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U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
FEB 13 1999
NANCY DOHERTY, CLERK
By _____
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

AMERICAN AIRLINES, INC.	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Case No. 7:99-CV-025-X
	§	
ALLIED PILOTS ASSOCIATION, et al,	§	
	§	
Defendants.	§	

ORDER OF CONTEMPT

Unfortunately, the radical element that appears to be in control of the Allied Pilots Association ("APA" or "Union") seems determined to fly American Airlines ("American" or the "Company") into the side of the mountain, taking themselves, the Company, their co-workers and their customers with them. And all over what is legally a minor dispute under the Railway Labor Act and what Union President Richard Lavoy admitted under oath was only a difference in opinion of Reno Air transition time of 4 months. Lavoy testified that the transition will take 18 months and the Company projects that it will take 22 months. The Union believes this is a big enough deal to cost the Company millions, ruin the week for by now a half million people, and cost them untold millions and millions of dollars in damages. The ridiculousness of this is only surpassed by its outrageousness.

The Court recognizes that it would be wrong to paint all American pilots with the same brush. There are thousands of American pilots who want to fly, despite this dispute. And they are not scabs, but persons of honor who won't lie and sick-out and who have enough common sense to know this activity is not in their or their Union's long term best interest. They are being

held hostage like everyone else and they need to remember this fiasco the next time they have Union elections.

If a federal court enters an order and it is disobeyed, to preserve the authority of the judicial branch of government, the court must compel obedience within the bounds of the law. There is no federal judge in this country who would do otherwise.

What the Union leaders described as "legal maneuvering" is really a complaint about being held accountable for their actions. Unions and management don't only interface at the bargaining table. When, as here, where one side is breaking the law, courts must intervene. Furthermore, courts have been in existence for centuries to compel parties to live up to their agreements. This case presents nothing new or novel in that regard.

What are we talking about here? Not a rule some "liberal" federal judge dreamed up, but an act of Congress to control labor disputes in the transportation industry because of its importance to national commerce. This act, the Railway Labor Act, has been on the books for over seventy years and upheld by the U.S. Supreme Court for decades. The gist of this law is that for Unions in the transportation industry, they must bargain in minor disputes like this one, not disrupt interstate commerce as this Union has.

This illegal sick-out by the Union has cost untold millions of dollars in damages to hundreds of thousands of passengers and businesses in this country. American Airlines may or may not be right in the underlying labor dispute, but it is crystal clear the Company is not responsible for the canceled flights, passenger inconvenience, and monetary damages passengers have suffered. The Union is responsible for the damages these passengers have suffered. It is also clear that the Union leadership could care less about these people.

It is this Court's view that a minor labor dispute has been transformed into nothing more than a shakedown. Even though it may indeed be more economical for American to cave in and pay, in the long run, if you pay extortion today, you typically have to pay it tomorrow. When the pitch is "pay us what we want or we will cost you more," it is the type of negotiation one usually sees when doing business with one of the five families in New York.

Of the pilots who testified, all make in excess of six figures. They make this while working about 78 hours per month, with a maximum of 100 hours per month. President Richard Lavoy and Vice-President Brian Mayhew testified that they work primarily on union business and made $260,000 and $220,000 last year respectively. Both of them, like about half of the pilots who testified, were taught to fly jets at taxpayer expense in the U.S. military, which of course enables them to earn their six figure incomes. When you realize this dispute is about the pilots wanting more money retroactively for flying the same airplanes to the same places merely because American bought a small airline many have never heard of, and you have been sleeping on the floor with your kids for a couple of days in some airport 1500 miles from home, it is hard to see the pilots as being mistreated.

No one can make someone else go fly an airplane. Particularly if someone is dishonest and willing to lie and say they are sick when they really aren't. Despite all the macho chest beating and mouthing off by anonymous pilots, I have never made that claim. But what a federal judge can do, and what I will do, is make people pay for what they break. So if the activity and consequent damages continue, when all the dust clears, all the assets of the Union, including their strike war chest, will be capable of being safely stored in the overhead bin of a Piper Cub.

For the reasons set forth in this Court's Findings of Fact and Conclusions of Law, filed

this same date, and for the reasons found in the record in this case, American Airlines' motion for contempt is GRANTED. With respect to the individual defendants who did not appear, the contempt action as to them is severed, and I will deal with them later. RICHARD LAVOY AND BRIAN MAYHEW are hereby HELD IN CIVIL CONTEMPT OF COURT. As to all other individual defendants who appeared and testified on February 12, 1999, they are not held in contempt of court. THE UNION, THE ALLIED PILOTS ASSOCIATION, is hereby HELD IN CIVIL CONTEMPT OF COURT.

THEREFORE, THE ALLIED PILOTS ASSOCIATION, UNION PRESIDENT RICHARD LAVOY, AND UNION VICE-PRESIDENT BRIAN MAYHEW ARE JUDGED GUILTY OF CIVIL CONTEMPT OF COURT.

Civil contempt serves the purpose of coercing a contemnor into complying and to compensate for damages resulting from the contemnor's past non-compliance. After carefully considering available alternatives, in order to achieve the purposes of civil contempt and to do justice in this case, the Court hereby assesses as a fine an amount of money that will compensate American Airlines for damages suffered as a result of canceled flights. Given the action and inaction of the evening of February 10 and the morning of February 11, coupled with the lead time needed to get this airline back on track, the Court deems the losses from this contemptuous conduct to be significant. Since civil contempt is also coercive in nature, the Court, in the interest of justice, reserves the right to remit the amount of the fine in the future.

At this time, actual damages are not clear. The Court will hold a hearing in Dallas, Texas at 9:30 a.m. on Wednesday, February 17, 1999 to allow presentation of evidence on this issue and then will calculate what the appropriate fine, under all the circumstances, should be.

From evidence that it is in the record, it is clear that damages from the canceled flights will be substantial. From the Court's understanding, it will be eight figures. The Court is going to require the defendants to pay a conservative amount of money, much less than the probable actual damages, into the Registry of the Court pending resolution of the amount necessary to reimburse the aggrieved party for the amount of money lost because of the contemnor's conduct.

THEREFORE, IT IS ORDERED that by 12:00 noon on Tuesday, February 16, 1999, the below defendants will pay into the Registry of this Court the following amounts of money to pay toward the compensatory civil contempt fine likely to be ordered in this case:

ALLIED PILOTS ASSOCIATION:	$10,000,000
RICHARD LAVOY	$ 10,000
BRIAN MAYHEW	$ 5,000

Of course, if a smaller fine is assessed, for whatever reason, the balance will be remitted.

The hearing set for February 16, 1999 at 9:30 a.m. on the issue of compensatory damages JK is continued until 9:30 a.m. on Wednesday, February 17, 1999.

SO ORDERED this 13th day of February, 1999.

Joe Kendall

Joe Kendall
U.S. District Judge