

1 **WO**

2

3

4

5

6

IN THE UNITED STATES DISTRICT COURT

7

FOR THE DISTRICT OF ARIZONA

8

Don Addington; John Bostic; Mark)  
Burman; Afshin Iranpour; Roger Velez;)  
9 Steve Wargoeki,

No. CV 08-1633-PHX-NVW  
(consolidated)

10

Plaintiffs,

**PARTIAL JUDGMENT  
and  
PERMANENT INJUNCTION**

11

vs.

12

US Airline Pilots Association; US)  
Airways, Inc.,

13

Defendants.

14

15

Don Addington; John Bostic; Mark)  
Burman; Afshin Iranpour; Roger Velez;)  
16 Steve Wargoeki, et al.,

CV08-1728-PHX-NVW

17

Plaintiffs,

18

vs.

19

Steven Bradford; Paul Diorio; Robert)  
20 Frear; Mark King; Douglas Mowery; John)  
Stephan, et al.,

21

Defendants.

22

23

24

The Court has entered previous orders adjudicating all claims in No. CV 08-1728-  
25 PHX-NVW and all claims in No. CV 08-1633 PHX-NVW except the named Plaintiffs’  
26 claims for damages other than for refund of union dues and fees and except for any claims  
27 for attorney fees. The jury has returned a verdict in No. CV 08-1633 PHX-NVW finding

28

1 Defendant US Airline Pilots Association liable to the Plaintiffs and the class they represent  
2 of all pilots employed by US Airways, Inc., in September 2008 who were on the America  
3 West seniority list on September 20, 2005. The Court expressly finds there is no just reason  
4 for delay in entry of this Partial Judgment and Permanent Injunction on all those matters  
5 previously adjudicated, and the Court expressly directs its immediate entry.

6 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that all claims in  
7 CV08-1728-PHX-NVW are dismissed with prejudice for failure to state a claim upon which  
8 relief can be granted. (Doc. # 118.)

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiffs' claims  
10 against Defendant US Airways, Inc., in No. CV 08-1633 PHX-NVW are dismissed for lack  
11 of subject matter jurisdiction.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED in No. CV 08-1633  
13 PHX-NVW that the claims of the Plaintiffs and the class of all pilots employed by US  
14 Airways, Inc., in September 2008 who were on the America West seniority list on September  
15 20, 2005, against Defendant US Airline Pilots Association for refund of payments of union  
16 dues and fees are dismissed with prejudice for failure to state a claim upon which relief can  
17 be granted. (Doc. # 287.)

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED in No. CV 08-1633  
19 PHX-NVW in favor of the Plaintiffs and the class of all pilots employed by US Airways,  
20 Inc., in September 2008 who were on the America West seniority list on September 20, 2005,  
21 that Defendant US Airline Pilots Association and its officers, committees, representatives,  
22 agents, and all persons in active concert and participation with them are permanently  
23 enjoined and ordered to:

24 A. Immediately, and in good faith, make all reasonable efforts to negotiate and  
25 implement a single collective bargaining agreement with US Airways that will  
26 implement the Nicolau Award seniority proposal unmodified, according to its terms;

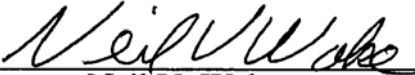
27 B. Make all reasonable efforts to support and defend the seniority rights provided  
28 by or arising from the Nicolau Award in negotiations with US Airways; and

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

C. Not negotiate for separate collective bargaining agreements for the separate pilot groups, but rather negotiate for a single collective bargaining agreement for both pilot groups that incorporates the Nicolau Award. This injunction does not restrain USAPA from pursuing its rights under Section 6 of the Railway Labor Act, consistent with the previous sentence.

The Court retains jurisdiction to enforce, modify, or dissolve the permanent injunction portion of this order. The Court retains jurisdiction to adjudicate the named Plaintiffs' unadjudicated claims for damages and any claims for attorney fees.

DATED this 17th day of July 2009.

  
\_\_\_\_\_  
Neil V. Wake  
United States District Judge