



Re: Support American Airlines Passenger Service Agents right to a fair election for lawful union representation.

On December 7, 2012, American Airlines Passenger Service Agents (PSAs) filed an election for lawful representation by Communication Workers of America. This request included more than 35% interest from the 9,600 American Airlines PSAs, the legal requirement at that time. On February 2012, Congress reauthorized the FAA which concurrently increased the interest showing from 35% to 50%. The reauthorization is effective on the date the bill was signed and did not include any retroactivity language. On April 20, 2012, National Mediation Board established the election period of May 15-June 19, 2012 where American Airlines Passenger Service Agents could register their vote for lawful representation.

On May 2nd, American Airlines sued the National Mediation Board (NMB) over its decision to hold the upcoming election for the Communications Workers of America (CWA) to represent 9,600 Passenger Service Agents (PSA). This is a baseless lawsuit whose sole objective is to deny American Airlines PSAs their legally guaranteed right to an election. American Airlines argues that PSAs interest threshold should be 50%. Additionally, American Airlines has refused to turn over the address labels of eligible voters as required by law. Without the addresses of all eligible voters, the NMB cannot hold an election. Without lawful representation, the PSAs do not have a voice in the bankruptcy plan of American Airlines and their future. On May 10, 2012, a bankruptcy hearing is scheduled to determine whether American Airlines needs to wait for election results before unilaterally imposing contract changes. We argue that any further delay hurts Passenger Service Agents' rights and bargaining power.

CWA is working with the NMB and Department of Justice to quash this egregious attempt to interfere with the NMB's authority and continue with the lawful representation election as currently scheduled. An election needs to happen before American Airlines comes up with more ways to taint the process.

- **Why does American Airlines want to delay the election?**

- Since entering bankruptcy, American Airlines has proposed across-the-board cuts to PSAs that would drastically raise health-care costs, lower pay, strip benefits and seniority, eliminate pensions and retiree health-care programs, outsource jobs and cause significant layoffs through closing a reservations office. These proposals have been met with strong resistance by PSAs and have galvanized supporters who want a union and a voice in bankruptcy and the future.
- American Airlines has offered an Early Out program to current employees in an attempt to dissuade PSAs who are concerned about proposed cuts from staying with the company and voting for CWA representation. The deadline to choose the Early-Out option is May 15th, showing that this is just a cynical move by the company to reduce the number of eligible voters and oppose the employees' right to organize.
- There is currently significant PSAs momentum vote for CWA representation. Further delays by American Airlines will encourage
 - a) reduce pro-union votes by persuading unsatisfied PSAs to take the Early Out program;

- b) distort the reality of the drastic PSAs benefits and program cuts;
 - c) intimidate voters with anti-union scare tactics; and
 - d) devise additional legal maneuvers to disenfranchise eligible voters
- **What is American Airlines doing to delay the election?**
 - Since the NMB announced election dates on April 20th the company has already missed deadlines to turn over eligible voter address labels three times, on April 24th, again on the 27th, and most recently on May 2nd, despite being legally required provide those addresses to the NMB.
 - American Airlines claims that they were experiencing technical difficulties producing the list. Yet within hours of CWA's initial election filing on December 7th the company produced a faulty eligibility list that was padded with deceased and retired employees. This lawsuit shows that American Airlines were lying about their reasons and are interested only in denying PSAs' right to vote.
 - The current lawsuit alleges that the NMB erroneously allowed the election to proceed because CWA's initial showing of interest met the older 35% mark, not the 50% mark created on February 14th when President Obama signed the FAA reauthorization bill which included an amendment to the Railway Labor Act (RLA) which raised the showing of interest threshold. This assertion is incorrect as CWA filed submitted authorization cards on Dec 7, 2011. CWA's filing occurred 2 months prior to the FAA reauthorization and there was no legislative intent to apply the law retroactively.
 - This argument is outrageous, as CWA successfully met the standards for an election of 35% interest as the standard existed at the time. No language in the RLA component of the FAA reauthorization suggests Congress wanted the changes to apply to pending cases. In fact, the U.S. Constitution expressly forbids *ex post facto* laws, i.e. laws that retroactively change consequences or status.
 - **What's the cost of delaying?**
 - PSAs will not have a voice in the bankruptcy plan which will affect their benefits and the future of their jobs with American Airlines.
 - In addition to the significant cost to the taxpayer of hearing this lawsuit, it will cost American Airlines substantial sums of money which could be better spent dealing fairly with workers.
 - American Airlines has retained Dee Kelly of Kelly, Hart & Hallman (KHH) LLP as counsel in this case. In a 2009 case a partner at KHH billed at \$465/hour;¹ in the current bankruptcy hearing parent company AMR has retained lawyers at \$435-\$710/hour.² So American Airlines is likely paying over \$500/hour - potentially over \$1000 depending on the size of the KHH legal team - in an attempt to guarantee they will be able to cut the top PSA pay rate from \$21.54/hour to \$15/hour.

¹ http://www.turnarounds.com/BW_SAMPLE.pdf

² http://www.amrcaseinfo.com/pdf/lib/2052_15463.pdf