

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

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**US AIRLINE PILOTS ASSOCIATION,**

**Plaintiff,**

**v.**

**1:09-CV-1675  
(FJS/JMF)**

**PENSION BENEFIT GUARANTY CORPORATION,**

**Defendant.**

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**APPEARANCES**

**OF COUNSEL**

**BINGHAM MCCUTCHEN LLP**  
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Washington, D.C. 20006  
Attorneys for Plaintiff

**David J. Butler, Esq.**  
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**PENSION BENEFIT GUARANTY  
CORPORATION**  
1200 K Street, NW  
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Attorneys for Defendant

**Joseph M. Kretteck, Esq.**  
**Garth D. Wilson, Esq.**  
**Paula J. Connelly, Esq.**

**SCULLIN, Senior Judge**

**ORDER**

Currently before the Court are Plaintiff's motion for summary judgment, *see* Dkt. No. 57, and Defendant's cross-motion for judgment on the pleadings or, in the alternative, for summary judgment, *see* Dkt. No. 58. The Court heard oral argument in support of, and in opposition to, these motions on March 13, 2012.

After hearing the parties' oral arguments, the Court advised counsel that there were issues of fact regarding whether Defendant had breached its fiduciary duties, which precluded granting

the parties the relief they sought. In addition, the Court questioned Defendant's counsel about the current status of the new plan asset evaluation that Defendant had undertaken for all four terminated US Airways pension plans, including the plan at issue in this case.<sup>1</sup>

Accordingly, after considering the parties' submissions and oral arguments and the relevant law, and for the reasons the Court stated at oral argument, the Court hereby

**ORDERS** that Plaintiff's motion for summary judgment is **DENIED**; and the Court further

**ORDERS** that Defendant's cross-motion for judgment on the pleadings or, in the alternative, for summary judgment is **DENIED**; and the Court further

**ORDERS** that Defendant shall file with the Court and serve on opposing counsel a report addressing the current status of the new plan asset evaluation on or before **April 13, 2012**; and the Court further

**ORDERS** that counsel shall appear for a status conference with the Court on **April 18, 2012, at 10:00 a.m.**; and the Court further

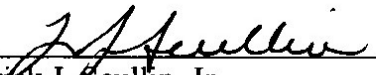
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<sup>1</sup> On February 3, 2012, Defendant's counsel notified Magistrate Judge Facciola and Plaintiff's counsel that Defendant estimated that this new plan asset evaluation would be completed by September 30, 2012. *See* Dkt. No. 76.

**ORDERS** that Plaintiff's unopposed motion for an expedited hearing and consideration of the parties' cross-motions for summary judgment is **DENIED as moot**.

**IT IS SO ORDERED.**

Dated: March 19, 2012  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge