

No. 12-315

IN THE
Supreme Court of the United States

AIR WISCONSIN AIRLINES CORPORATION,
Petitioner,

v.

WILLIAM L. HOEPER,
Respondent.

**On Writ of Certiorari to the
Colorado Supreme Court**

JOINT APPENDIX: VOLUME TWO OF THREE

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August 29, 2012

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PETITION FOR CERTIORARI FILED SEPTEMBER 11, 2012
CERTIORARI GRANTED JUNE 17, 2013

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NOTICE

The following documents have been omitted from the printing of this Joint Appendix. They may be found in the Petitioner’s Appendix to the 12-315 Petition For A Writ Of Certiorari at the following pages:

<i>Air Wisconsin Airlines Corp. v. Hoeper, No. 09SC1050, 2012 WL 907764 (Colo. Mar. 19, 2012)</i>	1a
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6331 South Eudora Way
 Centennial, Colorado 80121
 Phone 303-741-1916
 e-mail: askydog@msn.com

William L. Hoepfer

.....

Objective: Pilot/Flight Officer

Flight Time: Total Flight Time 12,510 hours

Pilot-in-Command	11,030
Turbine/Jet	7,270
Instrument	930
Multi-engine	10,520
Night	4,130
CFI-MEII	1,350

Type Ratings & Certificates: B-737, AVR-146, BAe-146, CL-65, DO-328, CV-340A, CV-440A
 ATP: Airplane MEL
 Commercial SEL
 First Class Medical
 (no restrictions)
 Flight Instructor CFI-MEII
 Advanced Ground Instructor

Experience: Corporate Pilot
 June 2005-Present
 Part 91 flight department for the corporate travel needs of a family owned natural gas company. I flew the AC-690 and PA-601P various single-engine airplanes, single-pilot, mainly in the Rocky Mountains. I am responsible for all the planning, safety of flight and aircraft needs at destinations. I also assist in the performance of

365

routine maintenance for the aircraft and the hangar cleanliness.

J-W Operating Company
Centennial, CO

Captain/Lead Ground Instructor
CL-65 Oct. 1996-Dec. 2004

Part 121 scheduled United Express Carrier based in DEN/ORD. I flew PIC on the CL-65 and DO-328. I taught CPT, CRM, CBT/IBT program, Recurrent, Initial systems, Cabin Crew Self-defense and TSA hijack procedures. Developed PowerPoint programs, tests, hand-outs and assisted the Manager of Training with scheduling and supervising new-hire pilot classes. Initially set up entire Denver pilot training program in the new Denver CAE Training center.

Air Wisconsin Airlines
Appleton, WI

Captain CV:580
Dec 1991-June 1996

Part 121 international scheduled freight service throughout the Arab Gulf. Performed flight-dispatching duties, cargo handling supervising and daily interactions with the local Custom Officials and National workers at out-stations. Researched, wrote and produced the first DHL Middle East Crew Operations Manual for

366

the CV-580 for the Part 121 like certification.

DHL Manama, Bahrain
(Middle East)

Captain CV-580

Oct. 1988-June 1991

Part 121, 125 international scheduled passenger flag carrier. Flew into Canada and Mexico. I performed FO duties until I was upgraded in May 1990. Also flew VIP charters for Donald Trump, Hollywood movie and music industry types and foreign embassies. I once flew into Andrews Air Force Base with the King of Tunisia. The plane was met by the then Vice President of the United States, George Bush.

Air Resorts Airlines
Carlsbad, CA

F0 CV-580

June-1986 May 1997

Part 121 scheduled passenger operations for Continental Express out of DEN. Flew into ski resort destinations and also flew government forest service contracts during the summer. The operations included flying the forest fire-fighters into hot areas.

Sierra Pacific Airlines
Marana, AZ

367

FO SA-227

Feb 1986-June1986

Part 135 scheduled passenger operations for Continental Express out of Denver, Colorado Springs. I flew through out the Rocky Mountain Region. This business was integrated in to Rocky Mountain Airways and eventually into a single Continental Express before being merged out of existence.

Trans-Colorado Airlines
Colo. Springs, CO

Asst Chief Pilot/Captain

C-404/Mu-2

Feb. 1984-Jan. 1986

This was a Part 135 Freight Operations that flew allover the Rocky Mountain region. All the positions were single pilot and mostly a night. I was promoted to Asst. Chief Pilot and assisted with managing the flight department. I did line-checks and IOE and other pilot supervisory duties. This company was bought by Rocky Mountain Helicopters and liquidated. The Mu-2 is thought to be the most difficult airplane to fly because of its unique design and poor safety record.

Air Today Inc.
Denver, CO

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Deputy Sheriff

June 1979-June 1984

I was a Deputy Sheriff with assignments in Detentions, Patrol and Aviation. I successfully completed the required Colorado Peace Officer's training and certification at the Jefferson Country Academy. I was one of only a handful of Deputies that became certified radar operators for speed limit enforcement on Patrol. I did some brief undercover work which was gang related.

Jefferson County Sheriff's

Department Golden, CO

Flight Instructor

Oct. 1976-Dec. 1978

I was a flight instructor at the College level. It was a part 141 Approved School and I taught Primary and Commercial students in flight and ground school courses. I rose through the ranks to become the Assistant Chief Pilot of the Primary School. I was hired because of my prior tutoring experience from when I attended the College as a student. I also earned my Instrument Instructor and Multi-engine rating during this tenure. I left to finish my Bachelor degree at Metro-State College.

Colorado Northwestern
Community College
Rangely, CO

Education: Metropolitan State College,
Denver, Colorado
*Bachelor of Science Aviation
(Business Management Minor)*

Colorado Northwestern Comm.
College, Rangely, Colorado
*Associates Degree Aviation
Occupations*

- I was the recipient of a full scholarship for Leadership and Academic performance. It was called the Gravely-Ledbetter Memorial Scholarship for the year 75-76•

Skills & Interest:

- Proficient Microsoft Office User (Word, PowerPoint, Movie Maker)
- Federal Flight Deck Officer (Feb. 2004)
- Certified Colorado Peace Officer (Dec. 1979) JCSD Deputy Sheriff
- Instructed Cockpit Resource Management including Captain Up-Grade
Transition Class, Cabin Crew self-defense class and TSA

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Common Strategy II (2001-2004)

- Colorado State Certified Aviation Technology Instructor
- Colorado State Teaching Certified in Vocational Aviation
- Colorado State Peace Officer Certified



**NON-UNION/SALARIED EMPLOYEE
PERFORMANCE REVIEW
AND DEVELOPMENT FORM**

NAME William Hooper POSITION Ground Instructor
 DEPARTMENT Flight TIME IN PRESENT POSITION 12 months
 HIRE DATE 10/20/96 EMPLOYEE NUMBER 4615



For each skill and ability listed below place a in the box which best represents the level of employee skill/ability compared with the level required for successful job performance. Please provide comments on all "below" or "above" average performance on the reverse side of this document in addition to any other comments regarding the employee's performance.

FACTORS	RATING OF FACTORS				
	Falling - Must improve in factor.	Below Expectation - Needs to improve in some key job areas.	Satisfactory - Competent in job, normal supervision.	Superior - Generally exceeds requirements. Minimum of guidance.	Distinguished - Meritorious performance. Constantly exceeds all requirements.
1. JUDGMENT AND DECISION MAKING Identifies/Evaluates Issues; Reaches Sound Conclusions; Generates Alternatives; Understands Consequences; Makes Accurate and Timely Decisions; Attends To Details.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. DRIVE/COMMITMENT/INITIATIVE Maintains High Energy Level; Tackles Tough Assignments; Strives for Personal Improvement and Success. Self-starter. Proactive.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. LEADERSHIP AND IMPACT/INTERPERSONAL EFFECTIVENESS Guides Others to Work Toward Common Objectives; Commands Respect; Develops Cooperation and Teamwork.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. ORGANIZING AND PLANNING SKILLS Forecasts Needs; Sets Priorities; Effectively Uses all Resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. INTERPERSONAL SKILLS/COOPERATION/TEAMWORK Earns Acceptance at all Levels; Establishes and Maintains Effective Relations with Relevant Individuals and Groups.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. COMMUNICATION SKILLS Oral and Written Communication is Clear, Concise, and Accurate; Keeps Subordinates, Associates, and Supervisors Informed; Listens.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. ADAPTABILITY/FLEXIBILITY Adjusts Practices in Changing Environment; Adapts to New People, Ideas, Procedures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. ABILITY TO SELECT, DIRECT & DEVELOP SUBORDINATES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>FAIRLY... (If Applicable) Sets Performance Goals; Appraises in Timely, Accurate Manner; Effective at Coaching, Mentoring, and Development Planning.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>PROFESSIONAL COMPETENCE AND JOB KNOWLEDGE Technically Competent in Job; Knows Strategic Direction of Company and Own Department; Understands Culture.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>10. QUANTITY AND QUALITY OF WORK..... Output and Volume of Work Appropriate; Demonstrates Accuracy, Thoroughness and Effectiveness in Quality of Work Performed.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>11. REPRESENTS COMPANY AND DEPARTMENT FAVORABLY..... Improves Reputation of Department and Company; Focuses and is Committed to Quality Customer Service (both internal & external).</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>12. FISCAL RESPONSIBILITY..... Decisions Made Result in Maintaining/Controlling Costs Within Area of Responsibility. Exercises Economy and the Appropriate Utilization of Resources Available.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

COMMENTS REGARDING JOB PERFORMANCE:

Bill has been an effective ground instructor. He teaches effectively and has gotten good reviews from all his students. He has an excellent attitude and enthusiastically accomplishes whatever is asked of him.

OVERALL EVALUATION

Please circle the number which most closely reflects the employee's overall performance for the year.

0	1	2	3	4	5	6	7	8	9	10
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---Failing---			Below Expectations			---Satisfactory---			---Superior---	
									Distinguished	

Michael F. Baw
SUPERVISOR'S SIGNATURE

6/2/02
DATE

William L. Hoop
EMPLOYEE'S SIGNATURE

7/10/02
DATE



**NON-UNION/SALARIED EMPLOYEE
PERFORMANCE REVIEW
AND DEVELOPMENT FORM**

William Hoepfer
 NAME
 Lead Ground Instructor
 Position
 Flight
 DEPARTMENT
 2 years
 TIME IN PRESENT POSITION
 10/20/96
 HIRE DATE
 4615
 EMPLOYEE NUMBER

For each skill and ability listed below place a in the box which best represents the level of employee skill/ability compared with the level required for successful job performance. Please provide comments on all "below" or "above" average performance on the reverse side of this document in addition to any other comments regarding the employee's performance.

FACTORS	FACTOR RATINGS				
	Falling in factor, - Must improve in factor.	Below Expectation - Needs to improve in some key job areas.	Satisfactory - Competent in job, normal supervision.	Superior - Generally exceeds requirements. Minimum of guidance.	Distinguished - Meritorious performance. Consistently exceeds all requirements.
1. JUDGMENT AND DECISION MAKING Identifies/Evaluates Issues; Reaches Sound Conclusions; Generates Alternatives; Understands Consequences; Makes Accurate and Timely Decisions; Attends To Details.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. DRIVE/COMMITMENT/INITIATIVE Maintains High Energy Level; Tackles Tough Assignments; Strives for Personal Improvement and Success. Self-starter. Proactive.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. LEADERSHIP AND IMPACT/INTERPERSONAL EFFECTIVENESS Guides Others to Work Toward Common Objectives; Commands Respect; Develops Cooperation and Teamwork.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. ORGANIZING AND PLANNING SKILLS Forecasts Needs; Sets Priorities; Effectively Uses all Resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. INTERPERSONAL SKILLS/COOPERATION/TEAMWORK Earns Acceptance at all Levels; Establishes and Maintains Effective Relations with Relevant Individuals and Groups.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. COMMUNICATION SKILLS Oral and Written Communication is Clear, Concise, and Accurate; Keeps Subordinates, Associates, and Supervisors Informed; Listens.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. ADAPTABILITY/FLEXIBILITY Adjusts Practices in Changing Environment; Adapts to New People, Ideas, Procedures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PLAINIFF'S
 EXHIBIT
 4

	FACTOR RATINGS				
	Failing	Below Expectations	Satisfactory	Superior	Distinguished
8. ABILITY TO SELECT, DIRECT & DEVELOP SUBORDINATES FAIRLY (If Applicable) Sets Performance Goals; Appraises in Timely, Accurate Manner; Effective at Coaching, Mentoring, and Development Planning.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. PROFESSIONAL COMPETENCE AND JOB KNOWLEDGE Technically Competent in Job; Knows Strategic Direction of Company and Own Department; Understands Culture.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. QUANTITY AND QUALITY OF WORK Output and Volume of Work Appropriate; Demonstrates Accuracy, Thoroughness and Effectiveness in Quality of Work Performed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. REPRESENTS COMPANY AND DEPARTMENT FAVORABLY Improves Reputation of Department and Company; Focuses and Is Committed to Quality Customer Service (both Internal & external).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. FISCAL RESPONSIBILITY Decisions Made Result in Maintaining/Controlling Costs Within Area of Responsibility. Exercises Economy and the Appropriate Utilization of Resources Available.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13. PROVIDE SAFE WORK ENVIRONMENT Demonstrates Commitment to Safety, including Timely Reporting of Incidents, Corrective Action from Audits, and Demonstrates Efforts to Reduce the Number of Claims Reported	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

COMMENTS REGARDING JOB PERFORMANCE:

Bill is a good ground instructor and does a good job of presenting the material and keeping the students' interest. In addition, he keeps the Denver Training Center running smoothly and provides and interfaces between the Flight, In-Flight, and Maintenance Departments, as well as CAE. He discovers and solves problems before they reach a higher level. Bill has a good attitude and is willing to do whatever is asked of him.

OVERALL EVALUATION

Please select the number which most closely reflects the employee's overall performance for the year.

0	1	2	3	4	5	6	7	8	9	10	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Failing			Below Expectations			Satisfactory			Superior		Distinguished

Michael F. Sam
SUPERVISOR'S/REVIEWER'S SIGNATURE

7/21/03
DATE

Michael F. Sam
EMPLOYEE'S SIGNATURE

7-18-02
DATE

<p>Calendar Entry Meeting</p>	<p><input checked="" type="checkbox"/> Notify me <input type="checkbox"/> Mark Private <input type="checkbox"/> Pencil</p>
<p>Subject Review of Pic Training</p>	<p>Chair Michael Bauer/ 867 MANAGER OF TRAINING/AWAC</p>
<p>When Starts Wed 01/14/2004 9:00AM 1 Hour Ends Wed 01/14/2004 10:00AM</p>	<p>Where Location Rooms Opal Room/Appleton Office@AWAC</p>
<p>Invitees Required (to) Craig Christensen/787 FLIGHT INSTRUCTOR PILOT/AWAC@AWAC, Doug Lesh/4610 MGR OF FLIGHT STANDARDS/AWAC@AWAC</p>	<p>Categorize</p>
<p>Description</p>	
<p>Discuss Craig's recent visit to the PIC class in Den.</p>	
<p>Your notes</p>	

<p>Calendar Entry Meeting</p>	<p><input checked="" type="checkbox"/> Notify me <input type="checkbox"/> Mark Private <input type="checkbox"/> Pencil</p>
<p>Subject Review of Pic Training</p>	<p>Chair Michael Bauer/ 867 MANAGER OF TRAINING/AWAC</p>
<p>When Starts Wed 01/14/2004 9:00AM 1 Hour Ends Wed 01/14/2004 10:00AM</p>	<p>Where Location Opal Room/Appleton Rooms Office@AWAC</p>
<p>Invitees Required (to) Craig Christensen/787 FLIGHT INSTRUCTOR PILOT/AWAC@AWAC, Doug Lesh/4610 MGR OF FLIGHT STANDARDS/AWAC@AWAC</p>	<p>Categorize</p>
<p>Description</p>	
<p>Discuss Craig's recent visit to the PIC class in Den.</p>	
<p>Your notes</p>	

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[Logo] Michael Bauer/867
MANAGER OF PILOT
TRAINING/AWAC
01/09/2004 1:36PM

To Craig Christensen/
787 FLIGHT INSTRUCTOR
PILOT/AWAC

cc

bcc

Subject Re: PIC Seminar

Craig:

The best way to arrange a meeting is to put one one
our schedules using the Notes calendar system. Bill
Hoepfer should be involved, too, since he's the one
who's teaching the PIC class.

Mike

—Craig Christensen/787 FLIGHT INSTRUCTOR
PILOT/AWAC wrote:—

To: Michael Bauer/867 MANAGER OF
PILOT TRAINING/AWACD@AWAC
From: Craig Christensen/787 FLIGHT
INSTRUCTOR PILOT/AWAC
Date: 01/09/2004 10:27
Subject: PIC Seminar

Mike, you will find a letter to you from me, regarding
the PIC Seminar I observed in DEN on the 22nd of
December. I would like to sit down with you and Doug
to further discuss my concerns, perhaps sometime
next week before I leave for IAD?

Thanks,

“C”

[Logo] "Ron Fines"
<captron328@hotmail.com>
05/22/2003 11:28AM

To: mbauer@airwis.com
cc: John.Gijsen@AIRWIS.COM
Subject: Recurrent Ground School

Mike,

I know your schedule does not allow you to view much of the ground training that goes on in DEN. I want to send you a quick message that details the RGS that I just completed.

1. Overall the RGS was extremely beneficial! I know in the past much of the ground school philosophy has been simply to "check the block" for the FAA. I came away from this ground school with greater knowledge than any other since I have been at AWAC.

2. Since I formally taught RGS classes, I have great empathy for instructors of AWAC RGS. Bill Hoeper did a FANTASTIC job! It is very difficult to find the equilibrium that satisfies all the needs of RGS. I believe Bill got as close to the center as anyone I have seen teach RGS. First Bill hit all the required information in an accurate and entertaining format. Second he presented the material as it relates to flying the line (drawing in the interest of the 'everyday' pilot). Bill's pace was perfect. If the pace is too slow, then everyone gets bored & too fast some people can not comprehend. The pace of this RGS was RIGHT ON!

An ideal instructor is one that is both a pilot and mech. This way the instructor has the indepth knowledge base of the material, and can present it for pilots (who are a different animal to teach). Bill may not be a

mech, but he has attained the knowledge & ability to relate the material as though he was one. A great example of this was Bill's ability to break down in simple terms electrical current (volts, amps, frequency, etc).

Furthermore, RGS is a tool of the chief pilot and fleet managers to impress varied information to the rank & file pilots. At UAL such information involved new procedures (& explanations as to the reasoning behind the procedures – that often cannot be completed in a PIF), policies and cost saving practices. Bill constantly reiterated these items (such as flex T/O, APU usage and economic altitudes) in a way that increases retention for pilots' everyday practices.

Once of the most impressive traits that Bill exhibited was his demeanor in handling some students that were a bit disruptive. There was a problem with some students that interrupted instruction and privately converse while instruction was ongoing. This is one of the hardest techniques for classroom instruction. Bill did a superlative job of handling pointed, irrelevant questioning of material. His accommodation of these students showed great patience, and was fair to all students.

3. The only negative criticism of have of the RGS was CRM. In my opinion, CRM is a VERY important aspect of pilots everyday jobs. Most accidents have had some violation of accepted CRM policies. The RGS CRM was nearly exclusively security related. Most of it was taught with the F/A's.

I felt the information presented was very good and needed for all that took part, but it dealt more with security and less with CRM. My recommendation is to have a 2 hour block with pilot only CRM. Another 1

hour block of pilot - F/A CRM. Then there should be a 1 hour security block. This type of schedule will allow dissemination of all this needed information. As a former CRM instructor and current security representative of the pilots, I will be happy to help you with this instruction.

Mike, again nice job on this RGS!

Thank you,

Ron Fines
DEN CRJ Captain

MSN 8 helps ELIMINATE E-MAIL VIRUSES. Get 2 months FREE*.

PIC Upgrade Course
Taught by Bill Hoyer
on Friday May 16 2003

- Classroom looked good.
- Instructor was prepared and appropriately attired.
- Students were on time and appropriately attired.
- Instructor used approved course materials.
 - > Presence of a person from ATW disrupts general interaction of class. Deep distrust of "Universal Headquarters" in Denver Domicile. [Need] to improve Team Image.
- Instructor attempted to engage class in discussions and encouraged participation.
- Instructor used relevant and appropriate analogies and explanations.
- Instructor had the idea of either going to airport or filming people watching pilots. "We could set it up", for do some random filming.
- I would recommend a more in depth coverage of the "Responsibility" presentation. Specifically the references to FOM & Regs.
- Be [sure] to check facts before relaying to class. Specifically the Winston Churchill story. I'm not sure myself of his years of service.

I thought the course was well taught. The class and the instructor interacted well and the overall experience was positive. The instructor seemed to have good knowledge of the subject matter.

/s/ Tony Neely

5-16-03

DATE: May 11, 2002
TO: Laurie Martin
FROM: Judy Siff
RE: Security Training

I attended the Common Strategy II – Security Training on Friday, May 10 and want you to know how much I appreciate Air Wisconsin preparing and presenting such a valuable tool to assist us in performing our jobs with the utmost professionalism and skill.

Our instructors, Bea Brownlow and Bill (sorry I don't know his last name) were great. Bill made sure that everyone thoroughly understood the self-defense aspect of the program, and I appreciate all the patience he put into the training. In addition, the time and effort put into developing the program by Lori Mitchell, her husband and friends was remarkable, very professional, to the point, and easy to understand.

Bill has a gift in presenting material in a way that holds one's attention, while thoroughly covering the subject material. The Level I through Level IV threat subject matter was clear, concise, well written and presented. All questions were answered to everyone's satisfaction.

Please thank everyone involved in this project, and let them know how grateful I am that our company values its employees and keeps us up to date.

Regards,

/s/ Judy Siff

Cc: Bill Palmer

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[LOGO]

Air Wisconsin
Airlines Corporation

FROM THE OFFICE OF
CAPTAIN JOHN EVERHART
FLIGHT MANAGER
P.O. BOX 482018
DENVER, CO 80248-8218
PHONE 303.348.3648

March 28, 2005

Re: William (Bill) L. Hoeper, Jr.
[Redacted]

Dear Flight Officer Recruiters:

I highly recommend Bill Hoeper. I have had the pleasure of being Bill's supervisor at two separate airlines and have been impressed by his dedication to the profession, to his fellow crewmembers, and to his duties as a line instructor.

I first met Bill in October 1996 during a pilot interview while I was Director of Operations at Mountain Air Express. It didn't take long to discover that hiring Bill was a good decision. He proved to be very professional, technically proficient, and an excellent team member. Bill also demonstrated his superior pilot abilities by being one of two people in his initial class to successfully complete the DO-328 type rating.

After the merger of Mountain Air Express and Air Wisconsin, I called upon Bill to apply his leadership qualities as a CPT Instructor for the DO-328. His ability to meet challenges in this position made him an essential addition to the training department. He quickly developed a reputation as an outstanding teacher and a leader within the company. Bill

continues his leadership role as a Lead Ground Instructor on the CL-65 until April 2004. Although I am very sorry to see Bill leave Air Wisconsin, I know he will be a valuable asset.

Please accept my highest recommendation for Bill Hoeper. I feel strongly that Bill will serve with the same dedication and professionalism that he exhibited while at Air Wisconsin and Mountain Air Express.

Sincerely,

/s/ John R. Everhart
Captain John R. Everhart
Flight Manager

Timeline for William Lee Hoeper, BAe-146 Captain
Transition/Upgrade, AWAC #4615

September 6-17: BAe-146 Systems Ground School
with Kirkpatrick in ATW

September 18-19: BAe-146 CPT with Sandberg in
ATW (in a hurry to leave as he drove to ATW for
training and wanted to drive his truck and camper
back to DEN as early on as possible to get a break)

September 23: Travel to IAD for simulator training

September 24 & 25: 1130-1530 sessions with Seeger,
training partner F/O Monte Pickett

September 26 off in IAD

September 27 & 28: 0700-1100 sessions with Seeger

September 29 & 30: off in IAD

October 1 & 2: 0700-1100 sessions

October 3 & 4: 0200-0600 sessions

October 4 afternoon: Oral exam with Pat Doyle at sim
center, observed by FAA Glovatsky

October 5: Type Ride and Proficiency Check
unsatisfactory with Doyle, observed by Glovatsky

Items marked for re-examination (due to UNSAT or
due to lack of time left available):

- GPS/FMS procedures (minimum two
approaches)
- Zero-Flap Landing
- Two Engine Arrival
- Circling Approach
- Engine Fire (uncontained)

BREAK

October 11: Travel to IAD for re-training and second attempt

October 12: 0500-0700 session with Seeger

October 13: 1600-2000 session with Hanemann and F/O Chris Nelson

October 14: Second Consecutive Type Ride and Proficiency Check Failure with Doyle, F/O Chris Nelson. Hoepfer lost his cool during de-briefing session, and after telling him no less than six times to sit down and calm down, I ended the de-briefing session for fear of my own physical harm. I later found out that he may have been armed, as he is a Federal Flight Deck Officer, and is authorized to possess a firearm, able to bypass Security at airports.

Items marked for re-examination (due to UNSAT and due to lack of time left available):

- Pre-takeoff Checks
- Normal Takeoffs
- Takeoff with Powerplant Failure (whole ride was 4-engine)
- Rejected Takeoffs
- Area Departures
- Steep Turns
- Approaches to Stalls
- Specific Flight Characteristics
- All ILS Approaches
- Circling Approach

- All Missed Approaches
- Normal Landings
- Landings from ILS
- Crosswind Landing
- Landings with Two Engines Out on Same Side
- Circling Approach
- Rejected Landing
- Zero Flap Approach
- Normal and Abnormal Procedures
- Emergency Procedures
- Judgment

NOTE: After heated discussion with Mr. Hoeper, and due to my concerns for my safety, I cut short the items on the “Notice of Disapproval of Application (FAA PinkSlip). Mr. Hoeper’s “discussion” with me led me to believe he was throwing in the towel on the BAe-146, going to go back to the CRJ Captain, and had no interest in continuing in the BAe-146, as “we were all out to get him.”

BREAK

November 2: Travel to IAD for re-training (re-do of CPT—5 hours over 11/3-4 w/ Schuerman) and third attempt at Type Ride and Proficiency Check

November 3: 1330-1530 session with Mark Schuerman

November 4: 0700-0930 session with Mark Schuerman

November 5: 0500-0700 session resulted in Type Ride Completion on items previously failed (not all items required on a type ride) with Mray Glovatsky (FAA),

however, insufficient time remained to complete all maneuvers required for an Air Wisconsin Proficiency Check. Mark Schuerman ran simulator for Glovatsky, F/O Weldon Scott Miller acted as First Officer

BREAK

November 12: Oral exam for proficiency check administered by Todd Hanemann in Denver, travel to IAD for fourth attempt at Proficiency Check

November 13: Proficiency Check found Unsatisfactory administered by Todd Hanemann with Mark Schuerman acting as First Officer

BREAK

Hoeper granted a last attempt on a “Last chance letter” for an Air Wisconsin Proficiency Check

December 7: Re-training with Mark Schuerman, Dan Scharf as F/O

December 8: Re-training with Mark Schuerman, Dan Scharf as F/O, left training prior to end of 2-hour session after blow-up with sim instructor Mark Schuerman, leaving 40 minutes of simulator time unused

NOTE: TSA was notified that William Hoeper, a disgruntled company employee (an FFDO who may be armed), was traveling from IAD-DEN later that day, as we were concerned about the whereabouts of his firearm, and his mental stability at that time

December 9: Two hours sim time scheduled for AWAC Proficiency Check, not completed due to previous day's events with Schuerman

NOTES:

- Hoeper requested to NOT work with Captain Craig Christensen—request was granted throughout entire process—to the point that we utilized a line pilot, Todd Hannemann, to do some instruction with him
- Hoeper continually found to have inconsistencies in his progress; see attached letters
- Hoeper continually found to use checklists incorrectly (i.e. states status of a system incorrectly when challenged, even on those items that have been standardized across fleet-types for over three years—parking brake, etc.) from beginning to end of training
- Failed Domier 328 PC April 19, 1999
- 4/30/2004 Hoeper requested to defer training due to mother's husband's health, and father's heart trouble—granted by AWAC
- All of Mr. Hoeper's requests (verbal and in writing) for additional CPT, simulator and ground training, jumpseating and riding in the back of the simulator were granted

PAT DOYLE'S NOTES ON HOEPER

Timeline for William Lee Hoeper, BAe-146 Captain
Transition/Upgrade, AWAC #4615

September 6-17: BAe-146 Systems Ground School with Kirkpatrick in ATW

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October 4 afternoon: Oral exam with Pat Doyle at sim center, observed by FAA Glovatsly

October 5: Type Ride and Proficiency Check unsatisfactory with Doyle, observed by Glovatsky

Items marked for re-examination (due to UNSAT or due to lack of time left available):

- GPS/FMS procedures (minimum two approaches)
- Zero-Flap Landing
- Two Engine Arrival
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Items marked for re-examination (due to UNSAT and due to lack of time left available):

- Pre-takeoff Checks
- Normal Takeoffs
- Takeoff with Powerplant Failure (whole ride was 4-engine, never even got to an engine failure scenario)
- Rejected Takeoffs
- Area Departures
- Steep Turns
- Approaches to Stalls
- Specific Flight Characteristics
- All ILS Approaches

- Circling Approach
- All Missed Approaches
- Normal Landings
- Landings from ILS
- Crosswind Landing
- Landings with Two Engines Out on Same Side
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- Emergency Procedures
- Judgment

NOTE: After heated discussion with Mr. Hoepfer, and due to my concerns for my own safety and the safety of others at the simulator center, I cut short the items on the “Notice of Disapproval of Application (FAA Pink Slip). Mr. Hoepfer’s “discussion” with me led me to believe he was throwing in the towel on the BAe-146, going to go back to the CRJ as a Captain, and had no interest in continuing in the BAe-146, as “we were all out to get him.”

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NOTE: TSA was notified that William Hoeper, a disgruntled company employee (an FFDO who may be armed), was traveling from IAD-DEN later that day, as we were concerned about the whereabouts of his firearm, and his mental stability at that time. TSA, CIA and FBI chose to have him removed from his United flight due to him being a possible security threat (leaving Washington DC in first class on a 777

full of fuel for a flight to Denver, and possibly being armed and a threat to the traveling public).

December 9: Two hours sim time scheduled for AWAC Proficiency Check, not completed due to previous day's events with Schuerman

NOTES:

- Hoeper requested to NOT work with Captain Craig Christensen—request was granted throughout entire process—to the point that we utilized a line pilot, Todd Hannemann, to do some instruction with him
- Hoeper continually found to have inconsistencies in his progress; see attached letters
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- All of Mr. Hoeper's requests (verbal and in writing) for additional CPT, simulator and ground training, jumpseating and riding in the back of the simulator were granted

Points that should be made during our presentation

- Mental instability (Flies off the hammer at any moments's notice, at anyone in his way)
- Lack of consistency as a pilot

- Unable to use time wisely and to his advantage during all his checkride attempts
- Departed the training of his own accord after having a rough time in training
- Refuses to take any blame on himself, and chooses only to blame others for his lack of airmanship and decision-making incapability

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Bob Frisch/7597 FLEET
MGR/AWAC
03/09/2004 03:43 PM

To Scott Orozco/418 DIR OF OPS & CHIEF
PILOT/AWAC@AWAC

cc

bcc

Subject FFDOs

Both [Redacted] [Redacted] and Bill Hoeper called in while you were away to inform me that they have been deputized as FFDO's.

Bob Frisch
Flight Department Manager
Air Wisconsin Airlines
bfrisch@airwis.com

CO-8616

PILOT PROFICIENCY CHECK

NAME: <u>WILLIAM HOEGER</u> EMP #: <u>4615</u> SOURCE: <u>DFW</u> POSITION: <u>CAPT</u> ACTION TYPE: <u>BAE-146</u> ACT #: TYPE OF CHECK - (C): <u>(C)</u> SIC TYPE RATING: <u>ATP (C) P1</u> LOCATION OF CHECK: <u>JAB</u> CERTIFICATE TYPE: <u>ATP</u> DATE: <u>07-22-04</u> MEDICAL CLASS: <u>FIRST</u> DATE: <u>07-22-04</u> BRIEFING/EQUIPMENT EXAMINATION: (C) WRITTEN: <u>(C)</u> PRactical: <u>(S)</u>					
COMPLETE PROF. DOK BY ACT		ACT	DATE	TIME	GRADES
TYPE OF CHECK - (C): <input checked="" type="checkbox"/> ACT: <input type="checkbox"/> DATE: <u>11-12-03</u> TIME: <u>07:30</u> GRADES: <u>S</u>					
LEARNING NOTES: 3 Landings (1 to full stop) required for rating check. (1 can be visual simul.) (can be accomplished in level 8 or higher SIM)			REMARKS: <u>with 1 Hopout</u>		
REMARKS: <u>with 1 Hopout</u>					
REMARKS: <u>with 1 Hopout</u>					
REMARKS: <u>with 1 Hopout</u>					

LEGEND NOTES:
 LANDING: 3 Landings (1 to full stop) required for rating check. (1 can be visual simul.)
 (can be accomplished in level 8 or higher SIM)
 2 Landings (1 to full stop) required for Capt. PC's and P/O's Initial PC

REJECTED landing may be combined with instrument, circling or missed approach procedures.

Abbreviations:
 F/D - Flight Director
 A/C - Missed Approach
 M/A - Missed Approach
 (C) - Where multiple factors listed, circle those accomplished
 PC - Proficiency Check (Also in conjunction with Type (C))
 PT - Precision Training (Simulator training in lieu of a check)
 S - Satisfactory
 U - Unsatisfactory
 W - Waived
 NE - Not Evaluated
 CW - Waived due to conditions
 N/A - Not Applicable or Not available
 Shaded items optional

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REV DATE: 03 MAY 04

FOR FAA USE ONLY
 CHECK AIRMAN PERFORMANCE
 SATISFACTORY UNSATISFACTORY
 CAPT. ON TRAINING WITH HOEGER

Daniel A. Scharf
9564 HWY. BB. RR4.
Campbellsport, Wisconsin
53010-2829

Capt. Scott A. Orozco
C/O Air Wisconsin Airlines Corp.
W6390 Challenger Drive, Suite 203
Appleton, Wisconsin 54914-9120

11 December 2004

Scott;

Enclosed is a brief synopsis of the final day of Bill Hoepert's training as requested by Pat Doyle.

I will be on a #A6477 trip starting on Sunday 12/12 finishing on Tuesday 12/14 at 15:54. Should you need any further discussion, clarification, feel free to call me at the hotel day or night. You may also leave a voice mail on my cell at (920) 979-1654. I will be at home on my days' off. Please feel free to contact me there as well.

Should you speak with Bill Hoepert please express my sincere concern about him and his family. I realize this is tough. They will be in my prayers. I wish them a blessed holiday season, and peace in their hearts for all.

I also wish you and your family a blessed and peaceful holiday as well.

Sincerely;

/s/ Daniel A. Scharf

Daniel A. Scharf
ASMEL, CFI, AI, MEII, ATP, Com. Gldr.
397581673 exp. 08/05.

DAS/drs.

CC; P. Doyle Air Wis.

Carl Flemming ALPA, MEC. Chmn.

On Tuesday 07, Wednesday 08, December 2004 I served as First Officer in the Bae-146 Simulator at the Pan Am Training Center in the Herndon Washington D.C. area.

I was asked by the Air Wisconsin Bae-146 Fleet manager to serve in this city in support of fellow pilot Bill Hopert. Bill had been working on his BAe-146 Type and PC training.

The following is a brief synopsis of the final minutes of the training period conducted on 08 December beginning at approximately 11:23 CST. Present in the simulator were Bill in the Captain position, I was in the First Officer position and Mark Schuermann was in the Instructor position.

After almost an hour and a half of intense training the simulator flamed out the two remaining good engines due to a fuel imbalance. At that point in time we were approximately 22 miles north of the GRB VORTAC assigned as the holding fix. The instructor froze the simulator for a training discussion. Bill began to exhibit some agitation over the fact the FMS did not indicate passing the fix or show a hold entry. Mark made an effort to calm Bill stating something to the effect; look, we can throw some of this out. Mark had Bill turn to see the distance markers' on the instructor screen. I was not able to see the instructor station. It was my "sense" that Mark was making an effort to work things to a positive conclusion. Mark made some statement about doing 3 more approaches.

At this point Bill became visibly angered and I noted the sound of his seat sliding back and his seat belt came off. Bill said something like you win. I have had it. I am calling ALPA legal. Almost simultaneously I felt the simulator come down off the jacks and the

gantry connection. After a few words Bill left the flight deck and Mark asked if I would collect our equipment and vacate the simulator.

Mark made arrangements with me on Tuesday to return the rental car on Thursday. Since he was booked on a flight out of town on Wednesday after the training session. Both Bill and I were supposed to stay one more day to complete the training sequence planned. Under the current circumstances Bill and I went back to the hotel, checked out and returned the rental as requested. Bill and I had a brief discussion about the day's unfortunate events and parted friends. Bill appeared to be at some peace with the situation.

I wish to note, I feel really bad for Bill. It was obvious he worked hard. As an instructor myself I could see his progress in just the two days. Although I did not feel threatened. I can see why Mark may have.

I wish Bill only the best. It would be my professional suggestion that Mark and Bill meet to discuss the events of that day. This is a small professional community and our paths will likely cross again. It is vital we all understand each other and our individual positions.

Respectfully submitted,
Daniel A. Scharf

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U.S. Department of Homeland Security
Freedom of Information Act
and Privacy Act Division
Arlington, VA 22202

[Logo] Transportation
Security
Administration

March 21, 2005

TSA05-0483

Mr. William Hooper Jr.
6331 South Eudora Way
Centennial, CO 80121

Dear Mr. Hooper Jr.:

This is to inform you that on March 21, 2005, the Transportation Security Administration (TSA) Freedom of Information Act (FOIA) Office received your FOIA request dated March 16, 2005.

Your request has been given identification number TSA05-0483. Please cite this number in any further inquiry about this request.

I must advise you that depending upon the category of requesters you fall in, fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of \$4.00/\$7.00/\$10.25 per quarter hour, and for duplication of copies at the rate of \$.10 per copy. In accordance with 6 C.F.R. §5.3(c), if you make a FOIA request, it shall be a firm commitment by you to pay all applicable fees charged under § 5.11 up to \$25.00. The combined charges for search and duplication must exceed \$14.00 before we will charge you any fees. Many requests do not require any fees however, if fees exceed \$25.00, we will notify you beforehand.

TSA uses a multi-track system to process request on a first in, first out basis. Simple requests are able to be answered more quickly and will be placed on the fast track of our multi-track processing. More complex requests generally require significant processing time. Although TSA's goal is to respond with 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. If your request involves a voluminous amount of records, requires that we collect records from separate offices, or requires that we consult with another agency, TSA is invoking the 10-day extension for your request

If you would like to narrow the scope of your request, we may be able to respond more quickly. Please contact us if you wish to narrow your request or arrange for an alternative time period to complete the processing. We can be reached at the following toll free number (866) 364-2872.

Sincerely,

/s/ Catrina M. Pavlik
Catrina M. Pavlik
Associate Director
Freedom of information Act
And Privacy Act Division

We will accept a facsimile of this statement to begin processing your request, however, our office must be provided with this statement with your original signature before we can respond to your request. Please mail the original signed statement to:

Freedom of Information/Privacy Division
TSA Headquarters
West Building 11th Floor, Room 120S, TSA-20
601 South 12th Street
Arlington, VA 22202-4220
Facsimile: (571) 227-1406

You are not required to provide this information, however, we cannot process your request for records about yourself unless you provide it. If we do not receive an original signature statement within 30 days, we will assume that you no longer require the information and your request will be administratively closed.

Sincerely,

/s/ Catrina M. Pavlik
Catrina M. Pavlik
Associate Director
Freedom of information Act
And Privacy Act Division

Keynote Security International

WASHINGTON DULLES INTERNATIONAL AIRPORT (IAD)

Daily Operations Report

DATE: 12-08-2004

Please note that all times are provided in EDT unless specified otherwise.

REPORT NUMBER: [REDACTED] - Ex. 2 (u)(c)
REFERENCE: Telecom with TSOC WO [REDACTED] at 1622
SUBJECT: Suspicious FFDO on UA-921 IAD to DEN - IAD

DATE OF INCIDENT: 12-08-2004

SUMMARY: At 1622, TSOC WO [REDACTED] phoned WO [REDACTED] to report that a Pilot participating in the FFDO Program may have had his right to carry a firearm terminated. The Pilot identified as [REDACTED] was thought to be aboard UA-921 from IAD to Denver. A check of the Flight Display System indicated that flight had departed from Gate D-15 at 1625. At 1631, WO [REDACTED] phoned CSS [REDACTED] who checked the LEO Sign-In Log at the checkpoint to determine if the Pilot [REDACTED] had signed in as flying armed. There was no entry in the log for [REDACTED]. At 1634, WO [REDACTED] phoned United Airlines Operations Manager [REDACTED] to determine if Pilot [REDACTED] was part of the flight crew for UA-921. Ms. [REDACTED] advised that he was not a member of the flight crew and suggested that WO [REDACTED] phone the Flight Manager who could advise if Pilot [REDACTED] was aboard the flight "deheading" to Denver. At 1636, WO [REDACTED] phoned United Flight Manager [REDACTED] at (572-3114) and she checked her records for Pilot [REDACTED] with negative results. (u)(c)

At 1648, TSOC WO [REDACTED] phoned WO [REDACTED] to advise that someone should meet UA-921 which would be returning to the gate with Pilot [REDACTED] on board and determine if he had credentials and if he was armed. It was decided that MWAA PD should meet the aircraft at the gate and an ASI should also respond. At 1654, WO [REDACTED] phoned MWAA PD [REDACTED] Dispatcher [REDACTED] for assistance. He was briefed by WO [REDACTED] on the situation. At 1709, MWAA PD Officer [REDACTED] phoned WO [REDACTED] and was provided an update. She was at Gate D-18 awaiting UA-921 to return. At 1740, WO [REDACTED] phoned TSOC WO [REDACTED] and provided an update. MWAA PD responded to the gate and conducted an investigation. Pilot [REDACTED] was interviewed, his person was searched, and his bags were searched for a firearm with negative results. Pilot [REDACTED] was not in possession of his credentials at the time he was interviewed and searched by MWAA PD. (u)(c)

Investigation revealed that he was attending flight simulator training in Northern Virginia in connection with his employment at Air Wisconsin and had failed the training on three previous occasions which is grounds for termination according to Air Wisconsin policy. He

WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 48 CFR PART 122. NO PART OF THIS DOCUMENT MAY BE RELEASED WITHOUT THE WRITTEN PERMISSION OF THE UNDER SECRETARY OF TRANSPORTATION FOR SECURITY, WASHINGTON, DC 20591. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR USE, GOVERNMENT AGENCIES. PUBLIC AVAILABILITY TO BE DETERMINED UNDER 48 C.F.R. 122.

~~Sensitive Security Information~~

WASHINGTON DULLES INTERNATIONAL AIRPORT (IAD)

Daily Operations Report

DATE: 12-06-2004

(Please note that all times are provided in EST unless specified otherwise.)

was given an additional chance and walked out of the training session today which will almost certainly result in termination of his employment with Air Wisconsin. According to Pilot [redacted] (U) the firearm and his credentials are secured at his residence. ASI [redacted] (U) reports that Pilot [redacted] (U) is aware of the proper procedure for surrendering the issued firearm and credentials once he is officially notified his employment with Air Wisconsin is terminated. [redacted] (U) (AFSD IE [redacted] (U) in Denver (303-241- [redacted] (U) and [redacted] (U) (FFDO Program 202- [redacted] (U)) [redacted] (U) are coordinating the recovery of the firearm and credentials. Pilot [redacted] (U) has been rebooked on UA-933 from IAD to Denver scheduled to depart IAD at 2150 and arrive in Denver at 2317. UA-921 sustained a (1) Hour (14) minutes delay.

Pilot Information: [redacted] (U) Employed by Air Wisconsin. Notifications: FSD Lenihan, MWAA PD, ASI [redacted] (U) AFSD [redacted] (U) TSA/IAD Senior Staff. [redacted] (U) (U) (U) (U)

PREPARED BY: TSA, IAD Incident Command Center (ICG) Watch Officer [redacted] (U) 703-572- [redacted] (U) (unclassified) [redacted] (U) (U) (U) (U)

WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 50 U.S.C. 3161. NO PART OF THIS DOCUMENT MAY BE RELEASED WITHOUT THE WRITTEN PERMISSION OF THE UNDER SECRETARY OF TRANSPORTATION FOR SECURITY, WASHINGTON, DC 20591. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER E.O. 13526.

DAILY JOURNAL FOR 8 DECEMBER 2004

(This is a chronological log of incoming and outgoing communications through the ICC)

Time	Watch Officer	Caller - In	Caller - Out	Narrative
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1822	b+7(c)	TSOC WO [REDACTED]	[REDACTED]	TSOC WO [REDACTED] phoned WO [REDACTED] to report that a Pilot participating in the FFDO Program may have his right to carry a firearm terminated. The Pilot identified as [REDACTED] was thought to be aboard UA-921 from IAD to Denver. A check of the Flight Display System indicated that flight had departed from Gate D-16 at 1825.
1822	[REDACTED]	[REDACTED]	DFSD Rdss	Notified re: No Fly pax. Mr. Ross advised that if MWAA PD clear the subject, no notification to TSOC will be necessary.
1826	[REDACTED]	[REDACTED]	MWAA PD Dispatcher [REDACTED]	Inquired as to whether the PD Officer had cleared the No Fly pax. [REDACTED] advised the pax was cleared.
1830	b+	AFSD-LE [REDACTED]	[REDACTED]	Expressed his concern about going through ICC in order to get NCIC from TSOC. WO [REDACTED] informed him that he may feel free to contact TSOC directly. However, if he is concerned about the proper procedure, he should be contacting ICC Manager.
1831	7(c)	[REDACTED]	CSS [REDACTED]	WO [REDACTED] phoned CSS [REDACTED] who checked the LEO Sign in Log at the Checkpoint to determine if the Pilot, [REDACTED] had signed in as flying armed. There was no entry in the log for Pilot [REDACTED].
1833	[REDACTED]	[REDACTED]	ICC Manager [REDACTED]	Briefed Mr. [REDACTED] about Mr. [REDACTED] call and concerns.
1834	[REDACTED]	[REDACTED]	United Airlines Operations Manager [REDACTED]	WO [REDACTED] phoned United Airlines Operations Manager [REDACTED] to determine if Pilot [REDACTED] was part of the flight crew for UA-921. Mr. [REDACTED] advised that he was not a member of the flight crew and suggested that WO [REDACTED] phone the Flight Manager who could advise if Pilot [REDACTED] was aboard the flight "deadheading" to Denver.
1838	[REDACTED]	[REDACTED]	United Flight Manager [REDACTED]	WO [REDACTED] phoned United Flight Manager [REDACTED] at 572-3114 and she checked her records for Pilot [REDACTED] with negative results.
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1848	[REDACTED]	TSOC WO [REDACTED]	[REDACTED]	TSOC WO [REDACTED] phoned WO [REDACTED] to advise that someone should meet UA-921 which would be returning to the gate with Pilot [REDACTED] on board and determine if he had credentials and if he was armed. It was decided that MWAA PD should meet the aircraft at the gate and an ASI should respond also.
1854	[REDACTED]	[REDACTED]	MWAA PD Dispatcher [REDACTED]	WO [REDACTED] phoned MWAA PD Dispatcher for assistance. He was briefed by WO [REDACTED] on the situation.

non-responsive

7(c)

7(c)

7(c)

non-responsive

7(c)

WH28

ENTRY DOES NOT APPLY FOR PRODUCTION

DAILY JOURNAL FOR 8 DECEMBER 2004

(This is a chronological log of incoming and outgoing communications through the ICC)

Time	Watch Officer	Caller - In	Caller - Out	Narrative
1703	[Redacted]	MWAA PD Officer [Redacted]	[Redacted]	MWAA PD Officer [Redacted] phoned WO [Redacted] and was provided an update. She was at Gate D-18 awaiting UA-921 to return. <i>b7(c)</i>
1719	[Redacted]	ASI [Redacted]	[Redacted]	ASI [Redacted] phoned WO [Redacted] and was provided an update. ASI [Redacted] was at Gate D-18. <i>b7(c)</i>
1740	[Redacted]	TSOC WO [Redacted]	[Redacted]	WO [Redacted] phoned TSOC WO [Redacted] and provided an update. MWAA PD responded to the Gate and conducted an investigation. Pilot [Redacted] was interviewed, his person was searched, and his bags were searched for a firearm with negative results. Pilot [Redacted] was not in possession of his credentials at the time he was interviewed and searched by MWAA PD. <i>b7(c)</i>
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
2042	[Redacted]	[Redacted]	Email	WO [Redacted] sent Spot Report [Redacted] Suspicious FFDO on UA-921 IAD to DEN - IAD. <i>b7(c)</i>
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
2200	[Redacted]	ASI [Redacted]	[Redacted]	ASI [Redacted] phoned WO [Redacted] to report that Denver AFSD LE [Redacted] responded to Pilot [Redacted] residence and his wife surrendered his issued firearm and credentials to AFSD LE. <i>b7(c)+7(e)</i>
2210	[Redacted]	[Redacted]	TSOC WO [Redacted]	WO [Redacted] phoned TSOC WO [Redacted] to provide an update regarding the 2200 entry. <i>b7(c)</i>
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

non-responsive

non-responsive

non-responsive

non-responsive

RAITLY DOES NOT ALLOW TO REQUEST [Redacted] [Redacted]

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U.S. Department of Homeland Security
Freedom of Information Act Office
Arlington, VA 22202

[Logo] Transportation
Security
Administration

FOIA Case Number: TSA05-0483

Mar 29 2007

Mr. William Hoepfer, Sr.
6331 South Eudora Way
Centennial, CO 8012?

Dear Mr. Hoepfer:

This responds to your letter dated May 17, 2005, in which you appealed our May 4, 2005, response to your Freedom of Information Act (FOIA) request (TSA05-0483). Specifically, you appealed the “lack of records” provided by our office and the withholding of civilian names from the records that we provided you. The determination to withhold portions of the four pages of Daily Operation Reports and Daily Journal Logs under Exemptions 2, 3, 6 7(C) and 7(F), of the FOIA was affirmed and your request was remanded back to the FOIA office for a second search for responsive records. In your original request, you asked for:

- All records from the incident of December 8, 2004, in which you were taken off a United Airlines flight to Denver from Dulles. Additionally, you requested all names of the TSA individual that were present, names of United Airlines employees present, IAD personnel present, all written instruments by

those individuals on file, names of phone contacts instigating the event as well as follow-up communications and any other titles of interest associated with your being displaced from that flight.

We have now completed our search for responsive records and have located four additional pages and one audio file responsive to your request. These pages and audio file have been reviewed and portions of the four pages are being withheld under FOIA Exemptions 2, 3, 6 and 7(C). The audio tape is being withheld in full under FOIA Exemptions 2, 3 and 6. A more complete explanation of the exemptions cited is outlined below.

Exemption 2 of the FOIA exempts from mandatory disclosure records that are “related solely to the internal personnel rules and practices of an agency.” The courts have interpreted the exemption to encompass two distinct categories of information:

- (1) internal mutters of a relatively trivial nature—often referred to as “low 2” information; and
- (2) more substantial internal matters, the disclosure of which would risk circumvention of a legal requirement—

I have determined that certain portions of the requested records are properly withheld from disclosure as “high” (b)(2) information, in that they contain internal administrative and/or personnel matters to the extent that disclosure would risk circumvention of a regulation or statute or impede the effectiveness of law enforcement activities. A more detailed explanation follows.

Sensitive materials are exempt from disclosure under high 2 when the requested document is predominantly

internal, and disclosure significantly risks circumvention of a circumvention or statute, including civil enforcement and regulatory matters. Whether there is any public interest in disclosure is legally irrelevant. Rather, the concern under high 2 is that a FOIA disclosure should not benefit those attempting to violate the law and avoid detection.

Portions of this document(s) are considered Sensitive Security Information (SSI) and are exempt from disclosure under Exemption 3 of the FOIA. Exemption 3 permits the withholding of records specifically exempted from disclosure by another Federal statute. Section 114(a) of Title 49, United States Code, exempts from disclosure of Sensitive Security Information that “would be detrimental to the security of transportation” if disclosed. The TSA regulations implementing Section 114(s) are found in 49 CFR Part 1520.

Pursuant to 49 C.F.R. Section 1520.5(b)(11)(ii), the name or other identifying information that identifies a person as a current, former, or applicant for Federal Flight Deck Officer constitutes SSI. This information is exempt from disclosure under 49 C.F.R. Section 1520.15(a).

Exemption 6 of the FOIA permits the government to withhold all identifying information that applies to a particular individual when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” This requires a balancing of the public’s right to disclosure against the individual’s right to privacy. After performing this analysis, I have determined that the privacy interest in the identities of individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Please note that any

private interest you may have in that information does not factor into the aforementioned balancing test.

Exemption 7(C) of the FOIA permits the government to withhold all law enforcement information the disclosure of which “could reasonably be expected to constitute an unwarranted invasion, of personal privacy.” Based upon the traditional recognition of strong privacy interests in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

There is no charge for processing this request because the search time expended and the number of pages duplicated fall within the statutory limitations regulating fee assessments under the FOIA.

Administrative from this determination may be made in writing to Kimberly Walton, Acting Special Counselor, Office of the Special Counselor, Transportation Security Administration, 601 South 12th Street, East Building E7-121S, Arlington, VA 22202-4220. Your appeal must be submitted within 60 days from the date of this determination. It should contain your FOIA request number and state, to the extent possible, the reasons why you believe the initial determination should be reversed. In addition, the envelope in which the appeal is mailed in should be prominently marked “FOIA Appeal.” The Special Counselor’s determination will be administratively final.

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If you have any questions pertaining to your request, please feel free to contact the FOIA office at 1-866-363-2872 or locally at 571-227-2300.

Sincerely,

/s/ KJJ

Kevin J. Janet
FOIA Officer
Freedom of Information Act

Enclosures

(b)(2)
1520.5(b)(1)(ii)

Timeline

According to [REDACTED] (b)(6)

◆ Simulator was terminated at approximately 1400 EST. Simulator instructor called him immediately.

(b)(6)

◆ [REDACTED] talked to a few TSA people shortly after being called and advised of [REDACTED] situation. Said personnel have an office very close to his. They gave 1520.5(b)(1)(ii) him the number for the TSA customer service line, 866-289-9673

(b)(6) ◆ [REDACTED] says he spoke with Jonathan Dove.

What Dove says:

◆ Call from [REDACTED] received at 1529 EST, terminated at 1539 EST.

(b)(6)

What we know:

◆ E-mail sent by Dove to CDO at 1605EST

◆ E-mail sent by [REDACTED] at TSCC at 1611 EST

(b)(6)

(b)(7)(C)

From: AVO.TSCC
 Sent: Wednesday, December 08, 2004 4:11 PM (b)(6)
 To: [REDACTED] (b)(7)(C)
 Subject: FW: IMS # [REDACTED] Unstable pilot in FFDO program was terminated today - Reportable Communications FYI gentlemen. (b)(2)

[REDACTED] (b)(6)
 [REDACTED] (b)(7)(C)
 Operations Officer
 Transportation Security Operations Center
 703 563 [REDACTED] (b)(2)
 [REDACTED]@ttsa.gov (b)(6)
 [REDACTED] (b)(7)(C)

-----Original Message-----
 From: Dove, Joseph <CTR> [mailto:Joseph.Dove@associates.dhs.gov]
 Sent: Wednesday, December 08, 2004 4:05 PM
 To: TSA SpecialServices; CDO.TSA
 Cc: White, Susan; Bush, Michelle <CTR>; Clark, Glen; Douglass, Kimberly <CTR>; Dove, Joseph <CTR>; Fobbs, Charles <CTR>; Gantt, Charmatt <CTR>; Grigsby, Richard M <CTR>; Hill, Janet; Kennedy, James; Oliver, Jeanne; Rowell, Catherine <CTR>; Wagner, Venett <CTR>; Walton, Kimberly; TSIWATCH (TSISWATCH@tsa.dhs.gov); TSCC AVO; TSCC, CW; M&L.TSCC; TSCC Security
 Subject: IMS # [REDACTED] Unstable pilot in FFDO program was terminated today - Reportable Communications (b)(2)

This Reportable Communication message is forwarded for your operational consideration. The following steps were taken while forwarding this Reportable Communication message

1. CDO notified at 703-563-[REDACTED] Spoke to Anjun. (b)(2)
2. Forwarded e-mail to appropriate sources.
3. IMS Inquiry # [REDACTED] (b)(2)
4. Quick Summary:
 Unstable pilot in FFDO program was terminated today.

Caller Name- [REDACTED] (b)(6)
 Contact Number- [REDACTED]
 Travel Date- 12-08-2004
 Airport- IAD to DEN
 Airline- United Airlines
 Flight- 1626 hours IAD to DEN

5. Details:
 [REDACTED] called to advise of an Air Wisconsin pilot in FFDO program who was terminated today. [REDACTED] stated the pilot [REDACTED] has been very upset and angry with Air Wisconsin simulator technicians and other personnel. [REDACTED] has been displaying unstable tendencies and deflecting responsibility to others for failures recently. [REDACTED] stated how [REDACTED] bizarre behavior as led to his termination today. (b)(2)
 [REDACTED] has just failed his fourth (4th) proficiency check since October to become a Captain. [REDACTED] is attempting to notify the proper authorities about the termination to ensure weapon is secured. (b)(6)
 [REDACTED] is a [REDACTED] for Air Wisconsin Airlines. (b)(2)
 [REDACTED] is scheduled to fly back to DEN this afternoon. He will be on a United Airlines flight from IAD to DEN at 1626 hours. (b)(2)
 [REDACTED] does not believe [REDACTED] is in possession of a firearm at this time. X

WHSI

(b)(2) 8/9/2006

Message

Page 1 of 1

From: AVO.TSOC
 Sent: Thursday, December 09, 2004 12:09 AM
 To: [REDACTED] (b)(6)
 Cc: AVO.TSOC; Koonz, Len (b)(7)(C)
 Subject: FW: Event 12143 FFDO
 Gents,

This is the event re: FFDO [REDACTED] as it will appear in the morning brief, as written by the CDO.

(b)(2)
 1520.5(b)(1)(ii)

Charles Phucas
 TSA OPERATIONS
 Operations Office
 pH# (703) 563-[REDACTED] (b)(2)
 fax# (703) 563-3292

charles.phucas@dhs.gov

-----Original Message-----

From: Rally, Carrie

Sent: Wednesday, December 08, 2004 11:35 PM

To: Fields, Terry; Heyman, Dorot; Phucas, Charles

Subject: Event [REDACTED] (b)(2)

(b)(2)
 (b)(6)
 1520.5(b)(1)(ii)

TSA-12-12143-04 FFDO Terminated from Employment
 At 1622 hours on December 8, TCC provided information received from an Air Wisconsin employee advising Air Wisconsin FFDO, [REDACTED] was being terminated from employment after his fourth proficiency check failure since October 2004. The information received at TCC from [REDACTED] who identified himself as a [REDACTED] for Air Wisconsin, indicated [REDACTED] was very upset and angry with Air Wisconsin simulator technicians and other personnel, has been displaying unstable tendencies and defective responsibility to others for his recent proficiency training failures. [REDACTED] who advised TCC that [REDACTED] bizarre behavior led to his termination on December 8, also reported [REDACTED] was scheduled to depart Washington Dulles on an unspecified United flight to Denver at 1626 hours. TSOC immediately contacted United OPS and confirmed [REDACTED] was a passenger on UA 921 which was departing the gate. United OPS indicated they did not have any information to indicate [REDACTED] was armed, but could not immediately confirm that to be a fact. Simultaneous to the discussions with United OPS, TSOC also contacted the Dulles FSD and Dulles OPS, providing all available information, as well as confirming with Air Wisconsin OPS the FFDO was being terminated and [REDACTED] was a [REDACTED] for the company. As requested by the FSD, TSOC notified the Domestic Event Net that the aircraft needed to be returned to the gate so [REDACTED] status could be confirmed. The TSA request was immediately coordinated and the flight returned to the boarding gate without incident. At 1631 hours, TSA Dulles confirmed [REDACTED] had not signed the LEO Sign-In Log at the Checkpoint and then confirmed [REDACTED] did not have a Dulles SIDA badge. United OPS also advised TSOC [REDACTED] was not deadheading on the flight, but was a scheduled passenger for the flight.

When the flight returned to gate D-18, it was not by Metropolitan Washington Airport Authority (MWA) LEOs and a TSA ASI. [REDACTED] was deplaned by LEOs, interviewed, his person, as well as checked and carry-on bags were searched without incident or findings and it was confirmed [REDACTED] was not in possession of his credentials or firearm. Air Wisconsin station personnel coordinated with United and [REDACTED] was rebooked on UA 933, which departed Dulles at 2154 hours. United 921 departed Dulles after incurring a 1-hour, 14-minute delay.

The FFDO Program Office contacted the Denver AFSD-LE and requested [REDACTED] TSA issued firearm and credentials be confiscated. In coordination with Dulles TSA and the FFDO Program Office, [REDACTED] contacted his wife and asked her to turn the items over to the Denver AFSD-LE, who retrieved the items from [REDACTED] residence at 2109 hours.

(b)(2)
 1520.5(b)(1)(ii)

(b)(2)

8/9/2006

WH52

(b)(2)

TSA [redacted] FFDO Terminated from Employment
 At 1622 hours on December 8, TCC provided information received from an Air Wisconsin employee advising Air Wisconsin FFDO, [redacted] was being terminated from employment after his fourth promissory check failure since October 2004. The information received at TCC from [redacted] who identified himself as a [redacted] for Air Wisconsin, indicated [redacted] was very upset and angry with Air Wisconsin simulator technicians and other personnel, has been displaying unstable tendencies, and deflecting responsibility to others for his recent proficiency training failures. [redacted] who advised TCC that [redacted] behavior led to his termination on December 8, also reported [redacted] was scheduled to depart Washington Dulles on an unspecified United flight to Denver at 1626 hours. TSOC contacted United OPS and confirmed [redacted] was a passenger on UA 921 which was departing the gate. United OPS indicated they did not have any ir information to indicate [redacted] was armed, but could not immediately confirm that to be a fact. Simultaneous to the discussions with United OPS, TSOC also contacted the Dulles FSD and Dulles OPS, providing all available information, as well as confirming with Air Wisconsin OPS the FFDO was being terminated and [redacted] was a [redacted] for the company. As requested by the FSD, TSOC notified the Domestic Event Net that the aircraft needed to be returned to the gate so [redacted] status could be confirmed. The TSA request was immediately coordinated and the flight returned to the boarding gate without incident. At 1631 hours, TSA Dulles confirmed [redacted] had not signed the LEO sign-in log at the checkpoint and confirmed he did not have a Dulles SIDA badge. United OPS also advised TSOC that [redacted] was not (theadheading on the flight, but was a scheduled passenger for the flight.

(b)(2)
(b)(6)
1520.5(b)(1)(ii)

When the flight returned to gate D-18, it was met by Metropolitan Washington Airport Authority (MWAA) LEOs and a TSA ASI. [redacted] was displaced by LEOs and interviewed. He and his checked and carry-on bags were searched without incident or findings. He was not in possession of his credentials or firearm. A: Wisconsin station personnel coordinated with United and [redacted] was rebooked on UA 933, which departed Dulles at 2154 hours. United 921 departed Dulles after incurring a 1 hour, 14 minute delay.

(b)(2)
1520.5(b)(1)(ii)

The FFDO Program Office contacted the Denver AFSID-LE and requested [redacted] TSA issued firearm and credentials be confiscated. In coordination with Dulles TSA and the FFDO Program Office, [redacted] contacted his wife and asked her to turn the items over to the Denver AFSID-LE, who retrieved the items from [redacted] residence at 2109 hours. TSOC briefed the Domestic Events Net, DHS, ICE/CBP, FFDO Program Office, and TSIS.

Update: TSIS was able to obtain DOB information from the Metropolitan Washington Airport Authority Police Dept. DOB: [redacted] An NCIC was negative for warrants, warrants, and criminal history.

DISTRICT COURT, COUNTY OF DENVER
STATE OF COLORADO

Court Address: 1437 Bannock Street
Denver, Colorado 80202
Telephone: 720.865.8301
Plaintiff: WILLIAM L. HOEPER
Defendants: AIR WISCONSIN AIRLINES
CORPORATION, a Delaware
Corporation; MARK
SCHUERMAN, individually;
PATRICK DOYLE,
individually; and JOHN DOES
1-10, whose identities are
unknown to Plaintiff at this time

COURT USE ONLY
Case Number: 05CV9967
Ctrm: 5

AFFIDAVIT OF WELDON SCOTT MILLER

WELDON SCOTT MILLER, being first duly sworn upon oath deposes and states as follows:

1. I am a former pilot for Air Wisconsin Airlines Corporation ("AWAC"). I further make this affidavit upon my own personal knowledge.
2. In November 2004, I was employed by AWAC as a first officer on the BAe-146.
3. I was asked to serve as the first officer on a FAA observed checkride on November 5, 2004. The checkride was for Bill Hoeper, a fellow AWAC pilot.
4. The checkride was administered by AWAC's FAA examiner, M. Ray Glovatsky. The simulator was operated by AWAC check airman, Mark Schuerman.

5. The checkride lasted approximately 1.5 to 2 hours. Mr. Hoepfer did not make inefficient use of the simulator time. Mr. Hoepfer performed well on the checkride.

6. During either the training or the checkride, I recall an unusual event that occurred with Mr. Schuerman. I was engaged in appropriate crew resource management by assisting Mr. Hoepfer in pointing out a situation that needed to be addressed. While I attempted to assist Mr. Hoepfer in my capacity as first officer, Mr. Schuerman kicked the back of my chair. I interpreted this as an attempt by Mr. Schuerman to signal me to not assist Mr. Hoepfer on that item.

7. I only had a professional relationship with Mr. Hoepfer. I have not spoken to Mr. Hoepfer since the November 5, 2004 checkride. While at AWAC, I was familiar with Mr. Hoepfer as a ground school instructor. He was well respected by his fellow pilots and crews.

8. After Mr. Hoepfer was removed from his ground school instructor position by AWAC management, the rumor on the line was that AWAC management was "out to get him" because Mr. Hoepfer would share company details openly.

9. I voluntarily resigned my employment with AWAC in approximately November 2005. I left on good terms and did not have any conflicts with AWAC or any employees.

10. If called to testify as a witness, Affiant is competent and will testify to the facts set forth in this Affidavit.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

/s/ Weldon Scott Miller
Weldon Scott Miller

STATE OF COLORADO)
) ss:
COUNTY OF Douglas)

SUBSCRIBED AND SWORN TO before me this 9th
day of April 2007 by Weldon Scott Miller.

My Commission expires: 09/06/2009

/s/ Kyle F. Walsleben
Notary Public

[SEAL]
KYLE F. WALSLEBEN
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires: 09/06/2009

UNITED EXPRESS

Opened by Air Wisconsin Operated by Air Wisconsin
Airlines Corporation Airlines Corporation

PILOT INFORMATION FILE

TO: All Pilots
ISSUE DATE: April 27, 2004
FROM: Michael Bauer
 Manager of Pilot Training
 michael.bauer@airwis.com
MEMO #: 04144

SUBJECT: GROUND INSTRUCTOR POSITIONS

Captains Bill Hoepfer and Tony Neely have informed me that they are leaving their ground instructor positions and returning to line flying.

Both Bill and Tony have been great assets to the training department. Bill managed our D-328 and CL-65 recurrent ground school programs and was invaluable in making our Denver Training Center a success. Tony taught D-328 initial and recurrent ground schools, as well as new hire and recurrent general subjects ground schools. He was a major contributor to our new Internet based training program and was responsible for our CRM video productions. Both Bill and Tony did a lot to improve our pilot training.

There are now two ground instructor positions open. Both of them will be based in ATW. Job descriptions are attached to this PIF. Any current employees who are qualified are encouraged to apply.

Please contact me if you have any questions about these positions.

AIR WISCONSIN EMPLOYEES

KEVIN LaWARE
(Vice President of Operations)

SCOTT OROZCO
(Chief Pilot)

BOB FRISCH
(Assistant Chief Pilot)

PATRICK DOYLE
(Fleet Manager of the BAe-146 aircraft; placed call to
TSA on December 8, 2004)

MARK SCHUERMAN
(BAe-146 aircraft instructor pilot; instructor pilot for
Mr. Hoeper's training on December 8, 2004)

TODD HANNEMAN
(BAe-146 aircraft instructor pilot; administered
proficiency check ride for Plaintiff on
November 13, 2004)

CRAIG CHRISTENSEN
(Management level simulator instructor
on the BAe-146 aircraft instructor)

PLAINTIFF WILLIAM HOEPER
(Captain of the CL-65 aircraft and ground school
instructor and attempting to qualify as a
Captain on the BAe-146 aircraft)

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FLIGHT DEPARTMENT FILE

Pat Doyle/3019 BAE 146
FLEET MGR PILOT/AWAC
12/09/2004 08:45 AM

To Christopher Osterman/
13228 IAD PILOT
MANAGER/AWAC@AWAC

cc

bcc

Subject Re: update

No problem, Chris. We're trying to decide how we could have done this "better" but even the FBI and TSA had never given thought to an FFDO getting fired, so, they don't even have the procedures for something like this—I guess UAL doesn't, either. I was on the phone pretty much all evening last night with FBI, CIA and TSA trying to figure out a way to make something like this not happen again. Guess we'll hear about it in the Ops Call this morning, though

Later!

Patrick T. "Ole" Doyle
BAe-146 Fleet Manager
Air Wisconsin Airlines Corporation
pdoyle@airwis.com
(920) 749-7520
Christopher Osterman/
13228 IAD PILOT MANAGER/AWAC

423

Christopher Osterman/13228
IAD PILOT MANAGER/AWAC
12/09/2004 08:32 AM

To Pat Doyle/3019 BAE 146
FLEET MGR PILOT/AWAC@AWAC

cc

Subject update

Thanks for the update last night regarding F/O
Hoepfle.

Chris Osterman
IAD Pilot Manager
Air Wisconsin Airlines Corporation
(703) 572-4684

AWAC LOGO

Air Wisconsin Airlines Corporation
W6390 Challenger Drive, Suite 203
Appleton, WI 54914-9120

December 3, 2004

To: Mr. William Hooper

From: Scott Orozco
Director of Operations/Chief Pilot

Re: Third Proficiency Check Failure

Background:

On October 5, 2004, you were unable to demonstrate satisfactory ability to successfully complete your Bae-146 Type Rating and Company proficiency check. On October 14, 2004, after receiving additional training you were once again unable to demonstrate satisfactory ability to pass your Bae-146 Type Rating and Company proficiency check, which resulted in your second failure. On November 5, 2004, you were successful at completing the Bae-146 Type Rating however since the FAA Examiner only observed previously failed maneuvers, the Company Check Airman was unable to conduct a proficiency check so were again scheduled for additional training and on November 13, 2004, you were unable to demonstrate satisfactory ability to successfully complete your Company Proficiency check. This was your third consecutive failed attempt to complete your required proficiency check. Section 11, paragraph B.1 states:

B. Initial, Upgrade, and Transition Training Qualification Events

1. A pilot who successfully completes ground training will be afforded three (3) opportunities to demonstrate proficiency during an

initial, upgrade, or transition training qualification event (hereinafter a “training qualification event”). If a failure occurs on the first or second opportunity within a training qualification event, the pilot will have the option of returning to his previously held position (after requalification), or, if the Company concurs, he may elect to receive training for the right seat of the equipment in which he is attempting to qualify as a Captain. *If the pilot elects to utilize the third opportunity and is unsuccessful, his continued employment will be at the discretion of the Company.*

As the Company has complied with all contractual obligations regarding your failures your continued employment with Air Wisconsin is at the discretion of the Company.

After having discussions with you and your ALPA representative the Company is willing to afford you, on a non-precedent setting non-referable basis, one more opportunity to pass your proficiency check however to constitute an agreement this letter must be signed by your ALPA MEC Chairman, Captain Carl Fleming, by you and by the Company. Your signature signifies that the letter as written is accurate and that you are in agreement that the Company has complied with all contractual obligations as required by the Current Bargaining Agreement in regards to your training. Your signature also signifies that you signed this agreement for a fourth and final attempt to complete your proficiency check of your own free will after having consulted with your ALPA representative.

William Hoepfer	Date
<u>/s/ Carl Fleming</u>	<u>12/5/04</u>
Carl Fleming	Date
ALPHA MEC Chairman	
<u>/s/ Scott Orozco</u>	<u>12/5/04</u>
Scott Orozco	Date
Director of Operations/Chief Pilot	

December 3, 2004

After having discussions with you and your ALPA representative the Company is willing to afford you, on a non-precedent setting non-referable basis, one more opportunity to pass your proficiency check however to constitute an agreement this letter must be signed by your ALPA MEC Chairman, Captain Carl Fleming, by you and by the Company. Your signature signifies that the letter as written is accurate and that you are in agreement that the Company has complied with all contractual obligations as required by the Current Bargaining Agreement in regards to your training. Your signature also signifies that you signed this agreement for a fourth and final attempt to complete your proficiency check of your own free will after having consulted with your ALPA representative.

/s/ William Hoeper 12/05/04
William Hoeper Date

Carl Fleming Date
ALPHA MEC Chairman

Scott Orozco Date
Director of Operations/Chief Pilot

02/14/2005 18:39 FAX

001

FEB-14-2005 15:45 AIR WISCONSIN 920 749 7567

AIR WISCONSIN AIRLINES CORPORATION
PILOT TRAINING FORMS

ADDITIONAL TRAINING

Pilot Name: Bill Hooper

ID # 4615

Pilot Signature

Instructor: Mark Schuerman

ID# 5365

Date 12-7-04 & 12-8-04

ACFT/SIM TYPE 146/c

A/C # 146

Block Time 3.4

Ground Training 2.0

Hours

- 1. Preflight: Exterior, Interior, Checklists, Starting, Taxiing
- 2. Takeoff & Climb: Instrument, X-/Wind, Engine fail, Rejected
- 3. Fit Maneuvers/Procedures: Steep turns, Stalls, Holding, Area dep. & arrivals
- 4. Instrument Approaches: Type & #, ILS VOR NDB Other GPS
- 5. Landings: Normal, Abnormal, X-Wind, Night, Eng/s out, Circling, Rejected

I certify that _____ is proficient and is recommended for recheck.

Instructor Signature /s/ Mark Schuerman

Comments: Session # 2 not completed due to Captain Hoepers request for the simulator to be put down off motion. Captain Hoeper quit the session knowing he had 40 minutes of simulator time left, and became very confrontational. I contacted BAE 146 Fleet Manager Patrick Doyle with details and was instructed to leave the simulator center. Proficiency check cancelled for 12-9-04.

OROZCO ARBITRATION TESTIMONY

* * * *

[298] BY MR. PLUNKETT:

Q Obviously Pat was there to administer the company's proficiency check. My question is whether Mr. Glovatsky also – I guess he, being Glovatsky, whether he could have at the same time issued the type rating on that very first proficiency?

A I'm sorry. I misunderstood your question. Mr. Glovatsky could have administered the type rating ride. However, Pat Doyle had the authority to administer the type rating ride and the proficiency check at the same time.

Q Are you aware of a call either by you or somebody else at Air Wisconsin to the TSA –

MR. MATAYA: I'm going to object to that.

MR. PLUNKETT: You can object.

MR. MATAYA: It's just not part of this. It has nothing to do with anything. It relates – we can stay on the record, if you want. It related to some litigation that Mr. Oroaco has against certain individuals. I don't represent anyone in

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[302] MR. PLUNKETT: We all want to stay out of that lawsuit.

THE WITNESS: So do I. He's got 10 or 12 John Does mentioned in there. And right now your questions – I'm going to get a damn lawsuit filed on me as a John Doe. And I have nothing to say about this. I will talk to Chuck. I will talk with you, Mr. Holden. I will talk to you, but I am not going to speak in front

of Bill until I get some legal guidance. That's where I'm at. I'm quite upset. I'm sorry. I apologize.

THE ARBITRATOR: Well, let's back up for a moment. When did you inform the grievant that he was terminated?

THE WITNESS: On December 9th.

THE ARBITRATOR: On December 9th.

THE WITNESS: Correct.

THE ARBITRATOR: And your rationale for wanting to put this information in is to show that –

MR. PLUNKETT: The decision had been made by the corporation the day before that he was a terminated employee, and that was [303] conveyed to TSA.

THE ARBITRATOR: Suppose that were the case, then what?

MR. PLUNKETT: Noncompliance with Section 19 and its procedures when terminating employees.

MR. MATAYA: How is it different from the December 9th?

MR. PLUNKETT: The Company's going to claim that somehow December 9th constituted the investigatory hearing under the contract. I am not sure if you're going to go there. But if you are, I'm trying to say, the decision had already been made one day earlier before there were communications.

MR. MATAYA: Well, time out here. Isn't it right – I mean as you see it and as you want it applied, the Union would have to be on that call. The Union wasn't on the call on December 9th.

MR. PLUNKETT: That's another argument that's coming. We haven't got to that cross-examination point yet.

THE WITNESS: I'm sorry. I have to

* * * *

[305] Q If he would have – if you would have exercised your discretion to terminate him after the third failure, you would agree that the Section 19 rules applied, right?

A I would agree that Z would have held an investigatory hearing whether they applied or not.

Q And what we have under the last-chance agreement that allowed him a fourth proficiency check is we have basically the same language, don't we, that is saying that your continued employment with Air Wisconsin is at the discretion of the Company. so that's the same language that we see in section –

A That is copied language from the contract.

Q So it comes right from the contract, so it's the same thing, that the Company's discretion after the third failed proficiency check – the company's discretion after the third failed proficiency check is you would agree that section 19 applies in that situation, but it's your belief –

MR. MATAYA: That's not what he

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STATE OF COLORADO
IN THE DISTRICT COURT FOR DENVER COUNTY

Case No. 05 CV 9967

WILLIAM L. HOEPER,
Plaintiff,

vs.

AIR WISCONSIN AIRLINES CORPORATION,
a Delaware Corporation;
MARK SCHUERMAN, individually;
PATRICK DOYLE, individually;
SCOTT OROZCO, individually; and
JOHN DOES 1-10, whose identities
are unknown to Plaintiff at this time,
Defendants.

DEPOSITION OF SCOTT ANTHONY OROZCO

* * * *

[84] Q Did Mr. Koehn bring to your attention training irregularities that he felt were going on with Craig Christensen?

A I can't think of any.

Q Did Mr. Koehn tell you that he thought that Craig Christensen was engaged in a wash them out or take them down mentality?

A No. And I wouldn't believe that if Tony told me that. The record for Craig Christensen does not show that.

Q Do you agree with me that a check airman could take down or wash out any pilot if that was his intent?

A If somebody was so inclined to be a check airman for the purposes of taking people out, on any given day somebody could fail a check ride.

Q And have you heard of those things happening in the airline industry?

A Not at Air Wisconsin and only through rumors and speculation throughout the industry. And I don't have any specifics to that.

Q So specifically if I asked whether you gave Mr. Koehn a directive to wash out

* * * *

[96] record, correct?

A Correct.

Q And that's referred to as a pilot training folder?

A Correct. Well, my terminology, pilot training folder is a piece of paper that events are checked off on as they occur. And that information is transferred into the computer for the CrewQual system. That's the training folder. We're just talking terminology. I want to make sure we're straight.

Q If you had concern about whether a pilot was threatening another employee, you would take immediate action, wouldn't you?

A Yes.

Q And there are forms for which complaints like that can be registered, correct?

A I'm sorry. There are forms?

Q You have a safety, health, and environmental concern form that somebody can fill you out if they have concerns about actions that are going on that threaten the safety of others?

A The safety department does.

* * * *

[100] staff?

A I had reason to believe that Mr. Hoeper had difficulty maintaining his temper under stressful situations.

Q That's not my question, though.

A Ask the question again, please.

Q Did you have reason to believe that Mr. Hoeper at any point in time up until December 8, 2004, constituted a threat to anybody at Air Wisconsin Airlines?

A On December 8th, is that your question?

Q Up until that time.

A Prior to December 8th?

Q Prior to December 8.

A Once again, I believe Mr. Hoeper had a difficult time maintaining his temper, which is very rare in the airline industry. Threat is a broad word. I did not think that he was going to punch somebody out, but other people that were there were intimidated by him.

Q Now, that's not my question.

A You're going to have to ask it again because I don't know how to answer that.

Q My question is, prior to December 8, 2004, [101] did you have a reason to believe that Mr. Hoeper was a threat to the safety of any of your staff?

A No.

Q If you had believed that, you would have taken action, correct?

A Correct

Q And you would not have continued to train Mr. Hoeper in a captain's role, correct?

A If I believed he was a threat, correct.

Q And there would be documentation concerning your belief Mr. Hoeper constituted a threat if you had so believed that to be the case?

A Only if there was a discussion with Mr. Hoeper documenting that we had the discussion.

Q You would have terminated him in the program, correct?

A Well, it's not that cut and dried. There are contractual obligations that I have to meet.

Q You would have instituted those contractual obligations?

A There isn't anything in there regarding Mr. Hoeper's attitude and angers.

[102] Q I'm talking about threat. If you believed that an employee, any employee, not just Mr. Hoeper, but any employee constituted a threat to another employee, there are avenues that you can take?

A Yes.

Q And there would be documentation of that, correct?

A Correct.

Q You have a booklet in front of you. If you want to turn to what's marked as Exhibit F-7, it's a whole bunch of documents that were marked in the other depositions, Mr. Orozco. So we can take a little bit of time while you find that. Would you turn to Mr. Doyle Exhibit 13, Page 9?

A Okay.

Q There is reference to – under remarks, letter to Scott Orozco regarding performance; do you see that?

A Yes.

Q That indicates that Mr. Doyle wrote a letter to you regarding Mr. Hoeper's performance on that day, correct?

* * * *

[113] A I don't remember what October –

Q October 14th, the Check Ride 2.

A Pat and I had a conversation.

Q And what was in that conversation?

A That Bill lost his temper.

Q He never told you that he felt threatened, did he?

A He said he couldn't wait to get out of there, and he left the simulator center as quick as he could.

Q Pat Doyle never told you that he felt threatened, did he?

A I can't tell you if he used the word threatened.

Q He never told you that he felt fear for the safety of everybody else who was in that simulator, did he?

A I don't believe so. I can't recall.

Q If he had done that, that would have been extraordinary, correct? That would have been an extraordinary comment?

A Yes

Q You would have remembered that?

A Most likely, yes.

Q And you would have done something, correct?

[114] A Yes.

Q You would have taken action?

A At some level, yes.

Q You might have called law enforcement, right?

A Calling law – possibly.

Q Because that's a very serious allegation by Mr. Doyle, is it not?

A Yes. I'm sorry. I hadn't read this before. I just find it interesting.

Q That's okay. And we may look at it again. There are probably other interesting documents. Mr. Hoepfer did not receive a PC on November 5, 2004, did he?

A That's the date with Emery?

Q Right.

A Correct. No, Emery did not perform a PC.

Q At least that's what you were told by Mr. Schuerman, correct?

A No. I had no direct discussions with Mr. Schuerman.

Q Is that what you were told by Mr. Doyle?

A I know that the PC was not conducted because if there was, company paperwork would have been filled out and entered into

* * * *

[120] John Schuttloffel, I don't have any negative things to know about him. I know he was a rather needy individual in terms of needing time off. I think he had some family things. I am not saying issues, just some continuous family things that were taking place. And I know he no longer works here. I believe he works for Continental Airlines

Q. And you have no reason to suspect that Mr. Schuttloffel harbored any animosity towards Air Wisconsin Airlines?

A. No, I don't

Q On December 3, 2004, you issued a memorandum which has been referred to in this case as a last-chance letter?

A. Yes.

Q. I believe it is behind Hoepfer Deposition Exhibit C, if you could would, and it is Air Wisconsin Document 0196 and 0197 and 0198, which has all three signatures on it.

A. Okay.

Q. Do you see that?

A. Yes.

Q. That gave Mr. Hoeper an opportunity to take [121] a check ride which ultimately was to take place in December 2004, correct?

A. Correct.

Q. And he was to receive training and then take the proficiency check ride, correct?

A. Correct.

Q. When you wrote this, it was intended that Hoeper, if he proceeded, would be outside the protection of the union contract, correct?

A. That's what it states, correct.

Q. That was your intent, correct?

A. Yes, and the MEC's intent.

Q. And that was what Mr. Mataya argued on your behalf at the arbitration, isn't it?

A. Yes.

Q. Therefore, when Mr. Hoeper signed this letter, you believed you could terminate him for any reason, correct?

A. No. I believed I could terminate him for the three previous failures. Had Bill not signed this letter, he would not have been given the fourth opportunity to be trained.

Q. But you believed that at this point in time if he signed this letter, he was no longer [122] entitled to union protection such as arbitration, correct?

A. I didn't put – I intentionally didn't put that down. Does it say it can't be arbitrated?

Q. It says, complied with all contractual obligations as required by the current bargaining

agreement in regards to your training, correct?
Correct?

A I'm reading.

Q I'm sorry, Mr. Orozco. Again, I don't mean to cut you off.

A The intent of that statement was to say up to this point Air Wisconsin had met all of its obligation in training.

Q That's not what it says, though, is it?

A That's what I wrote. It was an agreement.

MR. MARK: I'm going to object to the form of the question. I think it's argumentative. Listen carefully what he's asking. Answer to the best of your ability.

BY MR. MCGATH:

Q This document indicates that all contractual obligations as required by the [123] union contract – excuse me, the current bargaining agreement in regards to your training had been fulfilled, correct?

A Yes.

Q And Mr. Mataya argued in the arbitration that it wasn't even arbitrable, correct?

A I believe so.

Q He was arguing the company's position that when Mr. Hoepfer signed this document, he wouldn't even be eligible for arbitration, correct?

A I believe so.

Q And that was your intent, wasn't it?

MR. MARK: Well, I'm going to object –

MR. MCGATH: Counsel, do you have an objection to the form of the question?

MR. MARK: You can go ahead and say what you want to say, and then I'm going to make my objection.

MR. MCGATH: Do you have an objection to the form of the question because –

MR. MARK: When I make an objection, I don't expect a question back from counsel. You asked an objectionable [124] question. I intent to make a record. But when you're finished, then I'll go ahead and proceed.

MR. MCGATH: Okay, Counsel. You can please make your record on the question. But as you probably are aware, in Colorado in a deposition you don't get speaking objections.

MR. MARK: Are you finished?

MR. MCGATH: I am.

MR. MARK: I'm going to object to the form of the question, and I think it's argumentative. I think it also calls for a legal conclusion. If you can answer it, go ahead. If you can't, tell him you can't.

THE WITNESS: I'm going to have to ask you to reask the question.

BY MR. MCGATH:

Q Your intent, as expressed by Mr. Mataya in the arbitration, was that Mr. Hoeper was not eligible even to have any issues related to this letter arbitrable, correct?

MR. MARK: Same objection.

THE WITNESS: I can't answer that question.

[125] By MR. MCGATH:

Q You don't know?

A I don't know – I am not being argumentative. I don't know how to answer question. My intent was to find a way for Bill Hooper to be successful in the program. That was the intent of this letter. I could not go outside of the contract without an agreement. It would just – it's just not possible, and so that was my intent.

Q Did you intend, though, that when Mr. Hooper signed this agreement, he would have no more rights under the collective bargaining agreement?

MR. MARK: It's objected to, form of the question. It's been asked and answered.

THE WITNESS: Once again, I don't know how to answer that question.

By MR. MCGATH:

Q You knew Mr. Mataya made that argument in the arbitration?

A Yes.

Q And you agreed with Mr. Mataya's position, [126] did you not?

MR. MARK: Well, that question is objectionable. It's been asked and answered at least three or four times now.

MR. MCGATH: You can answer the question.

MR. MARK: You can answer it now a fifth time.

THE WITNESS: Once again, I don't know how to answer the question

MR. MCGATH: Let me ask you a different way.

THE WITNESS: Okay.

BY MR. MCGATH:

Q You would not have allowed Mr. Mataya to make an argument that you did not agree with, correct?

MR. MARK: Well, that's objectionable because of the form of the question. You're also asking a nonlawyer to comment on a legal proceeding where a lawyer was making legal arguments. I don't think it's even a fair question. Is that permitted under Colorado law to ask a questions like that, Counsel?

* * * *

[133] that. That's going to be a bad question because I'm indicating that you received the telephone call, and I don't mean to misrepresent that.

A Okay.

Q You made the decision based on information that had been communicated to you from Pat Doyle that Bill was to go home, correct?

A I made the decision that when Bill left the training center – because I don't recall telling Pat to tell Bill to go home. When Bill stopped the training session, from my perspective, the training was over. Bill called me from the airport, as we just agreed, after speaking with Jane Schraft. And quite honestly, I believe it was between two pay phones, Jane Schraft on one side and Bill on the other.

Q That's what Bill testified to.

A Okay. And asked if he was leaving, and Jane asked him to ask me if he was leaving a training assignment. And I told him, no, the training is over or words to that effect.

[134] Q And Mr. Hoeper was concerned that he not be criticized for leaving a training assignment per the union contract, correct?

A He was – Bill was – I don't know what Bill was concerned about. Bill was just trying to cover his bases.

Q And you told Mr. Hoeper that he could communicate to Ms. Schraft that he was not leaving a training assignment, correct?

A I told him that his training was over.

Q But his question to you was, could he communicate to Jane Schraft that he was not leaving a training assignment, correct? Isn't that what you just told me just a minute ago?

A He wanted to make sure he wasn't leaving a training assignment. My response was, you're training is over. Okay?

Q That was the extent of the conversation you had with him?

A It lasted all of 20 seconds.

Q You didn't ask Mr. Hoeper about any details?

A No.

Q And you didn't ask Mr. Schuerman about any [135] of those details?

A I had no reason to speak to Mr. Schuerman.

Q And you didn't ask Mr. Scharf about any of the details?

A I had no reason to speak to Dan Scharf.

Q And Mr. Hoeper was not provided the opportunity to take his check ride on December 9th, correct?

A Mr Hoeper wasn't in there on December 9th, and, no, he wasn't.

Q You had made the decision that he was not going to get a check ride on December 9th, correct?

A I made the decision that he discontinued his training. There was no check ride at that point. You can't make an agreement to have training and a check ride and then end the training and then expect to have the check ride.

Q Are you aware of Mr. Schuerman's testimony that he did not know whether you might have another instructor provide the continued training with Mr. –

A I would not be the person that would make that decision who was going to give check [136] rides. Pat Doyle would have made the decision who was giving check rides. I'm just trying to show the structure. You want to see me down in the dirt, and I work with my people.

Q No, that's not what – I'm just trying to get the truth of things, sir.

A Well, I'm trying to. too.

Q Are you aware of Mr. Schuerman's testimony that he did not know that the training might not have continued with another instructor?

A Yes.

Q You read that in his deposition?

A I believe that's what I recall.

Q So Mr. Schuerman didn't know that the training was over, did he?

A No.

Q That's correct?

A Correct.

Q So you made the decision that Mr. Hoeper's training was over?

A Yes.

Q And when you did that, you made the decision that Mr. Hoeper was not going to [137] get a proficiency check on December 9th, correct?

A Correct

Q And instead of giving him a check ride on December 9th, you fired him on December 9th, correct?

A Correct

Q Now, the union contract requires 72 hours' notice between a failure event and termination, correct?

A I don't believe it calls for a failure event and termination. If there's a recheck, it requires 72 hours. A pilot can request up to a 72-hour break between failures.

Q You're aware of Mr. Fleming's testimony in the mediation – or excuse me, the arbitration?

A Well, I also work with the contract very closely. I am not aware of any requirement. There is an investigatory hearing, which they argued about, which says, prior to any discipline that would affect pay, benefits, or employment, there must be a disciplinary –

investigatory [138] hearing not to be held sooner than 72 hours.

Q And did you remember the argument that you had violated this 72-hour requirement?

A Yes.

Q And do you remember the requirement – that your testimony that you didn't even think the 72-hour requirement would apply in this case?

A Correct.

Q And that's because you believed that you had the absolute right to terminate Mr. Hoepfer without waiting the 72 hours?

A Correct.

Q And that's because of the last-chance letter, correct?

A Correct.

Q And that is because you believed that by giving Mr. Hoepfer the last chance letter, he was not entitled to further rights under the collective bargaining agreement, true?

A Yeah. We're back to that same question. I think that's right answer.

Q I know it's an uncomfortable answer.

A No, it's not an uncomfortable answer [139] because my intent was to give Bill every opportunity to be successful, but I know that's not important.

Q I am not saying that that's not important, sir.

A Okay.

Q So the question I was trying to get you to answer before that is that when you wrote the last

chance-letter, you intended that Mr. Hoeper's rights under the collective bargaining agreement would be gone?

A Right.

Q That's true'?

A Yes, that's true.

MR. MCGATH: Let's take a lunch break.

(Recess was taken.)

BY MR. MCGATH:

Q Mr. Orozco, we're back on the record.

A Okay.

Q You understand you're still under oath?

A Yes.

Q There are a couple of catch-up things that I wanted to follow up with before we move into a different area. Do you know an

* * * *

[142] Q I was asking you some questions previously about anger issues, and you had talked about EAP being available. Do you remember that?

A Yes.

Q Do you agree with me that it important for a pilot to maintain his composure in the operation of an aircraft?

A Yes.

Q And do you believe that if a pilot were to fail to keep his composure, that that could jeopardize the safety of the aircraft?

A Yes.

Q And would you agree with me that if you had a pilot who was not keeping his composure that was in your training program, that would be something that should be noted in his training file because it presents a potential risk to the aircraft?

A Well, the simulator and the aircraft aren't the two same things. I am not aware of any time where we've documented someone not maintaining their composure in the simulator.

Q Do you think that's something that should [143] be documented if it happens?

A Yes

Q And that's because it is one of those things that could affect the safety of the aircraft, correct?

A There are two different environments. Potentially it could impact the safety of the aircraft.

Q And also do you believe that a pilot who has issues with anger management while operating an aircraft could potentially affect the safety of the aircraft?

A Yes.

Q And if you had a pilot who has reported to have had loss of temper problems associated with operation of a simulator, that is something that should be documented in his pilot records, correct?

A To date I am not aware of anything that's been documented like that in a pilot's records.

Q But do you agree that it should be documented in the pilot's records?

A Yes.

Q And do you agree with me, if you had a [144] pilot who had repeated problems with lost composure or anger while operating a simulator or in debriefing sessions, that you would not continue to train that pilot?

A Depending to the degree of loss of composure or anger, yes.

Q And that's because that presents a potential risk to the safety of the aircraft, correct?

A Well, it could, yes.

Q And if you had a pilot who was fairly described as a loose cannon in an aircraft, that's something that you would want to have documented, correct?

A Yes.

Q For those same reasons, correct, that it could – let me rephrase the question because the same reason is kind of general. But the same reason you would want that documented is because that presents a potential risk to the safety of the aircraft, correct?

A Correct.

Q Now, when you talked to Mr. Hooper in that telephone call which you believe he made [145] from the airport on December 8th, you told him to go home, correct?

A I told him that his training was over. I was not giving him any direction as to travel because that's not my area. I made it clear that his training was over.

Q You knew by that point in time, though, that your flight department had already made arrangements for his travel?

A I didn't know that the exact arrangements were. I knew that it was in process.

Q So if Mr. Hooper testified that you told him to go home, that would be consistent with the fact that his flight had already been booked, correct?

A Did Mr. Hooper testify to that?

Q Yes.

A Okay. Then I'll say yes.

Q You would have no reason to disagree with that testimony?

A No. I'm just clarifying the words that I used and the words that you're using aren't the same.

Q I understand that.

A Okay.

[146] Q But my point is, do you have any reason to doubt that you told Mr. Hooper to go home?

A There would have been, after our conversation, no reason for Bill to stay in Dulles.

Q My question is, do you have any reason to doubt that you would have told him to go home?

A I don't know how to answer that because I didn't tell him to go home. That would have come from somebody else, so I do doubt that I told him to go home. I told him that his training was over. I don't have any reason to doubt that he was told to go home.

Q By somebody under your direction?

A Yes.

Q What exactly did Pat Doyle tell you that had been relayed to him by Mark Schuerman following the

training events December 8th when he first spoke with you?

A I can't say exactly what was said. It was a long time ago. What I recall of the conversation is that Bill Hoepfer stopped the training session, lost his temper. [147] Mark Schuerman was not comfortable being there, and Pat had told Mark to leave the sim center.

Q Was that all that was relayed to you, in essence?

A I can't think of anything else that was said. I mean I'm – it was a long time ago, you know. I can't – I mean that was the gist of the conversation, Bill had lost his temper. Mark Schuerman was uncomfortable. He stopped the simulator training, and Pat had directed Mark to leave the sim training center.

Q And this was conveyed to you in your office at Air Wisconsin headquarters in Appleton, Wisconsin?

A Yes.

Q And Mr. Doyle was across your desk from you at that time?

A He either called me from his office or was in my office at that time.

Q Did you later have a face-to-face meeting with Mr. Doyle?

A Yes.

Q Did you make the decision at that point in [148] time that that was all you needed to know about what was going on to terminate the training with Mr. Hoepfer?

A Yes.

Q That's why you didn't call Dan Scharf, Mark Schuerman, or anybody else who might be there, correct?

A My direct report gave me the information, and that's how I find information. I have no way of knowing how to contact Dan Scharf. I doubt Dan Scharf has a cell phone. I had no reason to talk to Mark Schuerman. I had no reason to doubt what he relayed to Pat. I had no reason to doubt what Pat had relayed to me.

Q So you did not know what exactly had happened that caused Mr. Schuerman to want to leave the simulator?

A I knew that Bill had lost his temper. He stopped the simulator training session.

Q Did you know at that point in time that Mr. Hoeper believed he was not being treated fairly?

A No, I did not know that.

Q Did you know at that point in time that [149] Mr. Hoeper stopped the simulator to call ALFA?

A I didn't know Mr. Hoeper called ALPA until he called me from the airport.

Q What next happened on the afternoon of December 8, 2004, related to Bill Hoeper?

A I mean besides running the daily operations there were a lot of other things going on. At some point throughout the day, not long after this started, myself in my office – my office is kind of a convenient convening point for everybody. I believe Pat Doyle, Bob Frisch, I believe, and Kevin LaWare were in my office. Kevin stops by frequently throughout the

course of the day. And we started discussing the situation a little bit.

Q Now you said you believe Mr. Frisch was there?

A Right.

Q You don't have a clear picture of him being there?

A No, I don't. I can't – at some point Bob was made aware of the situation, but I can't tell you that it was immediately [150] after this had all started.

Q Can you put this in a time perspective for me?

A It's very difficult. Can you give me an idea when Bill Hooper would have called me? Do you have that information?

Q I can give you an idea when Bill Hooper would have called – excuse me, I can give you a better idea probably of when Mr. Schuerman would have called Mr. Doyle.

A Okay. That would help.

Q Okay. That would have occurred sometime around – shortly after noon eastern time.

(Discussion off the record.)

BY MR. MCGATH:

Q I'll represent to you that the records from the simulator reflect that it was taken off motion approximately noon.

A Okay.

Q Okay? Eastern time.

A Eastern time. So 11 o'clock our time. I'm sorry. Please repeat the original question.

Q Yes. This meeting that took place, the initial discussions about what had [151] happened, when did that occur?

A I would – I'm only estimating. I would guess within an hour to an hour and a half after I was first made aware. Probably an hour.

Q At the time that you were first made aware of what happened, you knew Mr. Hoeper was an FFDO officer, right?

A Yes.

Q That wasn't a secret?

A I'm required to know who our FFDOs are.

Q And Mr. Frisch indicated he that knew that Mr. Hoeper was an FFDO at that point in time?

A He's another individual that would be privileged of that information.

Q And he indicated that it wasn't a secret amongst upper management that he was an FFDO and that Pat Doyle also knew about Mr. Frisch was an FFDO at about that time?

A Right, that's correct.

Q And would it also have been true that Mr. Doyle would have been advised that Mr. Hoeper was an FFDO?

A I am not sure when Mr. Doyle was advised [152] that Bill Hoeper was an FFDO.

A Do you recall that at some point in time after Mr. Hoeper completed training in Artesia, New Mexico, in February 2004, that Mr. Doyle was advised Mr. Hoeper was an FFDO?

A I don't recall that. I won't deny it, but I don't recall it.

Q Would that have been consistent with company policy?

A Yes.

Q And why is that?

A Well, management pilots have the right to know who pilots are that are carrying weapons or have the ability to carry weapons.

Q And that's consistent with a mandate from TSA?

A Yes.

Q And so management pilots should be advised of who those officers are?

A Yes.

Q So Mr. Doyle should have known some time shortly after Mr. Hoeper completed FFDO training in February 2004 that Mr. Hoeper [153] was, in fact, an FFDO officer?

A Once again, I can't say that's exactly when Pat learned it. I don't know when Pat learned it.

Q I am not saying that you know when he learned it. I am saying consistent with management policies, he should have been advised shortly after that occurred, correct?

A The FFDO program was very new at that point. There was a lot of information that wasn't being made available to the air carriers at that time. I kept a list. I shared it with a few management pilots. Pay Doyle at 2004 may have been on that list or may not have been on that list at that particular time.

Q What other management pilots would have been on that list?

A Bob Frisch for sure. I would have made the list available to Kevin LaWare and myself. And at some point I made the list available to the fleet managers, but I don't recall when that exactly happened.

Q Why would you have made that list available [154] to the fleet managers?

A I don't know how to answer that question. I don't know why I wouldn't have made the list available to the fleet managers.

Q So that's what I said. Consistent with the policy of Air Wisconsin, the fleet manager should have been advised who the FFDOs were shortly after they completed their FFO training, correct?

A As it evolved the answer is yes. I don't recall when the fleet managers became part of that information process. That's all I'm trying to say.

Q I understand. So approximately an hour to an hour and a half after the telephone call was made from Schuerman to Doyle, there was a meeting that took place between you, yourself, LaWare, and Doyle and perhaps Frisch, correct?

A I believe that's the right time frame.

Q Tell me what's going on in that conversation.

A Me expressing disappointment primarily that Bill had elected to end his training. That was my part of the story because my part of [155] the story was to try to help Bill be successful. Pat bringing me up to speed in terms of just face-to-face discussion what had occurred at the simulator center. Kevin I don't believe was present at the beginning of the discussion. I think

Kevin walked in like he usually does and, says, he, guys, what's going on?

Q So to the best as you can recall, it was you for sure and Doyle initially talking about it, right?

A Well, definitely the two of us. At some point Kevin joined the conversation.

Q So Doyle relayed to you what he had learned face-to-face based on what Mr. Schuerman had told him?

A Yes.

Q And this was, in essence, a reiteration of what you have just told me you learned, correct?

A Yes.

Q Do you remember any more details of anything Mr. Doyle told you about what happened?

A No, I don't.

[156] So, in essence, you were told that Bill lost his temper, that he had said he was leaving the simulator, and that Mr. Schuerman was not comfortable being in the simulator – correct?

A Was not comfortable being in the simulator building.

Q Okay. Fair enough. Those are the three things that compromised the essence of that conversation?

A Those are the three things that I recall.

Q Then what happened?

A Once again, timelines are very foggy. At some point the discussion turned to Bill being an FFDO.

Q Which you knew, right?

A Right.

Q And at that point in time Doyle knew, right?

A Yes.

Q And at that point in time Kevin LaWare knew?

A Well, if he didn't know prior to that, he knew at that point in time.

Q Because he was in that conversation?

[157] A Right.

Q So Bill's an FFDO. What is the significance of that in this conversation?

A Somehow in this discussion the conversation came up that, does anybody know or how would we know if Bill was carrying his weapon with him or not?

Q Why would that be a concern?

A Well, it was more of a question than a concern. Just had a pilot end a training session early knowing full well that the possible result was going to be his termination of employment.

Q You had hadn't made that decision at that point in time?

A No. But I mean it's called the last-chance letter for a reason. It's not the chance before the last chance. We've already met the contractual obligations, so Bill had a pretty good idea what the outcome was going to be, I believe. But, no, I had not made the decision at that point.

Q And you had not talked to Mr. Schuerman at that point?

A No, I had not.

[158] Q So you hadn't really gotten, other than a cryptic version from Pay Doyle, what Mr. Schuerman said happened, correct?

A Correct. But I do know that, like I say, Bill lost his temper. He used profanity in his discussion. He stopped the simulator training under his own and was irritated, was agitated or irritated. I don't know what other words to describe.

Q You did not know at that point in time, based on the discussion, that what Mr. Hoeper had said was that – in some context I'm going to call ALPA legal?

A I know exactly what he said. I do recall that because when I read it from the arbitrator's point. I don't think it's necessary to repeat it.

Q Yes, not my point. My point is, you did not know at that point in time that he had said he was going to call ALPA legal because you didn't learn anything about legal representation involvement until Bill called you later?

A That's what I recall.

Q So then what happens in terms of this [159] discussion about his FFDO weapon?

A Like I said, I think we were curious, asked if there was any way to identify if Bill had his weapon with him. At some point in the conversation we were concerned or discussed what alternatives, irrational behavior, throwing away his last opportunity for a job I really believed Bill wanted. And we questioned – no we didn't question. We – the AOSSP provides guidance for air carriers to follow certain things any time there's any question or potential question of a security of flight issue.

Q What about this conversation led you to think that there could be a security of flight issue?

A Once again, not knowing if Bill had his weapon, okay, seeing basically for the third time probably at different levels of – throughout his training, third time of losing his temper, realizing that this was his last chance to complete his training, which he stopped, and partially some attitude – when he called me, he wasn't [160] exactly calm.

Q Well, that call took place after this conversation, correct?

A Oh, God. I think that call and that discussion came – I'm doing my very best. I believe that call came right before Pat came to my office because – to the best of my recollection. If it was an hour to an hour and a half later, Bill would have had time to go to the airport and contact me. I can't swear to it. I don't recall the sequence of those events, but that's what I believe.

Q Now, up to that point in time, you had no concern that Mr. Hoeper was a threat to anybody in your organization, correct?

A I had no concern that Bill was a physical threat to anybody.

Q And you had no concern that Mr. Hoeper was mentally unstable?

A Irrational, yes. Mentally unstable, that's not for me to decide. I didn't believe he was mentally unstable.

Q You did not really believe that Mr. Hoeper was capable of turning a weapon on a [161] flight, did you?

A I would have no way of knowing that.

Q Who made the decision to call TSA?

A Actually, the comment came as we were discussing what our obligations were and referring to the AOSSP. Kevin LaWare mentioned that we should at least notify TSA to see if they have any concerns.

Q So it was Kevin LaWare's suggestion that you call TSA?

A He didn't say it to me. I was present. But as I recall, it was basically to Pat Doyle because the three of us or tour of us, if Frisch was with us at that time, that we should least – by looking at the AOSSP, it gave us guidance that we might have some type of security concern about a flight and that we're obligated to contact TSA. And we called them as a question.

Q Well, you weren't present when the call was made, were you?

A No, I was not.

Q That call was made by Pat Doyle, correct?

A Yes, correct.

Q You had somebody who was an FFDO in your [162] room with you at the time you were discussing this?

A I believe – yes, I believe Bob was there.

Q Why was it decided that Mr. Doyle would call TSA?

A Because Pat had the most direct contact with the people – Pat's last several months has been trying to work with Bill Hoeper. I mean I can't tell you why it was done. It was just one of those conversations. I'm at my desk. Kevin's here. Pat's here. Let's pretend Bob's here. Kevin just said, you know, we should at least ask TSA if they have any concerns. And maybe Pat just volunteered, I'll make the call. I don't know.

Q Did you think it might be more appropriate if somebody in higher senior management made the call than Mr. Doyle?

A I feel that the fleet manager is high enough – high-level management to make that call. We contact the NTSB with questions. We contact FAA with questions. We contact several different government organizations with questions

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[164] A Nope. No.

Q You had contact at Dulles, correct?

A Well, we had a Dulles hub manager, correct.

Q That was Mr. McGothin?

A Yes.

Q And you had – did you have a director of flight operations in Dulles?

A Yes, Chris Osterman.

Q Did you consider calling either of them?

A I did not consider calling Chris McGothin. I actually believe that I did made contact with Chris Osterman.

Q You think you did call Chris Osterman?

A Yes, I do.

Q What do you think you communicated to Chris Osterman?

A That – what I asked Chris to do was to see if there was any way that Bill Hooper used his FFDO credentials to bypass security. That's how the process works.

Q So did Mr. Osterman check – excuse me, strike that. Did Mr. Osterman respond to you?

A He responded – not immediately. I’m trying to remember what he said. Chris was [165] unable to verify whether Bill passed through – had been able to bypass security or not.

Q Do you know whether Mr. Osterman actually made the effort to check?

A I would believe that he did.

Q You have contacts at United Airlines in Dulles, correct?

A I don’t, no.

Q Did you consider calling United Airlines since Mr. Bill Hooper had been booked on a United Airlines return flight?

A I wouldn’t have known who to contact at United Airlines. We’re an independently operated airline.

Q United Airlines is a client of Air Wisconsin’s at this point in time, correct?

A Well, we do ground handling at this point in time. In 2004 we did flying services and ground handling services for United.

Q So United Airlines was a client of Air Wisconsin?

A Yes.

Q So if you wanted to find out who you could [166] contact at United Airlines, you could have, correct?

A I suppose. I don’t know who I would have called. After 20 years of working with them, up to that point, I didn’t have any contacts.

Q Did you consider calling United Airlines director of security at Dulles Airport?

A Once again, I didn't have that contact.

Q You could get it, though, right?

A I'm sure I could have if I even knew that position existed at the time. The answer is, no, I didn't consider it.

Q So you, yourself, had no concerns that M. Hoepfer was a threat to an airlines, correct?

A That's not exactly – I expressed that I did have concerns. I don't know – didn't have any way to verify what state of mind Bill was really in, other than what I had already stated, that he had stopped the simulator training session. He had cursed. He had intimidated or made Mr. Schuerman uncomfortable. There was enough reason for Pat, after talking to Mark Schuerman, to [167] tell Mark Schuerman to leave the simulator center.

Q If you had called Mr. Schuerman when you learned what happened at the simulator on December 8th, you would have learned that the only thing that Mr. Schuerman expressed to Mr. Doyle was that Mr. Hoepfer was angry at him; isn't that true?

A According to that, yes.

Q According to what?

A You're looking at – I'm assuming. I believe you're looking at the –

Q Deposition of Mr. Schuerman.

A – deposition of Mr. Schuerman.

Q And you read the deposition of Mr. Schuerman?

A Parts of it quite a while ago.

Q But you read that part of it, didn't you?

A I can't say that I have. It was written quite long after the facts.

Q You would have learned, would you not, that Mr. Schuerman did not consider Mr. Hoyer to be a threat to anyone; isn't that true?

A Once again, according to Mr. Schuerman's deposition, yes.

* * * *

[171] don't want to misrepresent anything to you.

A All I was trying to make the point of is that if the call came later in the day, then the conversation that we had regarding that was probably a little bit later in the day. I'm trying to be accurate with you also.

Q How long did this conversation last in which you were trying to decide what to do?

A Probably – it's a guess – 15, 20 minutes. We have a lot of other things going on through the course of the day that keep us busy, too.

Q It was not your intent, was it, to convey to TSA that Mr. Hoyer was mentally unstable?

A No.

Q That's correct?

A I'm sorry. It was not my intent, that is correct.

Q It was not your intent to convey to TSA that Mr. Hoyer had his right to carry a firearm terminated, correct?

A No. It was not my intent, correct.

Q It was not your intent to convey to TSA

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[177] Q I want you to turn to the middle of that page, 211. There's a series of comments called break, break, break on the side; do you see that?

A Yes, I do.

Q Turn to the third break down.

A Okay.

Q TSA was notified that William Hoeper, a disgruntled company employee and FFDO who may be armed, where did you come up with the information – well, first of all, you were not involved in the conversation with TSA, correct?

A That is correct.

Q Where did Mr. Doyle come up with the idea that Mr. Hoeper may be armed?

A I don't know what was said to TSA directly.

Q You wouldn't have wanted Mr. Doyle to tell them that Hoeper may be armed?

A If I was stating it, I would have stated it in a way to say we have no way to verify whether he is or is not.

Q Because under the circumstances, if you tell TSA that you have an employee who may be armed, A, and they're disgruntled, [178] that's potentially slanderous, correct?

A I don't know what –

MR. MARK: Let me make the objection, and then you can answer. I object that it calls for a legal

conclusion. If you can answer it, go ahead. If not, tell him.

THE WITNESS: Just what Don said, I can't answer that question. I don't know what slanderous means.

Q You would understand how that would have negative connotations, correct?

A Correct.

Q And you wouldn't have wanted Mr. Doyle to convey it that way, would you?

A Those are his notes. I don't know how it was conveyed directly.

Q But you would not have wanted him to convey it this way to TSA, correct?

A Correct.

Q And you had no reason to believe that Mr. Hooper up to this point in time had ever violated FFDO protocol, correct?

A I have no knowledge – I shouldn't say no knowledge. Correct.

[179] Q And you have reason to believe that he was armed, correct?

A I had no reason to believe that he was armed. I was also unable to determine if he was unarmed.

Q But you knew under FFDO protocol he should not have had his weapon, correct?

A Correct.

Q And Mr. Frisch has testified that he had no reason to believe that Mr. Hooper was armed; would you agree with that?

A I can't disagree with that, yes.

Q It also indicates that Mr. Doyle expressed concern about Mr. Hoyer's mental stability, doesn't it?

A Pat's notes do. I don't know – once again, I Don't know what was stated actually to the TSA.

Q But a reading of these notes would suggest that Pat told TSA that Mr. Hoyer was mentally unstable, correct?

A That is correct.

Q Now, you had no basis to believe that Mr. Hoyer was mentally unstable. You've already testified to that, right?

[180] A I said I believed he was acting irrational but not mentally unstable.

Q And Mr. Doyle, you read in his deposition where he wishes he hadn't said that, correct?

A Yes.

Q And that clearly could give the impression of a very bad situation if it was communicated to TSA, correct?

A I believe so.

Q You've got armed, disgruntled employee who is mentally unstable if you read that note, right?

A Uh-huh, yes.

Q And are you aware of what happened to Mr. Hoyer?

A I became aware of what happened. If you're talking about the removal from the flight, yes.

Q Right. That gave rise to a very serious situation, did it not?

A Reask the question, please.

Q Yes. The call to TSA gave rise to a very serious response from TSA, correct?

A Yes.

[181] Q It involved having multiple law enforcement officials respond to the plane, correct?

A From what I've been told, yes.

Q It involved a blockade of the plane, correct?

A I am not sure what a blockade is. I just read here that the aircraft was called back to the gate.

Q Do you recall reading in any of the documents that you've read that the plane was blockaded by snowplows?

A No, I didn't realize that.

Q Did you read that in Mr. Hoeper's deposition testimony?

A I don't recall.

Q Well, do you have any reason to doubt that was the case?

A No.

Q In face, that would be appropriate if TSA was told that there was a disgruntled company employee traveling from IAD-Denver aboard the flight and you were concerned that he was armed and concerned about his mental stability, correct?

A I can't speak for the TSA. It doesn't seem [182] inappropriate.

Q It does not seem inappropriate?

A Correct.

Q And have you read the testimony or opinion, I should say – excuse me, strike that. Let me back up. Fair enough?

A Yes.

Q Have you read the opinions of Glen Winn, the expert retained by Mr. Hooper in this case?

A Which expert is Mr. Winn? I remember the name.

Q Mr. Winn is the former head of security for United Airlines?

A Once again, it's been – I read the notes. I read it. It's been an awful long time since I read it. I may have to look at it to help with the questions.

Q Do you believe that Mr. Hooper was legitimately distressed by the response from TSA?

MR. MARK: I'm going to object to the form of the question. It's lacking

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[187] Las Vegas for cursing on his cell phone. Customers are removed daily. Not that Air Wisconsin has a customer removed every day, but I'll see two or three reports a day – or a week of customers that are removed from flights.

Q Has Air Wisconsin ever had a pilot under its control and command pulled from a flight by law enforcement under the belief that that person presents a threat to the airplane?

A Other than this situation, no. Did I understand your question correctly?

Q That's correct.

A Correct.

Q The information that Mr. Doyle conveyed to TSA, according to his own note, was not what you asked him to convey, was it?

A Well, I didn't ask him to convey anything quite honestly really. I mean that conversation pretty much was Kevin LaWare saying, let's ask – there wasn't a discussion as to what to say. The discussion went, let's ask the TSA if they have any concerns about what our situation [188] is or what the situation is.

Q I thought you told me earlier that the question to be asked of TSA was whether or not you could verify if Mr. Hoeper had a weapon.

A I said – I don't believe that's what I said. I believed I had no way of knowing whether or not Bill Hoeper had his weapon.

Q Have you ever apologized to Mr. Hoeper for what happened?

A No.

Q In light of what's in Mr. Schuerman's notes, do you believe that an apology is owed to Mr. Hoeper?

A I think Bill owes me an – I think Bill owes me a thank you for going as far as I have to try to help him be successful in training.

Q That's not my question.

A Okay.

MR. MARK: That was his answer.

MR. MCGATH: That's not responsive to my question, Counsel.

MR. MARK: I think it was responsive.

MR. MCGATH: It was not responsive to

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[192] incident?

A No.

Q Have you ever spoken with any of the law enforcement officials that were involved?

A No.

Q Did you reprimand Mr. Doyle about the comments that he made in this document as reflected of what he told TSA?

A No, I did not.

Q Do you remember reading in Mr. Doyle's testimony which he said that he doesn't think he would have said that Hoyer was mentally unstable to TSA because he did not want to cause Mr. Hoyer any undue harm; do you remember reading that?

A It sounds very familiar, yes.

Q Would you agree with me that if he told TSA that Mr. Hoyer was mentally unstable, that that could cause Mr. Hoyer undue harm?

A I would phrase it differently. I could see that it would cause TSA to take possibly a different – respond in a different way to the call. Does that answer your question?

Q And the response would be treating it more as a terrorist threat, correct?

[193] A Well, I don't know how the TSA internally rates their threat levels internally, but I would expect that it would raise it a notch.

Q And you don't know whether it raised it a notch or 10 notches, do you?

A No, I do not.

Q But you would expect their response would be more dramatic?

A Yes.

Q Are you concerned that the December 8, 2004, incident in which Mr. Hooper was pulled off the plane may have caused some damage to Mr. Hooper's reputation?

A No, I am not.

Q Why not?

A The only people that know about it, besides the TSA and the enforcement, are the people that he's chosen to share that with.

Q Are you familiar with the fact that Mr. Schuttloffel did not hear it from Mr. Hooper?

A No, I am not.

Q Have you read Mr. Schuttloffel's deposition

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[205] have come back, his training session was up anyway. Those simulators run 20 hours a day. You don't have the ability, luxury of just being in this whenever you feel like it. You get a time slot. So Bill leaving the simulator for 20 minutes or 30 minutes and coming back, there was no simulator time left. When he left the simulator. he used up the time that was available.

BY MR. MCGATH:

Q There' nothing wrong with Mr. Hoeper electing, if he believes he's being mistreated by a pilot trainer, to exercise his legal right to call the union, is there?

A No.

Q And, in fact, if a pilot trainee, such as Mr. Hoeper was in this case, believed that there was something going wrong with the training, it would be completely within his union rights to stop the training session and contact an ALPA counsel, correct?

A Yes.

Q And to best of your knowledge, that's, in fact, what happened in this case, isn't it?

[206] A Yes.

Q So when Mr. Hoeper elected to use his legal right to counsel, you elected not to continue his training, correct?

A We're going round and round. I'm still going to tell you Bill elected to terminate his training. He knew what his options were. However, I made the decision that there would be no additional training and checking.

Q It's your position that he elected to terminate training, correct?

A Yeah, by the words from the arbitration. They're pretty clear.

Q Well, that's what Mr. Schuerman testified to, correct?

A No. That's what the arbitrator put in his award. I'm sorry. That's where I'm getting at. The words that were used by Mr. Hoeper in the arbitrator's award that

he put in there. It was clear – I didn't have those words at the time. I don't know what Bill would have expected after he left the simulator.

Q You're not equating what the arbitrator

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[212] say, hey, come on. And I would brief that ahead of time.

Q And you would want to talk to Mr. Schuerman to find out what exactly had happened, right?

A Yes.

Q That's because before you make a decision about what happened, you want all the facts, right?

A To the best of my ability, yes.

Q Now, you went to the conclusion that Mr. Hoeper was acting irrational on December 8, 2004, correct?

A Yes.

Q And you jumped to that conclusion based only on what you were told by Mr. Doyle, correct?

MR. MARK: Object to the form of the question with respect to the word jump. Go ahead and answer it as best you can.

THE WITNESS: Mr. Hoeper had lots of options. Between his failures there were several discussions that I was involved in with Bill in which he never called e anything less than his champion. I was [213] actually quite surprised. Every time I spoke with him mi asked him about how he was doing, were there any personal issues I should be aware of, were the instructors being fair. He never made me aware of

anything. And so I continued to be his champion, his words.

Bill had lots of options that morning of December 8th also. He could have called me for – he had every reason to believe I was there to support him and he chose to do something different than that.

BY MR. MCGATH:

Q He chose to stop the simulator and go to contact ALPA legal, correct?

A That's correct.

Q But based on what you were told by Mr. Doyle, you reached the conclusion that Mr. Hoeper's conduct was irrational, correct?

A I used that word, and so I'm going to stick with that, yes.

Q You didn't contact Mr. Hoeper?

A I didn't have any way to contact Mr. Hoeper.

* * * *

[216] of my questions earlier, correct?

A I made a comment. I was referring to one sentence that I believe came from the transcripts that the arbitrator stated, and it may have been inappropriate.

Q Nevertheless – you mean your comment may have been inappropriate?

A Yes.

Q So would you like the comments regarding the arbitration award removed from the record? I would have no problem with that.

MR. MARK: Well, until we have an opportunity to get it back in context, if you want to read back and then you can ask him

MR. MCGATH: That's alright. We'll let the record stand how it is. How about that, Counsel?

MR. MARK: And then we'll just deal with it later.

THE WITNESS: That's fine.

BY MR. MCGATH:

Q In an event, you knew the arbitration was an important process?

[217] A It was an important process outside of this process, yes.

Q And you knew that it was important for the participants to be testifying accurately under oath?

A Yes.

Q And you testified accurately under oath to the best of your ability, correct?

A Yes, I did.

Q And if you had known that any testimony that you had offered was inaccurate, you would have corrected it, correct?

A Yes.

Q And you would have expected your employees to do accordingly, correct?

A Correct.

Q And you would have expected them to bring it to the attention of the arbitrator immediately, correct, if they realized that their testimony was inaccurate?

A I would have expected them to do one of two things. I've never been in that position personally. I would bring it to the attention of the arbitrator or immediately to the attention of the attorney so it can [218] be presented properly to the arbitrator.

Q In this particular case you heard Mr. Doyle and Mr. Hoeper testify about events that took place after their October 14, 2004, training and proficiency check, correct?

A Correct.

Q And you know their testimony was very different about those events?

A Yes.

Q And based on your conversations with Mr. Doyle, you knew that Mr. Doule was not telling the truth in that arbitration process, didn't you?

A No. I didn't know what the truth was. I believed Pat Doule at the time. I did not know Pat was not telling the truth. I do believe that Pat made a mistake. There were several other people that Pat was training and working with besides Bill Hoeper, and a fleet manager does a lot of travel. And it's very easy over the course of time – I'm sure just like you when you're traveling – to forget which hotel you're waking up in, what city it is. I do not believe for a minute Pat intentionally [219] lied. It was a piece of information that would have been meaningless to lie about.

Q Well, it was important to Mr. Hoeper because Mr. Doyle was now testifying about fear of Mr. Hoeper and threats to his own personal safety, correct?

A He did talk about the confrontation, correct.

Q and you never heard anything about that before, true?

A About – I'm sorry?

Q About Mr. Doyle fearing for his own safety.

A Boy, I don't know how we can to that conclusion because Pat shared with me after the second failure that Mr. Hoyer was very aggressive.

Q If you had believed there was a legitimate fear for Mr. Doyle's safety, you would have intervened, true?

A There's different levels of aggressiveness. I didn't believe that Bill Hoyer was going to beat Pat Doyle up. That doesn't mean that Pat Doyle wasn't uncomfortable being in the room with Bill Hoyer.

Q Well, Mr. Doyle testified that he feared [220] for his own safety, correct?

A That's what he testified to.

Q And he testified that he feared for the safety of others in the simulator, correct?

A Correct.

Q Now, you've never heard that before, true?

A I don't believe I had heard that before.

Q And then Mr. Doyle recounted the events which took place based on his fear, correct?

A Correct.

Q And Mr. Hoyer testified to a different version of events that took place following the training, correct?

A Correct

Q He testified that he had drinks with Mr. Hanneman and Mr. Doyle, correct? You recall that to be the case, don't you?

A Just please give me a moment.

Q Yes. I'm sorry.

[221] MR. MARK: Take as much time –

MR. MCGATH: Absolutely.

THE WITNESS: I don't want to have to keep going back.

MR. MARK: You can take as much time as you want. We aren't going to have rapid-fire questions, and you're going to take as much time as you need to recall. When you're ready, we'll have the question read back, and then you can answer it to the best of your ability.

MR. MCGATH: That's right.

THE WITNESS: I recall that Bill Hoeper said that he ran into – I don't know if they were in a bar or a restaurant or a combination – that he did see Pat Doyle and Todd Hanneman. I don't recall off the top of my head if they actually sat and had drinks together.

BY MR. MCGATH:

Q Do you remember reading Mr. Doyle's deposition testimony to that effect?

A Once again, it's been a while. It's been a while.

Q Do you remember reading in Mr. Doyle's [222] deposition testimony that after Mr. Hoeper testified about the events which took place at the arbitration, that Mr. Doyle realized that his testimony in the

arbitration was not accurate; do you remember reading that?

A Yes.

Q At that point in time, you would have expected Mr. Doyle, consistent with Air Wisconsin policy, to correct his testimony in the arbitration; isn't that true?

A Yes.

Q He did not do that, did he?

A I don't believe that's the case. I'm confident that Mr. Holden was fully made aware of the conflict in testimony between the deposition and the arbitration.

Q How do you know that Mr. Holden was made aware of the conflict?

A There was correspondence back and forth between Rob Plunkett, who was the ALPA attorney representing Bill Hooper at the arbitration, and Chuck Mataya. I left it to the attorneys, so I believe it was – I thoroughly believe that Mr. Holden was [223] fully made aware of the conflict – not the conflict – of the inaccurate statements that were made by Pat Doyle prior to his award.

Q But Mr. Doyle did not correct it until after I brought it to Mr. Doyle's attention in July 2006, correct?

A That's when I became aware of it.

Q And is that when you directed Mr. Doyle to make those corrections?

A I didn't have to direct Pat. Things came my way through Rob Plunkett and through Chuck Mataya.

Q If Mr. Doyle was acting consistent with Air Wisconsin standards, he should have corrected that at the time of the arbitration, correct?

A I would agree.

Q And he did not do that, correct?

A Correct.

MR. MCGATH: Thank you. That's all the questions I have.

MR. MARK: Deposition is terminated. He will read and sign.

(Matter concluded at 3:21 p.m.)

* * * *

CRAIG DUSTAN CHRISTENSEN DEPOSITION

* * * *

[7] and/or that are under your custody and control regarding William Hoeper's employment at Air Wisconsin, including but not limited to your letter to Mr. Hoeper approximately January of 2004 whereby you expressed dissatisfaction with how Mr. Hoeper changed teaching materials in the ground school, Mr. Hoeper's tenure as a ground school instructor, Mr. Hoeper's training in the BAe-146, Mr. Hoeper's termination from AWAC, Mr. Hoeper's return to the line in April 2004, Mr. Hoeper's grievance hearing on February 15, 2005, Mr. Hoeper's arbitration in April 2006, and AWAC's call to the TSA on December 8, 2004, concerning Mr. Hoeper. Did you see that?

A Yes, I did.

Q And did you produce documents in response to that subpoena today?

A I have none.

Q When the subpoena indicated AWAC, do you have an understanding that that stands for Air Wisconsin Airlines Corporation?

A I do.

Q And, sir, you have created documents [8] regarding Mr. Hoeper in the past; is that true?

A The 2004 letter.

Q And where is the 2004 letter?

A Upon leaving Air Wisconsin, all of that stuff I left in a file cabinet or in the computer that was Air Wisconsin's.

Q Did you contact anybody at Air Wisconsin prior to today's deposition in an attempt to retrieve that letter?

A I did not.

Q And why not?

A I did not think it was in the best interest to talk to anybody about this particular case.

Q And when we say the 2004 letter, what are you referring to?

A I wrote a letter to Mike Bauer, the managing director of training at that time of Air Wisconsin, and indicated in that letter that I was unhappy with him, with Captain Hoeper's facilitating crew resource management, captain upgrade seminars, and the check airmen seminars and, in fact, that he had changed the format of those [9] said seminars.

Q Now, you just made a comment that you did not believe it was in the best interest to speak to anybody regarding this case. And why do you say that?

A I didn't want to contact anyone and influence anything that may influence me in this deposition.

Q Well, you've spoken to Mr. Hannemann regarding your deposition; isn't that true?

A Only as a – only as an informative thing about how this had taken place with his deposition. In other words, what's it going to be like?

Q In fact, sir, you spoke to Mr. Hannemann before his deposition and after his deposition; isn't that correct?

A That's true.

Q And I'm going to follow up on that in a second. But I want to find out, who else did you talk to regarding your deposition today?

A No one.

Q What did you talk about with Mr. Hannemann prior to his deposition?

* * * *

[15] Q Did he say anything else?

A No.

Q Did he say anything else about the process?

A No. Just that there would be a recorder here, and there would be the attorney from Minneapolis here and talked about another individual. I would assume it was you. And just gave me that kind of a layout. Did not talk about the form of questioning. Did not talk about the questions you asked or anything like that, again, because I don't want to hear that. I wanted to answer this stuff truthfully and come here with an open mind and just work with you folks.

Q Now, did you talk about anything with regard to Mr. Hoeper?

A No.

Q Let's go back to the letter that you wrote to Mr. Bauer. This letter was – or you wrote this letter in January 2004 time frame?

A Approximately.

Q And what was the purpose of you writing Mr. Bauer a letter?

[16] A Well, let me just fall back and say that in my career at Air Wisconsin in the flight training

department, I was never a fleet manager. I was never a managing director of anything. I was a check airman. And because of my experience in training dating back to 1984 when I administered the first crew resource management seminar to our pilots at that time, I've always been involved in crew resource management.

Actually, it was – it started for me back in June 1980 when we lost our airplane down in Valley City, Nebraska. And I was on the union's go team. And after investigating that accident, I wanted to find out what we could do to prevent this from ever happening again at Air Wisconsin. So I then, with my background and experience through two fleet managers, Scott Orozco and Pat Doyle, was given the responsibility of training our check airmen and training our instructor pilots mostly with regard to simulators and how to facilitate these.

They asked me back in 19 – boy, 1997 [17] then the chief pilot came to me - the chief pilot at that time was Stan Johnson. He came to me and asked if I could create and design and develop a crew resource management program for the airline. I then started working on that and was invited into management in September of 1997 as a check airman in the British Aerospace ATP.

And as I transitioned into that, I was given more responsibilities to train these instructor pilots. If you were to ask any of the current – well I can't say that because they're so young now. I didn't come in touch with any of those boys. But any of the instructors – in fact, Pat Doyle, I trained him in the 146. I trained Scott Orozco in the 146. I trained Pat Doyle to be an instructor pilot in the 146. Let me see. Who else is – just about every – if you were to go into that seniority

list and look at all the pilots in the 146 from 19 – from 1998 to the present day, I somehow one way or another, either through a ground school or flight training simulator training, had [18] touched those individuals.

Q Would that include Mr. Helm?

A I learned from Mr. Helm. He was my instructor pilot in the – well all the airplanes.

Q When I said Mr. Helm, you understand that to be Tom Helm?

A Thomas Helm.

Q And you were a friend of Mr. Helm's?

A Yes.

Q You and Mr. Helm – I understand he's a boating enthusiast. Did you ever go boating with Mr. Helm?

A Boating with him, no.

Q Fishing?

A No. I ended up in a bay one time on a Fourth of July with my boat and my family sitting right next to his boat and his family. That's as close as we came to boating together.

Q And so you indicated that you had worked for the airline for 28 years, and Mr. Helm must have already been at the airline when you started?

A Oh, yes, yes.

[19] Q And I believe Mr. Helm has indicated that he had been involved with Air Wisconsin since the late '60s, I believe. Does that sound right?

A Pretty much, since day one.

Q Sir, the question that I had asked you was what was the purpose of writing this letter to Mr. Bauer about Mr. Hoeper?

A Okay. I designed and developed that – the captain upgrade program or seminar. And I then had that approved by Scott Orozco, Mike Bauer, and I believe Doug Lesh sat in on that meeting. And we went through the entire presentation before we even went to anywhere to present this seminar.

Q Let me just ask you about – you have indicated that you created the program. You were asked to do it, and you created the program?

A Designed and developed it, yes.

Q And did you get the information from a 1980s Eastern Airline pamphlet or materials?

A Mostly from United Airlines.

Q Did you get anything from Eastern Airlines?

* * * *

[21] early in the 1980s.

Q Now, when we're talking about the term *crew resource management*, that's a term of art in the airline industry; is that right?

A Uh-huh, yes.

Q And is essentially the concept of crew resource management that a pilot doesn't fly the plane alone, and you need to utilize all your resources, including other crew members?

A That's a fair statement.

Q And you would consider crew resource management to obviously be vital in terms of flying an

aircraft safely in order to avoid accidents like what you just testified about earlier, the 1980s incident; is that fair?

A I do.

Q Now, sir, the question that I'm trying to get at with you is again the purpose of you writing this letter in the January 2004 time frame to Mr. Bauer regarding Mr. Hoeper.

A I had traveled to Denver to facilitate this program, this seminar with Bill Hoeper [22] observing me do so. He probably sat in on maybe two that I had facilitated. And then we turned that program over to him with the understanding that this was the program and that any changes had to go through either Mike Bauer or myself in order to make any improvements that he felt needed to be done with that particular presentation.

Q And so if I understand your testimony correctly, sir, you went out to Denver. And when you say to facilitate a seminar, were you presenting or teaching the seminar?

A Yes, with Bill Hoeper observing me do so.

Q And that was for the purpose of Mr. Hoeper understanding and learning how to present the seminar himself?

A Correct.

Q And do you recall the time frame that we're talking about when you went to Denver to facilitate the seminar?

A Oh, boy. 2004 the letter was written. I would guess – I'm just guessing – early 2002, maybe late 2001.

Q And I don't want you to guess. Can you [23] give me your best estimate? Would that be your best estimate?

A Best estimate.

Q And so it was a significant period of months prior to you writing the letter when you went out to facilitate the seminar?

A Yes.

Q And, again, let's get back to the original question, which was the purpose of you writing the 2004 letter.

A After I had facilitated these seminars, we turned it over to Bill. And at that time there was a lot of hiring going on, a lot of pilots going through training. And every training event was taught – those airmen were taught crew resource management. So he was teaching this repeatedly over and over again.

And Mike Bauer had asked me to go out and observe Bill in his facilitation of that particular crew resource management program. When I did so – and, again, time frames, it was probably – it might have even been early 2003. I found when I traveled out there to watch that the [24] PowerPoint presentations had been changed, his method of facilitating the seminar was not very professional, and he was not presenting himself as an Air Wisconsin instructor, ground instructor would normally do.

Q And you thought that when you had gone out to observe him that may have been in the early 2003 time frame?

A You know, I know that I had been – I had gone out there several times, twice perhaps – well, twice at

Mike Bauer's suggestion, and I traveled out once on my own.

Q And the time when you traveled out on your own would have been December 22, 2003, correct?

A That would be correct.

Q And it was after you went out on your own on December 22, 2003, unannounced and unknown to either Mr. Bauer or Mr. Hoeper, it was then that you wrote the letter to Mr. Bauer, correct?

A No. I told Mike Bauer I was going to go out there. I had some other things to do out there. It might have been where I had [25] to have my Denver ID badge updated, and I was going out there anyway to do that. And I said, I'll just stop by, if you don't mind, and observe Mr. Hoeper's CRM.

Q So your testimony is that you told Mr. Bauer before the December 22nd observation of Mr. Hoeper?

A I'm sure I did.

Q And what did Mr. Bauer – how did he respond?

A Yeah. If you're going to be out there, go ahead and stop in.

Q And so you obviously did stop in?

A Yes. I probably didn't even stay for the whole seminar.

Q And, in fact, after you observed Mr. Hoeper on December 22, 2003, you did not bring any of your concerns to his attention, did you?

A No.

Q And instead you wrote a letter behind Mr. Hoeper's back to Mr. Bauer and you also arranged for

a meeting with Mr. Lesh and Mr. Bauer behind Mr. Hoeper's back; isn't that true?

MS. MCDONOUGH: I'm going to object [26] to the form of the question. It's also multiple.

MR. RIETZ: Sir, let me just – there's an objection. I'm going to break the question down for you.

BY MR. RIETZ:

Q Instead of going to Mr. Hoeper with your concerns, you instead went to Mr. Bauer; isn't that correct?

A Yes.

Q And, in fact, you attempted or you did arrange a meeting with Mr. Bauer and Mr. Lesh regarding your concerns without informing Mr. Hoeper of that?

A I don't recall that.

Q Sir, I'm handing you what's been marked as Exhibit No. 2 in your deposition, and this is a document that was produced by Mr. Bauer at his deposition. And if you would turn to Page 2, sir, of Exhibit 2, you'll see an e-mail from yourself to Mr. Bauer?

A Okay.

Q Do you see that?

A Uh-huh.

[27] Q And the date of the e-mail is January 9, 2004?

A Yes.

Q And you indicate to Mr. Bauer, Mike, you will find a letter to you from me regarding the PIC seminar I observed in Denver on the 22nd of December. I would

like to sit down with you and Doug to further discuss my concerns perhaps sometime next week before I live for IAD, thanks C. Do you see that?

A Yes, I do.

Q That was your e-mail to Mr. Bauer, correct?

A Obviously.

Q And does that refresh your recollection –

A Yes.

Q – that you demanded a meeting?

MS. MCDONOUGH: I object –

THE WITNESS: I don't think demand.

MS. MCDONOUGH: – to the form of the question. That misstates the document here.

BY MR. RIETZ:

Q How about request, that you requested a meeting?

A Yeah, yeah. That I like better. I was [28] never in a position to demand anything from these fellows, these boys.

Q Why did you not go to Mr. Hoepfer with your concerns and instead go directly to Mr. Bauer and Mr. Lesh?

A My observation of Bill Hoepfer was that he was an unapproachable individual, and that indeed was shown to me in several situations where he was short-tempered and had a chance to lose his temper very quickly.

Q Are you aware that Mr. Hoepfer's employment file regarding his performance as an instructor would not verify your statements about him at all?

A I am not aware of that at all.

Q Are you aware of complimentary letters that were written of Mr. Hoeper that were produced at Mr. Bauer's deposition from people such as Anthony Neely commending Mr. Hoeper for the teaching of his courses?

MS. MCDONOUGH: I object on foundational grounds.

THE WITNESS: I never saw those, and I never talked to Tony Neely regarding

* * * *

[30] when you address their issues.

Q In fact, Mr. Hoeper did have passion for his job as a ground school instructor?

A I think he did, but he was not very soft with the young airmen, By soft, I mean I didn't think that he was very approachable to the students.

Q Now, you're friends with Mark Schuerman, correct?

A I am.

Q And Mr. Schuerman has characterized Mr. Hoeper as an excellent ground school instructor: are you aware of that?

A No.

Q And you respect Mr. Schuerman's opinion, don't you?

A Absolutely.

Q And you think Mr. Schuerman is a truthful person, don't you?

A Yes.

Q What were you hoping to accomplish in your meeting with Mr. Lesh and Mr. Bauer?

A I was hoping that we could sit down and we could talk about the way he addresses the grounds schools, meaning his dress code. I [31] don't think wearing blue jeans and a T-shirt and your Harley leathers over your jeans is an appropriate way of teaching a ground school. And, indeed and in fact, dating back to Tom Helm, the philosophy was always that you would – early on we would wear a shirt and a tie, and we slowly transitioned into the sports shirt and slacks and casual address, if you will.

Q And why did you not include Mr. Hoeper in on the meeting with Mr. Lesh and Mr. Bauer to address your concerns?

A There was no reason. I mean it wasn't a reason, like I said. We were preparing, or I was preparing them to put something together so we could bring this issue to – these concerns to Bill Hoeper.

Q And you also brought these concerns to the attention of Pat Doyle; isn't that true?

A That is true.

Q Who else did you bring your concerns to the attention to, other than Mr. Lash, Mr. Doyle, and Mr. Bauer?

A Those were my three direct supervisors.

Q How about Scott Orozco?

* * * *

[38] I was just asking the question in terms of background. So that's all I'm trying to get at.

A I get pretty sensitive about that.

Q And I appreciate that. I am not trying to upset you.

A The disease killed my father, and my father flew for Northwest for 37 years. And I saw how he handled it, and you don't take insulin so you can drink scotch.

Q Let's start back. You indicated you were employed by Air Wisconsin for 28 years. Let's just go back to that point of time. What was the approximate date of hire for you with Air Wisconsin?

A 2/23/1979.

Q And did you have any airline experience prior to Air Wisconsin?

A I flew for corporate – no, I did not. Answer the question.

Q Let's talk about your flying background. You've indicated that you've flown since age 13?

A I started flying gliders when I was 13 years old. I had my private pilot's

* * * *

[45] client down in Milwaukee, a small airline, that they've guaranteed me a seminar once a month. You know, it's a single-day seminar. But really it doesn't pay a lot of bills, but it keeps me busy.

Q Let's go back to Exhibit 2. That's the – on Page 2 contains your e-mail to Mr. Bauer. And would you please take a look at Mr. Bauer's response to you?

A Put one one – put one one our schedules –

Q It looks like Mr. Bauer may have had a typo there where he put one in there twice; do you see that in the first line?

A Right. Put one on – put one on your schedules using the Notes calendar system. Bill Hoeper should be involved, too, since he's the one who's teaching the PAC classes.

Q And then if you refer to Page 1, sir, is that the calendar entry then of the meeting with you and Mr. Lesh and Mr. Bauer?

A Yes.

Q And it indicates, sir, that the meeting was to start on Wednesday, January 14, 2004, at 9 o'clock a.m. and ending on Wednesday, [46] January 14, 2004, at 10 o'clock a.m.; do you see that?

A Correct, yes.

Q And that meeting, in fact, took place, correct?

A Correct.

Q And what was discussed at the meeting?

A Again, from what I recall was the dress code of Mr. Hoeper, the content of the seminar as being changed without notifying Doug or Mike, and some of the changes were I felt – and I shared this with them – that I felt were inappropriate.

Q Do you recall anything else being discussed?

A I don't recall.

Q And you did not invite or ask that Mr. Hoeper participate in this meeting, correct?

A Obviously.

Q Mr. Bauer did not agree with your criticisms, correct?

MS. MCDONOUGH: I'm going to object to the form of the question.

THE WITNESS: Mike was always very, [47] very high on Bill. I knew that he valued him very much, and I don't know why. But that's – that was my impression from Mike. Because of all of these things leading up to this meeting and talking to Doug and what I wanted to do was put something together so that we could go talk to Bill in an appropriate time frame in hopes that he would improve his technique and/or his dress code.

BY MR. RIETZ:

Q Well, as it turns out, Mr. Bauer did not agree with your assessment of Mr. Hoeper? And Mr. Bauer did not discipline Mr. Hoeper or did not request that Mr. Hoeper make any changes with regard to how he taught the ground school, correct?

A Correct.

MS. MCDONOUGH: Objection, compound.

BY MR. RIETZ:

Q Let me break that down. Mr. Bauer did not ask Mr. Hoeper to make any changes as a result of your concerns concerning Mr. Hoeper, correct?

MS. MCDONOUGH: I'm going to object [48] on foundational grounds. To the extent you know, go ahead.

THE WITNESS: Did not discipline – he did not discipline Bill. He did not.

BY MR. RIETZ:

Q And he also did not request that Mr. Hoeper make any changes with how he was either teaching the course or how he was dressing or how he was doing anything with the course, true?

MS. MCDONOUGH: I'm going to object on foundational grounds.

THE WITNESS: Could you read that back, please?
(Requested portion read by reporter.)

THE WITNESS: Yes.

BY MR. RIETZ:

Q And that did not please you, correct?

A Well, I don't think –

MS. MCDONOUGH: I'm going to object to the form of the question, but go ahead.

THE WITNESS: I don't think that was – it didn't upset me. It's just that was his decision.

BY MR. RIETZ:

[49] Q Well, this was obviously very important to you, important enough where you took the time to go out and observe Mr. Hoeper on December 22nd when Mr. Bauer didn't ask you to do that, true?

A True.

Q And you felt it was important enough to actually write a letter to Mr. Bauer regarding your concerns about Mr. Hoeper, true?

A True.

Q And you thought it was important enough to talk to Doug Lesh about the situation before you actually had the meeting with Mr. Bauer and Mr. Lesh?

A That's true.

Q And you thought it was important enough to send an e-mail to Mr. Bauer requesting a meeting with Doug and Mr. Bauer, true?

A That's all true.

Q And you then thought it was important enough to actually go ahead at the suggestion of Mr. Bauer and set up the meeting with Mr. Bauer and Mr. Lesh, true?

A True.

[50] Q And you then thought it was important enough to actually sit in the meeting with Mr. Lesh and Mr. Bauer and express your concerns to them regarding Mr. Hoeper, true?

A True.

Q And so that being said, sir, Mr. Bauer then did not address your concerns with Mr. Hoeper and did not ask that Mr. Hoeper implement any changes, and that concerns you, true?

MS. MCDONOUGH: I'm going to object to the form of the question. I object on foundational grounds. It's also been asked and answered. It's also multiple.

THE WITNESS: By these meetings, these situations, it was at that point that Mike said, well, you go on out to Denver and we'll sit down, and it was at that time that we had our conference call. And I was with Bill in his office and a conference call to Mike Bauer. And that is when we brought. these concerns to Bill's attention.

BY MR. RIETZ:

Q Well, isn't it true that you actually went [51] out to Denver unannounced to Mr. Hoeper before this conference call with Mr. Bauer?

A I don't recall that. I thought – what I'm remembering about this is that it was – that Mike Bauer and I had understood that I was going to travel out there and set up this conference call with him. It was at that point that we had the conference call. I don't think I went out there and said, Bill, let's sit down and call Mike Bauer and chitchat.

Q Well, you didn't call – you didn't personally call Mr. Hoyer prior to going out to Denver for the conference call with Mr. Bauer; isn't that right?

A That's true.

Q And you didn't personally notify Mr. Hoyer by e-mail or any other form of communication that you were coming out to Denver to have a conference call with Mr. Bauer; is that right?

A I did not. I don't recall that. I mean I don't recall that I did.

Q And so isn't it true then, in fact, you went to Mr. Hoyer's office in Denver and [52] you indicated to Mr. Hoyer that you and Mr. Hoyer would call Mr. Bauer on a conference call, true?

A I don't know how I stated that to him.

Q And then at some point in time you had a conference call with Mr. Bauer, right?

A Correct.

Q And it was at that time that you handed Mr. Hoyer the letter that you had drafted to Mr. Bauer, true?

A That's correct.

Q And Mr. Hoyer did not agree with what you had stated in the letter; isn't that true?

A That's correct.

Q And, in fact, Mr. Hoeper would not accept the letter from you because he did disagree with the letter, true?

A Did not accept the letter. I don't recall whether he kept it or what he did with it.

Q Do you recall Mr. Hoeper sliding or handing it back to you or refusing to take it?

A What I do recall is that the verbiage, the vile verbiage and the expletives that he used towards me, towards the airline, towards Mike Bauer, and his explosion, if [53] that's the word, his vehement reaction to this and losing his temper just like that very quickly. I do recall that.

Q Mr. Bauer doesn't recall that. Are you aware of that?

MS. MCDONOUGH: Well, I'm going to object. It's an improper question and foundation.

THE WITNESS: Mike was on the phone. He heard it.

BY MR. RIETZ:

Q Do you have any reason to believe that Mr. Bauer would testify untruthfully in this case?

MS. MCDONOUGH: I'm going to object to the form of the question as well.

THE WITNESS: I'm just going to plead the Fifth on that.

BY MR. RIETZ:

Q Do you believe Mr. Bauer is a truthful person?

A Yes.

Q And you have no reason to believe that Mr. Bauer would lie regarding anything in this case, do you?

* * * *

[58] they also had pilots come to them with concerns about this.

Q Now, with this – back to the phone – the telephone conference call with Mr. Bauer and Mr. Hoeper from Mr. Hoeper’s Denver office.

A Yes.

Q You attempted to give Mr. Hoeper the letter. He didn’t accept the letter because he disagreed with the contents; is that accurate?

MS. MCDONOUGH: Well, I’m going to object as misstating his earlier testimony.

BY MR. RIETZ:

Q How about we say this: He disagreed with what you were saying about Mr. Hoeper’s performance, true?

A I already stated that.

Q Right. And then Mr. Bauer indicated to you that you should leave Mr. Hoeper alone and it’s his class, correct?

A Correct.

Q And so then what did you do – strike that. And then did that end the telephone conference with Mr. Bauer?

[59] A Yes.

Q And then tell me, what happened after the telephone conference in terms of your concerns with how Mr. Hoeper was conducting the class?

A As I recall, I pretty much washed my hands of the issue because Mike was not going to do anything about it. And he, Mike Bauer, pretty much supported Bill in his position, and so I just left it drop.

Q Well, isn't it true, though, then after the conversation with Mr. Bauer, you indicated your concerns? After the telephone conference with Mr. Hoeper and Mr. Bauer, you then communicated your concerns to Pat Doyle, who was the fleet manager of the 146?

A Well, I'm sure I talked to Pat about this, but I don't think it was after this meeting. It was – I think it was just a given that this type of thing was going on out there.

Q Well, as an instructor in the 146, you had an ongoing dialogue with Pat Doyle?

A Absolutely.

* * * *

[66] A I think Pat Doyle was the only designated examiner at that time. The FAA or Pat Doyle could administer the type rides.

Q And in your experience with the 146, the type ride and the PC ride would be given at the same time, true?

A Correct.

Q Now, I believe Mr. Hannemann testified that he started with the company in the mid '80s, the '85 time frame; does that sound right to you?

A He was a premerger Mississippi Valley pilot, so that would be true. I don't know how long he had been with Valley before we merged.

Q You've had a professional relationship with Mr. Hannemann for 20-plus years, correct?

A Yes.

Q And you're also personal friends with Mr. Hannemann, true?

A Yes.

Q Now, you're aware, are you not, that Mr. Hoeper was attempting to train and qualify as a captain on the 146?

A I'm aware of that.

* * * *

[74] hypothetical.

THE WITNESS: I would say yes.

BY MR. RIETZ:

Q And did you understand the question?

A Yes.

Q And, sir. I forgot to tell you before, the attorney for Air Wisconsin may object throughout the deposition, and that's fine. Just let her complete the record, and then you can go ahead and answer the question.

A Okay.

Q Now, sir, we've talked a little bit about Pat Doyle and that you brought to his attention the issue with Mr. Hoeper's teaching of the ground school program content that you were a part of drafting. Do you recall that?

A I'm sure we did talk about it.

Q And Pat Doyle, sir, testified in this case, and specifically he testified that you informed him that Mr. Hoeper "messed around" with the program. Do you recall saying something to that effect to Mr. Doyle?

A My exact words I don't recall, but I guess [75] I informed him that I wasn't happy with the improvements he made in the program.

Q Now, Mr. Hoeper at some point in time after your conference call with Mr. Bauer invited you to go to a captain's upgrade program at Horizon Airlines; do you recall that?

A I did not attend any captain upgrade training at Horizon Airlines.

Q And my specific question, though, was, do you recall Mr. Hoeper asking you to go with him to attend a captain's upgrade program at Horizon Airlines?

A I don't recall him asking me to do that.

Q Sir, have you ever been disciplined in your employment at Air Wisconsin?

A No.

Q Sir, Scott Orozco has been deposed in this case and gave testimony under oath. Do you understand that?

A Yes.

Q I'm going to read for you a question and answer from Mr. Orozco's deposition. It's on Page 68. Do you believe that you have been involved in a situation in which Mr. Christensen was disciplined? Answer: [76] Yes, I do. I remember it now.

Does that refresh your recollection that you were disciplined by Air Wisconsin?

MS. MCDONOUGH: I'm just going to object to the form of the question.

MR. RIETZ: You can answer.

THE WITNESS: I was.

BY MR. RIETZ:

Q And what were you disciplined for?

A I was accused of sexual harassment.

Q Were you suspended from employment for any period of time as a result of that?

A Four days with pay.

Q And when did this approximately occur, sir?

A Sometime in 2000 – like September 2005, I think.

MR. RIETZ: Let's take a short break.

(Recess was taken.)

BY MR. RIETZ:

Q Mr. Christensen, how did you prepare for your deposition today?

A I just tried to recall everything that – I just reviewed the things from when I first met Bill up until when I wasn't involved with him anymore.

* * * *

[85] MS. MCDONOUGH: I'm going to object as having been asked and answered.

THE WITNESS: I answered that already.

BY MR. RIETZ:

Q And the answer was yes?

A Yes. Yes, that this is the first time. Yes, that's what I answered.

Q Now, sir, you've expressed some criticisms regarding Mr. Hoeper concerning how he taught the ground school. And we've gone through those, and you explained that you put those in your letter, correct?

A As I recall, I did put that in my letter, yes.

Q Do you have any other criticisms or concerns about Mr. Hoeper as an employee of Air Wisconsin?

A I have observed many, many ground instructors and instructor pilots in my career. I feel based on what I've observed from the instructors that I've been involved with – and I have witnessed instructors teach ground schools and give flight training – that Bill Hoeper is the [86] poorest facilitator of aviation training materials that I've ever observed before.

Q Do you have any other criticisms of Mr. Hooper concerning his performance as an Air Wisconsin employee?

A I have not seen him in any other environment other than in the training – the ground school training environment.

Q Now, sir, you didn't get along with Mr. Hoeper; would that be a fair characterization of your relationship with him?

MS. MCDONOUGH: Object to the form.

THE WITNESS: I did not get along with Mr. Hoeper? He is not an individual that I would be invited to dine at his house or to go out to dinner with.

BY MR. RIETZ:

Q And nor would you invite him to dine at your house or go out to dinner with, correct?

A Probably not.

Q And, in fact, Mr. Schuerman testified in this case that he believed there was some sort of a tiff, T-I-F-F, between you and

* * * *

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DISTRICT COURT, COUNTY OF DENVER,
STATE OF COLORADO

Case No. 05CV9967

WILLIAM L. HOEPER
Plaintiff

vs.

AIR WISCONSIN AIRLINES CORPORATION,
A DELAWARE CORPORATION; MARK SCHUERMAN,

CTRM: 5

VIDEO DEPOSITION FOR THE PLAINTIFF

* * * *

[4] Timothy Mark Adams, called on behalf of the Plaintiff, after being first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. RIETZ:

Q. Would you, please, state your full name, sir, spelling your last name?

A. Timothy Mark Adams, A-D-A-M-S,

Q. Mr. Adams, you are here today to give testimony pursuant to a subpoena; is that accurate?

A. Yes.

Q. And are we here today in Prospect, Kentucky?

A. Yes.

Q. And would you, please, state your residence address?

A. 3608 Locust Circle East, Prospect, Kentucky 40059.

Q. And, sir, what's your present occupation?

A. I am a pilot.

Q. And how long have you been a pilot for?

A. Approximately 12 years.

Q. And who are you currently employed by?

[5] A. Air-Tran Airways.

Q. And how long have you been employed by Air-Tran Airways for?

A. Two years, eight months.

Q. And where were you employed prior to Air-Tran?

A. Air Wisconsin Airlines Corporation.

Q. And what were your approximate dates of employment with Air Wisconsin?

A. May of 2000 until December 2004.

Q. And back to your employment with Air-Tran, what's currently your title?

A. I am a First Officer.

Q. And do you expect to become a captain with Air-Tran?

A. Yes. Probably within the next six months I expect an upgrade to captain.

Q. And back to your employment with Air Wisconsin, what were your titles or title while you were at Air Wisconsin?

A. Well, I was hired as a First Officer, and then became a C.P.T. instructor part time, and then became a full-time simulator instructor.

Q. And could you explain what a C.P.T. Instructor is?

[6] A. It stands for Cockpit Procedural Training. It's what you do before you go into the simulator.

Q. And then you testified that you were a Simulator Instructor also?

A. Yes, for about 20 months, I believe.

Q. And what aircraft were you a simulator instructor for?

A. The CL-65.

Q. Did you fly then as a pilot the CL-65 also?

A. Yes.

Q. And did you fly passengers in the CL-65?

A. Yes.

Q. Were there any other planes that you flew for Air Wisconsin other than the CL-65?

A. No.

Q. How about at Air-Tran; what planes do you fly for Air-Tran?

A. I fly a Boeing 717.

Q. And why did you leave your employment with Air Wisconsin in December of 2004?

A. I was offered a position with Air-Tran airways and felt it was a step up of the ladder.

Q. So would you say that you left your employment with Air Wisconsin on good terms?

A. I believe so.

[7] Q. And have you seen other pilots from Air Wisconsin transition to airlines such as Air-Tran?

A. Yes.

Q. Can you explain that in further detail, such as some of the airplanes that you've seen other pilots go to from Air Wisconsin?

A. Most of the people that I know at Air Wisconsin have moved on to other airlines. I know personally five to seven people have moved on to U.P.S., several to Air-Tran, a couple to Southwest Airlines. I know two to go to Jet-Blue, one go to Northwest. That's just off the top of my head.

Q. And those airlines that you just listed, would that be—would those airlines be considered to be a step up from Air Wisconsin?

A. Yes.

Q. Do you know who Bill Hoeper is?

A. Yes.

Q. And how do you know Mr. Hoeper?

A. He ran a training facility in Denver and taught recurrent classes.

Q. Were you a personal friend of Mr. Hoeper's?

A. No.

Q. And so is it fair to say that you knew Mr. Hoeper on a professional level?

[8] A. Yes.

Q. What did you believe Mr. Hoeper's reputation to be while you were employed at Air Wisconsin?

A. I thought it was fine. I never heard anything negative or derogatory about his refutation.

Q. Mr. Adams, do you recall overhearing a conversation regarding Mr. Hooper in approximately the 2004 time frame or late 2003 time frame between two Air Wisconsin employees?

A. Yes.

Q. Who was having this conversation?

A. It was Todd Hannaman, and I believe the second person was Craig Christiansen, but I'm not entirely sure of that.

Q. Are you sure that Todd Hannaman was involved in the conversation?

A. Yes.

Q. And you also indicated that a Mr. Christiansen was involved in the conversation? Mr. Mark: it's objected to as a misstatement of his testimony.

A. I believed it was him. As I mentioned earlier, I'm not entirely positive of the identification of the second person.

[9] Q. Do you believe it was more likely than not that the second person was Mr. Christiansen?

A. I believed it was him.

Q. And where did that conversation occur at?

A. The Appleton Airport.

Q. And what's your best recollection in terms of the date of that conversation?

A. As I mentioned, it was late 2003/early 2004. That's my best estimate.

Q. And at that time frame, Mr. Adams, how did you know Mr. Hannaman and Mr. Christiansen?

A. I knew they were both employed by Air Wisconsin. They were pretty senior, had been with the company for a long time. I had met Mr. Christiansen on other occasions, nothing more than a handshake, hello. Mr. Hannaman, I had actually met him once or twice in the same instance as a hi, how you doing, but he wouldn't know me if he walked up to me.

Q. And what do you recall about the conversation that you overheard between Mr. Hannaman and Mr. Christiansen?

A. I remember hearing them complaining about a person, and then the person's name became apparent. It was Mr. Hoeper, and it was apparent that they disliked this person.

[10] Q. And when you say disliked this person, you are referring to Mr. Hoeper?

A. Yes.

Q. And were both Mr. Hannaman and Mr. Christiansen talking to each other?

A. Yes. They were engaged in a conversation. I would say Mr. Hannaman talked more than Mr. Christiansen.

Q. Do you recall any specific comments that Mr. Hannaman made regarding Mr. Hoeper?

A. The only specific comment that I can recall hearing 100 percent was that he said, we should have fired him when we had the chance.

Q. And that was Mr. Hannaman making that statement?

A. Yes.

Q. And did you take the “we should have fired him” to be Mr. Hoeper?

A. I took it at that.

Q. And when Mr. Hannaman made that comment to Mr. Christiansen, did Mr. Christiansen disagree with that comment in any way?

A. I can't recall if he did or not.

Q. Do you recall Mr. Christiansen nodding his head in agreement with Mr. Hannaman's statements [11] concerning Mr. Hoeper?

A. I don't recall any specific movement by Mr. Christiansen in that regard.

Q. After hearing the conversation between Mr. Christiansen and Mr. Hannaman and specifically when the comment was made that we should have fired him when we had the chance, what was your impression of the conversation?

A. My personal impression was, wow, they really don't like Mr. Hoeper.

Q. And you didn't have any understanding when you heard that why they wouldn't have liked Mr. Hoeper; is that accurate?

A. No. I didn't have any context of their conversation or their relationship with Mr. Hoeper.

Q. Do you have any personal issues or ill will toward either Mr. Hannaman or Mr. Christiansen?

A. None at all.

Q. How about with Air Wisconsin; do you have any ill will or any issues with Air Wisconsin?

A. No, none. I had a great four years there.

Q. Mr. Adams, do you recall hearing that Mr. Hooper was pulled off of a flight by law enforcement officials?

A. Yes. I remember hearing that.

* * * *

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DISTRICT COURT, COUNTY OF DENVER,
STATE OF COLORADO

Case Number: 05CV9967

WILLIAM L. HOEPER,
Plaintiff,

vs.

AIR WISCONSIN AIRLINES CORPORATION,
A DELAWARE CORPORATION; MARK SCHUERMAN,
INDIVIDUALLY; PATRICK DOYLE, INDIVIDUALLY; AND
JOHN DOES 1-10, WHOSE IDENTITIES ARE UNKNOWN
TO PLAINTIFF AT THIS TIME,

Defendants.

DEPOSITION OF
JOHN CHRISTOPHER SCHUTTLOFFEL

Ctrl: 5
May 16, 2006

* * * *

[38] This is a government organization. It's a volunteer-type deal for us. We volunteer to do this. We're not getting compensated by the federal government to do this. And I wanted to know what happened.

I wanted to know, you know, what the circumstances were that were involved—were encompassing

this whole thing. Because I carry a gun as well; so like I said, I wanted to know.

Q. And tell me what you did to find out more about the incident?

A. Reluctantly, I called Bill and asked him personally what happened.

Q. Do you know what approximate time frame we are talking about? The incident happened December 8, 2004. Do you know approximately when you called Mr. Hoeper?

A. Yeah. It was right after the whole thing had happened. I mean, a week maybe. You know, I can't give you an exact date. But it was shortly after.

Q. So shortly after the incident you contacted Mr. Hoeper. Tell me about that contact

A. I just called him up and, you know, asked him frankly, "What the hell happened? What's going on?" Because, again, I was curious of how these circumstances escalated to this.

[39] I wanted to know if he was actually carrying his gun, because we don't take our guns to training. We carry them when we fly airplanes to defend the cockpit. We don't need to defend a simulator.

So I just wanted to get it from him. I wanted to hear what happened from him.

Q. And did you actually then were you able to reach Mr. Hoeper?

A. I did.

Q. And tell me about the conversation. What happened? What did you ask him and what did he tell you?

A. What I can remember is I asked Bill what happened. I asked, you know—he, I think, led into the whole simulator thing and what had gone on there. And he led into being pulled off of a flight.

And I specifically remember Bill saying that, you know, he sat out for—because Dulles, they have got traffic problems there. They don't have decent controllers out there, so you sit out on the taxiway sometimes for up to an hour—sometimes two hours in line waiting to take off.

And this was the case with Bill. And he said that, you know, we were sitting there and it was [40] taking forever and forever. And he said that then the captain came on and said that, you know, they needed to return to the gate. Didn't say why, exactly, but it had to do with a passenger.

And Bill said, "I turned to the guy next to me and said, 'Boy, after sitting out here for—whatever it was—an hour and forty-five minutes, I'd hate to be the schmuck who they are going back to the gate for.'"

Then he said, "We got back to the gate." He said, "I'm sitting there." And he said—I believe it was the FBI or TSA or Dulles police. I think there was a bunch of those guys that came on the airplane, came up to him and said, "Are you William Hoeper?" And he said, "Yeah. I am." And they said, "Come with us. Get your bags and come with us."

He said they took him out onto the jetway. He asked what was going on. They said they would explain it to him when they got out there. He said they took him out to the jetway and they started asking him questions. They asked him where his weapon was. He said, "Well, its at home." And they started going through his baggage looking for his weapon. And they said, "Bill,

where is your weapon?" And Bill said, [41] "It's at home. I don't have it with me." And he said, "What's going on?" And they wouldn't tell him what was going on.

And eventually they realized that he didn't have his weapon with him. He had to make a phone call to his wife to let her know that somebody would be stopping by the house to get his weapon.

And I believe she wasn't home initially, so they sat there and they waited for a little while. And then Bill said that after they had determined that, you know, his weapon was in Colorado, he asked if he could get back on that flight to go home, and they wouldn't let him.

They felt the passengers would be very uncomfortable with him back on the airplane. And then I guess ultimately his wife called and Bill said, "Well, when we hang up the phone, somebody is going to come by and pick up my gun. Just give it to him, and I'll explain all this when I got home."

He said it wasn't five minutes after he hung up the phone his wife had somebody knock at the door. And it was an FBI agent or federal agent of some sort. And she gave him the gun and they left.

And then I believe it was 8 hours or so later they allowed Bill to get on a flight to go home.

[42] Q. And was this in a telephone conversation with Bill or a face-to-face meeting?

A. Telephone.

Q. And at the time you were a fellow employee of Air Wisconsin—or an employee of Air Wisconsin?

A. Yes.

Q. After having that—well, first of all, let me ask you: Is that everything that you remember about the conversation?

A. Yeah, pretty much.

Q. After that conversation with Mr. Hoeper, did you have a conversation with any other individuals concerning that conversation with Mr. Hoeper?

A. I believe I spoke to a couple of my fellow pilot friends that were everybody was kind of wondering—close personal friends that have known Bill since Mountain Air Express as well.

Q. And did you just explain to them the conversation you had with Mr. Hoeper?

A. I explained to them what he had told me and that, you know, it was not what it appeared to be.

Q. And when you say, not what it appeared to be, what was the appearance of what had happened per—

A. Per the pilot group?

[43] Q. Per the pilot group that you were a part of.

A. I think it was mixed think there were guys, you know—guys like us that have been around. Excuse my language, but my first initial thought was, Oh, shit. What's going on with Bill?

And after, you know, you have time to digest it. You know, we've known Bill since '97, and it didn't seem like that would be something he would do.

Sot would say with the older guys, more senior guys, you know, they initially probably thought the same thing. I can't tell you exactly what they thought, but I'm sure that they realized that, you know, it's

another—how do I put this?—another tactic, I guess, by Air Wisconsin.

Because these types of things have happened before. Not necessarily with an FFDO or pulling somebody off of an airplane, but it's very evident that Air Wisconsin, if you weren't in the good old boys club or you weren't liked or you rocked the boat or however you want to put it, your days are numbered.

I think with the junior guys, the new guys, because there was a lot of them there at the time, I'm care they probably, thought that he went [44] of the deep end, that he lost it

Q When you first heard about this incident of Mr. Hooper being pulled off of the plane, you indicated that it was either in the crew room or pilot to pilot that you had heard this.

Do you have any estimate in terms of how many other pilots knew about this incident?

A I'd say all 850 of them, or however many we had at the time. Not instantly, but it was definitely known.

Q Why do you say that all the pilots knew about it or would have known about it?

A Well, again, because when something like this happens—you know, we're all in the same boat in a sense that, you know, we all have careers and we are all pilots.

So when something like this happens, you know, I mean, it's something you want to know about. You want to know what's going on. You want to be able to protect yourself.

Q Would it be fair to say that rumors spread quickly in the pilot community?

MR. MUNGER: Object to the form of the question.

A. I would say that's a very fair estimate.

* * * *

[53] (A break was taken.)

Q. (BY MR. RIETZ) Mr. Schuttloffel, I want to go back to the testimony that you gave earlier regarding Air Wisconsin and what happened to Mr. Hoyer.

I believe you indicated that the older pilots realized that it was another tactic by Air Wisconsin that had been used before. And I just want to follow up on that testimony what you mean exactly with that

A. Like I said earlier, either you're in the dub or you're not in the dub. You can certainly fall out of good grace at anytime.

And as a whole, I want to say that Air Wisconsin—great people, a lot of good people up there. But, you know, if you rub somebody the wrong way in that management department up there, your days could be numbered.

So when I said that it's evident that maybe Bill had rubbed somebody the wrong way or had, you know, done something to warrant his multiple PCs and then the whole getting pulled off of the airplane thing—if I'm answering your question—it's just that they have done it before.

Q. When you say, "they have done it before," do you have any specific individuals in mind or instances?

* * * *

[58] Q. And how did you hear that Pat Doyle made the phone call?

A. Through other instructors, other check airmen instructors in the training department.

Q. And what specifically did they tell you regarding Pat Doyle making the phone call?

A. That he called the local authorities. And what I'd heard is that he said that they had just fired an employee and that he is disgruntled, was carrying a gun or was authorized to carry a gun, or something like that, and was on this particular flight

Q. What was the reaction of those other instructors that told you that?

A. They threw the bullshit flag up. Excuse my language.

Q. What do you mean, "threw the bullshit flag up"?

A. That's exactly what I mean. It's bullshit that they did that It was a dig. It was a shot at Bill.

Q. Do you recall the names of those instructors?

A. You know, there are so many of us. I mean, there are a couple of those guys that I'm real good friends with, but, you know, I can't—yeah, I mean, Derrick Epple is one of them.

[59] Q. How do you spell Derrick's last name?

A. E-P-P-l-e.

I believe Deb Farnsworth.

Q. Any other names?

A. Yes. There are, but I'm not going to—you know, just because they are still there, and I don't want to—

Q. Are you concerned about repercussions that Air Wisconsin may take against these employees if you reveal their names?

MR MUNGER: Object to the form of the question.

A. I don't think it would help their career.

Q. (BY MR. RIETZ) How about with regard to Mark Schuerman? Have you either heard anything that he has said, or has anyone else said something to you regarding Mr. Schuerman, his involvement in having Mr. Hoeper removed from the United flight?

A. Nothing in regards to his removal. The only thing that I ever heard Mark Schuerman say—I had just come in from a trip. And it was shortly after this December 8th deal, it may have even been that day. I don't know because I don't have my log book to tell me that.

But I was on the employee bus at Gate [60] 42, B Concourse, and I was sitting there, just sitting, like I said, coming from a four-day trip. The bus was just getting ready to pull away, and Mark Schuerman, you know, came blasting out the door to catch the bus. Because they run every 20 minutes or so, so it's kind of important to catch it, especially when you're going home.

He came in and set down about two seats away from me on the same side of the bus as me. And there was another Air Wisconsin pilot on the bus, who I assume was a 146 guy. I didn't know him.

Conversation ensued about that whole deal, because it just had happened, it was pretty fresh. Mark Schuerman said, "That asshole got his," or "That asshole finally got his."

And I can't remember if the "finally" was in there or not, but it was evident to me that Mark didn't see favorably of Bill.

Q. And so you're on this bus with pilots, Air Wisconsin pilots, the shuttle bus, and you are returning home?

A. Yeah, there was all—you know, United employees, Air Wisconsin, you know, three of us that I know about.

Q. Do you know who were the three that you know [61] about?

A. Well, myself, Mark, and the other gentleman. Like I said, who was a 146 guy. And he was—I'm certain he was junior to me, because I had never seen the guy, or, you know, I didn't know who he was.

Q. Was he an Air Wisconsin employee?

A. Yeah, he was in uniform, an Air Wisconsin uniform.

Q. You don't know his name, though?

A. No. You know, when the comment was made, of course, I took notice of the comment I didn't say anything. I just sat there.

I didn't think it was appropriate, you know, being on an employee bus like that. But I didn't know who he was talking to in the sense if it was his good buddy or if it was just another pilot at Air Wisconsin that he knew or what.

Q. And so was he talking to you? Was he talking to somebody else? Were you part of the group?

A. I was sitting there. He was talking to the gentleman, the other Air Wisconsin pilot. They had engaged in a conversation.

Anyway, when Mark came on the bus, he sat down and said hello to me. And I said hello back to him, but I wasn't in that conversation.

[62] Q. So then tell me—you said that he was talking about that whole deal. You mean, he was talking about the incident of Mr. Hoepfer being pulled off of the plane?

MR MUNGER: Object to the form of the question.

A. Yeah. The other pilot, who I believe was a first officer, had asked, you know, "What's going on with Hoepfer?" I can't tell you exactly, but he brought it up, what was going on with that whole deal.

And then that comment was made. And they didn't dwell on it. I mean that comment was made. The other guy, I don't think, knew what to say. And then they started talking about the United contract and everything else that was going on at that time

Q. (BY MR. RIETZ) So if I understand correctly, you get on the bus. Mr. Schuerman comes on the bus after you. He barely caught it before it left. Is that correct?

A. Correct.

Q. And then you are sitting down. He sits down two seats behind you?

A. Right next to me. They were bench seats like this going lengthways of the bus. So we're looking out windows. The driver is right here. And I was [63] literally sitting in the seat right behind the driver.

And then there's another seat, and Mark sat in that seat next to me. And the other guy was sitting across the way.

Q. So if I have the configuration correct, you and Mr. Schuerman are on the same side as the bus driver?

A. Yes.

Q. The bus driver is at the front—

A. This young lady would be the bus driver, but she would be facing out the front window.

Q. So the court reporter is the bus driver—

A. Yes.

Q. —facing the other direction?

A. I was sitting here behind the bus driver.

Q. So you were on the left-hand side of the bus driver?

A. Correct.

Empty seat, then Mark Schuerman's seat. And then the same bench—three bench seats across, with that Air Wisconsin pilot sitting in that seat directly across from Mark Schuerman.

Q. So the unidentified pilot would be on the right-hand side of the driver?

A. Right-hand side of the driver, directly [64] across from Mark Schuerman.

Q. So then that pilot asked Mr. Schuerman a question about what was going on with Mr. Hoyer, to which he replied, "That asshole got his," or "That asshole finally got his"?

A. Yes.

MR. MUNGER: Object to the form of the question.

Q. (BY MR. RIETZ) And he was referring—That asshole," he was referring to Mr. Hoyer?

MR. MUNGER: Object to the form of the question.

Q. (BY MR. RIETZ) Is that correct?

A. Yes.

Q. Are you certain of that?

MR. MUNGER: Object to the form of the question.

A. Well, yes, because he had asked directly, "What happened with Bill," or "What's going on with Bill," or whatever, and then Mark said that.

I didn't see us leaving anybody behind at the bus stop, so it wasn't like he was, you know—I mean, it was pretty obvious.

Q. (BY MR. RIETZ) It was obvious to you that Mark Schuerman was referring to Mr. Hoeper with that

* * * *

STATE OF COLORADO
IN THE DISTRICT COURT FOR DENVER
COUNTY

Case No. 05 CV 9967

WILLIAM L. HOEPER,
Plaintiff,

vs.

AIR WISCONSIN AIRLINES CORPORATION, A DELAWARE
CORPORATION; MARK SCHUERMAN, INDIVIDUALLY;
PATRICK DOYLE, INDIVIDUALLY; SCOTT OROZCO,
INDIVIDUALLY; AND JOHN DOES 1-10, WHOSE
IDENTITIES ARE UNKNOWN TO PLAINTIFF AT THIS TIME,
Defendants.

VIDEOTAPED DEPOSITION OF ANTHONY
JOSEPH KOEHN

* * * *

[34] Air Wisconsin, are you aware of instances where pilots were targeted and treated unfairly by the Air Wisconsin training department?

MR. MARK: It's objected to as lacking in foundation, and it's also irrelevant.

THE WITNESS: My answer to that would be, yes, I am aware.

BY MR. MCGATH:

Q Can you tell the jury about those instances in which the Air Wisconsin training department for the BAe-146 treated pilots unfairly?

A I have had to personally go back – now this is obviously some years ago – and had to dig deep in my recall to make sure that I was not stating anything but the truth. And, again, I understand I am under oath. My first experience with being directed to fail somebody was almost as soon as I got into the 146 program.

Q What do you mean *being directed to fail somebody*?

A I mean that obviously I had the final [35] decision operating the simulator, but there was another pilot that had been recalled in the 146. His name happened to be Robert Hammond. And my contact with management – that would have been Roger Weiss and Scott Orozco. The statement coming directly from Roger Weiss is I would like you to take him down or take him out.

Q And Roger Weiss told you that?

A That is correct.

Q And that was before you were going to train Mr. Hammond?

A That's before I was going to go out to Washington Dulles and begin a two-week training process with that airman.

Q. Was Scott Orozco present when Roger Weiss instructed you to do this?

A I believe he was.

Q And did he object to Mr. Weiss's comments?

A No

Q What happened?

A What happened is that I went out to conduct the training task with the airman. And obviously that airman had – was quite [36] concerned about his future employment with the company because in our original prebrief or briefing prior to beginning our training, he put a tape-recorder down on the table and said that I want everything that is discussed in this training task recorded because I feel my job might be in jeopardy. And I assured him that the character of the individual that I was, that, No. 1, that is not going to be needed or necessary because I was a fair evaluator. And, No. 2, that if he objected to that, that he was welcome to get another instructor. We did conduct the training. He did a satisfactory job, and he was passed as a first officer in the BAe-146.

Q Did you become aware of other trainers in Air Wisconsin who were willing to follow instructions to take people down or wash pilots out?

A I was not party to anybody else being instructed to do that. But I can say that I – in my working capacity with Craig Christensen as a fellow instructor heard him make that statement several [37] times.

Q What do you mean by that?

A I mean that he would see who he was working with, and even prior to the training task at hand would say he or she is going down.

Q What did you understand that to mean?

A I understood that to mean that – to me that personality already was a clear issue and that this training task for this particular airman or woman was going to be extremely difficult and that I believe there

was a good chance that they would be washed out of that training task or checking task.

Q Did you believe that was fair?

A No. I did not.

Q Did you raise that with management?

A Yes, I did.

Q Who did you talk to?

A I spoke with Scott Orozco on the behavior of Craig Christensen.

Q What did Scott Orozco tell you?

A Scott Orozco told me that he was aware of some problems and that he was dealing with that in his management capacity.

[38] Q After talking with Craig Christensen – excuse me. Let me back up. I’m sorry. After talking with Mr. Orozco about Mr. Christensen, were you ever involved in any other instances in which you were instructed to take a pilot down or wash a pilot out?

A Not in the 146 program.

Q Did it happen in any program?

A Yes. It did reappear in the CL-65 program.

Q Tell me about that.

A I was instructed by Scott Orozco and Pat Doyle at the time about – I was –let’s just say I was informed initially about an airman that was coming up for a captain upgrade in the CL-65. So this airman had been a first officer in the BAe-146 and was going to be trained and checked by me as a captain in the CL-65. The statement was very clear and very precise that he was – his personality was that of an – I believe, an

asshole at the time, and the statement was wash him out.

Q Did they use any derogatory terms when they asked you to wash him out?

[39] A Again, there was an overall negative tone about his personality, his demeanor. Obviously some kind of run-ins or problems they had had with him in the 146 as a first officer.

Q And who was present and gave you those instructions?

A Scott Orozco made mention to it, and Pat Doyle made mention to it.

Q Are you aware, Mr. Koehn, of any pilot who was targeted by Air Wisconsin for failure and then went to arbitration over a failed training?

A I know that that did take place, yes.

Q And in those circumstances did the pilot or Air Wisconsin prevail?

A To the best of my knowledge, I would say that if it went to the full arbitration, that I would believe that Air Wisconsin would prevail in the majority of the cases.

Q How is it possible for Air Wisconsin to prevail in arbitration when these pilots are trying to get their jobs back if they had targeted these pilots for failure?

MR. MARK: It's objected to as

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[42] quite some time.

MR. MCGATH: All right. Why don't we take a break. That's a good idea.

(Recess was taken)

THE VIDEOGRAPHER: We're now back on the record.

BY MR. MCGATH: We had a chance to take a break at your request Mr. Koehn. I want to come back and follow up on a couple of things I was asking. Okay?

A Okay.

Q I had asked you previously about an incident which you were talking about involving Andrew Gill; do you remember that?

A I do.

Q I asked you if there was any specific derogatory comment directed towards Mr. Gill, and you generally said that there was some animosity towards Mr. Gill. Do you remember that testimony?

A That is correct.

[43] Q Do you remember a specific derogatory comment directed towards Mr. Gill when you were instructed to wash him out?

A Again, to the best of any recall, it was a series of negative statements, but I think it was in lines of take the prick out. It was pretty direct.

Q What happened in that case with Mr. Gill?

A Just like any and every training task that I was involved in, the airman or woman, women, were given a fair chance at the training and checking process. In Andy Gill's position, he was typed. He earned his qualification as captain in that aircraft and had completed that as captain. I happen to – obviously being – him then being in my program was informed

of his termination literally, I believe, within a month after that qualification.

Q What were you told about his termination?

A At the time it was he was terminated by Scott Orozco. Scott's position at that time I believe was acting chief pilot. And it had to do with at the time and my recall was personnel issues.

[44] Q Thank you for clarifying that for me.

A Okay.

Q I asked you some questions about techniques that could be utilized by Air Wisconsin or that were utilized, in fact, by Air Wisconsin to wash out pilots in training. Do you remember that question?

A I do.

Q And that was a question that I had asked you right before we took the break?

A Correct.

Q Okay. Do you know what techniques Mr. Christensen used to wash out pilots that were targeted for failure?

A I don't know if I know specific because I wasn't in the simulator watch – observing him using the simulator as a negative reinforcement, but I can say there were a considerable number of people that expressed their concern about feeling demoralized about their experience working with Mr. Christensen.

Q I want to switch gears for a moment. Since you've been qualified as an expert, I can ask you some hypothetical questions.

* * * *

[74] A Correct.

Q Do you have an opinion to a reasonable degree of aviation probability as to whether AWAC, Air Wisconsin Airlines Corporation, targeted Mr. Hoepfer for failure?

MR. MARK: It's objected to as irrelevant. It's speculative. It's lacking in foundation. It's an improper hypothetical. And this witness is lacking in qualifications to testify to that.

MR. MCGATH: You can answer the question, Mr. Koehn.

THE WITNESS: Certainly in my experience in management both in the 146 – primarily in the 146 that this pattern is consistent with targeting airmen that I had seen in the past.

BY MR. MCGATH:

Q And by targeting airmen, do you agree with me that that's the same as wash them out or take them down?

A That would be the –

MR. MARK: Same objection. Go ahead.

THE WITNESS: Correct.

[75] MR. MCGATH: Let's see. Counsel.

MR. MARK: Thanks.

BY MR. MCGATH:

Q Mr. Koehn. I'm going to hand you what's been marked as Exhibit K-5. This is a document which was produced by Air Wisconsin and which will be in evidence in this case. But I am marketing – marking – I got my tongue twist there. I apologize,

ladies and gentlemen of the jury. I'm sorry – I am marking this document as Exhibit K-5 for identification in your deposition. Can you look at that with me?

A I can.

Q And, again, ladies and gentlemen, I apologize. Do you see on the top portion of this document the words *training failure*?

A I do.

Q If, in fact, Air Wisconsin Airline had targeted Mr. Hoyer for failure and then wrote in the separation form that Mr. Hoyer was a training failure, do you have an opinion as to whether that is

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STATE OF COLORADO
IN THE DISTRICT COURT FOR DENVER COUNTY

CASE No. 05 CV 9967

WILLIAM L. HOEPER,
Plaintiff,

vs.

AIR WISCONSIN AIRLINES CORPORATION,
A DELAWARE CORPORATION;
MARK SCHUERMAN, INDIVIDUALLY;
PATRICK DOYLE, INDIVIDUALLY;
SCOTT OROZCO, INDIVIDUALLY; AND
JOHN DOES 1-10, WHOSE IDENTITIES
ARE UNKNOWN TO PLAINTIFF AT THIS TIME,
Defendants.

DEPOSITION OF ROBERT DOUGLAS FRISCH

* * * *

[79] A Yes.

Q And how were you aware of that?

A I believe he shared that information with me at some point along in a ground school that he taught at one point.

Q In fact, didn't you recommend that Mr. Hoeper become an FFDO?

A No.

Q Do you know if Mr. Orozco recommended that Mr. Hoeper become an FFDO?

A No. I don't know.

Q Now, when Mr. Hoeper was in Virginia on December 8, 2004, you knew that he wasn't piloting an aircraft home, true?

A When he had his simulator session on December 8th?

Q On December 8, 2004, Mr. Hoeper was returning to Denver. You knew Mr. Hoeper was not flying the airplane that he was riding home on, didn't you?

A Yes.

Q And you also knew that Mr. Hoeper was not traveling to Denver for – to qualify with his FFDO weapon, didn't you?

A I knew that he wasn't traveling to Denver [80] to qualify with his FFDO weapon. I didn't know that, but I would assume that to be the case.

Q And you would have also assumed he wasn't traveling to Virginia to qualify with his FFDO weapon because he was traveling to Virginia to do training on the BAe-146, correct?

A That's correct.

Q And you had no reason to believe that Mr. Hoeper was transporting his FFDO weapon to travel to a practice range either in Virginia or Denver; isn't that true?

A I would say the purpose for Mr. Hoeper's travel was to go out there and do his flight training in the BAe-146, that's true.

Q And so you had no reason to believe at all that Mr. Hoeper on December 8, 2004, would have been violating FFDO protocol concerning traveling or carrying his FFDO-issued firearm, true?

A If Bill Hoeper would have had his weapon at that point, he would have been in violation of the FFDO SOPs.

[81] Q And you had no reason to believe that he was in the violation of FFDO SOPs, true?

A I had no reason. There was nothing that stood out to me to make me believe that.

Q Well, in fact, you had absolutely no information whatsoever to lead you to believe that Mr. Hoeper was in violation of the FFDO SOPs with regard to transporting his weapon, true?

A I'm sorry. Reask the question.

MR. RIETZ: Read it back.

(Requested portion read by reporter.)

THE WITNESS: Yeah. I can't say that I had any information. Nothing's coming to mind.

BY MR. RIETZ:

Q And, in fact, you didn't have any information that Mr. Hoeper had ever violated FFDO SOPs with regard to the transport of his weapon, true?

A Right now I cannot think of any.

Q Well, and also on December 8, 2004, you didn't have any information whatsoever that Mr. Hoeper had violated FFDO SOPs with regard to the transport of his weapon [82] true?

A Right now I can't think of anything that sticks out that is information to that effect.

Q Mr. Frisch, in your employment with Air Wisconsin as a fleet manager in the 328 or as an assistant chief pilot or a chief pilot, if you had information that a pilot in training was threatening either his instructors or other pilots or employees of Air Wisconsin, you would take action, correct?

A Well, yeah. We would investigate the situation.

Q In fact, you would treat that very seriously, would you not?

A We would take that seriously, yes.

Q If an instructor informed you that he feared for his safety while training one of your pilots at the airline, you would take action against that pilot in terms of an investigation at a minimum, correct?

A We would investigate. In my role as the fleet manager, I would have investigated a report of a pilot threatening one of my

* * * *

[99] A Mr. Schuerman probably sat through a basic indoc or recurrent general subjects ground school that Mr. Hoepfer taught. Those are two totally different subject matters.

Q Mr. Schuerman testified at his deposition that he had never known Mr. Hoepfer to be a threat to anybody at Air Wisconsin. Do you also agree with that statement?

A I know of no one that had been threatened by Bill.

Q So then you agree with Mr. Schuerman that he had never known Mr. Hoeper to be a threat to anybody at Air Wisconsin?

A Yeah. I think that's a true statement.

Q Now, Mr. Doyle testified that he believed Mr. Schuerman to be very honest and he had no reason to dispute any of Mr. Schuerman's deposition testimony. Do you have any reason to believe that Mr. Schuerman's dishonest or didn't testify truthfully at his deposition?

A No, I have no reason to believe that.

Q When did you know, when did you first find out that Mr. Hoeper was traveling to Dulles and to Herndon, Virginia, to do training in

* * * *

[105] training situation with Mr. Hoeper and Mr. Schuerman?

A I don't recall. I don't think there was any one person that specifically came up to me and told me what was going on. I think that I became aware of it through overhearing a conversation or walking in and becoming part of a conversation or something along those lines.

Q And who was the conversation between that you overheard?

A It would have been at that point probably been Pat Doyle, Scott Orozco, and maybe Kevin LaWare or possibly Kevin LaWare. Those would have been the – those would have been the individuals talking about something along those lines.

Q Mr. Schuerman testified that he told Mr. Doyle on December 8, 2004, right after the training session

had terminated, he told Mr. Doyle that “Ole, he’s very angry at me.” And then Mr. Doyle told him, get out of there. And I asked Mr. Doyle then, did he say anything to Mr. Doyle – did you say anything to Mr. Doyle other than, “he’s [106] very angry at me” with regard to Mr. Hoeper’s demeanor or actions? And Mr. Schuerman testified, I don’t recall anything else. Do you have any reason to dispute that testimony from Mr. Schuerman?

A No.

Q And so the only information that Mr. Schuerman gave to Mr. Doyle was that Mr. Hoeper was very angry at him; is that your understanding?

A I’ll take the deposition for what it’s worth, yes.

Q You have no information to dispute that, do you?

A No, I don’t have any information to dispute that.

Q And Mr. Schuerman testified that he did not tell Mr. Doyle that he was a threat, being Mr. Hoeper was a threat to Mr. Schuerman. Do you have any reason to dispute that testimony from Mr. Schuerman?

A No. I have no information.

Q And Mr. Schuerman further testified that he did not say that Mr. Hoeper was a threat to Mr. Scharf. Do you have any reason to [107] dispute that?

A No. I have no information to dispute that.

Q And Mr. Schuerman testified that he did not say that Mr. Hoeper was a threat to Mr. Seeger. Do you have any reason to dispute that?

A No. I have no information to dispute that.

Q Mr. Schuerman testified that he did not tell Mr. Doyle that Mr. Hoeper was a threat to himself. Do you have any reason to dispute that?

A No.

Q Mr. Schuerman testified that he did not tell Mr. Doyle that Mr. Hoeper was unstable. Do you have any reason to dispute that?

A No.

Q Mr. Schuerman testified that he did not say that Mr. Hoeper should not be allowed to get on an airplane. Do you have any reason to dispute that?

A No, I have no information that would dispute that.

Q Mr. Schuerman testified that he did not say that Mr. Hoener was a threat to a [108] commercial flight. Do you have any reason to dispute that?

A No.

Q Mr. Schuerman testified that he didn't believe Mr. Hoeper posed a threat in any way to anyone at all. Do you have any reason to dispute that testimony?

A No.

Q And Mr. Schuerman testified that he would deem – or that he deemed Mr. Hoeper perfectly safe to get on an airplane and fly back to Denver from the training exercise. Do you have any reason to dispute that testimony?

A No.

Q Mr. Schuerman even testified that he was surprised that Mr. Hoeper had been pulled off the flight. Do you have any reason to dispute that testimony?

A No.

Q Mr. Schuerman testified that he felt bad for Mr. Hoeper because it would be embarrassing to get pulled off the flight. Do you agree with that testimony?

A Yeah. I have no information that would

* * * *

[112] understanding of what a code red is?

A The Department of Homeland Security has a national threat advisory system that's actually the Homeland Security advisory system. There's five color codes. And they're a national security code. And at any given time you can go onto the TSA's website and you can look it up and see with where our national security color code is at.

Q Now, you indicated that you overheard a conversation with Scott Orozco and Pat Doyle and perhaps Kevin LaWare regarding the incident with Mr. Hoeper, the training incident with Mr. Hooper, is that true?

A At some point along the way, I became part of a conversation on a – I don't know who it was with and specifically when, time of the day. I have no idea.

Q Where did this conversation occur at?

A I can't say with 100 percent certainty the location. A conversation like that more than likely would happen in Scott Orozco's office.

[113] Q Well, did they pull you into Mr. Orozco's office?

A My office is right next-door. I spend a lot of time in his office. He spends a lot of time in my office. And

we go in and out of meetings like that I mean throughout the course of the day.

Q Did Captain Doyle or Captain Orozco ask you any questions regarding the training incident with Mr. Hoepfer?

A Nope. He would have been in a 146 training program. I have no familiarity with that program. I have not been qualified on that aircraft so ...

Q Did they ask you any questions with regard to Mr. Hoepfer traveling back to Denver on that day?

A There were some discussions about if – how you would determine whether an FFDO had been transporting his weapon.

Q And what were those discussions?

A Those discussions were just – I guess what I kind of stated, asking the procedures that we go through as FFDOs to get beyond the security checkpoint with our weapon to [114] determine whether or not we have our weapon with us.

Q At that time – as you've testified previously, at that time you had no reason to believe that Mr. Hoepfer would have his weapon with him, correct?

A Yeah. I don't even know that the conversation was that specific. I mean I just was, you know, explaining how you would go about doing that.

Q And they didn't express any type of concern to you at that time that Mr. Hoepfer was a threat and should be pulled off of a commercial flight, did they?

A Oh, no, not at all.

Q And that was just general conversation –when they asked you those general questions, you had no

idea that, in fact, Mr. Hoeper was in a matter of hours going to be pulled off of a commercial flight accused of being a threat, did you?

A Well, at some point along the way, I did become aware of who they were talking about, and we walked through the procedures and the steps of how one would get, you

* * * *

[116] Q So you can only say one other airport in the nation has tighter security than Dulles, correct?

A Well, I'm just saying it's not at the top of the charts.

Q Well, okay.

A It's high.

Q So you would agree with me that the security at Dulles is tight security?

A Yes, it is.

Q And you would also agree with me that it would be very, very difficult to sneak on a firearm onto a commercial flight as a passenger?

A I don't know. I've not tried to do that, so – I mean it's – an FFDO doesn't sneak on a weapon.

Q And you had no reason to believe that Mr. Hoeper on December 8th was sneaking his weapon on the aircraft, true?

A Again, I have no information to dispute that at all.

(Exhibit marked for identification as Exhibit F-6.)

BY MR. RIETZ:

* * * *

[120] officially terminated from the company, true?

A I don't believe its stated quite like that, but in essence in order to – in order to be an FFDO, you need to be employed by a 121 carrier. That's not exactly a true statement. But you need to be employed.

Q And so is it your understanding of the FFDO protocol that when your employment officially terminates, you are then required to return your FFDO-issued firearm, true?

A I believe there's a period in there where notification needs to take place and then a return.

Q And so if Mr. Hoepfer were still employed with Air Wisconsin on December 8, 2004, you know that he is still entitled to have or possess an FFDO firearm, true?

A I will say that he is still – again, he's not supposed to possess that weapon outside of the requirements of the SOPs.

Q Let me rephrase it. Mr. Hoepfer on December 8, 2004, if he was still employed [121] by Air Wisconsin, was not required to turn in his FFDO weapon at that time, true?

A That's what the FFDO SOPs speak to, yes.

Q And, in fact, on December 8, 2004, you did not inform Mr. Orozco or Mr. Doyle that Mr. Hoepfer would have to turn in his weapon at that time, correct?

A I don't recall a conversation like that.

Q I mean there would be no reason for you to tell them that because as far as you knew Mr. Hoepfer was still employed by Air Wisconsin on December 8, 2004, true?

A He was still employed by Air Wisconsin.

Q So there would be no reason for Mr. Hoeper to turn in his weapon at that time, true?

A That is true.

Q Now, back to your conversation with Mr. Orozco and Mr. Doyle. And I believe that you –

THE WITNESS: Are we done with this?

MR. RIETZ: Yes. You can just set that down. Sure.

BY MR. RIETZ:

Q Back to your conversation with Mr. Doyle and Mr. Orozco on December 8, 2004. You, I [122] believe, have testified that you thought it was in Mr. Orozco's office. How long were you in Mr. Orozco's office during this conversation?

A I could not begin to estimate.

Q Were you in Mr. Orozco's office continuously, or did you go in and out of the office?

A Again, I do not know.

Q What other things did Mr. Orozco and Mr. Doyle inquire of you?

A I don't recall being asked specifically anything. I mean I don't remember sitting in a conversation and having someone look over at me and say, Bob, you know, X, you know. I don't recall anything like that.

Q Did Mr. Orozco or Mr. Doyle or Mr. LaWare ever direct you to contact anybody on December 8, 2004, concerning Mr. Hoeper?

A No, I don't believe they did.

Q And what do you believe your role was in the meeting with Mr. Orozco and Mr. Doyle? Was it because you were the assistant chief pilot?

A Yes. I mean that – yeah.

[123] Q Now, what were Mr. Orozco and Mr. Doyle saying during this meeting?

A Again, I don't recall how long I was at the meeting, what the – I'm sure there were conversations about what had taken place when they talk about training and stuff like that on the 146. That's just not a training program I've been involved with, so it's not anything I participate in. I suspect there was some of that. I don't know. I can't recall anything specific.

Q Isn't it true that you didn't even know that TSA was going to be contacted regarding Mr. Hoeper on that day?

A I did not – I did know TSA had been contacted.

Q But isn't it true that before TSA was contacted, that you didn't even know that TSA was going to be contacted?

A I can't say that I did or did not.

Q But isn't it true it wasn't your decision to contact TSA regarding Mr. Hoeper, true?

A I don't know that it was any one person's decision. I mean it's the decision. I mean that's the security guidance you're [124] given. There's one place to call when you have a security threat to an airplane.

Q But it wasn't your decision, was it?

MR. MARK: It's objected to as asked and answered. It's repetitive.

MR. RIETZ: You can go ahead and answer.

MR. MARK: Again.

THE WITNESS: The decision to contact the TSA is laid out in the security programs for the airlines.. I mean that's the agency that does get notified whenever there's a threat to an airplane of any sort.

BY MR. RIETZ:

Q You didn't determine that Mr. Hoeper was a threat to an airplane, did you?

A No. I can't say that I made that determination.

Q Whose determination was it to contact TSA?

A As I said before. I don't know that it was any one specific person's decision more than it was a discussion and a group consensus that the requirements for the security programs are followed and that the [125] TSA is contacted.

Q Who made the determination that Mr. Hoeper was a security threat?

A Again, I don't know that there is any one person that made that determination. I just can't answer that question.

Q What things were being said by Mr. Orozco or Mr. Doyle regarding Mr. Hoeper being a security threat?

A I can't say with any level of certainty or any - I can't recall anything specific being said during those meetings. I have seen some of the things in the depositions that other individuals have testified to, but my personal recollection, I can't recall anything specific.

Q And, in fact, when you were in the office on December 8, 2004, you had no information presented

to you that indicated that Mr. Hoeper was a threat to a commercial airline, did you?

A As I said, right now I can't think back and recall any one specific item that I can recall.

Q So you can't recall any specific items?

* * * *

[143] though, from December 8, 2004, though, is it?

A Well, I can't – I guess, as I said before, I can't – I think back to December 8th, and I remember very few specific facts about the December 8th. I don't recall having the discussion – having discussions like this.

Q And isn't it true that you did not direct Captain Doyle in terms of what he was to say to TSA, did you?

A I would not direct Captain Doyle to do anything. He doesn't work for me.

Q And so Captain Doyle made that statement without – he made the statement to TSA without your assistance, correct?

A I guess, yeah. I was not there. I did not prepare a statement for anybody on what to say or anything like that.

Q In fact, you didn't have any information on December 8th to lead you to believe that Mr. Hoeper's mental stability was in question, did you?

A I had no – I don't believe I had information that would – one way or [144] another on it.

Q And you didn't have any information on December 8, 2004, that caused you to be concerned about the whereabouts of Mr. Hoeper's firearm, did you?

A I don't recall having information that – I'm sorry. Restate the question.

Q On December 8th –

A I'm reading and listening. I'm sorry.

Q That's no problem. If you need more time to read the document, let me know. I realize this is the first time you've had a chance to look at it. My question was, in fact, on December 8, 2004, you did not have any information that caused you concern about the whereabouts of Mr. Hoeper's firearm, true?

A I can't say that that's a true statement or not a true statement. I don't recall having information that – I don't recall having information that would lead me to believe one way or another on December 8th.

Q Do you know who Craig Christensen is?

A Yes, I know who Craig Christensen is.

Q Who is Craig Christensen?

* * * *

STATE OF COLORADO
IN THE DISTRICT COURT FOR DENVER COUNTY

Case No. 05 CV 9967

WILLIAM L. HOEPER,
Plaintiff,

vs.

AIR WISCONSIN AIRLINES CORPORATION,
A DELAWARE CORPORATION;
MARK SCHUERMAN, INDIVIDUALLY;
PATRICK DOYLE, INDIVIDUALLY;
SCOTT OROZCO, INDIVIDUALLY; AND
JOHN DOES 1-10, WHOSE IDENTITIES
ARE UNKNOWN TO PLAINTIFF AT THIS TIME,
Defendants.

DEPOSITION OF MICHAEL F. BAUER

* * * *

[41] Q So if Mr. Hoeper were to testify that you went on vacation to go to Japan to visit one of your daughters while he was a ground school instructor, that testimony would not be mistaken?

A I would say I was on vacation a couple of time when he was a ground instructor. Without thinking back, I could not say which vacation it was.

Q But you do recall going on vacation while Mr. Hoeper was a ground school instructor?

A Right. Yes, I do very much.

Q Sir, let's take a look at Exhibit 5.

A Uh-huh.

Q I want to go through these documents with you, and I believe that my documents are in the same order that your documents are. I assume they are.

A I hope so. I'll correct it if it's not.

Q The first document, sir, in Exhibit 5 – and it might be easier, sir, if you actually look at Exhibit 5.

A I'll compare it with mine as we go.

Q And if you notice any discrepancies between Exhibit 5 and your file copy, please let me [42] know so that we can correct that.

A Uh-huh.

Q Sir, the first document appears to be a calendar entry meeting?

A Correct

Q Would you please describe this document for me?

A That was a – again, I reviewed my email records, everything we had in the e-mail system, to see what I could recall of what was going on here. This was a meeting notice that was called by me at the request of Craig Christensen to talk about a class that Bill Hooper was teaching in Denver.

Q And Mr. Christensen had the request to meet, or did you have the request?

A Well, if you look at the next document, this is a request – Craig asked that we meet, and this is the

actual meeting notice itself that I put on the calendar in the e-mail system.

Q And so you were to meet on Wednesday, January 14, 2004, at 9 o'clock a.m.

A That's what it says.

Q And do you recall if you, in fact, met on [43] that day?

A No, I honestly don't. I found this in my calendar when I looked back from 2004. I can't remember whether we met or what we talked about. And I looked. I have no notes on it.

Q What did Mr. Christensen want to meet about?

A If you look at the next document, it says what he wanted to meet about. In the bottom part of that, he says, Mike, you'll find a letter from me regarding our PIC seminar I observed in Denver on the 22nd of the December. I would like to sit down with you and Doug to further discuss my concerns.

Q And Doug would be Doug Lesh?

A That is correct.

Q Did Mr. Christensen observe a class of Mr. Hoeper's? is that what he's referring to?

A That's what he's saying here. Again, I don't recall the specifics. I'm referring to this document the same as you are.

Q And so on Page 2 on the e-mail from [44] Christensen to you where he says, I would like to sit down with you and Doug to further discuss my concerns, as you sit here today, what concerns was Mr. Christensen referring to?

A Christensen – again, I don't recall the specifics. I can tell you in general that Christensen and Hoeper did not always agree on the way the ground school was to be taught.

Q And there's been testimony in this case and specifically Mark Schuerman testified that he was aware that there was a rift between Mr. Christensen and Mr. Hoeper. Would you agree with that?

MR. MARK: Are you asking him to agree: with what Schuerman said or what the relationship was between Christensen and Hoeper

MR. RIETZ: Do you understand the question?

MR. MARK: I don't understand the question. I object to the form. I think it's confusing, and I think it's vague and ambiguous. If you understand it, go ahead. [45] But I've expressed my concerns because I think it's a very confusing question.

THE WITNESS: Okay. Do you want to restate the question?

BY MR RIETZ:

Q Mark Schuerman in this case has testified that he was aware of a rift between Mr. Hoeper and Mr. Christensen. Were you aware of a rift between Mr. Hoeper and Mr. Christensen?

A I was aware they did not always agree with each other. I would not call it a rift. I am not sure what I would call it.

Q So Mr. Christensen and Mr. Hoeper did not always agree on how the ground school should be taught?

A Correct.

Q And what was Mr. Christensen's position in the 2003/2004 time frame?

A His formal position in the company?

Q Yes.

A He was a flight instructor.

Q What was his role with the ground school program?

A He has developed what was called [46] the company's CRM program several years prior to this. CRM stands for crew resource management. And Craig had developed this program. This – the specific ground school we're talking about here is called the PIC, pilot in command, seminar. This is a subset or an offshoot of the CRM program that Craig had developed.

Q Now, when you say they didn't always agree on how the ground school should be taught or conducted, do you recall anything more specific than that, their disagreements?

A Craig wrote a hit of PowerPoint presentations for the ground school. Bill, who was teaching the course, changed Craig's PowerPoints.

Q And did Craig become upset when Mr. Hooper changed Craig's PowerPoints?

A I am not sure he used the word upset. He did not like when his PowerPoints were changed.

Q Would he express that dissatisfaction with you?

[47] A Yes.

Q What would he say?

A He said, I don't like the changes that have been made.

Q What was your response?

A I liked the changes that had been made. Craig, his grammar and spelling were not the best, and a lot of that stuff was cleaned up.

Q So you approved of Mr. Hoeper's changes to Mr. Christensen's program?

A Yes, We'll get into a document here later. To find out what was going on I sent Tony Neely to observe the seminar to get – this particular class to get a better feel of what the truth was, what was happening out there. I got a good report from Tony saying that the class was okay. I took Tony's word for it. And I believed as the instructor who was actually teaching the course, that within the limits of the curriculum that Bill should be able to teach the course in the way that he felt appropriate.

Q Did Mr. Christensen raise his concerns [48] about Bill's teaching of the program to anyone else, other than you, that you're – well, it looks like Doug Lesh, too, because he mentions Mr. Lesh.

A I don't know of any discussions between Craig and Doug. This is what I remember. And I am not sure I would remember this if I pulled it from my written records. I don't know that Craig discussed it with anyone else.

Q Is Mr. Christensen still employed by Air Wisconsin?

A No

Q When did Mr. Christensen leave Air Wisconsin?

A When our BAe-146s went away, which was early 2006.

Q When is the last time you discussed – strike that. When is the last time you spoke to Mr. Christensen?

A I can't remember. It had to be in late 2005.

Q The last time you spoke to Mr. Christensen was prior to his leaving Air Wisconsin?

A Yes.

[49] Q And do you recall the content of your last conversation with Mr. Christensen?

A No, not at all. Probably wouldn't – no, I don't.

Q Have you ever discussed this case with Mr. Christensen?

A No.

Q Do you know if Mr. Christensen is currently employed?

A No. I don't know. I have no idea what he's doing.

Q Mr. Hoeper has indicated that Mr. Christensen gave him a letter or attempted to give him a letter expressing his dissatisfaction, meaning Mr. Christensen's dissatisfaction, with Mr. Hoeper's training of the ground school program –

A Right.

Q – much as what you discussed.

A Uh-huh.

Q Do you recall that?

A No, I don't. But I see in this e-mail he says, Mike, you will find a letter to you from me. Okay? That's what it says. [50] There was no attachment on this e-mail. I suspect that Craig wrote something on a yellow piece of paper and stuck it on my desk. I've searched everywhere. I can't find it. And I sure don't remember what was in it. I mean -- I don't have it.

Q Do you recall Mr. Hoeper refusing to accept a letter from Mr. Christensen indicating complaints?

A No.

Q If Mr. Hoeper were to testify to that, you just don't have any recall of it one way or the other?

A I don't know. I don't know what happened between those two.

Q On Exhibit 2, sir, let's turn to the third page. And it

S an e-mail from Glen Davis to, it appears, Mr. Gijssen; is that correct?

A That's correct.

Q What's your understanding of this document?

A Well, it

S related to three documents here. I think it's three, Davis, Deb Farnsworth, and Erik Cobb. Actually it's related to stuff after that. But in

* * * *

[67] and observing Bill, and this is the report I got back from him.

Q And if you go to Page 2 of that, he indicates in the second paragraph, I thought the course was well-taught?

A Yes.

Q The class and the instructor interacted well, and the overall experience is positive. The instructor seemed to have good knowledge of the subject matter; do you see that?

A That's correct.

Q And you trusted Mr. Neeley's assessment of Mr. Hoepfer?

A Yes, I did.

Q Did you find Mr. Neely's assessment consistent with the other assessments that you had of Mr. Hoepfer?

A Yeah.

Q Let's go to the next document, which is – it looks like it's a 2003 performance review and development form; do you see that?

A Yes. I'm the one that wrote the 2003 on top because other than that – well, [68] this one – the date again is ambiguous on this one because it's signed by me and by Bill, and we have two different years when we signed the darn thing.

Q And this document has been disclosed by Air Wisconsin in this case. If you look at the next document, Mr. Bauer, you wrote on there 2002. And so that helps clarify that – because you had a date – well, excuse me. I guess this one was not –

A There isn't any. I looked in – in my computer files I have the original of these documents, and the name of the file says Hoepfer review 2003. Okay? So I do know that this is the correct years.

Q So it appears then on Page 2 of the 2003 form, Mr. Hoeper – that’s a typo? He mistakenly wrote –

A I believe so.

Q – 7/18/02?

A I mean I don’t think that we dated this thing – we looked at this thing a year apart.

Q Well, and if you’re doing a review of Mr. Hoeper for the year 2003, he can’t look [69] at it obviously in 2002?

A I wouldn’t think so.

Q So when you’re confident then this is the 2003 review, and Mr. Hoeper was mistaken?

A Yeah. I pulled the original unsigned copy out of my computer files. This is a Word document. And the Word document, the name of that document is something to the effect of Hoeper evaluation 2003.

Q And, Mr. Bauer, the factors where you have factor ratings – and there’s 13 categories on Pages 1 and 2; is that right?

A Yes.

Q And did you rate Mr. Hoeper on these factors?

A Yes.

Q And it appears that you gave him a satisfactory rating in 4 of the 13 categories?

A Uh-huh.

Q And you have him a superior rating in 9 of the 13 categories; is that correct?

A Yes.

Q Are you the only one that had input into those factor ratings?

[70] A Yes.

Q And then you had comments regarding his job performance on Page 2; do you see that?

A Yes.

Q And these comments were done after the temporary agreement situation occurred in the May 2003 time frame; is that accurate?

A Yes, it is.

Q Would you please read for me your comments regarding his job performance?

A I said he did a good job. Bill is a good ground instructor and does a good job presenting the material and keeping the students interested. In addition, he keeps the Denver training center running smoothly and provides an interface between flight, in-flight, and maintenance departments, as well as CAE. He discovers and solves problems before they reach a higher level. Bill has a good attitude and is willing to do whatever is asked of him.

Q And was that accurate at the time that you wrote that?

A I believe it was.

Q And when you filled out these forms, you

* * * *

[82] of '02 until approximately May of '04; is that accurate?

A I believe so. Again, I don't have any documentation on the May of 2004. I don't remember exactly, but I believe it's in that neighborhood.

MR. METZ: Let's take a five-minute break.

(Recess was taken.)

(Exhibit marked for identification as Exhibit 3)

BY MR. REITZ:

Q Mr. Bauer, I had forgotten to ask you with regard to Exhibit 2, these were documents that were, again, pulled from your file. Were these documents that were created in the regular course of business?

A Yes, yeah.

Q Sir, I'm showing you what's been marked as Bauer Exhibit 3. Have you ever seen that document before?

A No.

Q Would you take a moment to read it, sir?

A Okay.

Q And it's a letter from Captain Everhart

* * * *

[91] his ground instructor position to the line. If you know that and you can tell me, then you can maybe help me out with that. I don't have a PSC form on it.

Q You had testified before that you believe that he had – it looks like Mr. Everhart confirmed that it was the April '04, May '04 time frame when Bill returned in the line –

A Correct

Q – is that right?

A Yeah. So that would have made sense because we scheduled these ground schools two months in advance. Mother's day is in May, isn't it? I don't know. When is Mother's day? But it sticks out in my mind that he was unhappy.

Q Well, he didn't – Mr. Hoeper did not resign his ground school position; is that correct?

A No, he did not.

Q So any dissatisfaction Mr. Hoeper may have had, according to your testimony, wasn't enough for him to resign his position, correct?

[92] A That is correct.

Q And you have nothing in your file regarding any job dissatisfaction expressed by Mr. Hoeper; is that correct?

A That's correct.

Q Now, with regard to the first two pages of Exhibit 5, you discussed that Mr. Christensen had complaints about how Mr. Hoeper was teaching the ground school content, correct?

A No. It says here that Craig sent me a letter, which I don't have. He had concerns. I don't know whether they were complaints. We have already established that he and – Craig and Bill did not see eye to eye.

Q And I just want to make sure the record is clear because I want to travel through this and make sure we discussed everything about this. We're talking about this is going on in January 2004, correct?

A That's correct.

Q And you indicated that you believed that Mr. Hoeper's changes were good and you thought they were appropriate?

[93] A Yeah, that's correct.

Q So what happened then after Mr. Christensen wants to have this meeting with you? And it looks like it occurred on January 14, 2004. What happened after this meeting?

A You know, I don't even know whether the meeting actually occurred. All I know is it was in my email system. I don't know whether anybody showed up. I don't recall anything about the meeting. I don't really recall anything after that with respect to Craig. I didn't really recall anything after that with respect to Craig. I didn't really discuss the matter with Craig. I felt that Bill was doing the ground school in an acceptable manner. I didn't see that Craig had anything to do with it.

Q Well, and then let's talk about what happened then after – what happened next then after? You don't have any other notes or documents after January. 14 2004, regarding Mr. Hoeper?

A Right.

Q Why is that?

A I didn't write anything down.

Q He left, though, the ground school

* * * *

INSTRUCTION NO. 1

These instructions contain the law that you must use in deciding this case. No single instruction states all the applicable law. All the instructions must be read and considered together.

You must not be concerned with the wisdom of any rule of law. Regardless of any opinion you may have as to what the law should be, it would be a violation of your sworn duty to base a verdict upon any other view of the law than that given in these instructions.

I do not, by these instructions, express any opinions as to what has or has not been proved in the case, or to what are or are not the facts of the case.

INSTRUCTION NO. 2

I will now explain the claims and defenses of each party to the case and the law governing the case. Please pay close attention to these instructions. These instructions include both general instructions and instructions specific to the claims and defenses in this case. You must consider all the general and specific instructions together. You must agree on your verdict, applying the law to the facts as you find them to be.

The plaintiff in this case is William Hoyer. There were three defendants in this case: Air Wisconsin Airlines Corporation, Mark Schuerman, and Patrick Doyle. Plaintiff has dismissed the claims against Defendant's Schurman and Doyle individually because AWAC has admitted that all of the acts or omissions of its employees were within the course and scope of their employment, even if any such acts or omissions could be characterized as willful and malicious. AWAC is liable for all damages caused by these acts or

omissions. Therefore, you will only receive instructions and verdict forms directed to AWAC.

Mr. Hoeper was a commercial airline pilot. From 1998 to December 9, 2004, he was employed by Defendant Air Wisconsin. Defendants Schuerman and Doyle were also Air Wisconsin employees at all times pertinent to this case.

Mr. Hoeper claims that the Defendant AWAC made statements about him in December 2004 that were untrue and defamatory and that were made recklessly with the intent to cause him harm. He also claims that the statements made by the Defendant AWAC caused him to be falsely arrested and falsely imprisoned by law enforcement officers and that such statements have permanently impaired his ability to obtain employment as an airline pilot. Mr. Hoeper also claims that he was treated unfairly in certain flight training. Mr. Hoeper claims that the conduct of Defendant caused him emotional distress. Mr. Hoeper says that the Defendant's conduct was sufficiently reckless, willful and outrageous to entitle him to recover punitive damages.

The Defendant AWAC admits that certain statements were made to third parties but deny that it has any liability to Mr. Hoeper as a result of those statements; The Defendant AWAC denies that it made certain of the statements. The Defendant AWAC claims that they were justified in making the statements. The Defendant AWAC denies that its conduct caused any damages to Mr. Hoeper.

With regard to Plaintiff's claims of defamation, Defendant AWAC claims as affirmative defenses that the statements Plaintiff alleges are defamatory were privileged; and that under the Aviation and

Transportation Security Act, Defendant is not liable to Plaintiff for statements it allegedly made to the Transportation Safety Administration.

With regard to Plaintiff's claims of false imprisonment Defendant AWAC claims as an affirmative defense that Plaintiff either expressly or impliedly consented to the restriction of his freedom of movement.

With regard to Plaintiff's claims of intentional infliction of emotional distress Defendant claims as an affirmative defense that under the Aviation and Transportation Security Act, Defendant is not liable to Plaintiff for statements it allegedly made to the Transportation Safety Administration.

These are the issues you are to decide.

INSTRUCTION NO. 3

The evidence in the case consists of the sworn testimony of all the witnesses, all exhibits which have been received in evidence, and all facts which have been admitted or agreed to, and all presumptions stated in these instructions.

In deciding the facts, you must consider only the evidence received at trial. Evidence offered at the trial and rejected or stricken by me must not be considered by you. Statements, remarks, arguments, and objections by counsel and my remarks not directed to you are not evidence.

You are to consider only the evidence in the case and the reasonable inferences from that evidence. An inference is a deduction or conclusion which reason and common sense lead the jury to draw from other facts which have been proved.

Evidence may be either direct or circumstantial. Circumstantial evidence is the proof of facts or circumstances from which the existence or nonexistence of other facts may reasonably be inferred. All other evidence is direct evidence. The law makes no distinction between the effect of direct evidence and circumstantial evidence.

You must find that a person knew a fact, if he had information that would have led a reasonable person to inquire further and that inquiry would have revealed that fact.

Certain testimony has been read into evidence from a deposition, or presented by a video recording of a deposition. A deposition is testimony taken under oath before the trial and preserved in writing. You are to consider such testimony as if it had been given by the witness from the witness stand.

Certain testimony was read into evidence from a transcript of an earlier proceeding. The transcript is testimony taken under oath at the earlier proceeding and preserved in writing. You are to consider that testimony as if it had been given by the witness from the witness stand.

The lawyers have highlighted certain parts of some exhibits. However, it is for you to determine the significance of the highlighted parts.

Any finding of fact you make must be based on probabilities, not possibilities. You should not guess or speculate about a fact.

The weight of evidence is not necessarily determined by the number of witnesses testifying to a particular fact.

You must not be influenced by sympathy, bias, or prejudice for or against any party in this case.

INSTRUCTION NO. 4

You are the sole judges of the credibility of the witnesses and the weight to be given their testimony. You should take into consideration their means of knowledge, strength of memory and opportunities for observation; the reasonableness or unreasonableness of their testimony the consistency or lack of consistency in their testimony; their motives; whether their testimony has been contradicted or supported by other evidence; their bias, prejudice or interest, if any; their manner or demeanor upon the witness stand; and all other facts and circumstances shown by the evidence which affect the credibility of the witnesses.

A witness qualified as an expert by education, training, or experience may state opinions. You should judge expert testimony just as you would judge any other testimony. You may accept it or reject it, in whole or in part. You should give the testimony the importance you think it deserves, considering the witness's qualifications, the reasons for the opinions, and all of the other evidence in the case.

Based on these considerations, you may believe all, part or none of the testimony of a witness.

INSTRUCTION NO. 5

1. Plaintiff has the burden of proving the following elements of his defamation claim by a preponderance of the evidence: that the Defendant made a false and defamatory statement or statements about Plaintiff that such statement or statements were heard or seen by a third party the statement or statements in their normal usage are understood by people in the community to harm Plaintiff's reputation. and that the Plaintiff sustained actual damages as a result of the

statement or statements. Plaintiff must also prove his false imprisonment claim by a preponderance of the evidence.

2. Plaintiff has the burden of proving that Defendant abused the privilege by clear and convincing evidence before he can recover on his defamation claim. Finally, Plaintiff has the burden of proving his intentional infliction of emotional distress and punitive damages claims by clear and convincing evidence.

3. The Defendant has the burden of proving its affirmative defenses to all of Plaintiff's claims by a preponderance of the evidence.

4. To prove something by a "preponderance of the evidence" means to prove that it is more probably true than not.

5. When a party has the burden of proving an issue by "clear and convincing evidence," he must produce evidence that creates in your minds a firm belief or conviction that he has proved the issue.

6. "Burden of proof" means the obligation a party has to prove his or its claims or defenses by either a preponderance of the evidence or clear and convincing evidence. The party with the burden of proof can use evidence produced by any party to persuade you.

7. If a party fails to meet his or its burden of proof as to any claim or defense which has a burden of proof by a preponderance of the evidence or if the evidence weighs so evenly that you are unable to say that there is a preponderance on either side, you must reject that claim or defense.

INSTRUCTION NO. 6

The word “cause” as used in these instructions means an act or failure to act that in natural and probable sequence produced the claimed injury. It is a cause without which the claimed injury would not have happened.

If more than one act or failure to act contributed to the claimed injury, then each act or failure to act may have been a cause of the injury. A cause does not have to be the only cause or the last or nearest cause. It is enough if the act or failure to act joins in a natural and probable way with some other act or failure to act to cause some or all of the claimed injury.

One’s conduct is not a cause of another’s injuries, however, if, in order to bring about such injuries, it was necessary that his or her conduct combine or join with an intervening cause that also contributed to cause the injuries. An intervening cause is a cause that would not have been reasonably foreseen by a reasonably careful person under the same or similar circumstances.

The act(s) or omission(s), if any, of the Defendant are not a cause of any damages to the Plaintiff unless injury to a person in the Plaintiffs situation was a reasonably foreseeable result of those act(s) or omission(s). The specific injury need not have been foreseeable. It is enough if a reasonably careful person, under the same or similar circumstances, would have anticipated that injury to a person in the Plaintiffs situation might result from the Defendant’s conduct.

INSTRUCTION NO. 7

The Word “recklessly” as used in these instructions means a person acts recklessly when he consciously

disregards a substantial and unjustifiable risk that a result will probably occur or that a circumstance probably exists.

INSTRUCTION NO. 8

Instructions 9 through 13 relate to Plaintiff's defamation claims. Any verdict you reach must be based on the facts as you find them and on the law contained in all of these instructions.

INSTRUCTION NO. 9

You shall return your verdict for Mr. Hoeper and against Defendant AWAC with respect to Defendant AWAC's statements to the TSA if Mr. Hoeper has proved by the preponderance of the evidence as defined in Instruction No. 5 that:

1. Defendant Doyle made one or more of the following statement(s):
 - a. Mr. Hoeper was an FFDO who may be armed. He was traveling, from IAD-DEN later that day and we were concerned about his mental stability and the whereabouts of his firearm; and/or
 - b. Unstable pilot in FFDO program was terminated today; and/or
 - c. Mr. Hoeper has just failed his fourth proficiency check since October to become a captain; and/or
 - d. Mr. Hoeper's bizarre behavior led to his termination; and
2. One or more of these statements was about Mr. Hoeper; and

3. One or more of these statements was heard by someone other than Mr. Hoeper; and
4. One or more of these statements was false; and
5. Defendant AWAC made one or more of these statements knowing it to be false or believing it/them to be true, Defendant AWAC lacked reasonable grounds for such belief or acted negligently in failing to ascertain the facts on which the statement was based.

You shall find your verdict for the Defendant if Mr. Hoeper failed to prove any one or more of the five elements above.

Plaintiff has the burden of proving his claims by the required evidentiary standard as described in Instruction No. 5 Defendant has the burden of proving its affirmative defense by a preponderance of the evidence as described in Instruction No. 5

You shall return your verdict on the appropriate verdict form, indicating which, if any of the statements were defamatory. Your verdict must be unanimous.

INSTRUCTION NO. 10

Under certain circumstances, a person has a limited privilege to make a defamatory statement about another without being liable for damages.

Under the circumstances of this case, statements of Defendant AWAC were privileged because it has an interest or duty in the subject, and it made the statement to another person with a similar interest or duty. Those statements are not protected, however, if it abused the privilege.

The privilege is abused when the Plaintiff proves by clear and convincing evidence as defined in Instruction No. 5 that:

- (1). the Defendant knew the statement was false or made it with reckless disregard of whether it was false or not or
- (2). the statement was deliberately made in such a way that it was heard by persons having no interest or duty in the subject of the statement; or
- (3). the statement was unnecessarily insulting; or
- (4). the language used was stronger or more violent than was necessary under the circumstances; or
- (5). the statement was made because of hatred, ill will, or a desire to hurt the Plaintiff rather than as a fair comment on the subject: or
- (6). the statement was made because of personal spite, or ill will, independent of the occasion on which the communication was made.

INSTRUCTION NO. 11

If you find that Defendant AWAC made any of the following statements:

- (a) Plaintiff was an FFDO who may be armed. He was traveling from IAD-DEN later that day and we were concerned about his mental stability and the whereabouts of his firearm, and/or
- (b) Unstable pilot in FFDO program was terminated today, and/or

- (c) Plaintiff has just failed his forth proficiency check since October to become a captain, and/or
- (d) Plaintiffs bizarre behavior led to his termination,

you must then determine whether Defendant's affirmative defense pursuant to the Aviation and Transportation Security Act is applicable. Defendant is not legally responsible to Plaintiff for defamation based upon these statements if it proves that Defendant: (1) voluntarily; (2) disclosed information about a suspicious transaction; (3) that was reasonably related to a threat to aircraft and passenger safety; (4) to an employee or agent of the Department of Transportation or Federal law enforcement.

However, this defense will not prevent Defendant from being legally responsible to Plaintiff on his defamation claim based upon these statements if Plaintiff proves that (1) Defendant made the disclosure with actual knowledge that the disclosure was false, inaccurate, or misleading; or (2) Defendant made the disclosure with reckless disregard as to its truth or falsity.

Plaintiff has the burden of proving his claims by the required evidentiary standard as described in Instruction No. 5. Defendant has the burden of proving its affirmative defense by a preponderance of the evidence as described in Instruction No. 5.

INSTRUCTION NO. 12

If you return a verdict for the plaintiff, and you further find that plaintiff proved by clear and convincing evidence as defined in Instruction No. 5 that defendant made the alleged defamatory

statement knowing that it was false or with reckless disregard for its truth or falsity, the plaintiff is entitled to recover compensatory damages without any proof of actual or pecuniary injury or the quantum of injury. The statement alleged in this case is understood to mean that the effect of the words is prejudicial to the plaintiff in his work. As a result, if you find that defendant made the alleged defamatory statement knowing that it was false or with reckless disregard for its truth or falsity, injury to the plaintiffs personal and business reputation, humiliation, and embarrassment is presumed.

Even if damages are presumed, you must still calculate the amount of damages to which Mr. Hooper is entitled. To do so, you may take into consideration all of the circumstances surrounding the statement, the occasion on which it was made and the extent of its publication, the nature and character of the insult, the probable effect on those who heard the statement, and its probable and natural effect upon the plaintiffs personal feelings and upon his standing in the community and in business.

Your verdict should be for an amount that will fully and fairly compensate Mr. Hooper for:

1. any loss of income or future loss of income;
2. any insult to him including any pain, embarrassment, humiliation or mental suffering;
3. any injury to his reputation; and
4. any actual out-of-pocket losses that were caused by the statement.

INSTRUCTION NO. 13

If you find that Mr. Hoeper is entitled to recover some compensatory damages on his defamation claims, and if Mr. Hoeper has proven by clear and convincing evidence as defined in Instruction No. 5 that Defendant made a statement knowing the statement was false or made the statement so recklessly as to amount to a willful disregard for the truth, then you may also award punitive damages to punish the Defendant for such actions and to serve as an example to prevent others from making such statements in the future.

If you award punitive damages, you must state separately in your verdict any amount you allow as compensatory damages and the amount you allow as punitive damages.

INSTRUCTION NO. 14

Instructions 15 through 20 relate to Plaintiffs false imprisonment claims. Any verdict you reach must be based on the facts as you find them and on the law contained in all of these instructions.

INSTRUCTION NO. 15

You shall return your verdict for the Plaintiff on his claims of false imprisonment if he proved by the preponderance of the evidence as defined in Instruction No. 5 that the Defendant AWAC intentionally restricted the Plaintiff's freedom of movement without legal right.

You shall return your verdict for the Defendant:

1. If the Plaintiff fails to prove that he was falsely imprisoned; or

2. If the Defendant AWAC proves that Plaintiff consented to the restriction to his freedom of movement by a preponderance of the evidence.

You shall state your verdict on the appropriate verdict form. Your verdict must be unanimous.

INSTRUCTION NO. 16

False imprisonment is an intentional restriction of a person's freedom of movement without legal right.

A false imprisonment results from the intentional use of force words or acts which the person restrained is afraid to ignore or to which he reasonably believes he must submit.

A person intends to restrict freedom of movement if he or she acts for the purpose of restricting another's freedom of movement or acts with knowledge that a restriction will probably result. This intent exists even if a person acts without malice or ill will or acts under a mistaken belief that he or she is privileged to restrict the other's freedom of movement.

A lawful arrest is a legal right to restrain another's freedom of movement.

It is not a legal defense to a claim of false imprisonment that Defendant AWAC had an honest or reasonable belief that it were acting lawfully in restricting another's freedom. Any intentional restriction of a person's freedom that is without legal right is a false imprisonment.

INSTRUCTION NO. 17

Defendant is not legally responsible to Plaintiff on his claim of false imprisonment if the affirmative defense of consent is proved. This defense is proved if you find that the plaintiff, with full knowledge that his

freedom of movement was to be restricted, willing submitted to the restriction.

However, one does not willingly consent to a restriction of his or her freedom of movement by expressly or impliedly agreeing to submit him or herself to the control or direction of another when that submission has been obtained by a taking of the person into custody that the person submitting believes is valid, or if in doubt as to its validity, nevertheless submits.

INSTRUCTION NO. 18

Defendant is not legally responsible to Plaintiff on his false imprisonment claim if it proves by a preponderance of the evidence as defined in Instruction No 5 that Defendant (1) voluntarily; (2) made a disclosure about a suspicious transaction; (3) that was reasonably related to aircraft and passenger safety; (4) to an employee or agent of the Department of Transportation or Federal law enforcement; and (5) that disclosure resulted in Plaintiff's imprisonment.

This defense will not prevent Defendant from being legally responsible to Plaintiff on his false imprisonment claim if Plaintiff proves that (1) it made the disclosure with actual knowledge that it was false, inaccurate, or misleading; or (2) it made the disclosure with reckless disregard as to its truth or falsity.

INSTRUCTION NO. 19

If you return a verdict for Plaintiff on his false imprisonment claim, then in determining the damages to which he is entitled, you shall consider any of the following which you believe by the preponderance of the evidence was caused by the acts or omissions of Defendant AWAC:

1. Any loss of time;
2. Any bodily and mental suffering sustained by reason of the false imprisonment;
3. Any expenses incurred in procuring discharge from the restraint; and
4. Any damage to reputation.

Your verdict shall be for such sum as will fully and fairly compensate Plaintiff for the damages sustained as a result of the conduct of Defendant AWAC.

INSTRUCTION NO. 20

If you find that Plaintiff is entitled to be compensated for false imprisonment damages and if you further believe by clear and convincing evidence as defined in Instruction No. 5 that Defendant AWAC acted with actual malice toward Plaintiff then you may also award punitive damages to Plaintiff to punish the Defendant for the Defendant's actions and to serve as an example to prevent others from acting in a similar way.

If you award punitive damages, you must state separately in your verdict the amount you allow as compensatory damages and the amount you allow as punitive damages.

“Actual malice” is a sinister or corrupt motive such as hatred, personal spite, ill will, or a desire to injure plaintiff.

INSTRUCTION NO. 21

Instructions 22 through 25 relate to Plaintiff's intentional infliction of emotional distress claims. Any verdict you reach must be based on the facts as you find them and on the law contained in all of these instructions.

INSTRUCTION NO. 22

You shall return a verdict for the Plaintiff if he proved by clear and convincing evidence:

1. That Defendant AWAC acted recklessly or with the intent of causing the Plaintiff severe emotional distress; and
2. That Defendant AWAC's conduct was outrageous and intolerable; and
3. That the Plaintiff suffered severe emotional distress; and
4. That the Plaintiff's emotional distress was proximately caused by Defendant AWAC's conduct.

You shall find your verdict for Defendant AWAC if the Plaintiff failed to prove any one of more of the four elements above.

Outrageous and intolerable conduct is conduct that is so outrageous in character, and so extreme in degree, that a reasonable member of the community would regard the conduct as atrocious, going beyond all possible bounds of decency and utterly intolerable in a civilized community. Such outrageous conduct occurs when knowledge of all the facts by a reasonable member of the community would arouse that person's resentment against the defendant, and lead that person to conclude that the conduct was extreme and outrageous.

A series of acts may constitute outrageous and intolerable conduct, even though any one of the acts might be considered only an isolated unkindness or insult. A simple act of unkindness or insult, standing alone, does not constitute outrageous conduct. However, a single incident may constitute outrageous conduct if

the incident would be so regarded by a reasonable member of the community.

The outrageous and intolerable character of conduct may arise from a person's knowledge that another is peculiarly susceptible to emotional distress because of some physical or mental condition or peculiarity. The same conduct without that knowledge might not be extreme and outrageous. However, the fact that a person knows that another person will consider the conduct to be insulting or will have his or her feelings hurt does not, by itself, make the conduct outrageous and intolerable.

Conduct, otherwise permissible, may become outrageous and intolerable if it is an abuse by the actor of a position in which he has actual or apparent authority over the other or the power to affect the other's interest.

A person intends to cause another severe emotional distress if that person engages in conduct for the purpose, in whole or in part, of causing severe emotional distress in another person, or knowing that his or her conduct is certain or substantially certain to have that result.

A person whose conduct causes severe emotional distress in another person has acted recklessly if, at the time, that person knew, or because of other facts known to him or her, reasonably should have known that there was a substantial probability that his or her conduct would cause severe emotional distress in another person.

Severe emotional distress consists of highly unpleasant mental reactions, such as nervous shock, fright, horror, grief, shame, humiliation, embarrassment, anger, chagrin, disappointment, or worry that is so extreme that no person of ordinary sensibilities

could be expected to tolerate and endure it. The duration and intensity of emotional distress are factors to be considered in determining its severity.

If person is more susceptible to a certain kind of emotional distress than a person of ordinary sensibilities and that fact is known to another person who recklessly or intentionally causes that emotional distress, then the emotional distress is severe if it is more than a person of the same or similar susceptibility would reasonably be expected to endure under the same or similar circumstances.

INSTRUCTION NO. 23

Defendant is not legally responsible to Plaintiff on his intentional infliction of emotional distress claim relating to statements made to the TSA if it proves by a preponderance of the evidence as defined in Instruction No. 5 that Defendant (1) voluntarily; (2) made a disclosure about a suspicious transaction; (3) that was reasonably related to aircraft and passenger safety; (4) to an employee or agent of the Department of Transportation or Federal law enforcement; and (5) that disclosure resulted in Plaintiff's emotional distress.

This defense will not prevent Defendant from being legally responsible to Plaintiff on his intentional infliction of emotional distress claim if Plaintiff proves that (1) it made the disclosure with actual knowledge that it was false, inaccurate, or misleading; or (2) it made the disclosure with reckless disregard as to its truth or falsity.

INSTRUCTION NO. 24

If you return a verdict for Plaintiff on his intentional infliction of emotional distress claim, then in determining the damages to which he is entitled, you

shall consider any of the following which you believe by clear and convincing evidence was caused by the acts or omissions of Defendant:

1. Any mental anguish Plaintiff suffered in the past and that he may be reasonably expected to suffer in the future;
2. Any inconvenience caused in the past and any that probably will be caused in the future;
3. Any earnings he lost because he was unable to work at his calling; and
4. Any loss of earnings and lessening of earning capacity, or either that he may be reasonably expected to sustain in the future.

Your verdict shall be for such sum as will fully and fairly compensate Plaintiff for the damages sustained as a result of Defendant's conduct.

INSTRUCTION NO. 25

If you find that the Plaintiff is entitled to be compensated for his damage on his claims of intentional infliction of emotional distress, and if you further believe by the greater weight of the evidence that the Defendant acted with actual malice toward the Plaintiff or acted under circumstances amounting to a willful and wanton disregard of the Plaintiff's rights. then you may also award punitive damages to the Plaintiff to punish the Defendant for those actions and to serve as an example to prevent others from acting in a similar way.

If you award punitive damages, you must state separately in your verdict the amount you allow as compensatory damages and the amount you allow as punitive damages.

“Actual malice” is a sinister or corrupt motive such as hatred, personal spite, ill will, or a desire to injure Plaintiff.

“Willful and wanton conduct” is acting consciously in disregard of another person’s rights or acting with a reckless indifference to the consequences to another person when the defendant is aware of his conduct and is also aware, from his knowledge of existing circumstances and conditions, that his conduct would probably result in injury to another.

INSTRUCTION NO. 26

The fact that an instruction on measure of damages has been given to you regarding Plaintiff’s various claims does not mean that I am instructing the jury to award or not to award damages on any specific claim. The question of whether or not damages are to be awarded on any specific claim is a question for the jury’s consideration.

Difficulty or uncertainty in determining the precise amount of any damages on any specific claim does not prevent you from deciding an amount. You should use your best judgment based on the evidence.

In determining the amount of Mr. Hoeper’s actual damages on any specific claim, you cannot reduce the amount of or refuse to award any such damages because of any frailties or mental conditions of Mr. Hoeper that may have made him more susceptible to injury, disability or impairment than an average or normal person.

At the beginning of this trial, Mr. Hoeper had a life expectancy of 29 years. This expectancy is taken from the tables of life expectancy which are part of Colorado law. This table of life expectancy is not conclusive but

may be considered together with other evidence relating to the plaintiffs health, habits and occupation.

INSTRUCTION NO. 27

The original forms of the written instructions and the exhibits are a part of the court record. Do not place any marks or notes on them. The instructions labeled “copy” may be marked or used in any way you see fit.

The Bailiff will now escort you to the jury room. After you get to jury room you shall select one of your members to be the foreperson of the jury. That person will be in charge of your discussions. You must all agree on your verdict, and you must sign the original form of whatever verdict(s) you reach.

Once you begin your deliberations, if you have a question about the evidence in this case or about the instructions or verdict forms that you have been given, your Foreperson should write the question on a piece of paper, sign it and give it to the Bailiff who will bring it to me.

I will then confer with the attorneys as to the appropriate way to answer your question. However, there may be some specific questions that, under the law, I am not permitted to answer. If it is improper for me to answer the question, I will tell you that. Please do not speculate about what the answer to your question might be or why I am not able to answer a particular question.

Please notify the Bailiff when you have reached a verdict, but do not tell the Bailiff what your verdict is. You shall keep the verdict forms, these instructions and the exhibits until I give you further instructions.

Case No. 05 CV 9967

JUROR QUESTION(S)

For witness Pat Doyle
(Name of witness)

Date: <2/8/2008>
02/11/08

Question(s):
Were there any other emergency situations that would
require national security to be involved going on on the
date of Dec. 8, 2004 at AWAC?

*****JUROR: *****
PLEASE DO NOT MARK BELOW THIS LINE

Action by Court:

Question Asked Question Not Asked

Other: _____

Judge: /s/ [Illegible]

Question No. 10

Case No. 05 CV 9967

JUROR QUESTION(S)

For witness Doyle
(Name of witness)

Date: 02/11/08

14 1 Question(s): With respect to (Topic): YOU INDICATED "ONE OF THE REASONS" FOR CALL TO TSA. WHAT OTHER REASONS WOULD YOU HAVE MADE CALL TO TSA OTHER THAN MR. HOEPER MAY KILL PEOPLE?

15 2 Considering passenger safety – Why was call late, and not paramount, [and why did your supervisor decide to take lunch first?]

*****JUROR: *****

PLEASE DO NOT MARK BELOW THIS LINE

Action by Court:

Question Asked Question Not Asked

Other: _____

Judge: /s/ [Illegible]

Question No. 14, 15

DISTRICT COURT, COUNTY OF DENVER
STATE OF COLORADO

Court Address: 1437 Bannock Street
Denver, Colorado 80202
Telephone: 720.865.8301
Plaintiff: WILLIAM L. HOEPER
Defendants: AIR WISCONSIN AIRLINES
CORPORATION, a Delaware
Corporation; MARK
SCHUERMAN, individually;
PATRICK DOYLE,
individually; and JOHN DOES
1-10, whose identities are
unknown to Plaintiff at this time

COURT USE ONLY
Case Number: 05CV9967
Ctrm: 5

ORDER APPROVING STIPULATION AND
CERTIFYING JUDGMENT PURSUANT
TO C.R.C.P.54(B)

THIS MATTER comes before the Court on the parties' stipulation regarding certification of judgment pursuant to C.R.C.P. 54(b). Being fully advised in the premises I find and order as follows:

1. The trial to a jury in this case proceeded from February 4, 2008 to February 25, 2008. Plaintiff advanced the claims of defamation, false imprisonment, and intentional infliction of emotional distress against Defendants AWAC, Mark Schuerman, Patrick Doyle and Scott Orozco. The individual defendants Schuerman, Doyle, and Orozco were voluntarily dismissed before the case was sent to the jury.

2. On February 28, 2008, the jury found for Plaintiff on his defamation claim, for AWAC on Plaintiff's false imprisonment claim, and did not reach a unanimous verdict on Plaintiff's intentional infliction of emotional distress claim. The jury awarded Plaintiff \$849,625 in compensatory damages and \$391,875 in punitive damages solely on the defamation claim. The Court reduced the punitive damages award to \$350,000 based upon Virginia's statutory cap. Thus, the total amount of the judgment in favor of Plaintiff on the defamation claim was \$1,199,625. Judgment entered on February 28, 2008 for the purposes of commencement of the accumulation of post-judgment interest.

3. On February 28, 2008, the trial court entered judgment on the defamation and false imprisonment claims and declared a mistrial on the intentional infliction of emotional distress claim. The Court also granted an enlargement of time through March 28, 2008 for Defendant to file post-trial motions.

4. After denying the parties' post-trial motions, the Court entered an Order awarding Plaintiff \$222,123.09 in costs and denying Defendants' request for costs on June 30, 2008. The Court did not award Plaintiff prejudgment interest because it determined that he waived prejudgment interest under Virginia law.

5. The total amount of the judgment in favor of Plaintiff on his defamation claim, and the award of costs to Plaintiff is \$1,421,748.09.

6. At the hearing on June 17, 2008, Plaintiff and Defendant agreed to stay all matters related to the intentional infliction of emotional distress claim pending the appeal of the defamation and false imprisonment claims was fully resolved and to certify

the judgment on the defamation and false imprisonment claims as final pursuant to C.R.C.P. 54(b).

7. There is no just reason for delay entering judgment on the defamation or false imprisonment claims, or on the court's award of costs to Plaintiff.

It is therefore ORDERED that:

Final judgment in favor of Plaintiff in the amount of \$1,421,748.09 (\$849,625 in compensatory damages, \$350,000 in punitive damages and \$222,123.09 in costs) shall enter pursuant to C.R.C.P. 54(b).

Done this ___ day of July, 2008.

BY THE COURT:

Robert L. McGahey Jr.
District Court Judge

Court: CO Denver County District
Court 2nd JD Judge: Robert
Lewis McGahey

File & Serve

Transaction ID: 20598683

Current Date: Jul 14, 2008

Case Number: 2005CV9967

Case Name: HOEPER, WILLIAM L vs. AIR
WISCONSIN AIRLINES CORP
et al

Court Authorizer: Robert Lewis McGahey

/s/ Judge Robert Lewis McGahey