

The hearing on American's motion to reject the TWU collective bargaining agreements for M&R and Stock Clerks concluded on Friday, May 25. A summary of the proceedings is outlined below.

During the trial, lawyers and witnesses for the TWU argued that there are a number of reasons why American's motion should be denied. American argued that it had formed a business plan to return to profitability in the next six years and that this plan drives its ask of each of its labor groups. The TWU responded that American's ask was too high, the business plan is just another form of the failed cornerstone strategy that the company has pursued for years, that the real business plan is not yet fully formed because, as its witnesses admitted on cross-examination, American did not consider alternative proposals that could better position it to compete going forward. The TWU also argued that American failed to satisfy its fiduciary obligations to the employee-stakeholders because it did not explore all its options before proposing these concessions. The TWU emphasized that, unlike the 1113 process in NWA, United, Delta or U.S. Airways, no constituency affirmatively supports the business plan upon which the concessions are based and even though the creditors' committee supports labor cuts, it reserved its right to challenge the business plan. American admitted that it has begun to consider other options, including the possibility of merger. The TWU argued that labor should be permitted to fully participate in the vetting of the true business plan or any alternative transaction before being asked for concessions.

After putting in its evidence, American's witnesses were cross-examined. On cross-examination by the TWU, American admitted that even though its proposals did not expressly call for wage cuts, in fact hundreds of employees would be faced with large wage cuts because American proposes to change their job classifications. In addition, even though American said that its 20% across the board labor ask was standard industry practice, on cross examination American's witness admitted that in the other cases the airlines first aligned labor costs to market before seeking across the board cuts. American also admitted that even though it said that its goal was to be market competitive, its overall labor demands were not driven by market-based considerations.

After cross-examining American's witnesses, the TWU presented its witnesses. The witnesses testified that, among other things, the company is asking for too much in outsourcing, too much in other concessions, our wages are already at the lowest end of the market and that the company undervalued our counter proposals. TWU witnesses also testified that although American has argued that it is asking for \$212 million in cost savings from the M&R group and \$20 million from the Stores group, American has undervalued its proposed changes so that the actual ask is even greater than the amount it says is necessary.

The TWU also testified about the extent of the cuts the TWU members took in 2003 to save the company from bankruptcy at that time, and the various efforts of the TWU members over the past 10 years to improve efficiency. These efforts resulted in more than a billion dollars in value and cost savings while protecting jobs at American. In addition, the TWU also presented testimony about how much more competitive we were in performing our aircraft overhaul in house than the other airlines that outsource, and this testimony was not challenged by American.

The witness also testified that despite these improvements, as a result of movement in the industry, wages and overall compensation of M&R members has fallen to last in the industry. Finally, the witness testified that even though TWU negotiators met night and day with American's negotiators and made a number of counter-proposals, American made little or no movement from its February 1 initial ask before it filed its motion.

While most of the proceedings were conducted in open court, the court closed the courtroom briefly to everyone who did not sign a federal bankruptcy court protective order because the financial information discussed during that portion of the hearing was confidential. Since American is a public company, certain non-public financial information cannot be publically disclosed.

During its closing arguments on Friday, May 25, the TWU reiterated, among other things, that all the labor groups cannot be lumped in together. TWU members have been struggling with below market wages and above market health care costs for many years. Against this background, the TWU demonstrated that the company's ask is excessive in terms of the amount of the ask and the number of employees that would lose their jobs. Further, the TWU demonstrated that the company has failed to satisfy its fiduciary duty to examine alternatives before demanding these drastic concessions, and took the unprecedented step to base the 1113 ask on a business plan that does not have the support of any stakeholder group. Finally, the TWU demonstrated that the company failed to negotiate in good faith, refusing to make any significant changes on any of the points that matter to TWU members, instead adopting a take-it-or-leave-it position on both the total amount of the ask and the level of job losses. Nevertheless, the TWU made reasonable proposals, and those too were rejected by the company.

According to the schedule set by the bankruptcy court, the parties will submit post trial briefing on June 4. The company extended the court's deadline to rule until June 22 because the court indicated it needs the extra time given the long trial and sheer volume of the papers and testimony submitted by all parties. At the close of the hearing, the court urged all parties to engage in negotiations to attempt to resolve their issues.