**LOSS OF SENIORITY - THE PILOTS’ KRYPTONIITE:**

**Amended Consent Decree Fails to Reinstate Pilots Unlawfully Removed from Seniority List In Violation of the ADA Leaving Them Irreparably Harmed and Unable To Return to American Airline’s pilots’ Seniority List when Medically Recertified**

The EEOC and American Airline’s Amended Consent Decree fails to address the fact that Meadows and 246 similarly-situated disabled American pilots, were unilaterally removed from American’s pilot’s seniority list solely on the basis of their medical disability; not only in blatant violation of the collective bargaining agreement, but most importantly in violation of the statutory law of the ADA.

Indeed, the plain and unambiguous language in the EEOC enforcement manuals *"Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the ADA"* (EEOC No. 915.002 Oct. 1, 2002), and *"EEOC Enforcement Guidance on the American with Disabilities Act and Psychiatric Disabilities"* (EEOC No. 915.002, Mar. 25, 1997) mandates an;

***"Employer must modify its no-leave policy, and provide additional leave...for treatment or recovery related to a disability."*,** and that an, ***"Employer must hold open an employee's job [i.e. pilot seniority number] if granted leave as a Reasonable Accommodation."***and further that,***"Court's recognize leave, as a Reasonable Accommodation****."*

The importance of seniority to Meadows and any other major airline pilot cannot be understated, it is indeed the end all be all for them, as was so eloquently summarized in the following editorial opinion entitled, ***“The Airline Pilot’s Kryptonite”***;

**The image of the airline pilot is a super one.**

Second only to firefighter, airline pilot consistently ranks as the top most-respected profession in the world. The stereotype of the stoic, benevolent, grandfatherly problem-solver in the sky is embedded in our psyche. Calm in the face of danger, the airline pilot gets ‘er done. Plane on fire? No problem. Flock of geese fry your engines? On it. Cat caught in a tree? Keep calm and call an airline pilot. But this heroic sky god has a secret weakness as powerful as Superman’s Kryptonite, one that will reduce him to a blubbering, tantrum-throwing 2-year old. Worse, it threatens to transform the benevolent Supergramps into Bizarro Supergramps, a snarling, cannibalistic jackal willing eat his own kind.

**This Kryptonite has a name: Seniority.**

Seniority is everything to pilots. It dictates whether they’re Captains or First Officers, hold a line (schedule) or are on reserve (on call), the size of the toy they get to fly, and in which city—from Paris to Pocatello—they’re based. It determines whether they have weekends and Christmas off, or have to fly red-eyes.

**It dictates whether they even have a job.**

Unlike doctors, lawyers and other professionals, pilots cannot make lateral moves between companies. Why? Because seniority is nontransferable between companies. Besides, there is simply no easy measuring stick for saying, “This pilot is ‘better’ than that one, and therefore should be senior.” Either a pilot can meet minimum flying standards, or can’t. So, regardless of skill and experience, the pilot switching companies goes straight to the bottom of the next list. As a result, for any given single company, seniority is solely based on date of hire (DOH). The longer a pilot stays—in theory—the higher up the food chain, and therefore the better one’s schedule, pay, and jobs security. The more people beneath them, the more they are cushioned from furlough (layoff, with recall rights) during a downturn. But when airlines merge, all hell breaks loose.

**Mergers unleash the pilot’s kryptonite like Lex Luthor never could.**

(OPINION: By Capt. Eric Auxier <http://airwaysnews.com/blog/author/capnaux/> October 21, 2015).

Therefore, now that Meadows’ seniority number has been unlawfully revoked, unless the Parties’ Amended Consent Decree is modified to explicitly provide for reinstatement of disabled pilots to the seniority list; Meadows is exposed and vulnerable. For if he obtains FAA Airman’s medical re-certification based on new regulations that allow for his condition; his long term disability benefits will stop, and he will have not path to return to the cockpit as active American line pilot at his original relative seniority position. Thereby, Meadows and American’s 246 other pilot’s similarly-situated disabled pilots will be prevented from resuming their American Airlines piloting careers at their original job and seniority position, which is contrary to the EEOC’s own enforcement mandates.

The importance of reinstatement of original relative seniority to Meadows and any other major airline pilot cannot be understated, it is indeed the end all be all for them. Here, the Amended Consent Decree has unleashed the Pilot’s Kryptonite, as it does not have any reinstatement provisions for Meadows or any the 246 similarly-situated disabled pilots who were unlawfully terminated and removed from the seniority list sole on the basis of their medical disability, in blatant violation of the ADA. Which is one of the very same unlawful practices for which the EEOC filed it original disability discrimination lawsuit. Such reinstatement remedy must be part and parcel of any Consent Decree.