UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CWA-IBT PASSENGER SERVICE EMPLOYEE ASSOCIATION, 501 Third Street, NW Washington, DC 20001 Plaintiff v. AMERICAN AIRLINES, INC., 4255 Amon Carter Blvd Fort Worth, TX 76155 Defendant	Civil Action No.:

COMPLAINT TO VACATE ARBITRATION AWARD

Plaintiff, a labor organization, brings this action under Section 204 of the Railway Labor Act ("RLA"), as amended, 45 U.S.C. § 184, to vacate an arbitration award in favor of Defendant, American Airlines, Inc., which employs Plaintiff's members. Vacation of the arbitration award is necessary because the award exceeded the arbitration panel's authority by attempting to resolve questions that the RLA reserves exclusively for the National Mediation Board, an independent federal agency, and because the award found Plaintiff has effectively waived statutory rights of approximately 500 employees it does not currently represent.

THE PARTIES

1. The CWA-IBT Passenger Service Employee Association ("the Association") is a labor organization and is a "representative" within the meaning of Section 1, Sixth of the RLA, 45 U.S.C. § 151, Sixth. It is the exclusive collective bargaining representative of all employees the NMB has deemed to be within the Passenger Service craft or class.

2. American Airlines, Inc. ("American") is a Delaware corporation, headquartered in Fort Worth, Texas, that provides scheduled passenger air transportation throughout and outside the United States. American is a "carrier" within the meaning of Section 1, First of the RLA, 45 U.S.C. §§ 151, First and 181.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1337.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c), and 45 U.S.C. § 153(p) and (q) because the Association is headquartered in this district, the operative arbitration took place in this district, Defendant is found in, has agents in, and transacts affairs in this district, and a related proceeding discussed herein has been instituted with the National Mediation Board which is in this district.

BACKGROUND OF THE DISPUTE

I. The Railway Labor Act.

5. Labor relations in the airline industry are governed by the Railway Labor Act ("RLA" or "the Statute").

6. The RLA clearly delineates which disputes fall within the jurisdiction of three different legal forums— the National Mediation Board, the federal agency that administers the RLA and oversees labor relations in the railway and airline industries; arbitration panels known as Adjustment Boards; and the federal courts.

7. Representation disputes concerning the selection of employee bargaining representatives are within the exclusive jurisdiction of the National Mediation Board (the "NMB" or "Board"). The NMB has the duty to investigate representation disputes and shall designate who may participate as eligible voters in the event a representation election is required.

8. Employees covered by the RLA have "the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purposes of this chapter." RLA at Section 2, Fourth; 45 U.S.C. § 152, Fourth.

9. Bargaining units under the RLA are organized by "crafts or classes." Unlike under the National Labor Relations Act ("NLRA") where the National Labor Relations Board ("NLRB") has the discretion to approve "appropriate bargaining units," the NMB recognizes craft or class lines that have historically developed in the industry, such as pilots, flight attendants, mechanics and related, passenger service, and others.

10. Bargaining units under the RLA are established on a "system-wide" or "nation-wide" basis. Thus, all employees at a carrier within an established craft or class comprise a single bargaining unit.

11. The NMB has established practices and procedures for investigating and resolving representation disputes.

12. Upon receipt of an application for investigation of a representation dispute, the NMB will review it to determine whether the group of employees for whom representation is sought constitutes a recognized craft or class. The NMB's Representation Manual states that, "In craft or class determinations, the NMB considers many factors, including the composition and relative permanency of employee groupings along craft or class lines; the functions, duties, and responsibilities of the employees; the general nature of their work; and the extent of community of interest existing between job classifications. Previous decisions of the NMB are also taken into account." NMB Representation Manual at Section 9.1. The NMB has developed sets of

criteria specific to each craft or class to determine to which bargaining unit employees who perform certain duties belong.

13. As a matter of practice, the Board seeks to avoid the fragmentation of crafts or classes. Thus for example, the Board would not find that separate groups of mechanics and related employees at the same airline constitute separate bargaining units.

14. "Accretion" occurs within the context of representation disputes where previously unrepresented employees are found to be part of an existing class or craft.

15. The accretion process is initiated either by the union which represents a craft or class or by employees who wish to be recognized as part of an existing craft or class. The NMB commences investigation of an accretion application upon a finding that more than 50% of employees in a classification have signed authorization cards designating the incumbent union as their exclusive bargaining representative.

16. Disputes "arising out of grievances or out of the interpretation or application of agreements" must be resolved through a grievance process culminating in arbitration before an Adjustment Board. The Adjustment Boards, often known as "System Boards of Adjustment," consist of equal numbers of Company and Union representatives and are chaired by a neutral arbitrator appointed pursuant to the parties' agreement.

II. The History of Union Representation of Passenger Service Employees Now Employed By American.

17. The Communication Workers of America ("CWA") represented the Passenger Service employees at US Airways, Inc. ("US Airways") beginning in 1999 when the NMB certified CWA as the bargaining representative. The first Collective Bargaining Agreement ("CBA") between the parties was ratified in 1999, and became amendable in 2005. In January 2005,

CWA entered into an amended Collective Bargaining Agreement ("2005 CBA") with US Airways covering these employees.

18. The International Brotherhood of Teamsters ("IBT") represented the Passenger Service employees at America West Airlines ("America West") prior to the 2005 merger of America West and US Airways.

19. In 2005, US Airways and America West merged. At that time, CWA and IBT formed the Airline Customer Service Employee Association (subsequently renamed the CWA-IBT Passenger Service Employee Association) ("the Association") to represent passenger service employees at the merged carrier, which continued to be called US Airways. At the time of the merger, the Association negotiated with the merged US Airways a Transition Agreement amending the 2005 CBA.

20. In April 2006, the NMB certified the Association as the representative of all Passenger Service employees at the merged US Airways.

21. In 2012, CWA filed an application to represent the Passenger Service employees at pre-merger American Airlines, who were then unrepresented. In the ensuing election, the employees elected to remain without representation.

22. On December 9, 2013, American announced that it would merge with US Airways.

23. In 2014, a representation election supervised by the NMB was held among the Passenger Service employees of the merged American. In that election, the Passenger Service employees of the post-merger American Airlines elected to be represented by the Association. The NMB certified the Association as the representative of the post-merger American Passenger Service Employees on September 17, 2014.

24. The Association and American negotiated a Joint Collective Bargaining Agreement

("JCBA") from December 2014 until September 2015, using the 2005 CBA as a baseline. The JCBA was ratified by the membership and became effective December 1, 2015.

III. The American Passenger Service Employees Craft or Class.

25. The bargaining unit at American, known as the Passenger Service "craft or class," consists of approximately 12,000 employees in the following employee groups: the customer service group, the customer assistance group, the premium customer services group, the travel center group, and the reservation group. Each group is further subdivided into other classifications. All groups within the Passenger Service craft or class are distinguished by their focus on the airline's passengers and other customers.

26. The employee group and classifications at issue here have not been recognized by the NMB as part of the American Passenger Service craft or class. These employee groups are the Central Baggage Resolution Office ("CBRO") Representatives (approximately 180 employees, most of whom work in Tempe, Arizona, and thirty-two of whom work in the Dallas-Fort Worth, Texas area), Customer Relations ("CR") Representatives (approximately 330, roughly 200 of whom work in Tempe, Arizona, and 100 of whom work in Winston-Salem, North Carolina), and System Support Center ("SSC") Representatives (approximately 70, who work in Phoenix, Arizona).

27. These employee groups have varying histories of inclusion or attempts at inclusion in the Passenger Service craft or class at the various component airlines and at post-merger American. In any case, the only appropriate manner for determining whether they are included in the Passenger Service craft or class is via an "accretion" application filed with the NMB by the Association or by employees themselves.

28. The Association was aware of the CBRO, CR, and SSC classifications at the time of the representation election in 2014, but did not seek their inclusion because it did not have enough information about the duties they performed. Following the merger of American and US Airways, the CBRO, CR, and SSC representatives' interest in unionization increased. The merged airline's organization of those departments and those employees' duties appear to have changed substantially following the merger.

29. During negotiation of the JCBA, the Association gained more information about the work presently performed by the CBRO representatives and concluded they should be included in the Passenger Service craft or class. When negotiating "Article 4 – Groups/ Classifications," which lists which work groups are covered by the JCBA and what work is protected (ie., exclusive to Association-represented employees), the Association proposed that the CBRO representatives be admitted to the bargaining unit pursuant to voluntary recognition and that their work be protected under Article 4. The employer rejected this proposal. The Association eventually dropped its demand for voluntary recognition of the CBRO group and Article 4 protection of their work. The Association did not raise the issue of SSCs or CRs during bargaining.

30. Once bargaining was complete, the Association turned its attention to seeking accretion of the CBRO, CR, and SSC representatives through formal NMB procedures.

IV. American's Grievance

31. The Company filed a grievance objecting to the Association's accretion efforts on February 15, 2016. In its grievance, the Company asserted that the Association was violating the parties' agreement by soliciting "authorization cards for the stated goal of seeking an order from the NMB accreting these employees into the Passenger Service Group." The Company sought "a declaratory judgment from the Board that that the Association is violating the parties'

agreement and also a cease and desist order prohibiting the Association from seeking to accrete these employees until and unless the CBA is changed on this issue pursuant to Section 6 of the RLA."

32. A hearing on the matter was held before the parties' System Board of Adjustment chaired by Arbitrator Stanley H. Sergent on May 11 and 12, 2016.

33. At arbitration and in its post-hearing brief, the Association contended that the Company's grievance was not arbitrable. The Association argued that the accretion question is a representation dispute within the exclusive jurisdiction of the NMB and that the relief sought by the grievance would exceed the System Board's jurisdiction under the JCBA. Further, the Association argued that the grievance asks the Board for relief not contemplated by the JCBA. The Association also argued that an arbitration award concerning the accretion of the CBRO, CR, and SSC representatives would violate the rights of the Association under the RLA by finding that it had waived statutory rights of unrepresented employees although it clearly had not. (The Association offered other arguments addressing the merits of the grievance not detailed here.)

34. On May 31, 2016, the Association filed an accretion application with the NMB covering the CBRO and SSC Representatives. The NMB ordered American to provide information about the employees potentially to be accreted as part of its investigation. The parties agreed to stay the Board's investigation, including the carrier's response, until August 8, 2016. On August 5, the parties agreed to stay the carrier's response until August 18, 2016.

35. On August 3, 2016, Arbitrator Sergent issued an award purporting to sustain American's grievance. (Attached as "Exhibit A.")

36. In an e-mail sent on August 4, 2016, the Association Board Member requested that the Board convene for an executive session to discuss the Association's concerns with the Award.

37. That same day, the Company Board Member objected, opining that the Board's authority over this dispute had expired under the doctrine of *functus officio*.

38. On Saturday, August 6, Arbitrator Sergent declined to reconvene the Board.

V. The Sergent Award Usurped the Jurisdiction of the NMB.

39. In his analysis, Arbitrator Sergent wrongly conflated two separate issues- the question of the composition of the bargaining unit (a question reserved by statute for the NMB) and the question of what work groups are covered by and what work is protected under the JCBA (a question of contract interpretation properly reserved for an arbitration panel).

40. JCBA Article 4 – Groups/ Classifications outlines which work groups are covered by the JCBA and what work is protected (ie., exclusive to Association-represented employees). The Award correctly noted that the parties bargained over that language. Although the Association proposed that the CBRO representatives be admitted to the bargaining unit through voluntary recognition and that their work be protected under Article 4, the Award found that the Association eventually dropped its proposal.

41. Any question of whether CBRO, SSC, or CR employees are covered by the JCBA would be within the jurisdiction of the arbitrator, as would any question as to whether their work is protected by the JCBA. But the JCBA does not address whether the CBRO's, SSC's, or CR's may seek representation by the Association as Passenger Service Employees, or whether, having sought such representation, they are properly within the Passenger Service Employee craft or class as the NMB has defined it. That is a representation question that the RLA exclusively reserves for the NMB.

42. Arbitrator Sergent ruled that the CBRO, SSC, and CR work was not protected in Article 4, and that American had the right to contact it out. Having made this determination (which the Association does not challenge here), the Arbitrator then usurped the NMB's jurisdiction and ruled that those employees were barred by Article 4 from even seeking representation.

43. In so doing, Arbitrator Sergent exceeded his jurisdiction and failed to comply with the RLA.

VI. The Sergent Award Violated the Association's Rights Under the RLA.

44. Without citation, Arbitrator Sergent stated that, "as a matter of Federal Labor Law, a Union's agreement not to seek accretion is enforceable." Then he found that the Association had "*tacitly* agreed that it would not pursue an accretion" and that this "bargain… must be enforced."

45. Although the Association abandoned its contract proposals concerning the CBRO employees and their work, it never agreed, tacitly or otherwise, that it would not seek accretion of those employees in the future through formal NMB procedures.

46. Moreover, Arbitrator Sergent is wrong as to the law's requirements for the waiver of a statutory right to organize. Any agreement by a labor organization not to seek an accretion with respect to unrepresented employees must be express. Thus, under settled law, the alleged "tacit" agreement did not constitute an enforceable waiver of the Association's right to seek an accretion.

47 Although American argued at arbitration that there had been an express agreement that the Association would not seek accretion of the CBRO representatives in the future, Arbitrator Sergent did not find an express agreement, merely a tacit one.

48. The damage caused by the arbitrator's unlawful ruling extends indefinitely. Under the NLRA, for example, an express waiver of the right to represent a group of employees would

expire when the collective bargaining agreement containing the waiver expires. Under the RLA, however, collective bargaining agreements become "amendable" but do not expire, meaning that a "tacit" term read into an agreement has no set expiration date and may extend indefinitely.

49. By finding that the Association bargained away its right to ever seek accretion of American's CBRO, SSC, and CR employees through a tacit agreement, Arbitrator Sergent failed to comply with the RLA and violated the rights of the Association under the RLA, and the rights of the affected employees who are now doomed to perpetual exclusion from the Passenger Service craft or class.

VII. The NMB is the Proper Forum for the Dispute as to Accretion.

50. American's arguments as to whether or not accretion is appropriate may be made before the NMB.

51. In the process of determining whether employees are members of the Passenger Service craft or class, the NMB looks to the type of work they perform. The Board has fashioned a twelve-factor test that focuses on types of work that place one into this craft or class. Among other duties, passenger service duties include assisting passengers in resolving a variety of service difficulties including flight irregularities and lost or damaged baggage.

52. In the course of investigation, both the Association and American Airlines would be asked for information about the classifications in question and for their views about how the NMB should resolve the matter.

53. Likewise, the Association would have the opportunity to present its evidence that these employees regularly engage in customer contact, traditional duties of the Passenger Service craft or class, and that circumstances and Company organization have changed so that these groups should now be included in the Passenger Service group.

54. NMB investigators would then investigate these claims and make a determination as to whether the CBRO's and SSC's are properly part of the Passenger Service craft or class at American.

55. If the NMB were to find that the groups in question are members of the Passenger Service craft or class, the CBRO's and SSC's would be part of the Passenger Service craft or class represented by the Association. However, they would not automatically have the protections of the existing JCBA nor status quo protections. The Association would have the opportunity to bargain collectively with American on their behalf. Thus, the fact that their work is not included in Article 4 is clearly irrelevant to the question of whether they may organize and bargain collectively.

CAUSE OF ACTION

56. The Association incorporates by reference each and every allegation contained in paragraphs 1 through 55 of this Complaint.

57. The Award is invalid and unenforceable under the RLA, because it fails to comply with the requirements of the RLA.

58. The Award is invalid and unenforceable under the RLA, because it fails to conform, or confine itself, to matters within the scope of the System Board's jurisdiction.

59. The Award is invalid and unenforceable under the RLA, because it exceeds the arbitrator's authority.

60. The Award is invalid and unenforceable because it usurps the authority of the National Mediation Board to determine the composition of a craft or class, in violation of the Railway Labor Act.

61. The Award is invalid and unenforceable under the RLA, because it violates federal labor law.

62. The Award is invalid and unenforceable because it does not draw its essence from the CBA, but rather invents a waiver nowhere expressed in the agreement and contrary to legal authority, which protects statutory rights unless expressly waived.

63. The Award is invalid and unenforceable because it reflects the Arbitrator's own notion of industrial justice, formed by considerations which are outside of the terms of the CBA and the practices of the parties thereunder.

REQUEST FOR RELIEF

Wherefore, the Association requests judgment and relief from this Court as follows:

1. That Sergent's August 3, 2016 Award be vacated, or alternatively, be declared null and void; and

2. Such other, further relief as this Court deems just and proper.

Dated: August 11, 2016

Respectfully submitted,

Deirdre Hamilton (DC bar number 472334)
Nicolas M. Manicone (DC bar number 461172)
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001
Ph: (202) 624-7470
Fax: (202) 624-6884
nmanicone@teamster.org
dhamilton@teamster.org

EXHIBIT A
to Plaintiff's Complaint

OPINION AND AWARD

BEFORE THE AMERICAN AIRLINES, INC. SYSTEM BOARD OF ADJUSTMENT, GENERAL BOARD

IN THE MATTER OF ARBITRATION

BETWEEN;

AMERICAN AIRLINES, INC.

and

CWA / IBT Association

Employer Grievance
regarding accretion issues
Date of Hearings: 5/11-12/16
Briefs Received: 7/5/16
Date of Decision: 8/3/16

SYSTEM BOARD MEMBERS

Union Board Member
Marge Krueger

Company Board Member
Paul Jones

Neutral Chairman
Stanley H. Sergent

APPEARANCES:

For The Company:

Chris Hollinger, Esq.
Lindsey R. Love, Esq.
O'Melveny & Myers, LLP
2 Embarcadero Center
San Francisco, CA 94111

For the Union:

Christopher S. Peifer, Esq.
Barkan Meizlish, LLP
250 E. Broad Street
10th Floor
Columbus, OH 43215

IN THE MATTER OF ARBITRATION BEFORE AREA BOARD OF ADJUSTMENT

AMERICAN AIRLINES, INC. (Employer grievance regarding accretion of employees)

and

CWA / IBT Association

I. STATEMENT OF THE CASE

American Airlines, Inc. (Company or American) and the Communication Workers of America/International Brotherhood of Teamsters (CWA / IBT or Association) are parties to a collective bargaining agreement which became effective December 1, 2015, and continues in effect until December 1, 2020. The Agreement governs the wages, hours and other terms and conditions of employment of members of a bargaining unit composed of the craft or class of Passenger Service employees. It also provides for a grievance procedure culminating in final and binding arbitration as the mechanism to be used to resolve any disputes concerning the interpretation or application of its terms.

The instant dispute involves a grievance which was initiated by the Company on February 15, 2016, protesting the Union's efforts to accrete employees in various non-bargaining positions into the Passenger Service group. The employees in question are in one of three groups, namely

Central Baggage Resolution Office (CBRO), Systems Support Center (SSC) and Customer Relations (CR). The grievance at issue herein reads as follows:

> American Airlines, Inc. ("American" or the "Company") has learned that the CWA/IBT Association (the "Association") is soliciting certain American employees to sign authorization cards for the stated goal of seeking an order from the National Mediation Board ("NMB") accreting these employees into the Passenger Service group. This is directly contrary to the Association's agreement in negotiations for the December 1, 2015 collective bargaining agreement between American and the Association (the "CBA") that it would not seek to accrete these employees.
>
> During negotiations for the CBA, the Association repeatedly proposed that the Company agree to accrete these employees into the Passenger Service group and include the work performed by these employees within the scope of Passenger Service work. American repeatedly rejected this proposal. After extensive negotiations, and in exchange for the Company agreeing to several other provisions in the CBA sought by the Association, the Association acquiesced and agreed that it would not seek to accrete these employees and that this work would be excluded from the scope of Passenger Service work. This is expressly confirmed in the bargaining history notes and also confirmed in the final language of the CBA. The Association, however, by soliciting cards with the stated goal of seeking an order from the NMB accreting these employees, is now doing exactly what it agreed that it would not do.
>
> Therefore, pursuant to Section 204 of the Railway Labor Act, 45 U.S.C. § 184 (the "RLA"), and the terms and conditions of the CBA, the Company files this management grievance to resolve this dispute regarding the interpretation and application of the CBA before the System Board of Adjustment (the "Board"). The Company seeks a declaratory judgment from the Board that the Association is violating the parties' agreement and also a cease and desist order prohibiting the Association from seeking to accrete these employees until and unless the CBA is changed on this issue pursuant to Section 6 of the RLA.

The grievance was processed through the steps of the grievance procedure and when it could not be resolved the Company invoked arbitration. It was heard by the System Board of Adjustment in Washington, D.C., on May 11 and 12, 2016, at which time both parties were afforded ample opportunity to present evidence and cross examine witnesses called by the opposing party. Upon receipt of post-hearing briefs the record was closed pending the issuance of this opinion and award. It should be noted that based on the fact that the deadline for the issuance of this award was unexpectedly shortened by the parties it has been somewhat abbreviated in the sense the extent of the discussion surrounding the various issues has been reduced.

II. THE ISSUE

At hearing the parties stipulated to the following statement of the issue: Whether the Association is in violation of the joint Collective Bargaining Agreement by seeking to accrete the CBRO, SSC, and/or CR Representatives into the Passenger Service employee craft or class? If so, what shall be the remedy?

III. RELEVANT CONTRACT PROVISIONS

A. 2015 American-Association JCBA

Article 4:

B. For the Customer Service Group, there is work that:
(1) shall be performed exclusively by CSCs and CSAs;

(2)may be performed by CSCs, CSAs, CARs or contractors; and (4) may be performed by CSCs, CSAs, CARs, contractors ***or other employees of the Company:***

* * *

4. Work that may be performed by CSCs, CSAs, CARs, contractors ***or other Company employees*** includes:

* * *

o. any other passenger assistance or station work not listed above.

* * *

Article 26:

G. The Board shall have jurisdiction over grievances under this Agreement. The jurisdiction of the Board shall not extend to proposed changes in hours of employment, rates of compensation or working conditions covered by this Agreement or any of its amendments.

IV. SUMMARY OF THE EVIDENCE

Sean Bentel has been employed by the Company since 1998 and currently holds the position of Director of Customer Relations. He testified that the Customer Relations (CR) Department has approximately 330 employees that the Union is attempting to accrete into the bargaining unit. Approximately 200 of the employees are located in Phoenix and work in an office and the remainder work out of their homes in the Winston-Salem area. All are responsible for responding to customer complaints. Bentel testified that prior to the merger CR's employed by

American were considered office clerical employees and were part of the management support staff. He also noted that U.S. Air likewise had CR's prior to the merger and they were not part of the bargaining unit.

In regard to the Central Baggage Resolution Office (CBRO) Bentel testified that approximately 180 employees are assigned to this function. One hundred fifty of them are located in Phoenix, twenty work at home and twelve are located at Fort Worth. Their responsibilities involve tracking lost or mishandled baggage. That process begins with a report from a passenger at the airport and they are given a number at the call center that they can use to check on their luggage. When the search is not completed after two days, it is referred to CBRO for tracking and tracing. If the baggage is not located CBRO representatives attempt to reach a settlement with the customer.

Bentel testified that prior to the merger U.S. Air employed CBRO's and they were not considered to be part of the bargaining unit, either before or after the merger with American.

As to the System Support Center (SSC), Bentel testified that its main responsibility is to serve as an internal help desk and provide enhanced support for operational needs. Members of that group only interact with other Company employees whose work they support in dealing with passengers. He stated that prior to the merger U.S. Air had

SSC Representatives but American did not. They were never considered to be part of the bargaining unit.

Bentel testified that during the fourth quarter of 2015 the Company first learned of organizing activity on the part of the Union among SSC's in Phoenix. He added that in January, 2016 he received an email specifically informing him of some organizing efforts on the part of the Union at that location. In February, 2016 he received an email transmitting a copy of a flier that was being distributed by the Union in an effort to organize CR and CBRO employees in Phoenix. In April he became aware of more organizing activity which he reported to his superiors in an email dated April 13, 2016. As recently as May 5, 2016, he saw a Union Representative handing out fliers at the Company facility for employees who work out of their homes. He stated that this continued up to the day of the arbitration hearing.

Linda Kirby has been employed by the Company twenty-eight years and has been a Labor Relations Manager in the Human Resources Department for the past two years. She was involved in the 2015 negotiations on the part of the Company and shared the responsibility for taking notes. She testified that her notes of the September 9, 2015 bargaining session contain the following entry pertaining to one of the jobs in question: "Outsource UM's, Wheelchair, CBRO, handling of bags".

Jerry Glass has been President of the F & H Solutions Group since 1989. F & H is a Human Resources and Labor Relations Consulting firm that works primarily with airline, railway, construction, and media groups. He testified that he has extensive experience in airline negotiations. He further testified that he was responsible for all Human Resources and Labor Relations at U.S. Air from April, 2002 until December 2013, when the merger occurred. He stated that he personally negotiated several contracts during that period.

Glass noted that he was the chief negotiator with respect to all of the negotiations which took place following the merger of American and U.S. Air in 2013. He stated that the most recent negotiations began in January, 2015 and culminated in an Agreement on November 30, 2015.

Glass explained that the CWA and IBT decided to merge after U.S. Air and America West were merged. That process carried forward after the merger between American Airlines and U.S. Airways. After that merger, Passenger Service employees were organized. This merger is specifically recognized in Article III, Section A of the CBA, which states that the CWA/IBT is the representative Union of the craft or class of Passenger Service employees. Glass explained that this class includes Gate Agents, Ticket Agents, and Customer Assistance Representatives.

Glass noted that in the 2014 negotiations the Company specifically excluded the CBRO group from the class because those positions do not

involve customer contact. According to Glass, the Union had no objection to this exclusion.

Glass also noted that in a letter from the CWA to the National Mediation Board dated August 1, 2014, the Union agreed that the CBRO employees should be excluded from the eligibility list for the Passenger Services section because they are not performing craft or class work. Glass explained that such employees do not have substantial interaction with passengers and the nature of their duties is such that they would fall under the office clerical classification.

Glass also introduced into evidence the 2005 CBA between U.S. Airways and Passenger Service employees to show that at that time the parties agreed that CBRO and CR employees were not a part of the Passenger Service class.

Glass also noted that in a decision dated March 3, 2012, involving the IBT and CWA and U.S. Airways Arbitrator Homer LaRue ruled that the employees within the System Support Center (SSC) were not within the jurisdiction of the bargaining unit.

Glass testified that during negotiations for the current CBA two of the major issues involved work jurisdiction and the scope of work. During discussions which took place regarding those issues in August and September, 2015, the Union proposed to bring several positions such as Advantage Customer Service, CBRO and others back into the Union. He

explained that the Company's September 9, 2015 notes of the negotiation reflect that the Company proposed that the CBRO be handled outside the contract and that the work involved would be outsourced to outside vendors or to other employees not in the bargaining unit.

Glass also referred to excerpts from the notes of the September 22, 2015 negotiations which showed that the Union did not agree to include BSO in its outsourcing work but did agree to forfeit CBRO work, which meant that the Company could outsource such work or assign it to non-bargaining unit employees within the Company. He emphasized that the Union never indicated any intent to ask for the inclusion of that work at a later date.

Glass explained that, in fact, in a written proposal dated September 25, 2015, the union specifically agreed that the Company could outsource CBRO. As to employees who were classified as SSC's or CR's Glass testified that they were never specifically discussed during negotiations nor did the Union ever ask that they be included in the bargaining unit. He added that if the Union had intended to try to accrete these crafts, the Company would have expected them to submit a proposal to that effect during the 2015 negotiations.

Glass further testified that when he became aware of the union's accretion activity that was taking place in October, 2015, he felt that the Company had been betrayed by the Union and was the victim of bad faith

bargaining because the Union was attempting to organize these groups at the same time negotiations were taking place. He stated that based on this concern he had a discussion with Ryan Collins, who was the Chief of Staff for the CWA. His conversation with Collins is memorialized in an email from Glass to Paul Jones in the Legal Department dated November 23, 2015, which reads in pertinent part as follows:

> "Finally spoke to Ron. Says he doesn't really know what's going on since it's all an IBT initiative. Claims he only briefly had it mentioned to him by Andy at the end of the negotiations. I told him it was outrageous and dishonest and we didn't deserve to be lied to like this after everything we've done for them. He didn't argue and volunteered to call Andy. I told him the only thing acceptable to us was for the IBT to stand down. He agreed. He committed I would get a call back from him (Ron) after he talks to Andy."

When Glass subsequently discovered that the Union's organizing efforts related to employees signing accretion cards from the SSC, CBRO and CR areas, he sent an email to the Union expressing his displeasure over the Union's organizing efforts. He stated that at that time he was contemplating the filing of a grievance on behalf of management. However, he had one further conversation with Collins after that date before the grievance was filed. That conversation is memorialized in an email that was sent to Steven Johnson and others which reads as follows:

> "I spoke to Ron. The Association is not willing to agree to withdraw from our organizing. Ron was personally apologetic and understands why we feel the need to file the grievance. I reiterated that at the least, Ken was being dishonest. He termed it "bad faith bargaining".

> He understands our position and did not push back or threaten us. That said, he has no control at all over what IBT does and if we file the grievance, it would be natural to assume negative press from the IBT side."

On cross examination Glass agreed that there was no explicit agreement that the Union would not try to accrete employees. He stated that it was nonetheless an implied agreement that they would not attempt to do so.

Ron Collins is the Chief of Staff for the CWA. His responsibilities involve overseeing collective bargaining, the Senior Directors and organizing. He has extensive experience in collective bargaining. He testified that he served as the Chief Spokesman most of the time during the negotiations which led up to the current collective bargaining agreement and was assisted by the Bargaining Committee, which was comprised of five elected members who had the right to vote.

Collins recalled that during one of the negotiation sessions the Company proposed to outsource UMS, wheelchairs, CBRO and the handling of bags. He stated that in response to that proposal he personally said, "we forfeit CBRO". He explained that this was one of the things the Union was willing to give up, i.e. – not representing CBRO's – in order to get an agreement. He noted, however, that there is no accretion agreement in the CBA.

Collins recalled that he had a telephone conversation with Jerry Glass in November, 2015, concerning the fact that an organizing effort was taking place regarding CBRO. He stated that Glass was very upset that this was happening and asked him to do something to bring it to a halt. He stated that at the time he was not aware that such an organizational effort was taking place and he told Glass that he would check with Andy Marshall. He stated that Glass indicated that he felt that the Union had agreed to allow the Company to contract out such work. He added that although he did contact Andy Marshall, he denied that he told him that the IBT should "stand down".

Collins further explained that after the Association continued to attempt to accrete CBRO employees he had no authority to do anything to stop it. He added that he would not have done so in any event because the Union never agreed not to attempt to organize this group. He also denied that he ever told Glass that he did not think that the Union had bargained in good faith with regard to this issue. He stated that, in fact, he told Glass that the Union would not have agreed to discontinue its organizing efforts but that he would understand if the Company filed a grievance.

Brian Nicholl is a member of IBT Local 104 and serves as a Shop Steward and member of the Negotiating Committee. He has been employed as a Gate Agent at the airport in Phoenix for eleven years.

During the negotiations that led to the current agreement he was a voting member of the Bargaining Committee and also served as the note taker for the Union. In connection with his testimony several documents containing his notes of the negotiations were introduced into evidence. He stated that the notes are a word-for-word transcript that he drafted and have not been edited in any way.

Kimberly Barboro is a Business Agent for Teamsters Local 104. She began her career in the airline industry with America West in 1988, and worked in various jobs in the Phoenix area. After the merger with U.S. Air in 1995 she worked as a Ticket Agent at the airport and served as Chief Steward for the Union. As a Business Agent for Local 104 she is responsible for dealing with a variety of issues and participating in contract negotiations.

Barboro testified that there was a Baggage Call Center at U.S. Air prior to the merger which was accreted in 1999. At that time CBRO was part of the bargaining unit at America West. However, when the Baggage Call Center was shut down following 911 employees were furloughed.

Barboro further testified that the CWA/IBT Association was formed after the merger of US Air and American in 2005 and that the merger included CBRO employees. She stated that under the terms of the interim transition agreement that was signed at the time of the US Air/America West merger, the parties agreed that CBRO employees would not be a

part of the Passenger Service Class. Thereafter, all of the functions that they previously performed were outsourced.

Barboro testified that the LaRue arbitration award that was entered into evidence by the Company involved a grievance concerning downsizing the Passenger Assistance work and assigning it to the SSC Division where employees in SSC were doing Passenger Service work. Although the Union had never represented SSCs it claimed that it had jurisdiction over such work. Their functions involve rebooking of flights, ticketing and scheduling issues and checking passengers in.

Barboro testified that in early 2012 she had conversations with John Romantic, the Managing Director of Service Recovery, concerning the Union's desire to organize CBRO's, SSC's and CR's. She stated that they actually began organizing efforts in 2013 through Deborah Ewing, a CSR and Organizer for the Teamsters Union. The process at that time involved passing out authorization cards in the break room. She noted that Romantic acknowledged that this was occurring by means of an August 10, 2016 email that he sent to employees concerning authorization cards and their right to sign them. According to Barboro, the Company was fully aware that this organizational effort had been going on for a couple of years.

Barboro noted that in January 21, 2016, she sent a notice to Taylor Vaughn concerning the Union's accretion efforts. It reads as follows: "In

the spirit of transparency, I wanted to give you a heads up on employees signing accretion cards from the SSC, CBRO and Cust. Relations areas. Employees have been reaching out to us for some time and they have finally come to me to get the process going. I will be out at Rio Salado next week in the break room."

Barboro testified that the Company never objected to the Union's accretion efforts but only took issue with where it could be done. She stated that after she received an email from Charles Peach informing her that the Union had no right of access to a certain building for the purpose of conducting Union business, she conferred with Taylor Vaughn to discuss why the Company was denying the Union access to the break room to talk to employees about organizing. She stated that Vaughn informed him that during collective bargaining the Union gave up the right to organize such employees. She responded that the Union totally disagreed with that statement and asserted that the Company had always been fully aware of the Union's accretion efforts. She added that those efforts continued after her meeting with Vaughn. She also pointed out that notes that were taken by the Union during negotiations clearly show that the Company was made aware that organizing efforts were taking place and voiced no objection. She added that such accretion efforts have continued up to the present time and that there is currently a sufficient number of signed cards for all three groups to seek certification.

Barboro further testified that during the negotiations the Union's proposal regarding Article IV specifically included CBRO under baggage work that was within the bargaining unit. The Company's proposal of August 13, struck the Union's proposal regarding the inclusion of CBRO in baggage work. She added that the Company consistently maintained that the AA Call Center and Baggage Center were outside the bargaining unit. The Union, on the other hand, argued that baggage work was covered by the CBA.

In a Union counter proposal which was submitted on August 25, 2015 regarding Article IV, the Union proposed that the normal and customary work associated with baggage handling be included in the bargaining unit, as well as the CBRO work. In a counter proposal dated August 27, 2015, relating to baggage the Company agreed to incorporate some of the telephone call work related to processing baggage claim information.

Barboro noted that in a proposal that was submitted by the Union on September 8, 2015 regarding Article IV, the Union proposed that CBRO work be included in the bargaining unit. She testified that she made a statement during the negotiations at that time that the Union was no longer asking that CBRO be accreted because that work was already in the bargaining unit. Barboro testified that after the Contract was ratified in December, 2015, she sent an email to Taylor Vaughn on January 21,

2016, informing him that employees had been reaching out to the Union for organizational purposes and had been signing cards from the SSC, CBRO and Customer Relations areas. She indicated that this same email is further evidence of the fact that the Union has always been transparent in all of its dealings with the Company. Consequently she was offended by the Company's assertion that the Union has engaged in deceit in regard to the issue of accretion.

On cross-examination Barboro acknowledged that although accretion efforts had been going on since 2012, she had not mentioned that fact in the quarterly meetings that had taken place between labor and management representatives. She also agreed that in the Interim Transition Agreement that was signed in 2005, the parties agreed that CA, CR and CBRO are not part of the Passenger Service craft or class.

V. DISCUSSION AND DECISION

Prior to considering the merits of the dispute a threshold issue of arbitrability which has been raised as a defense by the Union must be addressed. It concerns the question of whether the Board should defer any action on the merits of the grievance on the grounds that it involves an issue of substantive arbitrability which the Board has no authority to decide. In that regard it should be noted at the outset that a question of substantive arbitrability is generally held to be a matter for a court, rather

than an Arbitrator, to decide, based on the rationale that an arbitrator should not determine his own jurisdiction. Therefore, in the absence of mutual consent of the parties to submit the arbitrability issue to the Board for resolution, it would have no authority to decide it. In this case, however, the Association has noted that even though it could have petitioned a court for a determination as to whether the dispute is arbitrable, it has elected not to do so in a spirit of cooperation with the Company and in the interest of expediting a resolution of the dispute. Accordingly, given the Association's concession in this regard, the Board is clearly vested with the jurisdiction and authority to decide the arbitrability issue.

The arguments advanced by the Association to support its contention that the grievance is not arbitrable are essentially two-fold. The first is that the Board is without jurisdiction to decide the dispute because the National Mediation Board has exclusive jurisdiction over matters involving representation under the Railway Labor Act. The second is that the Board is without jurisdiction because the grievance can be sustained only if the Board were to look beyond the terms and conditions of the CBA and draw the essence of its award from something other than the CBA. Based upon several considerations the Board has concluded that both arguments are without merit and must be rejected.

Turning first to the issue concerning the NMB, it should be noted that although the Association's contentions in this regard were specifically raised in its opening statement they were inexplicably not addressed by the Company in post-hearing brief. As a result, the Board has in effect received the benefit of only one side of the argument to guide its determination of this issue. Nonetheless, after a careful review of the arguments advanced and the authority cited by the Union, the Board has concluded that the nature of the instant dispute is such that it does not fall within the exclusive jurisdiction and authority of the NMB.

Under the Railway Labor Act the NMB has exclusive jurisdiction over representation disputes involving the definition of a bargaining unit and the definition of employee collective bargaining representatives. It also has exclusive jurisdiction over major disputes, which are those which involve the formation of CBAs. Disputes of this nature must be resolved in accordance with the conference and mediation procedures set out in Section 6 of the Act. There is a third category of disputes, however, over which the NMB does not have jurisdiction. These are characterized as "minor disputes" and involve matters which involve the implementation or application of an existing collective bargaining agreement. As the court explained in *IBT v. Texas International Airlines*, 717 F. 2d. 157, 158 (5th CIR. 1983), these types of disputes are "committed to a grievance – arbitration process before an authorized System Board of Adjustment".

The case at hand clearly does not fall within the definition of a representation dispute because it does not involve the definition of a bargaining unit or involve a major dispute which is related to the formation as opposed to the interpretation of a CBA. Moreover, there is no evidence that the Company is attempting to add provisions to the CBA. Instead, it clearly falls within the definition of a minor dispute because it involves an issue of contract interpretation pertaining to the Company's right to use non-bargaining unit personnel to perform CBRO, CRR and SSC work. As such, it is clearly the type of dispute that can be heard and decided by the System Board of Adjustment.

As to the Association's other argument concerning the alleged non-arbitrability of the grievance, the Board has concluded that it must likewise be rejected as invalid. Contrary to the Association's contention that the grievance is asking the Board to add terms and conditions to the CBA, or to base an award on something other than the CBA, it is clear that the thrust of the grievance is simply an effort by the Company to seek a ruling that Article 4.B.4.o precludes the Association from attempting to accrete the CBRO, CR and SSC representatives into the Passenger Service Employee class or craft. Since such a ruling involves an interpretation of the CBA by the Board, and does not require it to look outside the CBA or add new language under the guise of interpretation, it is properly before the Board for a final and binding disposition. In short, the Company's

grievance is simply asking the Board to interpret the applicable language of the parties' CBA in light of the relevant bargaining history, past practice and the implied covenant of good faith and fair dealing, and on that basis determine whether the Company has the right to use non-bargaining unit employees to perform CBRO, CR and SSC work. This is undeniably the role that the Board was designed to play and, based on several considerations, it has concluded that this issue must be decided in the affirmative.

First of all, while the Association may be correct in its assertion that it has the "right under the RLA to accrete employees in the Passenger Service craft or class", the evidence shows that it bargained away such a right during negotiations. Moreover, as a matter of Federal Labor Law, a Union's agreement not to seek accretion is enforceable. Therefore the Association had the right to forfeit its ability to accrete certain employees and the Company had a corresponding right to seek enforcement of the Association's promise not to accrete such employees.

Second, and perhaps most importantly, the language of Article 4.B.4.o of the CBA expressly authorizes the Company to use members of the Passenger Service Employee craft or class or third party contractors, or unrepresented Company employees to perform "any other passenger assistance or station work not listed above." The clear import of this "catch all" provision which provides the Company with maximum staffing

flexibility is that if the Association desired more restrictive treatment for certain employees and/or a certain work, those restrictions had to be specifically set forth in Article 4. Since Article 4 contains no such restrictions regarding the work performed by the CBRO, CR and SSC representatives, the inference that can be drawn is that the parties clearly intended that such work and those employees be outside the Passenger Service Employee class. Moreover, the argument that it was incumbent upon the Company to specify CBRO, CR and SSC work in Article 4.B.4.a through 4.B.4.N would be invalid because it would in effect nullify Article 4.B.4.o and render it meaningless. As it were, it was not necessary to list every job function over which the parties had negotiated because Article 4.B.4.o covers all job functions not expressly addressed elsewhere.

Third, even if the relevant language of the CBA were deemed ambiguous because the work groups at issue are not specifically listed in Article 4.B.4, the Board of Adjustment is authorized to defer to extrinsic evidence such as bargaining history and prior practice to determine the parties' intent. In that regard the evidence pertaining to bargaining history clearly shows that the Association forfeited its right to accrete the work group at issue herein into the Passenger Service Group craft or class.

As the Company aptly noted, the negotiations between the parties regarding Article 4 were in the nature of a "horse trade" with the Company agreeing to "give" the Association certain employees and certain

work and the Association abandoning its demands for other employees and other work. One example of this is the parties' discussions regarding CBRO Representatives. In that regard the evidence showed that there were discussions back and forth between the parties concerning which positions would be brought into the bargaining unit and within the exclusive coverage of the CBA and which would not. Included among those that the Union wanted to bring in were employees performing CBRO work, the Washington Desk and vacation work. In the interest of maintaining staffing flexibility the Company wanted to exclude various functions, including Social Media, Unaccompanied Minors, CBRO, AA Advantage and AA.com. Although the Association submitted several proposals that CBRO work and CBRO employees be a part of the bargaining unit, after extensive bargaining it ultimately agreed to "forfeit" CBRO work in exchange for the Company's agreement to bring other work and employees, such as Vacations and Vacations employees into the bargaining unit. Although the Company did not share the Association's belief that "vacations were exclusive bargaining work", the Company was willing for vacations work and employees to become part of the Passenger Service craft or class only in exchange for the Association's agreement that CBRO and other work could be performed by vendors and non-bargaining unit employees.

As Chief Negotiator for the Company, Jerry Glass explained at the hearing, when the Association "forfeited" CBRO that meant that the Association would not bring them back [into the bargaining unit]. Moreover, there was no suggestion that the Association was merely agreeing not to ask the Company to "voluntarily" recognize the CBRO employees as part of the Passenger Service Employee craft or class, nor did the Association give any indication that despite the fact that it had agreed to forfeit CBRO, it considered that a meaningless promise and was nevertheless free to claim entitlement to represent CBRO at any time it pleased through the accretion process. Moreover, the Union gave no indication that it had secretly been conducting an accretion campaign while negotiations were taking place. When the Association agreed to forfeit CBRO, it tacitly agreed that it would not pursue an accretion. That was the bargain that the parties made and it is the bargain that must be enforced.

Fourth, the evidence shows that a long-standing, well-established past practice exists under the terms of which the CBRO, CR and SSC positions and the work associated with those positions have never been treated as part of the Passenger Service Employees craft or class. Moreover, this past practice has been upheld in various forums. For example, the System Support Center grievance, which was the subject of an arbitration involving *Airline Customer Service Employees Association* –

IBT & CWA and U.S. Airways which was decided by Arbitrator Homer LaRue, March 3, 2012, found that the work performed by U.S. Airways SSC Representatives was not Passenger Service work. Most recently in the 2014 representation election for the Passenger Service Employee craft or class, the eligibility list submitted by the Company did not involve any employees who performed the work of CBRO, CR and SSC representatives. Since the Association did not object to the Company's position in that regard, the CBRO, CR and SSC Representatives were not eligible to vote in the election. Consequently, the Company has continued to perform CBRO, CR and SSC work using non-bargaining unit Company employees as its undisputed right under the CBA.

Finally, in addition to the foregoing the evidence shows that the Association also engaged in bad faith behavior by concealing its accretion efforts that were taking place at the same time it was bargaining with the Company. Such behavior constitutes a serious breach of the implied covenant of good faith and fair dealing that is implicit in any bargaining relationship. The obligation that it imposes "prevents any party to a Collective Bargaining Agreement from doing anything that will have the effect of destroying or injuring the right of the other party to receive the fruits of the Contract. . . ." Elkouri & Elkouri, *How Arbitration Works,* 6th ed., 478. Contrary to that obligation, in the present case the Association agreed to "forfeit" and not seek an accretion of CBRO and other work in

exchange for the Company's agreement to bring the Vacations work and Vacations employees within the exclusive purview of the bargaining unit and at the same time it was actively engaged in an accretion organizing with respect to the CBRO, CR and SSC Representatives. Not once during the bargaining process did the Association ever inform the Company of its intent to accrete these employees into the bargaining unit. Instead, by its actions, it led the Company to believe that it was receiving something meaningful, in terms of staffing flexibility for CBRO and other work, in exchange for substantial concessions on the part of the Company, and at the same time it was scheming to completely eviscerate, through a non-contractual process, the benefits the Company was to receive as its part of the bargain. Indeed the situation was so appalling that even the Association's lead negotiator, Ronald Collins, agreed with the characterization of the situation by the Company's lead negotiator, Jerrold Glass, as being "bad faith bargaining" on the part of the Association.

The evidence also shows that although it was actively seeking to add the SSC and CR Representatives to the Passenger Service Employee craft or class, the Association never made mention of those employees during negotiations. If the negotiators representing the Association were acting in good faith while bargaining over the specific parameters of the bargaining unit, they clearly would have been expected to divulge their existing plan to expand the craft or class by accreting these employees

into the Passenger Service Employee craft or class. Consequently, the Association's failure to do so clearly constitutes an inexcusable violation of its covenant of good faith and fair dealing. Accordingly, it would be completely unreasonable and unfair to permit the Association to gain through deceit that which it forfeited in negotiations.

Based on the foregoing, it is abundantly clear that if the Association were permitted to proceed with its efforts to accrete CBRO, CR and SSC Representatives into the Passenger Service craft or class, it would thereby deprive the Company of the benefit of the bargain it had made. That benefit included staffing flexibility and the right to use non-bargaining Company employees or contractors to perform the work in question. Conversely, if the Association is allowed to accrete CBRO, CR and SSC Representatives into the Passenger Service Employee craft or class, the Company would be required to use Association – Represented bargaining unit employees to perform the CBRO, CR and SSC work, which would be directly opposite to what the Company and the Association agreed to in the JCBA. Moreover, it would deprive the Company of the precise, fundamental benefit of its bargain. Accordingly, based on this and the other reasons set forth herein, the Company's grievance is found to have merit and must therefore be sustained.

VI. AWARD

In accordance with the foregoing opinion and for the reasons set forth therein, the Company's grievance is sustained. As a remedy, the Association is ordered to withdraw its pending accretion application before the NMB and take no further accretion efforts during the term of the JCBA.

_____
Stanley H. Sergent
Neutral Chairman
System Board of Arbitration
August 3, 2016

_____
Marge Krueger,
Union Board Member
Concur/Dissent
August _____, 2016

_____
Paul Jones
Company Board Member
Concur/Dissent
August _____, 2016

CIVIL COVER SHEET

JS-44 (Rev. 7/16 DC)

I. (a) PLAINTIFFS

CWA-IBT Passenger Service Employee Association
501 3rd Street, NW
Washington, DC 20001

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF DC
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

American Airlines, Inc.
4333 Amon Carter Blvd.
Fort Worth, TX 76155

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Tarrant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Deirdre Hamilton/ Nicolas Manicone
International Brotherhood of Teamsters
25 Louisiana Avenue, NW, Washington, DC 20001
(202) 624-6945

ATTORNEYS (IF KNOWN)

Chris Hollinger
O'Melveny & Myers LLP
2 Embarcadero Center
San Francisco, CA 94111

II. BASIS OF JURISDICTION
(PLACE AN x IN ONE BOX ONLY)

- ○ 1 U.S. Government Plaintiff
- ◉ 3 Federal Question (U.S. Government Not a Party)
- ○ 2 U.S. Government Defendant
- ○ 4 Diversity (Indicate Citizenship of Parties in item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) **FOR DIVERSITY CASES ONLY!**

	PTF	DFT		PTF	DFT
Citizen of this State	○ 1	○ 1	Incorporated or Principal Place of Business in This State	○ 4	○ 4
Citizen of Another State	○ 2	○ 2	Incorporated and Principal Place of Business in Another State	○ 5	○ 5
Citizen or Subject of a Foreign Country	○ 3	○ 3	Foreign Nation	○ 6	○ 6

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

○ A. *Antitrust*

- ☐ 410 Antitrust

○ B. *Personal Injury/ Malpractice*

- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Medical Malpractice
- ☐ 365 Product Liability
- ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Product Liability

○ C. *Administrative Agency Review*

- ☐ 151 Medicare Act

Social Security
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

Other Statutes
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 890 Other Statutory Actions (If Administrative Agency is Involved)

○ D. *Temporary Restraining Order/Preliminary Injunction*

Any nature of suit from any category may be selected for this category of case assignment.

(If Antitrust, then A governs)

○ E. *General Civil (Other)* OR **○ F. *Pro Se General Civil***

Real Property
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent, Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

Personal Property
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

Bankruptcy
- ☐ 422 Appeal 27 USC 158
- ☐ 423 Withdrawal 28 USC 157

Prisoner Petitions
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Conditions
- ☐ 560 Civil Detainee – Conditions of Confinement

Property Rights
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

Federal Tax Suits
- ☐ 870 Taxes (US plaintiff or defendant)
- ☐ 871 IRS-Third Party 26 USC 7609

Forfeiture/Penalty
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

Other Statutes
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 430 Banks & Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

- ☐ 470 Racketeer Influenced & Corrupt Organization
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Satellite TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes
- ☐ 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

○ G. *Habeas Corpus/ 2255* ☐ 530 Habeas Corpus – General ☐ 510 Motion/Vacate Sentence ☐ 463 Habeas Corpus – Alien Detainee	○ H. *Employment Discrimination* ☐ 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	○ I. *FOIA/Privacy Act* ☐ 895 Freedom of Information Act ☐ 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	○ J. *Student Loan* ☐ 152 Recovery of Defaulted Student Loan (excluding veterans)
◉ K. *Labor/ERISA (non-employment)* ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☒ 740 Labor Railway Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act	○ L. *Other Civil Rights (non-employment)* ☐ 441 Voting (if not Voting Rights Act) ☐ 443 Housing/Accommodations ☐ 440 Other Civil Rights ☐ 445 Americans w/Disabilities – Employment ☐ 446 Americans w/Disabilities – Other ☐ 448 Education	○ M. *Contract* ☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholder's Suits ☐ 190 Other Contracts ☐ 195 Contract Product Liability ☐ 196 Franchise	○ N. *Three-Judge Court* ☐ 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN

◉ 1 Original Proceeding ○ 2 Removed from State Court ○ 3 Remanded from Appellate Court ○ 4 Reinstated or Reopened ○ 5 Transferred from another district (specify) ○ 6 Multi-district Litigation ○ 7 Appeal to District Judge from Mag. Judge ○ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

Action to vacate an arbitration award that conflicts with the Railway Labor Act, 45 USC 151 et seq.

VII. REQUESTED IN COMPLAINT CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 **DEMAND $** 0.00 **JURY DEMAND:** Check YES only if demanded in complaint **YES** ☐ **NO** ☒

VIII. RELATED CASE(S) IF ANY (See instruction) **YES** ☐ **NO** ☒ If yes, please complete related case form

DATE: 8/11/16 **SIGNATURE OF ATTORNEY OF RECORD** Heidi Hamilton

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.

III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.

IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.

VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.

VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

CWA-IBT Passenger Service Employee Association

Plaintiff(s)

v.

American Airlines, Inc.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* American Airlines, Inc.
4333 Amon Carter Blvd.
Fort Worth, TX 76155

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Deirdre Hamilton, Esq.
Nicolas Manicone, Esq.
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk