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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA, INDIANAPOLIS DIVISION**

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<b>In re</b>	:	
	:	<b>Chapter 11 Case No.</b>
	:	
<b>ATA HOLDINGS CORP, <u>et al.</u>,</b>	:	<b>04--19866</b>
	:	
	:	<b>(Jointly Administered)</b>
	:	
<b>Debtors.</b>	:	
	:	
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**DECLARATION OF RICHARD W. MEYER**

I, RICHARD W. MEYER, JR., subject to the penalties provided by law for perjury, do hereby declare that the following statements are true and correct on the basis of my personal knowledge and the business records of ATA Airlines, Inc. in my custody or control:

**I. Identification and Personal Background**

1. I am employed as Senior Vice President, Employee Relations for ATA Airlines, Inc. ("ATA"). I joined ATA in April 1989 as Vice President, Human Resources. In August, 2001, ATA's Human Resources and Labor Relations functions were divided and I became Vice President of Labor Relations, with responsibility for oversight of all union-related and collective bargaining activity. Prior to joining ATA, I was a partner in a full-service Human Resources consulting firm for over three years, and prior to that I spent 13 years in a variety of Human Resources positions at Cummins Engine Company in Columbus, Indiana.

**II. ATA's Policy Not To Pay Moving Expenses For Mechanics**

2. Terms and conditions of employment for ATA employees who are not covered by collective bargaining agreements are set forth in the Employee Handbook. The "Maintenance Addendum" of the Employee Handbook on "Furlough Policy," effective 7/1/97, expressly provides "Any relocation expense will be the responsibility of the employee." Exhibit A.<sup>1</sup>

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<sup>1</sup> For furloughs occurring in 2001, ATA announced that management would have discretion to make exceptions to its policy that relocation expenses are the responsibility of  
(continued...)

3. On August 21, 2002, ATA advised AMFA of ATA's need to furlough additional employees. Exhibit B. ATA shared with AMFA a draft of "Maintenance & Engineering Furlough & Recall Procedures (Effective September 2002)" to be applicable to the September 2002 furlough. Exhibit C. These procedures expressly provided that "Any moving expenses associated with furlough/displacement shall be paid for by the employee." Exhibit C is a copy of the draft "Maintenance & Engineering Furlough & Recall Procedures (Effective September 2002)" which ATA provided to AMFA, and which AMFA hand delivered back to ATA on August 29, 2002, with AMFA's recommended changes as interlineations in the right margin. (The writing in the top left corner is that of my associate, Dan Copp, and the bracket in the left margin was added for the purposes of this litigation]. As that document illustrates, AMFA recommended changes to several provisions of this policy, but suggested no changes to the bracketed provision that moving expenses would be paid by the employee. Exhibit C. ATA accepted some of AMFA's suggestions and issued the final "Maintenance & Engineering Furlough & Recall Procedures (Effective September 1, 2002), attached as Exhibit D. The final document provides that "Any moving expenses associated with furlough/displacement shall be paid for by the employee." Exhibit D. Several furloughs took place pursuant to the policy set forth in Exhibit D, as listed in Exhibit E. Moving expenses were not paid.

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(...continued)

the employee, and that relocation assistance might be available if approved by the department director.

### **III. Collective Bargaining Between ATA and AMFA**

4. The Aircraft Mechanics Fraternal Association (“AMFA”) was certified as the representative of ATA’s approximately 800 Mechanic and Related employees in February, 2002, after AMFA won an election conducted by the National Mediation Board. ATA and AMFA formally commenced bargaining thereafter on October 11, 2002. At the joint request of AMFA and ATA, the National Mediation Board assigned a mediator to the bargaining on March 25, 2004. Under Section 5 of the Railway Labor Act, the invocation of mediation has the effect of holding the parties in bargaining until the parties have exhausted the mandatory bargaining procedures of the RLA.<sup>2</sup> On October 27, 2004, the day after ATA filed bankruptcy, AMFA asked the NMB to issue a release from bargaining, but the NMB refused. The parties remain in bargaining; they have not yet arrived at an initial collective bargaining agreement or been released by the NMB.

5. Airline collective bargaining agreements are complex and lengthy documents covering a variety of terms for pay, benefits and work rules. Bargaining to reach a new agreement usually takes many months, and sometimes years. To facilitate the course of negotiations, it is customary for the parties to address issues seriatim, either by subject matter or section of the Agreement. When the terms of an agreement on a discrete issue are acceptable to both parties, it is customary to reach “tentative agreement” or “T/A” on the issue. That issue is then set aside as the parties turn their attention to other issues.

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<sup>2</sup> The mandatory procedures are concluded only after these steps occur: the NMB declares the parties at impasse; the NMB issues a proffer of binding arbitration; if either party refuses the proffer of arbitration, the NMB issues a “release” terminating mediation; the expiration of a further 30-day “cooling off” period. 45 U.S.C. § 155.

The express understanding, however, is that there is no binding agreement on any issue until the parties reach a final agreement on all terms.<sup>3</sup> Thus, a T/A is only a conditional agreement; it is conditioned upon reaching agreement on all outstanding issues between the parties and upon ratification by the union membership.

6. It is not unusual that negotiations in other sections of the agreement, once agreed upon, may in fact necessitate changes in previously tentatively agreed to sections. The fluid nature of the collective bargaining process is indicated in the cover sheet of AMFA's opening proposal of October 11, 2002 (Exhibit F), where AMFA "reserve[d] the right to add, amend and delete proposals, also reinstate any single proposal or a portion there of, during the course of these negotiations."

7. In AMFA's hand-delivered letter dated October 11, 2002, enclosing its opening bargaining proposals, AMFA stated that:

ratification of any Tentative Agreement (T/A) is achieved through a membership secret ballot referendum. Also, any Letter of Agreement (LOA) between the Association and the Company, that would alter an existing agreement, must follow the same procedure . . .

Exhibit G. In the October 11, 2002 negotiation session with AMFA, Terry Harvey, then the Assistant National Director of AMFA, stated that the AMFA membership ratifies the final T/A – meaning when all sections are completed – not individual sections. ATA's notes of this bargaining session are attached as Exhibit H. AMFA has sent no T/A'd section out for ratification.

<sup>3</sup> Among other problems, the discrete TAs on separate issues have no stated effective date or duration - because the parties intend to address those terms elsewhere in the Agreement.

8. During the course of the bargaining, AMFA and ATA tentatively agreed to terms on several provisions, as listed in Exhibit I. On November 25, 2002, ATA and AMFA T/A'd Article 1 on the Purpose of the Agreement; on September 9, 2003, ATA & AMFA T/A'd Article 6 on Overtime; on May 27, 2004, ATA and AMFA T/A'd Article 9 on Sick Time. Except as indicated in the next paragraph, ATA has not implemented any of these T/As, and AMFA has never asserted that ATA is obligated to do so. On May 28, 2004, AMFA and ATA marked "T/A" on Article 29: Expenses, which, in subsection E, would provide for moving expenses for employees involuntarily displaced in a furlough. At no time prior to the present motion has AMFA ever suggested that ATA is somehow required to implement this T/A on moving expenses.

9. On January 7, 2005, ATA informed AMFA Airline Representative Mark Walden that ATA was prepared to make a change in the current Employee Handbook, to implement a new policy on seniority, which partly mirrored the language on a T/Ad article on seniority and partly drew language from an open article on Classifications. ATA also stated that the "change is non-precedent setting and non-biding in terms of the Company's discretion to amend the policy during the collective bargaining process between ATA and AMFA. In addition, the decision to implement the T/A is on a non-referral basis regarding any other T/As which may have been reached in the bargaining process." Exhibit J. AMFA did not question or challenge these public statements by ATA.

10. ATA consistently has maintained the position that Company policies may be amended at the discretion of the Company during the collective bargaining process.

Upon information and belief, Mr. Walden verbally acknowledged this on several occasions in his communication with AMFA members. Exhibit K contains a print-out of an AMFA communication posted on the website <http://www.amfaatata.com> which states

ATA has laid off by seniority since AMFA has been involved. However, without a contract they have no requirement to do that. Thankfully ATA has tried to follow the tentative agreement in part. Hopefully this is a start for AMFA and ATA to work closely together in the future for the benefit of ATA and the maintenance employees.

Exhibit K also includes a printout of an AMFA communication called "AMFA ATA Update" dated October 29, 2004 posted on the website <http://www.amfamatl.org>, which states

Q. Can the company lay off the employees, and do they have to do so in seniority order?

A: Yes, the company has the right to lay you off. Since we have not completed the negotiating process, we do not yet have a binding contract. However, the company has stated in the past that if layoffs were to occur they would do so by following the furlough policy that was in place, by seniority. We fully expect them to follow through on that obligation. . . .

Subject to the penalties provided by law for perjury, I declare that the foregoing statements are true and correct on the basis of my personal knowledge (except where noted upon information and belief) and the business records of ATA Airlines, Inc. in my custody or control

/s/Richard W. Meyer, Jr.  
Richard W. Meyer, Jr.  
March 28, 2005