



DP3 and Delta's Bankruptcy: What's happened so far and what happens next?

Oct. 31, 2005

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First, the Joint DP3/DALRC Meeting

Approximately 1,800 retired Delta employees and their families attended the 3rd Annual DP3/DALRC Retirement Meeting on Oct. 27.

Mr. Grinstein and members of his senior executive team spoke to the retirees and answered questions. Due to legal issues, little information was made available concerning pension issues or bankruptcy.

Following Delta's presentation, a panel of Cathy Cone, Chair of DALRC, three DALRC attorneys, and me, discussed recent and possible future events in Delta's bankruptcy and answered questions from the attendees.

Dean Gloster, one of the DALRC attorneys made a detailed and candid presentation on many of the ugly details surrounding retiree bankruptcy issues. There was an open Q&A period with most of the questions coming from the non-pilot retirees.

Bankruptcy: Putting it all together and what does it mean?

The impact and speed of the changes that Delta has initiated since it filed Chapter 11 nearly seven weeks ago has been numbing. From your many messages and calls, it is clear that press reports, motions, transcripts, commentary and rumors have left a blurred image for many of you about what has happened so far.

As the Chairman of DP3, I have been in the U.S. Bankruptcy Court in New York along with our team of attorneys for the entirety of each hearing in the Delta bankruptcy. I want to share with you some of what I have seen and briefly outline for you what has happened since Delta filed on Sept. 14. I hope this will provide perspective on the role

that DP3 has played in the legal arena surrounding retired pilots and survivors pension benefits.

The most important thing

The most important thing to tell you is that DP3 is alive and well as the single voice speaking for retired pilots and survivors. We are still in the game and our issues are alive.

As you form impressions and opinions about what is going on, try not to believe all that you read in the papers, and conversely, try to remember that not everything that happens in court is reported, particularly context and nuance.

Court transcripts and sound bites give sometimes-colorful details, but it is important to focus more on what the court does and how it rules than on the dialogue between attorneys and the judge.

While Judge Beatty may have ruled on issues in a way that neither Delta nor we expected or wished for, the court's actions and orders thus far have preserved our rights and options. DP3 has not been foreclosed on any important issue that we have raised.

After seven hectic weeks, what has happened?

Representation

Within hours of Delta's Chapter 11 filing on Sept. 14, DP3 filed a motion seeking representation as the authorized Retired Pilots Committee. That motion was later amended to seek recognition of DP3 as a unique Section 1114 committee that would only represent retired pilots and survivors. (An 1114 committee deals with changes to retiree medical, health, survivor and life insurance benefits.)

At the Oct. 27 hearing, the court named a single 1114 committee made up of members of the DALRC to represent only non-pilot retirees. However, the judge acknowledged differences between the non-pilot medical benefits and those that retired pilots and survivors are entitled to via the Pilot Working Agreement.

The judge said that it was premature to provide Section 1114 representation for retired pilots at this time since Delta is not now seeking changes to our medical benefits. Retiree health benefits and prescription drug coverage will continue into 2006 as provided in the PWA.

Delta vigorously sought a single, combined 1114 committee for both pilots and non-pilots where the pilot representatives would have been dramatically outnumbered. The court did not honor Delta's request.

While nothing is certain, this outcome is encouraging for future unique pilot retiree representation.

DP3's Motion to Compel Payment

Upon filing its bankruptcy petition Sept. 14, Delta did not seek authority to continue paying non-tax-qualified pension plan payments to retired pilots. Delta also intimated that it would not make the scheduled October 1, 2005 payment to the qualified plan.

Delta contended that such payments were "pre-petition" debts and that it did not have to make such payments, although it was simultaneously seeking permission from the bankruptcy court to pay millions of dollars of other pre-petition creditors who it deemed "critical vendors".

At the first day hearing, Delta stated that it would be sending a letter to retired pilots informing them that Delta would not be making any further non-tax-qualified pension payments. DP3 appeared at the first day hearings and objected to Delta's legal position on pension payments and to the form of the proposed letter to retired pilots.

The judge then instructed Delta to make revisions to the letter to address the objections of DP3 and invited DP3 to file appropriate pleadings to compel Delta to resume these payments.

On September 23, 2005, DP3 filed its Motion To Compel the Continued Payment of Collectively Bargained for Pension Benefits to the Retired Pilots to compel the resumption of the non-tax-qualified monthly pension payments along with required payments into the qualified retirement plan.

When the court finally ruled Oct. 17 on DP3's Motion to Compel Payment of the non-tax-qualified pension payments, the judge did so on very strict procedural terms and not on the issues of law that were contested between DP3 and Delta.

The judge ruled that only the debtor (Delta) could file a motion under Section 1113 of the bankruptcy code. (You can read a more detailed discussion of what the court did in the *Oct. 18 Pension and Benefit Update* in the Archives section on the www.dp3.org web site.)

The judge also made it clear that DP3 should initiate discussions with Delta over a resolution to these questions that might be achieved outside of court.

The good news for retired pilots and survivors is that the claim for non-qualified benefits continues to accrue as the litigation continues. The bad news for Delta is the same—the claim continues until some resolution is reached--in or out of court--concerning the resumption of

non-qualified benefits and minimum required funding into the qualified plan.

Appeals and other options

After the court enters its written ruling on the Motion to Compel Payment this week, DP3 will file an appeal within the required 10 days. The unambiguous language of the ruling provides a clear path of appeal through the Federal courts.

At the same time, the judge said that we should file an adversary proceeding (an ordinary lawsuit) if we wished to pursue a ruling on the merits of the case. Such a lawsuit would have a similar track of litigation and appeal to that of our denied motion. We will decide soon on the timing and form of that action.

Both of these outcomes benefit retired pilots since they preserve our right to a finding on the matters of law and the right to appeal should we not prevail.

The Unsecured Creditors Committee

DP3 is asserting a higher priority (administrative) claim on behalf of those pilots who lost their non-qualified pension payments than the claim of the general unsecured creditors. Therefore, we declined an invitation to be considered for the Unsecured Creditors Committee since this would create a conflict of interest within the committee.

In summary

- Retired pilot representation under Section 1114 is pending further court action in conjunction with future changes Delta may propose to retired pilot medical benefits. In the meantime, benefits continue under the PWA.
- An appeal will be filed within days on the court's procedural ruling on our Motion to Compel payment.
- The form and timing of a separate lawsuit on non-qualified pension payments will be decided in the next few weeks.
- We will initiate contact with Delta on the non-qualified benefits issue.

A final word

Please don't jump to easy answers and quick conclusions based on headline-grabbing mini quotes, however colorful they may be. Remain thoughtful and patient and let the process work. The road through bankruptcy is convoluted and confusing, but we have highly skilled and experienced attorneys and other professionals leading the way.

We are all facing the steepest hill to climb we have ever seen during our time with Delta. We all share in the anger and frustration of what is happening. However, haranguing the judge in some angry legal or public expression of outrage or frustration will not help and could cause great damage to our efforts.

There will not be total victory for any party in this bankruptcy, except maybe for the lawyers. Almost every one of us in our DP3 community will see major changes in our retirement, medical and possibly survivor benefits—that is just the way the system works. So while we may not have major victories, the small victories will be satisfying.

If you are not yet a member of DP3 or have not yet paid your dues and assessments that total \$650, please consider the strength in numbers and financial support that will be needed to defend what is ours. You can find an application and our mailing address under the JOIN DP3 banner on the home page at www.dp3.org. If you know of retirees or survivors who are not yet members of DP3, please encourage them to join.

Every member of the DP3 Board of Trustees will answer your questions through email or telephone calls. Each of us thanks you for your support and encouragement. It really helps.

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