

The Labor Relations Advisor

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Comair, Pilots Agree To Extend Negotiations Deadline

Comair has delayed plans to impose concessions on its pilots thereby averting a New Year's holiday strike that was threatened by the 1,600 pilots if the company had voided their labor agreement. The bankruptcy court had approved the airline's motion to reject the pilot contract on December 21, 2006. The company and the Air Line Pilots Association (ALPA) signed a "standstill" agreement when negotiations stalled two days before the December 30th deadline for imposing concessions. Under the standstill agreement, the parties will continue their efforts to reach a consensual restructuring agreement, setting a new deadline of February 2nd to reach a deal. The agreement also suspends the company's strike injunction motion during the standstill period, and provides that the pilots will refrain from job actions during that time. The current ALPA collective bargaining agreement will remain in effect through February 2, 2007.

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IAM, Steelworkers Join Global Union

Two major U.S. unions have joined an international labor group seeking to forge a global super-union. The International Association of Machinists (IAM) and the United Steelworkers of America (USW) have signed a pact with Amicus, the largest private sector labor union in the United Kingdom, and the German engineering union IG-Metall. The groups envision creating a united front to combat multinational companies that "trade off countries and workforces against each other," explained Derik Simpson, general secretary of Amicus.

The international labor organization expects to count approximately 6.3 million members within a few months. IG-Metall numbers 2.4 million members; the USW brings 1.2 million workers to the group, and the IAM claims 730,000 on its rolls. In addition, membership of Amicus will grow to 2 million after the organization's announced merger with Britain's Transport and General Workers' Union (T & G) in May 2007.

Although overseas labor cooperation is not without precedent, past alliances have not involved formalized agreements. For example, T & G has cooperated in the past with the Service Employees International Union (SEIU) on organizing campaigns. Signators of the Amicus pacts hope to protect employees of multi-national companies that shed jobs in countries with weak employment protections, such as the U.K. Amicus leaders point to the example of auto manufacturer Peugeot, that plans to close its U.K. plant and to move 2,300 British jobs to Slovakia, where labor is cheaper. ■

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Goodyear Workers Approve New Pact, End Strike

Approximately 12,600 employees of Goodyear Tire and Rubber Company have ended a strike by approving a contract expected to reduce costs, enhance productivity, improve job security and secure retiree medical benefits. The workers at 16 Goodyear plants in the U.S. and Canada are represented by the United Steelworkers of America (USW). The three-year master agreement reduces costs by up to \$610 million over the term of the agreement, and provides \$300 million per year in ongoing savings. Following are summary highlights of the pact:

- Provides for capital investment of \$550 million over three years to boost the factories' efficiency and productivity in the manufacture of high-value-added products.

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Comair *(continued from page 1)*

To exit bankruptcy, the airline seeks to slash operating costs by \$70 million per year, with more than half coming from labor cost reductions. Comair has targeted pilot cost cuts worth \$15.8 million per year. Although the ALPA group accepted a \$17.3 million cost-saving package in January 2006, these cuts were not implemented because the flight attendants had not resolved its concession agreement. Pilot negotiations resumed after the airline and its flight attendants, represented by the International Brotherhood of Teamsters (IBT), agreed on cost cuts worth less than the company originally sought. The company has already implemented the IBT concessions, as well as the restructuring agreement with its mechanics, represented by the International Association of Machinists (IAM). (See Labor Relations Advisor, October 2006.) Comair filed for bankruptcy in September 2005, along with Delta Airlines. ■

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Court Approved \$3 Million Penalty for Discriminatory Pre-Hire Function Tests

Dial Corp's strength testing of job applicants constitutes intentional discrimination because of its disparate impact on females and the company's failure to identify the test's business necessity, a federal court has ruled (*EEOC v. Dial Corp.*, 8th Cir., No. 05-4183, 11/17/06). The United States Court of Appeals' decision affirmed a \$3 million judgment in favor of the Equal Employment Opportunity Commission (EEOC) against the Iowa meat processing plant in September 2005.

Dial implemented a strength test for physically demanding entry-level jobs in its sausage-making plant in 2000. These jobs required repetitive lifting of 35 pounds of sausage to a level approximately 65 inches above the floor. Before utilizing the strength test, almost half of new hires were women. After adopting the test, the proportion of female new-hires plummeted. Only 38 percent of female applicants passed the test, compared to 97 percent of male applicants.

The EEOC brought suit on behalf of 52 women who had failed the test, alleging the assessment had an illegal disparate impact on women. In 2004 a federal district court found a pattern of intentional discrimination and awarded compensatory damages to nine plaintiffs who had testified. In 2005, when the judge determined that the strength test also had a disparate impact on women, he awarded more than \$3 million in back pay and compensatory damages to the group of 52 plaintiffs.

Affirming the 2005 verdict, Judge Diana Murphy noted that employees of both genders worked the same job together before the strength test was adopted. She also cited evidence that while men and women applicants received similar comments on their tests, only men received job offers. Disputing Dial's claim that the test was a business necessity because safety improved after the test was implemented, the judge pointed out that injuries began decreasing before that time. "Moreover, the injury rate for women employees was lower than that for men in two of the three years before Dial implemented the test," she wrote. Because the company failed to show the test was a business necessity, Dial must establish that it had no alternative that was less discriminatory than the testing. The court found that Dial had not shown that other safety measures "could not produce the same results." ■

USPS Reaches Tentative Pacts With Three Unions

After only a few months of bargaining, the United States Postal Service (USPS) has reached tentative agreements with three major unions covering 395,000 mail handlers -- the American Postal Workers Union (APWU), the National Rural Letter Carriers' Association (NRLCA), and the National Postal Mail Handlers Union (NPMHU). All the negotiations began in late August 2006, although the USPS conducted separate talks with each union. Negotiations between USPS and a fourth union representing 225,000 employees -- the National Association of Letter Carriers (NALA) -- reached impasse, despite an extended bargaining deadline. The parties are now preparing for interest arbitration to settle the dispute.

The four-year pact with the APWU is pending ratification by the union's 272,000 members, with the vote count scheduled for January 9th. The tentative agreement provides postal workers a 1.3 percent increase in base annual salary retroactive to November 2006, a pay upgrade in February 2008 with the adoption of a new pay scale, and an additional 1.2 percent salary increase in November 2009. The contract also includes eight cost of living adjustments during the life of the agreement. Effective in 2008, the USPS will pay 95 percent of premiums for employees enrolled in the consumer-driven health plan. Employees' share of health care costs will rise by 1 percent each year from 2008 through 2011. Other changes include the establishment of bereavement leave, an increase in the uniform allowance, new restrictions on casual employees working in skilled positions, and the conversion of part-time employees in certain offices to regular clerk craft employees.

The NRLCA, representing approximately 118,000 rural mail delivery personnel, agreed to a four-year tentative pact. The NPMHU, representing 55,000 employees who work in the bulk loading and unloading of mail, accepted a tentative 5-year agreement that will expire November 20, 2011. ■

NEWS BRIEFS...

NEGOTIATIONS...Agents at **PSA Airlines** have overwhelmingly approved a new 4-year agreement that provides wage increases and other improvements. The airline's previous contract with the IBT became amendable in March, 2002...**US Airways** and TWU have reached agreement on a single contract for dispatchers. The agreement transitions former America West dispatchers to the labor agreement covering pre-merger US Airways dispatchers. The TWU represents dispatchers at both pre-merger airlines...**COMPENSATION...** The average first-year wage increase for all collective bargaining settlements measured 3.3 percent in 2006, according to data compiled by the Bureau of National Affairs, compared to an average 3.2 percent increase in 2005. The median first-year wage increase for all settlements measured 3 percent in both 2006 and 2005. Looking only at private sector agreements excluding the construction industry, the average first year wage increase reached 3.4 percent in 2006, compared to a 3 percent boost in 2005. Median first-year wages in

this category rose 3 percent in both 2006 and 2006...**OUTSOURCING...****Hawaiian Airlines** plans to transfer most of its reservations jobs to the Philippines, and to move its information technology and accounting positions to India. Although up to 230 Hawaiian employees could be affected, they will be protected from layoff by shifting to other jobs within the company with the same pay rate... **PENSIONS...** Firms continue to implement or expand defined contribution plans as they shift away from traditional defined benefit (DB) pension plans, according to a recent study by Mercer Human Resource Consulting. Of the 312 companies surveyed in the U.S., Canada and Europe, more than half plan to introduce or to improve a defined contribution plan. By contrast, 56 percent see their traditional pension plans as a financial risk, and another 16 percent describe the DB plan as a "great" risk. Six in ten respondents plan to cut back their pension plans by reducing benefit formulas, freezing benefit accruals, or closing the plans to new hires. ■

Goodyear *(continued from page 1)*

- Improves job security for most of the workforce.
- Reduces excess capacity by closing the Tyler, Texas plant at year-end 2007. Employees at the Tyler facility will be offered retirement buyouts during 2007.
- Transfers USW retiree medical obligations to an independently administered Employees' Beneficiary Association (VEBA). Goodyear will provide an up-front contribution of \$700 million in cash with an additional \$300 million in cash or company stock. The VEBA would assume full responsibility for providing medical benefits to all present and future Goodyear USW retirees, subject to court and regulatory approval.
- Implements lower-cost wages and benefits for new hires during their first 3 years of service.
- Redesigns incentive systems to boost employee productivity.
- Provides profit sharing of up to \$25 million in 2009 and up to \$30 million in 2010.
- Restores pension service, resulting in a cost of about \$13 million per year.
- Goodyear workers walked off their jobs on October 5th, 2006 after the breakdown in negotiations that began on June 9th. The previous three-year labor agreement expired July 22, 2006. ■

Termination of Delta Pilots' Pension Plan Approved

The United States Bankruptcy Court for the Southern District of New York has given final approval for Delta Air Lines to terminate the pilots' defined benefit pension plan (*In re Delta Air Lines Inc.*, Bankr. S.D.N.Y., No. 05-17923, *settlement approved 12/20/06*). The settlement agreement between Delta and the Pension Benefit Guaranty Corporation (PBGC) marks a "vital stepping stone" to the airline's emergence from Chapter 11 bankruptcy, noted Judge Adlai Hardin. The plan had been underfunded by approximately \$3 billion. Delta pilots, represented by ALPA, had agreed not to object to the termination of the pension plan.

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The agreement provides for a termination date of September 2, 2006. The PBGC will become the plan's trustee and make an unsecured claim of \$2.2 billion against Delta. After reorganization, the company will pay the agency \$225 million in senior unsecured notes, and the PBGC will hold \$2.2 billion in company assets, which could be traded on the open market.

Delta also signed a written agreement regarding the pension plan for non-pilot employees. The company pledged to follow the provisions of the Pension Protection Act, which permits freezing the retirement plan for 91,000 active and retired ground employees and flight attendants, and to fund the plan according to the law. The agreement provides that the airline will contribute \$50 million to the plan before exiting bankruptcy. ■

Study Finds Wide Variation in Retirement Plan Participation

Employee participation in defined contribution (DC) retirement plans has risen to 43 percent in 2006 compared to less than one-third of private sector employees in 1992-93, reflecting a corporate shift away from defined benefit plans. Employee participation in DC plans varies greatly across jobs and industries, however, according to a recent Labor Department survey (*Access, Participation, and Take-Up Rates in Defined Contribution Retirement Plans Among Workers in Private Industry, 2006*, Bureau of Labor Statistics, December 2006.) For example, participation exceeded 50 percent among workers in white-collar occupations, high-paying jobs (at least \$15 per hour), and large companies (100 or more employees) in 2006. By contrast, only 16 percent of part-time workers and 20 percent of service employees enrolled in these plans.

The report identified two statistics that help explain the variation in employee participation rates: "access" rates and "take-up" rates. Access rates measure the proportion of employees who work for a company that offers a retirement plan. Take-up rates measure the proportion of employees with access to a plan that chooses to enroll in the plan. Participation rates reflect

the status of all workers, including those without access to a retirement plan.

Data showed that variation in employee participation in DC plans is primarily due to differences in access rates rather than take-up rates. The study found wide variation in access to DC plans. For example, while only 25 percent of part-time workers have access to a DC plan, 70 percent of employees in large companies are offered a plan. By contrast, take-up rates measure consistently high across all groups. From a low of 65 percent of service workers to a high of 86 percent of union-represented employees, the vast majority of private industry employees would enroll in a DC plan if their employer offered one.

The report also noted difficulties of low-wage workers in saving for retirement. Not only do lower-paid employees have less access to DC plans, but they also have less money available for savings. Their situation is exacerbated by the fact that many of the plans offered to them require an employee contribution before the company makes its contribution. ■

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