IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

Trans World Airlines, Inc., et al.,	)	Chapter 11
	)	
Debtor	)	Case No. 01-00056 (PJW)
	)	
TWA Inc. Post Confirmation Estate,	)	
	)	
Plaintiff	)	
v.	)	
	)	Adversary Proceeding No. 02-75191 (PJW)
Atlas Copco Compressors, Inc.	)	
	)	
Defendant	)	
	)	

DEFENDANT'S OBJECTION TO PLAINTIFF'S
PROPOSED SCHEDULING ORDER

The above-captioned defendant (the "Defendant") objects to the proposed scheduling order (the "Proposed Order") of the above-captioned Plaintiff (the "Plaintiff") as follows:

1. Lack of Service. Plaintiff served the Proposed Order on March 3, 2003 *from* California for a March 7, 2003 deadline. Defendant's undersigned counsel received copies of the Proposed Order at 2:50 p.m. on March 7, 2003. Defendant submits that Plaintiff's service of the Proposed Order from California on four days notice is grossly deficient.

2. The Parties Have Not Conducted Any Settlement Discussions. The Proposed Order states that "the parties [have] been unable to resolve this dispute prior to this juncture by settlement, voluntary mediation or binding arbitration." While that statement is technically true, it is misleading because the parties have not had any settlement discussions. Defendant submits that a reasonable time of three months be built

into the scheduling order to permit the parties to attempt to settle this matter before they are required to expend time and money on formal discovery. Defendant has recently sent Plaintiff a written position statement to which Plaintiff has not responded.

3. No Meeting Has Occurred Under Rule 26(f). The Proposed Order states that the parties have conferred as required under Fed. R. Civ. P. 26(f), as applicable under Fed. R. Bankr. P. 26. In fact, no such conference has occurred and Plaintiff has taken no action to hold such a conference as required by the rules.

4. The Initiation of Discovery Cannot Occur on March 7, 2003. The scheduling conference is set to go forward on March 14, 2003. Defendant submits that no discovery should be permitted until after a scheduling order is in place. Moreover, under Fed. R. Civ. P. 26(f), no discovery may be initiated until after the parties have conducted their conference under Rule 26(f) and submitted a report based on that conference.

5. There is No Time for Settlement Discussions in the Proposed Order. The Proposed Order would have the parties rush into formal discovery before they have had an opportunity to engage in any meaningful settlement discussions. Defendant submits this is not an efficient way to proceed.

6. The Proposed Schedule is Far Too Rapid. The Proposed Order allows the parties only three months for fact discovery and only six weeks for expert discovery. Defendant believes that this is not a realistic schedule and that at least six months should be permitted for fact discovery and two months for expert discovery *after* the parties have first been afforded an opportunity to conduct settlement discussions.

7. The March 31, 2003 Deadline for Motions to Amend is Not Appropriate. Rule 15 contemplates that a motion to amend a pleading may be heard even after trial. To require such motions to be filed before discovery has even commenced is entirely inappropriate. This provision should be stricken from the Proposed Order.

8. This Court Lacks Jurisdiction Over This Matter as Defendant has Demanded a Trial by Jury. No scheduling order should be entered at this time as Defendant has demanded a trial by jury and has not filed a proof of claim under 11 U.S.C. § 502 in this bankruptcy case.

Without waiving its jury trial right, Defendant proposes the following dates and deadlines:

April 15, 2003: Plaintiff will serve Defendant with its analysis and settlement position.

May 15, 2003: Defendant will serve Plaintiff with its response and its own analysis and settlement position.

June 15, 2003: If the parties have not resolved the case, they may commence discovery.

December 1, 2003: Fact discovery shall conclude.

January 15, 2004: Production of expert reports.

February 10, 2004: Production of rebuttal expert reports

March 1, 2003: Conclusion of all expert discovery.

April 15, 2004: Dispositive motions due.

April 30, 2004: Responses to dispositive motions due.

May 10, 2004: Replies on dispositive motions due.

WHEREFORE, Defendant requests that the Proposed Order not be entered.

/s/ Christopher D. Loizides
Christopher D. Loizides (No. 3968)
CHRISTOPHER D. LOIZIDES, P.C.
1200 Pennsylvania Avenue, Suite 202-A
Wilmington, DE 19806
Telephone: (302) 654-0248
Facsimile: (302) 654-0728
E-mail: cloizides@cdlpc.com

Dated: March 7, 2003

Attorney for Defendant