACK: Your Honor, it
15 is as represented the six year
16 average is the figure that's
17 reflected here and what the witness
18 said was he wasn't sure how many
19 different six year cuts were taken
20 in this period.

21 THE COURT: I know, but the
22 problem is average, I mean, I know
23 what people say about statistics,
24 you can calculate these things in
25 lots of different ways through lots

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2 of different methodologies. I

3 don't know precisely how many

4 different methodologies given we're

5 talking the 21 year period here.

6 But I suppose it could result in a

7 range of numbers. I think the

8 range of numbers, I don't know what

9 that range is based on what I have

10 in front of me.

11 MR. POLLACK: Perhaps, your

12 Honor, at the next break we can

13 make a proffer to the court and

14 discuss it with counsel and see if

15 we can reach an agreement on the

16 specific facts that are required.

17 THE COURT: I understand his

18 concern. He doesn't know precisely

19 what this number represents. Could

20 one guess as to sort of what, how

21 far a range this is, I suppose, but

22 that's not really what I'm supposed

23 to be doing. It's either evidence

24 or it's not.

25 So I'll hold off on this if

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2 you want to have discussions, but I

3 do think the objection is well

4 founded.

5 And my point in raising the

6 prior testimony is I think I

7 already have evidence about, in

8 general terms, about measuring

9 things against other six year

10 periods. I don't think it was as

11 specific as this and I guess to the

12 extent that you're seeking to get

13 more specific evidence in, that's

14 where the average becomes a bit of

15 a loaded term.

16 So why don't you chat about it

17 over lunch and see if you can reach

18 an accommodation, but I do, I do

19 understand Mr. Clayman's point.

20 MR. CLAYMAN: Thank you, your

21 Honor.

22 MR. POLLACK: With respect to

23 the other exhibits?

24 MR. CLAYMAN: I have no

25 objection, your Honor.

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2 THE COURT: The others are in

3 and we'll chat about this. I just

4 want to prevent us from calling any

5 other witnesses to testify about

6 something like this. I do think

7 the objection is well founded.

8 Am I correct to say we have

9 one other witness after lunch?

10 MR. POLLACK: That's the plan.

11 THE COURT: How long do we

12 expect that witness to go?

13 MR. FLICKER: I'd a, your

14 Honor, the direct of that witness

15 is probably about 20 minutes.

16 THE COURT: All right. And

17 let me ask at this point if there's

18 any expectation about a surrebuttal

19 case?

20 MR. CLAYMAN: Your Honor, I

21 think based on the testimony this

22 morning, we would have Mr. Akins

23 return to testify for probably no

24 more than half an hour.

25 THE COURT: All right.

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2 MR. FLICKER: I only have one

3 comment about that, which is that

4 when we put together our rebuttal

5 case we were very careful to stay

6 within the scope of the responsive

7 case that we heard from the unions

8 and the scheduling order in this

9 case contemplated that the debtor

10 would have the right to exceed that
11 scope given that we hadn't seen
12 their papers. And if we did so, if
13 we exceeded that scope, then the
14 unions would have a right to a
15 surrebuttal. So I want to make
16 your Honor aware that that was the
17 arrangement. We don't think we've
18 exceeded the scope, but obviously
19 if the unions can make that showing
20 they're entitled to a surrebuttal.

21 THE COURT: Remind me what the
22 language says again. Surrebuttal
23 is to respond to only what's been
24 discussed on rebuttal or is it that
25 you're saying that it's -- there's

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2 something different than that?

3 MR. FLICKER: I'll read the
4 language, your Honor, it's in
5 paragraph 2 (c) of the scheduling

6 order: "Upon the conclusion of the
7 unions' responsive case, the
8 responsive cases, if any, of the
9 PBGC and UCC in that order, and
10 debtors' rebuttal case, which shall
11 not be limited to the scope of the
12 union's, PBGC's or UCC's responsive
13 case to continue day to day,
14 subject to the court's schedule,
15 followed by closing statements, if
16 any. Provided, however, that any
17 union, the PBGC and the UCC will,
18 prior to closing statements, be
19 permitted to present evidence in
20 surrebuttal with respect to any
21 portion of the debtors' rebuttal
22 that was outside the scope of that
23 party's responsive case."

24 And we would suggest that we
25 have kept our rebuttal within the

2 scope of the APFA's responsive
3 case, and therefore, their
4 surrebuttal would not be
5 appropriate unless they can show
6 that they're responding to
7 something outside the scope of
8 their responsive case.

9 THE COURT: It's awfully hard
10 for me to decide this in a vacuum,
11 but I know the temptation is
12 tremendous to go back through
13 what's been discussed before, and
14 it's almost just an impulse that
15 can't be denied and I don't blame
16 anybody for that, but I have that.

17 So I'm not ready to parse this
18 particular issue yet, but I will
19 say that to the extent you're
20 trying to persuade me, I don't need
21 to hear things that have been
22 discussed previously.

23 So I'm not sure how long Mr.
24 Dichter was here on rebuttal,
25 whether that was in the 20 minute

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2 range or not, but I don't want to

3 beat a dead horse on various

4 issues.

5 So what I would ask, given

6 that this issue, the scheduling

7 order is in there and that's what

8 the parties agreed to, and I

9 signed, there may need to be a

10 little bit more transparency about

11 what the witness to be called would

12 discuss and maybe you can work

13 something out. If not, we may need

14 to chat about it. Just before we

15 go down that particular path.

16 So please chat about it over

17 the break and we'll see where we

18 end up. But it sounds like at most

19 we're talking about one witness.

20 MR. CLAYMAN: Absolutely.

21 THE COURT: All right. Let's

22 take a break and come back at about

23 ten minutes to two.

24 (A recess was taken.)

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

3 1:50 p.m.

4 THE CLERK: All rise.

5 THE COURT: Please be seated.

6 All right, when we last left off I

7 think there were two issues that we

8 needed to discuss. One was the

9 proposed Exhibit 1778 and the other

10 was a surrebuttal case. I will

11 just say before anyone tells me the

12 circumstances, I obviously am

13 trying to lean in favor of getting

14 evidence in. So to the extent

15 someone wants to put on a witness

16 or get in certain evidence as long

17 as it's accurate and consistent and

18 people have a chance to really know

19 what to make of it. But with that

20 said, let me hear what you came up

21 with.

22 MR. POLLACK: I think you'll

23 be pleased to hear that we have

24 reached agreement that will address

25 both of those issues in one fell

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2 swoop. So we're going to

3 reconstitute the exhibit and remove

4 the middle bar which counsel had

5 questions about which would have

6 been the sole subject of the

7 surrebuttal testimony. So my

8 understanding is there will not be

9 a surrebuttal given our agreement

10 to reconstitute the exhibit.

11 THE COURT: That's a very

12 elegant solution.

13 MR. CLAYMAN: Just one caveat,

14 we have yet to hear from Ms.

15 Goulet, to the extent that --

16 THE COURT: Fair enough, you

17 can't worry about rebutting what

18 you haven't heard yet. That's a

19 more than fair caveat. All right,

20 well thank, I appreciate that. I

21 think the objection was well

22 founded and I think the solution is

23 appropriate.

24 So I will not admit this, I'll

25 wait for a 1778-A which you'll

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2 share with opposing counsel first

3 and then we'll get it in sometime

4 before we're done.

5 MR. POLLACK: Because we don't

6 have printing capability here in

7 the courthouse, we may not have in

8 hand to give to you today. It may

9 not be until Friday morning.

10 THE COURT: We can do it

11 Friday morning, that's fine. But
12 the most important thing is to
13 share it so everybody feels they
14 have a chance to look at it.

15 MR. FLICKER: At this point,
16 your Honor, Scott Flicker for the
17 debtor will call Ms. Beverly
18 Goulet.

19 THE COURT: Ms. Goulet, you're
20 still under oath.

21 BEVERLY GOULET,
22 resumed, having been previously
23 duly sworn, was examined and
24 testified further as follows:

25 DIRECT EXAMINATION

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2 BY MR. FLICKER:

3 Q. Good afternoon, Ms. Goulet.

4 I'd like to address first the topic of

5 the non-labor stakeholders sacrifice in

6 this case. We've heard from the unions

7 in their responsive case about being
8 singled out for treatment in this case,
9 so I'd like to talk about non-labor cost
10 reductions.

11 You testified earlier that the
12 company's targeting, we've heard, 600
13 million annually by 2017; is that
14 correct?

15 A. That's correct.

16 Q. And what does that come out to
17 on a six year average?

18 A. It's about 700 million on a
19 six year average.

20 Q. And how were these non-labor
21 cost reductions identified in the
22 process?

23 A. Well, as we started in to
24 constructing the business plan we wanted
25 to assure that we had really scrubbed all

3 obviously we had some precedent with
4 other airline bankruptcies to at least
5 form a list to start with. But we
6 identified four areas where we thought
7 there were major opportunities, aircraft,
8 facilities, vendor arrangements and then
9 our balance sheet, and we examined each
10 of those separately.

11 Q. So can you tell me in general
12 terms what the company did in terms of
13 identifying aircraft for cost reduction?

14 A. Yes. We began a tail-by-tail
15 analysis to look at what the disposition
16 of each aircraft might be based on the
17 fleet plan that we had developed, and on
18 that basis identified a number of
19 candidates for rejection and used the
20 competitive dynamics set up by the
21 spectre of that rejection to use that as
22 the basis to renegotiate the terms of a
23 number of other aircraft.

24 Q. And what about in the area of
25 facilities?

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2 A. Similar process there. We did

3 a space audit really to look at the

4 situation primarily at our spoke

5 airports, where we might have surplus

6 space or the opportunity to renegotiate

7 the terms of the lease. So identified a

8 number of candidates and those

9 negotiations are also in process.

10 Q. What about suppliers and

11 vendors?

12 A. Likewise, a similar, a similar

13 process. In this area, I guess as in the

14 case of facilities, you know, we have

15 essentially been in restructuring mode

16 for about ten years now, so we had I

17 think done a, done a pretty good job in a

18 number of these areas over the years of

19 actually taking a lot of cost out of the

20 business.

21 But in the case of the vendor

22 relationships generally, we have taken

23 probably near 10,000 contracts, we have
24 identified them by subject matter, by the
25 counterparty, by the size of the

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2 contract. We've bucketed them according
3 to a phasing process that we're going
4 through. And there will be a process by
5 which we either reject or renegotiate
6 those contracts over the course of the
7 next couple of months. We've set target
8 dates by which we expect to finish the
9 process with regard to each of those
10 groupings of contracts.

11 Q. I'm going to ask you to speak
12 a little slower for our court reporter.

13 A. Sorry.

14 Q. I believe you had testified
15 about McKinsey's involvement in this
16 process. Could you just remind us of
17 that?

18 A. Yes. In order not to overlook

19 anything we -- as part of McKinsey's
20 engagement asked them to look at our cost
21 structure based on knowledge they have
22 about both this industry and other
23 industries, and give us a sense of
24 whether there were areas that they
25 thought that perhaps we had not scrubbed

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2 hard enough or whether there might be
3 opportunities that we had overlooked.
4 And I think generally the conclusion was
5 we had the right lists of targets and
6 that helped to confirm that we were
7 proceeding in an appropriate manner.

8 Q. And you talked about balance
9 sheet reductions. What does that refer
10 to?

11 A. Yes, in that case it was a
12 case of identifying the unsecured and
13 other categories of debt that the
14 restructuring process will give us an

15 opportunity to eliminate from our balance

16 sheet.

17 Q. Now, the unions are being

18 asked to accept reductions in a number of

19 elements pertaining to their contracts.

20 Are there some contracting parties that

21 are being completely cancelled out in

22 this process talked about?

23 A. Well, if by cancelled out you

24 mean, yes, for example, in the case of

25 aircraft lessors, there are aircraft

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2 leases that we have rejected. There are

3 facilities leases that we have rejected.

4 With regard to our vendor

5 relationships, that process is ongoing,

6 but there may well be a number of

7 contracts there that we terminate.

8 And then of course, you know,

9 with regard to our balance sheet, as I

10 mentioned, there's some significant

11 number of, amount of unsecured and other
12 debt that we will compromise as part of
13 this process.

14 Q. So your unsecured creditors,
15 does your -- is it your current intention
16 that they will receive a hundred cents on
17 the dollar for the debt that they've
18 issued to the company?

19 A. That's certainly not the
20 expectation. Those things obviously have
21 not yet been determined. But I think
22 it's clear that the expectation would be
23 it would be some number of cents on the
24 dollar and certainly our business plan
25 contemplates that those claims would be

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2 settled through the issuance of equity.

3 Q. Just briefly, what about your
4 nonunionized labor groups, are they being
5 asked to sacrifice in this process?

6 A. Yes, in keeping with the

7 Spirit of fair and equitable, we have set
8 targets for those groups commensurate
9 with the savings that we're asking our
10 unionized groups to provide.

11 Q. I believe that Mr. Roghair of
12 the APA claimed that American has failed
13 to provide information relating to an
14 accounting of these non-labor savings
15 that American plans to achieve.

16 Did American provide
17 information to the unions providing a
18 breakdown of non-labor cost savings?

19 A. Yes, we did.

20 MR. FLICKER: Your Honor, may
21 I approach?

22 THE COURT: Yes.

23 MR. FLICKER: Your Honor, I've
24 handed the witness APA Exhibit 431
25 which has already been introduced

3 document?

4 Q. Ms. Goulet, can you just

5 explain what this document is and what it

6 is showing?

7 A. Yes, it shows for 2017 the

8 impact on our P&L and on our cash flows

9 of the various initiatives that we've

10 identified as part of the restructuring

11 process, including the various non-labor

12 cost initiatives that I just described.

13 Q. And was this document provided

14 to the unions as part of the information

15 sharing in this case?

16 A. Yes, it was.

17 Q. Just a note about timing.

18 Where are you in the process of

19 implementing various of these items?

20 A. We've made I think very, very

21 significant progress with aircraft

22 lessors and lenders. That process is

23 well underway. And we've reached

24 agreements in principle with a very large

25 number of those counterparties. The

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2 facilities effort is certainly underway,
3 those negotiations are ongoing, and as I
4 mentioned, the efforts with regard to the
5 vendor relationships are also ongoing and
6 we've set different target dates in, sort
7 of in early and mid-summer by which we
8 would expect to complete those
9 negotiations.

10 Q. And these numbers on APA
11 Exhibit 431, these are 2017 targets; is
12 that right?

13 A. That's correct.

14 Q. Some of the initiatives are
15 underway and some are yet to be done?

16 A. Some of them, it's a process
17 of negotiation, some of which are
18 obviously more advanced than others, but
19 the intention would be that certainly all
20 of these would be completed well before
21 the conclusion of the case.

22 Q. How much cash does American

23 publicly announce that it has, that it is

24 holding in the last reporting period?

25 A. I think in the April monthly

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2 operating report that we filed we

3 reported about 4.8 billion dollars of

4 unrestricted cash.

5 Q. We've heard from the unions

6 that American doesn't require the relief

7 sought in this motion because it has that

8 amount of cash. Can you provide your own

9 view on that statement?

10 A. Yes, I guess I'd offer several

11 observations. The amount of cash that

12 we're holding at this particular point in

13 time is I think in large respect

14 unrelated to the cost savings that we're

15 seeking here. The cash that we're

16 currently carrying is about 20 percent of

17 revenue which is the level that we

18 address as sort of a minimum that we like

19 to have on hand to give us buffer against
20 the various exogenous events that can
21 affect this industry, whether it's an
22 increase in fuel prices or something that
23 disrupts the demand for travel.

24 I guess I've observed that the
25 fact that we carry that much cash at this

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2 point is due directly to the fact that we
3 have in essence monetized virtually all
4 of the unencumbered assets that we have
5 and so we're not in a position to
6 continue to borrow against assets to fund
7 operating losses were we to continue to
8 accrue those. And if that were to be the
9 situation that we were in, obviously we'd
10 see that cash deplete without the ability
11 to go back into the market to replenish
12 it.

13 So at the end of the day, the
14 only way to get at the issue here is to

15 have the business operate profitably,
16 generate positive cash flow, and have
17 that as the basis on which to operate the
18 company.

19 Q. Let me try and break that
20 down. So when you say that you've
21 monetized your unencumbered assets, does
22 that mean you've borrowed all you can off
23 the unencumbered assets?

24 A. Yes, we've borrowed against
25 virtually all of our unencumbered assets.

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2 Q. And if you don't get cost
3 relief and the relief you seek in this
4 motion, is it your expectation you'll be
5 able to maintain the cash position you
6 have now?

7 A. No, as I mentioned I guess for
8 a couple of reasons, there's, there's
9 very, very little left that we could
10 borrow against. And obviously, that

11 would be unsustainable.

12 The other thing that you'll

13 see impact us is the seasonality of our

14 cash business plans. We are in a part of

15 the year right now where cash is building

16 based on the relationship of when

17 passengers buy tickets and when they

18 actually make the trip. And so you'll

19 see normal seasonal impact on those cash

20 flows and so later in the year, for

21 example, as we move into the fall, you'll

22 see those cash numbers namely diminish.

23 Q. So where are we in the cash

24 cycle? Are we building cash at this

25 point or are we diminishing?

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2 A. We're building.

3 Q. Your group, your organization

4 had responsibility for developing and

5 building the business plan; is that

6 right?

7 A. That's correct.

8 Q. I'd like to take the bull by

9 the horns on one big issue here. The

10 unions have contended that American's

11 business plan is not viable. What's your

12 response?

13 A. I flatly disagree with that.

14 Q. Why?

15 A. Well, for a number of reasons.

16 You know, I think, I think we've quite

17 thoughtfully put together a plan that

18 will allow us to operate profitably over

19 the long term. When we put the plan

20 together we started with a number of

21 strengths as the basis for the plan.

22 We have, as we've discussed

23 previously, hubs in the right cities, the

24 four largest metropolitan areas of the

25 country, and in Miami, essentially the

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2 hub of the Americas.

3 We have, we're a member of a
4 global alliance. We have joint
5 businesses in our Pacific and Atlantic
6 gateway cities with very strong partners
7 on both ends. Those relationships are
8 really just developing as we speak.

9 We've got a very successful
10 frequent flyer program.

11 We've got a fleet order that
12 gives us a lot of flexibility around
13 rejuvenating our fleet and providing
14 opportunities for growth.

15 So we started from I think a
16 position of strength and as we diagnosed
17 our situation, we said well what's
18 holding us back.

19 And those in fact are the
20 issues that we are addressing through
21 this restructuring.

22 You know, I specifically, I
23 guess I'd mention the operational
24 constraints that were present in our
25 labor contracts that prevented us from

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2 right-gauging our airlines so that we
3 have the right sized aircraft, serving
4 markets based on size and demand, further
5 opportunities for domestic code sharing,
6 a balance sheet that had been weakened to
7 the extent that we were not able to
8 invest in our, in our product and
9 therefore, the degradation that we were
10 seeing in our ability to provide the
11 customer the travel experience that he or
12 she expects. And then obviously, the
13 fact that our labor costs have been
14 substantially above market for a number
15 of years.

16 Q. Is your plan designed and
17 directed to address those issues?

18 A. It is. As we, as we
19 constructed the plan, those were the
20 issues we'd identified and I think with
21 the changes that we've proposed the
22 company will perform very successfully.

23 Q. The unions have suggested that
24 the business plan is just a placeholder
25 for the purpose of this motion. What's

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2 your response to that?

3 A. Yes, that's an interesting
4 observation. To the extent that the
5 other criticism we've heard is that it
6 was just a continuation of what you've
7 been doing previously, I don't think you
8 can really have it both ways. But in any
9 event, we came into this with the task
10 and the goal of creating a viable long
11 term successful American Airlines and
12 that is what the plan we've developed
13 will give us the ability to achieve.

14 Q. I think you spoke to this a
15 little bit in some prior questioning I
16 gave you, but is the plan real, is the
17 company taking steps to implement the
18 plan?

19 A. Absolutely. I mean we've got
20 a lot of momentum in a number of areas.
21 Working together with the creditors'
22 committee we've moved forward with a
23 number of initiatives relating to our
24 aircraft, whether it's Main Cabin Extra,
25 which is the change in the configuration

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2 of our coach, coach section of our
3 aircraft, whether it's the retrofit of
4 our widebody aircraft, and all of the
5 capital expenditure that that entails.
6 We are moving forward with the
7 implementation, as I mentioned earlier,
8 of the changes in our management team to
9 achieve the savings targets that we've
10 identified there.

11 So just any number of areas
12 where we're moving forward very
13 aggressively.

14 Q. You refer to this as changes

15 in your management team. Are these easy
16 changes for American Airlines?
17 A. Well, clearly not. If you
18 look at what's gone on over the last
19 couple of months, we've to had to make
20 some very difficult decisions. Both our
21 senior officer group as well as our
22 officer group is smaller today than it
23 was before those changes began by a
24 significant number of people. Those are
25 always tough decisions to make.

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2 And it will continue as those
3 changes move throughout the ranks of the
4 company.

5 Q. And I assume in saying that
6 you're not taking anything away from the
7 sacrifice that the unionized employees
8 would have to make?

9 A. Absolutely not. You know,
10 we've always acknowledged that this was

11 going to be a very difficult process.
12 But at the end of the day in order to
13 preserve the institution with its 80 plus
14 year history and franchise and all the
15 strengths that I identified, it's simply
16 necessary to make some hard decisions as
17 we move through this process.

18 Q. We've heard the APFA's expert
19 witness argue that the seasoned
20 professionals at American Airlines do not
21 believe in this business plan. You're
22 the chief restructuring officer of
23 American Airlines, do you believe in this
24 business plan?

25 A. I absolutely do. You know,

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2 when I took on this task it was I think a
3 pretty weighty responsibility. Not only,
4 not only to discharge the obligation that
5 we owe to our creditors, but really for
6 the benefits of our employees and their

7 families, despite the adversity that will
8 come of this, we think it's absolutely
9 necessary to preserve the institution and
10 provide a livelihood for folks going
11 forward.

12 And it all starts with the
13 customer. And to the extent that the
14 changes we're making will allow us to
15 regain our competitive position and put
16 us in a position to address those
17 competitive gaps that we're starting to
18 develop, it's all, all part of that that
19 this is designed to accomplish.

20 Q. Does American Airlines have a
21 future as a stand-alone company?

22 A. Absolutely.

23 MR. FLICKER: I'll pass the
24 witness.

25 MS. KRIEGER: Your Honor, if

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2 we had a five minute break I think

3 we could coordinate this together

4 very quickly.

5 THE COURT: Sure, absolutely.

6 (A recess was taken.)

7 THE CLERK: All rise.

8 THE COURT: Please be seated.

9 Cross examination?

10 MS. KRIEGER: Your Honor, the

11 Allied Pilots Association has no

12 questions for this witness.

13 MR. CLAYMAN: Your Honor, nor

14 does APFA.

15 THE COURT: All right.

16 MS. LEVINE: No questions.

17 THE COURT: All right. Then I

18 believe you are free to go. Thank

19 you very much.

20 I believe, I think the exhibit

21 was already in; is that correct?

22 MR. FLICKER: Yes, your Honor.

23 THE COURT: All right, so.

24 MR. FLICKER: I have a little

25 bit of housekeeping here. We want

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2 to make sure that we have
3 identified and formally moved the
4 written declarations and exhibits
5 that we had submitted and mentioned
6 at the outset of the case, of the
7 rebuttal case.

8 Today, in response to
9 discussions with the Allied Pilots
10 Association, we filed a revised
11 supplemental declaration of Denise
12 Lynn. And the exhibits that are
13 sponsored by that declaration are
14 1801 to 1808, and we offer that
15 declaration and those exhibits into
16 evidence.

17 THE COURT: All right. Let me
18 see if I actually have a copy. Do
19 I have a copy of that binder?

20 MR. FLICKER: Not the one
21 filed today. The one we filed
22 today is identical to the one we
23 had filed earlier in the week save

24 that we removed two paragraphs that

25 the APA had raised an objection in

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2 return for an agreement that we

3 would not bring Ms. Lynn for cross.

4 THE COURT: Is that consistent

5 with everyone's understanding?

6 MR. JAMES: It is, your Honor.

7 If you can indulge me just for 30

8 seconds to comment on it so we

9 don't have to spend time on it.

10 They did take out the paragraphs we

11 were objecting to. The Lynn

12 declaration notes that the

13 requested capital expenditure

14 analysis, capex they did not

15 provide us and the return on

16 invested capital, ROIC analysis --

17 THE COURT: Let me stop you

18 before you go. What I did is I did

19 not read that because there is a

20 dispute about what should be in and

21 what should be out and what was

22 objected to.

23 So you're free if you want to

24 sort of parse through what's in and

25 what's out, but to the extent

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2 you're operating under the

3 assumption that I had taken a close

4 look at that you need to for you to

5 need to explain why it's out.

6 MR. JAMES: Fair enough. I'm

7 not explaining why what went out is

8 out. I'm just trying to commenting

9 on it and trying to deal with it.

10 THE COURT: All right.

11 MR. JAMES: It does admit that

12 the capex analysis was not provided

13 and the ROIC analysis we got three

14 days after the trial started was

15 provided.

16 And as to the rest of it, it's
17 really a counter to Yearley's
18 declaration and to Roghair's
19 declaration.

20 So I think we've dealt with
21 the substance of it and as to the
22 information provided, you know, one
23 thing they admit they didn't
24 provide to us, the capex
25 expenditures and the ROIC which is

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2 part of the fleet planning
3 discussion, they admit that they
4 gave it to us after the trial
5 started.

6 Thank you, your Honor.

7 THE COURT: All right. That's
8 fine such is my confidence in
9 counsel that I will admit it sight
10 unseen based on your agreement as
11 to that effect.

12 And I'm assuming that there

13 are no objections then to Exhibits

14 1801 through 1808?

15 MR. JAMES: Correct, your

16 Honor.

17 THE COURT: Those are admitted

18 as well and I will wait to get a

19 hard copy of that binder. And then

20 read the declaration in its revised

21 form.

22 All right.

23 MR. FLICKER: Prior to Mr.

24 Newgren's appearance we had

25 submitted the supplemental Newgren

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2 declaration and he sponsored

3 Exhibits 1713 and 1809 through

4 1820. We offer those into

5 evidence.

6 THE COURT: Any objections?

7 MR. JAMES: None, your Honor.

8 THE COURT: That is admitted.

9 MR. FLICKER: Your Honor, I'm
10 reminded by my table that I should
11 make sure I'm actually offering the
12 declarations as the testimony as
13 well, both Lynn and Newgren.

14 THE COURT: Yes, because they
15 did not appear in the rebuttal
16 case, their declarations are being
17 offered as their direct testimony
18 in the rebuttal case and because
19 there's no desire to examine, I'll
20 take the written narrative as their
21 direct.

22 MR. FLICKER: Thank you, your
23 Honor. We have offered the
24 declaration of Keith Austin, made
25 him available for cross, there was

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2 no cross and there's no exhibit in

3 connection with that.

4 THE COURT: Any objection?

5 MR. JAMES: None, your Honor.

6 THE COURT: So that

7 declaration is admitted from his

8 from Mr. Austin.

9 MR. FLICKER: Finally, there

10 was an agreement between the APFA

11 and the debtors to permit us to

12 file the declaration of Eric

13 Briggie and that was been done with

14 the Exhibits 1823, 1824 and 1825

15 and we offer both the declaration

16 and those exhibits.

17 THE COURT: Any objection?

18 MR. CLAYMAN: No, your Honor.

19 THE COURT: All right. So Mr.

20 Briggie's declaration and those

21 exhibits are also admitted.

22 MR. FLICKER: With that, your

23 Honor, the debtors have concluded

24 their rebuttal case. We would ask

25 as a ministerial matter that the

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2 record remain open until Friday so

3 we can submit, for example, the

4 corrected exhibit and any other

5 documents that the parties have

6 used that they may have failed to

7 actually offer into evidence.

8 MR. CLAYMAN: I think your

9 Honor that we intend to file a

10 surrebuttal declaration to Mr.

11 Briggie's declaration. That was by

12 agreement.

13 THE COURT: That's part of the

14 --

15 MR. CLAYMAN: Yes.

16 THE COURT: That's fine then.

17 So the record will stay open to

18 deal with that surrebuttal

19 declaration as well as to deal with

20 the revised 1778-A.

21 What I also think would be

22 helpful is a list that the parties

23 have worked out of all the evidence

24 in the case, the true-up that we
25 discussed early on which would list

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2 the witnesses, any declarations
3 that is whether offered in the
4 direct case, the unions' responsive
5 case, the rebuttal case, and any
6 exhibits and it would be helpful to
7 me if you would note for exhibits
8 which one are confidential just
9 because the last thing I want to do
10 is if I have to, as I write things
11 up, to include something that is
12 confidential, I know that's a
13 challenge.

14 So it's been easy for me
15 because it hasn't been my
16 challenge, but now it will be my
17 challenge, so if you would help me
18 avoid that problem that would be
19 appreciated.

20 So the timetable for that I
21 think could be the same time as
22 filing the briefs or even a couple
23 of days later if folks feel like
24 they're jammed up. I just want to
25 be able to compare what I would

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2 issue to that list to make sure I
3 have not said something I'm not
4 supposed to say publicly.
5 MR. FLICKER: Thank you, your
6 Honor. With that, the debtors have
7 completed their presentation of
8 evidence and we just wanted to
9 thank your Honor for all of the
10 patience and the time that you've
11 given us.

12 THE COURT: Anything from the
13 unions in terms of? --

14 MR. CLAYMAN: We would echo
15 those sentiments.

16 THE COURT: It's been my
17 pleasure. I know that this case is
18 difficult in many ways for many
19 reasons, and I think counsel, all
20 counsel have done an excellent job.
21 I think my comments to the extent
22 I've had a few have really just
23 been trying to move things along
24 and just to try to send signals as
25 to when I think I've got it. After

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2 all, it is a bench trial, so I
3 think you're trying to make sure
4 that I get it. And I know there
5 are sometimes different degrees of
6 which a bench has had an
7 opportunity to delve into things
8 and I think it's been very well
9 briefed, the declarations have been
10 very clear as to the points folks
11 are making, so I've had a great

12 benefits of all that before hearing
13 witness testimony. So that really
14 has been the tenor of my comments
15 because I think counsel has done a
16 very good job in really identifying
17 for me the issues and where
18 everyone stands on them. So I
19 greatly appreciate that and what is
20 a challenging case. And I also
21 can't help but notice that a lot
22 clients for all parties have been
23 here and are interested in the
24 case. I appreciate the very strong
25 feelings that all parties have

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2 about the case and I appreciate
3 people's presence and that they
4 have other things to do in their
5 lives, so I take, I take very
6 seriously how important issues in
7 front of me are and how difficult

8 the issues are.

9 So I just want to thank folks

10 for all that.

11 So it sounds like the evidence

12 other than the things we identified

13 is closed. And we will reconvene

14 on Friday morning at 10 for

15 closings and then you'll get your

16 briefs on the sixth and I think

17 that's it. Anything else we should

18 discuss?

19 MR. BUTLER: Judge, just one

20 question about closings on Friday.

21 We've all been sort of talking

22 about trying to make sure no one is

23 prejudiced, but also trying to get

24 kind of a hard stop so we know

25 court is going to be over, because

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2 people are trying to plan how they

3 might get out.

4 THE COURT: My intent is we
5 start and we do not -- there are no
6 breaks for lunch. We're going to
7 get it done in the morning. At a
8 certain point things have to end
9 and people's instinct to be zealous
10 advocates, really I know that
11 doesn't end, so I will hopefully
12 assist the parties in saying it's
13 the morning and that's it.

14 So I'm resisting setting --
15 we'll play it by ear, but again, as
16 I understand the way the process
17 works, you're trying to convince
18 me, so I think it's been well
19 briefed, people have really done an
20 excellent job in letting me know
21 what the issues are and this is
22 really designed to sort of pull the
23 big threads together.

24 So I think we had a general
25 ball park of what the numbers look

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2 like, that all sounded roughly fair

3 to me. I'm not going to be sitting

4 here with a stopwatch. When I was

5 a litigator, you know, the other

6 side of that, I never thought the

7 stopwatch actually worked because

8 as many of you say well that's it

9 somebody says but I have one thing,

10 well, okay, it devolves. But I'm

11 going to trust folks to really hit

12 the mark on it not because I think

13 that extra 30 seconds, two minutes

14 really in the grand scheme of

15 things, we've been doing this for

16 awhile. So I don't think that's

17 going to make too much of a

18 difference.

19 So if we start at ten, I think

20 what the total allowance I think we

21 had roughly talked about is 2 hours

22 and am I correct, 2 hours and 45

23 minutes.

24 MR. BUTLER: Two and a half, 2

25 hours and 45 minutes.

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2 THE COURT: The idea would be

3 to break at one o'clock, or

4 thereabouts and then all go our

5 separate ways.

6 So that's the intent, again,

7 we won't do a stopwatch, but I

8 certainly trust people to hit their

9 marks and we'll do that.

10 And again, you have another

11 bite at the apple. So if you

12 forget that one crucial thing on

13 the sixth I'm sure it will be the

14 first point in the briefs.

15 MS. KRIEGER: Your Honor,

16 while we're here, we have one

17 exhibit to offer that we've talked

18 about with the debtors' counsel.

19 It's a copy of the appendix C to

20 the disclosure, first amended
21 disclosure statement in the United
22 Airlines case that we referred to
23 during Mr. Resnick's examination
24 yesterday. Counsel for the debtors
25 are wanting to take the opportunity

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2 until the record closes on Friday
3 to review the whole document, but
4 in theory this particular document
5 is not objectionable per se.

6 THE COURT: I understand the
7 completeness problem.

8 MR. POLLACK: That's correct.

9 Exactly.

10 THE COURT: You may want to
11 reference something else.

12 MS. KRIEGER: May I approach?

13 THE COURT: Thank you. And

14 you're taking the compassionate
15 stand of not giving me the entire

16 document at this point. I
17 appreciate it.
18 And let me just make very
19 clear your points that you were
20 making in connection with Mr.
21 Resnick's questioning about the
22 United Airlines case, you asked
23 some very specific questions about
24 this case and about various facts
25 of this case and this all relates

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2 to that?
3 MS. KRIEGER: Yes, in
4 particular, I read him from page 4
5 in particular the point beneath the
6 bullet point that indicates what
7 comparables were excluded and
8 included.
9 THE COURT: Yes.
10 MS. KRIEGER: And the
11 preceding, the context of that as

12 on the preceding page, page 3.

13 THE COURT: Yes.

14 MS. KRIEGER: Indicating what

15 competitive factors, what was the

16 context for including and

17 excluding. Thank you.

18 THE COURT: All right. Thank

19 you. So to the extent that debtors

20 want to offer something, other

21 sections or lines for purposes of

22 completeness, we can address that

23 on Friday as well. But again, I'm

24 grateful to not receive the entire,

25 I'm sure what's a hefty document.

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2 There's nothing in bankruptcy in

3 these cases that's light. They're

4 all hefty.

5 With that we're adjourned

6 until Friday at ten. Thanks again

7 for all your assistance in getting

8 this to trial and the evidence

9 successfully completed.

10 (Time noted: 2:51 p.m.)

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