

SOUNDOFF: APA Fiddles With NAI While Rome Burns...Call to Action to Save Real APA Pilot Jobs

Of late APA's leadership has been doing much chest pounding and crying foul, both publicly and internally about the DOT's recent NAI decision. While that is certainly a noble cause for a labor union to fight and protect industry-wide airline jobs that may or may not be lost sometime in the distant future, APA would be better served if it aggressively protected the jobs of its own members first. Rome [APA] is burning! It seems APA's leadership has failed to heed the lessons of ancient Roman history, and repeats the failure of how Nero fiddled away while Rome burned. Here while APA leadership fixates on NAI and theoretical industry job loss, over 250 APA members are being treated by the Company as being "constructively terminated", and have effectively lost their jobs. And APA has let them languish for years refusing to prosecute their meritorious grievances. Perhaps APA's leadership should aspire to devote as much attention to its own members who were victims of the rampant contractual violations resulting from the APA Legal brain trust (JamHof and Bennett) egregious representational failures allowing the Company to subjectively reinterpret the plain and unambiguous written language of the CBA at the expense of each and every APA member's careers. Indeed, just recently CA's Wilson and McDaniel's along with Mark Meyers have aided and abetted the Company's CBA violations by submitting sworn testimony in support of the Company's positions, which was totally contrary to the plain and unambiguous written language of the CBA.

Specifically, there are two categories of "constructively terminated" APA members. First, disabled pilot victims of AA medical's "Nurse Case Management Pilot Disability Cost Savings scheme" facilitated through fraudulent claims reviewer WME, which fraudulently stripped them of their rightful benefits and set them up to be removed and terminated under the guise of CBA Sec 11.D.1. Second, victims of the Company's rampant Sec. 20 abuses, which is used as a disciplinary tool to tag "undesirable" pilots as not fit to fly, and in effect permanently grounding them from their careers. This further amounts to shareholder fraud under the Sarbanes-Oxley Act, as AA is paying two pilots to do the same job, one full pay to actually work, and the undesirable one disability pay to sit home doing nothing.

Section 11.D.1/Supp-F Abuses:

The APA Legal brain trust was complicit with the Company's disability jihad over the past 9 years. Where some 239 MDD disabled pilots out for more than 5 years have been purportedly removed from the seniority list, and "terminated", all because APA Legal allowed it to happen in blatant violation of the CBA. Indeed, nowhere in the CBA Sec. 11.D. does it say that a pilot can be removed from the seniority list after five years on a disability status, much less that they can be terminated. Moreover, that Section only applies to Sickness or Injury Leave (SLOA or IODLOA), and not the semi-permanent status of MDSB. All that section does say is that those pilots cease to retain and accrue their relative seniority, and nothing more; it absolutely makes no mention to the loss of total or occupational seniority as a pilot. I defy any BOD to prove otherwise. The problem is most don't read the language and blindly rely on the APA Legal brain trust fatally flawed legal opinions. Moreover, CBA Sec. 13 provides, that a pilot shall not lose seniority except in the following four circumstances; 1) termination for just cause (under Sec 21), 2) retirement, 3) resignation, or 4) failure to return from furlough. Bennet's arguments that it was always the Company's' past-practice was to remove such pilots doesn't hold water. Elkouri & Elkouri the labor law bible holds that a past practice cannot be created when it conflicts with the plain and unambiguous language of the CBA. Past-practice can only be created in the absence of such language. We already know Bennett and Ray Duke are duck hunt' in buddies with at least one AA senior manager, perhaps

APA and AA Legal engaged in many other hunt' in expeditions to help each other bag the game of costly disabled and undesirable perceived to be disabled pilot employees.

Section 20 Abuses:

APA Legal has consistently allowed the Company to abuse, violate and subjectively reinterpret the terms of Sec. 20, turning it into a quasi-disciplinary tool, and end running their Sec. 21 contractual rights to an investigation, hearing, cause and notice. If the Company can't successfully terminate who it deems to be an undesirable pilot employee the right away under Sec. 21, it will exploit Sec. 20 for that improper purpose. As a result scores of pilot's careers have been ended, and several are now stuck with this one way ticket to the unemployment line. To be certain the plain and unambiguous language of Sec. 20 is clear; *"The purpose and object of any Company physical examination for a pilot shall be to diagnose the true and actual physical condition of the pilot...Physical standards for Company physical examinations will be those standards set forth in the FAA Regulations as being required to maintain a First Class FAA Medical Certificate with Statements of Demonstrated Ability (waiver) for Air Line Pilots."* The language only provides for the "physical" examination of a pilot in accordance the standard set forth in Title 14 CFR 67.101 *et. seq.* In other words, the Company only has a contractual right to order a pilot to undergo nothing more than a Airman's 1st Class examination by an FAA AME. So why has APA Legal allowed scores of our pilots to undergo subjective and nebulous psychiatric evaluations, neuro-psychological testing, or review by licensed social workers? Invariably, the Company orders these "undesirable" pilots to be evaluated by its chosen hired-gun "specialists", who render nothing more than unsupported subjective opinions without any objective medical evidence, that simply state the pilot is unfit for duty. No formal diagnosis, nor further cause, nor explanation is required to tag the "undesirable" pilot with a perceived disability of simply being unfit for duty as a pilot, which in most cases ends a pilot's career indefinitely. Once this happens, APA Legal will do little to nothing to get than pilots job back, and seemingly looks the other way. Perhaps APA Legal fears it aggressively enforces Sec. 20 and defend those pilot's jobs, that it will only highlight and expose the numerous failures to properly represent all the Sec. 20 victims over the years.

No Return- to Work (RTW) Path Exists

Finally, this whole thing is a sham, as once your a MDD, long-term sick, or Sec. 20 victim, there is not path to even return to work. Ever since the demise of AA Medical, the old RTW Policy that was on Jetnet has vanished. Regardless, it could not now be used absent a Corporate Medical Department. To date management and APA Aeromedical have refused to provide published Return-to Work (RTW) procedures. Unless the Company negotiates for a legitimate independent 3rd party RTW, such as UTMB or Mayo, then the APA should insist that the final clearance authority for a pilot is the FAA – period.

Indeed, at LUS East, nothing more than holding a valid Airman's First Class Medical was required for a long term sick or disabled pilot to return to active duty. APA should insist on the same here, or renegotiate a new RTW protocol through a proper clinical. Regardless, Corporate Legal cannot be allowed to control this process. Until then the APA continues to outrageously allow Corporate Legal and HR to mull over pilots medical decisions/records (in violation of HIPPA), and subjectively pick and choose who can return to work. Invariably this means such pilots, will remain deemed unfit for duty due to some unspecified perceived disability, and are effectively locked-out of their jobs.

Wake up APA! While its admirable to fight the NAI issues, why not expend the time, energy and resources to fight for the 250 plus disabled and perceived to be disabled APA members who have already lost their jobs.

Fraternally,

Lawrence Meadows

MIA/FO/777/MDSB