

Class Action Suit Against American Airlines

A class action lawsuit filed by the United States Department of Justice alleges that American Airlines violated the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA) by denying certain job rights to three pilots who took military leave (*Woodall v. American Airlines Inc.*, N.D. Tex., No. 3-06CV-0072M, filed 1/12/06). USERRA protects civilian job rights and benefits for members of the armed forces, including the National Guard and Reserves. This marks the first class action lawsuit filed by the federal government under USERRA.

The complaint names plaintiffs Naval Reservists Mark Woodall and Michael McMahon, and Paul Madson, who serves in the South Dakota Air National Guard. The suit covers all American pilots who have taken military leave since January 2001, and would require the airline to provide employment benefits that have been denied. Approximately 1,000 of the airline's 10,000 cockpit crew are members of the armed forces.

The complaint alleges that American audited flight records of pilots who took military leave in 2001, and placed those employees on "leave of absence" status. By doing so, the pilots were denied the ability to

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Northwest Ground Workers To Vote On Restructuring Proposals

The International Association of Machinists (IAM), representing Northwest Airlines' ground employees, has submitted the airline's last offer for membership ratification. Although the parties could not reach agreement on a tentative restructuring pact, union negotiators decided to put the company's proposals to a vote because "we are convinced that further negotiating would not result in a better contract." The bargaining unit includes 14,000 customer service and reservation agents, ramp employees, stock clerks, and clerical workers.

The company estimates the settlement agreement will save \$191 million per year. If approved by the union and the bankruptcy court, the proposed deal will become effective January 1, 2006. The contract will become amendable at year-end 2010 if the airline exits bankruptcy in 2006. Should the company exit bankruptcy be delayed, the amendable date may be extended.

Bankruptcy court hearings on Northwest's petition to void the IAM agreement are postponed until completion of the ratification vote. Pending approval, the contract will replace the temporary 19 percent average pay cuts imposed by the bankruptcy court November 16,

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United Flight Attendants Agree To Pension Changes

United's 17,000 flight attendants have tentatively agreed to accept a defined contribution pension plan, resolving a bitter dispute over the termination of their defined benefit (DB) plan. Union leaders recommend approval of the new pension plan in a ratification vote to be completed by late February 2006. The attendants are represented by AFA.

The tentative pact modifies the existing 401(k) plan to establish company contributions for each active flight attendant based on a percentage of individual earnings. Employees will not be required to contribute to the plan to receive company contributions. For those currently on the seniority list, company contributions commence at 2 percent of earnings effective January 1, 2006. Contributions will rise to 2.5 percent in January 2007, and to 3 percent in January 2008. For employees hired after January 1, 2006, the company will

contribute 1 percent of earnings beginning in January 2007, with an increase of 1 percent in January 2008 and 2009.

In addition to the direct contribution, the company will make a matching contribution of 100 percent of the first 3 percent of earnings contributed by an attendant. To encourage

Union leaders recommend approval of the new pension plan in a ratification vote to be completed by late February 2006.

participant savings, the plan provides for an automatic deferral election of one percent. Flight attendants may change or revoke the automatic election at any time.

AFA has been fighting the termination of its DB plan

since ratification of its second restructuring agreement in January 2005. At that time United withdrew its motion in bankruptcy court to terminate the retirement plan, and the parties agreed to continue pension negotiations for 90 days. In April 2005, United reached an agreement with the Pension Benefit Guaranty Corporation (PBGC) to terminate four underfunded pension plans, including the AFA plan, and to transfer the pension liabilities to the government agency. Since then AFA has lost a series of court battles seeking to stop the termination of their retirement plan. Most recently, a United States District Court ruled that the PBGC's acceptance of United's pension liabilities was in compliance with the Employee Retirement Income Security Act (ERISA) and other applicable laws. (*Ass'n of Flight Attendants-CWA v. PBGC*, D.D.C. No. 05-1036, 1/13/06). ■

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on flight schedules based on their seniority, and to accrue paid vacation and sick leave. The suit alleges that when Woodall participated in 16 days of annual Navy reserve training in 2001 he was denied two earned days of paid vacation because the company considered him on leave of absence. McMahon and Madson also allegedly lost job benefits when they were placed on military leave. According to the complaint, these benefits were not cut for pilots who took comparable leave for non-military purposes, such as jury duty, sickness, or union service. ■

Comair Pilots, Mechanics Agree To Concessions

Comair pilots and mechanics have approved restructuring agreements that will help the bankrupt carrier achieve its cost savings target. ALPA represents Comair's 1,800 pilots, who voted to ratify their pact by 50.6 percent – a margin of only 16 ballots. The company's 600 mechanics and related workers are represented by IAM, which did not report the vote tally. Pay cuts and pension modifications generated annual savings of approximately \$17 million from the pilots, and about \$1 million from the mechanic group.

ALPA agreed to reduce captain pay rates by an average of 15 percent on the CRJ-700, and by about 10 percent on the CRJ-200. First officer hourly pay cuts ranged from 11 to 24 percent. All pilots will receive a 2 percent increase 30 months after the signing date. Per diem was cut to \$1.50 per hour, with an increase to \$1.55 in 36 months.

The pilot pact placed a freeze on retirement plan accruals beginning in 2006. To help offset the pension freeze, in 2007 the company will increase its 401(k) match to 70 percent of the first 5 percent contributed by crewmen who have completed 10 years of service. Beginning in 2007, a new profit sharing plan will replace the performance pay program. Payouts can reach up to 6 percent of

earnings for 2007, rising to a maximum of 8 percent of earnings for 2009 and thereafter.

ALPA also agreed to productivity enhancements including a new reserve assignment system, reduction of deadhead pay credit, slower vacation accrual and a reduction in daily vacation pay.

The 5-year IAM pact reduces base pay rates by 2 percent, with a deferred increase of 2 percent after 30 months. The parties will reopen the contract for wage negotiations in mid-2009. The contract also provides for freezing the mechanic's pension plan in 2007, but the company's match to the 401(k) plan will increase. A new profit sharing plan will replace the current "performance pay program" next year.

Comair says it needs annual savings of \$70 million to emerge from bankruptcy, and expects its union-represented labor groups to provide about \$27 million of the total.

The pilot and mechanic deals require bankruptcy court approval, and will not become effective until the company reaches a restructured flight attendant contract. The company is continuing to negotiate with its Teamster-represented flight attendants. Other work groups are non-union. ■

Northwest Pilots Agree To Pension Plan Freeze

Northwest pilots have overwhelmingly approved a freeze to their defined benefit pension plan. The Air Line Pilots Association (ALPA) represents the airline's 5,000 cockpit crew. Without the freeze, the airline would have been required to contribute nearly \$1.8 billion to the pension plan by 2008.

Pending the expected approval by the bankruptcy court, the agreement freezes benefit accruals and participants' final average earnings under the defined benefit plan effective January 31, 2006. Beginning February 1st, Northwest will begin making contributions to a new defined contribution plan. The interim contribution rate was set at 5 percent of each pilot's earnings, with the permanent contribution rate to be determined during the parties' restructuring negotiations for a long-term contract. ■

Flight Attendants At US Airways, America West Reach Transition Agreement

Flight attendants at the newly merged US Airways and America West have reached an agreement to address certain seniority issues and other transition matters until the negotiation of a merged agreement is completed with a single seniority list. The package was approved by union leaders of both airline groups. The 11,000 attendants are represented by the Association of Flight Attendants – Communications Workers of America (AFA).

The transition agreement establishes a “fence” that maintains the two separate airlines’ operations, aircraft, and collective bargaining agreements until the flight attendant operational groups are

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Following are highlights of the proposals:

- **Wages.** Pay rates are set 11.5 percent below previous book rates for employees currently on the seniority list. Lower pay progressions are established for new hires. For current stock clerks, proposed hourly pay will range from \$9.16 up to \$18.44 in the 6th year; hourly pay for current ramp workers will range from \$9.08 to \$17.88 in the 6th year. Hourly pay for stock and ramp employees hired after the date of signing will range from \$9.00 to \$17.88 in the 10th year. Proposed hourly pay for current CSAs will range from \$10.63 to \$18.35 in the 10th year. Agents hired after the contract is signed will receive lower pay rates in the first 3 years of service.

All employees will receive deferred increases of 1 percent on January 1, 2008, and 1.5 percent on January 1, 2009. An additional 1.5 percent pay raise on January 2010 is conditional upon the contract’s 1-year extension should the company fail to emerge from bankruptcy in 2006. The proposal eliminates premium pay for shift work, longevity, and the 1-hour guarantee for overtime immediately following a shift.

- **Paid leave.** Vacation accruals will be reduced by 1 week at each service increment. Sick leave is cut to 75 percent for the first 7 continuous, consecutive days of illness; accrual remains unchanged. Holidays are trimmed from 10 to 7 per year. Employees who work on holidays will receive 2 times pay, reduced from 2.5 times pay.

- **Pension.** The company proposes to freeze accruals under the current defined benefit plan and to provide another DB plan through participation in the IAM National Pension Plan. Northwest’s contribution to the IAM plan is set at 5 percent of gross earnings, rising to 6.5 percent in the event the original plan is terminated.

- **Benefits.** Northwest plans to establish a company-wide PPO with employee contribution of 15 percent of the total cost. Employee premiums may rise by up to 8 percent for medical and 6.5 percent for dental. By comparison, the current contract provides options of a non-contributory indemnity plan, or a PPO and POS with an employee contribution of 20 percent of the required cost. The airline expects to continue providing retiree health insurance, but will require retirees to pay 50 percent of the cost. At retirement employees may trim their share of retiree health costs to 35 percent by applying unused sick leave at retirement.

- **Other.** The restructuring plan eases restrictions on outsourcing and provides more flexibility to utilize part-time employees. The company may expand automation in reservations and restructure the position of reservations agent. The company also proposes an “enhanced severance” option for displaced workers, and a new profit sharing plan for all employees.

Since filing for bankruptcy in September 2005, Northwest has sought to cut its annual labor costs by \$1.4 billion, and to reduce its pension and retiree health costs.

The airline continues to negotiate a restructuring deal with its pilots and flight attendants, while the bankruptcy court continues hearings on the company’s request to void those agreements. ■

News Briefs...

NEGOTIATIONS...**ATA Airlines** and the IAM have reached a tentative settlement of their first contract covering storekeepers and tool attendants. Union negotiators recommend that members vote to approve the agreement. AMFA, representing mechanic and related employees, have also reached a tentative agreement with the airline...IAM-represented **Continental** flight attendants have approved their new concession pact saving \$72 million per year. Combined with other union concessions, the deal brings the company close to its \$500 million total annual savings target...**Mesaba** dispatchers have approved a 6-year restructuring contract...**World Airways'** pilots began to strike commercial flights after expiration of the 30-day cooling off period at midnight January 27th. Their contract bans strikes of military flights...**REPRESENTATION**... Approximately 830 pilots at the fractional jet-ownership airline **Flight Options** have filed for representation by the IBT at the National Mediation Board...The NMB has determined that **US Airways and America West** constitute a single transportation system for representation purposes. Mechanic and related employees are currently represented by the IAM at US Airways, and by the IBT at America West. Fleet service employees are represented by the IAM at US Airways and the TWU at America West... **FURLOUGH & RECALL**...**Chautauqua Airlines** is cutting more than 200 jobs at St. Louis after losing a ground handling contract to a competitor. **Trans States** expects to add 145 ground jobs at St. Louis, and is hiring some of Chautauqua's laid-off employees ■

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Negotiations for a merged agreement are expected to begin in late February. Following are highlights of the deal:

- AFA agreed to enter into single contract negotiations.
- During the period of separate operations, the former America West ("West") will not hire flight attendants "off the street" until involuntarily furloughed US Airways employees have been offered positions at West. US Airways attendants hired by West will be treated as junior to flight attendants at America West for seniority purposes, but are being credited with their US Airways longevity pay.
- Should EMB 190 aircraft be operated by either airline, mainline pay rates will apply, however, there will be no lead or senior pay, unlike the premium paid on the other aircraft.
- The US Airways profit sharing plan will be extended to cover America West attendants.
- After creation of a single seniority list, furlougees may not replace active, less senior attendants and there will be no bumping or displacing of flight attendants from their current base. ■

2006 Labor and Employment Law Conference

Ford & Harrison's 2006 Labor and Employment Law Conference will be held Thursday, May 4 and Friday, May 5, 2006, at the Gaylord Palms Resort & Convention Center in Orlando, Florida. If you would like more information about the Conference, please contact 1-800-

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