

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**COMMUNICATION WORKERS
OF AMERICA,**

Plaintiff,

vs

PIEDMONT AIRLINES

Defendant.

Civil Action No.

COMPLAINT

INTRODUCTION

This is a Complaint for Injunctive and Declaratory Relief and for damages brought by the Communication Workers of America (“CWA”) alleging that Piedmont Airlines has violated provisions of the Railway Labor Act (“Act”) by suspending employee compensation programs of CWA represented employees in retaliation for those employees having exercised protected rights under the Act.

PARTIES

1. Plaintiff Communication Workers of America (“CWA”) is the collective bargaining representative of a unit of employees located in a number of locations in the Eastern United States, including Harrisburg, in this judicial district. CWA is a representative within the meaning of 45 U.S.C. § 151, Sixth.¹

2. Defendant Piedmont Airlines (“Piedmont”) is a corporation and a wholly owned subsidiary of US Airways. Piedmont’s Human Resources office is located at 1000 Rosedale Avenue, Harrisburg, Pennsylvania 17057, in this judicial district. Piedmont is a

“carrier” within the meaning of 45 U.S.C. § 151, First.

¹ Railway Labor Act (“Act”)

VENUE AND JURISDICTION

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331 and 45 U.S.C. § 151 et.seq.
4. Venue is appropriate in this judicial district pursuant to 28 U.S.C. § 1391(a)(1) and (2), because Defendant's Human Resources office is in this judicial district and Plaintiff and Defendant conduct substantial business and/or work in this District, including collective bargaining negotiations.

FACTUAL NARRATIVE

5. In 2009, CWA began a campaign to organize approximately 3,000 non-union customer service agents (fleet and passenger service agents) employed by Piedmont Airlines in the Eastern United States, including in Pennsylvania, New York, and North Carolina.
6. Defendant Piedmont aggressively resisted the organizing drive through the hiring of consultants and the distribution of anti-union literature.
7. On July 12, 2010, CWA filed a petition to invoke the services of the National Mediation Board to investigate and determine who may represent "Fleet and Passenger Service Employees" of Piedmont for purposes of the Railway Labor Act.
8. Following an election conducted under the auspices of the National Mediation Board, Plaintiff CWA was, on November 5, 2010, designated and authorized to represent for purposes of the Railway Labor Act a class of Fleet and Passenger Service employees of Piedmont Airlines. (NMB certification attached hereto as Exhibit 1).

9. Negotiations for a collective bargaining agreement began in February 2011 between CWA and Piedmont. Those negotiations have continued since that time and as of the filing of the instant Complaint, no agreement has been reached.

10. Pursuant to the Piedmont Airlines Customer Service Department Policy and Procedures Handbook (“Handbook”) customer service agents have been evaluated and received increased compensation through two programs—the Annual Employee Evaluation and Merit Increase Program and the Capped Employee Bonus Program. (Relevant Excerpts of Handbook attached hereto as Exhibit 2)

11. On January 10, 2012, Piedmont notified customer service agents represented by CWA that the Annual Employee Evaluation and Merit Increase program and the Capped Employee Bonus Program (“employee compensation programs”) were being suspended.

12. A draft of that letter was sent to CWA union representatives shortly before it was sent to the customer service agents. (That letter is attached hereto as Exhibit 3).

13. The Annual Employee Evaluation and Merit Increase Program and the Capped Employee Bonus Program have not been suspended for non-union employees of Piedmont Airlines, and are still in effect for such employees.

14. Had the customer service agents not chosen to unionize with CWA as their bargaining representative, those two employee compensation programs would not have been suspended.

15. The CWA, its representatives, and CWA represented employees have objected to Defendant Piedmont’s actions in this matter, including but not limited to raising it in meetings of the US Airways Labor Committee on January 18, 2012, which included

among those in attendance, US Airways Group, Inc. and US Airways Chairman and CEO Doug Parker.

COUNT I:

RAILWAY LABOR ACT (45 USC Section 152 (Third))

16. The averments of paragraphs one through fifteen of this complaint are incorporated herein by reference.

17. The actions of Piedmont constitute discrimination and retaliation for the decision of the employees to unionize and to designate Plaintiff CWA as their collective bargaining representative.

18. The actions of d Piedmont in suspending the Annual Employee Evaluation and Merit Increase Program, and the Capped Employee Bonus Program to the CWA unionized employees, while maintaining it for non-union employees , constitutes impermissible interference, influence, and coercion in violation of 45 U.S.C. § 152, Third.

COUNT II

RAILWAY LABOR ACT (45 USC Section 152 (Fourth))

19. The averments of paragraphs one through eighteen of the complaint are incorporated herein by reference.

20. The actions of Piedmont constitute impermissible interference and coercion with the right of its employees to join, organize, or assist the labor organization of their choice.

21. The actions of Piedmont in suspending the two employee compensation programs constitutes impermissible interference and coercion with the right of employees to join,

organizer or assist the labor organization of their choice in violation of 45 USC § 152 (Fourth).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- a. Declaratory and injunctive relief enjoining Defendant from any further violations of the Railway Labor Act, and specifically from violations of 45 U.S.C. § 152, Third and Fourth;
- b. An order reinstating the “Annual Employee Evaluation and Merit Increase Program, and the Capped Employee Bonus Program”, effective January 10, 2012;
- c. Lost wages and benefits, and damages for all employees who were impacted due to the January 10, 2012 cancellation of the Annual Employee Evaluation and Merit Increase Program, and the Capped Employee Bonus Program; and
- d. Such other relief as this Court deems just and proper.

Respectfully submitted,

HEALEY & HORNACK, P.C.

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