

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA *et al.*,

Plaintiffs,

v.

US AIRWAYS GROUP, INC. *et al.*,

Defendants.

Case No. 1:13-cv-01236-CKK

**MOTION FOR LEAVE TO FILE MERITS BRIEF AMICI CURIAE OF ALLIED  
PILOTS ASSOCIATION, ASSOCIATION OF PROFESSIONAL FLIGHT  
ATTENDANTS, THE ASSOCIATION OF FLIGHT ATTENDANTS-CWA AND THE  
COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO (CWA) IN SUPPORT OF  
DEFENDANTS**

The Allied Pilots Association, the Association of Professional Flight Attendants, the Association of Flight Attendants-CWA and the Communications Workers of America, AFL-CIO (“CWA”) – unions made up of American Airline (“American”) pilots and flight attendants and US Airways flight attendants and passenger service agents – respectfully move this Court for permission to file a brief *amici curiae* in support of Defendants US Airways Group, Inc. and AMR Corporation that addresses the merits of this dispute. In a minute order entered on August 29, 2013, this Court granted movants leave to file a brief *amicus curiae* in support of Defendants’ Motion to Set Trial Date. In light of their acknowledged “vested interests” in the resolution of this litigation, *see* Order, ECF No. 93 at 1-2, *amici* request permission to file a

further brief explaining why they support the merger and addressing certain benefits to competition that will flow from approval of the merger.

*Amici* have sought the consent of the parties to this litigation. Defendants consent to *amici*'s filing of a brief on the merits. The United States does not object to the filing of a brief *amici curiae*, provided that all interested labor unions join in a single brief. The State plaintiffs have not responded to *amici*'s request for permission to file.

## **I. INTEREST OF THE AMICI**

The Allied Pilots Association (“APA”), located at 14600 Trinity Blvd., Suite 500, Fort Worth, TX 76155-2512, an unincorporated association, is a labor union founded in 1963 by a group of American Airlines pilots. The APA is the largest independent pilots’ union in the world. The APA is the certified collective bargaining agent for approximately 10,036 American pilots, 100% of its mainline pilots and approximately 76% of its total pilots.

The Association of Professional Flight Attendants (“APFA”), located at 1004 West Euless Boulevard, Euless, Texas 76040, is the certified bargaining representative of approximately 16,000 Flight Attendants employed by American Airlines. Today, this workforce is about 36% smaller than it was in May 2002, when almost 25,000 Flight Attendants worked for American.

The Association of Flight Attendants-CWA (“AFA”), located at 501 Third Street, NW, Washington, DC 20001, is the certified collective bargaining representative for the approximately 1,800 flight attendants employed by American Eagle Airlines, Inc., the wholly owned subsidiary of American Airlines. AFA is also the certified collective bargaining representative for the approximately 8,000 flight attendants employed by US Airways, Inc. AFA has a direct financial interest in the successful re-organization of American Airlines and its

emergence from bankruptcy protection through the consummation of its agreed-to merger with US Airways.

The Communications Workers of America, AFL-CIO (“CWA”), the largest telecommunications union in the world, represents over 700,000 men and women in both private and public sectors, including over half a million workers who are building the Information Highway. CWA members work in telecommunications, broadcasting, cable TV, journalism, publishing, manufacturing, airlines, customer service, government service, health care, education, and other fields.

The careers of the American and US Airways employees represented by *amici* depend heavily on the competitive success of the merged entity and the airline industry as a whole. Because of industry-wide seniority rules, pilots and flight attendants tend to stay with one carrier for their entire careers. For instance, the average tenure of the current APA pilots is almost 18 years and on average flight attendants have worked for American for more than 20 years. Thus, it is fair to say that few interested parties care more than the *amici*’s members about the long-term survival and competitiveness of the new American Airlines.

## **II. ARGUMENT**

This Court previously recognized the interest of *amici* unions in the consummation of the US Airways-American Airlines merger in granting their motion for leave to file a brief *amicus curiae* in support of the Defendants’ proposed trial schedule. *See* Minute Order (Aug. 29, 2013). And in its recent order denying the United States’ motion to stay the trial, the Court acknowledged the “vested interest” of *amici* – “particularly employees of the Defendants” – in a timely adjudication of the case. ECF No. 93 at 1-2.

By this motion, those employees merely seek the same *amicus curiae* status in order to provide their distinct views on the merits of dispute. As previously noted, *amici* are the principal unions representing American's pilots and flight attendants and the union representing US Airways' flight attendants and passenger service agents. *Amici* have a substantial interest in the outcome of this litigation and a viewpoint that will assist the Court in deciding the case. Their brief *amicus curiae* will explain in greater depth their reasons for support the merger and the competitive benefits that flow from it.

As this Court has recognized, an *amicus curiae* "does not represent the parties but participates only for the benefit of the Court." *United States of America v. Microsoft Corp.*, 2002 WL 319366, \*2 (D.D.C. 2002). "District Courts have inherent authority to appoint or deny amici which is derived from Rule 29 of the Federal Rules of Appellate Procedure." *Jin v. Ministry of State Security*, 557 F.Supp.2d 131, 136 (D.D.C. 2008) (citation omitted). It is "solely within the discretion of the Court to determine the fact, extent, and manner of participation by the amicus." *United States of America v. Microsoft Corp.*, 2002 WL 319366, \*2 (D.D.C. 2002). *Amicus* participation should be permitted, among other reasons, when a party "has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide." *Jin v. Ministry of State Security*, 557 F.Supp.2d 131, 136 (D.D.C. 2008) (citation omitted).

The careers of *amici*'s members are inextricably linked to the success of American. The pilots and flight attendants, for instance, frequently spend their entire career with American. Their futures will be determined by the long-term viability and competitiveness of American. Whether American is allowed to proceed with the merger or is required to operate as a stand-alone airline will have a drastic impact on the employees represented by *amici*. *Amici* are able to

provide unique information and perspective with respect to the impact on employees of the merger.

*Amici* have sought to reduce any burden on the Court from multiple pleadings by uniting their voices in a single brief. *Amici* will not participate in the presentation of evidence, will comply with any applicable page limitations and other terms of *amicus* participation, and will participate in oral argument only to the extent that the Court requests such argument on its own motion.

Therefore, *amici* respectfully requests that the court grant them leave to file a brief *amicus curiae* on such terms as established by the Court.

Dated: October 21, 2013

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2013, the foregoing Motion was filed with the Clerk of the Court using the Court's CM/ECF system, served electronically via the Court's CM/ECF system upon counsel of record, and served via first class regular mail upon the following:

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