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MAR 26 1999

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CARLOS JUENKE
CLERK, USDC / SDFL / MIA

CASE NO.: 96-1104-CIV-GOLD

Magistrate Judge Stephen T. Brown

DOBSON COLLINS,

Plaintiff,

-VS-

FLAGSHIP AIRLINES, INC.,
a Delaware corporation,

Defendant.

**DEFENDANT'S REPLY IN SUPPORT OF ITS MOTION TO RECONSIDER ORDER
DENYING SUMMARY JUDGMENT, OR IN THE ALTERNATIVE,
TO WITHDRAW ORDER DENYING SUMMARY JUDGMENT**

I. INTRODUCTION^{1/}

Distilled to its essence, this Court's task is simply to determine whether Defendant is entitled to summary judgment in accordance with principles enunciated in the Supreme Court's decision in Anderson v. Liberty Lobby, 477 U.S. 242, 248 (1986). That decision clearly articulates the obligation of a plaintiff seeking to avoid summary judgment, holding that a party cannot simply rely on unsupported allegations, innuendo or speculation, but

^{1/} As a preliminary matter, although Collins suggests that Defendant's Motion to Reconsider is untimely -- having been served some thirty odd days after the Court's original Order denying summary judgment -- true to form, he offers absolutely no legal support for this contention. On the contrary, Defendant reminds the Court that there is no rule of federal civil procedure requiring service of a motion to reconsider a denial of summary judgment within any specific time period. See Resolution Trust Corp. v. Caruso, 1194 WL 129600 *1 (D. Mass. March 28, 1994) (order denying motion for summary judgment is interlocutory and subject to reconsideration by court at any time).

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must identify specific evidence that is admissible for the purpose of controverting record evidence identified by the moving party. *Id.* at 248. The failure to require this evidentiary rigor in employment discrimination cases unfairly allows plaintiffs the opportunity to require employers to go to trial if the plaintiffs' accusations are sufficiently inflammatory, despite the absence of any basis to those accusations. In order to assist the Court in understanding the absence of evidence in support of Plaintiff Dobson Collins' ("Collins") allegations, Defendant will reduce to graphic form, Collins' unsupported allegations in a side by side comparison with the actual evidence in the Court file. As review of this evidence will demonstrate, summary judgment for Defendant is proper, because Plaintiff is unable to produce any relevant and/or admissible evidence to controvert the actual record evidence identified by Defendant. In summary, Collins has acknowledged that he suffered no hostile environment treatment (Tab B Collins Depo. pp. 396, 407), and after receiving a final warning, then was discharged for violation of a rule he acknowledges applied to him and all employees. Tab B, Collins Depo. at pp. 406-07.

II. ARGUMENT

The Court recognized in its original Order Denying Defendant's Motion for Summary Judgment that a party seeking to avoid summary judgment "cannot defeat a defendant's properly supported motion for summary judgment without an affirmative presentation of specific facts showing a genuine issue, and may not merely rely on the allegations of the pleading" Order, Dkt. No. 89 at pp. 7-8 (emphasis added, citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)). In his Response to Defendant's Motion to Reconsider,

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Collins himself cites Matsushita Electrical Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986) for the proposition that “for factual issues to be considered genuine, they must have a real basis in the record.” Plaintiff’s Response to Motion to Reconsider, Dkt. No. 93 at p. 10 (emphasis added).

It thus follows that an admissible company record demonstrating equal treatment of white and black employees must “trump” conclusory repetition of allegations from the complaint which are not “significantly probative.” See Anderson, 477 U.S. at 249-50.

1. Collins’ allegations have no real basis in the established record.

As the following indicates, for each of his conclusory allegations, Collins offers no record support at all, while in contrast, Defendant has demonstrated through reference to sworn witness testimony and admissible company documents that there is no evidence in the Court file creating any genuine and material factual issues:

ALLEGATIONS WITH NO BASIS IN RECORD	
Plaintiff’s Allegation	Actual Record Evidence
There was a complete lack of African Americans in supervisory positions and Defendant did not promote African Americans. Opposition to Motion to Reconsider at pp. 2, 7. ^{2/}	Several African Americans were promoted to crew chief/lead positions, including those referenced on page 7 of Collins’ Opposition to Motion to Reconsider. Tab H, Perez Depo. at p. 27; Tab G, Lee Depo. at p. 180; Tab J, Russell Depo. at p. 58. The July 1992 “settlement” agreement entered into by Flagship and Collins <u>affirms and confirms</u> Collins’ upgrade to “Tech Level (I)” a year earlier. Opposition to Defendant’s Motion to Reconsider at p. 2 (emphasis added).

^{2/} Of course, there is no claim of failure to promote.

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ALLEGATIONS WITH NO BASIS IN RECORD	
Plaintiff's Allegation	Actual Record Evidence
Collins was docked an hour of overtime for arriving too early (before 7:00 a.m.), while another non-black employee who did the same was paid. Opposition to Motion to Reconsider at p.3.	White employee, Craig Underhill, was also docked an hour of overtime pay for reporting to duty before 7 a.m. as Underhill's time card record reveals. Tab D, Franz Decl. at ¶ 14 & Ex. 4; Tab B, Collins Depo. Ex. 51.
Franz removed notifications of non-compliance from white employees' files for failing to enter information into the computers on 5/5/94-5/6/94, and refused to do the same for Collins. Opposition to Motion to Reconsider at p. 4.	Notifications of non-compliance were issued to white employee Juan Cuadra for the incident on 5/5/94-5/6/94 and Craig Underhill and remained in their files. Tab B, Collins Depo. Ex. 72.
Defendant failed to produce notifications of non-compliance from white personnel files because they no longer exist. ^{3/} Opposition to Motion to Reconsider at p. 4.	Defendant produced the notifications of non-compliance from the files of those employees that Collins was able to identify at deposition (Underhill and Cuadra). Tab B, Collins Depo. at p. 174 and Ex. 72.
On 5/12/94, Collins was authorized to work overtime and Franz assigned him a task that "[to his] knowledge no one had ever previously been assigned the same task." Opposition to Motion to Reconsider at p. 4.	Franz testified that he often assigned this task to various mechanics without regard to race, including David Wagner, a white mechanic, as evidenced by Wagner's counseling record. Tab D, Franz Decl. at ¶¶ 5-7 Ex. 1.
Franz retaliated against Collins by clocking him out and telling him to go home because he complained too much about the Company to the EEOC. Opposition to Motion to Reconsider at p. 4.	Franz clocked out Collins because he refused to do the MEL research task assigned to him. Collins was simply not paid for assigned work he refused to do and that he, indeed, did not do. There is no evidence that Collins experienced any other consequences. Tab B, Collins Depo. at p. 327.

^{3/} Collins has never requested discovery of the files of those employees that he now refers to in his pleadings subsequent to the close of discovery.

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ALLEGATIONS WITH NO BASIS IN RECORD	
Plaintiff's Allegation	Actual Record Evidence
Franz was the base manager and therefore had to have been aware of Collins' EEO charges when he clocked him out on 5/12/94. Opposition to Motion to Reconsider at p. 12 n. 3.	Franz did not become Flagship's acting base manager at its Miami Maintenance Facility until late Summer/early Fall of 1994. Tab D, Franz Decl. at ¶ 1. He specifically denies knowledge of the EEOC charges. Tab D, Franz Decl. at ¶ 26.
A co-worker, Henry (Carlos Enrique) Cruz, saw a noose hanging from the mechanic's trailer around 10/15/94, and told Plaintiff that Franz had told him that the noose was to hang Collins. Opposition to Motion to Reconsider at p. 5.	Cruz testified at deposition noticed after discovery closed that he had only seen a noose in 1990-91 which was referred to jokingly by the mechanics as "the Eagle retirement plan" referring to the absence of a retirement plan at Flagship at that time. He <u>never</u> saw any noose in 1994 and he never heard Franz tell racial jokes. Tab C, Cruz Depo. at pp. 6-8.
Appearance of noose and overexposed Polaroid with stick figure white faces on Flagship premises in and around October 1994. Opposition to Motion to Reconsider at p. 5.	Collins admitted that he did not bring the noose or Polaroid to the attention of any management or human resources employee until December 1994 after his discharge; that he did not mention them in his amended EEOC charge of December 1994; and that he declined to cooperate with Flagship's continuing investigation once the items were brought to the company's attention. Tab B, Collins Depo. at pp. 386-87, 392-93, 397-98 and Ex. 25.
Franz approached co-workers and others, asking them to make statements against Plaintiff and his work performance subsequent to Collins' termination of employment. Opposition to Motion to Reconsider at p. 6.	The statements from Collins' co-workers were necessarily procured pursuant to a <u>bona fide</u> grievance investigation under the collective bargaining agreement relating to the circumstances of Collins' discharge. Tab D, Franz Decl. at ¶¶ 16-24; Tab A, Alnor Decl. at ¶¶ 3-4; Tab K, Sanchez Decl. at ¶¶ 5-7; Tab F, Langran Decl. at ¶¶ 4-6.

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ALLEGATIONS WITH NO BASIS IN RECORD	
Plaintiff's Allegation	Actual Record Evidence
Prior to Collins' discharge, Franz had also approached co-workers and asked them for incriminating witness statements or information concerning Collins. Opposition to Motion to Reconsider at p. 6.	Collins offers no sworn testimony whatsoever from any co-worker supporting this allegation. There is no record support for this allegation.
Jesus Sanchez prepared two statements, one of which was longer than the other and contained a detail that Franz followed Collins into the bathroom "that did not occur according to anyone." Opposition to Motion to Reconsider at p. 7.	Collins offers no testimony or record support that any of the details described in Sanchez's longer statement "did not occur" or that the differences are evidence of discriminatory motive. There is nothing inconsistent between the two statements prepared by Jesus Sanchez; one is simply more detailed than the other. ^{4/}

^{4/} Moreover, if Franz indeed did not follow Collins into the bathroom, Collins can be prejudiced in no way by a more accurate, abridged statement.

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ALLEGATIONS WITH NO BASIS IN RECORD	
Plaintiff's Allegation	Actual Record Evidence
Franz became upset and demanded to read a piece of paper Collins had with him while reviewing his own personnel file and then subsequently fired Collins. ^{5/} Opposition to Motion to Reconsider at p. 6	Company policy prohibited the taking or photocopying of documents by an employee out of his or her own file and Collins was aware of this policy, having reviewed his own file several times in the past. Tab B, Collins Depo. at pp. 406-07. Collins refused to comply with a supervisor's direct order that he hand over the piece of paper he had in his hand after finishing his review of his file so that the paper's contents could be verified. Tab B, Collins Depo. at p. 335; Tab D, Franz Decl. at ¶ 20. Collins was on "Career Decision Day" Advisory Final Warning at time of infraction. Collins was therefore fired for insubordination and breach of his "letter of commitment." Tab B, Collins Depo. Ex. 65.

2. Collins' proffered evidence is irrelevant and otherwise inadmissible

Unable to controvert the undisputed facts regarding his claims of discrimination that entitle Defendant to summary judgment, Collins refers to documents and testimony that have either already been deemed by the Court to be irrelevant and/or inadmissible in this case, or which Collins fails to demonstrate is relevant and admissible. For example, in his Opposition to Defendant's Motion to Reconsider, Collins makes reference to the 1992 "settlement" agreement (which did nothing more than confirm a promotion Collins received a year earlier) and EEOC

^{5/} Defendant concedes that while no one else saw it happen and Collins never reported it to anyone inside the company, he would testify that he was pushed from behind by Franz and injured. See Tab A, Alnor Decl. at ¶ 5; Tab K, Sanchez Decl. at ¶ 8. The matter was taken appropriately to the worker's compensation board and Collins experienced no lasting injury. Tab B, Collins Depo. at pp. 346, 371-72. There is no indication of a racial motive regarding Franz's alleged action, and that dispute is not material to the resolution of the issues in this case.

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charges filed by other mechanics. All, however, have been excluded from evidence by the Court's Order of 1/19/99 (Dkt. No. 88) granting Defendant's various motions in limine. Collins also refers to the EEOC charge of discrimination he filed as a result of the May 1993 incident where he had been found insubordinate by the base manager at the time (not Noel Franz). Again, however, this Court has ruled that any claims arising from that charge are barred in this case. Collins v. Executive Airlines, Inc. et al., 934 F. Supp. 1378, 1381 (S.D. Fla. 1996) (King, J.). As neither the "settlement" agreement nor the charges of discrimination and their subject matter are admissible in this case, the Court cannot rely upon them as evidence creating any genuine and material factual dispute precluding summary judgment in this case.

Furthermore, while it appears that Collins is renewing his Motion to Supplement Record (Dkt. No. 75) by attempting to reintroduce deposition testimony elicited from witnesses in another unrelated case, he has failed to demonstrate their relevance to his own case. Indeed the Court has stated that before it will consider this proffered testimony, Collins would have to "provide reasons why the testimony is relevant to Plaintiff's claims" Order, Dkt. No. 88 at p. 4 (emphasis in original). In his Memorandum of Law in Opposition to Defendant's Motion to Reconsider, however, Collins simply restates the same unsupported arguments he made in his original Reply Memorandum to Supplement the Record (Dkt. No. 86), without demonstrating the relevance of such testimony.

On the other hand, Defendant has shown that the deposition testimony of Edgar Cerezo, Ralph Perez, Jesus Rivera, and Frank Gonzalez proffered by Collins is irrelevant to

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Collins' cause of action for employment discrimination.^{6/} These Flagship employees testified in the context of an unrelated case that they witnessed (on an infrequent basis) joking sessions, graffiti, posters, and other demonstrative objects with racial (but not necessarily offensive) overtones in the workplace. However, Collins has proffered no evidence that any of these employees regularly worked on the day (First) shift with him. In fact, at all relevant times, they almost all worked on different shifts and/or at different locations from Collins. Tab H, Perez Depo. at pp. 3-4; Tab I, Rivera Depo. at p. 211; Tab E, Gonzalez Depo. at p. 59.^{7/} Their testimony is therefore irrelevant to what Collins experienced on his shift in the workplace. Most important, Collins himself testified that he did not hear racial epithets and jokes (by Franz or otherwise), feel physically threatened, or see racially tinged graffiti, posters, or demonstrative objects (other than the alleged noose and Polaroid picture) in the workplace. Tab B, Collins Depo. at pp. 396, 407.

Thus, as Collins is unable to establish that he objectively, or even subjectively, experienced such alleged harassment, the proffered testimony, like the EEOC charges by other employees, is irrelevant to his claims of racial harassment and discrimination and does not create

^{6/} During discovery, Collins had previously set and then canceled the deposition of Edgar Cerezo. Collins therefore had the opportunity to elicit testimony from Cerezo relevant to this case, but declined to do so. For a more detailed response to Collins' motion, see Dkt. No. 81, Defendants' Response in Opposition to Plaintiff's Motion to Supplement Record. Inasmuch as Cerezo was the manager who issued Collins his Career Decision Day Advisory in 1993, the Court might infer that Collins' cancellation of the deposition was purposeful.

^{7/} Defendant refers to the testimony of these witnesses only to demonstrate the overall irrelevancy of their proffered testimony to this case.

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any genuine or material dispute regarding what Collins himself testified that he actually experienced. See Harris v. Forklift System, Inc., 510 U.S. 17, 21-23 (1993).^{8/}

In light of Defendant's properly supported and well-documented Motion for Summary Judgment and Motion to Reconsider and Collins' repeated failure to produce any competent, relevant, and admissible evidence in support of his allegations of racial discrimination, Collins' cannot be permitted to avoid summary judgment under Anderson and Matsushita.

III. CONCLUSION

For the reasons stated in this memorandum and in Defendant's initial motion and memorandum, Defendant requests that this Court reconsider its decision and grant Defendant's Motion for Summary Judgment. In the alternative, Defendant requests that the Court withdraw its Order Denying Defendant's Motion for Summary Judgment pending trial of the factual issues that the Court believes remain.

^{8/} Furthermore, Collins offers no argument in rebuttal to Defendant's clarification in its Motion to Reconsider of what Defendant suggests is the proper analysis for determining an employer's entitlement to an affirmative defense in response to claims of vicarious liability for alleged harassment by a supervisor under the standard set by the Supreme Court in Faragher v. City of Boca Raton, 118 S. Ct. 2275 (1998).

As he also does not deny that he failed to complain to Flagship about the racial harassment he allegedly experienced, summary judgment for Defendant on Collins' Count for hostile work environment is proper due to his failure to rebut Defendant's affirmative defense.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

We hereby certify that a true copy of the foregoing was mailed this 26th day of
March 1999, to Stewart Lee Karlin, Esquire, 400 Southeast Eighth Street, Fort Lauderdale, Florida
33316.


Alexander K. Sun

D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 96-1104-CIV-GOLD
Magistrate Judge Stephen T. Brown

DOBSON COLLINS,

Plaintiff,

-vs-

FLAGSHIP AIRLINES, INC.,
a Delaware corporation,

Defendant.

**DECLARATION OF KENNETH ALNOR
PURSUANT TO 28 U.S.C. § 1746**

I, Kenneth Alnor, a resident of Broward County, Florida, under penalty of perjury and from personal knowledge, make the following declaration.

1. I have worked at Flagship Airlines, Miami Maintenance Facility since November 1989. I have been employed as an Inspector since that time.
2. On November 30, 1994, at approximately 4:50 p.m., I walked upstairs into the meeting/conference room at Flagship's Miami Maintenance Facility hangar, when Noel Franz was asking Dobson Collins to show him a piece of paper in his pocket.
3. Mr. Collins refused to do so and finally removed two different pieces of paper from different pockets and waved them in the air so that they were unreadable and put them back.

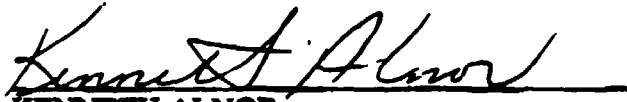
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4. At that time, Mr. Franz gave Mr. Collins a directive to just show Mr. Franz the piece of paper so that he could identify it. Mr. Franz stated that the piece of paper might be a document or copy of a document taken from company files. Mr. Collins refused to show Mr. Franz the piece of paper and left the room.

5. I never observed Mr. Franz yelling or screaming at Mr. Collins. Mr. Collins appeared to be in good health and did not seem physically injured in any manner.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 28 day of MAY, 1998.


KENNETH ALNOR

B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No. 96-1104-CIV-GOLD

DOBSON COLLINS,

Plaintiff,

-vs-

FLAGSHIP AIRLINES, INC.,

Defendant.

5300 First Union Financial Center
200 South Biscayne Boulevard
Miami, Florida
Friday, October 10, 1997
8:42 a.m. - 4:21 p.m.

VIDEOTAPE DEPOSITION OF DOBSON COLLINS

Taken before Nancy Bryant, RPR, RMR, RDR and
Notary Public in and for the State of Florida at Large,
pursuant to Notice of Taking Deposition issued herein
and stipulation of counsel.

1 or do they go and review every single entry?

2 A. I don't -- I don't remember.

3 Q. You don't know or you don't remember?

4 A. No.

5 Q. And what is it that you're saying about
6 Mr. Cuadra?

7 A. He also made mistakes in the logbooks.

8 Q. How many?

9 A. I don't know, but I know of one instance
10 where I was the only one issued a CR 1 out of myself,
11 Cuadra and Underhill.

12 Q. What was that circumstance, and when did it
13 happen?

14 A. It happened -- I don't remember exactly
15 when, but I do know that we discussed this, and both
16 of them told me that they have -- they talked to Noel
17 at the time that it happened.

18 Q. Who is Noel?

19 A. He was the supervisor also.

20 Q. What's his last name?

21 A. Franz.

22 Q. F-r-a-n-z?

23 A. That's correct.

24 Q. When you received these notices of
25 noncompliance, notifications of noncompliance, did you

1 Q. Okay. And the -- at the time that you filed
2 this amended charge, it seems to me that it says
3 explicitly that you were sent home on May 12. And I
4 will ask you to read that sentence, sent home on May
5 12 out loud, if you could.

6 A. It said on May 12, 1994, I was sent home and
7 denied overtime work when I questioned why I was being
8 given job assignment in the minimum equipment listing
9 book. Another employee --

10 Q. That's what I want to ask you about. Did
11 that happen?

12 A. Yes. I was sent home, yes.

13 Q. Because you didn't want to do the work in
14 the MEL list book?

15 A. No, I did not want to do the work. I
16 explained -- I asked the question, I told him about
17 what I need to do, and what I need to get the job
18 done. And that's the time that he respond to me that,
19 "Well, you got to go home."

20 Q. Do what he asked you to do or go home,
21 right?

22 A. Do what he asked me to do or go home.

23 Q. Okay.

24 A. And I couldn't do the job.

25 Q. Did you know of anyone else who was asked to

1 about two dates. He said, "I want to read it." I
2 said, "No, it's a private information. It's from my
3 wife's bank statement. I cannot give it to you to
4 read."

5 I walked out of the office, and he walked
6 behind me. And he was saying, "Come back here. I
7 want to talk to you." I said, "What are you going to
8 talk to me about?"

9 I go through the door and he came behind me
10 and he pushed me from behind. I slipped down the
11 stairs. I seek medical attention the following day.
12 And when I --

13 Q. Would you run that by again slower? I'm
14 not -- I'm having trouble with your accent. I'm
15 sorry.

16 A. Okay. He followed me -- he was getting
17 upset when I wouldn't give him the paper that wasn't
18 any of the file, with private information on the
19 paper. He was very upset and screamed, talked loud,
20 screaming at the top of his lungs. He wanted the
21 paper.

22 So I said, "No, this is not the company
23 paper, this is not the file document. This is a
24 personal thing for my wife. I cannot give it to you."

25 Q. It had a bank --

1 not come on the compound.

2 BY MR. CONNOR:

3 Q. Did you go to employee relations or go to
4 the police, since you say he pushed you down the
5 stairs?

6 A. I went to the doctor.

7 Q. Did you go to the police?

8 A. I didn't go to the police, no.

9 Q. Did you file a grievance?

10 A. I told the union about it. I think I did
11 file a grievance about it. I don't know what has
12 happened to that. But I remember going to the doctor
13 and get a medical report and take medication for it.

14 Q. I have a series of handwritten statements
15 here that I want you to look at. And I think we can
16 do this -- I think it would be better, more efficient
17 if we did it off the record.

18 MR. KARLIN: Why don't we take five, ten
19 minutes.

20 MR. CONNOR: Yeah.

21 THE VIDEOGRAPHER: The time is 12:33 p.m.
22 We're going off the record.

23 (Recess taken.)

24 (DC Exhibits 57 through 64 were marked for
25 Identification and retained by counsel.)

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1 with the earlier grievance that you described in
2 the -- in relation to your discharge. So I'm
3 going to ask that you, through your counsel, if
4 you have a copy of that --

5 MR. KARLIN: We'll search for it.

6 MR. CONNOR: -- give it to us. Okay.

7 (DC Exhibit 71 was marked for Identification
8 and retained by counsel.)

9 BY MR. CONNOR:

10 Q. DC 71, is that your Worker's Comp claim --

11 A. Yes, sir.

12 Q. -- in relation to that description of the
13 fall down the stairs?

14 A. Yes.

15 Q. Do you have any current disabilities from
16 that?

17 A. No.

18 Q. Okay. What were your injuries?

19 A. Hip.

20 Q. Bruised?

21 A. Sprain, something like that. Bruise,
22 something like that. Strain. It was strained.

23 Q. And how long did it take you to recover?

24 A. Well, I go to intense medication. I went to
25 the doctor, and after that, I had to still see the AMR

1 doctors for another maybe two or three weeks. So it
2 takes me anywhere from three to four weeks to
3 completely have no feelings there.

4 Q. You had no feeling there?

5 A. No hurting, no problem with it.

6 Q. Oh, until you didn't have any pain anymore?

7 A. Any pain anymore, yes.

8 Q. Do you have any explanation for why no one
9 saw Mr. Franz push you on the stairs?

10 A. At this time, it was after 4:00. We punch
11 out at 4:00. And it was like 4:45 when this incident
12 occurred. And the only people that were up in there
13 is the two guys was sitting inside the conference room
14 around the table. And they couldn't have seen what
15 happened because once we get through the door, or to
16 the door, they cannot see what happened around there.

17 Q. Well, at least one of them described him
18 going out ten seconds after you. It doesn't take ten
19 seconds to get down that stairway, does it?

20 A. I don't know how long it take to get down
21 there.

22 Q. Well, you know the stairway and so do I, so
23 let's try it here what ten seconds feels like. All
24 right. Starting now. Okay.

25 Would it take any longer than that to get

1 that, then?

2 A. I retained him after I filed the previous
3 charges, after that.

4 Q. So you had some consultation with him --

5 A. Yes.

6 Q. -- after you filed the charge?

7 A. Yes.

8 Q. And before you filed the amended charge?

9 A. Yes.

10 Q. And you told him about the noose incident.

11 MR. KARLIN: You're getting into --

12 THE WITNESS: Yes.

13 MR. CONNOR: I'm not --

14 MR. KARLIN: Well --

15 MR. CONNOR: I don't think that's invading,
16 and I'm certainly not going to try.

17 BY MR. CONNOR:

18 Q. Did you -- in -- you've now seen Exhibit 70,
19 which is my letter to Mr. Kurzban after he came to see
20 me about it in December of 1994.

21 Were you ever advised -- advised is -- were
22 you ever -- did you ever consider going to Nashville
23 to present evidence on this alleged noose incident to
24 Cathy Janas in the Personnel and Human Resources
25 Department?

1 A. If I was asked who my attorney then --

2 MR. KARLIN: Just answer the question.

3 THE WITNESS: Yes, I would.

4 BY MR. CONNOR:

5 Q. You did consider doing it?

6 A. Yes.

7 Q. When?

8 A. When I heard of the investigation was going
9 on.

10 Q. And why didn't you go?

11 A. I wasn't asked to go.

12 Q. I don't want to get -- we'll make that
13 clear, and you jump in as appropriate. I don't want
14 to get between you and Mr. Kurzban, but I want to ask
15 you to read the "however" paragraph on Page 2 of
16 Exhibit 70 to yourself.

17 Now, that is an invitation to have you go to
18 Nashville and present your evidence, isn't it?

19 A. Yes.

20 Q. Did you at any time after that January 9,
21 1995, consider going to Nashville to take up that
22 invitation?

23 A. If I had known about it, then I will.

24 Q. Pardon me?

25 A. If I had known about it, I would have

1 A. No, not right there and then.

2 Q. Did you get it later?

3 A. Yes.

4 Q. How did that happen?

5 A. The company oppose me getting it and I was
6 to file an appeal and hire an attorney to represent me
7 for the hearing, the appeal. And that's how I got it.

8 Q. And did the company withdraw its opposition?

9 A. It didn't show up.

10 Q. Didn't show up.

11 Was Mr. Kurzban that attorney?

12 A. No.

13 Q. Did you ever see a picture that depicted
14 black people in a negative way?

15 A. Yes.

16 Q. What was it?

17 A. Polaroid -- Polaroid picture with my name on
18 it and another mechanic, Ozzie Russell's name on it,
19 state that Dobson has to meet me at the ramp at 10:00,
20 something like that. The picture have white
21 correct -- what you call it, correction --

22 Q. Correct tape?

23 A. Correct --

24 Q. Correct type?

25 A. Correction type fluid marked over it in

1 white, stuff like that.

2 Q. It was a plain black surface with two faces
3 painted on it?

4 A. Two faces painted on it.

5 Q. When was that?

6 A. That was back in sometime like in '94.

7 Q. And do you regard that as a racial incident?

8 A. Yes, sir.

9 Q. So that's one -- that's what I was asking
10 about is whether you knew of any others.

11 What did you do about that?

12 A. Well, that was forwarded on to my attorney,
13 too.

14 Q. You didn't talk to anybody inside the
15 company?

16 A. No, I did not.

17 Q. Didn't go to personnel?

18 A. I talked to the union, I didn't talk to the
19 personnel.

20 Q. You did go to the union?

21 A. Yes, talked to the union about that, yes.

22 Q. Did you talk to Mr. Roberson?

23 A. Talked to Mr. Cordero.

24 Q. Mr. Roberson?

25 A. No, Mr. Cordero talked to him.

1 A. Well, I --

2 Q. -- assuming that's a different group.

3 A. I never heard them.

4 Q. Did you ever hear any -- either of those
5 groups or any black mechanics joke about themselves?

6 A. No.

7 Q. On racial issues?

8 A. No.

9 Q. So you never heard any racial jokes while
10 you were out there?

11 A. I haven't heard any from -- any black racial
12 jokes.

13 Q. Okay. Did you work the same shift with
14 Anthony Lee?

15 A. No.

16 Q. With Mr. Russell?

17 A. At some stage of the game, yes, he does.

18 Q. Mr. McLean?

19 A. I'm not sure about Mr. McLean.

20 Q. Camejo?

21 A. I'm not sure about. Mr. Camejo.

22 Q. Now, you've told me about -- did you ever
23 find out from anybody through hearsay or rumor who
24 made the picture and who made the noose?

25 A. Nobody talked about it.

1 Q. Did anybody say to you that these are --
2 that this noose has got your name on it because you're
3 black?

4 A. No.

5 Q. Do you have any witnesses to the noose or
6 the picture incident besides yourself and Mr. Russell?

7 A. I don't understand the question.

8 Q. Do you have anyone who you know actually saw
9 it?

10 A. Yes.

11 Q. Who?

12 A. Henry Cruz.

13 Q. Henry Cruz?

14 A. Yes.

15 Q. Who else?

16 A. Well, it was myself and him that showed up
17 at work that morning around about the time when I saw
18 the noose hanging from the roof.

19 Q. Did you say anything to him?

20 A. I looked at it, he looked at it and he
21 smiled and said, "Noel said it's to hang you."

22 Q. He said what?

23 A. He said, "Noel says it's there to hang you."

24 Q. He said what?

25 A. Noel Franz says that this noose is to hang

1 me. I'm Dobson Collins.

2 I took it down and looked at it, saw my name
3 on it, and stick it in my locker. And I take it and
4 give it to Mr. Kurzban.

5 MR. CONNOR: Okay. Let's take five. We may
6 be finished.

7 THE VIDEOGRAPHER: The time is 2:13 p.m.
8 We're going off the record.

9 (Recess taken.)

10 THE VIDEOGRAPHER: The time is 2:21 p.m.
11 We're back on the record.

12 BY MR. CONNOR:

13 Q. Mr. Collins, did you ever work for Executive
14 Airlines?

15 A. Yes.

16 Q. When?

17 A. Executive is part of American Eagle
18 Airlines. They are all combined together as one,
19 operated as American Eagle.

20 Q. I show you what you identified as DC 46.
21 And if you need to see the whole agreement, I'll be
22 happy to show it to you.

23 That agreement applies -- that's the
24 agreement under which you worked, right?

25 A. Yes.

1 Q. Do you know of any employee to whom that
2 policy did not apply?

3 MR. KARLIN: He just gave you a response to
4 that question.

5 MR. CONNOR: I'm not sure that I agree with
6 that, but --

7 BY MR. CONNOR:

8 Q. Except for that one time with Mr. Underhill,
9 do you know of anyone else?

10 A. I didn't follow it up.

11 Q. Do you know of any other employee who had a
12 similar incident to yours in looking at his personnel
13 file?

14 MR. KARLIN: I'll --

15 BY MR. CONNOR:

16 Q. That is, do you know of any individual who
17 asked to see his personnel file and then was
18 challenged for having taken something out of the file?
19 Did you ever hear of that happening with anyone else?

20 A. No.

21 Q. And did you know that it was company policy
22 that you could not take things out of the file?

23 A. Yes.

24 Q. Because you had made an inspection several
25 times prior to that, right?

1 A. Yes.

2 THE VIDEOGRAPHER: One moment. I need to
3 change video. We're going off the record. The
4 time is 2:33 p.m.

5 (Discussion off the record.)

6 THE VIDEOGRAPHER: The time is 2:33 p.m.
7 We're back on the record.

8 BY MR. CONNOR:

9 Q. Did you ever hear anybody -- other than the
10 time Mr. Perez allegedly called you a nigger, did you
11 ever hear anyone else use that term?

12 A. On the job or --

13 Q. On the job.

14 A. No, never.

15 Q. Okay. Any other -- were you ever harassed
16 physically based on your race in any way?

17 A. No.

18 Q. Other than the noose and the picture, were
19 there any other demonstrations or things put up that
20 you thought were racially offensive?

21 A. No.

22 Q. What assignments outside of your job
23 classification did you experience?

24 A. I used to experience a lot of times I had to
25 still come in and clean the hangar, sweep the hangar

CERTIFICATE OF REPORTER

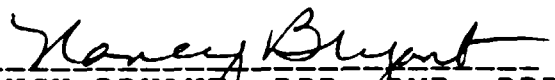
STATE OF FLORIDA

COUNTY OF DADE

I, NANCY BRYANT, Registered Professional Reporter, Registered Merit Reporter, and Registered Diplomate Reporter, certify that I was authorized to and did stenographically report the deposition of DOBSON COLLINS, that a review of the transcript was not requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 7th day of November, 1997.


NANCY BRYANT, RPR, RMR, RDR

CHARGE OF DISCRIMINATION

Form is effected by the Privacy Act of 1974; see Privacy Act Statement on reverse
completing this form.

ENTER CHARGE NUMBER

☐ FEPA☒ EEOC 150 91 1879

Metropolitan Fair Housing & Employment Appeals Board
(State or local Agency, if any)

and EEOC

NAME (Indicate Mr., Ms., or Mrs.)

Mr. Dobson Collins

HOME TELEPHONE NO. (Include Area Code)

(305) 985-3635

STREET ADDRESS

6405 Evans Street

CITY, STATE AND ZIP CODE

Hollywood, FL 33024

COUNTY

Broward

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE,
STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

American Eagle Airline

NO. OF EMPLOYEES/MEMBERS

15+

TELEPHONE NUMBER (Include Area Code)

(305) 526-1970

STREET ADDRESS

P.O. BOX 592237 Miami International Airport

CITY, STATE AND ZIP CODE

Miami, FL 33159

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON (Check appropriate boxes)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ AGE ☐ RETALIATION ☐ OTHER (Specify)

DATE MOST RECENT OR CONTINUING
DISCRIMINATION TOOK PLACE
(Month, day, year)

3/29/91

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s))

I am a Black. I have worked for the above named Respondent as an Aircraft
Mechanic since 12/4/89 and am so currently employed.

I applied for a lead mechanic position and was denied, despite of my qualifi-
cations. Another employee of a different race with less experience and
qualifications was selected.

I feel I have been discriminated against because of my race, in violation
of Title VII of the Civil Rights Act of 1964, as amended.

**DEFENDANT'S
EXHIBIT**

DC-25

ALL-STATE® INTERNATIONAL

☐ I also want this charge filed with the EEOC.

I will advise the agencies if I change my address or telephone
number. I will cooperate fully with them in the processing
in accordance with their procedures.

Under penalty of perjury that the foregoing is true
and correct.

8. 4/12/91

Charging Party (Signature)

NOTARY - (When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it
is true to the best of my knowledge, information and belief.

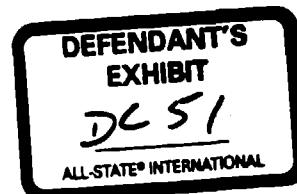
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS
(Day, month, and year)

STATION CODE NUMBER		ORG. CODE NUMBER		PERIOD ENDING						
5201		4732		02/13/74						
APR # OF CODE OCCUR	HOURS	MAY # OF CODE OCCUR	HOURS	OVERTIME MEAL ALLOWANCE	SUPERVISORY APPROVAL					
		1	1	5	1/17					
				00	INITIALS LAST NAME					
				74						
CLOCK TIME	STRAIGHT TIME	TIME AND A HALF	DOUBLE TIME	OVERAGE LEAVE	HOLIDAY WORKED	S 2	S 3	S 4	S 5	H C
05:45 SAT 15:30			8.5							
05:47 SUN 16:30	10.5									
05:46 MON 16:30	10									
05:47 TUE 16:30	10.5									
05:44 WED 15:30	9.0									
05:46 THU 15:30										
05:47 FRI 16:30										
05:49 SAT 16:30	10									
05:47 SUN 16:30	10									
05:43 MON 16:30	10									
05:34 TUE 16:30	10									
06:50 WED 17:30	4									
			9.5							
PAYROLL USE		TOTALS	29	16	12					
		TOTALS	9	4	5					

AMERICAN AIRLINES

2-RETAIN BY SUPERVISOR





AMERICAN
American Airlines

December 9, 1994
(TERMINATION)

To: Dobson Collins
Employee Number 179338
Aircraft Mechanic

RE: Final Advisory

On November 30, 1994, while reviewing your personnel file, you were observed photocopying a document. You folded it up and placed it in your pocket.

When I asked you for the document, you refused to give it to me. I repeatedly asked you for the document and finally issued you a directive to do so. You refused, walked away, and clocked out.

On December 3, 1994, you were withheld from service pending investigation. On December 5, 1994, Supervisor Harold Allen directed you to surrender your Company I.D. and travel card. You refused.

During the investigation of this incident, you remained uncooperative and failed to produce the document.

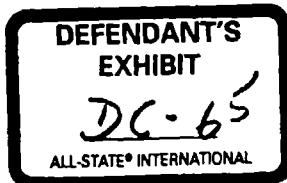
Your actions as described above not only constitutes unsatisfactory job performance, but is in direct violation of Flagship Airlines' General Rules of Conduct #7, which states:

7. Follow instructions received from supervisors.
Insubordination will not be tolerated.

On May 13, 1993, you signed a Letter of Commitment which you and I understood as a good faith promise on your part to attain a satisfactory level of performance and conduct in our best interest. Your Counseling Record before and after your Letter of Commitment reflects management's positive efforts to obtain your cooperation and to obtain from you correction of your performance and conduct.

This last incident described above is a breach of your commitment. I hereby inform you of the termination of your employment with Flagship Airlines, effective immediately.

All Company property including, but not limited to, Flagship identification cards/badges of any kind, and keys assigned to you are to be returned to me and are not to be used for any purpose after the date of this letter. Any pay due you will be paid upon surrender of all Company property. Please contact me about any questions or other matters regarding benefits, Credit Union, etc. which you may have.



W. Franz
W. Franz, Manager

8201/5562
Station/Branch

☒ Handed to employee

☐ Mailed to employee

W. Franz 12/12/94
By Date

cc: Personnel File
Employee Relations

TULE FORM 8025

QUALITY ASSURANCE NOTIFICATION OF NON-COMPLIANCE

TO:

CRAIG UNDERHILL #145069

COPY:

BASE MGR

N

947AC

STATION

MIA

DATE

2/15/91

MANUAL REF: GPM 5-01

FAR REF:

NON-COMPLIANCE

① ITEM 25 LOG PAGE 20969 MAINTENANCE
MANUAL REFERENCE NOT DOCUMENTED

SIGNATURE

129871
P. [Signature]

EMPLOYEE NAME (PRINT)

Craig A. Underhill

EMPLOYEE NUMBER

145069

EMPLOYEE STATEMENT

REQUIRED ☒

NOT REQUIRED

In the rush of the banks I did not include the
required MM reference.

SIGNATURE

Craig A. Underhill

DATE

2-15-91

145069

*ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE

Will include MM for corrective actions.

SIGNATURE

Craig A. Underhill

DATE

2-15-91

145069

COPIES:

Respond to applicable manager within 72 hours.

DEFENDANT'S
EXHIBIT

DC-72

ALL-STATE® INTERNATIONAL

TULE FORM 8025

QUALITY ASSURANCE NOTIFICATION OF NON-COMPLIANCE

TO: CRAIG UNDERHILL #145069
 COPY: BASE MGR

N 210 STATION MIAMI DATE 2/15/91
 MANUAL REF: GPM 5-01 FAR REF: _____
 NON-COMPLIANCE

① ITEM 61 LOGPAGE 02707 ^{THE} BY
 BLOCK IN MECHANICAL DISCREPANCIES
 BLOCK NOT A PAYROLL SIGNATURE

129871
 SIGNATURE R. [Signature]

EMPLOYEE NAME (PRINT) Craig A. Underhill EMPLOYEE NUMBER 145069
 EMPLOYEE STATEMENT REQUIRED ☒ NOT REQUIRED

I thought information in this section was only for informational purposes, after reading GPM 5-01 (B) f. I found I have to use full name ~~whether its printed and signed~~

SIGNATURE Craig A. Underhill 145069 DATE 2-15-91

*ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE

Will USE Full Name AS instructed by
 GPM 5-01 Pg. 2 item B. Paragraph F.
 Will NOT use initials
 any more.

SIGNATURE Craig A. Underhill 145069 DATE 2-15-91

COPIES:

Respond to applicable manager within 72 hours.

SECTION F Item #19 States: PRINT Lastname

AE-MTX-1804-01MAR91

QUALITY ASSURANCE

NOTIFICATION OF NON-COMPLIANCE

TO: MAINTENANCECOPY: C. UNDERHILL # 145069A/C 912 CARR. NVEA STATION MEANIE DATE 11/5/91

MANUAL REF: _____ FAR REF: _____

NON-COMPLIANCE

① Item 1 fogpage 012443 P210P IS NOTE to maintenance stating that the aircraft was not serviced at the outstation. Upon return to the hub the aircraft should have been serviced, and signed off in action taken column as being serviced.

SIGNATURE: R. Clark 129871
 EMPLOYEE NAME (PRINT) C. UNDERHILL EMPLOYEE NUMBER 145069
 EMPLOYEE STATEMENT* REQUIRED ☒ NOT REQUIRED ☐

Corrective Action Should have included
 "Mx Noted - Fuel tanks Serviced" Next time
 I'll be more specific As the fuel tanks
 were Serviced.

SIGNATURE Cay Underhill DATE 11-9-91

* ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE:

SIGNATURE _____

 COPIES: White - RETURNED ANSWERED
 Yellow - STATION FILES

REPLY REQUIRED WITHIN 10 DAYS

 Place
 In file
 PL

13-25-94 11:15 AM FROM MIAMI HANGAR TO MIA LINE

201

AE-MTX-1804-01MAR91

QUALITY ASSURANCE NOTIFICATION OF NON-COMPLIANCE

TO: E 20 AR C 2020COPY: E 20 AR C 2020A/C 284 GARR. NVEA STATION MIA DATE 4/24/94MANUAL REF: GPM 17-02 pg 3 ITEM 7C FAR REF: 121

NON-COMPLIANCE

ON 4/20/94 YOU ISSUED 2 MELS ON A/C 284 FOR
A FUEL LEAK & W/S HEAT. AS PER GPM & FJ2
LISTED ABOVE YOU ARE REQUIRED TO GIVE FOLLOW INFO
AS OF 4/21/94 0600 THERE WAS NO INFORMATION
AVAILABLE

SIGNATURE: [Signature]EMPLOYEE NAME (PRINT) Chris A. UNDERHILLEMPLOYEE NUMBER 145069

EMPLOYEE STATEMENT

REQUIRED ☒

NOT REQUIRED

To No Excuse of my own I was doing a PS-1, fuel leak and
2 mels in the rain while getting covered with fuel.

I understand it is my Responsibility to enter MEL info
into Sabre for TS and Parts AS Promptly AS Possible or to turn
info to next Supervisor For Prompt Return to Service in MEL clearance

SIGNATURE [Signature]

DATE

4-25-94

* ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE:

I believe Mr Underhill is aware of the importance and the
importance we have discussed. I should present my recommendations
in the future

SIGNATURE [Signature]

DATE

5/1/94

COPIES:

White - RETURNED ANSWERED
Yellow - STATION FILES

Pink - EMPLOYEE
Gold - ORIGINATOR'S FILE

REPLY REQUIRED WITHIN 10 DAYS

AMERICAN EAGLE **AIRCRAFT MAINTENANCE LOG**

A/C # N 201 AE

DATE 2 / 1 / 91

TYPE OTHER A/C SA226 SA227

ENGINE DATA		IAS	IOAT C		PRESS ALT				
ENG #	EGT	TQ	RPM		FUEL FLOW	OIL PRESS	OIL TEMP	ANTI ICF	BLEED AIR
1	818	61	43	1270	460	80	80	OFF	ON
2	844	61	93	1270	480	80	791	OFF	ON
FIRST FLIGHT OF DAY ITEMS CHECKED			OK		ENTER PIREP NBR IF NOT OK		A/C ACCEPTED BY		
VOR CHECK							CAPT		
BY T. FLANNAN							CAPT		
ID # 317364							CAPT		

D	STA	STA	OIL ADDED
134774	JAX		
134839	MIA		

MECHANICAL DISCREPANCIES				ACTION TAKEN			
1 NO. 4	BY S. COLLINS	ID # 134774	FLT # 4677	STA MIA	ATA	DATE 2-1-91	BY Capt A. [Signature]

ON DESCENT AT AROUND 17000 FEET THERE WAS A BURNING SMELL IN THE COCKPIT. ALSO THE FLIGHT ATTENDANT SMELLED THIS - THE WEC. WHEN LIGHT CAME, RESET EL & LS - LIGHT WENT OUT.

No further smell noted. Inspected systems - everything good at this time.

2 NO. 5 BY S. COLLINS ID # 134774 FLT # 5690 STA MIA
UNABLE TO CONTROL CABIN TEMP USING BOTH MANUAL AND AUTO.

2 NO. 5 DATE 2-1-91 STA MIA ATA 21-50-1
Insured MEL 21-50-1 Auth #
2400 Cabin Ambient Air
interior door secured open 95
Per MEL 21-50-1
TAT 914.1 CYC 923

3 NO.	BY	ID #	FLT #	STA	ATA

3 NO.	DATE	STA	ATA	BY

4 NO.	BY	ID #	FLT #	STA	ATA

4 NO.	DATE	STA	ATA	BY

AE-MTX-1804-01MAR91

QUALITY ASSURANCE

NOTIFICATION OF NON-COMPLIANCE

TO: EDGAR CEREDCOPY: JUAN CUADRAA/C 918 CARR. NVEA STATION MIAMI DATE 5/10/94MANUAL REF: GPM 17-02 PS 3 ITEM 7C FAR REF: 121.627**NON-COMPLIANCE**

ON MAY 5, MR CUADRA ISSUED AN MEL TO A/C 918 FOR APR. AS PER GPM & FARs LISTED ABOVE, THE REQUIREMENT FOR FOLLOW UP INFORMATION HAD NOT BEEN FULFILLED AS OF 5/6/94 @ 1300

SIGNATURE: [Signature] 12831EMPLOYEE NAME (PRINT) J. CuadraEMPLOYEE NUMBER 12831

EMPLOYEE STATEMENT*

REQUIRED

NOT REQUIRED

I did put ^{revised} the information in the computer on the same date that I issued the mel.

SIGNATURE [Signature]DATE 5/20/94

* ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE:

Employee apparently entered info but failed to complete entry. to prevent recurrence employee will double check K# for AC

SIGNATURE [Signature]DATE 5/20/94

COPIES:

White - RETURNED ANSWERED

Yellow - STATION FILES

Pink - EMPLOYEE

Gold - ORIGINATOR'S FILE

REPLY REQUIRED WITHIN 10 DAYS

C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No: 98-377-CIV-MOORE
Magistrate Judge Johnson

OSWALD S. RUSSELL

Plaintiff,

vs.

AMERICAN AIRLINES, INC.

AMERICAN EAGLE AIRLINES, INC.

and FLAGSHIP AIRLINES, INC.

Defendant,

X

COPY

Ft. Lauderdale, Florida
March 18, 1999
2:00 o'clock p.m.

APPEARANCES:

STEWART KARLIN, Esquire,
Assistant State Attorney
Appearing on behalf of the Plaintiff.

LISETTE E. SIMON, Esquire
Appearing on behalf of the Defendant.

- - - - -

DEPOSITION

OF

HENRY CRUZ

8 1 A. No, I have not.

2 Q. Do you know anyone, other than
3 Mr. Russell, whose had that kind of a problem?

4 A. I have not, no.

5 Q. Did you ever notice any pictures in the
6 crew lounge of a basketball player with a mop on his
7 head?

8 A. No.

9 Q. Did you ever hear the word nigger being
10 used by any mechanics in Miami?

11 A. No.

12 Q. Did you ever use the word nigger?

13 A. No.

14 Q. Did you ever see any racial comments that
15 were written on bathroom walls, or anything like that?

16 A. No. They kind of -- they paint bathroom
17 walls, always painted, but no --

18 Q. Nothing that comes to mind?

19 A. No. You hear about supervisors that,
20 supervisor this, supervisor that, but not mechanic.

21 Q. Ever see the word nigger written any
22 place?

23 A. No, never.

24 Q. Did you ever -- Did you ever hear -- Do
25 you know who Mr. Noel Franz is?

9 1 A. Yes.

2 Q. Did you ever hear him making any racial
3 jokes?

4 A. No. Noel was a supervisor on -- well, he
5 was supervisor on third shift. And he was for short
6 time before he left to American, he was a supervisor or
7 base manager, I think base manager first. So I dealt
8 very little with him.

9 And when he was a mechanic, I was on
10 another shift. And when he was a load man on the first
11 shift, I was on another shift. So I didn't have to
12 deal with him too much.

13 Q. Did you ever see a noose, a rope with a
14 noose?

15 A. Yes, yes.

16 Q. And when did you see that?

17 A. That was back in -- between '90 and '91.
18 We used to call that the Eagle retirement plan.

19 Q. Did you ever see a noose sometime in 1994?

20 A. No. That -- No, I haven't. But during
21 the early years of us being there at the Eagle, we did
22 because there was no retirement, there was nothing
23 given to us, so that's your retirement. When you are
24 done with the Eagle, kill yourself because you're not
25 going to get any retirement money or anything like

9 1 that.

2 Q. Okay. Where was the noose?

3 A. We used to have it in the trailers. Used
4 to be in small trailers, the double wide trailers. I
5 remember seeing there, that's the only place.

6 Q. Did you ever see one in '94?

7 MISS SIMON: Objection. Asked and
8 answered.

9 BY MR. KARLIN:

10 Q. No?

11 A. No.

12 Q. So the last time you would have seen one
13 would have been 1990, '91?

14 A. Yes. This was at the beginning I would say,
15 yes.

16 Q. Did you ever hear of a group of employees
17 that used to get together at their regular shift and
18 exchange jokes?

19 A. No. Punched out, go home. Why stick
20 around. Most of us had second job.

21 Q. Okay.

22 A. Couldn't survive on Eagle salary.

23 MR. KARLIN: Let me just. I have nothing
24 further.

25 (Thereupon, the proceedings were concluded.)

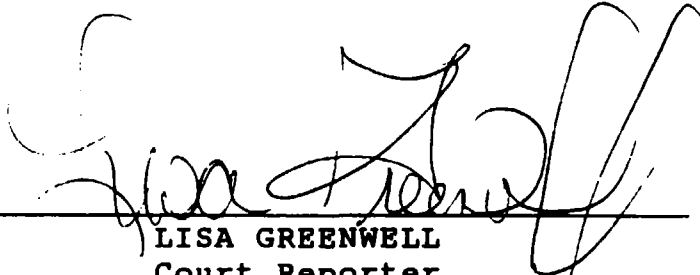
CERTIFICATE

STATE OF FLORIDA)
 : SS.
COUNTY OF BROWARD)

I, LISA GREENWELL, a Notary Public duly
commissioned and qualified in and for the State of
Florida at Large, do hereby certify that pursuant to
notice heretofore filed, there came before me on the
18th day of March, 1999, at 400 Southeast 8th Street,
Fort Lauderdale, Broward County, Florida, the following
named person, to wit: HENRY CRUZ, who was by me duly
sworn to testify to the truth and nothing but the truth
of his/her knowledge touching and concerning the
matters in controversy in this cause; that he was
thereupon examined upon his/her oath and his/her
examination reduced to writing under my supervision,
and that the deposition is a true record of the
testimony given by the witness; and that the reading
and signing of said deposition by the witness were
waived by stipulation of counsel.

1 I further certify that I am neither
2 attorney nor counsel for, nor related to nor employed
3 by, any of the parties to the action in which this
4 deposition is taken, and further that I am not a
5 relative or employee of any attorney or counsel
6 employed by the parties hereto, or financially
7 interested in the action.

8 IN WITNESS WHEREOF I have hereunto set my
9 hand and affixed my official seal this 21st day of
10 March, 1999.

11
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25

LISA GREENWELL
Court Reporter

Notary Public, State of Florida at Large
My Commission expires:



LISA COOK
MY COMMISSION # CC388420 EXPIRES
May 30, 1999
BONDED THRU TROY FAIR INSURANCE, INC.

A handwritten mark, possibly a signature or initials, consisting of a large, stylized 'D' with a vertical line through it, located in the upper right quadrant of the page.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 96-1104-CIV-GOLD

Magistrate Judge Stephen T. Brown

DOBSON COLLINS,

Plaintiff,

-vs-

FLAGSHIP AIRLINES, INC.,
a Delaware corporation,

Defendant.

**DECLARATION OF NOEL FRANZ
PURSUANT TO 28 U.S.C. § 1746**

I, Noel Franz, a resident of Miami-Dade County, Florida, under penalty of perjury and from personal knowledge, make the following declaration in this matter:

1. I am a licensed airframe and power plant mechanic, and I was employed by Flagship Airlines at the Miami International Airport from September 1989 to February 1995 in the following positions:

September 1989 - February 1991	Mechanic.
February 1991 - September 1994	Supervisor.
September 1994 - February 1995	Acting Base Manager.

I am familiar with Dobson Collins, a mechanic who worked at Flagship from 1989 until 1994.

2. As either Supervisor or Acting Base Manager, I have had four interactions with Mr. Collins relating to his claims in this case.

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Minimum Equipment List Assignment

3. Based on Federal Aviation Administration Regulations (FARs), each aircraft in Flagship's fleet has an approved Minimum Equipment List (MEL) that travels with the aircraft. It enables the operation of the aircraft even while certain non-critical instruments and equipment are in need of maintenance. Maintenance items are critical or non-critical depending on whether they affect the immediate airworthiness of the aircraft. Maintenance tracks the MEL of an aircraft and seeks to clear items from the MEL as promptly and efficiently as possible.

4. Maintenance on non-critical MEL items can be deferred if time pressures require doing so. A mechanic ^{REQUESTS} ~~enters~~ the "open MEL item" ^{BE ENTERED} into the computer. The open MEL item is then "cleared" at a later date when the repair is accomplished.

5. In order to "clear" MEL items, particularly when the work load is heavy, it is important for mechanics to have a list of every part number that might satisfy a particular open item and return the aircraft to service promptly. Having this list allows the stock room to order parts and enables the mechanics to work more efficiently.

6. In order to expedite clearance of open MEL items, we often offered overtime shifts to mechanics to have them research and identify part numbers that would satisfy all open MEL items, and we gave these overtime assignments to volunteers in order of their seniority with the company. This was particularly true during periods of MEL item backlogs. At times, we were ^{REF} ~~directly~~ instructed by Flagship headquarters to offer overtime for this purpose. We assigned this project to overtime volunteers and among them to mechanics of every race or ethnic group.

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7. Although it would be difficult to go back and determine how many other mechanics were assigned this project besides Mr. Collins, I have reviewed the file of white mechanic David Wagner, which contains a counseling record (CR-1), showing that I assigned him to such a project as long ago as in 1991. Attached as Exhibit 1 is a true copy of that CR-1 from his company personnel file. In addition, I recall assigning this project in the past to Craig Underhill and Juan Cuadra.

Notifications of Non-Compliance

8. As a method of quality assurance, we adopted a system of issuing "Notifications of Non-Compliance" to mechanics who failed in any way to perform maintenance operations as required by the FARs ^{OR NF} of company manuals. Quality assurance inspectors or supervisors would issue these notices to mechanics and ask them to acknowledge the proper procedure in a response on the form.

9. These Notifications of Non-Compliance were not treated as disciplinary issues, but were given in an effort to remind mechanics of good maintenance practices and to seek their compliance. All supervisors, including myself, issued them to any mechanic as the situation required, without regard to their race or ethnic origin.

10. Mr. Collins has complained that only he was given notifications of non-compliance for failures to follow up on MEL items on or about May 5 and 6 1994. However, ^{OR NF} because of his race or his having filed an EEOC charge, we issued notifications of non-compliance to Craig Underhill on April 20, 1994, and to Juan Cuadra on May 10, 1994, for similar failures to enter follow-up information on maintenance items they had performed. I have

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attached these true copies of notifications from our files at Exhibit 2. These notices are examples of our practice of issuing notifications to every mechanic where a deficiency was found regardless of race or ethnicity.

Overtime Shifts

11. At Flagship, as I have described, we often made overtime shifts available to mechanics when MEL items backed up. As indicated above, this project involved inspecting the MEL list and researching for part numbers that would serve as effective replacements pursuant to the MEL. It would enable mechanics working on the aircraft to complete their projects more efficiently if they had the parts lists available while working on the aircraft.

12. These shifts were explicitly made available with a start time of 7:00 a.m., in order to coordinate the shifts with other work shifts in the department. We had explicitly advised the mechanics by a memorandum that is attached to this declaration as Exhibit 3.

13. A couple of mechanics had made a habit of punching in at 6:00 a.m. for this shift, before any work was available for them to perform. I specifically told Dobson Collins and Craig Underhill and others that the start time for this overtime shift was 7:00 am, and that they would not be paid if they punched in early.

14. Both Craig Underhill and Dobson Collins punched in early for overtime shifts during the pay period between April 29 and May 13, 1994. As a demonstration of the fact that the overtime shift's start time was applicable to all mechanics of every race, I attach to this declaration as Exhibit 4, true and correct copies of the time cards of Craig Underhill and Dobson Collins, both showing that I adjusted their start time to 7 a.m. as I had advised them I would.

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15. The start time for that shift was generally applicable and had nothing to do with the race of any employee or whether they had filed any grievances or charges of discrimination against the company.

Discharge

16. On November 30, 1994, based on his earlier request, I provided Dobson Collins his personnel file for inspection in the conference room outside my office. I reminded him of the company's policy that prohibits taking or photocopying documents from the file without explicit permission.

17. I first sat with Collins as he inspected his personnel file. After it became apparent that he was going to take his time with a very thick file, I went into my office and kept an eye on his progress through the window between the office and the conference room.

18. At some point, I saw Collins replacing the metal fasteners to one of the folders in this file. It appeared that he was putting documents back into the file. I then observed Collins fold up a piece of paper and put it underneath the file. When I moved the file, I saw what appeared to be photocopier marks on the piece of paper.

19. Collins quickly picked up the piece of paper, said it was a blank sheet on which he was going to take notes, and put it into his pocket. I asked him if I could see it to insure that it was not a company document and that I only wished to identify it as company or personal.

20. I directed Collins to show me the paper. He removed it from his pocket and waived it briefly in front of me, then refolded it and put it back in his pocket. Although I

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could not read any of the print, I recognized the piece of paper as a company pay authorization form. Once again, I ordered Collins to allow me a further look, but he refused and proceeded to leave the room down a stairway to the hangar.

21. I directed Collins to return to the conference room but he ignored me and proceeded down the stairs. Several seconds later, I followed him down the stairs. When I got to the top of the stairs, he was already down at the bottom in the hangar. I was neither in a position to nor did I ever push Collins as he alleges.

22. I saw mechanic Jesus Sanchez at the bottom of the stairs and asked him to come and act as a steward or witness for Collins and I again directed Collins to return upstairs so that I could identify the paper he had taken during his file inspection.

23. Instead, Collins punched his time card and told me that he did not have to talk to me since he was "off the clock." I went downstairs and advised Collins that if he left without following my order, I would treat it as grounds for dismissal based on insubordination. Collins then agreed to go back upstairs to the conference room.

24. Ultimately, with Sanchez present, Collins continued to refuse to show me the paper I had seen him take during his inspection. He showed me a 3"x6" form that he pulled from a different pocket, and I told him that it was obviously not what I was asking to see. Collins persisted in his refusal to let me inspect the paper I had seen him take during his inspection and left the premises despite my advising that to do so would result in his discharge for insubordination. I did not follow Collins after he left the conference room for the second time.

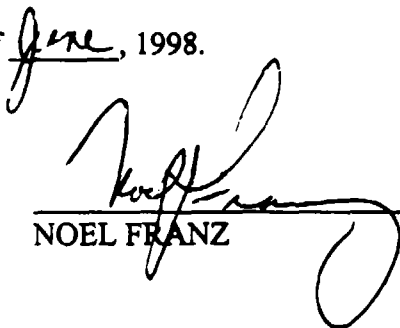
CASE NO.: 96-1104-CIV-GOLD

25. After investigation, and upon learning that he was already the subject of a last step career decision day, on December 9, 1994, I issued a final advisory terminating Collins' employment with Flagship.

26. I was unaware that he had filed an EEOC charge of discrimination against Flagship when I took any of the actions described in this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 1st day of June, 1998.



NOEL FRANZ

EXHIBIT 1

AA AMERICAN AIRLINES PERFORMANCE COUNSELING RECORD

EMPLOYEE NO	D.	WAGNER	9962	8201		91	1
INITIAL		LAST NAME	ORG CODE	STA CODE	CO SENIORITY DATE	YEAR	PAGE NO
DATE OF INCIDENT OR ACTION	SUBJECT OR INCIDENT DISCUSSED	DETAILS/ACTION TAKEN/COMMENDATION/OTHER REMARKS BRIEFLY EXPLAIN WHAT WAS DISCUSSED/COMMITMENTS MADE INCLUDE ANY SIGNIFICANT DATE/TIME/PLACE. SUPERVISOR'S SIGNATURE/DATE FOLLOWING EACH ENTRY.					
8/12/91	Problems with fellow workers.	Mr. Wagner came to me at approx 1200 / 12th to discuss situation with working with other employees, especially those employees formerly of EAL that went on Strike April 19 March 1989. Mr. Wagner was concerned about suspicion that Ex EAL striking members were out to get him. He explained company position of monitoring situation & expressed how the company would take action necessary should management witness any employee harassment taking place. Also stated that company would issue a memo to all re-iterating rules & reg's and repercussions of infractions. Present was supervisor Ed Reyes. R. May 178918 8/12/91					
8/25/91	Work perform.	Talked with Dan Wagner about amount of time he spent removing & replacing a Desi. book for a paper block. He stayed for OT (3 hrs) and spent a total of 4 hours on the job and 2nd & 3rd shift had to remove his work and reinstalled it. We discussed the procedures he used and I handed him the paperwork personally. We discussed that he followed the steps incorrectly & one step deleted. Desi. book was on 866 8/24/91. Today, we had a problem with various jets assigned to him at the line. Miscommunication and limited time caused 2 delays and other mechanics having to do the work (AOT NAV LIGHT). Considering trying to get him to bid 3rd shift when there is bad stress.					
8/24/91	work assignment	Gave Mr. Wagner a single assignment of a list of MEL's with ATR codes that related on our list to work with no note of any kind him (no stress applied). I told him he was to look up the parts necessary to fix these MEL's (STRIKE LIGHTS LOGO LIGHTS, TAP No. 6TC). One hour later the Tech Eds Reyes pulled me the day I gave Wagner and asked me what he was supposed to do with it. I told him I gave it to Wagner to look up the PN's, get the parts for					



AMERICAN AIRLINES PERFORMANCE COUNSELING RECORD

YEAR	PAGE NBR.

DATE OF INCIDENT OR ACTION	SUBJECT OR INCIDENT DISCUSSED	DETAILS/ACTION TAKEN/COMMENDATION/OTHER REMARKS BRIEFLY EXPLAIN WHAT WAS DISCUSSED/COMMITMENTS MADE INCLUDE ANY SIGNIFICANT DATE/TIME/PLACE. SUPERVISOR'S SIGNATURE/DATE FOLLOWING EACH ENTRY.
	car 4	stock and have the parts sent to the line. (Wagner said he found Wagner sitting in the middle of the hangar (empty) on his tool box. I called Wagner back to my office and explained my instructions as well as he understood them and had him repeat those instructions. He repeated them and still insisted he understood all along, but yet he still gave them to the list of incomplete items to him back for which he was to drive by. I reexplained again and asked him to get me if he had any problems. Approximately 1 1/2 hours later I checked on his progress and as far as found 2 PM but unfortunately I was not the part I asked for. (Strike light (lighting)) I told Wagner I would finish the list and gave him another task of labeling "waste" barrels with their contents and to put my bucket of used fluids in those appropriately (labeled them). There was assigned a person (Cramer to help him). A couple of hours later (approximately 3) he returned to me saying he was finished. I returned to the area with him and found a number of things requiring additional work and correction such as he labeling the barrels from "miscellaneous fluid" to the one individual contents each. 75 minutes before his scheduled end of shift he was dismissed in the break room. I gave him the benefit of the doubt and waited for him to come to me for another assignment or to his head (I must mention that he had sent him to me in the morning because I had some items to be worked.) Wagner was never seen from again that morning. (Date 8/24/1995) 8/24/91 Tools Lag. On 8/24/91 LEADMAN UNDERWILE ASSIGNED WAGNER A JOB IN WHICH HE NEEDED A FEMALEIGHT. HE TOLD CRAIG HE DID NOT HAVE ONE & CRAIG SUGGESTED HE GET ONE. MR. WAGNER REPLIED HE WAS NOT GOING TO BUY ANYTHING UNTILL THE COMPANY PAID HIM FOR DAMAGES TO HIS TOOL BOX. I CASE COUNSELED MR. WAGNER AND MADE HIM AWARE THAT HE WAS REQUIRED TO HAVE

8/24/91 WAGNER AND MADE HIM AWARE THAT HE WAS REQUIRED TO HAVE
WAGNER TOOLS AND THE HRA. SAID HE WAS SORRY & WOULD APPEAR TO CRAIG

EXHIBIT 2

TULE FORM 8025

QUALITY ASSURANCE NOTIFICATION OF NON-COMPLIANCE

TO: CRAIG UNDERHILL #145069 11
COPY: BASE MGR

N 947AC STATION MIA DATE 2/15/91
MANUAL REF: GPM 5-01 FAR REF: _____
NON-COMPLIANCE

① ITEM 25 LOG PAGE 20969 MAINTENANCE
MANUAL REFERENCE NOT DOCUMENTED

129871
SIGNATURE R. [Signature]

EMPLOYEE NAME (PRINT) Craig A Underhill EMPLOYEE NUMBER 145069
EMPLOYEE STATEMENT* REQUIRED ☒ NOT REQUIRED

In the rush of the banks I did not include the,
required MM reference.

SIGNATURE Craig A Underhill DATE 2-15-91
145069

*ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE

Will include MM for corrective actions.

SIGNATURE Craig A Underhill DATE 2-15-91
145069

COPIES:

Respond to applicable manager within 72 hours.

DEFENDANT'S
EXHIBIT

DC-72

ALL-STATE INTERNATIONAL

TULE FORM 8025

QUALITY ASSURANCE NOTIFICATION OF NON-COMPLIANCE

TO: CRAIG UNDERHILL #145069
 COPY: BASE MGR

N 210 STATION MEANZ DATE 2/15/91
 MANUAL REF: GPM 5-01 FAR REF: _____
 NON-COMPLIANCE

① ZTEM 61 LOGPAGE 02707 ^{THE} BY
 BLOCK IN MECHANICAL DISCREPANCIES
 BLOCK NOT A PAYROLL SIGNATURE

129871
 SIGNATURE R. [Signature]

EMPLOYEE NAME (PRINT) Craig A. Underhill EMPLOYEE NUMBER 145069
 EMPLOYEE STATEMENT REQUIRED ☒ NOT REQUIRED

I thought information in this section was only for informational purposes, after reading GPM 5-01 (B) f. I found I have to use full name ~~whether its~~ Printed ~~and signed~~

SIGNATURE Craig A. Underhill 145069 DATE 2-15-91

*ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE

Will USE Full Name AS instructed by
 GPM 5-01 Pg. 2 item B. Paragraph f.
 Will NOT use initials
 any more.

SIGNATURE Craig A. Underhill 145069 DATE 2-15-91

COPIES:

Respond to applicable manager within 72 hours.

SECTION F Item #19 States: PRINT Lastname

AE-MTX-1804-01MAR91

QUALITY ASSURANCE

NOTIFICATION OF NON-COMPLIANCE

TO: MAINTENANCECOPY: C. UNDERHILL # 145069AC 912 CARR. NVEA STATION MEANIE - DATE 11/5/91

MANUAL REF: _____ FAR REF: _____

NON-COMPLIANCE

① Item 1 logpage 012443 PIRCP IS NOTE
to maintenance stating that the aircraft was
not surped at the outstation. Upon return
to the hub the aircraft should have been
surped, and signed off in action taken
column as being surped.

SIGNATURE: R. Clark 123871
 EMPLOYEE NAME (PRINT) C. UNDERHILL EMPLOYEE NUMBER 145069
 EMPLOYEE STATEMENT* REQUIRED ☒ NOT REQUIRED ☐

Corrective Action Should have included
"Mx Noted - Fuel tanks Surped" Next time
I'll be more specific As the fuel tanks
were Surped.

SIGNATURE Cay Underhill DATE 11-9-91

* ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE:

SIGNATURE _____

 COPIES: White - RETURNED ANSWERED
 Yellow - STATION FILES

REPLY REQUIRED WITHIN 10 DAYS

 Place
in file
PL

AMERICAN EAGLE AIRCRAFT MAINTENANCE LOG



A/C # N 201 AE

ENGINE DATA	IAS	TO	RPM	IOAT C	FUEL FLOW	PRESS ALT	OIL TEMP	ANTI ICE	BLEED AIR
ENG #									
1	818	61	43	1270	460	80	80	OFF	ON
2	844	61	93	1270	480	80	80	OFF	ON
FIRST FLIGHT OF DAY ITEMS CHECKED									
VOR CHECK									
BY 1 FLANAGAN									
ID # 317364									

DATE	TIME	TYPE	OTHER	SA226	SA227
2	1	1	1	SA226	SA227
OIL ADDED 2					

DATE	TIME	TYPE	OTHER	SA226	SA227
2	1	1	1	SA226	SA227
OIL ADDED 2					

ACTION TAKEN

MECHANICAL DISCREPANCIES

1 NO.	2 NO.	3 NO.	4 NO.	DATE	TIME	BY	ID #	P/N OFF	S/N OFF	P/N ON	S/N ON
1	4	BY	SA226	DATE 2-1-91	TIME 14:00	BY	ID # 145067	P/N OFF	S/N OFF	P/N ON	S/N ON
ON DESCENT AT AROUND 17000 FEET THERE WAS A BURNING SMOEL IN THE COCKPIT. ALSO THE FLIGHT ATTENDANT SMOELER THIS - THE WEC AT THIS TIME. (WAS 923) WHILE WENT CAR RESEI ELS - LIGHT WENT OUT											
2	5	BY	SA226	DATE 2-1-91	TIME 14:00	BY	ID # 145067	P/N OFF	S/N OFF	P/N ON	S/N ON
UNABLE TO CONTROL ENGINE TEMP USING BOTH MANUAL AND AUTO.											
3	NO.	BY	ID #	DATE	TIME	BY	ID #	P/N OFF	S/N OFF	P/N ON	S/N ON
4	NO.	BY	ID #	DATE	TIME	BY	ID #	P/N OFF	S/N OFF	P/N ON	S/N ON

AE-MTX-1804-01MAR91

QUALITY ASSURANCE

NOTIFICATION OF NON-COMPLIANCE



American Eagle

TO: EDGAR CELEZOCOPY: JUAN CUADRAA/C 918 CARR. NVEA STATION MIAMI DATE 5/10/94MANUAL REF: GPM 17-02 ps 3 ITEM 7C FAR REF: 121.627**NON-COMPLIANCE**

ON MAY 5, MR CUADRA ISSUED AN MEL TO A/C 918 FOR APR. AS PER GPM & FARs LISTED ABOVE, THE REQUIREMENT FOR FOLLOW UP INFORMATION HAD NOT BEEN FULFILLED AS OF 5/6/94 @ 1300

SIGNATURE: [Signature] 12831EMPLOYEE NAME (PRINT) J CuadraEMPLOYEE NUMBER 12831

EMPLOYEE STATEMENT*

REQUIRED

NOT REQUIRED

I did put ^{ready} the information in the computer on the same date that I issued the mel.

SIGNATURE [Signature]DATE 5/20/94

* ATTACH SEPARATE SHEET IF NECESSARY

ACTION TAKEN TO PREVENT RECURRENCE:

Employee apparently entered info but failed to complete entry. to prevent recurrence employee will double check K# for AC

SIGNATURE [Signature]DATE 5/20/94

COPIES:

White - RETURNED ANSWERED

Yellow - STATION FILES

Pink - EMPLOYEE

Gold - ORIGINATOR'S FILE

REPLY REQUIRED WITHIN 10 DAYS

EXHIBIT 3

FIRST SHIFT MECHANICAL OVERTIME

Overtime will start at 0700 unless otherwise noted.

Overtime will be approved according to the senior person not on double time.

If the workload demands, double time will be approved in order of seniority.

Overtime will be issued to first shift employees first, first mechanics then inspectors.

If the workload demands mechanics from other shifts, they will be considered only if overtime slots on their respective shifts are full.

Overtime personnel are to report to supervisor for assignment to line or hangar at the start of the shift.

Overtime will be approved seven days in advance.



EXHIBIT 4

EMPLOYEE NUMBER 179339		EMPLOYEE NAME D COLLINS										
STATION CODE NUMBER 0201		ORG CODE NUMBER 9962	WORK PERIOD ENDING 04/29/99									
APK # OF CODE OCCUR HOURS	# OF CODE OCCUR HOURS	OVERTIME MEAL ALLOWANCE S C	SUPERVISORY APPROVAL K. J. [Signature] LAST NAME									
		00										
		74										
MOON	CLOCK TIME		STRAIGHT TIME	TIME AND A HALF	DOUBLE TIME	OVERTIME LEAVE	HOLIDAY WORKED	S 2	S 3	S 4	S 5	H C
	IN	OUT										
	SAT											
	SUN 05:28 16:30		10									
	MON 05:54 16:30		10									
	TUE 05:50 16:34		10									
	WED 05:43 16:30		10									
	THU											
	FRI											
	SAT											
	SUN 05:34 16:30		10									
	MON 05:45 16:30		10									
	TUE 05:45 16:31		10									
	WED 05:43 16:30		10									
	THU											
	FRI 05:40 15:30		8.5									
PATROLL USE			80									
AMERICAN AIRLINES			41									
			01									
			32									
			37									
			25									
			38									
			30									
			34									
			36									
			38									

2. RETAIN BY SUPERVISOR

☐ PART-TIME ☐ FULL-TIME		DAYS OFF SCHEDULED HRS	SUPV. CODE INT.	
SA				
SU				
M				
T				
W				
T				
F				
SA				
SU				
TH				
T				
W				
T				
F	<i>no meal -</i> <i>Heard 2/19/184 at 9.5</i>			

EMPLOYEE NUMBER 1-5037		EMPLOYEE NAME C. A. O'Donnell									
STATION CODE NUMBER 3201		ORG CODE NUMBER 9952	WORK PERIOD ENDING 05/13/94								
P.M. # OF CODE OCCUR HOURS _____ _____ _____		M.A.Y. # OF CODE OCCUR HOURS _____ _____ _____									
		OVERTIME MEAL ALLOWANCE \$ 00									
		SUPERVISORY APPROVAL 74 [Signature] INITIALS LAST NAME									
C O D E	CLOCK TIME IN OUT	STRAIGHT TIME	TIME AND A HALF	DOUBLE TIME	OVERAGE LEAVE	HOLIDAY WORKED	S 2	S 3	S 4	S 5	H C
DO	SAT										
DO	SUN										
	MON 05:57 16:30	10									
	TUE 05:56 16:30	10									
W	WED 05:57 16:30	10	5								
	THU 05:59 16:30	10									
LL	FRI 05:57 15:30	5	8								
LL	SAT 06:51 14:30	5	7								
	SUN										
	MON 05:57 16:30	10									
	TUE 05:54 16:30	10									
	WED 05:56 16:30	10									
W	THU 05:57 17:00	10	1								
W	FRI 07:05 15:31	8	4								
PAYROLL USE		TOTALS	81	17	7						
		TOTALS	9								
31	35	01	32	37	38	39	40	41	42	43	44
AMERICAN AIRLINES		2-RETAIN BY SUPERVISOR									

☐ PART-TIME ☐ FULL-TIME		DAY OFF SCHEDULED HRS	SUPV. CODE INT.	
SA				
SU				
M				
T				
W	5-4 A/C 280 Two time Chg. MIN	17m		
TH	5-6 day off worked A/C 3/4 AM	DW LL		
F	5-7 day off worked 10k lunch 219 TIXES	DW LL		
SU				
M				
T				
W				
TH	No work A/C 4/2 A/C 180 2918	17m		
F	day off worked 10k lunch 847	17m		

2918
 started
 847
 RINGS

03/29/99
 11:00 AM
 03/29/99
 11:00 AM

☐ PART-TIME ☐ FULL-TIME		SICK OFF _____ SD-DOULED _____ HRS _____		SUPV. CODE INT.	
S	4-16 Second day off	worked	4:20	2/12	pm
SU					
M					
T					
W					
T					
F	4-22 last day of P	worked	7/11	pm	
SA					
SU					
M					
T					
W					
T					
F					

E

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF FLORIDA

3 No.: 97-0722-CIV-MIDDLEBROOKS

4 ANTHONY LEE, an individual,

5 Plaintiff,

6 -vs-

7 EXECUTIVE AIRLINES, INC., a
8 Delaware corporation, d/b/a
9 AMERICAN EAGLE AIRLINES, INC.,
and AMERICAN AIRLINES, INC.,
a Delaware corporation,
10 FLAGSHIP AIRLINES, INC.,
a Delaware corporation,
11 AMR Corporation, Delaware corporation,
12 Defendants.

13 -----
14
15 Miami, Florida
16 January 28, 1998
17 1:00 p.m.

18
19 DEPOSITION

20
21 OF

22
23 FRANCISCO GONZALEZ
24
25 -----

1 that, you need all of the help you can get.

2 Q. You work at nights?

3 A. I have, but not there.

4 Q. Since you've been there you've been able to
5 be on first shift all the way?

6 A. No, I started out on second shift. Second
7 shift gets out at -- There's two second shifts.
8 Actually there's one that gets in a little bit
9 earlier - leaves a little bit earlier, about 11:30.
10 The other one leaves about 1:30.

11 Q. But from day one, you've never worked
12 midnights?

13 A. Not at American Eagle.

14 Q. So since 1990 --

15 A. '91.

16 Q. I wrote down the one and said '90. I'm
17 sorry.

18 So you don't know how it was done
19 specifically by the supervisors when they would
20 communicate this?

21 A. As far as the wording that was used during
22 the communication, no, I do not.

23 Q. And you don't know how they did it on the
24 midnight shift because you weren't there?

25 A. As far as what?

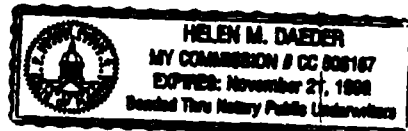
REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA:

COUNTY OF DADE:

I, HELEN M. DAEDER, Shorthand Reporter, certify that I was authorized to and did stenographically report the deposition of FRANCISCO GONZALEZ; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.



DATED this 27th day of February, 1998.

Helen M. Daeder

Helen M. Daeder

F



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 96-1104-CIV-GOLD
Magistrate Judge Stephen T. Brown

DOBSON COLLINS,

Plaintiff,

-vs-

FLAGSHIP AIRLINES, INC.,
a Delaware corporation,

Defendant.

**DECLARATION OF WILLIAM LANGRAN
PURSUANT TO 28 U.S.C. § 1746**

1. Pursuant to 28 U.S.C. § 1746, I, William Langran, a resident of Miami-Dade County, Florida, under penalty of perjury and from personal knowledge, make the following declaration.

2. I have worked at Flagship Airlines' Miami Maintenance Facility since September 1989. I have been employed as an Inspector by Flagship Airlines since that time.

3. On November 30, 1994, at approximately 4:40 p.m., I was upstairs in the Flagship Maintenance hanger in Miami stapling copies in the meeting/conference room. Dobson Collins was at the opposite end of the table from me and was sitting at looking through a file folder. I observed Mr. Collins going to the copying machine with a piece of paper and making a copy.

CASE NO.: 96-1104-CIV-GOLD

4. Noel Franz came out of the Base Manager's office and asked to see the piece of paper Mr. Collins had in his hand. Mr. Collins responded that it was personal notes. Mr. Franz then gave Mr. Collins a directive to let him see the piece of paper.

5. Mr. Collins stepped back about three steps and unfolded the paper and held it up. Mr. Franz asked to have the piece of paper, but Mr. Collins refused and folded up the piece of paper and put it in his left shirt pocket. Mr. Collins then proceeded to go downstairs. As Mr. Collins was leaving the room, Mr. Franz gave Mr. Collins a directive to come back and give him the piece of paper. Mr. Collins refused.

6. Approximately ten seconds after Mr. Collins left the room, Mr. Franz followed. As Mr. Franz started after Mr. Collins, the door to the stairway shut behind Mr. Collins and Mr. Franz did not reach the door until several seconds later.

7. About five minutes later, Mr. Franz and Mr. Collins came back upstairs to the meeting/conference room. Mr. Collins was not limping and he did not make any allegation that Mr. Franz had pushed him down the stairs. Mr. Franz asked Mr. Collins if he would like a shop steward and asked Jesus Sanchez to call the line for a shop steward. None was present, however. Mr. Franz then asked Mr. Collins if he wanted anyone else as a witness for what may happen if Mr. Collins did not comply with Mr. Franz's directive to hand over or show him the piece of paper so that he could tell what it was.

8. Mr. Collins took the piece of paper out of his shirt pocket, unfolded it, shook it back and forth, and said that he had shown it to Mr. Franz. Mr. Franz asked him to

CASE NO.: 96-1104-CIV-GOLD

show it to Mr. Franz so that he could read it. Mr. Collins unfolded the piece of paper and shook it in front of Mr. Franz again.

9. Mr. Franz again asked Mr. Collins to give him the piece of paper. Mr. Collins then took a piece of paper out of his right pants pocket and showed it to Mr. Franz. Mr. Franz responded that that was not the piece of paper he requested. Mr. Franz stated that he needed to make sure that it was not company paperwork or a copy of company paperwork that Mr. Collins had taken. Mr. Collins responded by saying that he would not give the paper to Mr. Franz because it was personal. Mr. Collins started to leave the room. Mr. Franz gave Mr. Collins a directive to come back and give him the piece of paper or Mr. Collins would be terminated. Mr. Collins did not return. Mr. Franz did not follow Mr. Collins.

10. At no time did I observe Mr. Franz screaming or shouting at Mr. Collins.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 28TH day of MAY, 1998.


WILLIAM LANGRAN

6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

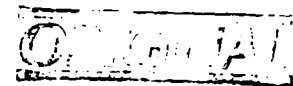
Case No. 97-0722-CIV-GRAHAM

ANTHONY LEE, an individual,
Plaintiff,

-vs-

EXECUTIVE AIRLINES, INC., a
Delaware corporation, d/b/a
AMERICAN EAGLE AIRLINES, INC. and
AMERICAN AIRLINES, INC., a Delaware
corporation, and FLAGSHIP AIRLINES,
INC., a Delaware corporation,

Defendant.



5300 First Union Financial Center
200 South Biscayne Boulevard
Miami, Florida
Tuesday, October 28, 1997
9:54 a.m. - 3:55 p.m.

VIDEOTAPE DEPOSITION OF ANTHONY LEE

Taken before Nancy Bryant, RPR, RMR, RDR and
Notary Public in and for the State of Florida at Large,
pursuant to Notice of Taking Deposition issued herein
and stipulation of counsel.

1 Q. Who?

2 A. There were many other white employees --

3 Q. Who?

4 A. -- walking in behind Ozzie Russell. I do
5 not recall the names at this time.

6 Q. As a matter of fact, you don't even know
7 what day it was that he counseled with Ozzie Russell
8 about that, do you?

9 A. I --

10 Q. Do you?

11 A. Ozzie Russell worked under my --

12 Q. Do you?

13 A. I did not make a record of the dates.

14 Q. And did you --

15 A. It was an ongoing process.

16 Q. When? When was it ongoing?

17 A. During my tenure as a lead.

18 Q. Okay. So if you were to -- if you wanted me
19 to check and see whether it's true that Noel Franz
20 counseled with Ozzie Russell one day about coming in a
21 minute late for lunch, but didn't counsel with white
22 employees who came in late for lunch, you couldn't
23 help me to find who those persons are I should be
24 checking, because you don't know who they are, when it
25 was, or when Ozzie was counseled about it; right?

CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF DADE

I, NANCY BRYANT, Registered Professional Reporter, Registered Merit Reporter, and Registered Diplomate Reporter, certify that I was authorized to and did stenographically report the deposition of ANTHONY LEE, that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 31st day of October, 1997.


NANCY BRYANT, RPR, RMR, RDR

H



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 97-0722-CIV-GRAHAM

ANTHONY LEE, an individual

Plaintiff,

VS.

EXECUTIVE AIRLINES, INC., a
Delaware Corporation d/b/a
AMERICAN AIRLINES INC., a Delaware
Corporation, and FLAGSHIP AIRLINES, INC.,
a Delaware Corporation

Defendants.

2650 S.W. 27th Avenue
Miami, Florida
January 27, 1998
9:45 a.m.

Deposition of RAPHAEL PEREZ

Taken before Elaine Somma, Certified
Shorthand Reporter and Notary Public in and for the
State of Florida at Large, pursuant to Notice of
Taking Deposition filed in the above cause.

- - - - -

JACK BESONER & ASSOCIATES
150 West Flagler Street, Miami, Florida

1 Thereupon:

2 RAPHAEL PEREZ,

3 was called as a witness by the Plaintiff, and after
4 being first duly sworn, was examined testified under
5 oath as follows:

6 DIRECT EXAMINATION

7 BY MR. KURZBAN:

8 Q. Mr. Perez, where are you currently
9 working?

10 A. I work for American Eagle known as
11 Flagship Airlines in Miami.

12 Q. How long have you worked for American
13 Eagle?

14 A. About eight years.

15 Q. Were you working at American Eagle at the
16 time that Anthony Lee was working there?

17 A. Yes.

18 Q. What was your position in May of 1994 at
19 the time that Tony Lee was working there?

20 A. I was a crew chief for the third shift
21 personnel.

22 Q. Crew chief and lead are basically the
23 same thing?

24 A. Yes.

25 Q. Which shift did you work on?

1 A. Third shift.

2 Q. Did you ever work on any of the other
3 shifts as well?

4 A. Now or--

5 Q. Well, between 1992 and 1994, did you work
6 as a lead?

7 A. Yes.

8 Q. At those times, did you work at different
9 shifts?

10 A. I can't remember exactly what year I went
11 to the day shift. I don't know if it was in '94,
12 sometime I think. I can't remember exactly what
13 date. I did move around.

14 Q. So you were a lead on different shifts at
15 different times?

16 A. Right, yeah.

17 Q. But in May of 1994 before Tony Lee was
18 terminated from employment at American Eagle, you
19 were a lead on the third shift?

20 A. Right.

21 Q. And that was the night shift?

22 A. Right.

23 Q. I want to ask you about some of the
24 things that went on in the company at that time in
25 May of 1994 and during that three or four month

mentioned to Tony maybe you should drop your lead just to get out of the limelight so you wouldn't have Noel on your back all the time.

He told me know "No, I know that he doesn't like me, I am going to stick it out because I have the right also to be a lead".

Q. Do you know if Noel did this with other black employees who were there when they were working with him?

A. Well, I couldn't tell you on that. You have to talk to each individual lead mechanic.

Q. Let me ask you, what was his relationship to Oren Camejo?

A. At one time Oren was a crew chief.

Q. Did he do the same things to Oren that he did to Tony as far as you remember?

A. No, I don't remember.

Q. You know Larry Sheets, right?

A. Yeah.

Q. Was there a time in which Larry Sheets worked under the direction of Harold Allen?

A. Yes.

Q. Was there a time at which you were aware that Larry Sheets had an accident with an airplane?

A. Yeah.

CERTIFICATE OF REPORTER

STATE OF FLORIDA:

SS.

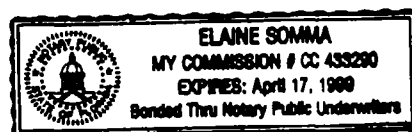
COUNTY OF DADE:

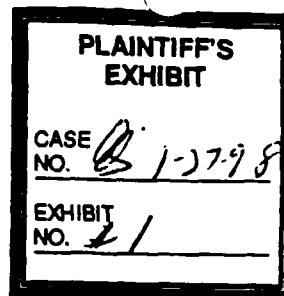
I, Elaine Somma, a Certified Shorthand Reporter and Notary Public for the State of Florida at Large, do hereby certify that I reported the deposition of RALPH PEREZ, called as a witness by the Plaintiff in the above-styled cause; that the said witness was duly sworn by me; that the reading and subscribing of the deposition were not waived by the witness and counsel for the respective parties; that the foregoing pages, numbered from 1 to 177, inclusive, constitute a true and correct transcription of my shorthand report of the deposition by said witness on this date.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the event of the cause.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE, on this 9th day of February, 1998 in the City of Miami, County of Dade, State of Florida.


ELAINE SOMMA, Notary
Public, State of Florida at Large
My Commission Expires:





To whom it may concern, -

I, RAFAEL PEREZ is writing this statement in hope that the discrimination against Tony Lee is halted. I'm from hispanic descent. Born in New York City, New York. Raised in a mixed neighborhood. Being prejudice was not a part of my life until I moved to Florida. In Florida the blacks and whites discriminate against each other so much.

Tony Lee and Noel Franz are coworkers with me at American Eagle. I consider Tony Lee more than a coworker, but a close friend whom I know for over four yrs. There has been many incidents by Noel Franz involving racial remarks, not only with Tony Lee, but other black employees. I remember one incident a couple of months ago, Noel Franz came in the crew chief's office and asked one of the day shift crew chief, Orien Camejo, where is your brother, the one that looks like you, the one I always have problems with. Orien Camejo was offended, because he is also black. I don't know if Noel Franz is joking or he's serious about his racial remarks he make in front of me. Noel Franz tells me many times that he's not prejudice, but sometime I feel that he's being honest with his feelings. I told Tony Lee many times to watch out with Noel Franz, because he's out to get him. It seem to me that Noel Franz discriminate against Tony Lee. Every mistake Tony Lee make, Noel Franz is writing a report on him. As a friend of Tony Lee I tell him anything I hear that is said about him not only from Noel Franz, but others too and he does the same for me.

In closing, Noel Franz should halt his discrimination feelings from the workplace.

Yours Truly,
RAFAEL PEREZ
RLP

I

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U.S. DISTRICT COURT FOR THE DISTRICT OF FLORIDA

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 97-0722-CIV-MIDDLEBROOKS
Magistrate Robert L. Dube

ANTHONY LEE, an individual,

Plaintiff(s),

vs.

ORIGINAL

EXECUTIVE AIRLINES, INC., a
Delaware corporation, d/b/a
AMERICAN EAGLE AIRLINES, INC.,
a Delaware corporation, and
FLAGSHIP AIRLINES, INC., a
Delaware corporation,

Defendant(s).
-----/

200 S. Biscayne Blvd.
Miami, Florida
February 4, 1998
Wednesday, 1:15 p.m.

DEPOSITION

of

JESUS RIVERA

Taken before TORIL FARRAR, RPR-RMR-RDR,
Notary Public for the State of Florida at Large,
pursuant to Notice of Taking Deposition filed in the
above cause.

1 same thing right now?

2 Q. I am sorry. With respect to Mr. Lee.

3 A. Mr. Lee?

4 Q. Yeah.

5 A. I was there for over a year working midnight
6 shift all the junior guys were on.

7 Q. His crew --

8 A. His crew, because that's a seniority crew.

9 Q. So when was that, if you remember?

10 A. 1992 to '93.

11 Q. He was terminated in May '94. You aren't
12 talking about in the beginning of '94, you are
13 talking --

14 A. From the beginning, yeah, from the
15 beginning. But, again, you must understand, again,
16 the phase crew, if you go right now, phase crew, the
17 senior guys used to put in for it at that time because
18 they had three days off. People want three days off,
19 so it was the phase crew. The MEL crew, we had two
20 days off, we worked eight hours.

21 So, naturally, the junior guys wound up
22 getting the -- you just bid for days off. But the
23 crew, you had no choice. At this moment right now it
24 is different because everybody has 10-hour shifts.

25 So you have the phase crew and MEL crew. I

CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF DADE

I, TORIL FARRAR, Registered Professional,
Merit and Diplomate Reporter, hereby certify that I
was authorized to and did stenographically report the
foregoing proceedings, Pages 1 to and including 301,
and that the transcript is a true and accurate record
of said proceedings.

I further certify that I am not an attorney
or counsel of any of the parties, nor a relative or
employee of any attorney or counsel connected with the
action, nor financially interested in the action.

Dated this 27th day of February 1998.



TORIL FARRAR, RPR-RMR-RDR

5



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 98-377-CIV-MOORE

OSWALD S. RUSSELL,

Plaintiff,

vs.

AMERICAN AIRLINES, INC., AMERICAN
EAGLE AIRLINES, INC., and
FLAGSHIP AIRLINES, INC.,

Defendants.

COPY

5300 First Union Financial Center
200 South Biscayne Boulevard
Miami, Florida
Wednesday, January 26, 1999
10:30 a.m. - 1:30 p.m.

CONTINUATION OF THE
VIDEOTAPED DEPOSITION OF OSWALD RUSSELL

Taken before Sandra Lish, Court Reporter
and Notary Public in and for the State of Florida
at Large, pursuant to Notice of Taking Deposition.

1 others. Could have been Harold Allen.

2 Q. Which shift did you start when you
3 started --

4 A. Started midnight shift, if I remember. Yes,
5 midnight.

6 Q. Did you work any other shifts at other
7 times?

8 A. I think I did work in the afternoon a
9 little.

10 Q. Do you remember whether that was before or
11 after you were lead mechanic?

12 A. It was during before and --no, no, no. It
13 was during the lead mechanic. I was on afternoon, and
14 I think after lead mechanic I was still on afternoon.
15 I am not sure, clear about that. Have to check that.

16 Q. When you went to avionics, what shift was
17 that?

18 A. I went in the morning.

19 Q. So, you have worked all of them?

20 A. Yes.

21 Q. And the last shift that you worked was the
22 morning?

23 A. Was the morning.

24 Q. So, when you were lead mechanic your
25 supervisor could have been Harold Allen?

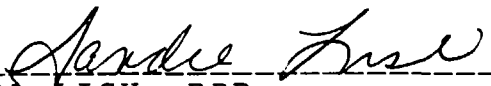
CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF DADE

I, SANDRA LISH, court reporter, certify that I was authorized to and did stenographically report the deposition of OSWALD RUSSELL, and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 2nd day of February, 1999.



SANDRA LISH, RPR

K



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 96-1104-CIV-GOLD
Magistrate Judge Stephen T. Brown

DOBSON COLLINS,

Plaintiff,

-vs-

FLAGSHIP AIRLINES, INC.,
a Delaware corporation,

Defendant.

**DECLARATION OF JESUS SANCHEZ
PURSUANT TO 28 U.S.C. § 1746**

I, Jesus Sanchez, a resident of Miami-Dade County, Florida, under penalty of perjury and from personal knowledge, make the following declaration.

1. I was employed as a mechanic by Flagship Airlines from February 1991 to February 1997.

2. On November 30, 1994, at approximately 4:45 p.m., I observed Mr. Dobson Collins coming down the stairs from the supervisor's office in Flagship's Miami Maintenance Facility hangar. When Mr. Collins got half way down the stairs, Mr. Noel Franz opened the door upstairs and told Mr. Collins to please come upstairs to his office.

3. Mr. Franz followed Mr. Collins down the stairs and kept repeating to him to please come up to his office. Mr. Collins refused to do so. Mr. Franz then told Mr. Collins

CASE NO.: 96-1104-CIV-GOLD

that if he did not go upstairs, it would be grounds for dismissal because he was not following a directive. Mr. Collins again refused, and Mr. Franz again repeated that Mr. Collins could be terminated for failure to follow a directive. Mr. Collins then agreed to go upstairs.

4. As a union brother, I offered to accompany Mr. Collins as a union witness. Mr. Franz, Mr. Collins, and I then proceeded upstairs. Mr. Franz asked Mr. Collins if he wanted a union shop steward representative. Mr. Collins said yes, but no union shop steward could be found. I agreed, however, to act as a union representative.

5. In the conference office Mr. Franz asked Mr. Collins to show him a piece of paper that he had in his pocket. Mr. Collins refused to do so, saying that the paper was personal "stuff." Mr. Franz asked him again to please show him the piece of paper. Mr. Collins then pulled out the piece of paper from his pocket, unfolded it, and waved it with his right hand.

6. Mr. Franz then asked Mr. Collins to please hand over the piece of paper so that he could see what it was. Mr. Collins refused, saying that it was personal and folded it back up again and put it in his pocket.

7. Mr. Franz stated that he needed to see what was written on the piece of paper and would not read the entire document. Mr. Collins then pulled the piece of paper back out of his pocket, unfolded it, waved it again, folded it back up and put it back in his pocket. Mr. Franz asked him to please go into Mr. Franz's office. Mr. Collins refused to do so and left. Mr. Franz did not follow Mr. Collins.

8. At no time from the moment that I first saw Mr. Collins coming down the stairs until the moment that Mr. Collins left the premises did I observe Mr. Franz physically or

CASE NO.: 96-1104-CIV-GOLD

verbally abuse Mr. Collins. I never saw Mr. Franz push Mr. Collins. Mr. Collins looked healthy and normal, and did not limp, or appear injured in any way.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29 day of may, 1998.



JESUS SANCHEZ