

1 UNITED STATES BANKRUPTCY COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 Case No. 11-15463 (SHL)

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6 In the Matter of:

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8 AMR CORPORATION,

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10 Debtors.

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13 U.S. Bankruptcy Court  
14 One Bowling Green  
15 New York, New York

16

17 May 22, 2012

18 10:07 AM

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20 B E F O R E :

21 HON SEAN H. LANE

22 U.S. BANKRUPTCY JUDGE

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1 TRIAL RE: Doc. #2035 Motion to Reject - Motion of Debtors  
2 for Entry of Order Pursuant to 11 U.S.C. 1113 Authorizing  
3 Debtors to Reject Collective Bargaining Agreements

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P R O C E E D I N G S

THE CLERK: All rise.

THE COURT: Good morning, please be seated.

MR. GALLAGHER: Good morning, Your Honor. At this point the debtor would call Jerrold Glass.

MR. GLASS: Good morning.

THE COURT: Good morning. You're still under oath.

DIRECT EXAMINATION

BY MR. GALLAGHER:

Q Mr. Glass, do you still hold the same position you held the last time you were with us?

A Yes, I do.

Q Okay. Then I would like to move right into the substance of the subject matter and start off by discussing regional jets at US Airways.

In order to discuss that subject I'm going to ask you to put two exhibits in front of you.

MR. GALLAGHER: Your Honor, we have distributed it to the bench and the witness and all counsel, a binder that contains all of the exhibits Mr. Glass is going to be using this morning simply for convenience. Many of these have already been introduced. The few that are new we will discuss and offer at the conclusion of his testimony.

BY MR. GALLAGHER:

1 Q Mr. Glass, do you have in front of you the first two  
2 exhibits in the binder, APA Exhibit 513 -- and you will need  
3 to take one of them out in order to compare them side by  
4 side -- the next -- next one is AA Exhibit 502. Do you have  
5 those in front of you?

6 A Exhibit 802?

7 Q Excuse me, yes, 802.

8 A Yes, I have those.

9 MR. GALLAGHER: And Your Honor, I would note that  
10 for 802 in Mr. Glass' declaration the footnotes are included  
11 in his declaration, but for some reason they were dropped in  
12 the stand-alone copy of Exhibit 802, so we have put them  
13 back and call this Exhibit 802A. That's the only change is  
14 to make the stand-alone exhibit conform with the exhibit as  
15 reflected in the declaration.

16 BY MR. GALLAGHER:

17 Q Is that your understanding, Mr. Glass?

18 A Yes, it is.

19 Q Now on these exhibits I only want to focus on US  
20 Airways and the number of regional jets permitted at US  
21 Airways. Do you focus on that part of each exhibit?

22 A Yes.

23 Q All right. Now as I read both exhibits -- and this was  
24 Mr. Eaton's exhibit from APA -- both your count and  
25 Mr. Eaton's count agree on the first number of 175 regional

1 jets under 50 seats -- 50 seats or less; is that correct?

2 A That's correct.

3 Q But for the next two columns there appear to be  
4 differences. Do you see that?

5 A I do.

6 Q Let me ask if you would explain those differences, and  
7 tell us who is correct.

8 A With respect to Mr. Eaton's 97 in the kind of orange  
9 color, the 51 to 70, the -- the authority under the US  
10 Airways agreement for a 51 to a 76 seats is 212 aircraft,  
11 and I think the disagreement with Mr. Eaton on that column  
12 only has to do with the number that he showed there, which  
13 was 97, but if you look at his footnote at the bottom it  
14 actually says "US Airways 212 aircraft limit is for 51 to 76  
15 seats. Ninety-three aircraft limit is for more than 76  
16 seats," which I'll get to in a second. So I think -- I  
17 think he depict it incorrectly, but it's actually correct in  
18 the footnote.

19 Q So, Mr. Eaton's footnote agrees with you that the  
20 number of your chart of 212 is correct for aircraft up to 70  
21 seats, correct?

22 A That's right.

23 Q All right. Then for the third column for aircraft  
24 larger than 70 seats your number is 153 and his number is  
25 93, correct?

1 A Correct.

2 Q Which one is right?

3 A The 153 is the correct number.

4 Q How do you know that?

5 A I negotiated all of the regional jet provisions in the  
6 US Airways restructuring agreements.

7 Q All right. Well, can you with reference to any of  
8 those agreements explain to us how you get to 153 or either  
9 that or with your own summary?

10 A I will do the best I can, because as I think from  
11 listening to Mr. Eaton's testimony and some other this is  
12 not the easiest thing to follow, but I'll --

13 Q All right.

14 A -- I'll walk everybody through it.

15 Q Well, let me see if I can short-circuit it.

16 A Okay.

17 Q Turn to the last exhibit in the book, it's an  
18 arbitration award I believe.

19 A Yes.

20 Q And this is AA Exhibit 1775, correct?

21 A Yes, it is.

22 Q Without reading through the whole thing can you tell us  
23 what was the issue and what was the result in that  
24 arbitration proceeding?

25 A The issue was whether under the transition agreement,

1 and specifically in the transition agreement it's Roman  
2 numeral VIII, paragraph C.

3 Q Where -- what exhibit are you in?

4 A This would be in Exhibit 505, and it would be -- let me  
5 find it here.

6 (Pause)

7 Q Would it be on page --

8 A If you look -- if you look -- after page 16, the first  
9 page is called Transition Agreement," that's page 1.

10 Q Okay. Help me out. We're in Exhibit 5 --

11 A We're in Exhibit 505.

12 Q -- 05.

13 A So we go through LOA-91 and there are 16 pages in  
14 LOA-91 --

15 Q Is that --

16 A After Attachment B.

17 Q After Attachment B.

18 A After Attachment B.

19 Q Sixteen pages.

20 A Yes. And then the following page is the first page of  
21 the transition agreement, which was the agreement between US  
22 Airways and America West during their merger.

23 Q And that's labeled transition agreement on page 1,  
24 correct?

25 A That's correct.

1 Q And once you have the transition agreement where do we  
2 go from there?

3 A Okay. So you look on page 11, it's Roman numeral VIII,  
4 paragraph C. I believe this is where Mr. Eaton -- not I  
5 believe -- this is where he got his 93 aircraft limit, but  
6 what he failed to take into account, and it's not -- again,  
7 it's not an easy thing to decipher -- is that under LOA-91  
8 the company had the authority to place 60 CRJ 700s at  
9 wholly-owned subsidiaries, but in LOA-93, which is  
10 Exhibit 1771, we negotiated a change in the authority --  
11 excuse me -- a change in the size of the aircraft, the  
12 authority of wholly-owneds remained at 60, but the size of  
13 the CRJ aircraft went from the 700 to the 900, which are the  
14 77- to 90-seat range that Mr. Eaton had there.

15 So when you add the 93 from the transition  
16 agreement in Roman numeral VIII, paragraph C, and the 60  
17 wholly-owned aircraft that was granted in LOA-91 as modified  
18 by LOA-93, you get the 93 plus the 60 for a total of 153.

19 We had a dispute with the union over at the  
20 interpretation of that language, because just in reading it  
21 it would not be clear to the reader what -- what it meant.  
22 So the last exhibit, 1775, is the decision of Arbitrator  
23 Block on that exact dispute, and the company prevailed on  
24 that.

25 Q And so they prevailed on the argument that the total

1 number is -- adds the 60 from LOA-91 on top of these 93 for  
2 a total permissionable range of 153 large RJs?

3 A Correct.

4 Q All right.

5 THE COURT: Excuse me, is there a spot in  
6 Exhibit 1775 that would lay this out?

7 THE WITNESS: Yes, Your Honor. If you look -- if  
8 you look at page -- page number 4 lays out the issue in  
9 front of the arbitrator, and it says whether the company has  
10 violated Section VIII(c) of the transition agreement with  
11 regard to the operation of aircrafts specified in that  
12 section, and if so, what is the appropriate remedy. And  
13 then you have to go to the arbitrator's decision here. Let  
14 me find that for you.

15 BY MR. GALLAGHER:

16 Q So on page 4, Mr. Glass, the arbitrator says the  
17 association's position is the company could allocate no more  
18 than 93 LSJs, correct?

19 A Correct.

20 Q And what's an LSJ?

21 A It's -- it's a contradiction in terms is what it is.  
22 It's a large small jet.

23 (Laughter)

24 Q And the association's position was that that limit of  
25 93 was it, that that was the limit, correct?



1 A That is correct.

2 Q And they asked for a remedy cease and desist from going  
3 beyond that?

4 A That is correct.

5 Q And did the association prevail?

6 A No, they did not.

7 Q And did the arbitrator hear the entire bargaining  
8 history?

9 A He did.

10 Q And was the association that brought the grievance the  
11 same association that you negotiated the agreement with?

12 A No. We -- the Airline Pilots Association was ousted by  
13 the US Airline Pilots Association called USAPA. They  
14 brought the grievance. So ALPA negotiated it, but USAPA  
15 filed the grievance over it.

16 Q So post merger the Airline Pilots Association was the  
17 representative of both pilot groups from both America West  
18 and US Airways?

19 A Yes.

20 Q And subsequent to that the pilots formed a new  
21 independent union?

22 A Correct.

23 Q Okay. All right. Now that -- so going back to the  
24 original two exhibits, is there any doubt in your mind about  
25 the number 153 for the large regional jets permitted at US

1 Airways?

2 A No, there's not, that's what the authority is.

3 Q And what is the seat limit for those large RJs?

4 A Ninety seats.

5 Q All right. Is -- and is there a weight limit for the  
6 large RJs?

7 A Yes, it's 90,000 pounds.

8 Q If you were negotiating a scope clause today,  
9 Mr. Glass, would you view 90,000 pounds as a prudent weight  
10 limit for a carrier to agree to today?

11 A No, and it isn't -- I mean in reality it isn't what we  
12 did at the time, because the CRJ 900 had a weight limit of  
13 84,500 pounds, we negotiated 90,000, and that was so we  
14 could incorporate the ability to fly the Embraer Air 175,  
15 which is a heavier aircraft than the CRJ aircraft.

16 And I -- and so I would take the same view now as  
17 new generation aircraft are being developed. The engines  
18 generally are more powerful and as a result the aircraft  
19 tend to be heavier, even with the same seat restrictions.

20 Q Okay. So even with the same number of seats, maximum  
21 of 90, could well meet a heavier aircraft total weight?

22 A Yes. Yes, it could.

23 Q Are you aware of the terms of APA's last proposal on  
24 regional jets?

25 A I am.

1 Q If you'd turn in the book to -- it is a couple numbers  
2 back, APA 414?

3 A Yes, I have it.

4 Q And if you'd turn to page 2. That's APA 414, page 2.

5 A Yes, I have it.

6 Q And this is the most recent APA scope clause proposal  
7 to American Airlines.

8 A Yes.

9 Q Can you tell us what this provides?

10 A The APA proposal says that regional airlines can fly up  
11 to 150 jets between 51 and 70 seats and below 80,500 pounds,  
12 but what --

13 Q So, first of all, the maximum limit is 70 seats?

14 A Correct.

15 Q All right. And the maximum weight, the 80,500, how do  
16 those seat limits and weight limits compare to what the  
17 other carriers are permitted to do, particularly US Airways?

18 A Well, it's -- it's obviously -- the seat limit is lower  
19 than US Airways, it's lower than Delta, and the weight is  
20 lower as well. I think Delta's weight limit is -- I think  
21 it's 86,000 pounds.

22 Q All right. Now, I interrupted you. If you would go on  
23 to explain the proposal.

24 A So you take the 150 jets that are permitted, and from  
25 that you subtract 147, because those are already 70-seat

1 jets that will being flown at American Eagle.

2 Q Now, I think you just said 147, did you mean 47?

3 A I meant 47. Correct, sorry.

4 Q Okay.

5 A So you would subtract the 47 from 150 and that would  
6 leave American with the ability to have 103 70-seat aircraft  
7 flown by a regional airline.

8 Q New -- new additive to the current fleet?

9 A Additive to the 47; however, there is a pretty  
10 significant caveat here, in that it says that for every new  
11 70-seat aircraft you bring on to have a regional airline fly  
12 the airline is obligated to bring -- to bring in or order  
13 new one 71- to 110-seat jet that would be flown by mainline  
14 American pilots.

15 So in other words, the forty-eighth jet of 70  
16 seats would require that one mainline aircraft be added to  
17 the fleet between 71 and 110 seats.

18 Q And -- and if American was unable or unwilling to add  
19 those small RJs -- small large RJs so the mainline fleet  
20 would it be able to expand beyond the 47 CRJ 700s?

21 A No.

22 Q Okay. In your view, Mr. Glass, would it be prudent for  
23 American to accept a proposal of this sort on regional jets?

24 A No, I don't know how they could actually. Like you  
25 don't order one aircraft at a time, you have to order, you

1 know, a fairly significant number and there's a huge capital  
2 expense associated with doing that.

3 Q Okay. Let's turn to code-sharing. Did any major  
4 network carriers get substantial expansion of code-sharing  
5 during their labor negotiations in bankruptcy?

6 A Yes, they did.

7 Q Can you describe briefly?

8 A Well, I would highlight to, which would be Northwest  
9 and United Airlines. In their restructuring agreements they  
10 -- they received significant liberalization of their scope  
11 clause with respect to domestic code-share, and the  
12 requirement in those agreements was a meet and confer, but  
13 ultimately the decision was the company's based on its best  
14 business judgment.

15 Q And are there any -- are those code-shares that United  
16 and Northwest are permitted to do, are there any limitations  
17 or are they geographic scope, are they nationwide?

18 A They're national in scope.

19 Q All right.

20 A So as I -- I think I had explained in my direct  
21 testimony, that these code-share agreements are intended to  
22 cover areas of the country where the carrier does not have  
23 the breadth and depth of service that they would need.

24 So rather than spend tens of millions or hundreds  
25 of millions of dollars in building up these markets they

1 enter into code-share agreements.

2 Q And are there any limits at United and Northwest on the  
3 number of code-share partners?

4 A No.

5 Q All right. Are there any limits at all at United and  
6 Northwest?

7 A Coming -- you mean the restructuring agreements?

8 Q Yes.

9 A Oh, are there any limits?

10 Q Yes.

11 A Yes. Oh, yes, of course.

12 Q And what are those limits?

13 A There's limits related to how much -- how flying could  
14 be done and some other provisions as well.

15 Q All right. Have you reviewed APA's most recent  
16 proposal -- prehearing proposal to American on the subject  
17 of code-sharing?

18 A I have.

19 Q That is Exhibit 516 before you, if you would turn to  
20 that.

21 A I have it.

22 Q Where in this exhibit do we find the domestic code-  
23 share provisions?

24 A On the middle of page 2 starting with section 1H,  
25 domestic code-share, and then going to the bottom of page 2

1 and into page 3 and page 4 where it talks about the jet --  
2 the excuse me -- the JFK domestic code-share, the US Airways  
3 shuttle code-share, and the Alaska code-share.

4 Q All right. Well, let's parse this out together if we  
5 may starting at the beginning of Section 1H.

6 The -- the second bullet says, "If we agree on  
7 these three spelled out below we eliminate the current 1H,"  
8 correct?

9 A Correct.

10 Q And so then the only code-share provisions would be  
11 those set forth below, correct?

12 A That would be my understanding, yes.

13 Q All right. And can you -- you've read this over before  
14 have you not?

15 A I have.

16 Q And would you briefly describe what's set forth for the  
17 JFK domestic code-share here?

18 A What this says is that American could put its code on  
19 JetBlue flying at JFK, but it's -- and it's -- it's limited  
20 to the 18 cities that JetBlue is currently interlining with  
21 American, and then it allows them to add just two additional  
22 cities mutually agreed upon by American and the union.

23 Q All right.

24 A The second part of that is that in order to have that  
25 code-share American has to maintain at least the current

1 number of total American departures out of JFK, and the  
2 total number current. So they could not -- they could not  
3 adjust their flying downward.

4 So, for example, if a market or two or more  
5 started losing money they -- they either have to continue to  
6 operate that route at a loss or I believe they would  
7 probably have to pull out of the JetBlue code-share.

8 Q All right. Now it does say they could substitute 20  
9 cities, but only on mutual agreement with APA, correct?

10 A Correct.

11 Q All right. How many city pair combinations are  
12 potentially available for feeding traffic into JFK?

13 A Just on JetBlue or just generally?

14 Q Yeah, generally.

15 A Oh, it's hundreds, if not thousands.

16 Q Okay. So what -- if you would go on and describe what  
17 is provided for in the US Air, Northeast shuttle code-share.

18 A This says that American can put their code on the US  
19 Airways shuttle flights between Boston, LaGuardia, and DCA,  
20 but can only do so if there is a monthly baseline of 102  
21 aggregate in total scheduled daily departures at Boston,  
22 LaGuardia, and DCA, and if American falls below the 12-month  
23 rolling average of 90 percent of that baseline and cannot  
24 cure that defect they have to take their code of the US  
25 Airways shuttle flights.



1 Q Off of one flight?

2 A No, all of -- they can't code-share at all with US  
3 Airways shuttle.

4 Q So if they fall one flight below what they -- their  
5 baseline they have to pull the -- pull the code-share off  
6 the entire shuttle operation?

7 A Well, there's a cure period, I mean it's not like it  
8 would just happen, but --

9 Q Okay.

10 A -- in theory that's correct.

11 Q All right. And what is provided -- proposed for the  
12 Alaska code-share arrangement?

13 A In the Alaska code-share arrangement American can  
14 expand its current code-share with Alaska subject to the  
15 restrictions that are in those five hollow bullets.

16 First is there has to be annual baseline of  
17 American mainline flying in the LA basin, and then I assume  
18 bay area means San Francisco, Oakland, the measurement  
19 period is 2011, and it says "for each 8,760 mainline annual  
20 block hours scheduled over the baseline" they can add two  
21 markets. And again, there's a percentage and a cure period,  
22 and if they can't meet those then they have to return to the  
23 preexisting code-share arrangement.

24 Q So if American remains static in Los Angeles and San  
25 Francisco areas can it add any Alaska code-share?

1 A I don't -- I don't think so based by the outline of  
2 this term sheet.

3 Q Okay. How do this -- how does this proposal compare to  
4 the code-sharing permitted to the other network carriers?

5 A It doesn't compare favorably, and what I'm comparing it  
6 to is the code-sharing agreements that were in place prior  
7 to the consolidation -- the merger between Northwest and  
8 Delta and Continental and United when that were separate  
9 airlines had very significant code-sharing agreements.  
10 These do not compare to those at all. Those were  
11 comprehensive code-share agreements that allowed the  
12 airlines to put their codes on literally hundreds and  
13 hundreds of flights of the other carrier.

14 Q Okay. Now, Mr. Glass, I'd like to turn to some costing  
15 and valuation issues.

16 Prior to Mr. Roth's testimony here have you ever  
17 hear the phrase terminal value?

18 A I had not, no.

19 Q Is that a generally accepted method of valuing labor  
20 contract terms in the airline industry?

21 A No, it is not.

22 Q Was that term or method used in the US Airways  
23 bankruptcies?

24 A It was not.

25 Q Was Mr. Roth involved in either of the US Airways

1 bankruptcies?

2 A He was the advisor to the machinist union in both.

3 Q And which employee groups did the machinist union  
4 represent?

5 A They represented three groups. The mechanic and  
6 related, fleet service, and then maintenance training  
7 instructors.

8 Q And so those were sizable groups?

9 A Well, two of them were. The maintenance training  
10 instructors I think had 30 people in it.

11 Q All right. And how many rounds of bargaining were  
12 there in both bankruptcies?

13 A With the machinist union at least three.

14 Q All right. And did US Airways ever agree to use  
15 terminal values?

16 A No.

17 Q Have you ever used terminal values in any of the many  
18 airline labor negotiations you've been in?

19 A No, I have not.

20 Q And what would your position be if union proposed to  
21 use it in negotiations with you today?

22 A We would reject that.

23 Q Why?

24 A Well, for a number of reasons, but I guess the most  
25 important one is that whether you are negotiating -- whether

1 you are costing an agreement out that's adding cost or  
2 savings you do so within the box of the term of the  
3 agreement whether it's three years, four years, five years.  
4 And the reason you do that is quite simple. The next round  
5 of bargaining brings a whole new set of proposals and  
6 priorities for both the company and the union. So if you  
7 went and extended the cost or the savings beyond the  
8 amendable date you're not giving a true representation of  
9 what the cost may be in the years outside of the term of the  
10 agreement, because provisions will change. There will be  
11 modifications made in a whole bunch of areas.

12 So I've done, as you know, over 100 of these  
13 agreements, never has management that I've been involved  
14 with agreed to savings or costing beyond the term of the  
15 agreement.

16 To further illustrate that, one of the things that  
17 is done, especially in restructuring or concessionary  
18 bargaining, is that it is not uncommon for a few provisions  
19 to snap back on the last date of the agreement, and those  
20 snap backs, while they add cost to the agreement, they are  
21 not included in the savings that are calculated during the  
22 term, and that's precisely why they're put in on the last  
23 day of the agreement so they're not included in savings.

24 Q That sounds like the congressional budget making  
25 process, Mr. Glass.

1 A No comment.

2 Q Prior to Mr. Roth's testimony have you ever heard the  
3 phrase total compensation over 30 years?

4 A I have not.

5 Q Is that a generally accepted method of comparing or  
6 valuing labor contract terms in the airline industry?

7 A It is not.

8 Q Was it used in the US Airways bankruptcies?

9 A No.

10 Q Have you ever used it anywhere?

11 A No.

12 Q Has any union ever attempted to use it in negotiations  
13 with you?

14 A No, not with me.

15 Q And if it was proposed by a union to use it in  
16 negotiations with you what would your response be?

17 A I would reject it.

18 Q Why?

19 A Principally because bargaining is a forward looking  
20 system, if you will. History is history. You have to look  
21 forward. What you're worried about is can I stay in  
22 business and can I become profitable in the future, not what  
23 has happened before.

24 Q Now if you would turn, Mr. Glass, to the next exhibit  
25 in the binder, which is Exhibit 1762, and this a new

1 exhibit. Can you tell us who prepared it?

2 A This was prepared by my staff under my direction.

3 Q And what does it reflect?

4 A This is a comparison of employee premiums for medical  
5 plans active employees, and it compares the employee  
6 premiums paid by different employee groups to the pilots.

7 The boxes that are shaded in yellow indicate that  
8 the employee group pays the same as the pilots or more than  
9 the pilots.

10 Q All right. So American currently, under negotiated  
11 collective bargaining agreements, the mechanics and fleet  
12 service, Mr. Roth's constituency, currently pay higher  
13 medical premiums than the pilots; is that right?

14 A That is correct.

15 Q All right. And at United, another of Mr. Roth's  
16 clients were for the mechanics and fleet service, the  
17 mechanics and fleet service currently pay higher than the  
18 pilots; is that right?

19 A That is correct.

20 Q But American's -- but at Continental and Delta  
21 everything is the same for all employees; is that correct?

22 A Correct.

23 Q All of the premiums?

24 A Yes.

25 Q And that is what American is proposing; is that

1 correct?

2 A That's correct.

3 Q All right. Now, do you recall hearing Mr. Roth's  
4 testimony that the net savings from outsourcing maintenance  
5 and repair jobs is only 13 cents per dollar of expense?

6 A Yes.

7 Q Do you agree with that testimony?

8 A I do not.

9 Q Why not?

10 A Because based on my review of his testimony and  
11 declaration it does not encompass -- it's a comparison of  
12 apples to oranges. He was comparing the total MRO or vendor  
13 cost, all in, which includes overhead and rates and  
14 benefits, and that was compared to just the mechanic rate  
15 and a few overhead items. It did not take into account the  
16 other on a fully allocated cost, and on a per unit basis  
17 that did not take into account other areas that would also  
18 see a reduction in the costs.

19 Q Would you look at the next exhibit, American Airlines  
20 Exhibit 1772. Can you tell us what's reflected here?

21 A Yes. In the left column, the gray shaded column is the  
22 MRA -- MRO rate per hour, and this is an all-inclusive rate.  
23 So this includes, as I said, everything that an MRO would  
24 charge an airline.

25 Q And that's the number that Mr. Roth used in his

1 declaration, correct?

2 A That's correct.

3 MR. GALLAGHER: Now, Your Honor, those numbers are  
4 confidential, so the actual dollar amounts are not reflected  
5 in this document, but they are in Mr. Roth's declaration.

6 THE WITNESS: That's why, Your Honor, there's  
7 nothing on the Y axis. Normally you would -- that's where  
8 you would have the dollars per hour.

9 THE COURT: Right.

10 THE WITNESS: But because it's confidential  
11 there's nothing there.

12 BY MR. GALLAGHER:

13 Q So what does the middle bar reflect?

14 A This is the American mechanic and related rates that  
15 were used in Mr. Roth's analysis, and this is what produced  
16 the 13 percent or 13 cents differential.

17 Q All right. And then what is reflected in the right-  
18 hand column?

19 A The right-hand column is the actual cost per hour, that  
20 is the per unit fully allocated cost.

21 So in other words, if you were going to have an  
22 apples to apples comparison you would compare the MRO rate  
23 per hour, the first bar, to the bar on the right. Those --  
24 those would be comparable comparisons.

25 Q And the underlying data points are all drawn from the



1 same American Airlines business plan model, correct?

2 A That -- that's correct.

3 Q So whatever those unit cost metrics are they come from  
4 the same source Mr. Roth used?

5 A Correct, and that's what the crew chief inspector and  
6 the stock clerk and the other colored items here, that's the  
7 per unit cost of those -- of those other groups.

8 Q Okay. And all of those costs are already included in  
9 the all-inclusive MRO rate, correct?

10 A Yes.

11 Q Okay. If you would turn to the second last exhibit,  
12 which is Exhibit 1774.

13 A Yes.

14 Q Can you tell us what this reflects?

15 A This --

16 Q First of all, who prepared this?

17 A This was prepared again under my direction by my staff.

18 Q Okay.

19 A And what this does is it takes the head count of the  
20 mechanic and related employees as of the end of 2011, it  
21 also shows the fleet as of that same date for the network  
22 carriers, and when you divide the number of employees into  
23 the fleet you come up with a number of mechanic and related  
24 employees per aircraft.

25 Q Okay. And what conclusions can you draw from this

1 information, Mr. Glass?

2 A Well, this shows that American has in some cases close  
3 to double the number of employees per aircraft than the  
4 other network carriers, but regardless it's a significant  
5 amount more.

6 Q And by employees we're talking here only about the  
7 maintenance and repair employees, the mechanics and related  
8 employees?

9 A Mechanics and related. And one of the -- you know, one  
10 of the reasons that some of these numbers are so low is  
11 because in the mechanic and related craft or class a lot of  
12 these jobs ended being outsourced in the restructuring.

13 Q At other carriers?

14 A At other carriers, correct.

15 Q Okay. And that's what American proposes here?

16 A Correct.

17 Q Okay. That's it for that exhibit, Mr. Glass.

18 I now want to talk about convergence. Is it your  
19 opinion that the labor costs of the network carriers will  
20 converge in the foreseeable future?

21 A No, it is not my opinion.

22 Q Why is that?

23 A There -- there are many factors that come into play  
24 when looking at labor costs of a particular airline.

25 The first and foremost is obviously the financial

1 condition of the airline. Everybody is not profitable, as  
2 for example, American is not, they don't have the same level  
3 of profitability.

4 They also, while they have the same business  
5 model, they don't all operate in the same environment. And  
6 let me give you two examples of that.

7 So for example, if you have a hub that is  
8 primarily a leisure destination and you are competing  
9 against an airline whose primary hub is in a business  
10 destination, in the leisure market you cannot achieve the  
11 same kind of revenue premium that you would in a -- in a hub  
12 in a business area.

13 Same token, if you are operating in an area that,  
14 for example, like Phoenix, Arizona that gets, oh, 350 days  
15 of sunshine a year and you're competing against a carrier  
16 that is operating out of a Chicago with a lot of bad weather  
17 in the winter or in the northeast with a lot of  
18 thunderstorms in the summer, there are differences there as  
19 well.

20 So there are a number of reasons why I don't think  
21 that will occur.

22 The last reason is to me kind of the most obvious  
23 one, which is that this is an industry that is subject to  
24 outside -- that is sensitive to outside events like no other  
25 industry in the United States, and if you look at the last

1 decade in particular -- but you could pick any decade that  
2 exists -- you will find that there were events, numerous  
3 events that had significant impact on one or more carriers,  
4 and not necessarily in this same way. Very, very small  
5 example, and I'll show you a bigger picture here in a  
6 second.

7 But as an example after the events of 9/11 US  
8 Airways, which had a hub -- which has a hub at DCA at  
9 National Airport, if you recall that airport remained closed  
10 for some months after every single other airport in the  
11 United States reopened. That had an adverse impact -- while  
12 9/11 had an adverse impact on the entire industry, it was  
13 even worse for US Airways because they couldn't operate out  
14 of one of their major hubs.

15 Q Well, let me ask you to turn to the next exhibit in the  
16 binder, 1766. Do you have that in front of you?

17 A 1766. Yes, I do.

18 Q And who prepared this?

19 A This was again prepared under my direction by my staff,  
20 and what this shows is it just take as snapshot of the last  
21 decade and it gives you I think a very good idea of what the  
22 industry is up against in terms of competing and being able  
23 to be profitable.

24 Every single year there were outside events that  
25 impacted either one or a group or the entire industry, and

1 there is, in my opinion, absolutely nothing that changes my  
2 mind as we head into this next decade -- or in this next  
3 decade that won't have that same effect.

4 Q So is there any way that a carrier can mitigate the  
5 risk of these shocks that -- especially the ones that impact  
6 revenue?

7 A No.

8 Q Okay. Mr. Akins testified that flight attendants costs  
9 would converge in the foreseeable future. Do you agree with  
10 that?

11 A I do not.

12 Q Why not?

13 A Well, his -- first his convergence theory, at least  
14 going out in the future, is based solely on one number and  
15 that's the pay rates. It doesn't take into account anything  
16 that the airlines have done or will do in productivity or  
17 other provisions of the agreement.

18 Q Well, let me ask you to look at the next exhibit, 1765.  
19 Can you tell us -- first of all, who prepared this and what  
20 does it reflect?

21 A Okay. This was again prepared under my direction by my  
22 staff, and this depicts some of the significant productivity  
23 gains achieved by United in its most recent agreement with  
24 the Association of Flight Attendants, the one that Mr. Akins  
25 indicated the flight attendants received a ten percent

1 increase on date of signing.

2 Q That's a pay increase?

3 A Pay increase.

4 Q All right. And when was the effective date of that  
5 agreement?

6 A February of 2012 I believe.

7 Q And what's the duration of that agreement?

8 A Four years.

9 Q All right. And were all of these productivity items  
10 included in that agreement, which is now in effect?

11 A Yes.

12 Q All right. Can you tell us anything about the head  
13 count or cost impact of any of these provisions?

14 A Each one of these items generates some savings to the  
15 company, but the one that I -- I'm going focus on is the  
16 very first one, because as I testified in my direct that one  
17 of the key critical pieces is the maximum of hours that  
18 anybody can fly in a month. So this is to me a very -- very  
19 easy calculation to get a sense of what kind of savings can  
20 -- is being achieved.

21 So if you just take the monthly maximum and go  
22 from 92 to 95 hours that's an increase of 3 hours a month,  
23 you would simply multiply that by 12 months, which would  
24 produce an additional 36 pay hours a year per flight attend.  
25 And I don't have the exact number of United flight

1 attendants, but I believe there are more United flight  
2 attendants than American flight attendant, but let's just  
3 assume is there are about 15,000 of them. If you multiplied  
4 the 15,000 flight attendants by the 3 additional hours that  
5 generates something in the order of 540,000 additional pay  
6 hours available to be worked. If you then divided that  
7 number -- not by the pay hours, but by a block hour number,  
8 and let's just use 75 as an example -- that would -- that  
9 would generate 600 heads of savings to the company on that  
10 one item alone.

11 Q And would that be a material cost savings to the  
12 company?

13 A Very material. It -- I'm certain it would exceed  
14 easily \$20 million a year.

15 Q Okay. All right. And that's only for the first line  
16 of this page?

17 A That's correct.

18 Q All right.

19 A As I said, a number of these items would produce  
20 additional savings to the company in terms of head count.

21 Q Okay. But you don't presently have access to specific  
22 internal financial data from United that would enable you to  
23 cost it in an exact manner; is that right?

24 A I -- no, I do not.

25 Q All right. Now apart from productivity even for pay is

1 it -- is it always certain that the pay elsewhere is going  
2 to go up faster than American has proposed it go up at  
3 American?

4 A No, there's no guarantee of that.

5 Q Did you negotiate the recently US Airways flight  
6 attendant agreement that failed ratification?

7 A I did.

8 Q Under that agreement -- first of all, what was the term  
9 of that agreement?

10 A Five years.

11 Q And under that agreement what was the proposed level of  
12 pay increases?

13 A Initially?

14 Q Yes.

15 A Oh, they were very -- they were very significant. I  
16 think they at the top end would have been over 14 percent,  
17 but you know, you're talking about a period of time. For  
18 the America West flight attendants it would have been even  
19 greater to bring them to parity, but their first contract  
20 was negotiated back in 1999, and of course the airways  
21 initial restructuring was 2002, but they were very  
22 significant increases to bring them up to where the rest of  
23 the industry is.

24 Q That's insignificant on a percentage basis?

25 A Oh, yeah.



1 Q How did -- how did it stack up in terms of comparison  
2 to the rates currently in effect at American and proposed by  
3 American?

4 A The date of signing increase would have been \$46 -- top  
5 of scale would have been \$46 per hour, which is the --  
6 domestically, which is the same rate that American has.

7 Q So even with those significant increases they would  
8 have just come up to match where American is today?

9 A That is correct.

10 Q Okay.

11 A On their base rate. And then on the out-year increases  
12 I believe American is proposing one and a half percent in  
13 each of the six years, which would be seven and a half  
14 percent, and I think the out-year increases for US Airways  
15 are in the range of -- I want to say four to six percent,  
16 something like that.

17 Q All right.

18 A Below -- below where American is.

19 Q All right. So do you agree with Mr. Akins that  
20 American's proposals will put American's flight attendants  
21 30 percent behind what he called the industry standard  
22 within a few years?

23 A No, I do not.

24 Q Why not?

25 A Well, American's rates of course at the time of the --

1 when the restructuring was the highest in the industry, and  
2 even today the top of scale rate is only exceeded by  
3 Continental and Southwest. Delta's increase in July will  
4 take them slightly above American on the domestic top of  
5 scale, but still below then on the international top of  
6 scale.

7 Q And I think we covered this in your original testimony,  
8 but did Mr. Akins have the right numbers for the Delta pay  
9 increase?

10 A He did not.

11 Q Okay. What are the correct numbers for the Delta  
12 flight attendant pay increase this July?

13 A It's a general wage increase of 2 percent and 3.3  
14 percent at the top of scale.

15 Q All right. Now I want to shift a bit, Mr. Glass, to  
16 the subject of inflation which Mr. Akins also discussed.  
17 And let me ask you if you would to look at company Exhibit  
18 1761?

19 A Okay.

20 Q Who prepared this document?

21 A This was prepared under my direction by my staff.

22 Q And what does it show?

23 A This shows the changes in flight attendant top of scale  
24 domestic rates when you factor in inflation.

25 So what we did is we used the exact same

1 methodology that Mr. Akins utilized in his declaration when  
2 he pointed out that American flight attendants were in fact  
3 during an inflation were 30 percent behind, and it's  
4 actually 31.8 percent.

5 Q So the top -- the top row, which is American Airlines,  
6 that reflects essentially a repeat of Mr. Akins' analysis,  
7 correct?

8 A That's correct, the 9.1 matches exactly his -- his  
9 declaration. And all we did rather than just focus on  
10 American as we looked at the other carriers, Delta which of  
11 course is non-union, and then United and US Airways, all  
12 three of those airlines going through restructurings, and as  
13 you can see when factoring in inflation the flight attendant  
14 scales have not kept up with inflation at all any of the  
15 carriers.

16 In fact -- I mean you can say that about any of  
17 the employee groups, none of them have kept up with  
18 inflation because of the significant restructurings that  
19 took place.

20 Q Okay. Mr. Akins also testified that American's flight  
21 attendants are still working under their 2003 concessionary  
22 agreement; is that true?

23 A Yes.

24 Q And is that true for any other airline's flight  
25 attendants?

1 A Unfortunately it is. The US Airways flight attendants  
2 are still operating under their restructuring agreement, and  
3 until February of this years the United flight attendants  
4 were -- were operating under their restructuring agreement.

5 Q And how long had that United agreement been in place?

6 A Since 2003, so it's almost -- well, it's nine years.

7 Q Okay. In your original testimony before the Court you  
8 testified that pay rates, work rules, and benefits for the  
9 carriers that had gone through bankruptcy were not set in  
10 the middle of the pack but at or towards the bottom of a  
11 peer group. Do you recall that testimony?

12 A I do.

13 Q We have two new exhibits that relate to that. If you  
14 would turn to Exhibit 1763 and tell us first of all who  
15 prepared this?

16 A This was prepared under my direction by my staff.

17 Q And what does it reflect?

18 A So in order to illustrate the fact that the airlines  
19 who underwent restructurings really did not end up in the  
20 middle of the back, unfortunately towards the bottom or at  
21 the bottom, I looked at a number of significant cost items  
22 and work rules.

23 Q And this is for pilots only in this exhibit?

24 A This is for pilots only, and it is done in  
25 chronological order. Meaning the first airline that filed

1 for bankruptcy was US Airways, and it shows the dates at the  
2 top. The next airline that filed for bankruptcy was United  
3 in December of 2002, that's on the next page. And I'll come  
4 back and I'll explain this, I just want to explain the four  
5 charts. Then the -- then the third page is Delta because  
6 they filed third. And then lastly, Northwest, which filed  
7 on the same date as Delta, but exited one month later.

8 So in essence we've got this pattern, and if I can  
9 just explain this a little bit and do so by just focusing on  
10 one item, and it's really the same for most of these, but  
11 what is in yellow -- first off what is in yellow on each  
12 page, the box shaded in yellow indicates a provision that is  
13 worse than the provisions in place prior to restructuring.

14 Q And by worse you mean worse for the employees?

15 A Worse for the employee, correct. So if you look at  
16 vacation pay, when you're --

17 Q Is that the -- last the last line on there?

18 A That's the last row on each page. And if you look at  
19 vacation pay for line holders, that's the LH, you'll see  
20 that prior to restructuring US Airways paid pilots four  
21 hours per day when they had seven days or more of vacation,  
22 and two hours -- two hours and fifty minutes a day when they  
23 had less than seven days of vacation.

24 Now at that same time United and Delta paid trips  
25 missed, which is a more lucrative provision. Northwest paid

1 three hours and thirty minutes a day. But when US Airways  
2 restructured that four hours -- because the majority of  
3 people -- the vast majority of people take vacations of at  
4 least seven days because they take them in blocks of a week  
5 -- that went from four hours to three hours and forty-five  
6 minutes a day.

7 Q So that was a reduction in the compensation to the  
8 pilots?

9 A That was a reduction. A modest one, not a significant  
10 one.

11 But nonetheless, when you compare it to trips  
12 missed at Delta and United it's a significant -- in terms of  
13 comparing them it's a significant reduction.

14 Q So they went below where the peer group was at the  
15 time?

16 A With the exception of Northwest, which was at 330,  
17 three hours and thirty minutes.

18 Q Okay.

19 A Okay. Then when you turn to United you'll see what  
20 they -- they were the next carrier to negotiate  
21 restructuring agreements, and they went from trips missed to  
22 two hours and forty-eight minutes per day, which is well  
23 below US Airways, well below Northwest at the time, and well  
24 below of course Delta, which was at trips missed.

25 The next carrier, Delta, the next page, when they

1 filed they went from trips missed to three hours a day,  
2 slightly above where United was, but below where US Airways  
3 was.

4 And then finally Northwest went from 330 a day,  
5 they matched United's two hours and forty-eight minutes,  
6 which was the lowest vacation pay in -- among the network  
7 carriers.

8 Q If you would turn to Exhibit 1764 and tell us what this  
9 reflects?

10 A This is just a look at the pilot defined benefit plans,  
11 again, prior to restructuring and post restructuring, and  
12 this shows that prior to restructuring all four airlines had  
13 defined benefit plans and that post restructuring three of  
14 them terminated the plans and one was frozen.

15 MR. GALLAGHER: And I have no further questions,  
16 Your Honor.

17 MR. JAMES: Your Honor, given I was just given  
18 this morning 85 pages of exhibit, some of them are our  
19 exhibits, can we take a somewhat longer break so we can  
20 consult? Say 20 minutes?

21 THE COURT: Sure. All right, let's do that.

22 MR. JAMES: Thank you, Your Honor.

23 THE COURT: Thank you.

24 (Recess at 11:03 a.m.)

25 THE CLERK: All rise.

1 THE COURT: Please be seated.

2 MR. JAMES: Your Honor.

3 CROSS-EXAMINATION

4 BY MR. JAMES:

5 Q Mr. Glass, once again.

6 A Good morning.

7 Q Good morning. Would you turn to exhibit -- I'm going  
8 to start backwards -- 1763?

9 A Okay.

10 Q And the point of this I assume is to show that  
11 bankruptcy is a tough place to exist, a tough place to  
12 negotiate?

13 A Very tough.

14 Q And -- but there's not one of these agreements was the  
15 result of an 1113 abrogation of a collective bargaining  
16 agreement?

17 A That is correct.

18 Q These were all consensual agreements the unions worked  
19 out?

20 A Yes.

21 Q And are you aware that on many of these issues post  
22 restructuring APA has matched with a comparable or gone  
23 beyond what's in these post restructuring provisions?

24 A I don't know that I would agree with that statement.

25 Q Let's look at minimum guarantee. Let's look at United



1 modified the minimum guarantee, Delta modified the minimum  
2 guarantee, and Northwest modified the minimum guarantee,  
3 correct?

4 A Correct.

5 Q Are you aware that APA agreed to eliminate the minimum  
6 money guarantee?

7 A Yes, for line holders, not for reserves though.

8 Q Right.

9 A Because minimum guarantee for line holders is not a  
10 very significant item any way in and of itself, because  
11 lines are always built above the minimum guarantee. Where  
12 it really comes into play is with reserves.

13 Q But is your number combining -- what is your number for  
14 minimum guarantee?

15 A I'm not sure I understand my number.

16 Q Is it line holder and reserve?

17 A For -- for which group? I'm not -- I'm not sure I  
18 understand your question.

19 Q Okay. Okay. I understand your testimony.

20 A Yeah.

21 Q Is that APA agreed to eliminate it for line holders.

22 A Right.

23 Q Okay. NO turn to Exhibit 1764, this is what happened  
24 of the defined benefit plans?

25 A Correct.

1 Q And are you aware that when 1113 was filed American had  
2 not even cost out what a freeze would amount to?

3 A No, I'm not aware of what they did or didn't do when  
4 that --

5 Q Are you aware that APA is the one who proposed the  
6 freeze?

7 A Again, I don't know.

8 Q Uh-huh. You don't know. Are you aware that the fund  
9 is -- that the pension fund is nearly fully funded?

10 A I don't know that.

11 Q Uh-huh. Let me turn to -- you talked about  
12 conversions, let me just talk about that conceptually,  
13 because I believe you have a slightly different definition  
14 than the company's.

15 Are you aware with the American Airlines  
16 convergence analysis?

17 A Yes, I am.

18 Q Is it not that they're looking to see when do the other  
19 carriers over take our labor cost disadvantage in their  
20 analysis?

21 A Sorry, say that again?

22 Q We're not talking about convergence where all the  
23 airline pay rates or contracts converge, American is using  
24 for the purpose of determining when the other carriers meet  
25 their pay, their package labor compensation.

1 A I don't understand it that way. I'm sorry, I don't  
2 agree with that.

3 Q You don't understand that American's -- have you seen  
4 the slide where American makes a presentation for the AMR  
5 board of directors and they talk about labor convergence?

6 A Yes, I've seen those slides.

7 Q And the purpose of that slide was to show the AMR board  
8 when the other airlines would be at or above AMR's  
9 compensation?

10 A That was a purpose of it, yes.

11 Q Thank you. And are you aware of the Delta TA that just  
12 got announced?

13 A I'm aware of the original one, yes.

14 Q Are you aware of the terms of the TA?

15 A No.

16 Q Are you aware of the pay rates?

17 A No.

18 Q Are you aware of the -- what happened with the ratio of  
19 the regional jets to small -- a small narrow-body planes at  
20 the mainline?

21 A Well, nobody would be aware of it because the MEC has  
22 not put out any official summary of the agreement other than  
23 a -- than a -- other than a letter.

24 Q But the letter sets forth the material terms of the  
25 agreement?

1 A I -- you'd have to show it to me.

2 Q I can give you the entire 400-page agreement, but Judge  
3 lane would not be pleased with that.

4 A But I -- I'd be very pleased if you gave that me to.

5 (Laughter)

6 Q I can probably give you that. What I -- what I can  
7 give you is the summary letter that was put out to all the  
8 pilots by the MEC.

9 A Okay. I mean if you want to do that.

10 MR. JAMES: Give you a copy first.

11 THE WITNESS: Thank you.

12 MR. JAMES: And I believe we're calling this APA  
13 Exhibit 009.

14 BY MR. JAMES:

15 Q You're aware, are you not, that coming into bankruptcy  
16 that Delta -- the 1113 agreement or the agreement that was  
17 compromised with the pilots had a three-year duration?

18 A Yes.

19 Q And if you look at this agreement it has a 3.5 years  
20 duration to it?

21 A Right.

22 Q If you see in paragraph 1, 2, 3, 4 -- paragraph 4  
23 you're aware that the Delta pilots now have a four percent  
24 pay raise in January?

25 A Yes, they were -- they received it.

1 Q And under this agreement they get another four percent  
2 when they ratify this agreement?

3 A Yes.

4 Q And then --

5 A Which will be July -- I guess July 1st, right? Or I  
6 think it's supposed to be ratified the end of June?

7 Q You've obviously read this letter, thank you. And  
8 they're getting another 8.5 percent in January?

9 A Right.

10 Q And then three percent, three percent?

11 A Correct.

12 Q And if you go out three years the pay rates at Delta  
13 will be about 40 percent over the pay rates at American?

14 A Correct.

15 Q And you've testified in your first appearance before  
16 the Court that the productivity at Delta is not as high as  
17 at American among the pilots?

18 A That is correct.

19 Q Uh-huh. The -- you're -- are you also aware that all  
20 the pilots at Delta now have furlough protection?

21 A Yes.

22 Q And that if there's -- if the company has an event that  
23 causes a furlough they have to reduce their seat gauge on  
24 the sub contracted RJs to 70 seats?

25 A I don't know that they have to do that immediately,

1 there's -- there could be a cure period, there could be  
2 provisions in their ASA that's -- or their agreement that  
3 say that when the ASA expires, I can't just take your word  
4 for it.

5 Q That's fair enough, because there typically is a cure  
6 period in these agreements.

7 A Right. I mean they just don't put aircraft down  
8 overnight literally because you'd be stranding thousands  
9 upon thousands of passengers.

10 Q I agree with you.

11 And is it your understanding as a result of this  
12 new TA there is an agreement for every small RJ up to 76  
13 seats that's added on a subcontracted practice the company  
14 commits to put another larger gauge airplane toward the  
15 bottom of the Delta fleet?

16 A No, that's not my understanding.

17 Q What is your understanding then?

18 A Well, you just have to read what it says.

19 "Delta will be permitted accelerated access to  
20 76-seat jets, but this access can only occur if Delta first  
21 acquires small narrow body jets flown by Delta mainline  
22 pilots and there is a significant number in the number of  
23 50-seat aircraft."

24 Well, what this doesn't say is that when you're  
25 talking about accelerated access you're talking about

1 something over and above what exists today.

2 So assuming they're not at the cap of 76 aircraft  
3 -- seat aircraft today I read this that it only means over  
4 and above what they already have. That's number one.

5 Number two, my understanding not -- I don't think  
6 it's in many letter, but I -- my understanding is they may  
7 already have an agreement on small narrow body aircraft and  
8 they've previously announced that they're going to reduce  
9 their 50-seat aircraft by 150 to 200 aircraft.

10 So when I look at this I don't see a lot new. I  
11 mean the words -- the words say it and obviously it's  
12 written by the MEC chairman for his members, he's going to  
13 put things in here that are beneficial to his folks, he's  
14 not going to put things in here that are beneficial to the  
15 company, which is why it's critical that you see the  
16 agreement.

17 It's further illustrated by my exhibit on the  
18 United productivity for flight attendants. Nobody said  
19 anything about that piece of the agreement, so I would need  
20 to see all of it before just admitting that one piece  
21 benefits one side and there's nothing good for the company.

22 Q Fair enough. And that's a -- just a lesson in open-  
23 ended cross-examination error.

24 (Laughter)

25 Q Now, can we agree though that there is an industry

1 understanding.

2 A Yeah.

3 Q And it goes like this. And I think this is like the  
4 Neal Mollen question that we figured Jim Eaton would not  
5 agree with him on, he agreed with him on.

6 A Uh-huh.

7 Q At Continental it's a 50-seat -- 50 seats is the max on  
8 out-sourced aircraft, correct?

9 A Only jets, not on props.

10 Q Jets. Okay.

11 A Props it's 76 seats.

12 Q Okay. And at United it's 70 seats?

13 A Correct.

14 Q And at Delta it's at 76 seats?

15 A Correct.

16 Q And there's one odd ball in the system and that is at  
17 US Air, correct?

18 A I take offense to referring to that airline as odd  
19 ball.

20 Q That's because you negotiated it.

21 (Laughter)

22 Q But at US Air the trade off is different. That is they  
23 will fly the larger RJ mainline and they get a larger gauge  
24 subcontracted, correct?

25 A That was one of the tradeoffs, yes, as I've testified.



1 Q And have you looked at the APA's contingent agreement  
2 with US Air on -- I'm sure you've seen the exhibit, because  
3 you do keep up on the industry.

4 A Yes, I've seen the -- the one that I think Mr. Eaton  
5 showed on the A, B, C category?

6 Q Right.

7 A Yeah.

8 Q Correct.

9 A Yeah, I saw that.

10 Q And you're aware that APA negotiated for every four  
11 aircraft at 70 seats and below at US Air they would add one  
12 in the basically the Embraer 190 range?

13 A Uh-huh.

14 Q Okay. And for two aircraft in a 71- to 88-seat range  
15 they would have one in that EMB-190 range?

16 A Right.

17 Q Okay. You criticized American's pilots for trying to  
18 get the company to buy and fly at large RJs. Do you  
19 remember that? I thought it was on your rebuttal testimony.

20 A I criticized American's pilots. I don't --

21 Q Their scope proposal for saying for every so many  
22 planes you have to fly higher by --

23 A Right, I'm not --

24 Q -- a 70 -- a 71- to 110-seat airplane.

25 A Yeah, I don't think I criticized American's pilots.

1 What I was saying -- I thought what I was saying was that it  
2 in answer to a question from Mr. Gallagher that it wasn't a  
3 provision that existed elsewhere.

4 Q Uh-huh. Are you aware in American's business plan  
5 there's a very large order for 71- to 110-seat aircraft?

6 A I believe I've seen that, yes.

7 Q And to fly at the mainline?

8 A Uh-huh.

9 Q And are you aware that the pilots agree to fly that  
10 aircraft at the mainline at market rates?

11 A Yes, they've agreed to fly the plane -- the aircraft at  
12 market rates of pay, but the work rules and the other  
13 provisions would be the same as mainline, which in most  
14 cases would make it uncompetitive with the regional airline  
15 provisions that exist.

16 Q And do you know the other employees, the TWU and APFA  
17 agreed they would do the same thing?

18 A On rates of pay?

19 Q That the three unions would work together to try and  
20 make the company indifferent as between which company they  
21 flew the large RJs at?

22 A Yes, I'm aware of that.

23 Q Uh-huh. Do you know of any other carrier that flies  
24 aircraft outsourced at 114,500 pounds?

25 A No.

1 Q You testified that the largest was US Air at 90,000  
2 pounds which you negotiated?

3 A Right.

4 Q And that was to accommodate 93 what are they CRJ 900s?

5 A It was actually to accommodate the Embraer Air 175s.

6 MR. JAMES: I think one of the things I would like  
7 to do with Jack or Neal after this, is Judge, we have a  
8 chart, it's a one pager, it's the manufacturer specs on  
9 these aircraft, because unless you live in this world I  
10 can't keep track of them and I have to look at it every time  
11 I'm talking about the aircraft. It gives you the take-off -  
12 - maximum take-off weight and the seats, and I think it --  
13 we'll submit it as a joint exhibit.

14 UNIDENTIFIED SPEAKER: It's in.

15 MR. JAMES: It's in? The manufacturer specs are  
16 in? Okay. He tells me I put it in.

17 THE COURT: Well, if it's in great, if not I'm  
18 happy to get --

19 MR. JAMES: Okay. All right.

20 THE COURT: -- something that's agreed upon. It  
21 doesn't seem to be undisputed.

22 MR. JAMES: I just want to make sure we have it in  
23 court, because without it the record is very difficult to  
24 follow, because you're talking about two different  
25 manufacturers, you're talking about different ranges and

1 models within a range.

2 BY MR. JAMES:

3 Q But let me talk about domestic code-sharing, Mr. Glass.

4 Is there any legacy air carrier, the ones that  
5 American uses as comparators, that has unlimited domestic  
6 code-sharing?

7 A No.

8 Q And you've criticized the one -- there's 1H -- 1H is a  
9 letter that allows American and APA to enter into domestic  
10 code-sharing agreements. Do you agree with that?

11 A Yes.

12 Q And in 1H, are you aware 1H was what the company asked  
13 for and got in 2003 in the restructuring talks?

14 A Yes.

15 Q And that's because they didn't know -- well, you --  
16 maybe it was Dan Kasper who testified, so I apologize --  
17 that there were limited domestic code-sharing options in  
18 2003 for American Airlines?

19 A I didn't testify to that.

20 Q Okay.

21 A So maybe it was Dan.

22 Q But -- but the company did not know in 2003 which  
23 company it wanted to code-share with?

24 A I think that's a fair statement.

25 Q All right. And 1H was an agreement -- it's an interest

1 arbitration agreement, correct?

2 A Ultimately if the parties can't agree, yes.

3 Q If the parties couldn't agree in an expedited time  
4 period they go to interest arbitration.

5 A Right.

6 Q And isn't that the process that usually management  
7 wants and we're reluctant to give because it resolves  
8 disputes quickly through an arbitrator, they decide what the  
9 outcome is?

10 A No, I wouldn't agree with that statement.

11 Q You don't like interest arbitration?

12 A Managements generally -- not all the time -- but  
13 generally don't like interest arbitrations on certain  
14 provisions, because the problem is you have to wait a long  
15 time.

16 So, for example, if you want to go order an  
17 aircraft, here's a perfect example, most airlines I think as  
18 you know have new equipment provisions that call for a  
19 period of negotiations followed by interest arbitration.  
20 The difficulty with that provision is that if you want to  
21 order new aircraft you don't know what you're rate of pay is  
22 going to be until after that interest arbitration is  
23 completed, and you have to order aircraft sometimes years in  
24 advance.

25 So unless you have certainty on that rate it makes

1 your -- you're buying a pig in a poke or you don't do the  
2 transaction.

3 In the case, for example, this is going back many  
4 years ago, but I'm sure you remember, when Delta bought the  
5 triple seven's and had not negotiated a rate in advance  
6 ended up with an above market rate and ended up leasing and  
7 grounding the aircraft until they negotiated something  
8 different.

9 Q Thank you.

10 A So --

11 Q Are you -- that's fine.

12 Are you aware in 1996 and 1997 APA agreed to  
13 negotiate the rates before the equipment -- the company even  
14 had orders in for 737s?

15 A Yes.

16 Q Uh-huh.

17 A That -- and that would be a good thing.

18 Q Thank you.

19 A Yeah.

20 Q Under 1H the domestic code-sharing provision that  
21 American wanted there was no restriction on the number of  
22 domestic code-share agreements American entered into,  
23 nothing.

24 A I'm not sure I would agree with that.

25 Q What it says, does it not, that if they wanted a

1 domestic code-share agreement with a particular carrier  
2 they'll bargain and then the interest arbitrator would  
3 decide what industry standard provisions would apply?

4 A Right, and also what would be fair to the pilots.

5 Q And they could do it as many times as they want. Is  
6 there any limitation in that agreement on the number they  
7 could do?

8 A No.

9 Q Is there any geographic limitation in that agreement?

10 A Not unless the arbitrator makes a decision that based  
11 on industry standard there should be limits.

12 Q Based on industry standard.

13 A And what is fair to the pilots.

14 Q Thank you.

15 Now you said United -- you testified about the  
16 United domestic code-sharing, in fact they have limitations  
17 in the United US Air code-sharing agreement, correct?

18 A Correct. Yeah, I think I had testified to that.

19 Q Now on JetBlue you've testified about -- does JetBlue  
20 put its code on any aircraft in the world?

21 A They do have some code-share agreements.

22 Q Incoming code-share. Do they allow anybody to put  
23 their code on them?

24 A I don't think they put their code on anybody.

25 Q Correct. And did you -- are you aware of Mr. Barger

1 (ph), the CEO's recent earnings call where he talked about  
2 American Airlines?

3 A No.

4 Q So you wouldn't be aware that he expressed less than  
5 disinterest in code-sharing --

6 A I don't --

7 Q -- with American?

8 A -- I don't know what less than disinterested mean.

9 Q He did not have any interest in doing code-sharing with  
10 American.

11 A Oh, I don't know.

12 Q Okay. And the Alaska code-share agreement, are you  
13 aware that there's still capacity under that agreement under  
14 the APA American Airlines agreement with -- American  
15 Airlines APA agreement permitting the Alaska code-share,  
16 there's still capacity the company could use?

17 A Yes.

18 Q And you understand that's the entire area of west of  
19 the Mississippi?

20 A Yes. But it's not a place -- you know, obviously  
21 Alaska doesn't fly everywhere.

22 Q We understand that.

23 A Yeah.

24 Q But we would agree that west of the Mississippi is a  
25 large territory?



1 A We would agree.

2 Q I grew up in Oregon. Thank you.

3 Now you testified about the shuttle that if only  
4 one flight were canceled that American would have to get out  
5 of the shuttle agreement. Do you recall that testimony?

6 A I don't think I said that exactly.

7 Q I thought that's what you call on direct, you said if  
8 they drop one flight they have to pull the code.

9 A Well, I think that was a question asked by  
10 Mr. Gallagher, and my response was, yes, but there's a cure  
11 period in the provision, so --

12 Q Well, in fact it's more than that. Isn't it a 90  
13 percent drop before they have to deal with the code?

14 A It's a -- there's a 90 percent ratio, yes.

15 Q And that would be 11 flights before they have to pull  
16 the code?

17 A Correct.

18 Q Uh-huh. And they have a cure period?

19 A Correct.

20 Q And APA's suggestion to the cure period was six months?

21 A Yes.

22 Q And the company's penalty was to yank the code forever  
23 if they busted, and APA's was to pull the code for a year.

24 Do you recall that?

25 A I don't know what the company -- I mean I know it says

1 in there a year, six months and a year.

2 Q Well, take a look at I think it's AA -- it's your 511.

3 A Right.

4 Q APA 511. Where is it in there?

5 A I think it's 516. It's under the tab 516. AA Exhibit  
6 -- APA Exhibit 516 I think.

7 Q I'm looking for the company's proposal.

8 A No, I was looking at the -- this -- the APA proposal in  
9 here.

10 Q Oh, and I don't have 511 in front of me.

11 A Yeah, that's why I'm not familiar with the other side's  
12 proposal.

13 Q Okay. But would it surprise you to learn that American  
14 had a permanent pull of the code if they busted the  
15 limitation, couldn't cure it?

16 A I -- I don't know.

17 Q Okay.

18 MR. JAMES: Your Honor, if I could just take a  
19 minute with my --

20 THE COURT: Sure.

21 MR. JAMES: -- people in the hallway?

22 (Pause)

23 MR. JAMES: Just two questions for Mr. Glass.

24 I'm told by my compatriots that I had a little bit  
25 of a muddle in my question.

1 BY MR. JAMES:

2 Q When I said that the three unions at American had  
3 agreed to fly the 70- to 110-seat RJs at the mainline they  
4 agreed to fly them at market -- market cost in all respects.  
5 Are you aware of that?

6 A No.

7 Q The -- are you aware that the company's April 17th,  
8 2012 proposal to APA on RJs proposed that they could go to  
9 interest arbitration on the number of RJs and the size of  
10 the RJs?

11 A No.

12 Q Okay.

13 MR. JAMES: No further questions.

14 (Pause)

15 CROSS-EXAMINATION

16 BY MR. CLAYMAN:

17 Q Good morning, Mr. Glass, my name is Rob Clayman and  
18 I'll be asking you some questions on behalf of the  
19 Association of Professional Flight Attendants.

20 If you would, could you turn to, let's see, the  
21 chart 1766?

22 A Yes.

23 Q You have that?

24 A I do.

25 Q Okay. And you said that you prepared this with the

1 assistance of people within your office?

2 A Correct.

3 Q Okay. And I take it though that you have not  
4 quantified the effect that each of these events have had on  
5 the airline industry have you?

6 A Yes.

7 Q You know -- okay, let me ask you then. The December  
8 Madoff scandal, what was the effect on the airline industry?

9 A Well, your question --

10 Q Quantifying it.

11 A Excuse me. If -- if the effect of these items in their  
12 totality have --

13 Q I'm not -- that's not my --

14 A -- virtually destroyed --

15 Q -- Mr. Glass --

16 A -- the --

17 Q Mr. Glass?

18 A -- destroyed the industry.

19 THE COURT: All right. We can't get multiple  
20 people talking at the same time, so.

21 MR. CLAYMAN: Okay.

22 BY MR. CLAYMAN:

23 Q Mr. Glass, my question is on an individual basis, that  
24 was my question.

25 A Oh.

1 Q Have you identified the impact that each of these  
2 events have had individually on the airline industry?

3 A No.

4 Q Okay. So you can't tell us, for example, what effect,  
5 if any, the Madoff scandal had on the airline industry can  
6 you?

7 A Not in and of itself.

8 Q Okay. And -- and what effect when -- you list as a  
9 future shock each of the mergers that have taken place in  
10 the time period, isn't it true it's just a shock to the  
11 other airlines that have not merged?

12 A I think I've testified -- I testified to that fact,  
13 that -- that these events, some affect the entire industry  
14 and some affect individual carriers.

15 Q And the -- in the case of a merger what is the future  
16 shock?

17 A Well, it changes the nature of -- of the industry.

18 Q How so, Mr. Glass?

19 A In terms of pricing power, in terms of markets that are  
20 entered. There are -- there are -- it impacts employees.  
21 Has all sorts of impacts.

22 Q So when a -- when two carriers merge those two carriers  
23 will then enjoy greater pricing power?

24 A That's -- I think if you study Economics 101 that is  
25 one of the points of consolidation is to increase pricing

1 power, yes.

2 Q Okay.

3 (Pause)

4 Q Could we turn to Exhibit 1762.

5 (Pause)

6 A Give me a second while I find it. It's on the screen  
7 here, so yeah, okay.

8 Q Before we get into that chart let me just understand  
9 that you have dealt with a number of negotiations which have  
10 been concessionary in nature?

11 A Yes.

12 Q And they have involved more than one union at the same  
13 time?

14 A Yes.

15 Q And isn't it true in those negotiations it is common  
16 for each union to select, so to speak, their poison?

17 A Within limits, yes.

18 Q Okay. And do you know, for example, in the  
19 restructuring participation agreement that the flight  
20 attendants chose to preserve their health care benefits to a  
21 larger extent than did the Transport Workers Union?

22 A Yes.

23 Q So that was something that went on in 2003 and is  
24 reflected in your chart today is it not?

25 A Correct.

1 Q Okay. And that is the nature of collective bargaining,  
2 correct?

3 A Correct.

4 Q Okay. And isn't it true that Delta does not engage in  
5 collective bargaining?

6 A No, that's not true.

7 Q Well, other than with the pilots?

8 A Still not true.

9 Q And the dispatchers?

10 A Now it's true.

11 Q Okay. What percentage of their --

12 (Laughter)

13 Q How many dispatchers are there, Mr. Glass?

14 A At Delta?

15 Q Delta.

16 A Hundreds.

17 Q Okay. And on a percentage basis what percentage of  
18 Delta is unionized?

19 A I don't know. I don't know the exact percentage. The  
20 majority is not.

21 Q Right.

22 A Yeah.

23 Q And they don't do -- they don't engage in collective  
24 bargaining with those non-represented unions do they?

25 A They do not engage in collective bargaining, they do

1 have other forums in which to get input from employees.

2 Q Thank you, Mr. Glass, that's illuminating.

3 And with regard to Continental, isn't it true that  
4 with regard to the flight attendant agreement that health  
5 care benefits are not negotiated, they're not part of a  
6 collective bargaining agreement?

7 A I'm not aware of that.

8 Q You don't know that?

9 A I'm not aware of that.

10 Q Are you aware that any other group may not have  
11 included in the contract as part of the terms and conditions  
12 that they've negotiated health care benefits?

13 A I'm sorry, could you ask that again?

14 Q Are there any other groups that you're aware of who  
15 have not included in their contracts health care benefits?

16 A I'm not -- I want to be clear about the question. Are  
17 you saying that there's no provision in the contract  
18 whatsoever covering medical, that it doesn't even say you --  
19 you get some medical plan --

20 Q Well, let me --

21 A -- or you get to other -- the same as other employees  
22 or --

23 Q Okay. Let me ask you it a different way.

24 Do you know if in the flight attendant agreement  
25 the company has the right to make unilateral changes to



1 health care benefits?

2 A In that particular agreement?

3 Q Yes.

4 A No, I'm not aware of it.

5 Q Okay. And you're not aware of that in any other  
6 provision of the Continental agreement or agreements?

7 A No.

8 Q Okay. Let's turn to 1765.

9 Now, Mr. Glass, I think you testified earlier that  
10 you are not responsible for valuations with -- of contracts  
11 within your firm?

12 A That's correct.

13 Q Okay. And so let's go to your analysis of the 92 to 95  
14 hours.

15 A Sure.

16 Q Are you aware of the increase in the schedule max the  
17 company has proposed for the flight attendants?

18 A Yes.

19 Q Okay. I think you earlier testified that the schedule  
20 max for flight attendants today is 77 hours for a domestic  
21 flight attendant and 82 hours for an international flight  
22 attendant; is that right?

23 A Correct. That is correct.

24 Q And the increase will be to 100 hours; is that right?

25 A That's -- that's what's proposed.

1 Q For both domestic and international?

2 A Yes.

3 Q Okay. And are you aware that the value that the  
4 company has placed on that increase of let's say roughly  
5 20 hours is \$32 million?

6 A I've looked at the costing of the term sheet, so, if  
7 you say that then --

8 Q Okay. And so for each hour increase in this schedule  
9 max that would be worth about one and a half million dollars  
10 would it not? Twenty times one and a half is about 30?

11 A Sure.

12 Q Okay. And your calculation is that a three-hour  
13 schedule increase will generate savings of upwards of  
14 \$20 million; is that right?

15 A I think it would be north of that actually.

16 Q You think it would be north of that.

17 A Yes.

18 Q So let's -- so your testimony is that a three-hour  
19 increase divided into 20, and let's call it 21 --

20 A Uh-huh.

21 Q -- because you think it's higher -- would generate a  
22 per hour savings of \$7 million; is that correct?

23 A Yeah, but that's not how you look at it.

24 Q Well, I'm not asking you how you look at it, I'm just  
25 saying is that correct?

1 A In that calculation yes, that would be correct.

2 Q Okay. And when you look at a 92 to 95 hour increase in  
3 the schedule max --

4 A Uh-huh.

5 Q -- can you say with any certainty that every flight  
6 attendant at United will now in fact fly three hours more  
7 every month?

8 A Actually based on the productivity gains I would expect  
9 United flight attendants to fly more than three hours,  
10 because if you look at one, two, three, four --

11 Q Mr. Glass --

12 A -- five, six, that's --

13 THE COURT: Well, you asked the question, he's  
14 answering it.

15 MR. CLAYMAN: Okay.

16 BY MR. CLAYMAN:

17 Q Go ahead.

18 A Excuse me.

19 THE COURT: Would you expect them the fly more  
20 than --

21 BY MR. CLAYMAN:

22 Q Go ahead.

23 THE COURT: -- more than three hours?

24 THE WITNESS: Okay. So if you look, one, two,  
25 three, four, five, six, the seventh dash down, increase

1 average line value at each domicile from 84 to 88 hours. So  
2 actually my expectation based on this is that the average  
3 flight attendant would fly up to four hours additionally  
4 each month.

5 BY MR. CLAYMAN:

6 Q Okay. And Mr. Glass, how many -- what percentage of  
7 the United flight attendants serve reserve?

8 A I don't know the exact number.

9 Q And you have no idea to what extent, if at all, their  
10 productivity would improve based on this contract?

11 A No, I do not.

12 Q So in fact it would not be every flight attendant at  
13 United at -- every month would be flying four hours more;  
14 isn't that true?

15 A For probably about 80 or 85 percent it would be true.

16 Q And do you know what the total value of the United  
17 contract is?

18 A The total value of the new agreement, net?

19 Q Yes. Net.

20 A No.

21 Q Okay. And so you have no idea whether these  
22 productivity improvements are offset in large part, if not  
23 completely, by improvements to the flight attendants wages,  
24 benefits, and working conditions?

25 A I can say definitively that they do not offset it

1 completely.

2 Q How would you know that having just said you do not  
3 know the total value, Mr. Glass?

4 A Because a simple -- again, simple experience and math  
5 when you -- when you take -- give everybody a ten percent  
6 increase based by head count, it's the same way you can just  
7 do a back of the envelope calculation.

8 Q Mr. Glass, doesn't the United contract include many,  
9 many more improvements than merely a ten percent increase in  
10 wages?

11 A Yes, they do.

12 Q Okay. So I'm talking about all of the improvements --

13 A Uh-huh.

14 Q -- versus all of the productivity gains. Do you have  
15 any idea what the net value is?

16 A No.

17 Q Okay. And I take it you performed no convergence  
18 analysis using the new United contract with the American  
19 agreement?

20 A Correct.

21 Q Okay. Have you performed any convergence analysis at  
22 all through this case?

23 A No.

24 Q Let's take a look at 1761. Okay. Let's talk for a  
25 minute before we get to the chart.

1 With regard to Delta you testified that the wage  
2 increases were 2 and 3.3 percent; is that right?

3 A Correct.

4 Q Did you weight those increases?

5 A No.

6 Q Did you take into account the affect they would have on  
7 the current Northwest wage rates?

8 A No, and the reason is because you have to do an apples  
9 to apples comparison.

10 If you're going to, as Mr. Akins did, took general  
11 wage increases for other groups like the failed US Airways  
12 TA, he didn't weight those or -- or add the America West  
13 folks to a higher number. You have to do an apples to  
14 apples comparison. So to weight one and not weight the  
15 other is not -- not accurate.

16 Q But is there --

17 A So we just showed the general --

18 Q I'm sorry.

19 A -- yeah, we just showed the -- explained the general  
20 wage increases.

21 Q Right.

22 A Similar again, United, general wage increase of ten  
23 percent.

24 Q Okay.

25 A Delta general wage increase.

1 Q I understand, Mr. Glass. But isn't it true that the  
2 Northwest flight attendants have been operating under a  
3 different agreement than the Delta flight attendants?

4 A No, I don't think that's accurate.

5 Q When did those contracts merge, do you know?

6 A Well, they're -- they wouldn't be merged contracts  
7 since Delta is non-union, but after AFA lost the  
8 representation election and the NMB ruled that there was no  
9 carrier interference I think they were merged at that time  
10 or shortly thereafter.

11 Q So it would come as a surprise if I were to tell you  
12 that they were not merged until May of -- May 1st of this  
13 year?

14 A That would surprise me.

15 Q Okay. And if in fact that were true and their wages  
16 were substantially below Delta, then adding 3.3 percent  
17 increase to the Delta wage rates and raising the Northwest  
18 wage rates to Delta would be 3.3 percent increase for the  
19 Northwest flight attendants?

20 A Yes, same example as with US Airways east and west. No  
21 difference.

22 Q And do you know what the total cost of that increase is  
23 to Delta?

24 A No.

25 Q Do you know if it was offset by any productivity

1 improvements?

2 A No.

3 Q Okay. And with regard to United -- excuse me -- US  
4 Airways, do you know what the total value of that contract  
5 would have been -- the total cost or savings to US Airways?

6 A Yes, but I can't disclose that.

7 Q So when you prepared chart 1761 you did not include any  
8 of the recent changes that have been negotiated or imposed  
9 in the case that Delta imposed, in the case of United  
10 negotiated; is that correct?

11 A Right, because that would -- that would be an apples to  
12 orange comparison. It would not -- it would not replicate  
13 the comparison that Mr. Akins did.

14 Q All right. Mr. Akins in fact -- are you aware of the  
15 fact that Mr. Akins' analysis went out to 2017?

16 A Yes.

17 Q Okay. Does this go out to 2017?

18 A No, because there'll be -- there is not measured.  
19 Again, this --

20 Q I'm not asking for an explanation, Mr. Glass. It's  
21 either a yes or no. If your counsel wants you to explain  
22 more than yes or no he with have the right to do so.

23 (Pause)

24 Q Are you aware that incentive pay, which is the pay that  
25 flight attendants receive after they have worked -- have



1       been paid 70 hours in a month, anything above 70 hours they  
2       are paid a premium? Are you aware of that?

3       A     Yes.

4       Q     Okay. And does this take into account the fact that  
5       the company has proposed eliminating incentive pay?

6       A     This chart?

7       Q     Yes.

8       A     No, neither did Mr. Akins.

9       Q     Okay. Thank you.

10                   And are you aware in Mr. Akins' analysis that all  
11       of the changes to the collective bargaining agreement  
12       proposed by the company would decrease the flight attendants  
13       take-home pay by almost 17 percent?

14       A     Yes.

15                   (Pause)

16       Q     Mr. Glass, you've previously testified that you saw or  
17       reviewed the deck of slides or presentation that was given  
18       to the AMR board of directors in November; is that right?

19       A     Correct.

20       Q     And that included a convergence analysis that you  
21       reviewed?

22       A     Yes.

23       Q     And isn't it true that that convergence analysis showed  
24       -- well, first let me go back.

25                   That that convergence analysis was based not only

1 on certain assumptions of changes to other airlines  
2 agreements, but also took into account the last table  
3 position that American had with regard to each work group?

4 A Yes.

5 Q And that was incorporated into the convergence  
6 analysis, correct?

7 A That American did?

8 Q Yes.

9 A Yes.

10 Q Okay. And isn't it true that that convergence analysis  
11 showed that by 2013 the flight attendants would be \$30  
12 million more expensive than their competitors?

13 A It did show that.

14 Q Okay. And isn't it true that Mr. Akins' analysis did  
15 two things? It removed the value of the American's proposal  
16 to the flight attendants and then took into account the  
17 company's ask of \$230 million? Isn't it true?

18 A That's what his analysis did, yes.

19 Q Right. Okay. And that's the analysis that resulted in  
20 him stating in his declaration and in testimony that the  
21 flight attendants would be 30 percent below their peers if  
22 that were to happen, correct?

23 A That is correct.

24 Q And do you have any idea how much the -- how much  
25 American's labor convergence analysis -- what role that

1 analysis played in determining the company's labor ask of  
2 one and a quarter billion dollars?

3 A I don't.

4 (Pause)

5 Q And I take it you have no explanation as to why  
6 American would value their proposal at \$32 million for a  
7 \$20 million -- a 20 hour --

8 MR. GALLAGHER: Objection, Your Honor, calling for  
9 speculation.

10 THE COURT: Let me hear the question first.

11 MR. CLAYMAN: Okay, thanks. Thank you, Your  
12 Honor.

13 BY MR. CLAYMAN:

14 Q I take it you have no idea why by your estimate a  
15 single hour -- I'll withdraw the question, that's all right.

16 MR. CLAYMAN: If I could just have a minute, Your  
17 Honor.

18 THE COURT: Sure.

19 (Pause)

20 BY MR. CLAYMAN:

21 Q Do you know what the total payroll is for United  
22 Airlines?

23 A No.

24 Q So how could you calculate what the value of a ten  
25 percent wage increase is for the flight attendants?

1 A You just make assumption on what the average  
2 compensation is, which is not going to be all that different  
3 than, you know, their paid higher now than US Airways, lower  
4 than American, but the general, you know, average you can  
5 come up with that was ballpark.

6 (Pause)

7 MR. CLAYMAN: I just may have one other question.

8 (Pause)

9 BY MR. CLAYMAN:

10 Q Looking at the productivity chart, Mr. Glass, sitting  
11 here today I take it other than the two that you pointed out  
12 you have no idea what the savings would be from any of these  
13 other items; is that true?

14 A Okay, can you -- I'm sorry, could you tell me which  
15 exhibit?

16 Q It's 1765, it's the list of United's productivity  
17 gains.

18 A Oh, okay. And I'm sorry, could you ask the question  
19 again?

20 Q So looking at this chart that you prepared --

21 A Right.

22 Q -- I take it that you could not tell us the amount of  
23 savings, if any, from any of the other bullets that are  
24 listed here other than the two that you mentioned earlier;  
25 is that true?

1 A That is correct.

2 Q Okay.

3 MR. CLAYMAN: Just a minute, Your Honor.

4 Thank you.

5 THE WITNESS: Thank you.

6 (Pause)

7 MS. LEVINE: Your Honor, just briefly.

8 THE COURT: Certainly.

9 CROSS-EXAMINATION

10 BY MS. LEVINE:

11 Q Mr. Glass, are you familiar with the TWU's March 21  
12 proposal to the company?

13 A No, not intimately, no.

14 Q Are you aware that it offered to outsource over 2,000  
15 jobs for MNR?

16 A I've seen a figure along those lines.

17 Q And are you also aware that American Airlines fleet is  
18 the lowest in the industry right now?

19 A I'm --

20 Q Well, let's compare it. The American Airlines fleet is  
21 -- is older than, for example, Alaska?

22 A Oh, older, I'm sorry, I thought you -- I apologize.  
23 That it's older on average than --

24 Q Yes.

25 A -- the others in the industry? Yes.

1 Q Yes. And under their business plan they're looking to  
2 upgrade that, correct?

3 A Correct.

4 Q And as they upgrade that there will be additional  
5 attrition to the MNR group just by virtue of the fact that  
6 there's less maintenance to be done on newer planes,  
7 correct?

8 A Under the current agreement?

9 Q Under the current agreement and without change?

10 A I don't think so because of the no furlough and no --  
11 you know, with the job security provisions that exist today  
12 I don't think that other than through retirements American  
13 could lay off a sufficient number of mechanics, because they  
14 have the ability to -- they have station protection and then  
15 assistant protection.

16 Q Isn't it true that there are 3,000 jobs are that  
17 unprotected by that provision?

18 A Yes, but the overwhelming majority are protected.

19 Q Okay. So between the 2,000 jobs that we've offered to  
20 give up under March 21 and the 3,000 jobs that are  
21 unprotected --

22 A Uh-huh.

23 Q -- isn't it true that if you turn to Exhibit 1774 that  
24 if American implements the rest of its business plan with  
25 regard to the fleet the employee per aircraft with actually

1 for the TWU representative workforce be less than United and  
2 right in line with US Air, Delta, and Continental?

3 A I don't know without seeing of the numbers.

4 Q There was a little bit of colloquy with regard to  
5 terminal value, do you recall that on your direct?

6 A Yeah.

7 Q And one of the things I believe you discussed was the  
8 fact that you don't recall having conversations with  
9 Mr. Roth with regard to terminal value during the  
10 negotiations and US Airways; is that correct?

11 A No, I don't think that was my testimony.

12 Q Do you recall having conversations with Mr. Roth about  
13 terminal value in the US Airways negotiations?

14 A No.

15 Q Isn't it true that the conversations with regard to  
16 value in US Airways took place between Mr. Roth and  
17 Mr. Davies (ph), and actually you weren't really part of  
18 most of those conversations; is that correct?

19 A That part is correct that I was not involved in those  
20 conversations, be I certainly know what the number was that  
21 the ask that the company had, and that put on the table, and  
22 that we achieved that ask.

23 Q I think the question was, did Mr. Roth have  
24 conversations with Mr. Davies with regard to valuation?

25 A Oh, he had conversations with a number of people in

1 finance.

2 Q Is that a yes?

3 A Yes.

4 Q Good. In talking about valuing labor concessions,  
5 putting aside the phrase terminal value.

6 A Uh-huh.

7 Q Isn't it true that you look at what the value of those  
8 concessions will be at the end of the term of the  
9 concessionary period?

10 So, for example, if at the end of the contract  
11 term the concessions go away you have a snap back situation,  
12 at the end of the contract term if it's expected that the  
13 concessions will stay in place you have like in Northwest a  
14 steady state type of analysis, and if at the end of the  
15 contract terms it's unclear whether or not the end of the  
16 concessions will be the final end of the concessions you  
17 have present value issues with regard to valuation because  
18 the concessions will continue to accrue value? Does that  
19 sound fair?

20 A I mean it sounds fair, but it's not the way that  
21 airlines do their costing.

22 Q Well, when Mr. Roth was having -- well, let me go back  
23 to your prior testimony.

24 A Uh-huh.

25 Q In connection with US Air there was an agreement



1 reached between the equivalent group of MNR and the company?

2 A No, actually there never was. In the second bankruptcy  
3 the contract -- the Court found an abrogation and granted  
4 the company its 1113 motion, and then the union put out that  
5 package to its members for a vote, which they ratified.

6 Q But during the course of those negotiations the value  
7 of the concessions that was being asked were reduced by the  
8 company, correct?

9 A The value of the concessions?

10 Q Correct.

11 A I -- I don't recall that, no.

12 Q Okay. So then since the value of the concessions in  
13 your view didn't change but the list of concessions did; is  
14 that correct?

15 A That is correct, yes.

16 Q And according to the union's perspective --

17 A Uh-huh.

18 Q -- they valued the list of concessions which the  
19 company ultimately agreed to put out as its last offer as  
20 having -- and this is at your value, this is the union's  
21 value -- as having less of a detrimental value than the  
22 concessions that the company was looking to impose, correct?

23 A They might have, yes.

24 Q And those conversations took place not between and  
25 Mr. Roth, but between Mr. Davies and Mr. Roth, correct?

1 A Well, I wouldn't even go into the issue of  
2 conversations. It would be what the machinist union told  
3 their members as to what they accomplished.

4 Q Well, actually what I'm getting at is slightly  
5 different. There were discussions with the company at US  
6 Air with regard to valuation, correct?

7 A Yes.

8 Q And there were disputes with regard to how different  
9 items were going to be valued, correct?

10 A Correct.

11 Q And during the course of those discussions some of the  
12 union's valuations were accepted by the company, correct?

13 A Yes, I suspect they were.

14 MS. LEVINE: Thank you, nothing further.

15 THE WITNESS: Sure.

16 THE COURT: Any other cross?

17 All right. Any redirect?

18 MR. GALLAGHER: May we have a five-minute break,  
19 Your Honor.

20 THE COURT: All right.

21 MR. JAMES: Jack, can I just get agreement to move  
22 APA Exhibit 009.

23 MR. GALLAGHER: Yes.

24 MR. JAMES: Thank you.

25 THE COURT: All right, it's in.

1 (APA's Exhibit No. 009 was admitted)

2 (Recess at 12:32 p.m.)

3 THE CLERK: All rise.

4 THE COURT: Please be seated.

5 MR. GALLAGHER: Thank you, Your Honor, I'm pleased  
6 to report we have nothing further for this witness, but I  
7 would at this time like to offer into evidence the new  
8 exhibits, American Exhibit 1761, 1762, 1763, 1764, 1765,  
9 1766, 1771, 1772, 1774, and 1775.

10 THE COURT: Any objection?

11 MS. LEVINE: One question and then maybe a  
12 reservation of right, Your Honor.

13 Under 1772 there's a reference to other TWU. I'm  
14 just wondering what CBAs those relate to.

15 MR. GALLAGHER: I would expect that they relate to  
16 all, Your Honor, but it's whatever is in the business model.

17 So I'm not sure that I can answer authoritatively  
18 or definitively as we stand here, but the request and the  
19 intent was to reflect there all of the other cost attributed  
20 in the business model to each maintenance hour.

21 MS. LEVINE: Your Honor, if it relates to MNR and  
22 Stores, if it relates the those two CBAs we have no  
23 objection. If it relates to CBAs other than the two CBAs  
24 which we understand to be the subject of this 1113  
25 proceeding we would just reserve our rights for an issue

1 that Your Honor already has under advisement.

2 MR. GALLAGHER: Well, I am assured, Your Honor,  
3 that these are the unit costs that are attributed to MNR  
4 only.

5 THE COURT: All right. All right. So it's MNRs  
6 and Stores, as well.

7 MR. GALLAGHER: Yes.

8 THE COURT: The pink is MNR and the one on top is  
9 Stores, correct?

10 MR. GALLAGHER: Yes.

11 THE COURT: All right. All right, does that  
12 resolve the objection?

13 MS. LEVINE: Yes, thank you.

14 THE COURT: All right. Thank you. All right,  
15 those exhibits are admitted.

16 (Debtor's Exhibit Nos. 1761 through 1766, 1771, 1772,  
17 1774, and 1775 were admitted)

18 THE COURT: And you're excused.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you.

21 MR. GALLAGHER: Your Honor, we have the next  
22 company witness is Mr. Denny Newgren who's been tendered for  
23 cross-examination only, and I'm advised by counsel only -- I  
24 think only by APA, I'm told it will be 15 to 20 minutes, so  
25 that might be something we can accomplish --

1 THE COURT: All right. Let's --

2 MR. GALLAGHER: -- before lunch.

3 THE COURT: -- let's give it a -- let's give it a  
4 shot.

5 (Pause)

6 THE COURT: Good afternoon, you are still under  
7 oath.

8 MR. NEWGREN: I have not been sworn.

9 THE COURT: Oh, you have not been -- oh, all  
10 right, I --

11 (Laughter)

12 THE COURT: Well, I'm glad you pointed that out.  
13 If you -- would you swear the witness.

14 (Witness sworn)

15 MR. MOLLEN: Your Honor, if I might. Mr. Newgren  
16 is -- he submitted a declaration so we referred to this  
17 earlier in this week's proceedings on the information  
18 sharing issues. The folks at APA said that they wanted to  
19 ask him some questions about that declaration. That's his  
20 purpose here today. So it's a fairly focused examination.

21 THE COURT: All right. Proceed.

22 CROSS-EXAMINATION

23 BY MR. ROSENTHAL:

24 Q Hello, Mr. Newgren.

25 A Good afternoon.

1 Q My name is Daniel Rosenthal and I represent the APA.  
2 I'm going to be asking you some questions about the  
3 supplemental declaration that you submitted. Do you have  
4 that in front of you?

5 A I do not. Is it one of these binders?

6 MR. ROSENTHAL: Do you all have a copy of his  
7 declaration?

8 MR. MOLLEN: I suspect we do some place.

9 MR. ROSENTHAL: I have one copy that you provided  
10 to me.

11 THE COURT: All right, we'll -- we'll get one.

12 (Pause)

13 THE COURT: While we wait let me just chat briefly  
14 about schedule.

15 So we have Mr. Newgren who's present here now, and  
16 then there were two other witnesses contemplated for today.  
17 What do we expect in terms of scheduling of those witnesses?

18 MR. GALLAGHER: They are both available, Your  
19 Honor. One is I think here already and the other is on call  
20 and will be here momentarily.

21 THE COURT: Do we expect to be able to fit them  
22 all in today?

23 MR. GALLAGHER: Oh, we would fully expect so, Your  
24 Honor. The first witness is we think 15 to 20 minutes on  
25 direct.

1 THE COURT: All right.

2 MR. GALLAGHER: Mr. Resnick may be a bit longer,  
3 but we should easily be able to get to them today.

4 THE COURT: All right.

5 MR. GALLAGHER: The witness following Mr. Resnick  
6 is Mr. Dichter, and he is arriving in the city today from  
7 abroad, so he would not be available.

8 THE COURT: All right. Well, I understood the  
9 intent was to get through the four witnesses today --

10 MR. GALLAGHER: Right.

11 THE COURT: -- that's why I ask, and it sounds  
12 like the intent then is to take a break and then proceed  
13 with the other two tomorrow.

14 MR. GALLAGHER: That's right, Your Honor.

15 THE COURT: All right.

16 I thank you for that, I appreciate your efforts to  
17 get that binder. That's -- that's -- without people keeping  
18 track of these things the trials grind to a halt, so I  
19 appreciate your efforts.

20 MR. CLAYMAN: Excuse me, Your Honor, just a house  
21 cleaning matter. If the company has these witnesses we  
22 would be -- we would very much like to get if they have  
23 exhibit books like we've already seen to get those prior to  
24 the actual calling of the witness. For example, we didn't  
25 receive Mr. Glass' until minutes before he started

1       testifying.

2               THE COURT: All right.

3               MR. CLAYMAN: So if they have those available now  
4 it would be I think appropriate for us to get copies.

5               THE COURT: All right. If you have those binders,  
6 if you could get them to folks and I think that'll allow us  
7 to probably take a -- less breaks in terms of getting  
8 through the testimony.

9               MR. GALLAGHER: I will inquire, Your Honor, and  
10 attempt to locate whatever is available.

11              THE COURT: All right, thank you. Proceed.

12              MR. ROSENTHAL: Does Your Honor have a copy of  
13 Mr. Newgren's supplemental declaration?

14              THE COURT: You know, I do, but now that you say  
15 that --

16              MR. ROSENTHAL: I could give you mine, Mr. Butler  
17 kindly --

18              THE COURT: Well, if you'll be so kind actually --

19              MR. ROSENTHAL: -- let me --

20              THE COURT: I'm glad you pointed that out, because  
21 if you're going to use it just give me one minute. You --  
22 is that the only one you have?

23              MR. ROSENTHAL: Well, yes, but --

24              THE COURT: No, you shouldn't surrender it. Give  
25 me one moment.



1 (Pause)

2 THE COURT: I have a habit of clearing these  
3 things off at the end of the day so it got -- got pushed to  
4 the other room. So fire away.

5 MR. ROSENTHAL: Okay.

6 BY MR. ROSENTHAL:

7 Q So all of that I think we're finally ready to get  
8 started. So let me just start with a couple basic  
9 questions.

10 Your declaration talks about provision of  
11 information related to American's manpower planning model;  
12 is that right?

13 A Yes.

14 Q And that's the model that's been commonly referred to  
15 as AMPL?

16 A Yes.

17 Q Okay. The requests that you -- you talk about a number  
18 of information requests from the APA in your declaration,  
19 right?

20 A Yes, I do.

21 Q And those requests were generally communicated from  
22 Neil (ph) Roghair to yourself via an email or attachments to  
23 emails; is that right?

24 A Yes, sometimes they were delivered across the table,  
25 sometimes in writing via email or through hand-delivered

1 hard copy.

2 Q And was that the standard way that APA requested  
3 information from American?

4 A Yes, it was.

5 Q Is it true that each one of the requests from APA came  
6 through that channel? That you -- sorry, let me be more  
7 specific. Each request that you talk about in your  
8 declaration came through that channel?

9 A Yes.

10 Q Okay. And are you aware there was also a separate  
11 channel of requests between Lazard, which was the APA's  
12 advisor, and Rothschild, which was American's advisor?

13 A Yes.

14 Q Okay. Now turning to the AMPL model itself, it's a  
15 complicated model, right?

16 A Extremely complex, yes.

17 Q It takes a lot of different inputs?

18 A Yes, it does.

19 Q And it requires a lot of different assumptions about  
20 American's scheduling and operations doesn't it?

21 A Yes.

22 Q And in fact some of those assumptions are -- have  
23 changed over the course of recent negotiations haven't they?

24 A I know that there's been lots of discussion between the  
25 parties about all of the inputs to the model.

1 Q And hasn't American decided to change some of those  
2 inputs pretty significantly over the last few months?

3 A My understanding is yes, there have been some  
4 adjustments to the assumptions as well as request to run  
5 different assumptions from APA, which we have done so.

6 Q Okay. And it's a model that the company has been using  
7 for a while isn't it?

8 A Yes.

9 Q I think you say that in your declaration that it's --  
10 it's been using the model for several years; is that right?

11 A That's correct.

12 Q And you've been involved in negotiations with the APA  
13 for several years, right?

14 A Coming up on six years.

15 Q Is March 6th the first time that you ever told the APA  
16 about the AMPL model?

17 A We had through numerous valuation model discussions  
18 talked about inputs with regard to crew manning, but I  
19 believe the first time the actual reference to AMPL was on  
20 March 6th.

21 Q And there was another scheduling model that American  
22 and the APA were using, which some people have referred to  
23 as the joint scheduling model, right?

24 A Yes, but there were inputs from our crew resources  
25 folks that interplayed with that model.

1 Q And March 6th was the first time that you specifically  
2 disclosed the existence of the AMPL model?

3 A Well, it's the first time we explained where those  
4 inputs were coming from and what the software name was that  
5 was being used by crew resources.

6 Q Okay. And that followed a month of negotiations post  
7 bankruptcy that focused on scheduling issues, right?

8 A I don't know that the entire month was focused solely  
9 on scheduling issues, but yes, we did discuss work rules as  
10 part of our negotiating sessions.

11 Q Would you say it was one of the most important issues  
12 in negotiations?

13 A Well, it was one of many important issues.

14 Q Okay. Now to this date American has not provided the  
15 actual model itself to APA, right?

16 A No, we explained that the -- because of the complexity  
17 of the model and the fact that it was a proprietary software  
18 that we offered to set up a live meeting where we would have  
19 our subject matter experts who actually work with the model  
20 on a regular basis sit with APA's representatives and  
21 explain how it works and also run different assumptions that  
22 they asked us to run.

23 Q I'd like to get into that a little bit more in a  
24 minute, but just to the record is clear, the actual model  
25 has never been provided to the APA, right?

1 A Well, because it was complex and proprietary.

2 Q But the APA did ask to see it, right?

3 A Yes, and we showed it to them in a live session.

4 Q Okay. Now as you eluded to because APA couldn't see  
5 the model they asked you to basically run different inputs  
6 into the model and -- so that they could see what different  
7 outputs were produced by that, yes?

8 A That is correct.

9 Q And if I understand the history correctly there have  
10 been seven different what's been called scenarios or sets of  
11 inputs that the APA has asked to one on the AMPL model; is  
12 that right?

13 A I don't know the exact number, but I know that they've  
14 asked for multiple scenarios.

15 Q Well, there were three that they asked for on  
16 March 9th, 2012, right? Is that reflected in your  
17 declaration --

18 A If you can point me to that.

19 Q -- in Exhibit 810, request number 2?

20 A That list?

21 Q 1810, I may have misspoken there.

22 A What page, I'm sorry, what paragraph are you referring  
23 to?

24 Q I'm referring to AA Exhibit 1810, request number 2.

25 A Oh, I'm sorry. Yes, they made this request, they

1 submitted this request.

2 Q And that was a request they submitted shortly after  
3 they learned about the AMPL model on March 6th?

4 A Yes.

5 Q So it was before they had seen the full presentation or  
6 they knew all the details that you provided later in the  
7 month, right?

8 A Yes, we had presented a PowerPoint presentation that  
9 actually outlined and had some visual slides that showed the  
10 complexity of the model.

11 Q Okay. So if I understand this request, 1810 correctly,  
12 tell me if I'm wrong, APA was asking for American to change  
13 two of the variables -- two of the many variables that go  
14 into the AMPL model; is that right? The average line value  
15 and the rolling average line value?

16 A Yes, on question number 2, you have a request number 2.

17 Q Those were the only two variables that APA asked to  
18 change at that time?

19 A Those are the only two that are outlined in item 2,  
20 yes.

21 Q And you in fact ran those scenarios and you gave APA  
22 the results of those scenarios, right?

23 A Yes.

24 Q Is that reflected in AA Exhibit 1713?

25 UNIDENTIFIED SPEAKER: 1813.

1 MR. ROSENTHAL: 1713.

2 BY MR. ROSENTHAL:

3 Q On the second page, it's this colorful rainbow style  
4 chart with lots of pretty dotted lines. I think I may be  
5 looking at the page directly after the one you're looking  
6 at, Mr. Newgren.

7 A I'm sorry. Oh, the second page? Okay.

8 Q It's labeled page 2. Is that -- does that show the  
9 results of the three scenarios that APA asked --

10 A Yes, the --

11 Q -- you to run on March 9th?

12 A -- the yellow, green, and blue were the three requested  
13 by APA.

14 Q Oh, okay. And just so that we're clear I think that  
15 the exact same chart -- or almost the exact same chart is  
16 reproduced at AA Exhibit 812; is that right?

17 A 1812 or H?

18 Q 1812, sorry.

19 (Pause)

20 A It's a similar but different chart.

21 Q Okay. How is it different?

22 A If you see on 1713 the box at the top identifies, one,  
23 two, three, four, five, six different scenarios, whereas the  
24 box at the top of 1812 identifies four.

25 Q So in other words 1812 is a more limited version of

1 1713, is that what you're saying?

2 A Well, I'm just saying it's different.

3 Q Okay. Are the lines that are shown on 1812 in fact the  
4 same lines that are shown on 1713? There's an 81 max, 80  
5 line average line that's on both.

6 A Yes, the 81 --

7 Q And 83 max, 82 line average?

8 A Yes, I see those.

9 Q Okay. And the 85 max, 83.5 line average. Those are  
10 again the same scenarios that APA requested on March 8th,  
11 right?

12 A Yes.

13 Q Okay. So there are a lot of other inputs or variables  
14 that go into AMPL that APA did not ask you to test on  
15 March 9th, right?

16 A Correct.

17 Q One of those is a required assumption about sick usage;  
18 is that right? That goes into AMPL?

19 A Yes, that was not part of request number 2.

20 Q Okay. There's a required assumption about how much  
21 time pilots will voluntarily decide to add to their  
22 schedules, that goes into AMPL?

23 A To be honest with you I'm not the technical expert  
24 regarding AMPL, so I couldn't tell you.

25 Q But you've been present at presentations where these



1 different aspects of the model have been explained, right?

2 A Some, but not all.

3 Q So is it your understanding that there's a required  
4 assumption about how much time pilots will add to their  
5 schedules?

6 A I wouldn't be surprised, but I don't know for sure.

7 Q Okay. Would you be surprised if they were required in  
8 some sense related to vacation and training?

9 A That I believe there is.

10 Q And none of those assumptions were tested or run  
11 through the March 9th set of requests from APA, right?

12 A Well, they were not asked for on the March 9th item  
13 number 2 question.

14 Q Okay. So on March 27th APA asked to run some  
15 additional scenarios that did test those other variables,  
16 right?

17 A Yes.

18 Q And at the meeting -- there was a meeting that happened  
19 on March 27th where those scenarios were run through the  
20 model?

21 A Yeah, that was the live meeting where we met with APA  
22 and had our subject matter experts run the model based on  
23 any combination of inputs they asked us to put in.

24 Q And is it your understanding that someone from American  
25 told APA at that meeting that American would be providing a

1 spreadsheet that showed the results of the different  
2 scenarios?

3 A Yes, we produced the results in the meeting, they were  
4 projected on a screen, and everybody in attendance was  
5 taking notes on both sides, and at the end of the meeting we  
6 asked if they had a desire for any additional runs and there  
7 was no request, they said they did not need any additional  
8 runs. So it's my understanding at the end of that meeting  
9 there was a request for a copy of the output that was  
10 projected on the screen.

11 Q And American agreed at the meeting to provide that  
12 spreadsheet?

13 A Correct.

14 Q And APA later made that same request for that  
15 spreadsheet in writing on March 30th. Is that your  
16 understanding?

17 A Yes.

18 Q And you responded to that request on April 11th in an  
19 email for Neil Roghair, right? I think that's Exhibit 1818  
20 to your declaration -- your supplemental declaration?

21 A Yes, that's an email from me to Neil Roghair.

22 Q Okay. So that was about 12 days after Mr. Roghair had  
23 made the request in writing?

24 A Yes.

25 Q And in your response you told Mr. Roghair that the

1 spreadsheet that he asked for was posted on this file  
2 sharing service, IntraLinks, right?

3 A Yes, I was advised that it was posted.

4 Q And you gave a specific reference number that he could  
5 use to look up the document; is that right?

6 A Yes, I did.

7 Q And that reference was to folder 22 at document 71; is  
8 that right?

9 A Yes, it is.

10 Q Okay. And APA two days later followed up with another  
11 written request on April 13th; is that right? Is it  
12 Exhibit 1819 to your declaration?

13 A Yes.

14 Q Okay. Let's turn to the -- I think it's the fifth  
15 page. Oh, I see that these aren't numbered.

16 A I think you're looking at paragraph 2A. Oh, I'm sorry,  
17 no.

18 Q Ah, I see it. It is on the first, second, third,  
19 fourth page. At paragraph 4. Do you see that?

20 A IV? I'm sorry.

21 Q It's --

22 A Number 4?

23 Q Number 4, yeah.

24 A Number 4, subparagraph B?

25 Q I'm actually looking at 4, subparagraph A.

1 A Okay.

2 Q "Please provide a copy of the assumptions and results  
3 produced from the various AMPL runs conducted on March 27th,  
4 2012." Do you see that?

5 A Yes.

6 Q And do you see underneath where APA acknowledged your  
7 earlier response that pointed to IntraLinks file 2271?

8 A Yes, I see that, but it indicates that --

9 Q And you see that APA said that the document was  
10 accessible to the negotiating committee?

11 A Yes. When I received this I asked my staff to  
12 investigate that and work with the IntraLinks folks to make  
13 sure that the file would be accessible.

14 Q Okay. In fact that document, 2271, actually had  
15 nothing to do with the AMPL model did it?

16 A I found that out last week after Mr. Rosselot raised  
17 the issue that they hadn't received the information.

18 Q So after you got this follow-up request on April 13th  
19 you didn't check to make sure that it was the right  
20 document?

21 A No, I had my staff who was coordinating the hundreds of  
22 requests that were coming in from the APA, and so they would  
23 work with the subject matter experts and with the IntraLinks  
24 folks and folks that were posting to make sure that had  
25 happened, that it got posted.

1 Q So just so we're clear, the document that you said you  
2 had posted at 2271, this wasn't just a case of mislabeling,  
3 in fact the document was -- wasn't anywhere on IntraLinks  
4 was it?

5 A No, I've become aware that it was actually a  
6 confidential benefit document, but at the time I received  
7 Exhibit 1819 there was no reference that there was not a  
8 document obviously they could not access.

9 So under -- I was acting under the assumption that  
10 it was a proper document and that it was an issue of access,  
11 which we had several other technical issues regarding  
12 opening files and things like that. So I just passed it off  
13 to my technical folks.

14 Q Sure. Let me try to clarify my question.

15 So was the document that you thought had been  
16 posted, 2271, was that posted somewhere else on IntraLinks?

17 A Not that I'm aware of.

18 Q Was it provided to the APA in any form?

19 A No, we first became aware of it last week.

20 Q And as we sit here today has it been provided to the  
21 APA in any form?

22 A No, however, when we did respond that we fixed the  
23 access information I never received any follow-up request  
24 indicating that this was a wrong file, so there was no  
25 additional information to indicate to me that there was a

1 problem with the information.

2 Q Okay. Let me just make sure that I get a clear answer  
3 to my question.

4 A Sure.

5 Q As we sit here today has the document ever been  
6 provided to the APA in any form?

7 A It has not.

8 Q Okay.

9 MR. ROSENTHAL: Nothing further.

10 MR. MOLLEN: No questions, Your Honor.

11 THE COURT: All right. You're excused. Do you  
12 want to move --

13 MR. MOLLEN: Well, Your Honor, this was -- yes.  
14 The answer is yes, Your Honor, we would like to move  
15 Mr. Newgren's supplemental declaration, which is  
16 Exhibit 1713 exhibits into evidence.

17 THE COURT: Any objection?

18 MR. JAMES: We don't have an objection.

19 THE COURT: All right, they are admitted.

20 (APA's Exhibit No. 1713 was admitted)

21 MR. MOLLEN: Your Honor, there was also a  
22 supplemental declaration from a Keith Austin and a  
23 supplemental declaration from Denise Lynn (ph) on the same  
24 subject, and we'd like to move those and their associated  
25 exhibits into evidence as well.

1 THE COURT: All right, my understanding is that  
2 there's no desire to cross those folks; is that correct?

3 MR. JAMES: If we could just have one second. Can  
4 we address that right after lunch, Your Honor?

5 THE COURT: Sure. Is there any -- anyone  
6 particular that I should focus on if I'm looking at anything  
7 over lunch?

8 MR. JAMES: Denise Lynn.

9 MR. MOLLEN: I think there was one issue that  
10 Mr. James had pointed out to us with a heading in Ms. Lynn's  
11 declaration that he suspected he might want to ask her some  
12 questions about. We've, I think agreed to resolve that  
13 issue by either removing that heading or rewriting it by  
14 consent to take away the ambiguity.

15 Ms. Lynn in Texas and we'd hate to have to bring  
16 -- she's working on something else that's very important.  
17 We'd hate to have to bring her up to be cross-examined for a  
18 few minutes on an information sharing issue.

19 THE COURT: All right. Well, I'll let you talk  
20 about it first, and if you can work it out, great, if you  
21 can't then we'll -- we'll figure out what to do with it.

22 MR. MOLLEN: Thank you, Your Honor.

23 THE COURT: All right. So let's -- let's take an  
24 hour for lunch and see you all back here after that.

25 (Recess at 1:11 p.m.)

1 THE CLERK: All rise.

2 THE COURT: Please be seated.

3 All right, I think the parties were going to  
4 discuss over lunch the supplemental Lynn declaration and  
5 exhibits?

6 MR. GALLAGHER: I believe Mr. Mollen was handling  
7 that for us, Your Honor, he's not in the courtroom right  
8 now.

9 THE COURT: All right. It'll wait.

10 MR. GALLAGHER: Thank you, Your Honor.

11 THE COURT: All right, what's next?

12 MR. GAGE: Your Honor, Ken Gage for American  
13 Airlines. We'd call Bruce Richards to the witness stand.

14 (Pause)

15 THE COURT: And if you'd swear the witness.

16 (Witness sworn)

17 MR. GAGE: Thank you, Your Honor.

18 THE COURT: Proceed.

19 DIRECT EXAMINATION

20 BY MR. GAGE:

21 Q Mr. Richards, what's your educational background?

22 A I am a graduate of the University of Pennsylvania.

23 Q And what was your degree in?

24 A Actuarial science.

25 Q And what do you do for a living?



1 A I am the chief actuary and quality leader for Mercer  
2 Health & Benefits.

3 Q How long have you been an actuary?

4 A I've been a full fellow in the Society of Actuary since  
5 1987.

6 Q You mentioned you're a fellow in Society of Actuaries.  
7 Do you have any other professional qualifications?

8 A Yes, I am also a member of the American Academy of  
9 Actuaries and a fellow in the Conference of Consulting  
10 Actuaries.

11 Q And what involvement, if any, have you had with the  
12 committees within the Society of Actuaries?

13 A I have participated on exam committees.

14 Q Okay. And what role do those committees serve within  
15 the society?

16 A Those committees are formed to actually create the exam  
17 syllabus, which is the course that people need to go through  
18 to become a credentialed actuary, and they also develop the  
19 material that goes onto the syllabus.

20 Q Okay. Now, I think you indicated that you currently  
21 are the chief actuary for Mercer's Health & Benefits  
22 practice. What are your responsibilities in that position?

23 A My responsibilities in that position include making  
24 sure that our work product, which is the information we give  
25 the clients, is accurate, it reflects or best practice, and

1 it goes through our internal process for review before it  
2 gets delivered to a customer.

3 Q Now when you say accurate, what do you mean?

4 A Accurate would make -- well, our clients are quite  
5 particular that we get the financial numbers correct, and so  
6 whether we be -- so we owe them the best estimate possible,  
7 and whether the number will be high or low we are  
8 accountable for what we predict, and our clients actually do  
9 make us reconcile those type of estimates.

10 Q Okay. And does Mercer have any sort of a peer review  
11 process as part of its quality controls?

12 A Peer review as a process in Mercer is part of the  
13 company's DNA fabric, it means that we have a very refined  
14 and well-defined process.

15 For peer review for financial deliverables such  
16 like American Airlines receives from Mercer at least two  
17 full credential actuaries will review it and frequently more  
18 people than that.

19 Q Do you also have client responsibilities at Mercer?

20 A I also do work with clients regularly, and I have --  
21 maintain about a dozen clients in a lead capacity.

22 Q Okay. Without mentioning client names can you just  
23 describe those clients?

24 A Those clients are typically 50,000 lives or more,  
25 national in presence, and typically have two or more health

1 care vendors they do business with.

2 Q When you say 50,000 lives or more what are you  
3 referring to?

4 A They have at least 50,000 employees enrolled in their  
5 benefit plan.

6 Q Now do you publish articles regarding the work that you  
7 do for clients?

8 A Mercer per se does not publish client information ever,  
9 and pretty much when we learn something we consider that to  
10 be in-house information and we consider it to be  
11 intellectual capital and therefore we do not publish or  
12 distribute it.

13 Q Do you publish internally the work that you do for  
14 clients?

15 A We indeed do have internal learning, which we call case  
16 studies, that we circulate to our lead professionals and we  
17 do go over them and they do cover a variety of topics.

18 Q Okay. Now prior to becoming a chief actuary for the  
19 practice what role did you have at Mercer?

20 A I was a senior consultant in actually what's called the  
21 Chair of the Tools Committee.

22 Q Can you tell us what the Chairs of the Tools Committee  
23 is responsible for?

24 A Sure. The Tools Committee Chair is responsible for  
25 developing all our technical applications, which are the

1 applications we use to develop cost estimates for employers,  
2 and then deploying them and making sure that we have  
3 appropriate standards of practice around how people are  
4 supposed to use those tools.

5 Q Does that you include software?

6 A It does.

7 Q Now could you describe the tool that was used by  
8 Mr. Mountain (ph) in connection with his evaluation of costs  
9 for American Airlines?

10 A The tool that we used on that evaluation is a tool  
11 called MEDPRICE. MEDPRICE is a collection of tens of  
12 millions of individual claim records at a very finite level,  
13 it actually tabulates everything that happens if you're in a  
14 hospital and/or at a doctor's office, and so we have the  
15 information on every single procedure that was done on an  
16 individual by individual basis. That is the background data  
17 warehouse from which we then write a proprietary in-house  
18 program to run cost comparisons against.

19 Q Okay. Now can you tell us a little bit more  
20 specifically how those cost comparisons are generated in a  
21 situation where an employer like here is proposing new  
22 plans?

23 A Sure. We take this multi-million record data set and  
24 take a particular plan design and enter that into our  
25 software, and the software then will adjudicate each and

1 every claim in that data set to produce a result. We will  
2 then in this example look at what the future plan design  
3 would be and again have all those claim records adjudicated,  
4 and then you can compare the first result to the second  
5 result and see the relative cost level change.

6 Q Now at what point in Mercer's process, if at all, do  
7 you consider whether plan design changes will affect  
8 utilization?

9 A That is part of the standard review, it's always on the  
10 checklist of things that need to be done. Typically what  
11 happens is you will make the evaluation of what's the  
12 relative cost change, and then if the cost change is  
13 significant enough you will make an assessment of what  
14 utilization impact, if any, should be applied.

15 Q Okay. And what guides your judgment in determining  
16 whether a utilization change should be assumed, and if so,  
17 how much?

18 A Mercer has thousands of clients where we go through  
19 this exercise every year, and so a lot of what we do is  
20 apply the historical learning from things that have actually  
21 been -- actually implemented and completed.

22 So, for example, if someone makes a plan design  
23 change we will see how the actual experience panned out  
24 versus the estimate, and by definition then we are learning  
25 the sequential we continue to update what we have based on

1 our live client experience.

2 Q Now are you familiar with the testimony that was given  
3 by Christopher Heppiner in this proceeding?

4 A I am.

5 Q Okay. And do you recall reading Mr. Heppiner's  
6 testimony regarding the software that Segal uses to estimate  
7 utilization changes as a result of plan design changes?

8 A I am familiar with that.

9 Q Okay. Why doesn't Mercer approach it that way?

10 A The -- the software that Segal is using for us we would  
11 call a black blocks application because you can't actually  
12 see everything that actually goes on.

13 In our particular process, as I described to you,  
14 we can see every calculation and basically have created  
15 every assumption that goes into the software so I understand  
16 the line by line coding and what comes in and what goes out.

17 Q Now did you have any involvement whatsoever in the  
18 evaluation of American Airlines active medical proposals to  
19 its unions?

20 A Yes.

21 Q Okay. Tell us what that involvement was.

22 A The actuary for the account, Matt Naughton (ph)  
23 actually called me to discuss the proposed changes to have a  
24 peer review conversation about what we thought would occur.

25 Q Okay. And what specifically did he ask you about?

1 A Matt asked if a certain series of plan designs changes  
2 were made what would happen to experience in the current  
3 policy year, which is current calendar year, and what would  
4 happen in the follow calendar year, and then what might  
5 happen thereafter.

6 Q Okay. Did you have a discussion with him regarding  
7 utilization as a concept of utilization?

8 A We had a conversation discussing the magnitude of the  
9 program changes, as well as any expected utilization changes  
10 that might occur.

11 Q And did you agree or disagree with the assumptions that  
12 he ultimately made?

13 A I agreed with the assumptions that Matt made.

14 Q Now there's been testimony or reference in the  
15 testimony to something called rush, hush, crush. Are you  
16 familiar with that phrase?

17 A I am.

18 Q Can you describe -- briefly describe what it is?

19 A Rush, hush, crush is an element that occurs when an  
20 employer goes to change its program design, and what happens  
21 is people become aware of the change and it may modify their  
22 behavior and time their services differently based upon the  
23 program change. And it typically impacts I'll call  
24 procedures and things that people can time, such as knee  
25 surgery and other operations that where the individual gets

1 to select the exact date.

2 Q Okay. And did you describe the rush, the hush, and the  
3 crush in that description?

4 A Well, sure. What happens is first that people realize  
5 there's a program change so they then accelerate their  
6 service to take them more immediately.

7 Then right after the -- into the next fiscal year  
8 for that particular client, because the individual has just  
9 had the service they can't get it again, so there's a  
10 decrease in that service that follow period.

11 And then towards the middle of the following year  
12 it returns back to normal, and when it returns back to  
13 normal you're going from a suppressed base to a normal base,  
14 and that suppressed base to normal base creates a larger  
15 than typical unit cost increase.

16 Q Now to your knowledge are there any articles discussing  
17 this phenomenon?

18 A Yes, there are.

19 Q I'll hand you a document.

20 A Yes.

21 THE COURT: Thank you.

22 MR. GAGE: I believe they have already been  
23 provided to counsel.

24 BY MR. GAGE:

25 Q Can you identify what's been marked as American



1 Airlines Exhibit 1719?

2 A Yes, it's the May 2008 Internal Health Watch news  
3 letter from the Society of Actuaries.

4 Q Okay. Is there a particular article in this exhibit?

5 A On the second page of the exhibit there's an article by  
6 Joan Barrett (ph) which describes this particular issue  
7 succinctly.

8 Q Okay. And prior to this proceeding were you familiar  
9 with this article?

10 A I was aware of this article prior to this proceeding,  
11 yes.

12 Q How did you learn about this article?

13 A I actually know Joan Barrett, so I knew she was  
14 actually publishing this article, so I've known about her  
15 particular work for a number of years.

16 Q Okay. Has this article to your knowledge ever been  
17 presented at any conferences or meetings?

18 A Joan has presented slides and pieces of this article at  
19 multiple society of actuaries meetings.

20 Q Now do you have an understanding whether this  
21 phenomenon rush, hush, crush is accepted within the  
22 actuarial community?

23 A At the same society of actuaries meetings obviously  
24 information can flow fairly freely, so many of us do have  
25 that discussion. So I would actually say yes, it is well

1 accepted.

2 Q And why is it that you say it's well accepted?

3 A Well, first of all, you know when you get a bunch of  
4 the senior actuaries agreeing that's step one. But also  
5 step two this same article does appear on the study syllabus  
6 for the Society of Actuaries, and the study syllabus is what  
7 we teach our young actuaries from.

8 Q And I'll hand you what's been marked as exhibit  
9 American Airlines 1773. And can you identify this document?

10 A Yes, this is an outline of the spring 2012 group health  
11 and design and pricing syllabus from the Society of  
12 Actuaries that any colleague looking to pass the exams must  
13 take this to be a health care actuary.

14 Q And is there anything in the syllabus that references  
15 this phenomenon rush, hush, crush?

16 A Yes, there is. If you look under Section 8, which is  
17 the third page from the end, and if you count up from the  
18 bullet it's the fourth, it's called "Timing is Everything;  
19 The Impact of Benefit Rush."

20 Q Now is this phenomenon known as rush, hush, crush in  
21 any way built into Mercer's own practices or policies?

22 A It's part Mercer's policy for review, it does not  
23 automatically come out of the MEDPRICE tool. The evaluation  
24 of whether to and how much to adjust a particular claims  
25 cost and utilization is a function of the collective

1 experience that Mercer has actually has collected from all  
2 our client scenarios.

3 Q Okay. Do you have any personal experiences that would  
4 inform whether to include an assumption regarding a decrease  
5 in utilization following plan changes such as American  
6 Airlines has proposed here?

7 A Many of our large customers actually make us monitor at  
8 a very significant level what happens when they make benefit  
9 design changes, and they're equally upset if we're way high  
10 or are way low. And so we actually do conduct studies, post  
11 mortem you might want to call them, on each one of these  
12 type of changes where this occurs.

13 And what we found is over time is if there's a  
14 significant change it will indeed create some lasting  
15 utilization change, but there's a threshold where if the  
16 change is not significant basically nothing happens.

17 Q Okay. Now do you recall from Mr. Heppiner's testimony  
18 that he testified, for example, regarding emergency room  
19 visits and he offered the opinion that if co-pays or  
20 deductibles are raised people will use the emergency room  
21 less frequently. Do you agree with his assessment?

22 A I would generally disagree. I mean there are some  
23 instances where that would be correct, but typically when  
24 people go to the ER they're going for multiple reasons, but  
25 one of them is you perhaps have called your nurse hotline

1 and they directed you to the ER, or two, you just -- it's  
2 engrained that when your child perhaps falls off the  
3 playground and breaks an arm or a leg that's where you're  
4 going. And so there are instances obviously where how you  
5 change the benefit design you'd like it to influence  
6 people's behavior, but it may not do so.

7 Q Okay.

8 MR. GAGE: No further questions, Your Honor.

9 THE COURT: All right. Cross?

10 (Pause)

11 CROSS-EXAMINATION

12 BY MS. PARCELLI:

13 Q Good afternoon, Mr. Richard (sic); is that correct?

14 A Yes, good afternoon.

15 Q Good afternoon. My name is Carmen Parcelli and I'm  
16 counsel for the Association of Professional Flight  
17 Attendants in this case.

18 Okay. So you have done work directly on the  
19 American Airlines proposed medical benefit changes, correct?

20 A I have reviewed work that's been done.

21 Q Okay, fair enough. And you understand that the  
22 proposed changes involve increases in co-pays; is that  
23 correct? And increases in deductibles; is that correct?

24 A Correct.

25 Q And also increases for employees in their coverage of

1 out-of-pocket, correct?

2 A Correct.

3 Q Okay. And correct me if I'm wrong, based on the  
4 testimony that you just gave, but Mercer does recognize that  
5 increasing employee costs can lead to changes in  
6 utilization; is that fair?

7 A That's fair.

8 Q Okay. And that's a standard belief in the health  
9 benefits community is it not?

10 A It's fair to say that would be true when the change is  
11 significant.

12 Q Fair enough. And it's also -- it's also a proposition  
13 that has been tested and confirmed through various surveys  
14 and health benefit studies, correct?

15 A Well, it's really been tested on short-term impacts  
16 like what happens when you change it in the initial year?  
17 But there is not a lot of data is what happens thereafter.

18 Q Okay. And I believe that you testified that in terms  
19 of Mercer's own proprietary software system, which you  
20 called MEDPRICE, that utilization changes are built into  
21 that a software system, correct?

22 A The utilization changes are not in the software system,  
23 although what is in the software system since we update it  
24 once a year is any change that happens year to year.

25 So, for example, when we update the data in 2011

1 any change in underlying utilization that occurred between  
2 2010 and 2011 is therefore implicitly embedded in the new  
3 software.

4 Q Okay. Okay. And so that is in the software. And so  
5 then your practice would be to go back and revisit after the  
6 software makes an assessment whether or not you would make  
7 changes to the utilization that the software -- changes that  
8 the software produced; is that fair to say?

9 A That's correct.

10 Q Okay. Now let's talk about rush, hush, crush.

11 So we've had entered into evidence as American  
12 Exhibit 1718 Ms. Barrett's article entitled "Timing is  
13 Everything," correct? You have it?

14 A I have it.

15 Q Good. Good. And is there only this one article that  
16 you're aware of that discusses rush, hush, crush?

17 A That is correct.

18 Q Okay. And Ms. Barrett's article, does it have in it or  
19 reference any kind of survey data or statistical data on  
20 which it's based?

21 A This actual study since I know where it comes from, is  
22 Joan Barrett, I should probably say Joan is on the board of  
23 directors of the Society of Actuaries, and --

24 Q Sir, I think my question was a little more direct than  
25 that.

1 Does Ms. Barrett's article, are there any  
2 footnotes you can point me to, are there any references that  
3 you can point me to in the text of her article that shows  
4 that she relies on some kind of statistical survey for her  
5 conclusions?

6 A The -- I cannot point to tables, so there are no tables  
7 attached to these, that would be correct.

8 Q Okay. And isn't it true if you look into the first  
9 paragraph -- or first or second paragraph she basically uses  
10 herself as sort of anecdotal evidence that if you expect a  
11 change in how much you're going to have to pay for your  
12 health care you might rush out and go ahead and get attended  
13 to, something that you've been holding off, right? She uses  
14 herself as anecdotal evidence, right?

15 A Correct.

16 Q Okay. And do you see also, sir, on this first page of  
17 the article itself the paragraph that begins, "A benefit  
18 rush may occur." Are you with me?

19 A Yes.

20 Q Okay. And then going down further in that paragraph  
21 you see where it says:

22 "For large groups announcements come early and a  
23 change such as full replacement CDH are considered major.  
24 So an annual increase in claims costs in the three percent  
25 to five percent range is common."

1                   You see where she says that?

2       A       I see that.

3       Q       Okay. But there's no footnote, there's nothing that  
4       indicates where -- where Ms. Barrett gets her three percent  
5       or five percent change; is that correct?

6       A       That's correct.

7       Q       Okay.

8                   (Pause)

9       Q       So are you aware of or have there been any surveys or  
10       studies that react to or challenge Ms. Barrett's thesis in  
11       this article?

12       A       I have not seen any.

13       Q       Any that even -- not challenge, but say look at or  
14       study it?

15       A       I believe this is actually the only article that there  
16       is on this subject matter.

17       Q       Okay. Now, does -- does Mercer always apply this rush  
18       -- I'm going to mess this up a few times -- rush, hush,  
19       crush theory to valuations that you do?

20       A       As part of our standard actuarial underwriting  
21       procedure it must be considered each and every time.

22       Q       Okay.

23       A       One may conclude that it does not apply. For example,  
24       if someone changes a deductible by \$50 (indiscernible -  
25       00:23:00) change it is rather insignificant and then we



1 would not go through the exercise of doing this valuation.

2 Q Okay. Can you give us kind of an estimate of how often  
3 you do apply this principal of rush, hush, crush?

4 A We actually apply it I'll say every time we feel that  
5 we have a benefit design value change of five percent or  
6 more.

7 Q Okay. And is that in most of the valuations you look  
8 at or not?

9 A It varies from year to year.

10 Q Okay. So let's get a little more clarity about how  
11 rush, hush, crush works according to Ms. Barrett here.

12 So the rush is after benefit changes have been  
13 announced and made known to employees but before they're  
14 actually implemented, correct?

15 A Correct.

16 Q Okay. And then the hush, the sort of decreased usage,  
17 occurs in the year following the implementation of the  
18 benefit changes, correct?

19 A Correct.

20 Q Okay. And then the crush, according to Ms. Barrett, is  
21 in the second year of -- after the implementation of the  
22 changes, correct?

23 A Correct.

24 Q Okay. Now, with regard to the changes that American is  
25 proposing, is it correct to say that the valuation that's

1 been done is done as if the changes had taken place at the  
2 commencement of 2012? Am I correct on that?

3 A The valuation that's done actually evaluates when the  
4 anticipated change is to occur. So if the change is to  
5 occur on 1/1/2013 that's when the value is actually  
6 calculated and that's when the claim costs are assumed to be  
7 impacted going forward.

8 Q Okay. But the valuation that was done and prepared and  
9 given to the unions you think doesn't show changes going  
10 into effect until 2013, that's your understanding?

11 A Well, I used the 1/1 date because it's easier to pick  
12 beginning of calendar years to talk about changes.

13 Q Uh-huh.

14 A And so it's easier to say here's a calendar year plan  
15 and if you want to think about the rush happens before it.

16 Q Yeah.

17 A And so this is more simplistic that way for me to  
18 convey.

19 Q Okay. Well, maybe let me try and refocus this.

20 So according to the valuations that you performed  
21 on behalf of American when is the rush period?

22 A The rush period will occur between the time you  
23 announce the change and the time the change is effective.

24 Q Okay. But don't the evaluations -- the valuations that  
25 have been done and that feed into what labor is being asked

1 to give, don't they assume a date when these changes are  
2 going to be implemented?

3 A Well, they -- they indeed do assume the date -- a date,  
4 but --

5 Q Okay.

6 A -- the real thing is, the length of time an individual  
7 has to react also is factored into that. So if you tell me  
8 on December 1st and it's effective 1/1 you only have 30 days  
9 to react, where it's -- and so it's really a question of how  
10 long in advance do you know --

11 Q Okay.

12 A -- of the change.

13 Q But are you saying then that we don't know when the  
14 rush period ends at this point?

15 A The rush period will continue from the time you  
16 announce it to the time the benefit change is actually  
17 effective.

18 Q Okay. And what did Mercer assume then in terms of when  
19 the rush period is with respect to American's proposal?

20 A I believe -- well, I'm not -- I'm not quite remembering  
21 exactly when the effective date of the change was, but it  
22 ends right on the effective date of the change.

23 Q Okay. But you don't know when that is?

24 A I don't recall when that is.

25 Q Okay. And then that affects of course the period

1 that's known as hush, right?

2 A Correct.

3 Q The one-year period following known as hush, but you  
4 don't -- because you don't know an assumed implementation  
5 date you don't really know when that one year begins and  
6 ends, right?

7 A You kind of said it's a one-year period. It's  
8 probably --

9 COURT REPORTER: I'm sorry?

10 THE WITNESS: The assumption there you made as a  
11 one-year period, I would probably tell you it's shorter than  
12 that because these things that are judgmental in nature like  
13 knew surgeries or back surgeries --

14 BY MS. PARCELLI:

15 Q Okay.

16 A -- people have them and they don't have them, but they  
17 do continue within that second year that we're talking about  
18 thereafter.

19 Q Okay. So let me just make sure I understand it.

20 So you think that the hush period with respect to  
21 American is going to be somewhat shorter than the one year  
22 presumed by Ms. Barrett in her analysis, correct?

23 A Actuarial analysis like Ms. Barrett does typically  
24 focus on one-year periods because that's the easiest time  
25 frame to study.

1 Q Okay. But when you were valuing the changes what --  
2 how much time did you assign to the hush period?

3 A We evaluate one-year intervals also.

4 Q Okay. Okay. So you did assume a one-year hush period?

5 A Correct.

6 Q Right. Okay. And then the second year in your  
7 valuation of American's proposal you assumed that you would  
8 have the crush phenomenon; is that fair to say?

9 A Correct.

10 Q Okay. And is it your understanding that American's  
11 proposal is a six-year proposal?

12 A Yes.

13 Q Okay. So as far as the last three years of the  
14 proposal what did you assume? I mean our rush, hush, crush  
15 period is over by then, so what was the assumption going  
16 forward?

17 A The assumption after that is there's a consistent  
18 overall cost increase of seven percent, so there's no ups  
19 and downs, it's just the claims proceed at a seven percent  
20 per enrolled individual level.

21 Q Okay. I think my question wasn't precise enough.

22 In those years, the last three years of the  
23 proposal, what was the assumption with regard to the effect  
24 of increase costs borne by employees on utilization?

25 A Our -- evaluation -- I guess I'm going to answer this

1 in the way I think you're trying to ask it.

2 So our proposal if you look at it has a particular  
3 claim cost increase of seven percent embedded in it. And so  
4 after you reach the crush there's a constant seven percent  
5 increase in cost for everything combined. It doesn't --

6 Q Okay. But does that assume that there will be a  
7 decrease in utilization because employees are paying more  
8 for their medical expenses out-of-pocket?

9 A It does not.

10 Q It does not. Okay.

11 Now, Ms. Barrett's article doesn't say anything  
12 about what you should or shouldn't assume about utilization  
13 following the rush, hush, crush period does she?

14 A It does not.

15 Q And so you're aware, I mean whether or not you make  
16 assumptions about utilization whether you think that  
17 utilization will go down because employees are spending more  
18 of their own money, it does have a significant impact on how  
19 you value the changes, correct?

20 A There are a significant number of things that impact  
21 how you value the changes, but --

22 Q No, I'm asking about this one though.

23 A So --

24 Q It can have a significant impact can it not?

25 A It can have -- it could.

1 (Pause)

2 Q Turning to what was marked as American Exhibit 1773,  
3 the syllabus. And I believe you testified that you are on a  
4 committee for the Society of Actuaries that administers the  
5 exams; is that correct?

6 A I am no longer on that committee.

7 Q Okay. But you were?

8 A I were -- I was.

9 Q And is this syllabus in connection -- is this something  
10 that that committee prepares?

11 A No, it isn't -- well, each committee prepares its own  
12 syllabus, but I did not have anything to do with this  
13 syllabus.

14 Q Okay. So you didn't participate in preparing this  
15 syllabus?

16 A I did not.

17 Q Okay.

18 (Pause)

19 MS. PARCELLI: Your Honor, can I have one moment,  
20 please?

21 THE COURT: Sure.

22 MS. PARCELLI: Thank you.

23 (Pause)

24 MS. PARCELLI: Your Honor, I'm going to pass the  
25 witness to APA, but they'd like to take a short break if

1 they may.

2 UNIDENTIFIED SPEAKER: Just five minutes, Your  
3 Honor.

4 THE COURT: All right. Just a short one though,  
5 because I'm -- how much longer do we expect -- well, the  
6 next witness how long do we expect the direct to be?

7 MR. POLLACK: Good afternoon, Judge, Mark Pollack  
8 for the debtors.

9 The next witness will be Mr. Resnick, and I  
10 anticipate a 40-minute give or take direct examination.

11 THE COURT: All right. The reason why I ask is  
12 I'm trying to figure out whether I need to ask some court  
13 staff to stay for purposes of ECRO for this evening. So --  
14 and if so, what time we're looking at for end day.

15 MR. POLLACK: Well, I -- assuming we did to  
16 Mr. Resnick by 3:30 we ought to be done by 5:00.

17 THE COURT: All right. So I'll -- using the  
18 multiplier effect I'll say 5:30 as a safe assumption. Does  
19 that sound in the ballpark?

20 All right, thank you.

21 (Recess at 2:55 p.m.)

22 THE COURT: Please be seated. Proceed.

23 MR. DALMAT: Thank you, Your Honor. For the  
24 record, Darin Dalmat on behalf of the Allied Pilots  
25 Association.



1 CROSS-EXAMINATION

2 BY MR. DALMAT:

3 Q And good afternoon.

4 A Good afternoon.

5 Q I believe you testified today to a few different levels  
6 of significance, and I just want to make sure that I  
7 understand what those mean.

8 I think you said that if there's a plan change  
9 that would increase cost by five percent that that's the  
10 threshold level at which Mercer would begin to apply the  
11 rush, crush, hush factor; is that correct?

12 A That's actually the threshold where we know that  
13 utilization might be impacted going forward.

14 Q Okay. So was the lower threshold at which point Mercer  
15 begins to apply the rush, hush, crush analysis?

16 A We consider for every time there's a plan design  
17 change, and we then will look at what the benefit design  
18 changes are and go into our historical learnings of what  
19 similar situated results produced, and if indeed the changes  
20 would generate something that we think would actually look  
21 like some of the historical scenarios we looked at we apply  
22 that as part of our budgeting and forecasting process.

23 Q Okay.

24 A And -- and by the way, you know, as you kind of heard  
25 we don't do that individually, it takes a consensus of

1 multiple actuarial people.

2 Q I understand, thank you. I'm just asking about the  
3 thresholds right now.

4 A Okay.

5 Q So at -- at the five percent level, that is when a plan  
6 design change would add five percent to the cost from the  
7 employee perspective, that's the threshold at which a  
8 utilization change factor would be appropriate; is that  
9 correct?

10 A That's the level that in our historical experience  
11 review that it occurs, correct.

12 Q Okay. And -- and you're aware of the increase in costs  
13 that would be required for the employees of American  
14 Airlines under American's term sheet?

15 A I am.

16 Q And that's in excess of five percent isn't it?

17 A For the most generous program to the most generous  
18 program I believe the change is actually three and a half  
19 percent.

20 Q Okay. Well, let's talk about it in terms of particular  
21 elements. Let's talk about the out-of-pocket maximum.

22 There are a number of different out-of-pocket  
23 maximums under the current benefit plan at American; is that  
24 right?

25 A That's correct.

1 Q And they range 1,000 from 2500; is that correct?

2 A I believe that's correct.

3 Q And American's term sheet would move that to a \$4,000  
4 out-of-pocket; is that correct?

5 A I believe the out-of-pocket varies by plan --

6 Q Well, that's the --

7 A -- from the term sheet.

8 Q -- standard plan in network?

9 A Okay.

10 Q Is that correct?

11 A I believe that's correct.

12 Q Okay. And that's well in excess of a five percent  
13 change from the perspective of the employees, correct?

14 A Correct.

15 Q How about family deductibles, under the current plan  
16 the -- I'll withdraw that question.

17 So going back to the out-of-pocket maximums I  
18 think you testified that the rush phenomenon would be caused  
19 by employees who have sort of optional or selective  
20 procedures that they can elect to take now rather than  
21 later, right?

22 A That's correct.

23 Q Okay. And an example of that would be something like  
24 Lasik surgery?

25 A Lasik is probably not covered by the plan, but it would

1 be something like knee surgery.

2 Q Okay. Do you think that an employee whose out-of-  
3 pocket maximums are going to move from \$1,000 to \$4,000  
4 might make a different decision -- might choose to forego  
5 that knee surgery entirely if they have \$3,000 afterwards?

6 A That's possible.

7 Q Okay. And I -- and Ms. Parcelli asked you a few  
8 questions about how the utilization rates would change from  
9 years four through six. Did you do anything to come up with  
10 a composite figure for utilization over the course of the  
11 contract?

12 A Our basic modeling we've done assumed no change over  
13 the course of contract.

14 Q And that's because you average the rush, the hush, and  
15 the crush periods together?

16 A Correct.

17 Q But you don't know how long those periods would be,  
18 that's what you testified when Ms. Parcelli was asking you  
19 questions?

20 A We believe obviously the whole rush, hush, crush  
21 phenomenon will play itself out over the -- that two-year  
22 period because that's where it's embedded in --

23 Q Right, you --

24 A -- the way we do --

25 Q -- assume that -- that the crush period would be one

1 year because that's easy math for actuaries; is that right?

2 A Well, it's one year simply because the plan design  
3 intervals are one year where you do financial projections,  
4 not necessarily because it's easy math for actuaries. We  
5 talk in physical years.

6 Q Well, fair enough. But you don't know how the course  
7 of employee behavior might change during the course of that  
8 year. The crush period could actually be two months,  
9 correct?

10 A That's correct.

11 Q It could be one month?

12 A Correct.

13 Q But you just averaged all these together and assumed  
14 that -- and calculated that there would be a net effect of  
15 zero; is that right?

16 A We -- that would be the mathematical calculation, but  
17 it's more based on what we --

18 Q Thank you.

19 A -- would learn.

20 MR. DALMAT: I pass the witness.

21 THE COURT: Any other cross-examination?

22 Redirect?

23 MR. GAGE: Just briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. GAGE:

1 Q Mr. Richards, you were just asked a question -- some  
2 questions about the five percent threshold. In your  
3 testimony when you made a reference to a five percent  
4 threshold what does that five percent represent?

5 A It is five percent of total cost of the program,  
6 employee and company cost.

7 Q Okay. And so -- so it doesn't represent five interest  
8 increase in co-pays or deductibles?

9 A That would be correct.

10 Q Okay. And then you said that in this instance the  
11 change from the -- the two plans you described was actually  
12 approximately three and a half percent. What were you  
13 referring to?

14 A That goes back to my when I was describing MEDPRICE.  
15 If we run the current program and compare it to the future  
16 program that -- those two most generous programs produce a  
17 three and a half percent claim cost differential in our  
18 model.

19 Q Okay. And that's total claim cost?

20 A That's --

21 Q Employee portion and employer portion, correct?

22 A Correct, across all services whether they be in-  
23 patient, out-patient, or professional and pharmacy.

24 Q And what does that number, that three and a half  
25 percent, suggest to you would happen with respect to

1 utilization following the implementation of these changes  
2 over time?

3 A It suggests to us that the change, although, you know,  
4 feeling that it's -- couldn't be large, it does not have  
5 enough impact to significantly influence long-term behavior  
6 for the plan.

7 Q Okay. And why is it that you can reach that  
8 conclusion?

9 A We reach that conclusion simply because of how many  
10 times we've actually gone through this with other employers,  
11 and so we're relying on our cumulative knowledge of other  
12 similar situations where a change of approximately three and  
13 a half percent occurs.

14 Q Okay.

15 MR. GAGE: No other questions, Your Honor.

16 RECROSS-EXAMINATION

17 BY MS. PARCELLI:

18 Q Sir, if your calculation showed that there wasn't a  
19 degree of difference, you know, three and a half to even  
20 trigger having to be concerned about utilization why did you  
21 also go into the rush, hush, crush analysis? It doesn't  
22 seem to make any sense.

23 A For -- for our clients it's important for us to get the  
24 right financial piece in each and every year. And so when  
25 we convey this to American Airlines, for example, we want

1 them to know that their claims cost will go up, they'll be  
2 followed by a period that's down, and they just cant apply a  
3 typical claim trend to go from the second year into the  
4 third year.

5 Q So that had nothing to do then with the actual  
6 valuation of the proposed changes, right?

7 A Correct.

8 THE COURT: Anything else with this witness?

9 MR. GAGE: Nothing further, Your Honor.

10 THE COURT: All right. I assume you want to move  
11 into evidence the two documents?

12 MR. GAGE: Yes, Your Honor.

13 THE COURT: Any objection to I believe it's 1719  
14 and 1773?

15 All right, hearing none they are received.

16 (Debtor's Exhibit Nos. 1719 and 1773 were admitted)

17 THE COURT: The next witness.

18 MR. GAGE: The debtor calls its next witness,  
19 David Resnick.

20 (Pause)

21 THE COURT: And I believe you were -- testified  
22 earlier so you are still under oath.

23 THE WITNESS: Several weeks ago, but yes, Your  
24 Honor.

25 DIRECT EXAMINATION



1 BY MR. POLLACK:

2 Q Good afternoon, Mr. Resnick.

3 A Good afternoon.

4 Q First and most fundamentally today, the unions have  
5 suggested over the course of these last few weeks that you  
6 and your firm, Rothschild, have failed to endorse the  
7 viability of American's business plan.

8 MR. CLAYMAN: Your Honor, we're going to object.

9 I mean this is like an introduction to a question that  
10 obviously has leading implications. I don't think that, you  
11 know, Mr. Pollack is allowed to make a speech before he asks  
12 the first question.

13 THE COURT: Well, there's a fine line between  
14 speechifying and trying to keep the rebuttal focused on  
15 rebuttal.

16 So you don't have any quibbles with the testimony  
17 that's actually to be elicited, it's an objection to form,  
18 right?

19 MR. CLAYMAN: Yes, Your Honor.

20 THE COURT: Okay. So objection, form, suffices.  
21 So that's sustained. Can you rephrase the question?

22 MR. POLLACK: Sure.

23 BY MR. POLLACK:

24 Q Mr. Resnick, do you and your firm, Rothschild, endorse  
25 the viability of American's business plan?

1 A Yes, we do.

2 Q Can you explain why?

3 A One of the key components of our engagement, as I've  
4 testified before, was to work with the company on the  
5 development of its business plan.

6 As the company's restructuring advisor the  
7 business plan that the company produces is the keystone for  
8 a plan of reorganization that would ultimately present to  
9 the Court.

10 So the business plan that the company presents to  
11 its stakeholders, which it did here in early February, has  
12 to be thorough, has to be thoughtful, has to have detailed  
13 assumptions that can withstand significant diligence from  
14 the stakeholders as is their right to do to challenge the  
15 company on the key assumptions of its -- of its business  
16 plan so that the company can go forward and begin to have a  
17 dialogue with its stakeholders around the terms of the plan  
18 of reorganization.

19 Q Let me --

20 A So --

21 Q -- stop you right there.

22 You mentioned the diligence process. Can you  
23 describe the length and extent of that diligence process  
24 over this company's business plan?

25 A Well, the diligence process has been extraordinary

1 extensive. I would say in my career as an investment banker  
2 for the past 27 years doing restructuring work it's been one  
3 of the most substantial diligence processes of stakeholder  
4 groups, which is absolutely appropriate for a case of this  
5 significance.

6 Our team spent a considerable amount of time from  
7 the company's filing to the presentation of the business  
8 plan in February working closely with the company, with  
9 McKinsey, and the team that the company had put together to  
10 produce the business plan, to challenge the assumptions, to  
11 work through the issues.

12 So my point was that this is a document with which  
13 we're very comfortable, that we think is thorough, and is a  
14 very reasonable basis for going forward in the progression  
15 of the Chapter 11.

16 Q The business plan variously has been labeled as a place  
17 holder or as a negotiating foil. Would you accept those  
18 characterizations?

19 A Absolutely not. I think the company has said from the  
20 beginning of this process that it treats very seriously the  
21 development of its business plan. I think the company's  
22 hiring of McKinsey demonstrates how serious its been around  
23 the business plan. I think I've testified, Ms. Goulet has  
24 testified in the past, that the company had a business plan  
25 with which it had worked previously, but because of the

1 importance of getting it right, getting a business plan  
2 right when it would think about emerging from Chapter 11 it  
3 brought into the process a very credible, well-regarded  
4 expert in airline -- in the airline industry and it  
5 interviewed several and chose McKinsey to challenge its  
6 assumptions, to insure that it had looked at all the  
7 appropriate issues thoughtfully in terms of generating  
8 revenue opportunities, other cost savings beyond labor so  
9 that it had a viable business plan that it could present to  
10 its stakeholders.

11 Q The unions also have argued here that the fact that  
12 American has agreed to evaluate other potential strategic  
13 alternatives before emerging from bankruptcy suggests that  
14 it's less than serious or committed to its business plan --  
15 its stand-alone plan, excuse me. Do you agree with that  
16 characterization?

17 MS. LEVINE: Objection, Your Honor, I don't  
18 believe -- I believe that may mischaracterize the testimony  
19 or the arguments. I mean we're back to the same --

20 THE COURT: Well --

21 MS. LEVINE: -- if he wants to ask the question  
22 let him ask the question.

23 THE COURT: Well because this is -- this is  
24 rebuttal and it -- we're trying to actually address specific  
25 things that have been mentioned, and I think parties have

1       been -- actually it's been done on cross as well, we heard  
2       this testimony, do you agree, do you not agree.

3               So my -- the definition of a question that's  
4       objectionable to form is where the question suggests the  
5       answer. That doesn't mean there can't be a prologue to the  
6       question to narrow the focus of it so we don't go back to  
7       square one and day one of the witness's testimony. So let  
8       me hear the question again.

9               MR. POLLACK: I'll try to restate it as closely as  
10       I can, Judge.

11       BY MR. POLLACK:

12       Q       The unions have argued the fact that American has  
13       agreed to evaluate other strategic alternatives before it  
14       emerges from bankruptcy suggests that it is less than  
15       committed to its stand-alone business plan. Do you agree  
16       with that characterization?

17               THE COURT: Answer the question.

18               THE WITNESS: I do not agree with that  
19       characterization.

20               As a matter of fact I believe, and I think I've  
21       testified previously, that the fiduciary obligation of the  
22       debtor in this Chapter 11 is to analyze with its key  
23       stakeholders all the strategic alternatives available to it  
24       and to form its plan of reorganization around that  
25       alternative that maximizes stakeholder value. And the

1 company has said that the stand-alone plan is an  
2 alternative, it's a very important one.

3 As I said, the business plan is the -- is the  
4 keystone, the basis for evaluating other alternatives, and  
5 that's what the company needs to do.

6 BY MR. POLLACK:

7 Q How does American's existing cost structure impact its  
8 positioning in any potential MNA transaction?

9 A Well, at present, and as the company has experienced in  
10 the past, when it has considered other strategic  
11 transactions that the fact its cost structure was not  
12 comparable to its peers has been an impediment for the  
13 company to proceed with any consolidating transaction.

14 And the company believes, and I think parties with  
15 whom the company has spoken in the past have indicated, that  
16 when its cost structure is comparable there would be the  
17 basis for a potential discussion. It's not the only reason,  
18 but it is an important reason.

19 Q Are you familiar with the method by which the other  
20 network carriers sequence their efforts to restructure their  
21 labor costs in connection with their consolidation  
22 activities?

23 A Yes. And for the most part the other network carriers  
24 that have filed for Chapter 11 have reorganized on a stand-  
25 alone basis and then proceeded to investigate consolidation

1 alternatives. Mergers, in some cases they might have  
2 discussed them or considered them during the pendency of the  
3 case, but certainly with respect to Northwest and Delta,  
4 United, Continental, it occurred subsequent to their  
5 emergence. Earlier I believe US Air consummated its  
6 transaction with America West as part of its emergence from  
7 Chapter 11.

8 Q For those carriers that consolidated subsequent to  
9 their emergence did they restructure their labor costs  
10 through the 1113 process or otherwise before they emerged  
11 from bankruptcy?

12 A Yes, that was a component of their Chapter 11 cases.

13 Q Now there has been testimony or reference made to  
14 certain analysts -- Wall Street analysts who have criticized  
15 American's business plan. Have you become familiar with the  
16 analysts' stated views on the business plan?

17 A I've seen some -- some of them, I'm not sure if I'm  
18 seen all of them, but --

19 Q Okay. What is your reaction to those who are  
20 criticized the plan?

21 A I think the issue with the analysts' reports is that  
22 they have not seen the business plan, they have not seen the  
23 extensive supporting analysis that the company has shared  
24 with its stakeholders who have access to the confidential  
25 data.

1           As anyone who's looked at it knows that it's a  
2 huge amount of information, and I think you have to look at  
3 what the analysts say with the appropriate context, that  
4 they don't have all the information, they haven't had a  
5 chance to speak with the management team, so I think you --  
6 you have to be careful how you view what they said.

7           You know, and I think further I'd look to -- there  
8 are parties who have had the ability to look at the  
9 information and we haven't had people come back and say,  
10 here's another alternative for a stand-alone plan. They've  
11 had questions, they've had issues that we've addressed, but  
12 they have -- they have not suggested for a stand-alone plan  
13 there's another approach that the company should consider.

14 Q     You're referring to other stakeholders in this  
15 proceeding?

16 A     Yes.

17 Q     Okay. Now, Mr. Yearley's written and oral testimony  
18 took exception with the EBIDAR margin levels that are  
19 targeted in American's business plan, and I want to ask you  
20 a series of questions about Rothschild's role in the  
21 development of those margins.

22           But first I want to step back for a moment and  
23 just ask contextually, how does EBIDAR compare to net income  
24 as a company would typically report it on a PNL?

25 A     Well, EBIDAR is a different financial metric, but it is



1 a financial metric that's widely used because it's probably  
2 the best apples to apples comparison of operating  
3 performance and profitability for companies, because it  
4 shows earnings before interest, taxes, depreciation,  
5 amortization, and in this case aircraft rent, that is it  
6 excludes those items related to a company's capital  
7 structure and tax attributes that vary in many cases  
8 considerably from company to company.

9 So from a bankers perspective it's the cleanest  
10 comparison you can make in terms of assessing a company's  
11 financial performance, operating performance, or  
12 profitability.

13 Net income goes all the way to what's commonly  
14 referred to as the bottom line, taking into account interest  
15 expense. So a company that is highly leveraged and has a  
16 large amount of interest expense is going to have a much  
17 lower net income for example than a company that doesn't  
18 have much debt.

19 Q Okay. And using American's 2011 performance just to  
20 illustrate the point, in 2011 how did American's net income  
21 position compare to its EBIDAR position?

22 A Well, it's net income was significantly negative and  
23 EBIDAR was positive.

24 Q All right. Can you first describe the process by which  
25 the company developed its targeted EBIDAR metrics and the

1 role that Rothschild played in connection with that process?

2 A As I believe I discussed previously, as part of our  
3 work with the company on the business plan the company asked  
4 us to look at the key financial metrics that other airlines  
5 use and analysts that evaluate -- financial analysts on Wall  
6 Street who evaluate airlines use to assess their financial  
7 performance.

8 So we prepared a presentation, I believe the  
9 presentation is in the data room that we shared with the  
10 management team, that looks at a comparable set of companies  
11 and their financial performance focusing on the key  
12 elements, EBIDAR, liquidity metrics, pretax income, and an  
13 array of metrics, but as I said, EBIDAR was probably the  
14 most -- one of the more important.

15 We also looked at the plans of reorganization  
16 filed by other airlines that had gone through Chapter 11 and  
17 looked at their financial metrics and projections. Because  
18 if you find projections in a plan of reorganization you  
19 generally cannot find them for more than a year when a  
20 company is -- is public. Although as I think I mentioned we  
21 looked at analysts' reports as well.

22 We provided that information to the company,  
23 discussed with them what's the reasonable range of those  
24 financial metrics, and they have that as part of their  
25 process when they put their business plan together.

1 Q Did Rothschild suggest a particular EBIDAR target?

2 A No, we did not.

3 Q You mentioned the comparable group of companies that  
4 you reviewed and you're aware that the unions have  
5 questioned the relevance of several of those companies, the  
6 low cost carriers in particular. Can you explain to the  
7 Court why you deemed the low cost carriers to be relevant  
8 comparables for American Airlines today?

9 A Yes. I think including the low cost carriers in the  
10 comparable set is appropriate, it's reasonable, and frankly  
11 I think it's highly relevant in today's environment in the  
12 airline industry.

13 The reality is whether people like it or not that  
14 American competes -- I think Mr. Kasper indicated in his  
15 declaration or his testimony that close to 80 percent of the  
16 routes American flies it has competition from a low cost  
17 carrier.

18 Now the business models of the airlines may vary,  
19 but the reality is all carriers have to purchase aircraft,  
20 they have to purchase fuel for the aircraft, they have to  
21 have employees to fly the aircraft, and American may focus  
22 more on the business traveler in trying to obtain premium  
23 fares as may some of the other formal legacy carriers, but  
24 when you're flying a plane like a triple seven you have to  
25 fill the seats, and many of those seats are going to be

1 filled by leisure travelers as well as business travelers,  
2 and anyone that goes on a travel website that's going to  
3 book a trip whether it's to Chicago where you're from is  
4 going to go type up the choices and they're going to be low  
5 cost carriers and legacy carriers and they're competing on  
6 fares, and you're going to -- you're going to make that  
7 decision.

8 So the reality is in today's environment,  
9 particularly when you're putting together a plan of  
10 reorganization that will be the basis for the company's  
11 viability in the future, you have to take into account the  
12 reality of the world in which you're competing, and that  
13 includes low cost carriers, and that's why I think they're  
14 appropriately relevant for a comparable set.

15 Q You're aware that Mr. Yearley analyzed the comparable  
16 set much differently, he just looked at the legacy carriers,  
17 right?

18 A That's correct.

19 Q Okay. And you have reviewed the historical analysis  
20 that Mr. Yearley rendered with respect to those legacy  
21 carriers didn't you?

22 A Yes.

23 Q Okay.

24 MR. POLLACK: Your Honor, if I may approach?

25 THE COURT: Yes.

1 MR. POLLACK: I'm going to give you what we've  
2 marked as American Airlines Exhibit 1768.

3 THE COURT: Thanks.

4 BY MR. POLLACK:

5 Q And first of all, I just want to caution you that this  
6 is a confidential document and it contains redacted  
7 information, so we're going to be careful in discussing it.

8 And just to get grounded here, can you describe  
9 the different sections of the table that is depicted in this  
10 Exhibit 1768? What's the top half?

11 A The top half is the set of comparables used by  
12 Mr. Yearley.

13 Q And the bottom half?

14 A Is the full comparable set that we utilized at  
15 Rothschild for our analysis.

16 Q Okay. And without reference to the circles at this  
17 point, what do -- what do the numbers represent across the Y  
18 axis here?

19 A The numbers represent the historical EBIDAR margins of  
20 this group of carriers since 2001.

21 Q Okay. Without describing the level of margin that  
22 you've noted on the bottom right of the chart, what have you  
23 done with the red circles? What have you tried to depict  
24 with the red circles?

25 A The red circles indicate EBIDAR margins in excess of

1 American's target for 2013.

2 Q Okay. Now, the top half of this chart is what  
3 Mr. Yearley presented in his report; is that right?

4 A Yes.

5 Q And you're aware that he contended that if you -- if  
6 you look at that set of airlines that going back ten years  
7 there were very few instances where American's targeted  
8 EBIDAR was met or exceeded by the performance of those  
9 carriers, right?

10 A Yes.

11 Q What does your analysis of the broader set reveal?

12 A It indicates when you look at that broader group  
13 there's a very significant number of times where carriers  
14 have exceeded the targeted margin.

15 Q Okay. Now you're aware that Mr. Yearley prepared a  
16 companion exhibit that he described as their frequency  
17 histogram with this document?

18 A Yes.

19 Q Okay. I'm going to hand that to you.

20 MR. POLLACK: We'll mark this American exhibit  
21 1769.

22 (Debtor's Exhibit No. 1769 was marked)

23 THE COURT: Thank you.

24 BY MR. POLLACK:

25 Q I don't believe this document contains any confidential

1 information. But just to get us grounded, can you describe  
2 what the two bars, the gray and the orange bars represent?

3 A The -- the gray bar -- the gray bars represent the --  
4 the cases where the comparables Mr. Yearley utilized were  
5 those carriers during that period 2001 to 2011 achieved  
6 EBIDAR margins in the range set forth on the bottom of the  
7 chart that number of times.

8 The orange is for our comparable set, the broader  
9 comparable set on carriers achieved EBIDAR margins in the  
10 range set forth on the bottom of the chart.

11 Q And if you limit your focus to those that Mr. Yearley  
12 did is it fair to say that the majority of the historical  
13 frequencies fell in -- on the far left of the chart?

14 A Yes. If you -- if you look at the three left most bars  
15 and add them together that exceeds 50 percent.

16 Q And when you expand your analysis to include the  
17 comparator set that you deem relevant what does the  
18 frequency suggest?

19 A I think you get a more realistic sense of profitability  
20 in the industry over this period of time, and you know, not  
21 surprisingly statistically if you look toward the middle  
22 you'll see that there's a concentration in the -- whether  
23 it's 10 and a half to 12 and a half to 15 to 17 and a half,  
24 if you add those together with the orange you're going to be  
25 close to 50 percent, and there's still a few to the right,

1 and obviously there's some to the left as well.

2 Q Okay. Mr. Yearley also criticized in his testimony the  
3 relevance of your utilization of the other airlines plans of  
4 reorganization as a data point. Do you have that testimony  
5 in mind?

6 A Yes.

7 Q Can you explain why you deemed it relevant and for what  
8 purpose you considered the data that you gleaned from the  
9 other airlines PORs?

10 A I think that information is important because it  
11 indicates a sense of how companies going through the same  
12 process American is going through in the same industry  
13 looked at their business when they were in Chapter 11 when  
14 companies have an obligation to their stakeholders to take a  
15 very close and detailed look at their business, develop a  
16 credible business plan, and put together a set of  
17 projections that they believe allow it to emerge as a viable  
18 company at the time the Court confirms their plan of  
19 reorganization.

20 So the management teams and the stakeholders with  
21 whom they were working were looking at the environment that  
22 existed at the time, were looking at the challenges that the  
23 business would face at the time it would emerge, and then  
24 put together a plan that had a set of projections that they  
25 felt, because they confirmed their plan of reorganization,



1 would produce a viable business. And --

2 Q And have you summarized that data on a new exhibit that  
3 your team has prepared?

4 A Yes.

5 Q I'm going to hand you American 1770.

6 THE COURT: Thank you.

7 BY MR. POLLACK:

8 Q And I'm going to caution you that the information to  
9 the far right highlighted in yellow that depicts the  
10 American data is confidential, so this document like the  
11 first is going to be filled under seal -- or offered under  
12 seal. Excuse me.

13 Without regard to the columns to the right  
14 involving American, just get us grounded and explain what is  
15 presented with regard to the other carriers on this exhibit.

16 A What we have in this exhibit is the carriers that filed  
17 plans of reorganization and the date on which -- the time  
18 period in which they emerged. And where we have the column  
19 heading EBIDAR margin, T equals 0 is the first year in which  
20 they emerged, T plus 1 is the first year after they  
21 emergence, T plus 2 the second year, and so on.

22 Q Okay. Have you had occasion to review the margins  
23 targeted by these carriers with the industry norms that  
24 Mr. Yearley displayed in his report?

25 A Yes.

1 Q And I can direct your attention for comparative  
2 purposes to the first exhibit I gave you, 1768.

3 A Yes.

4 Q And let me first ask you how does -- how do the EBIDAR  
5 margins that were targeted by Delta in 2007 compare to what  
6 the industry was experiencing in the years leading up to  
7 them?

8 A The -- the margins projected by Delta in its plan are  
9 in excess of the -- of the margins earned in the -- in the  
10 industry in the comparable set in the years proceeding,  
11 except for some of the low cost carriers where Delta's  
12 margins are closer in line to their performance.

13 Q If I can direct your attention to the bottom line on  
14 Exhibit 1768, which is denominated as the non-AMR average,  
15 what is depicted that?

16 A That's -- that's the average of this full group of  
17 comparables excluding the margin for American Airlines.

18 Q And if you look at that full group of comparables how  
19 does that compare to Delta's targeted EBIDARs?

20 A In -- in 2006, the year prior to Delta's emergence,  
21 it's -- it's lower, and in 2007, the first year that Delta  
22 emerged, it's pretty much right on to the projection for  
23 Delta.

24 Q Looking back I'm asking you from 2001 through 2006 what  
25 does that analysis suggest?

1 A It indicates that Delta's projection is significantly  
2 higher in those years.

3 Q And have you done a similar evaluation of the other  
4 carriers that are depicted on 1770?

5 A Yes.

6 Q And what did that analysis reveal?

7 A Very similar to what we just discussed with Delta.

8 Q Before we leave this exhibit I just want to direct your  
9 attention to the American column, T0, and I don't want to  
10 talk -- discuss the number at all -- but can you explain  
11 what is and isn't included in first year first T0 there for  
12 American?

13 A What is not included is -- is a full year of labor cost  
14 savings in that number because we're not assuming that,  
15 obviously we're in 2012 now and American is still in Chapter  
16 11.

17 (Court reporter inquires)

18 A Okay. So I think I said -- well, we're in 2012 now and  
19 American has not yet emerged from Chapter 11.

20 Q In the ensuing years T1, 2, and 3 those assume a full  
21 year of relief requested in this motion?

22 A Correct. And that the company has emerged and is  
23 operating outside of Chapter 11.

24 And I think just to finish answering your  
25 question, the comparison shows that the numbers projected

1 for American are below the average of the other carriers  
2 that they were projecting when they emerged from Chapter 11.

3 Q Okay. Now, the unions have pointed out that these  
4 other carriers fail to achieve the margins that were  
5 projected in their plans of reorganization. What does that  
6 suggest to you?

7 A Well, what it suggests are the challenges that this  
8 industry faces and why frankly it's a very difficult  
9 industry given its high fixed costs and susceptibility to  
10 shocks beyond management's control.

11 For example, in the period since we were talking  
12 about Delta, Delta emerged not long after that there was a  
13 big spike in fuel prices which has a significant impact on  
14 the liquidity of a carrier as well as its profitability, but  
15 as we've talked about before, liquidity is an important  
16 financial metric for an airline.

17 At the same time as everyone is very well aware  
18 we've had a significant economic downturn which has placed  
19 meaningful pressure on company's profitability and for a  
20 period of time slowed traffic, airline traffic, and those  
21 are two items that are very difficult to -- to project.

22 Q With respect to liquidity in particular have the  
23 analysts -- has the analyst community settled on an  
24 appropriate liquidity range for U.S. commercial airlines in  
25 today's economy?

1 A Most analysts and I think most management teams like to  
2 see about 20 -- 20 percent of revenues, you know, cash on --  
3 you know, availability under a revolver, it's pretty  
4 standard.

5 Q Lastly, Mr. Resnick, it has been suggested here that  
6 American could reduce its targeted EBIDAR margin by one  
7 percent, to use an example, and then go ahead and reduce the  
8 requested labor concessions by a corresponding dollar  
9 amount. Do you agree with that assertion?

10 A No, I don't agree, and I wish it were that easy to do  
11 the arrhythmic that way, but the reality, and I think --  
12 I've seen this through our work on the business plan, and I  
13 think Ms. Goulet, Mr. Dichter have addressed this as well,  
14 that an airline is a very complex business and the  
15 interrelationship between costs and revenues is an important  
16 factor that you need to consider. And to say that you can  
17 take one change in cost and have the impact on EBIDAR  
18 doesn't reflect the significance of how certain cost changes  
19 such as code-sharing or fuel would affect the revenue of a  
20 company. It's -- that's tied to the fleet plan. And there  
21 are a whole host of elements that interrelate. And I think  
22 that analysis is really the key way to assess the viability  
23 of the business, not by -- by looking at one financial  
24 metric, because EBIDAR is important, but there are other  
25 financial metrics that are important to an airline's

1 viability, as we've talked about, such as liquidity. You  
2 need to know the impact on that. So you just can't isolate  
3 the one and not take into account the others.

4 Q Okay.

5 MR. POLLACK: Judge, if I could just have a moment  
6 to confer with my colleagues?

7 THE COURT: Sure.

8 (Pause)

9 MR. POLLACK: We have nothing further, Judge.  
10 Pass the witness. Thank you.

11 THE COURT: All right. Did you want a short break  
12 before proceeding?

13 UNIDENTIFIED SPEAKER: Yes, please.

14 THE COURT: All right, certainly.

15 (Recess at 3:54 p.m.)

16 THE CLERK: All rise.

17 THE COURT: Please be seated. Proceed.

18 MS. KRIEGER: Good afternoon, Your Honor.

19 THE COURT: Good afternoon.

20 CROSS-EXAMINATION

21 BY MS. KREIGER:

22 Q Good afternoon, Mr. Resnick.

23 A Good afternoon.

24 Q Kathy Krieger again for the Allied Pilots Association.

25 Mr. Resnick, do you have before you the

1 declaration of Andrew Yearley?

2 A No. Unless you can tell me where it might be.

3 MS. KRIEGER: Just one moment.

4 (Pause)

5 BY MS. KREIGER:

6 Q Have you read that declaration?

7 A Yes.

8 Q And I understand you take issue with that declaration's  
9 discussion of whether or not low cost carriers belong in the  
10 comparable set?

11 A I do.

12 Q Okay. First of all, you're aware aren't you that in  
13 all of its public statements and representations and all its  
14 public filings prior to this proceeding American has  
15 consistently compared itself with the large network  
16 carriers, correct?

17 A Yes.

18 Q Okay. And it has excluded low cost carriers from that?

19 A Yes.

20 Q Okay. Now if you could turn to page 14 of  
21 Mr. Yearley's declaration, and that's Exhibit 100A. There's  
22 a series of bullet points that address each of the  
23 additional carriers that were included in the comparable set  
24 that you would like to have us review. Can you review that  
25 and tell me which facts in there you dispute and why?

1 A Well --

2 Q Let's start with the Alaska Airlines, the description  
3 there. Is there anything in there that -- that is real --

4 A Yeah. Well, I think --

5 THE COURT: Just for the record could you just  
6 make it clear -- I don't have it in front of me.

7 MS. KRIEGER: Oh, I'm sorry.

8 THE COURT: Are you talking about a paragraph, a  
9 page, a sentence --

10 MS. KRIEGER: Yes.

11 THE COURT: -- a chart?

12 MS. KRIEGER: I apologize. I thought you had our  
13 book.

14 THE COURT: I mean I have it in --

15 MS. KRIEGER: May I approach, Your Honor?

16 THE COURT: Thank you.

17 (Pause)

18 THE COURT: Thanks. Okay. So this is essentially  
19 only one paragraph on each --

20 MS. KRIEGER: This is under paragraph 17 and four  
21 bullet points laid out at page 14 of the declaration.

22 BY MS. KREIGER:

23 Q Could you start with Alaska Airlines and just -- which  
24 factual statements there do you disagree with and why?

25 A Yes, but first off I'd just like to clarify that



1 Mr. Yearley also excludes Southwest, which is not listed in  
2 this group, but just to be clear, that's excluded and is  
3 included in our group, just to correct what you had said  
4 before.

5 Q Right. And he -- and he did also include it as a point  
6 of comparison for the EBIDAR comparison, correct? But  
7 looking at those, starting with Alaska, what in there do you  
8 dispute and why?

9 A Well, I -- I disagree with the statement that it's not  
10 appropriate to include Alaska Airlines because it's focused  
11 solely on the Pacific northwest and west coast.

12 Q Well, I was just saying just what's stated there in  
13 that bullet point, I think those are facts --

14 MR. POLLACK: I'm going to object --

15 BY MS. KREIGER:

16 Q -- that distinguish them --

17 MR. POLLACK: -- to the form of that question.

18 THE COURT: I mean --

19 MS. KRIEGER: Okay.

20 THE COURT: -- there's a way to do this.

21 MS. KRIEGER: Yeah.

22 THE COURT: It's just -- I mean I understand you  
23 may be trying to move it along, I appreciate that, but it  
24 may just be cleaner to just ask the sentence by sentence.

25 BY MS. KREIGER:

1 Q Yes, if you could go sentence by sentence and explain  
2 in the first bullet point which sentence you disagree with  
3 and why?

4 A Well, I disagree with the final sentence where it says,  
5 "As such it is not comparable to AMR." AMR is larger and  
6 operates a nationwide network, but as I indicated earlier,  
7 AMR competes with low cost carriers such as Alaska Airlines  
8 and certain segments of its market, and just because it's  
9 not the same size doesn't mean it's not comparable. That's  
10 the point with which I disagree.

11 Q Okay. But you agree that the preceding sentencing that  
12 it has a smaller footprint it's a regional carrier in terms  
13 of its footprint?

14 A Yes, those are --

15 Q Okay.

16 A -- accurate facts.

17 Q Okay. Under Allegiant Airlines, the second bullet  
18 point?

19 (Pause)

20 A Well, I agree with the description of Allegiant  
21 Airlines, but what I take issue --

22 Q Okay. That's -- you agree with what's described there?  
23 Just --

24 MR. POLLACK: Your Honor, I think the witness  
25 should be allowed to answer the question.

1 THE COURT: Well, I mean this --

2 BY MS. KREIGER:

3 Q Is there any fact there stated that you disagree with?

4 THE COURT: -- but let me -- there's a way to do  
5 this. I mean just read the sentence. Do you agree

6 Allegiant Airlines, a low cost point to point carrier that  
7 offers scheduled or chartered air service.

8 MS. KRIEGER: I was --

9 THE COURT: Yes, no --

10 MS. KRIEGER: -- hoping -- I was hoping --

11 THE COURT: I mean I know --

12 MS. KRIEGER: -- not to have to read each one,  
13 but --

14 THE COURT: Well -- yeah, but sometimes they're --

15 MS. KRIEGER: Yes.

16 THE COURT: -- if there are assumptions baked into  
17 the fact that this is a bullet point list that supports sort  
18 of this bracketed by assumptions there may be just you have  
19 to go back to the good ole fashion reading the statement.

20 BY MS. KREIGER:

21 Q Putting aside the -- yeah -- putting aside the  
22 assumptions is there any statement in there that you dispute  
23 factually?

24 A I would -- I would disagree where the sentence begins,  
25 "Its business model differs substantially from AMR." I

1 think it does differ from AMR, but AMR does serve leisure  
2 travelers. Allegiant focuses exclusively on them, but  
3 American serves them also, and therefore they do compete  
4 when they have scheduled flights against one another.

5 Q Okay. And do you know the extent of scheduled flights  
6 against one another?

7 A I do not know exactly what the schedule, but I do know  
8 that they compete with one another in certain markets.

9 Q And which markets are those?

10 A Allegiant is -- well they're located in Las Vegas, they  
11 fly principally to leisure markets. I don't know exactly  
12 their schedule my memory, but I know Florida, Las Vegas.

13 Q Okay. JetBlue Airlines, is there any sentence in that  
14 third bullet point that you disagree with?

15 (Pause)

16 A I would -- I would disagree with what I consider the  
17 emphasis at the end that says "entirely different from AMR's  
18 traditional network carrier model." It is different, but  
19 again, they do -- they do compete with one another.

20 Q Okay. "JetBlue's product and service offering, new  
21 planes, single cabin where high quality products and  
22 services." You agree with that?

23 A Yes, that's a correct description of JetBlue.

24 Q And agree that it's network is primarily a point to  
25 point network?

1 A Yes.

2 Q And you agree that the business model is focused on  
3 limited fleet types and a low cost operation?

4 A Yes.

5 Q Okay. And Spirit Airlines, finally the fourth bullet  
6 point. Is there any sentence in there that you disagree  
7 with?

8 (Pause)

9 A I think that's a correct description of Spirit  
10 Airlines.

11 Q Okay. Now, you're aware aren't you, that in delta's  
12 restructuring that its financial advisors, Blackstone,  
13 excluded low cost carriers, the so-called LCCs, from the  
14 comparators?

15 A I do not recall that.

16 Q You're aware that in the Northwest restructuring its  
17 financial advisors, Seabury, excluded all the low cost  
18 carriers from its comparator set?

19 A I just don't recall that.

20 Q Okay. And you're aware that in the United Airlines  
21 plan of reorganization in its valuation that Rothschild as  
22 the financial advisor excluded all the low cost carrier,  
23 correct?

24 A I just don't recall.

25 Q Well, let me see, have you -- did you look at the plan

1 of reorganization from -- from United Airlines in your  
2 analysis and advise to American Airlines?

3 A I did, but I haven't looked at it for some time.

4 Q Okay. Can I draw your attention to -- well, it's the  
5 United States Bankruptcy Court, Northern District of  
6 Illinois was the jurisdiction which you pulled the papers.

7 A I assume so. I didn't work on that -- that matter, but  
8 that's where the case was filed.

9 Q Okay. But Rothschild did?

10 A Rothschild did, yes.

11 Q Yes. And the docket entry 13279 from October 2005 was  
12 the first amended disclosure statement filed by United  
13 Airlines that included an exhibit from Rothschild and which  
14 Rothschild laid out its comparator analysis?

15 MR. POLLACK: Objection, Judge. Lack of  
16 foundation at this point.

17 THE COURT: I think this would be more productive  
18 with a document in front of his -- in front of him. Just --  
19 I don't know that he's going to disagree with you, but --

20 BY MS. KREIGER:

21 Q And you're -- you don't remember that Rothschild says  
22 that LCCs were excluded from the comparable company's  
23 analysis due to their vastly different business models?

24 MR. POLLACK: Continuing objection.

25 THE COURT: Well, no, I think that's an

1 appropriate -- that's a substantive question, it's not a  
2 procedural -- can you just identify which case you're  
3 referring to that that was --

4 MS. KRIEGER: Yes, this is United Airlines. The  
5 case is 02-48191. It's the United States Bankruptcy Court  
6 for the Northern District of Illinois. And we -- we can and  
7 that the document be admitted as a public record that we can  
8 take notice of, but it's docket entry 13279 --

9 THE COURT: No, I don't need a docket entry, I  
10 just -- I just -- we had been talking about three different  
11 cases so I just -- if you're going to ask the witness about  
12 the position I just want to know which case it was in.

13 MS. KRIEGER: And it's Exhibit 29, the Rothschild  
14 valuation analysis associated with that.

15 BY MS. KREIGER:

16 Q Does that refresh your recollection?

17 A Not unless you show it to me. No, as I said, that was  
18 from 2006. I didn't work on the matter, but I'm happy to  
19 look at a document.

20 Q Okay. Did any of the plan of reorganizations that you  
21 did look at contain value -- valuation analysis that  
22 included had comparators you've included here for American's  
23 consideration?

24 A I don't recall.

25 Q Okay. Now you indicated that you are -- Rothschild's

1 advice to American was showing them the way in which other  
2 airlines that had gone through bankruptcy and were emerging  
3 had thought, and that was -- that was your point in using  
4 those plans of reorganization?

5 A Yes, that was part of the data for them to consider in  
6 developing their business plan.

7 Q Okay.

8 A Not exclusive, but part.

9 Q And isn't it true that all of those plans of  
10 reorganization that you provided they were reached by way of  
11 consensual agreements with labor, correct? There was no  
12 court ruling that approved or blessed rejection of the  
13 pilots' collective bargaining agreement, for example, based  
14 on those projected EBIDARs, correct?

15 A I just don't recall. I know several of them, including  
16 United went through 1113 processes. I just don't recall  
17 whether they reached agreement prior to the end or after  
18 conclusion.

19 Q Well, let me ask you. All the plans of reorganization  
20 were put together and presented for a vote after they had  
21 achieved agreements, no?

22 A Yes, that's correct.

23 Q Okay. And those were voluntary agreements, those were  
24 not court imposed terms, correct?

25 A I don't recall.



1 Q And at -- for the pilots, for example, the EBIDAR  
2 projections that were shown in those final plan of  
3 reorganizations, the final business plan was developed based  
4 on a model that included ratified collective bargaining  
5 agreements -- or voluntary agreements with labor?

6 A Which case are you referring to?

7 Q The other plans of reorganization that you examined.

8 A I just don't recall that.

9 Q Now let me ask you, you've also talked about the  
10 targeted EBIDARs for these other airlines that went through  
11 Chapter 11.

12 Isn't it the case that the reason that they didn't  
13 reach their projected EBIDARs was because actual fuel price  
14 increases intervened?

15 A Since emergence from Chapter 11?

16 Q Yes.

17 A Yes, increase in fuel prices was a reason.

18 Q Okay. Now I'm looking at your revised analysis,  
19 exhibit American Airlines 17 -- let me look at 1770. Do you  
20 have that in front of you?

21 A Yes.

22 Q On the very far right column your model -- or you have  
23 a chart there for only AMR without labor savings, that is  
24 zero labor savings; that's correct?

25 A Yes.

1 Q Okay. Now, it's true isn't it the case that all of the  
2 unions here have offered labor savings as part of the  
3 negotiations; isn't that correct?

4 A I know there have been negotiations based on the  
5 proposal --

6 Q Okay.

7 A -- made by American.

8 Q Well, more to the point, there's not a single union  
9 involved in this case that has insisted on zero labor  
10 savings?

11 A I'm sorry, I can't understand you.

12 Q There's not a single union in this case that has  
13 insisted on a zero labor savings that is maintaining the  
14 existing collective bargaining agreement?

15 A That's correct.

16 Q And in point of fact for the pilots for example the  
17 range of labor savings we're talking about is in the  
18 neighborhood of at least 240 million and higher?

19 MR. POLLACK: Objection, without foundation.

20 BY MS. KREIGER:

21 Q You've heard the testimony?

22 THE COURT: I'll allow it.

23 THE WITNESS: I've heard some of the testimony.

24 I've heard that number, but I have not heard all of the  
25 testimony.

1 BY MS. KREIGER:

2 Q It's considerably closer to the 370 million ask than it  
3 is to zero, correct?

4 A Arithmetically that is correct.

5 Q Okay. And why does your column model only the  
6 alternative of zero labor savings?

7 A Because that shows a range. It shows the AMR proposal  
8 and if there's no agreement, so I call that -- that's a --  
9 you know, that's a range. Could be something in between if  
10 that's what results from the mediation that's ongoing.

11 Q And at all times it was possible for you to model what  
12 the metrics would be in the event of labor savings greater  
13 than zero, correct?

14 A We did not know where these negotiations would end, so  
15 what we did know was if there was no agreement and we know  
16 the proposal that we made, so that's what we put on the  
17 chart here.

18 Q Okay. Now the EBIDAR margins that were projected for  
19 United and US Airways were not as high at the target margin  
20 for 2017 for AMR, correct?

21 A I'm sorry, could you repeat that question again?

22 Q The United Airlines and US Airways EBIDAR margins are  
23 in the realm of 12 percent to under 16 percent?

24 A In -- in the early years, but in the later years, you  
25 know, US Airways is almost 23 percent, you know, United -- I

1 mean you can see 15.4, Northwest 20.2, Delta 17.8.

2 Q In your exhibits --

3 A The average is 19.1.

4 Q In your exhibits for 101 and 102 you've revised our  
5 Exhibits 101 and 102 and called them American Airlines 1768  
6 and 1769.

7 A Yes.

8 Q And you've changed the red circle target to match an  
9 EBIDAR artifact of American's plan for the -- for 2013,  
10 correct?

11 A Yes.

12 Q That is not the target of American's plan, the target  
13 is several percentage points higher, correct?

14 A Ultimately, yes, that's what the --

15 Q Well, ultimately that was the target that drove the  
16 \$3.1 billion cash improvement target, correct?

17 A I would not say that's what drove it, no.

18 Q Well, that's what -- that's what corresponds to that  
19 target?

20 A I don't think that's the way to look at it, no.

21 Q And that's the target that the testimony shows drove  
22 the 1.5 billion allocation of labor cost savings needed to  
23 fill the gap?

24 A I think the company looks at that over a period of  
25 time. That's why there's an average number, and --

1 Q But it was targeted to reach that in 2017 and then back  
2 engineered to come up with what the number would have to be  
3 each year in order to achieve that, correct?

4 A No.

5 Q In labor savings?

6 A No.

7 Q The 1.25 billion in labor savings was the average over  
8 six years to reach the 1.5 billion improvement in 2017,  
9 correct?

10 A No, I disagree with the whole premise of your question  
11 about it being back engineered to get to that. I think  
12 that's inaccurate and misleading.

13 Q Okay. Forget about back engineered. The number that  
14 was shown -- the document that you've referred to is the  
15 document that you're comfortable with, the document that  
16 embodies the business plan. Is that -- that's the  
17 February 1st, 2012 presentation, the -- called the plan for  
18 success?

19 A Yes.

20 Q That's in the record as American Airlines Exhibit 1505,  
21 I believe.

22 A I don't -- I don't know what exhibit it.

23 Q But I just want to get clear. You said there's a  
24 document that you're totally comfortable with and that's the  
25 business plan. Is that the document you're referring to?

1 A Yes.

2 Q And in that document it shows the \$3.1 billion total  
3 cash improvement needed and it shows how that the 1.5  
4 million was the plug that needed to be filled after solving  
5 for the -- the amount of revenue and the amount of non-labor  
6 cost savings, correct?

7 A I guess I just disagree with your statement that it was  
8 the plug that was --

9 Q Okay. It's --

10 A -- one element of the plan.

11 Q -- it's -- you're right, it said gap?

12 COURT REPORTER: I'm sorry, I didn't get his full  
13 answer.

14 THE WITNESS: I said I disagree with the  
15 characterization that it was a plug. It was one component  
16 of the plan.

17 BY MS. KREIGER:

18 Q Okay. I'm sorry, the actual document uses the word  
19 gap, not plug, so I apologize, but it uses the word gap, and  
20 1.5 billion is the gap we're talking about, and the gap is  
21 driven off the 17 -- excuse me -- the high EBIDAR rate for  
22 2017?

23 A I think it's -- the higher rate -- the rate -- like all  
24 the other airlines plans of reorganizations as we've  
25 indicated increases over time as the company reorganizes and

1 begins to achieve its objectives in its business plan.

2 Q But the 2013 EBIDAR rate that happened to be an  
3 artifact of that -- that document was not the target that  
4 drove the \$370 million labor ask for the pilots. It wasn't  
5 achieving that target that --

6 A Again, I think you have to look at the EBIDAR  
7 improvement over time, that's how the company looks at it.  
8 And yes, it was higher at the end of the projection period  
9 than it was at the beginning. It's kind of logical to me as  
10 the company begins to achieve its revenue improvements  
11 and --

12 Q Okay.

13 A -- cost savings. So it -- yes, it fit together looking  
14 at --

15 Q If the -- if the --

16 THE COURT: Well, one person at a time. If he's  
17 in the middle of an answer let him finish his answer.

18 MS. KRIEGER: Sorry.

19 THE WITNESS: It fit together with the period of  
20 the plan.

21 BY MS. KREIGER:

22 Q Okay. But if the period -- if the plan had targeted  
23 the -- the number that you indicate as your target on  
24 Exhibit 1768, if that were in fact the EBITDAR target that  
25 was driving the gap and for which we would quantify the

1 labor ask of the pilots today, what would be the total  
2 amount of labor ask if it were driven off that number?

3 MR. POLLACK: Judge, objection. Again to the  
4 characterization. He's disputed it three times now.

5 THE COURT: Well, just -- experts get asked  
6 hypotheticals all the time, so I'll allow it. And could you  
7 ask the question again?

8 MS. KRIEGER: Yes.

9 BY MS. KREIGER:

10 Q If the EBITDAR target for the business plan for which  
11 we compute the total amount of labor ask were in fact the  
12 target that you showed here on AA Exhibit 1768, what would  
13 be the total labor cost gap needed to achieve that target?

14 A I understand the question, I haven't done that  
15 calculation, and --

16 Q Would it be less than 1.5 billion?

17 A I -- I don't know. It's -- it's -- it's a complicated  
18 question, because as I said, in -- in my earlier testimony,  
19 you cannot simply just take a reduced margin as you're  
20 suggesting here and say what's -- let's reduce the labor ask  
21 by that same amount and assume it will have absolutely no  
22 impact on revenues, fleet plan, or the other complex  
23 elements of how this business operates.

24 So I understand the question, and you're saying if  
25 the margin in the final year is the margin we're indicating



1 here what -- what does that do to the labor savings? I just  
2 don't know.

3 Q Okay. Forgetting about the labor saving let's go back  
4 to the higher order of Bev Goulet's plan for success  
5 document. The circle that showed 3.1 billion total  
6 improvement. That was based on the higher EBITDAR number.  
7 What would that number be if -- just that gross number,  
8 forgetting about -- because that's how it was built -- if it  
9 was only the target you've shown here on AA Exhibit 1768?

10 A I said, I cannot answer that because I don't know the  
11 interrelationships with respect to revenue, fleet plan --

12 Q No, we're not talking about how it's broken down, just  
13 the total cash improvement needed.

14 A I -- I don't follow the question.

15 Q Would it be less than 3.1 billion?

16 A I -- I -- you've lost me in terms of what -- what your  
17 question is.

18 Q Okay. The -- the chart that Bev Goulet presented as  
19 the justification for the labor ask showed a high EBITDAR  
20 target, it showed a total cash improvement of 3.1 billion  
21 needed by 2017, which achieved that metric, and then it  
22 broke it down into revenue, non-labor cost savings, and  
23 labor cost savings, correct?

24 A Yes.

25 Q And the total number that corresponded with that high

1 EBITDAR of cash improvement was 3.1 billion, correct?

2 A Yes.

3 Q Okay. So I'm just asking if that EBITDAR number were  
4 not the number there but were the number in AA Exhibit 1768  
5 what would that do to the 3.1 billion total cash improvement  
6 needed to achieve that?

7 A Well, if the margin was not as high you'd have to have  
8 more revenue or more cost savings stand up at the same level  
9 of profitability.

10 Q If the margin were --

11 A If the margin was -- I think if I understand your  
12 question, if the margin was lower --

13 Q Right.

14 A -- and the revenues were the same --

15 Q I'm not saying what the -- what the targeted revenues  
16 are, just what's the total cash improvement that would need  
17 to be achieved by American in order to get to that EBITDAR?  
18 Is it less than 3.1 billion?

19 A I just -- I don't know. I'm not -- I'm sorry, but I'm  
20 not following your question.

21 Q Okay.

22 THE COURT: Perhaps counsel, if you want to pursue  
23 this further is to actually break out that document.

24 MS. KRIEGER: Yes, maybe we'll take a break and  
25 get that confidential document.

1 BY MS. KREIGER:

2 Q The -- just moving to the component -- and you  
3 mentioned that you can't just do a mathematical reduction  
4 because labor cost items like code-sharing factor into how  
5 the business plan is built?

6 A Well, I said a number of items. I think that was one  
7 of the --

8 Q Okay.

9 A -- items I mentioned.

10 Q Do you treat code-share as a labor cost?

11 A I think it's a -- a component of -- of what the company  
12 is asking for.

13 Q So it's actually a cost reduction attributable to the  
14 pilots?

15 A Well, I'm not -- I'm not sure how the company accounts  
16 for code-sharing, but it is an element of the plan that the  
17 company has proposed to include greater code-sharing.

18 So I'm just saying if -- if part of the change  
19 includes modifications to that it could have a revenue  
20 impact as well.

21 Q Okay. Let's say it doesn't, because let's just say  
22 American is doing what it did in its chart, which is it did  
23 not include code-sharing or scope changes as part of the  
24 1.5 billion in labor cost reductions.

25 A Right.

1 Q Okay. So take that off the table. Again, are you  
2 saying it's impossible to answer what would be the effect of  
3 a lower target EBITDAR?

4 A I think we'd have to go back and understand what  
5 elements are being changed and see the impact it has on  
6 other components of the business plan.

7 Q Okay.

8 A For example, if part of those changes make certain  
9 routes less profitable or unprofitable to fly, just in terms  
10 of other cost elements, then the company may not fly  
11 those --

12 Q Okay.

13 A -- routes, and that's potentially going have a revenue  
14 impact, it's going to have an impact on the fleet plan.

15 So I'm saying it's -- it's a more complex business  
16 model without knowing the impact of what you're removing on  
17 the cost side --

18 Q Right.

19 A -- just to see.

20 Q But you know what was proposed to the unions was not a  
21 specific configuration in theory but just a number, okay?

22 A Okay.

23 Q Just a number. It could be gotten in theory American  
24 is now telling us any number of ways as long as it adds up  
25 to 370 million for the pilots, correct?

1 A I'm not sure what's --

2 Q And that's --

3 A -- being said in the negotiations.

4 Q -- and that would still achieve the business model.

5 COURT REPORTER: (Indiscernible - 00:28:33).

6 THE WITNESS: In the current negotiations.

7 BY MS. KREIGER:

8 Q Not in the current negotiations, just when it was  
9 rolled out. This is your target number. We're taking --  
10 it's 1.5 billion and we're dividing it equally across all  
11 labor groups, not made up of particular bricks and stones,  
12 but just here's the number you have to reach, correct?

13 A My understanding is that there are components of what's  
14 being asked on labor savings.

15 Q Well, of course they came up with components that --

16 THE COURT: All right. We can't -- we're just  
17 going to keep having the same problem if people are talking  
18 over each other, so.

19 MS. KRIEGER: Okay.

20 BY MS. KREIGER:

21 Q It was presented as this is a fixed number and you need  
22 to meet it, correct?

23 A My understanding is that there were components of the  
24 ask in terms of what accounts for the savings.

25 Q American had estimated what it thought it could do that

1 would reach those savings?

2 THE COURT: I think there's an objection.

3 MR. POLLACK: I'm going to object at this point.

4 We're way beyond the scope of what I covered with him. He

5 wasn't involved in these particular meetings and

6 discussions. There's no foundation and we have a scope

7 issue.

8 MS. KRIEGER: Well, what he's trying to pronounce

9 on though is the idea that --

10 THE COURT: Well --

11 MS. KRIEGER: -- that the labor -- that the target

12 ask number would not be different --

13 THE COURT: -- let me just say --

14 MS. KRIEGER: -- if the EBITDAR were different.

15 THE COURT: -- I understand what the question is,

16 and I think you've made your point.

17 And again, the point of rebuttal is not to go back

18 through the original direct testimony, but because some of

19 these things are interrelated I'm giving people some

20 latitude.

21 So I guess my point is more practical one. I

22 think I understand what you're question is, I think I

23 understand the witness's answer, so I think I got it.

24 MS. KRIEGER: Okay.

25 BY MS. KREIGER:

1 Q Well, let me ask you just this.

2 You mentioned that there's host of complex  
3 underlying models and assumptions that prohibit you from  
4 giving any opinion what the impact would be of a lower  
5 EBITDAR target. Have those models been provided to the  
6 other stakeholders here so that we can understand what it is  
7 that -- that you're saying in this case?

8 A Yes, my understanding is we have provided the financial  
9 model that the company uses to model its business plan, all  
10 the supporting data have been available to answer all  
11 question.

12 Q No, I'm asking about the factors that make it  
13 impossible for you to model anything other than American's  
14 particular ask and zero labor savings.

15 A Yeah, I think we've explained the interrelationships  
16 and the complexities and have tried to answer questions of  
17 what would happen if you change certain elements and why it  
18 isn't as straightforward as you suggest.

19 Q And have you -- have you provided an explanation for  
20 why you can't run an assessment of a different EBITDAR  
21 target in a different dollar amount of labor ask?

22 A I believe that's been discussed in the due diligence  
23 meetings that the company has had with its stakeholders.

24 Q And have you explained it here for the Court?

25 A I think I've tried to.

1 Q You said it's complicated and you just can't do it?

2 A Well, first of all, I don't and Rothschild doesn't run  
3 the company's business plan model, it's done by the company  
4 and its financial team. They report to Ms. Goulet, and I --  
5 what I have tried to explain, and anyone that has done  
6 diligence has seen how the model is built, how it has  
7 components from various elements of the company from fleet  
8 planning, revenue management, the commercial people, the  
9 people that handle the aircraft leasing, and that comes  
10 together, and that's what people need to appreciate are the  
11 various components of the model. And if you just change one  
12 you have to look at the impact it has on all other elements  
13 of the model. That's what we've tried to do with the  
14 stakeholders during our diligence to try to address their  
15 questions around sensitivities to the model.

16 Q Okay. And have you presented to any stakeholders any  
17 analysis at all showing what would happen to American's  
18 metric if the EBITDAR were slightly lower or the dollar  
19 amount of the labor cost reduction were slightly lower?

20 A If they would have asked those questions I think we  
21 would have tried to address them.

22 Q Okay. Now, I -- do you agree that the role of  
23 Rothschild as financial advisor to the debtor here is to  
24 maximize the value of American Airlines for the good of all  
25 stakeholders?



1 A Yes.

2 Q Okay. And is it your opinion here today that  
3 American's stand-alone business plan in fact maximizes the  
4 value for all stakeholders in comparison to any other  
5 alternatives, including consolidation?

6 A We have not done that analysis yet.

7 MS. KRIEGER: I'll pass the witness.

8 (Pause)

9 CROSS-EXAMINATION

10 BY MS. LEVINE:

11 Q Good afternoon, Mr. Resnick, Sharon Levine, Lowenstein  
12 Sandler for the Transport Workers Union. Just really  
13 quickly.

14 You mentioned earlier that in looking at the  
15 bankruptcy cases of Northwest, United, US Airways, and Delta  
16 each of those airlines went through 1113 processes during  
17 the course of their case and then emerged as stand-alone  
18 airlines. Do you recall that testimony today?

19 A Yes.

20 Q In each of those cases isn't it true that those debtors  
21 were operating under debtor-in-possession financing?

22 A Yes, I believe that's correct.

23 Q And isn't it true that those debtor-in-possession  
24 financings had either labor concession benchmarks and/or  
25 liquidity covenants which influenced the timing of the 1113

1 processes?

2 A I don't know or I don't recall.

3 Q But American Airlines right now is not operating under  
4 DIP financing, correct?

5 A That's correct.

6 Q Okay. In addition isn't it true that the stand-alone  
7 business plans that formed the bases of those plans of  
8 reorganization were supported by the creditors committees in  
9 each of those cases?

10 A I just don't recall.

11 Q You don't recall whether or not the committees actually  
12 sent out letters in support accompanying the solicitation  
13 package that included the disclosure statement of plans in  
14 each of those cases?

15 A So maybe I didn't understand the question. Is the  
16 question that the committee supported the plans of  
17 reorganization filed by those companies?

18 Q Well, let me -- let me break it down.

19 The plans of reorganization were based upon each  
20 of those debtors' business plans, correct?

21 A Yes.

22 Q And each of those debtors had a stand-alone business  
23 plan that they used in connection with their 1113 processes,  
24 correct?

25 A Yes.

1 Q And in each of those cases the stand-alone business  
2 plan, which was used in connection with 1113, was also the  
3 business plan that ultimately was used in connection with  
4 their plan of reorganizations, correct?

5 A That I don't know. I don't -- sometimes they're  
6 modified, adjusted for the 1113 process.

7 Q Well, there's modifications and then there's wholesale  
8 changes, correct?

9 A Possibly.

10 Q So none of those plans, for example, went from a plan  
11 of reorganization that terminated the pensions to a plan of  
12 reorganization that froze the pensions; isn't that correct?

13 A If I -- I'd have to look back at each one. I mean, I  
14 know some terminated, some froze of those three carriers.

15 Q Well, but question is more to what the changes were and  
16 when those changes were made.

17 So the question really is, isn't it true that none  
18 of those plans -- business plans that were used in  
19 connection with the 1113 processes went through radical  
20 changes between the time that the 1113 concluded and the  
21 time that the plan of reorganization was sent out for  
22 solicitation with committee support?

23 A I just don't know.

24 Q Okay.

25 A I'm sorry.

1 Q Are there ad hoc committees in this case representing  
2 various holders?

3 A Recently yes, an ad hoc committee or potentially  
4 committees have organized.

5 Q There are at least two that -- there are at least two  
6 that we're aware of?

7 MR. POLLACK: Objection, beyond the scope, Judge.

8 THE COURT: I don't know where we're going with  
9 this so I'll allow a few questions on it and see where it  
10 ties in.

11 BY MS. LEVINE:

12 Q Isn't it true that at this point in time neither of  
13 those two committees support the debtor's current stand-  
14 alone business plan as the business plan that should form  
15 the basis of the debtor's plan of reorganization?

16 A What is true is that neither of those committees has  
17 had the opportunity to do any diligence, so they wouldn't be  
18 in a position to have a point of view on the debtor's  
19 business plan.

20 Q Well, isn't it true that the debtor and the committee  
21 now have a protocol in place to review and further develop  
22 this business plan in addition to other strategic  
23 alternatives?

24 A The debtor and the committee have in place an agreement  
25 to do what the debtor said it would do from the outset,

1 which is compare all strategic alternatives against its  
2 stand-alone plan.

3 Q Mr. Resnick, isn't it true that in each of Northwest,  
4 United, US Airways, and Delta none of the unions actually  
5 attacked the debtor's business plan as part of their 1113  
6 case? There were arguments with regard to valuation, there  
7 were arguments with regard to what the form of the ask  
8 should be, but none of those unions attacked the debtor's  
9 business plan.

10 A I -- I just don't know. I don't recall.

11 Q And isn't it -- all right. Well then let's clarify  
12 that a little bit.

13 In Northwest, United, US Airways, or Delta did any  
14 of the unions retain their own investment bankers to offer  
15 testimony at the 1113 trial?

16 A I don't recall.

17 Q Isn't it true in fact that none of the unions offered  
18 investment banker testimony in any of those cases?

19 A I don't --

20 MR. POLLACK: Objection.

21 THE WITNESS: -- I don't recall.

22 MR. POLLACK: No foundation. Asked and answered.

23 THE COURT: Well, he either knows or he doesn't  
24 know, and there's been testimony about -- by all sides about  
25 reference to and significance of other bankruptcy

1 proceedings, so proceed.

2 MS. LEVINE: One minute, Your Honor.

3 (Pause)

4 THE COURT: I will comment that cross becomes less  
5 useful for me when it becomes a memory test as opposed to  
6 something where we're really getting an opinion, but people  
7 can ask the questions however they -- however they want.

8 MS. LEVINE: I'm ceding the -- we're ceding the  
9 podium.

10 THE COURT: All right.

11 CROSS-EXAMINATION

12 BY MS. PARCELLI:

13 Q Good afternoon, Mr. Resnick, Carmen Parcelli for the  
14 APFA.

15 Now, Mr. Resnick, do you recall that when you  
16 appeared before the Court before you were offered as an --  
17 as an expert as an investment banker with regard to  
18 financing; do you recall that?

19 A Yes.

20 Q And do you recall that specifically you were not  
21 offered an as airline expert; do you recall that?

22 A Yes.

23 Q And you were not offered as a labor expert; do you  
24 recall that?

25 A Yes. Thank goodness.

1 Q Well, some of us love it.

2 So on your direct this afternoon you testified  
3 regarding certain Wall Street analysts' opinions, correct?

4 A Yes.

5 Q And now, would it be typical that Wall Street analysts  
6 would be given a full confidential version of a business  
7 plan to opine on?

8 A No.

9 Q Now, I believe you also testified on cross-examination  
10 with Ms. Krieger that you are aware that American has in  
11 other presentations consistently excluded LCCs from its  
12 universe of comparators, correct?

13 A Yes.

14 Q Okay. So then it wouldn't come as any surprise to you  
15 would it that in a presentation that American Airlines gave  
16 to the TWU in April of 2011 they said the following:

17 "We have included only the other legacy carriers  
18 in our analysis because their cost, unit revenue, and  
19 operating structures provide a more consistent comparison  
20 than those of low cost carriers."

21 That wouldn't prize you would it, sir?

22 A Pre the Chapter 11 filing it would not surprise me.

23 Q And so you also include Allegiant in your list of  
24 comparators; is that correct?

25 A Yes.

1 Q And are you familiar with Allegiant's 10K filings,  
2 specifically year end of 2012?

3 A I have not seen it. My team has looked at it, but I  
4 have not.

5 Q Okay. And so would this change your opinion then if  
6 you personally had seen and reviewed the following statement  
7 from Allegiant in its 10 K. It says:

8 "Unique business model. We have developed a  
9 unique business model that focuses on leisure travelers in  
10 small cities. The business model has evolved as our  
11 experienced management team has looked differently at the  
12 traditional way business has been conducted in the airline  
13 and travel industry.

14 Our focus on the leisure customer allows us to  
15 eliminate the costly complexity which others in our industry  
16 are burdened with in their goal to be all things to all  
17 customers."

18 Would that change your view, sir?

19 A No, I think that's a description of their business  
20 model, and I said their business model is different from  
21 American's, but they -- they do compete in certain markets  
22 for leisure travelers, and that's why I believe it's  
23 appropriate to include them in the comparable set.

24 Q Okay. And let's take a look at your exhibit that your  
25 introduced today, American Airlines 1768. And I believe



1 Ms. Krieger already pointed out that you're doing a slightly  
2 different analysis than Mr. Yearley did because you've  
3 pegged to a different EBITDAR level, correct?

4 A Slightly different, yes.

5 Q Yeah. So -- but let's just take what you have.

6 And so in the top part of the chart where you show  
7 legacy and their historical EBITDAR, okay, so you have there  
8 eight circles appearing as corresponding to the target  
9 EBITDAR; is that correct?

10 A Yes.

11 Q Okay. And not that I'm asking you to count them up,  
12 but trust me on this. When you have the LCCs at the bottom  
13 part of the chart we have 36 circles, do we not?

14 A I'll trust you.

15 Q Okay. And that doesn't suggest to you yes or no that  
16 there's fundamentally something different going on with the  
17 LCCs than the network carriers? Yes or no?

18 A That's a complicated question to answer yes -- yes or  
19 no. I think you need to understand the context.

20 My point would be this is the market in which  
21 American has to compete to be successful today.

22 Q Okay. But it's always the market that north -- well,  
23 United and Delta compete in as well, correct?

24 A And that's why their projections at the time they  
25 emerged are very consistent with American's as our other

1 exhibit indicated.

2 Q So let's move to that exhibit. I think you're talking  
3 about 1770, correct?

4 A Yes.

5 Q Okay. And I understand we're in a highlighted yellow  
6 area, so I will proceed with the utmost caution. But  
7 directing your attention to the highlighted yellow area.

8 So the -- the next to last column, right, is  
9 showing American EBITDAR under the plan -- the business  
10 model plan, correct?

11 A Yes.

12 Q And the targets that the plan dictates will be  
13 achieved, correct?

14 A Yes.

15 Q Okay. And that assumes realization of the full labor  
16 cost target that is baked into the plan, right?

17 A Correct.

18 Q Okay. Now the last column on the page, correct me if  
19 I'm wrong, this gives the EBITDAR targets as if American  
20 didn't realize any of the labor savings targeted as if all  
21 contracts, all employment terms that are non-contract stayed  
22 at status quo, correct?

23 A That's correct.

24 Q Okay. So you can do the EBITDAR with full realization  
25 of the labor costs, correct? That's the second to last

1 column.

2 A Yes.

3 Q And you can do the EBITDAR with no realization of any  
4 labor cost savings, correct?

5 A Yes.

6 Q But is it your testimony here today that you can't tell  
7 us what the EBITDAR would be to fall in the middle of those  
8 with some lesser degree of labor cost savings realized in a  
9 total target number?

10 A Well, what'd I -- what'd I'd also say about the last  
11 column is that --

12 Q It -- I know --

13 A Well --

14 Q What's the answer to the question, can you do that or  
15 can you not?

16 A We could do it, but it's complicated, and my point is  
17 this last column is inaccurate because it doesn't do -- it  
18 doesn't model all the interrelationships of what would be  
19 happening to revenue and other elements of the plan if you  
20 weren't able to achieve the labor savings I'd argue this is  
21 overstated.

22 Q Okay.

23 A Because it's too simplistic for the same reason we  
24 talked about earlier.

25 Q Well, I guess I'm a little troubled to hear that the

1 exhibit is not accurate, but --

2 MR. POLLACK: Objection to the commentary, Judge.

3 THE COURT: Just ask a question, please.

4 MS. PARCELLI: Yeah.

5 BY MS. PARCELLI:

6 Q How inaccurate is it?

7 A This is -- it's -- this is the simple arithmetic

8 calculation similar to what you're trying to do with

9 EBITDAR, that --

10 Q So the simple arithmetic calculation can be done?

11 A I -- I don't think it reflects the complexities of the  
12 business plan when you change certain elements.

13 Q Okay.

14 MS. PARCELLI: Nothing further.

15 THE COURT: Any further cross?

16 Redirect?

17 MR. POLLACK: Judge, may I have five minutes?

18 THE COURT: All right, five minutes it is.

19 MR. POLLACK: Thank you.

20 (Recess at 4:07 p.m.)

21 THE CLERK: All rise.

22 THE COURT: Please be seated. Proceed.

23 MR. POLLACK: Judge, we have no -- no redirect.

24 At this point we'd just move the admission of our  
25 Exhibits 16 -- 1768 through 1770.

1 THE COURT: Any objection?

2 All right, no objection, they will be admitted.

3 (Debtor's Exhibit Nos. 1768 through 1770 were admitted)

4 THE COURT: All right, I will applaud you on your  
5 accuracy of your prediction for getting through four  
6 witnesses at 11:30 this morning, I thought that was  
7 impossible. So thank you.

8 So tomorrow morning we resume with Mr. Ditcher,  
9 and then Beverly Goulet, and that would include the rebuttal  
10 case?

11 MR. GALLAGHER: It would, Your Honor. And I have  
12 one more piece of good news. Ms. Levine and I have worked  
13 out the issue that was possibly going require a ten-page  
14 brief by Friday, and I'm to say we will not be burdening you  
15 with that brief from either side.

16 THE COURT: All right. Well, I was -- I -- I very  
17 much appreciate your efforts. Is there something that you  
18 want to introduce in the record to memorialize your  
19 situation or it's just best left?

20 MR. GALLAGHER: I think it's best left where it  
21 right now, Your Honor.

22 THE COURT: All right.

23 MR. GALLAGHER: Thank you.

24 THE COURT: That's fine. Thank you for your  
25 efforts, I appreciate that. And to the extent that it has

1 to be addressed for purposes of the overall 1113 decision I  
2 trust you will tell me what you want me to make of it in  
3 briefing.

4 All right, is there anything else that we need to  
5 address today before we adjourn?

6 I think I still have the supplemental Lynn  
7 declaration, which I think was the subject of some  
8 discussion as to a heading or something similarly profound  
9 that needed to be addressed.

10 MR. JAMES: We agreed to some edits which they've  
11 graciously agreed to accept.

12 MR. GALLAGHER: And I believe those are in  
13 process, Your Honor, I don't know if it's been yet filed,  
14 but --

15 THE COURT: All right, that's fine, I'll hold on  
16 it to, and we can -- we can clean up that issue tomorrow  
17 then.

18 MR. CLAYMAN: Could I say one thing? There are a  
19 number of things in that declaration we don't agree with,  
20 but in the nuance it doesn't make sense to bring her back or  
21 burden you, so we're going to not fight over it.

22 THE COURT: All right. That's fine. And  
23 certainly you feel free if you -- if you need to make a  
24 brief statement on the record as to that, but that's fine.  
25 I will not introduce anything into evidence until we have

1 that bit of housekeeping addressed and then we can do it  
2 tomorrow at an appropriate time, but let's -- let's not  
3 forget.

4 MR. GALLAGHER: Your Honor, we don't know whether  
5 to anticipate any surrebuttal evidence by the unions at this  
6 point.

7 THE COURT: All right. Is there any -- any think  
8 -- current thinking on that issue one way or the other?

9 MR. CLAYMAN: Without consulting I think the  
10 answer is no. The answer is yes, there's current thinking.

11 (Laughter)

12 MR. CLAYMAN: As (indiscernible - 00:52:10)  
13 progress and I think we're not going to (indiscernible -  
14 00:52:12) surrebuttal.

15 UNIDENTIFIED SPEAKER: At this point we don't  
16 know, Your Honor.

17 THE COURT: All right. That's fair enough.

18 I would assume that the intent would be that if  
19 there is going to be a surrebuttal that it'll proceed after  
20 we finish the other two witnesses, so -- and just in terms  
21 of timing I would imagine we should be able to finish the  
22 two witnesses tomorrow morning.

23 So if that's the case I don't know if there is any  
24 surrebuttal, and this is an impossible question to answer,  
25 so you really don't have to answer it, but I'll try it any

1 way. If there is a surrebuttal I'm wondering whether it  
2 would be something that could be contained tomorrow  
3 afternoon or whether it be something more lengthy.

4 MR. CLAYMAN: No, no, absolutely it will be  
5 contained.

6 THE COURT: All right. That's fine. Just in  
7 terms of -- again, I realize it's unfair to ask you how long  
8 it's going to be if you don't know what it is yet.

9 MR. CLAYMAN: It will not take up an afternoon.

10 THE COURT: All right, that's fine.

11 All right. So anything else we need to discuss  
12 before we adjourn?

13 All right, I'll see you tomorrow at 10 a.m., and  
14 have a good evening.

15 (A chorus of thank you)

16 (Whereupon these proceedings were concluded at 5:34 PM)

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T E S T I M O N Y

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C E R T I F I C A T I O N

I, Dawn South, certify that the foregoing transcript is a true and accurate record of the proceedings.

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