

Northwest Enters Into New Restructuring Deals

This month has brought Northwest new tentative deals covering pilots and flight attendants and a ratified agreement with agents, major achievements in the company's restructuring efforts to reduce total annual labor costs by \$1.4 billion.



On March 1st the Professional Flight Attendant Association (PFAA) accepted a tentative concession pact hours before a bankruptcy court judge was

set to rule on the company's motion to reject contracts with both PFAA and the Air Line Pilots Association (ALPA). Bargaining under an extended deadline, the pilots and Northwest hammered out a tentative agreement on March 3rd. Both agreements are subject to union ratification.

On March 7th clerical workers and agents, represented by the International Association of Machinists (IAM), approved the airline's cost-cutting proposals by a 67 percent margin (*Labor Relations Advisor*, February 2006). That agreement, covering 7,600 employees, will become effective upon approval by the bankruptcy court. However,

Continued on page 2 ▶

World Pilots To Vote On Tentative Contract

World Airways pilots ended a nine-day strike after agreeing on a new tentative contract February 5th. The 430 crewmen, represented by the International Brotherhood of Teamsters (IBT), struck the company's commercial operations on January 28th at the end of a 30-day cooling off period. The union plans to complete the ratification process in early March. The current contract became amendable in June 2003.

Pending IBT approval, the pact provides 4 percent pay increases retroactive to 2004, and boosts pay by 5 percent at ratification. The parties also agreed to deferred increases of 4 percent in 2007 and 3 percent in 2008. The contract strengthens furlough protections and assures that World pilots -- instead of pilots at subsidiary airlines North American -- will fly most of the large wide-body aircraft owned by World Air Holding. These planes include B-747s, MD-11s, DC-10s and "like aircraft." Benefit changes include an increase in pilots' health care premiums, an expansion of life insurance coverage, and a larger company contribution to the retirement plan. ■

IN THIS ISSUE

NORTHWEST ENTERS INTO NEW RESTRUCTURING DEALS	1
WORLD PILOTS TO VOTE ON TENTATIVE CONTRACT	1
RIVAL UNIONS CHALLENGE IAM AT U.S. AIRWAYS	2
POSTAL SERVICE, DOL SETTLE \$6.5 MILLION BACK PAY CLAIM	3
LM-10 FILING DEADLINE EXTENDED	3
FIRMS EXPECT INCREASE IN HEALTH COSTS	4
FIRM CONFERENCE	4
NEWS BRIEFS	5

Rival Unions Challenge IAM at US Airways

The recent ruling by the National Mediation Board (NMB) that US Airways and America West constitute a single transportation system for representation purposes has intensified union rivalries. Both the International Brotherhood of Teamsters (IBT) and the Transport Workers Union (TWU) have filed for NMB elections to challenge the International Association of Machinists (IAM) at the merged carrier.



Presently the IAM represents the majority of the merged maintenance and fleet service workforce -- about 5,500 fleet service workers and 6,300 mechanics and related employees at US Airways. At the former America West, the TWU represents about 2,500 fleet service workers. Approximately 830 mechanics at America West are represented by the Teamsters.

The single-carrier ruling on January 30th set a 14-day window for both TWU and the IBT to file documents indicating a "showing of interest" from at least 35 percent of the combined fleet service and mechanic workforces, respectively. Otherwise, the IAM could be certified as the collective bargaining agent for all the fleet service workers and mechanics at the merged carrier. On February 13th both the IBT and TWU filed documents with the NMB to begin the process for holding representation elections at the new US Airways. The agency must verify the total number of fleet service and mechanic employees, including furlonghees eligible to vote, before determining whether the IBT and TWU have the approximate 35 percent support needed to hold a representation election. ■

▶ Northwest - Continued from page 1

the IAM members delivered a "split decision." Although the agents ratified their contract, the 5,600 equipment service workers, stock clerks, and simulator technicians voted to reject the proposals. Northwest will resume the court process to void the contracts of the ground workers who did not ratify.

ALPA's tentative contract, covering 5,000 pilots, will save \$358 million per year. It maintains the interim pay cut of 23.9 percent, and provides pay increases of 1.5 percent in 2008, 2009, and 2010, as well as a 2 percent increase in 2011. Productivity improvements include raising flight hours and reducing sick leave. Pilots will receive a 5 percent contribution to their defined contribution retirement plan while the company is in reorganization. The pension contribution will rise to 8 percent over

the life of the contract. The deal also assures that Northwest pilots will continue to fly 76- to 100-seat jets, eliminating the proposal to outsource that flying.

The PFAA agreement, covering nearly 9,000 attendants, will provide \$195 million in cost savings. Although details were unavailable at press time, the company dropped its demand to hire more foreign attendants to staff international flights. Union leaders said they accepted double-digit cuts in order to maintain other benefits. "It's always best to do a consensual [agreement]," they commented. In November 2005, the flight attendants agreed to interim concessions worth \$117 million on an annual basis. ■

Postal Service, DOL Settle \$6.5 Million Back Pay Claim

After a decade of litigation, the United States Department of Labor (DOL) has settled a \$6.5 million back pay claim covering 900 pilots, co-pilots, and flight engineers who perform contract flying for the U.S. Postal Service (USPS). Postal Service contracts for air cargo services are subject to prevailing wage determinations set by the Labor Department's Wage and Hour Division (W&H), pursuant to the Service Contract Act (SCA). The Postal Service and DOL negotiated the back pay amount to settle lingering unresolved legal issues involving wage determinations for flight crew and the exempt status of pilots and co-pilots performing the USPS air transport work.

The SCA requires that employees who perform government contract work be paid at least the prevailing wage for employees in the locality. In 1996, the W&H division issued a wage determination that sharply increased the prevailing wage rate for pilots flying mail for the USPS. After the Postal Service challenged the determination, the DOL issued a letter ruling that cut the minimum wage rates for pilots transporting mail under year-

round contracts, and specified a lower rate for crewmen who performed mail air transport under short-term contracts. The letter ruling was silent on the pilots' status as professionals who would be exempt from the SCA.

Following appeals from the USPS and several air cargo carriers, the DOL Administrative Review Board (ARB) sent the case back to the Wage and Hour Division, which ruled that pilots are not professionals. In 2000, the ARB affirmed the ruling, but faulted the W&H wage calculations for pilots working on the year-round mail contracts. In 2001, Kitty Hawk Air Cargo Inc. challenged the ARB ruling in United States District Court, which granted summary judgment to the airline, ruling that pilots are professionals exempt from SCA coverage. In July 2005, the United States Appeals Court for the Fifth Circuit overturned the lower court ruling because Kitty Hawk lacked standing to challenge the ruling. The court determined that the air carrier only bids on USPS contracts for point-to-point and short-term flying jobs that are excluded by the wage determination. ■

LM-10 Filing Deadline Extended

The Labor Department's Office of Labor Management Standards (OLMS) has extended the deadline for employers to file LM-10 forms disclosing payments to unions. A recent OLMS advisory set May 15, 2006 as the new deadline for filing the reports for 2005. The Labor-Management and Reporting Disclosure Act requires companies to report payments, gifts, and loans to unions and union officials; payments to employees to persuade them regarding their bargaining rights; and payments to labor relations consultants.

Although the statutory deadline remains March 31st for companies with fiscal years ending December 31st, the OLMS will not penalize any company that files the 2005 report by May 15th. The deadline extension will permit employers to incorporate new guidance provided by the agency's updated list of frequently asked questions (FAQs). The revised FAQs, issued March 7, 2006, clarify who must file the LM-10 and what financial arrangements must be reported. The updates define a new exemption for reporting payments and gifts to union officials at "widely-attended gatherings" such as a large reception. Other issues addressed by the agency's new guidance include the following:

- coverage of a person acting directly or indirectly as an "agent of an employer;"
- reporting requirements during a corporate acquisition;
- the "de minimus" exemption of \$250 per union official; and
- reporting requirements for providing office space for a union representing the company's employees.

For additional information regarding these reporting requirements, please contact your Ford and Harrison attorney. ■

Firms Expect Increase in Health Costs

Employers are bracing for another 8 percent rise in health benefit costs in 2006 and 2007, according to a recent survey published by Watson Wyatt Worldwide and the National Business Group on Health. The expected increases would mirror the 8 percent median hike that occurred in 2005 when improved budgeting and cost control efforts restrained health costs below the expected 10 percent increase.

Although 2005 marked the fourth consecutive year when employers saw a slowing in the rate of increase of benefit expenses, "health care costs remain a financial burden for most U.S. employers," observed Ted Nussbaum of Watson Wyatt. The escalation of health care costs continues to exceed the rate of growth in wages and other business costs.

Nearly all employers surveyed said that they remain committed to providing health care benefits over the next decade. In fact, more than 40 percent of the employers expect to absorb cost increases, instead of passing the higher expenses to employees. Nevertheless, many employers plan to implement cost-management strategies to control the growth of health benefit costs. Nearly half are conducting audits of employees' eligibility or enrollment. Some are also trying to dampen demand for health care by providing incentives for workers' to maintain healthy lifestyles.

The Watson Wyatt/National Business Group surveyed 585 large employers that employ more than 13 million full-time workers. Watson Wyatt is a human resource-consulting firm; the National Business Group provides advice on health benefit costs to its membership of 240 large employers. ■



The Right Response at the Right Time

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 call 1-800-357-4107 or visit us on our web site at

www.fordharrison.com.

News Briefs . . .

NEGOTIATIONS...After more than 3 years of negotiations, **United** has reached its first tentative agreement covering nearly 300 engineers represented by the International Federation of Professional and Technical Engineers (IFPTE)...**United** flight attendants have approved by a 79 percent margin a defined contribution pension plan designed to replace the defined benefit plan that was terminated during the company's exit from bankruptcy....

RECALLS AND HIRING... **NetJets** plans to hire 450 pilots in 2006, a 19 percent expansion of pilot staffing...In its first recall since September 11, 2001, **US Airways** is bringing 55 pilots and 70 flight attendants back to work. The additional pilots were needed as a result of the Company's purchase of three new B-757s, and the former America West operations require more attendants as a result of attrition....

REPRESENTATION... Pilots at **Flight Options** voted for Teamster representation March 2nd. Sixty-seven percent of the 795 crewmen voted for the union...**Frontier** 15 out of 19 stock clerks voted for Teamster representation in an NMB election on March 14....The NMB has certified the Teamsters to represent **GoJet** pilots, who voted 31 to 0 for the union February 23rd

RESTRUCTURING... **Comair** has petitioned the bankruptcy court to reject its flight attendant contract because the IBT "has refused to agree to any meaningful concessions." The airline's recent restructuring agreements covering pilots and mechanics are contingent upon reaching similar concessions from all unions... **Mesaba** pilots, represented by ALPA, have voted to approve a strike if their contract is abrogated by the bankruptcy court....

MISCELLANEOUS... **Total U.S. airline employment** fell by 5.5 percent to 442,000 in October 2005, the 10th consecutive month of year-over-year declines. Although the drop in total industry headcount reflects the shrinking number of jobs at the large network carriers, employment has been expanding at non-network airlines. ■

If you'd like to receive the Labor Relations Advisor electronically, or if you need to update your mailing address, please contact

Heather Ratliff at

h_ratliff@fordharrison.com.



This is an advertisement.

LABOR RELATIONS ADVISOR

1300 19th Street, N.W.
Suite 700
Washington, D.C. 20036

This is an advertisement.

J. Glass & Associates is an affiliate of Ford & Harrison LLP. *The Labor Relations Advisor* is a service to our clients providing general information on selected legal topics. Clients are cautioned not to attempt to solve specific problems on the basis of information contained in an article. For information, please call Jerry Glass at 202-719-2060.

Certification as a Labor and Employment Law Specialist is not currently available in Tennessee and Mississippi.

Visit our web site at www.fordharrison.com