

08 JANUARY 2009 MEC Hotline:

AFA LEGAL – AN UPDATE ON SIDELETTER 35

The 2007 NWA-AFA collective bargaining agreement contains Sideletter 35 which provides that all of the NWA labor agreements re-negotiated during the NWA bankruptcy could not take effect until the Company had achieved labor cost savings of \$1.126 billion. NWA further promised that it would not provide any additional compensation or financial benefits to any other labor group without providing a comparable benefit to all labor groups.

In August 2007, AFA learned that the NWA pilots had been given pay increases which, according to the Company, were in exchange for the pilots' withdrawal of several outstanding grievances. In other words, the pilot pay raises were of equal value to the grievance withdrawn. Therefore, the Company argued, it really wasn't a pay increase. AFA objected and, along with the IAM, filed a grievance pursuant to Sideletter 35. After waiting several months, NWA finally released financial data about the pilot raise which was examined by AFA's financial consultants. They concluded that the raise did exceed the potential monetary value of the withdrawn grievances. AFA then made repeated attempts to have the grievance scheduled for arbitration. Initially, NWA was open to arbitrating the AFA and IAM grievances together, but have subsequently insisted that the two grievances be arbitrated separately.

Thus far, the Company has failed to schedule a date for arbitration despite repeated requests by AFA to do so. On January 6, AFA sent an email to NWA's legal counsel proposing dates for the arbitration along with a demand for a response by January 9. If the Company refuses to agree to arbitration dates by that date, then AFA will be taking the appropriate legal action to compel arbitration of Sideletter 35.

03 APRIL 2009 MEC Hotline:

AFA FIGHTS FOR ITS FAIR SHARE -- LOA 35 ARBITRATION



The System Board of Adjustment, chaired by Arbitrator Dana Eischen and members Scott Goodman (AFA Staff Attorney) and David Driscoll (NWA Labor Counsel), heard three days (March 31-April 2) of testimony from witnesses appearing on behalf of AFA and Northwest Airlines. David Borer (former AFA General Counsel), Dan Akins, and Greg Riffle (MEC Grievance Chair) testified on behalf of AFA. Northwest Airlines called Robert Brodin (former NWA Senior Vice President of Labor Relations), Daniel Kasper (LECG, LLC), two ALPA staff attorneys, and Ryan Gilman (NWA Finance) as witnesses. Over 50 pieces of evidence were introduced into evidence, including video clips of news reports about the cancellation of flights during the summer of 2007, AFA Hotlines, and Excel spreadsheets of financial reports. During the next four weeks further evidence will be exchanged and possibly more witnesses will testify. The bulk of the testimony during the three days focused on the valuation of different contracts and grievance settlements. We will update you after all the

witnesses have testified and all the evidence has been introduced. -- Submitted by AFA Staff Attorney

22 MAY 2009 MEC Hotline:

LOA 35 ARBITRATION - MAY 22 UPDATE

There have been some questions regarding the current status of LOA 35, often referred to as the “me too” clause. On May 5th, there was an additional day of testimony and cross-examination in MSP. At the end of the testimony, the record in the case was closed, and no further evidence can now be introduced.

It will now take approximately two weeks for the court reporter to produce a transcript of the entire proceeding, complete with all the exhibits, of which there were several. Once the attorneys from both sides are in possession of the entire transcripts, they will be allowed to submit their closing briefs. Typically, the arbitrator will allow 30 days to elapse as sufficient time for briefs to be submitted by both parties.

Once the closing briefs have been received by the Arbitrator it will typically take 6-12 weeks to draft his decision in the matter. Looking at the timelines present in our case, it is probably safe to assume that we can look for a decision sometime in mid-August to mid September. - Submitted by MEC Grievance Committee Chairperson Gregory S Riffle

31 JULY 2009 MEC Hotline:

LOA 35 Arbitration Update - July 31, 2009

I'd like to give you a quick update on the progress of the LOA 35 arbitration, and where we stand at this point, in regards to when we could reasonably expect to receive a decision from the arbitrator. In an earlier message, I described how the record in the case was closed on July 10th. What this means is, from that point forward, neither party, the Union nor the Company, can introduce any new evidence for the arbitrator to consider.

Although the arbitration proceeding itself was conducted in early April, it took until July 10 to close the record in this case due to some unusual requests on the part of the Company attorney. The first request from the Company attorney, which was presented at the conclusion of the proceeding itself, was to allow for an additional Company witness to testify who, strangely enough, could not be present during the course of the arbitration itself. This testimony, which had to take place in front of the arbitrator, and be court-reported, with all attorneys present, took place in early May.

When that testimony was done, the attorneys representing each side then had to submit their closing briefs, which are a sort of summation of each side's presentation of the case, in writing, to the arbitrator. As a normal part of the process, the briefs are then exchanged between the Union and the Company. When the Company attorney read our closing brief in the case, he then took the

unusual step of asking the arbitrator for permission to submit what is known as a “rebuttal brief”.

In other words, the Company attorney felt compelled to address an issue or issues which were raised in the Union’s closing brief, with additional closing statements in a rebuttal brief, which was then submitted to the arbitrator. The net effect of these additional steps requested by the Company was that the record did not close until July 10.

From this point forward, it is usual and customary for the arbitrator to take two to three months to issue a decision. Given the complexity of the case and the number of exhibits introduced by both sides, it would not be surprising to see an award issued sometime in October. As always, we’ll keep you updated with any new announcements regarding the progress of this case. - Submitted by MEC Grievance Chair Greg Riffle

21 AUGUST 2009 MEC Hotline:

LOA 35 “ME TOO” ARBITRATION – RULING PENDING

It has been brought to our attention that there are a variety of rumors circulating as to the potential dollar amount of a possible settlement in the LOA 35 arbitration. Some of the dollar amounts we have heard discussed so far, are in excess of any possible settlement amount in this case. Your AFA attorneys argued persuasively in front of Arbitrator Dana Eischen, that the NWA ALPA grievance settlements which gave rise to pilot contract improvements were clearly over valued.

However, the rumors of dollar amounts which have been reported to us as possible settlement amounts per flight attendant bear no relationship with the possible dollar amount of the over valuing of the pilot grievance settlements which were presented in the arbitration. It’s also entirely possible that Arbitrator Eischen could direct us to negotiate a specific dollar amount of contract improvements in lieu of cash payments as well.

Finally, there has been no decision issued in this matter. In order to win the case, we first must convince the arbitrator that the value of the pilot grievance settlements were overblown; and he would then have to accept our analysis of those numbers. He may grant us what we have asked for, or he may give us something less. It’s also possible he may grant us nothing at all. There is no way to tell at this point. However, when a decision is issued in this case, we will report it as soon as possible.

2 OCTOBER 2009 MEC Hotline:

LOA 35 Arbitration Update - October 2, 2009

In early September, Arbitrator Dana Eischen informed AFA that he expected to issue a decision in this matter sometime after the middle of October. Given that

we are coming up on that time frame rather quickly, we will update you with any information just as soon as it becomes available.

21 OCTOBER 2009 MEC Hotline:

LOA 35 Arbitration Update - October 21, 2009

AFA was recently notified by Arbitrator Dana Eischen that he planned on issuing his decision in this matter sometime in "early November". In an earlier communication with the AFA, Arbitrator Eischen had said he planned on issuing his decision sometime in "mid-October". Delays of this nature are not uncommon, especially given the complexity of the evidence and the arguments in this case. If we receive any further updates from Arbitrator Eischen regarding a change in the timeline for issuing his decision, we will communicate those to you when we receive them. - MEC Grievance Chair Greg Riffle

16 November 2009 MEC Hotline:

Dear Colleagues ~

Your MEC was notified this afternoon by our Union System Board member for the LOA 35 "me too" arbitration that the arbitrator, Dana Eischen, has decided to rule against the Union in this case. We are deeply disappointed in this decision. Our Union Board member will now request an Executive Session involving both the Union and the Company Board members, along with the arbitrator, in order to work toward a final written decision. However we do not, unfortunately, expect a change in the final outcome.

As always, we will keep you posted about any new developments in this case.

In Solidarity,

Your NWA-AFA Master Executive Council