

Hearing on Committee's Disability and Survivorship Trust Motion Rescheduled

The Bankruptcy Court has postponed to January 19, 2006 the hearing on the Motion by the Non-pilot Retiree Committee to stop Delta's payments of company severance and sick pay expenses out of the separate Disability and Survivorship Trust. That hearing was originally scheduled for December 19.

The Retiree Committee motion is based on our review of the applicable documents and the law, which we believe establish that (1) payment of Delta employee severance expenses out of the Disability and Survivorship Trust, totaling over \$30 million, was unauthorized (and prohibited) by the Trust Agreement; (2) use of the Trust to pay of Delta expenses for certified sick time pay, totaling over \$22 million in 2004 alone, was not authorized by the Disability and Survivorship Plan then in effect; and (3) Delta's attempt to amend the Disability and Survivorship Plan two days before its bankruptcy filing, to authorize-retroactively-its payment of its 2004-2005 sick time expenses was clearly barred by Section 1114(1) of the Bankruptcy Code. That statute invalidates changes to certain benefits made within the 180 days before a bankruptcy filing.

The postponement was granted at the strong request of Delta and the Unsecured Creditors Committee. The Bankruptcy Court granted the request for two reasons: First, as a practical matter, the current calendar is crowded with other motions that were put off from the prior month because of the (since resolved) trial in the Bankruptcy Court on Delta's motion to terminate the pilots collective bargaining agreement between ALPA and Delta. Second, the one month continuance would cause no additional harm to the Disability and Survivorship Trust, because Delta has agreed to set aside a separate fund equal to the disputed payments out of the Trust during the continuance period, to be paid back to the Trust with interest, if the Court rules against Delta.

In requesting the continuance, the Unsecured Creditors Committee explained in pleadings filed with the Court that the Retiree's Motion "raises extremely serious allegations of breaches of fiduciary duty" that the Unsecured Creditors Committee is now investigating. The Unsecured Creditors Committee wanted additional time in part to understand more about the facts. The time extension also provides more time for the Bankruptcy Court to review the issues before issuing a ruling.