
In the Matter of an Arbitration Between:)

TRANSPORT WORKERS UNION OF AMERICA,)
LOCAL 545)

and)

TRANSPORT WORKERS UNION OF AMERICA,)
LOCAL 542)

Arbitrator Robert O. Harris/
Richard L. Bloch

Involving the Integration of Seniority Lists of the)
Flight Dispatchers at U.S. Airways, Inc.)
and America West Airlines, Inc.)

**TRANSPORT WORKERS UNION OF AMERICA,
LOCAL 545's POST HEARING BRIEF**

Transport Workers Union of America, Local 545 (“Local 545”), collective bargaining representative of the Flight Dispatchers at U.S. Airways, Inc. (“U.S. Air”), and the intended post-merger representative of the Flight Dispatchers at the combined U.S. Air and America West Airlines, Inc. (“AWA”), respectfully submits its post-hearing brief in the above referenced matter.

PROCEDURAL HISTORY

This arbitration grows out of the merger of U.S. Air and AWA and is to determine the following question: “How are the respective seniority lists of the Flight Dispatchers of U.S. Airways, Inc., and America West Airlines, Inc., to be ‘combined’ or ‘merged’ in a manner that is ‘fair and equitable?’” Issue Presented and Stipulations of Fact, Joint Ex. 7 at 1. A fullscale hearing on the question was held before Arbitrator Robert O. Harris on October 30, 2006. At the hearing, both Local 545 and Transport Workers Union of America, Local 542 (“Local 542”), on behalf of pre-merger AWA Dispatchers, presented

testimony and documentary evidence and were given ample opportunity to cross-examine witnesses for the adverse party.¹

LOCAL 545's POSITION

Local 545 has proposed a straightforward integration method based upon the actual date of hire into the class or craft of each Dispatcher at his or her pre-merger employer, with three conditions and restrictions: 1) no Dispatcher on furlough may bump or displace an actively employed Dispatcher; 2) outside of the procedures set forth in the U.S. Air/Local 545 collective bargaining agreement governing reductions in force, no active Dispatcher may bump or displace another active Dispatcher and 3) the implementation of the Award in this case may not result in a “system flush” or displacement of any active Dispatcher. Local 545 Ex. 17 (Seniority Integration Proposal by Transport Workers Union of America Local 545).² Although Local 545 did not expressly address the issue in its formal Integration Proposal, it believes the two seniority lists should be combined as of the date the U.S. Bankruptcy Court approved the corporate transaction that led to the merger, September 27, 2005. Joint Ex. 7 (Stipulations of Fact), No. 2. On that date, all Dispatchers were on notice that their seniority standing could be affected by the transaction.

¹ Unfortunately, health issues led to the withdrawal of Arbitrator Harris from further participation in this matter. The parties have agreed that Arbitrator Bloch is to render a decision based on the hearing transcript, the exhibits introduced at the hearing and the parties’ post-hearing briefs.

² Although pre-merger AWA Dispatchers were accorded seniority as of their “Occupational Date” pursuant to the AWA/Local 542 collective bargaining agreement, under Local 545’s integration proposal, and consistent with the U.S. Air/Local 545 collective bargaining agreement, AWA Dispatchers are to be accorded the dates they actually first became Flight Dispatchers or Assistant Flight Dispatchers. Id. at 3 n.1; Transcript of Arbitration Hearing (“Tr.”) at 138-39 (October 30, 2006) (Testimony of Local 545 President Don Wright [“Wright”]). As a result, the first 19 people on the AWA seniority list will all be accorded more seniority than they carried at pre-merger AWA -- as much as 13 years more. Tr. at 139. For all other Dispatchers on the AWA seniority list, the dates of hire into the class or craft are the same as their Occupational Dates. Id.; cf. Joint Ex. 4 (AWA Seniority List) with Local 545 Ex. 17, Ex. D (Local 545’s Proposed Combined Dispatch Group Seniority List).

As will be demonstrated below, Local 545's date of hire proposal is eminently "fair and equitable" and should be adopted. The pre-merger financial conditions of the two airlines and an analysis of what the two carriers brought to the combined entity fully support that conclusion. Indeed, if they suggest any departure from a date of hire methodology, they argue for a seniority bonus for U.S. Air Dispatchers, an advantage Local 545 has elected to forego as a matter of principle. Moreover, simply by virtue of the merger and the fact that they are to come under the coverage of the U.S. Air/Local 545 collective bargaining agreement, the AWA Dispatchers will reap substantial increases in wages, benefits and working conditions. A seniority "bonus" on top of that would be an unfair and inequitable windfall at the expense of the U.S. Air Dispatchers.

The date of hire methodology proposed by Local 545 has been adopted by the parent of the two parties here, the Transport Workers Union of America International, as the approved way of achieving a "fair and equitable" result in airline mergers. While date of hire has been the unbroken rule for seniority integration at Local 545 since the Local came into existence, Local 542 presented no evidence at the hearing to establish or even suggest that it had any rule, policy or practice regarding seniority integrations. Finally, it bears mention that every other unionized employee group at U.S. Air and AWA that has yet addressed the question has adopted date of hire as the method for integrating the seniority lists of the pertinent crafts or classes of employees.

By contrast, Local 542 has proposed a "ratio/rank" integration methodology that is anything but fair and equitable. See Local 542 Ex. J (TWU 542's Position with Regard to Seniority Integration). Under that proposal, AWA Dispatchers effectively gain the equivalent of anywhere from three to fourteen years of seniority at the expense of U.S.

Air Dispatchers, and U.S. Air Dispatchers on furlough, with dates of hire extending back as far as 1998, are effectively deprived of any credit for their accumulated seniority. As Local 542's President John E. Plowman admitted at the hearing in this case, Local 542's proposed methodology is wholly unrelated to any measure of the pre-merger financial health of either carrier but was based solely on the insupportable notion that AWA "brought more to the [merger] table than U.S. Airways did." Tr. at 278.

Accordingly, Local 545 respectfully submits, the Award in this case should use a straightforward date of hire methodology to create an integrated AWA/U.S. Air seniority list under the conditions and restrictions proposed by Local 545.

STATEMENT OF PERTINENT FACTS

I. THE MERGER

On May 19, 2005, America West Holdings Corp. ("AW Holdings"), the corporate parent of AWA, and U.S. Airways Group, Inc. ("U.S. Air Group"), the corporate parent of U.S. Air, entered into an agreement whereby Barbell Acquisition Corp. ("Barbell"), a wholly owned subsidiary of U.S. Air Group, would merge with AW Holdings. Local 545 Ex. 2 at A-1 (Agreement and Plan of Merger). As further agreed, AW Holdings would be the surviving company in the merger with Barbell and, after the merger, would become a wholly owned subsidiary of U.S. Air Group. Id. at A-1, A-2. In connection with the transaction, the stockholders of AW Holdings were offered fractional shares of stock in U.S. Air Group. Id. at A-3, A-4; Local 545 Ex. 1 (U.S. Securities and Exchange Commission Form 10Q, U.S. Airways Group, Inc., Quarterly Report of Period Ended June 30, 2005) at 9/43, 22/43. The cash necessary to effectuate the merger came from

third party equity investors previously unaffiliated with either carrier. Tr. 62-63; Local 545 Ex. 1 at 9/43, 22/43.

As both AWA and U.S. Air characterized the transaction in official government filings, “America West Holdings would be acquired by, and become a wholly-owned subsidiary of, U.S. Airways Group.” Local 545 Ex. 4, Joint Application of America West Airlines, Inc., U.S. Airways, Inc., and PSA Airlines, Inc. for Approval of a Transfer of Certificate and Exemption Authorities at 2 (July 8, 2005); see also Joint Ex. 6, In the Matter of the Application of the Transport Workers of America (U.S. Airways/America West Airlines), 33 N.M.B. 221, 224 (June 5, 2006).³

The transaction was approved by the U.S. Bankruptcy Court overseeing the U.S. Air Group’s Chapter 11 reorganization proceeding on September 27, 2005. Joint Ex. 7 at Nos. 1-2. On June 5, 2006, the National Mediation Board (“NMB”) found that AWA and U.S. Air constituted a single transportation system for the purpose of representational issues affecting the Flight Dispatchers at the two carriers. Joint Ex. 6. Consistent with standard practice in airline mergers, the collective bargaining agreement between the “acquiring” company and its Flight Dispatchers, the U.S. Air/Local 545 agreement, will apply to the combined Dispatcher workforce at the combined carrier. Joint Ex. 7 at No. 6; see also, Joint Ex. 3 (U.S. Air/Local 545 Collective Bargaining Agreement). Local 545 will be the bargaining representative for all Flight Dispatchers at the combined carrier. Joint Ex. 7 at No. 6.

At the time of the merger, all AWA Flight Dispatchers were based in Phoenix, AZ, and all U.S. Air Dispatchers in Pittsburgh, PA. Joint Ex. 7 at No. 8. At an as yet

³ The Joint Application sought the transfer of the various entities’ international certificate authority, routes and exemptions to U.S. Air. Local 545 Ex. 4 at 15.

undetermined point in the future, the Dispatch function and the two Dispatcher groups will be consolidated at a site to be determined. Id. at No. 9. At the time of the hearing in this matter, AWA employed 37 active Dispatchers, and U.S. Air employed 120 active Dispatchers and an additional 32 Dispatchers on furlough. Joint Exs. 4 (AWA Seniority List), 5 (U.S. Air Seniority List). Pursuant to the governing U.S. Air/Local 545 collective bargaining agreement, a furloughed Dispatcher maintains his/her place on the Dispatcher seniority list for a ten year period. Tr. at 55; Joint Ex. 3 at 30 (Art. 8(J)).⁴

II. THE RELATIVE FINANCIAL CONDITIONS OF THE TWO CARRIERS PRIOR TO MERGER

While U.S. Air was certainly experiencing financial problems in 2004 and filed for relief under Chapter 11 of the United States Bankruptcy Code on September 12, 2004, Joint Ex. 7 at No. 1, during its period in bankruptcy U.S. Air took significant steps to improve its financial condition. For instance, it won from its unionized employees a series of concessions designed to achieve cost savings amounting to \$1 billion per year. Tr. at 79. The Dispatchers as a group gave up 23% in payroll concessions alone. Tr. at 80. In addition, the Company terminated several of its retirement plans, delivering additional savings. Tr. at 79-80; Local 545 Ex. 1 at 10/43. All told, by the end of the fiscal quarter ending June 30, 2005, the Company had managed to decrease its labor costs by approximately 35.9%. Tr. at 80-81; Local 545 Ex. 1 at 24/43. As a result of these and other cost saving measures, U.S. Air achieved positive net operating income of \$41,000,000 during the second quarter of 2005, Local 545 Ex. 1 at 5/43, and raised that figure to a positive \$280,000,000 for the portion of the third quarter ending at the

⁴ Under the AWA collective bargaining agreement, a furloughed Dispatcher maintains his or her seniority for a period of five years. Joint Ex. 2 (AWA/Local 542 Collective Bargaining Agreement) at 11-2 (Section 11(K)).

September 27, 2005, approval of the merger agreement. Tr. at 260-62; Local 542 Ex. E (Report of Independent Registered Public Accounting Firm) at 208.

Although AWA did not seek bankruptcy protection in the same time period, it was in tenuous financial condition. AWA had suffered net operating losses during four of the five years preceding the merger. Tr. at 262-64; Local 542 Ex. G (America West Holdings Corp. 2004 Annual Report) at 20. During the calendar quarter culminating with the merger, those net operating losses climbed to \$125,000,000. Local 542 Ex. E (U.S. Airways Group, Inc. 2005 Annual Report) at 54.

AWA repeatedly made clear in official pronouncements to its employees, shareholders and the Securities and Exchange Commission that, without a major transaction such as the U.S. Air merger, it, too, was heading to bankruptcy. Tr. 82-85, 88-89; Local 545 Ex. 5 (Nov. 25, 2005, “About US,” A U.S. Airways Employee Publication) at 5 (“Assuming fuel costs continued to rise, capacity didn’t come out of the system and thus unit revenues remained depressed, and assuming we couldn’t go out and restructure or raise cash, it is possible that AWA would have been facing its own Chapter 11 at some point”); Local 545 Ex. 6 (U.S. Airways, thehub.usairways.com, “About the Company”) at 3 (“2004: America West Airlines mulls restructuring, either through merger/consolidation opportunities or a possible Chapter 11 filing”); see also, Tr. 64-65, 67-69; Local 545 Ex. 3 (June 10, 2005, “Plane Deal,” An America West Employee Publication) at 3.⁵ As AWA’s CEO Douglas Parker declared to AWA shareholders, AWA had lost the cost structure advantage it once had had over its legacy competitors,

⁵ Although Local 542 counsel objected to the introduction of these official company pronouncements on hearsay grounds, Arbitrator Harris overruled that objection. Tr. at 64-67. That decision was indisputably correct because the pronouncements are contained in business records, a specific exception to the hearsay rule. See, F.R. Evid. 803(6).

particularly U.S. Air, which had used its period in bankruptcy to “achieve a competitive cost structure,” an achievement made possible by “significantly reduced labor cost savings, decreased overhead, increased aircraft efficiency and a rationalized fleet.” Tr. 90-92; Local 545 Ex. 7 (2005 Chairman’s Message to Shareholders). Mr. Parker also drew attention to the fact that AWA employees had always lacked a sense of “long-term job security,” even during periods when AWA had been “doing better relative to our competitors” -- a condition which, according to Mr. Parker, “simply means we are losing less money than other airlines.” Tr. 95-96; Local 545 Ex. 8 (“Merger News,” Doug Parker Merger letters, May 19, 2005, thehub.usairways.com). According to AWA management, the infusion of capital from third parties that AWA needed to survive and that helped make the merger possible was simply not available to AWA as a standalone carrier. Tr. 69-70; Local 545 Ex. 3 at 3.⁶

III. WHAT THE TWO CARRIERS BROUGHT TO THE MERGER

According to the merged carrier’s own website, U.S. Air brought to the merger approximately twice the number of jet aircraft (280 - 139) as AWA and had more firm orders for additional aircraft than AWA (29 - 26). Tr. 101-03; Joint Ex. 1 (Merger News, “HP-US Comparison,” thehub.usairways.com). U.S. Air’s operating revenues were almost three times those of AWA (\$7.1 billion - \$2.25 billion), it served almost twice as many destinations (179-96) and carried approximately twice the number of passengers (41.3 million-21 million). Id. As of the end of the second quarter of 2005, approximately

⁶ Local 542’s effort to paint a much darker picture of U.S. Air’s financial condition at the time of the merger and a brighter picture of AWA’s ignores entirely these statements by AWA’s own CEO and management and, in a number of respects, is directly contradicted by them. See Tr. at 218-19; Local 542 Ex. K (Financial Condition Comparison, AWA and U.S. Air, on basis of SEC 10Q filing as of June 30, 2005). Moreover, the “analysis” of financial data presented by Local 542 in its Ex. K was based solely on the non-expert opinion of Local 542’s President; consequently, Arbitrator Harris ordered the opinion portion of Local 542’s Exhibit K stricken from the record. Tr. at 219-22.

one month after the merger agreement was executed, U.S. Air had almost four times the amount of cash on hand as did AWA (\$557 million - \$116 million), had an \$11 million advantage in net operating income for the quarter (\$41 million - \$30 million), had over twice the number of available seat miles (“ASMs”) (16.4 billion - 7.7 billion) and enjoyed significant advantages over AWA in Revenue/ASM (10.72¢ - 9.07¢) and Yield/Revenue Passenger Mile (14.11¢ - 10.25¢). Tr. 97-101; Local 545 Ex. 9 (Financial Condition Comparison, AWA and U.S. Air, June 30, 2005); see also Local 545 Exs. 1 and 10 (AWA’s SEC Form 10Q Report for Quarter Ending June 30, 2005).

Most directly relevant to the Dispatchers, U.S. Air brought to the merger a far more generous collective bargaining agreement, an agreement that will apply to the AWA Dispatchers as soon as the instant seniority integration arbitration is complete and other transitional details are negotiated with the carrier. Tr. at 104-06; Joint Ex. 3.⁷ As Local 542’s John Plowman admitted at the hearing, prior to the merger, the AWA Dispatchers were the lowest paid of all the major carriers’ Dispatchers and, in return for that dubious distinction, worked the highest number of annual hours. Tr. at 231. Under the U.S. Air collective bargaining agreement, AWA Dispatchers will work 133 fewer hours per year (and fewer hours per workday) yet make thousands upon thousands of dollars more over the remaining three years of the agreement’s term. Tr. at 106-08, 112-13; Local 545 Ex. 11 (Contract Comparison: East [U.S. Air] vs. West [AWA]); Ex. 12 (Calculation of Compensation Gain: West [AWA] Employees Moving to East [U.S. Air] CBA).

⁷ At the hearing, Local 542 correctly asserted that a transition agreement had not yet been reached to bring the AWA Dispatchers under the U.S. Air agreement. Tr. at 165-67. However, as demonstrated below, even a phased transition to the U.S. Air collective bargaining agreement by AWA Dispatchers would result in significant gains for the latter in compensation, benefits and working conditions.

When they come under the U.S. Air collective bargaining agreement, AWA Dispatchers will experience salary increases ranging from 16% for the senior-most Dispatchers to 52% for Dispatchers with seven years experience. Local 542 Ex. 12. The average AWA Dispatcher gains 36% in salary alone. Id.⁸ If AWA Dispatchers had come under the U.S. Air collective bargaining agreement on January 1, 2007, the AWA Dispatchers would have enjoyed base salary increases amounting to \$1,880,999 over the remaining life of the contract. Tr. at 121-23; Local 545 Ex. 12 at 2.⁹

In addition, AWA Dispatchers will, for the first time, be eligible for special select positions in the bargaining unit, so-called “Planning Unit” positions, that offer additional monthly compensation overrides of as much as \$300/month. Tr. at 37-47, 108-09; Local

⁸ The percentage compensation increases to be enjoyed by AWA Dispatchers are based on a comparison between the monthly amounts the AWA Dispatchers were scheduled to make as of April 1, 2007, under the AWA collective bargaining agreement and the monthly compensation for U.S. Air Dispatchers as of January 1, 2007, under the U.S. Air agreement. Because the scheduled AWA raises lag the U.S. Air raises by three months, the size of the AWA gains by coming to the U.S. Air collective bargaining agreement is actually understated. The comparison for each of the pay steps, expressed in terms of monthly compensation, is set forth below:

	<u>AWA (4/1/07)</u>	<u>U.S. Air (1/1/07)</u>	<u>% Increase</u>
Step 1	\$2761	\$3572	29%
Step 2	2931	3798	30%
Step 3	3106	4019	29%
Step 4	3253	4262	31%
Step 5	3404	4523	33%
Step 6	3520	4830	37%
Step 7	3638	5518	52%
Step 8	3789	5701	50%
Step 9	3940	5849	48%
Step 10	4115	6021	46%
Step 11	4313	6256	45%
Step 12	4548	6256	38%
Step 13	4774	6256	31%
Step 14	4987	6256	25%
Step 15	5377	6256	16%

Source: Local 545 Ex. 12.

⁹ Given the significant difference in compensation rates between U.S. Air and AWA, the fact that AWA Dispatchers will lose certain double time overtime pay opportunities will result in no real loss of compensation. Indeed, the time and a half provided under the U.S. Air agreement at U.S. Air pay rates significantly exceeds the value of double time at AWA rates. Tr. at 110-11.

545 Ex. 11 at 1; Joint Ex. 5 (U.S. Air Dispatcher Seniority List) at 4. While those positions, which were not part of the bargaining unit at AWA, require a minimum of three years experience as a Dispatcher, selection to them does not depend on seniority rank. Tr. at 38-39, 42-43. Thus AWA Dispatchers will be eligible for these special positions regardless of where they are placed on the integrated seniority list.¹⁰

On the pension side, AWA Dispatchers will, for the first time, participate in a profit sharing plan. Tr. at 116-17. Moreover, under the U.S. Air agreement, they will participate in a 401(k) Plan in which the company contributes an age-based percentage of a Dispatcher's total annual salary, including overtime and overrides, whether or not the Dispatcher makes any personal contribution to the plan. Tr. at 117-18. That benefit alone could be worth over \$400,000 to the AWA Dispatchers over the remaining life of the U.S. Air agreement. Tr. at 124-26; Local 545 Ex. 13 (Calculation of East [U.S. Air] 401k Benefit: For West [AWA] Employees Moving to East CBA).

Unlike their situation at AWA, where Dispatchers bid their schedules monthly, under the U.S. Air agreement, they will bid an entire year, thus giving the Dispatchers more control over their non-working time. Tr. at 115-16. Finally, under the U.S. Air agreement, the AWA Dispatchers will enjoy an earned compensation bank which affords them flexibility in their working lives and a sick leave bank in which they can accumulate 150 days (instead of the AWA maximum of 40), for which they can be paid upon leaving employment (instead of the situation at AWA, where no payout is available). Tr. at 108-09, 119.¹¹

¹⁰ The holders of Planning Unit positions bid for work schedules and vacations only against each other and not against line Dispatchers. Tr. at 48-49.

¹¹ At the hearing, Local 542 identified no tangible losses AWA Dispatchers would suffer by coming under the U.S. Air agreement. While the Local's spokesman identified health coverage as a potential

IV. PERTINENT POLICIES AND PRACTICES GOVERNING SENIORITY INTEGRATION

Any determination of a “fair and equitable” integration of the AWA and U.S. Air Dispatchers should take into account indications as to what the various parties and their similarly situated colleagues at U.S. Air and AWA have previously deemed “fair and equitable.” That evidence points strongly to date of hire as the “fair and equitable” method of choice.

On February 2, 2006, eight months before the arbitration hearing in this matter, the Transport Workers of America International duly adopted an “Airlines Merger Policy.” Tr. at 137; Local 545 Ex. 14 (Airlines Merger Policy). After declaring the International’s commitment to ensuring that employee groups are “merged in a fair and equitable manner,” the Policy indicates that date of hire integration is the way to achieve that end:

POLICY

- A. Seniority Lists should be dove-tailed based on date of hire into the class or craft, and should also take into consideration length of service within the class or craft.
- B. The relative seniority position of employees within one group should not be changed.

Local 545 Ex. 14.

Ironically, it was John Plowman, Local 542’s President and witness at the arbitration hearing, who proposed that the International adopt an airline merger policy in the first place. Tr. at 133-36; Local 545 Ex. 16 (2001 TWU International Convention

disadvantage, he introduced no evidence to substantiate that theory. Tr. 227-29, 267-69. On the contrary, all that Local 542 could offer on the subject of contract comparison was that, in the absence of the merger, the Local might have been able to renegotiate their agreement to make it more palatable to the Dispatchers. Tr. 230-32, 266-67. Any gains -- if there were to have been any -- the AWA Dispatchers may have been able to make as a result of those never convened negotiations, of course, are entirely speculative.

Transcript of Resolutions). While Mr. Plowman admitted that he triggered the effort to adopt such a Policy, admitted that the Policy entered into evidence at the hearing was in fact the Policy adopted by the International Union and admitted that the Policy expressly referenced the same Allegheny-Mohawk Sections 3 and 13 that govern this arbitration, Mr. Plowman argued for the inapplicability of the Policy, principally because he would now prefer that a different Policy had been adopted: “[W]hat I believe may be the appropriate policy is not contained in the International’s merger policy.” Tr. at 243, 245-47. Mr. Plowman’s personal preferences notwithstanding, it is undisputed that the International adopted a Policy that equates dovetailing/date of hire with “fair and equitable,” and Mr. Plowman conceded that under the TWU International Constitution, such decisions by the International override the policy preferences of individual local unions. Tr. at 248.¹²

At Local 545, integration by date of hire into the Dispatcher craft or class has been the unbroken rule for airline combinations ever since the Local came into existence. Tr. at 126-31. It has applied that rule whether those combinations have been true mergers or straight acquisitions, whether either of the carriers involved in the combination had been financially healthy or ailing and whether the entering group of Dispatchers brought significant amounts of seniority at their prior employers or not. Tr. at 129-32. In fact, so seriously does Local 545 take its date of hire integration rule that upon the merger of Piedmont Airlines with U.S. Air, Local 545 reached back to undo the endtailing of

¹² Local 542 also attempted to argue – without any supporting facts – that the Airlines Merger Policy is inapplicable because it was formally adopted subsequent to the approval of the U.S. Air/AWA merger. Tr. at 23 (Opening Statement of Local 542 Counsel). The Policy itself, however, makes no mention of any such limitation even though the TWU International was surely aware of the merger when it devised the Policy. And the Policy was indisputably adopted on February 2, 2006, a full eight months prior to this arbitration, the purpose of which is to determine a method of integrating the two seniority lists at issue.

Empire Dispatchers in the prior merger of Piedmont and Empire and, upon their entry into the U.S. Air workforce, accorded the Empire Dispatchers full recognition for their seniority accumulated at Empire. Tr. at 127-28. By contrast, Local 542 presented no evidence at the hearing to establish that it had any rule, policy or practice concerning seniority integration at AWA or elsewhere.¹³

Finally, it was established at the hearing that every other unionized group at either AWA or U.S. Air which has thus far addressed the issue has elected to combine seniority lists on the basis of date of hire. Tr. at 141-47.¹⁴ The Communications Workers of America and the International Brotherhood of Teamsters have agreed that the passenger service agents on both sides of the house “will have seniority integration on the basis of date-of-hire seniority” and that furlougees will reclaim their accumulated seniority upon recall. Tr. at 141-42, 144; Local 545 Ex. 18 (CWA.net, Airline Passenger Service Employee Information [Feb. 21, 2006]) at 1. The Association of Flight Attendants MECs at both AWA and U.S. Air determined that “DATE OF HIRE will prevail in the merger

¹³ At the hearing, Local 542 adverted only to the results of the Dispatcher seniority integration in connection with the American Airlines acquisition of TWA assets, which resulted in a modified endtail of TWA Dispatchers. Tr. at 239-42. What Local 542 did not mention, but which came out on cross-examination, was the fact that the case was largely determined by a modification of the American/Local 542 collective bargaining agreement subsequent to the closing of the corporate transaction. The modification, indicated by underscoring, is set forth below:

The integration of the seniority lists with the respective employee groups will be governed by the provisions of Sections 3 and 13 of Allegheny-Mohawk, 59 C.A.B. 22 (1972), provided that no employee on the [American] master seniority list will be adversely impacted in rates of pay, hours or working conditions by the integration.

Tr. at 249-51 (emphasis added); see also, Integration of Am. Airlines and Trans World Airlines Flight Dispatcher Seniority Lists at 2-4, 30-32 (Kasher, Arb., July 29, 2002) (“American/TWA”), attached hereto as Attachment 1. As Mr. Plowman admitted, the underscored language does not appear in the AWA collective bargaining agreement. Tr. at 251. The very fact that a contractual amendment agreed upon only after the American/TWA transaction could control the seniority integration indicates that there can be no impediment to applying the TWU International’s Airlines Merger Policy here even though the Policy was adopted after the U.S. Air/AWA merger.

¹⁴ The pilots have not yet made a determination on the subject.

of our seniority lists,” with furloughees to reclaim their full seniority upon recall. Tr. at 141, 147; Local 545 Ex. 20 (The AFA Newsletter for U.S. Airways Flight Attendants [October 20, 2005]) at 1. The International Association of Machinists is applying the same method. Tr. at 142-43. Finally, consistent with past practice, the TWU Locals representing flight crew training instructors and simulator engineers are also integrating their seniority lists by date of hire, including furloughees. Tr. 143-46; Local 545 Ex. 19 (October 18, 2006, email from William E. Gray, President, TWU Local 547, to Don Wright).

ARGUMENT

I. DATE OF HIRE SENIORITY INTEGRATION HAS LONG BEEN RECOGNIZED AS THE EPITOME OF “FAIR AND EQUITABLE”

As the courts have declared, the integration of seniority lists in a corporate merger by means of dovetailing, or date of hire, is not only a time honored method but an eminently fair and equitable method. For instance, the Supreme Court has opined that the method “is a familiar and frequently equitable solution to the inevitably conflicting interests which arise in the wake of a merger or an absorption.” Humphrey v. Moore, 375 U.S. 335, 347 (1964); see also Truck Drivers and Helpers, Local Union 568 v. N.L.R.B., 379 F.2d 137, 143 n.10 (D.C. Cir. 1967) (“experience has demonstrated it [dovetailing] generally to be an equitable and feasible solution”); Laturner v. Burlington Northern, Inc., 501 F.2d 593, 599 (9th Cir. 1974) (dovetailing is an “equitable arrangement”). Because dovetailing or date of hire integration “treat[s] service at either firm as of equal weight, without quotas or other preferences for either group of employees,” it actually “serves the interests of labor as a whole.” Rakestraw v. United Airlines, Inc., 981 F.2d 1524, 1533 (7th Cir. 1992). The validity of the method is not

diminished even in a situation where the combined seniority system arguably “disadvantage[s] the union members who ha[ve] been employed by the younger of the two consolidated companies.” De Boles v. Trans World Airlines, Inc., 552 F.2d 1005, 1014 (3rd Cir. 1992).

In this particular situation the case for dovetailing or date of hire integration is even more compelling because of the enunciated and demonstrated policy preferences of the TWU International, Local 545 and the other AWA and U.S. Air unions that have thus far addressed the issue in the context of this particular merger. See supra at 12-15. At the hearing, Local 542 disputed none of the above and did not even attempt to establish that the Local had a seniority integration policy or practice other than date of hire. On the contrary, the only integration example noted by Local 542 was the quasi-endtail method determined in the American/TWA acquisition, which turned largely on contractual language that modified the “fair and equitable” standard itself. See supra at 14 n.13.¹⁵

II. NONE OF THE FACTORS USED TO JUSTIFY DEPARTURE FROM DATE OF HIRE INTEGRATION IS PRESENT HERE

Given the fact that date of hire is the integration method of choice of the TWU International, Local 545 and the other non-pilot unions involved in the AWA/U.S. Air merger, a departure from that method would require a showing of some special justification for doing so. The American/TWA situation is an example of such special circumstances in that 1) the American collective bargaining agreement had been amended to add language modifying the “fair and equitable” standard, and 2) at the time of the

¹⁵ As Arbitrator Kasher put the matter, the newly added language in the American collective bargaining agreement effectively limited his jurisdiction in the case and made largely irrelevant prior merger cases brought to his attention. American/TWA at 32.

acquisition, American was financially healthy while TWA was “in financial extremis” and “was not going to survive.” American/TWA at 28, 32.

The contractual language in American/TWA, however, is not present here, and the vast imbalance in the financial conditions of the two carriers at issue that characterized the American/TWA combination simply does not exist. On the contrary, the combination in this case involves two carriers with essentially equivalent financial problems. Although U.S. Air was in Chapter 11 reorganization proceedings at the time of the agreement to merge, the carrier had taken drastic action during its period of bankruptcy to reduce its costs to a level whereby it was fit to survive. See supra at 6. As proof of that prospect, in the two fiscal quarters prior to the approval of the transaction by the Bankruptcy Court, U.S. Air had turned its negative net operating income to a strong positive. See supra at 6-7. And U.S. Air brought to the merger considerably more in terms of all the common measures used in airline combinations than did AWA. See supra at 8-11.

On the other hand, at the time of the merger, AWA had seen its cost structure advantage over legacy carriers like U.S. Air disappear; the carrier had also suffered net operating losses for four of the five preceding years and a sizeable net operating loss in the quarter immediately preceding the merger, yet had not effected any of the dramatic structural changes that U.S. Air had. See supra at 7-8. As a result, as AWA’s CEO admitted, AWA’s employees lacked long term job security and, without the merger or an equivalently dramatic move, AWA was itself headed to bankruptcy. See supra at 7-8. As AWA management further informed its employees in November 2005, the merger truly “saved” both carriers. Local 545 Ex. 5 at 5.

Without wide divergences in the financial conditions of the combining carriers (or a contractual poison pill such as American's), there can be no justification for deviating from date of hire integration. As a case in point, one need only turn to Arbitrator David H. Stowe's December 17, 1981, Opinion and Award in Integration of Pan American and National Airlines Mechanics and Ground Service Employees Seniority Lists, No. 33282, Order 79-12-164, slip op. (Civ. Aeronautics Bd., Stowe, Arb., Sept. 15, 1980) ("Pan Am/National"), attached hereto as Attachment 2.

In that case a group of National mechanics challenged a decision by the Transport Workers Union of America, representing Pan Am employees, and the International Association of Machinists, representing National employees, to merge the seniority lists of the two employee groups by date of hire. Id. at 3-4. The challenge was arbitrated pursuant to the same Sections 3 and 13 of the CAB Labor Protective Provisions, with the same "fair and equitable" standard, applicable here. Id. at 4. The challengers sought instead a "ratio-rank" integration method based on the proportion of the pre-merger employee complements of the two carriers in an effort to neutralize the fact that Pan Am employees had, on average, five years more seniority than the National employees. Id. at 4, 9-10. The challengers justified their proposal on their contention that, while National had been "a consistently profitable airline," giving National employees "excellent" career prospects, Pan Am's financial condition had been steadily eroding, giving the Pan Am employees "poor" future employment prospects. Id. at 10.

In addition to arguing the financial prospects of Pan Am, TWU, which would represent the combined group post-merger, argued, inter alia, that in the proposed date of hire integration, National employees actually received more seniority than they had had

at National because they were to be accorded their actual dates of hire rather than their “classification” dates, the method used at National. Id. at 12. TWU also established that, in coming under the Pan Am collective bargaining agreement, the National employees made gains in compensation and that its integration method carried conditions and restrictions that protected active National employees from displacement by more senior Pan Am furlougees. Id. Finally, TWU declared that it had long been a practice to merge mechanics and ground service personnel seniority lists by date of hire, and date of hire itself had been the “time-honored concept governing seniority in collective bargaining agreements” -- a “basic right” to which all employees are entitled. Id. at 13.

Having reviewed the considerable financial data presented, Arbitrator Stowe could find nothing to indicate that either carrier “was on the brink of disaster or that either brought substantially more to this merger [in the way of financial strength] than the other.” Id. at 18. Instead, he found that the merger would enhance the employment prospects of both groups. Id. at 18-19. Accordingly, the Arbitrator concluded that there was “no compelling reason to credit greater weight to the economic claims of one group over the other in the matter of merging the seniority lists.” Id. at 19.

In analyzing the ratio-rank methodology proposed by the National employee group, the Arbitrator made note of the sizeable gains in seniority relative to Pan Am employees the method would produce for National employees “while in practical effect completely ignoring length of service, the very heart of the seniority concept.” Id. at 27-29. The Arbitrator also noted that the ratio-rank method had been used primarily in pilot and flight attendant integrations because of the complexities of rank/status, routes, equipment and domicile. Id. at 32-33. Because these special circumstances were not

relevant to the work of mechanics and ground service personnel, the method was not commonly used in merging the latter; instead, date of hire integration had been “the traditional method.” Id.

The Arbitrator also found it significant that date of hire had been the method used to integrate the two carriers’ stores’ personnel, as well as their office, clerical and station employees -- groups represented, variously, by the IAM, the ALEA and the IBT. Id. at 33. As the Arbitrator reasoned, “to now confer greater seniority advantages to other former IAM and ALEA members on National, without compelling reasons to do so, would raise serious question of unequal treatment.” Id. at 34. Finally, the Arbitrator found it significant that the IAM, which represented most of the employees concerned, favored “a method which gives full credit for those years of service which were spent in the trade with the merged companies.” Id. at 34, quoting a letter from IAM’s General Vice-President.

Having considered the pertinent facts and circumstances, Arbitrator Stowe concluded as follows:

From the early days of the labor movement the basic principle of seniority has been that the employees with the greatest length of service should hold competitive rights over employees with less length of service. The ratio-rank method, when applied to the circumstances of this case, yields a decided advantage to former National employees while disadvantaging former Pan Am employees. In the opinion of the Arbitrator, the ratio-rank method, when applied in the manner proposed by the MLAC, affords an unacceptable importance to the maintenance of relative rank without any compensating recognition to length of continuous service. It provides a substantial windfall to most of the former National employees simply by virtue of the fact that they were employed by National rather than by Pan Am, while at the same time, completely ignoring the greater length of service of former Pan Am employees. I find, therefore, that the proposed ratio-rank method for merging the seniority lists, under the particular circumstances of this case, does not yield a result which is fair and equitable.

For the reasons set forth in this discussion I conclude that the date of hire method for integrating the seniority lists for Mechanics and Ground Service employees more nearly satisfies the “fair and equitable manner” criterion set forth in the Labor Protective Provisions.

Id. at 35-36.

III. THE LOCAL 545 INTEGRATION PROPOSAL IS BOTH FAIR AND EQUITABLE

The instant case has all of the ingredients that justified the application of date of hire integration in the Pan Am/National arbitration. First, because this case involves Flight Dispatchers, it has none of the issues of rank/status, route, equipment or domicile that complicate pilot integrations. Second, the two combining carriers do not present financial profiles significantly different from each other. Although one (U.S. Air) is a decidedly older enterprise and its employees therefore relatively more senior than those of the younger (AWA), the combined employee group will be covered by the older carrier’s collective bargaining agreement; as a result, the younger group here will enjoy significant improvements -- far more so than in the Pan Am/National situation -- in compensation, benefits and working conditions. See supra at 9-11.

As was the case in Pan Am/National, Local 545 has proposed to give the AWA Dispatchers their full seniority based on their actual dates of hire instead of the more limited classification based seniority with which they were credited under the AWA collective bargaining agreement. See supra at 2 n.2. As a result, all Dispatchers, regardless of pre-merger employer, are to be treated the same for purposes of calculating seniority.¹⁶ As was the case in Pan Am/National, and notwithstanding the actual

¹⁶ Although Local 542 attempted to argue that Local 545’s proposal violated the TWU Airlines Merger Policy by failing to protect the relative seniority of AWA Dispatchers, that is decidedly not the case. Tr. at 171-72. On the contrary, under Local 545’s proposal, no AWA Dispatcher changes his or her

seniority order produced by the date of hire method, Local 545 also proposes to protect AWA Dispatchers against displacement by more senior U.S. Air furlougees. Local 545's proposal goes even further because it also protects AWA Dispatchers against displacement by more senior, active U.S. Air Dispatchers. See supra at 2. Finally, as in the Pan Am/National case, the union representing both employee groups (TWU International) and the particular affiliate that will represent the combined workforce (Local 545) have a policy and longstanding practice, respectively, favoring date of hire integration. See supra at 12-14.

But the Local 545 proposal offers the AWA Dispatchers additional advantages not available to the employees of the younger carrier in the Pan Am/National merger. Because the U.S. Air Dispatcher bargaining unit encompasses special "Planning Unit" positions that were not part of the AWA unit, AWA Dispatchers will for the first time have an opportunity to compete for these positions, along with their compensation overrides, and to do so wholly without reference to their relative seniority. See supra at 10-11. Even though AWA Dispatchers had no pre-merger expectations of achieving those positions, Local 545 proposes no fence to prevent the AWA Dispatchers from competing for them. Moreover, because these special positions have their own, separate bidding system that does not compete with that of the line Dispatchers, the AWA Dispatchers actually have, as a practical matter, more biddable seniority than may appear from the proposed integrated seniority list. See supra at 11 n.10.

ranking relative to any other AWA Dispatcher. Id.; see also Local 545 Ex. 17, Ex. D. In other words, in Local 545's proposal, the most senior AWA Dispatcher remains the most senior AWA Dispatcher, the second most senior remains second and so on. Id.

For instance, as established at the hearing, based on Local 545's proposed date of hire method, the most senior AWA Dispatcher, Brenda Cozzens (DOH 1/2/85), would rank 39th on the combined seniority list. Local 545 Ex. 17 at Ex. D, p.1. However, because no fewer than 16 of the Dispatchers more senior to Ms. Cozzens on the combined list hold Planning Unit positions, Ms. Cozzens would rank 23rd in actual bidding seniority, behind only those with dates of hire anywhere from four months to eight years earlier than hers. Id. The AWA Dispatchers junior to Ms. Cozzens will enjoy similar advantages in actual bidding power over their apparent placement on the combined list. Id.

Although the conditions and restrictions of Local 545's proposal protect the AWA Dispatchers against displacement by more senior U.S. Air furloughees (and more senior active U.S. Air Dispatchers as well), it is true that the relatively short tenures of some AWA Dispatchers could conceivably present them with certain difficulties in the long run. For instance, based on Local 545's conditions and restrictions, in the event of a recall of U.S. Air furloughees, no AWA Dispatcher may be displaced. But in the event of such recall and a subsequent reduction in force and furlough, the more junior Dispatchers based on date of hire will be furloughed first and, in the event of a later recall, recalled last.

Nothing about that prospect, however, is either unfair or inequitable. That risk is not even a function of Local 545's proposal but is rooted in the very nature of a system based on longevity of employment: "the time-honored concept for seniority in collective bargaining agreements." Pan Am/National at 13. Certainly none of the AWA Dispatchers had any expectation that they would somehow be exempt from these rules

because the AWA collective bargaining agreement also enshrines the notion that the least senior Dispatchers are furloughed first and recalled last. Joint Ex. 2 at 14-1 (Section 14(D), (I)). At this point in time, moreover, the “risk” at issue is purely theoretical, requiring first a recall of furloughed Dispatchers and, at some hypothetical point thereafter, a reduction in force.

Finally, and perhaps most importantly, because the U.S. Air Dispatcher group is more senior collectively than the AWA group, it is logical to assume that there will be more attrition in the upcoming years from the U.S. Air group than the AWA group. Such attrition as a matter of course limits the number of available Dispatchers and thereby reduces the need for or likelihood of furloughs in the first place. At the same time, it reduces the number of the most senior U.S. Air Dispatchers, thereby automatically improving the relative seniority standing of the AWA Dispatchers.

In sum, the risk to AWA Dispatchers associated with the hypothetical recall/subsequent furlough scenario is not at all unfair or inequitable in a system which operates on the principle of length of service. Moreover, the very superiority in relative seniority that would tend to favor U.S. Air Dispatchers in the recall/subsequent furlough scenario itself would operate to lessen the risk that the scenario would ever come to be. In short, even with this facet of the Local 545 proposal, the proposal is eminently fair and equitable to all Dispatchers.

IV. THE LOCAL 542 PROPOSAL IS ANYTHING BUT FAIR OR EQUITABLE

The same cannot be said of the integration method proposed by Local 542. First, as Local 542 President Plowman admitted at the hearing, the ratio proposal is based on a thoroughly artificial mathematical formula, entirely unrelated to any measure of the two

carriers' financial conditions. Tr. at 277-78. Second, the formula pretends that the U.S. Air furlougees and their accumulated seniority simply do not exist -- even though the U.S. Air collective bargaining agreement, which will govern the employment of all AWA and U.S. Air employees, expressly protects the employment rights and seniority of furlougees for a period of ten years after furlough. Tr. at 269-71.¹⁷

Third, the resulting integrated seniority list is decidedly unfair and inequitable to U.S. Air Dispatchers and gives the AWA Dispatchers, who will already benefit significantly simply by coming under the terms of the U. S. Air collective bargaining agreement, an enormous windfall. For instance, based on the Local 542 proposal, the senior-most AWA Dispatcher, Brenda Cozzens, would rank above a U.S. Air Dispatcher with almost six years more seniority. Tr. at 273; Local 542 Ex. J at 2. Other AWA Dispatchers near the top of the proposed list make similar gains and when one reaches AWA Dispatcher Sandra Sanford (DOH 1/21/03), the gain in seniority reaches a staggering 14 years. Tr. at 273-74; Local 542 Ex. J at 5. Current AWA Dispatcher Wendy Auer presents an even more egregious case because she is also a U.S. Air furlougee. Unlike the other U.S. Air furlougees, who are effectively accorded no seniority credit for their work under the Local 542 proposal, under Local 542's proposal Ms. Auer receives a 14 year bonus over her actual accumulated AWA seniority (1/21/03). Tr. at 274; Ex. J at 5. Her placement also effectively gives her a ten year seniority bonus over her actual accumulated U.S. Air seniority (DOH 4/12/99). Id.

The fundamental unfairness and inequity of the Local 542 proposal reaches its apogee in the case of the junior-most AWA Dispatcher, Alejandro Reyes. Although Mr.

¹⁷ The AWA collective bargaining agreement also preserves the seniority of Dispatchers on furlough. Tr. at 275.

Reyes did not begin work as an AWA Dispatcher until November 14, 2005, a full six months after the May 19, 2005, merger agreement was executed and a month and a half after the September 27, 2005, merger was approved, see supra at 4-5, Mr. Reyes wins placement on the Local 542 list superior to every single furloughed U.S. Air Dispatcher, who have actual seniority extending back to July 1998. Tr. at 276-77; Local 542 Ex. J at 5. In other words, while Mr. Reyes came to AWA with full knowledge of the merger and full knowledge that his seniority position in a merged workforce would be subject to the combination of the two seniority lists, Local 542's proposal pretends that these fundamental facts simply do not exist.¹⁸

In the final accounting, as Mr. Plowman admitted, the Local 542 proposal is based on an utter fiction -- the notion that AWA "brought more to the table than U.S. Airways did." Tr. at 278. Even Mr. Plowman, however, was forthright enough to admit that the proposal would be fatally flawed if this fundamental assumption were incorrect. Tr. at 279. As demonstrated above, it can hardly be denied that U.S. Air brought far more to the merger than AWA -- in the form of aircraft, ASMs, cash on hand and any other measure generally used to gauge such contributions in integration cases. See supra at 8-9.¹⁹

The fatally flawed logic that animates the Local 542 proposal seems to derive from the Local's reliance on the seniority integration methodology applied by Arbitrator

¹⁸ The Local 545 proposal does not penalize Mr. Reyes for his late arrival. Although the proposal accords him his actual seniority, its conditions and restrictions protect him against displacement by more senior furlougees and even active Dispatchers.

¹⁹ The only measure Mr. Plowman could point to that favored AWA was the fact that AW Holdings shareholders received stock in the combined carrier while U.S. Air Group shareholders received none. Tr. at 278-79. The amount of stock shareholders received in the transaction, however, is hardly a measure of what the two carriers "brought" to the combined entity that would be of any consequence to the employment prospects of Dispatchers.

Kasher in the American/TWA case. See Tr. at 239-42. In that case, TWA Dispatchers were accorded only 25% of their occupational seniority. Tr. at 242. Evidently, Local 542 desires a similar result in this case -- for U.S. Air Dispatchers.²⁰

The American/TWA merger and the resulting Dispatcher integration is inapposite here for several reasons. See supra at 14 n.13, 17. But in one sense, the American/TWA situation is instructive because, even in the face of the mammoth financial differences between the two carriers and the protective provisions in the American collective bargaining agreement, Arbitrator Kasher found that fairness and equity required that TWA Dispatchers be given some seniority credit for TWA's contribution to the combined carrier. The chief measure Arbitrator Kasher used to concretize that contribution was comparative ASMs brought to the combined entity by TWA. American/TWA at 28-30.

Applying a similar method to the U.S. Air/AWA merger produces a result that should be cautionary to Local 542. Given that U.S. Air brought to this merger 16.4 billion ASMs and AWA 7.7 billion, see supra at 9, AWA's comparative ASM contribution to the merged company was 32%. If one were to apply the American/TWA model to this case, AWA Dispatchers would receive 32% of their accumulated seniority in the integration. The effects of such approach can be gauged by reference to AWA's senior-most Dispatcher, Brenda Cozzens. If one takes June 5, 2006, the date of the NMB's single employer decision, as the trigger date for the integration of the two lists (as

²⁰ Local 542 also attempted to use the American/TWA example as a basis for arguing here against the applicability of the TWU International's Airlines Merger Policy. Tr. at 242-43. There can be no logical basis for that position. The American/TWA transaction took place in April 2001, Tr. at 249, and Arbitrator Kasher issued his Award in American/TWA on July 29, 2002. The Airlines Merger Policy was adopted on February 2, 2006. See Local 545 Ex. 14. Thus, to the extent that the American/TWA method constituted some sort of precedent, the TWU International, which presumably knew of that decision well before 2006, decided not to treat it as binding and, instead, enunciated a preference for a different method in the Policy.

Local 542 seems to prefer, Tr. at 23), Ms. Cozzens had at that time, with her January 2, 1985, date of hire, approximately 21 years and 5 months of accumulated seniority, or 257 months. Crediting her with 32% of that total for integration purposes leaves her with 82 months of integration seniority or 6 years and 10 months. Measured back from June 5, 2006, that gives her an integration seniority date of August 5, 1999. That seniority date would place her behind every single active U.S. Air Dispatcher and also all but five of the U. S. Air furlougees. See Joint Ex. 5. As a matter of pure mathematics, the less senior AWA Dispatchers would all fall still lower on the combined list.

If, then, one were to use the American/TWA integration for guidance, the result would have dire consequences for the AWA Dispatchers. Although there is precedent for doing so, Local 545 has no desire to push the envelope of “fair and equitable” to this extreme. On the contrary, it seeks to eschew elaborate and artificial models altogether and rest on the simple notion that every Dispatcher -- every Dispatcher -- in the combined unit is entitled to his or her full seniority at his or her pre-merger employer and not to some contrived seniority bonus, even if that bonus were to favor the U.S. Air Dispatchers. Based on the entire record in this case, Local 545’s proposal is the truly fair and equitable method for combining the U.S. Air and AWA Dispatcher seniority lists.

CONCLUSION

For the reasons set forth above, Local 545 respectfully submits, its seniority integration proposal is fair and equitable and should be adopted as the method by which to combine the two Dispatcher seniority lists at issue in this case.

Respectfully submitted,

/s/

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