

up the ability to develop arbitration systems that serve the multiple needs of the parties.

II. SOUTHWEST AIRLINES

Robert B. Moberly* and William McKee** moderated a panel discussion of the state of labor relations at Southwest Airlines (SWA). Mr. Moberly introduced the topic by noting that consumer satisfaction with airlines has dropped to its lowest point since 2001, according to the University of Michigan's Consumer Satisfaction Index. Customer complaints include lost luggage, late or cancelled flights, overbooked flights, and charging extra for premium seats and checking bags. However, Southwest Airlines is the only one of seven major airlines with a high customer-satisfaction score, and has led its competitors in customer satisfaction for 15 years. The founder of the Index states that Southwest "gets people to their destination with their luggage, and their employees feel like they're part of the organization."

Moberly noted that MIT Professor Tom Kochan recently was interviewed by the *Wall Street Journal* about his forthcoming book on labor relations in the airline industry. When asked why employee relations are important, he stated, "a high level of engagement and a good labor-relations system are the keys to increasing productivity and service quality. And productivity leads to profitability." When asked whether any airlines are getting this right, Kochan stated, "The premier example . . . is Southwest Airlines, which happens to be the most unionized airline in the industry. Southwest gets to low cost by emphasizing improved productivity through loyalty on the part of employees, who stay a long time and operate a system that maximizes employee ideas and discretion solving problems and achieving financial objectives. . . . Southwest is a low-fare competitor, and they've had high-quality" jobs, and their employees are among the highest-paid in the industry.

Mr. McKee commented on his service on permanent panels with SWA and two TWU locals. He also recalled his first two hearings with SWA. During the first, which was held in a room lined with

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cardboard boxes filled with little peanut packages, the attendees invited him to join them in “grazing” on peanuts during the first break. By mid-afternoon McKee was forced to disclose that he could not stop eating peanuts after he got started—to which the advocates heartily stipulated. His second hearing was held at corporate headquarters in a meeting room next door to the site of an ongoing ping-pong tournament. Several witnesses, including corporate vice presidents, testified in T-shirts and shorts while they waited for their turns in the tournament. At the close of the hearing, McKee overheard the union and company advocates discuss meeting for a drink on the roof deck, where a rock band regularly played on Friday afternoons.

Culture and teamwork are big at SWA, McKee indicated, although they do not override the contract. Invariably, terminated employees testify that they loved working at SWA and would go back in a heartbeat. The parties treat each other and the arbitrator with respect at the hearings, just as employees are expected to respect their customers.

Joe Harris is Vice President of Labor and Employment Relations for SWU. He began the discussion from the industry perspective as follows:

I became an employee of SWA in December 2005. However, as an attorney in private practice, I represented SWA in labor and employment matters for more than 34 years before becoming an employee. Often, when people would learn that I represented Southwest Airlines, they would ask, “How does Southwest manage to remain non-union?” I would chuckle and explain that in fact Southwest is the most heavily unionized airline in the industry. (We currently have ten collective bargaining agreements covering more than 85 percent of our approximately 34,000 employees.) But why was I so often asked this question? I believe it is because there has been so little labor strife at Southwest. But what is the explanation for such a remarkable labor relations history? I believe it is attributable to two factors: (1) commitment to positive labor relations at the highest level of leadership, and (2) our positive employee culture.

Southwest Airlines began flying in June 1971. I began representing Southwest in May 1972. During those early years, I was privy to discussions at Southwest concerning what approach Southwest would take with regard to union representation of its employees. Lamar Muse, the first Chief Executive Officer and President of Southwest, was of the opinion that we should not expend time

and resources in an attempt to remain non-union. Lamar's reason for doing so was both pragmatic and financial. We were small and broke. In Lamar's opinion, if we were to be successful at remaining non-union, we would have to lead the industry in wages and benefits, something we could not even begin to do. Lamar also expressed the opinion, based on years of dealing with unions at other airlines, that if unions were voted in by our employees, we could successfully deal with them. Herb Kelleher, recently retired Chair of the Board at Southwest, believed that it was important for our employees to have a voice, and that it was easier to deal with a designated representative. He also strongly believed that we should not be adversaries, but rather partners, with any labor organization representing our employees. Although Lamar is now deceased and Herb is retired, there is still today at the highest levels of leadership at Southwest a commitment to sustaining and nurturing the sound relationship we have with our labor organizations.

There is yet another factor that contributes to positive labor relations at Southwest: our culture—how we view and treat our employees. At Southwest, our employees come first; our customers come second; and our stockholders come third. The rationale is pretty simple. If we treat our employees right, they're going to treat our customers right. If our customers are treated right, they will come back and our stockholders will benefit. Moreover, if we are committed to the proposition that we are going to treat our employees right, then it follows *a fortiori* that we should treat the labor organizations that represent them no differently.

Here on the panel with me today is Eric Carr, Chief Counsel, Labor and Employee Relations. Eric and I are employed in the Labor and Employee Relations Department at Southwest. I would like to read to you the mission statement of our department:

The mission of Labor and Employee Relations is to promote effective and respectful relationships with all of our Employees, as well as the Unions and Associations who represent our Unionized Employees.

Of course this sounds great in theory, but the challenge is in execution. It requires a daily commitment to do the right thing in our dealings with our employees and the labor organizations that represent them:

- To disagree without being disagreeable.
- To avoid character assassination and vilification when things don't go our way.

- To learn to listen, not just for the sake of being courteous, but with a goal of genuinely understanding and evaluating another point of view.
- To learn to appreciate the value of loyal opposition.
- To learn that we are not always right.
- To be willing to compromise and appreciate the value of joint resolution of disputes.
- To understand that a short-term “win” at any cost can be destructive to a long-term relationship.

I believe that Southwest and the labor organizations representing our employees share two common goals: (1) to adequately and properly provide for the safety and economic well-being of our employees, and (2) to keep our company healthy and prosperous. In these times of ever-increasing costs and volatile fuel prices, it is a difficult challenge. But we feel more confident knowing that our labor organizations are partners with whom we can join hands in this effort.

In June 2006, Morgan Stanley reported: “While it may be difficult to quantify financially, we believe culture and Southwest’s collaborative spirit between management and labor is one of its greatest assets.”

I would also like to share with you the comments of one of our employee-labor leaders that reflect our strong labor relations culture:

After a discussion with a Southwest Employee from outside our workgroup, I trashed the first article I wrote and felt compelled to write instead about labor-management relations here at Southwest Airlines. It occurred to me that a person reading our various Union publications might assume that the Union and Company are bitter enemies who never agree on anything: two enemies constantly at battle. This is simply not true. . . . We are going to have disagreements and disputes. That is the nature of labor-management relations; but animosity is a *choice*. That choice is not in the best interest of Southwest Airlines, its Customers, or Employees. . . . And if anyone is wondering while reading this article if I am pro-Union or pro-Company, the answer is . . . *both*.¹

On May 12, 2008, the *Wall Street Journal* published an interview with Professor Tom Kochan, a professor of management at the MIT Sloan School of Management. He has co-authored a book to

¹Patti Adams, Southwest Airlines Operations Agent and District III Rep., TWU Local 555 *Voice of 555* (Summer 2006).

be released this fall entitled: *Up in the Air: How Can Airlines Compete by Engaging Their Workforce?*

Q: *Why are employee relations and culture so important?*

A: As our airline research has shown, a high level of [employee] engagement and...good labor relations...are the keys to increasing productivity and service quality. And productivity leads to profitability. In the airline industry, productivity requires two things from the work force. First, it requires that workers use their discretionary effort to solve problems...which means they must be motivated and authorized to do so on the front lines. Second, it requires labor peace: no prolonged conflict over new contracts, no slow-downs, sickouts or stoppages. In so cost-driven an industry, productivity is all. With employees, there's a virtuous cycle and a disastrous cycle that airlines can follow, and the only question is which one are they going to choose.

Q: *Are any airlines getting this right?*

A: Several. The premier example—the one that people always turn to—is Southwest Airlines, which happens to be the most highly unionized airline in the industry. Southwest gets to low cost by emphasizing improved productivity through loyalty on the part of employees, who stay a long time and operate a system that maximizes employee ideas and discretion for solving problems and achieving financial objectives. It has had 25 years of successful financial performance and good labor relations.

In summary, we value the relationship we have with our employees and the labor organizations that represent them. We believe that this relationship has contributed to the remarkable success of Southwest Airlines. In the final analysis, we are in a customer service business that depends upon our employees for our success. As Colleen Barrett, President of Southwest Airlines, has often said, “We are in the customer service business. We just happen to fly airplanes.”

In the entrance lobby at our headquarters building in Dallas, Texas, there is an inscription etched in glass that eloquently describes how the success of Southwest Airlines is attributable to our marvelous employees:

The people of Southwest Airlines are the creators of what we have become—and of what we will be. Our people transformed an idea

into a legend. That legend will continue to grow only so long as it is nourished—by our people’s indomitable spirit, boundless energy, immense good will, and burning desire to excel. Our thanks—and our love—to the people of Southwest Airlines for creating a marvelous family and a wondrous airline.

Eric Carr is Chief Counsel of Labor and Employment Relations. He continued the management perspective as follows:

“I got into Labor and Employment law after my father specifically warned me not to. He was a labor attorney who practiced for many years in the New York/New Jersey area and saw his share of nasty battles between unions and management. He wanted something less adversarial for me, and thought I would enjoy a calmer life as a doctor or at the very least as a bull fighter.

So, I ignored his sage advice and got a job with the National Labor Relations Board (NLRB) in downtown Los Angeles. As an attorney enforcing the National Labor Relations Act (NLRA), I quickly became aware of the challenges unions face while organizing employees and representing their membership. My job as an NLRB attorney exposed me to many employers who would say and do anything to avoid unions. After I accepted a job in private practice representing management in New York City, I encountered similar anti-union sentiment, but could not share in my colleagues’ delight in helping management rid itself of union representation.

After a brief crisis during which I considered taking my father’s advice and leaving law for greener pastures, I did some research and discovered that there are companies that embrace their relationships with unions and employee associations. Even a simple Google search revealed to me that Southwest set the standard for positive and effective relationships with the unions and associations that represent its employees.

The skeptical New Yorker in me did not believe that such relationships existed, but I learned very quickly after I was hired that what mattered most at Southwest was not how well you can sling the legal jargon, or your ability to win cases, but whether you treated everyone, especially the unions, with respect and even kindness.

Besides me, there are three other Labor and Employment attorneys who handle the day-to-day employment issues that arise for approximately 34,000 employees. We counsel executives and front-line management, assist in negotiating collective bargaining agreements, respond to charges from governmental agencies, and arbitrate grievances. To be sure, my colleagues and I are strong

advocates for the company, but like Vice President of Labor and Employment Relations Joe Harris said, preserving the relationship with our union counterparts takes precedence over winning.

To me, the dichotomy of being an advocate for Southwest while maintaining positive relationships with the union is never more apparent than during arbitration. Cross-examining a grievant or union representative with “kindness” is not something you learn in law school. Law firms do not encourage their associates to “be nice.” But at Southwest, I know that the grievant I am questioning today may be reinstated as an employee tomorrow. The possibility that he or she may be brought back into the family motivates me to treat him or her with respect throughout the arbitration. On a purely selfish note, I am also mindful that if a discharged Customer Service Agent is reinstated, one day he or she may have the fate of my checked bag in his or her hands. Likewise, the flight attendant I was cross-examining yesterday might be pouring my cup of water tomorrow. It pays to be nice.

I am also probably working on several other cases with the union representative who is sitting across from me at the arbitration table. Currently, I am involved in negotiations for a collective bargaining agreement and several members of the union’s team have either presented arbitration cases or were witnesses in cases in which I was involved. In situations such as contract negotiations, where a good foundation of trust and respect is so crucial, not having a “win at all costs” attitude at arbitration is particularly valuable.

When we hired the two newest attorneys in our group, the first thing we said to them during their interviews was that if they identified strongly with their title as “lawyer,” this may not be the place for them. Rather, we look to hire people who, through good judgment and legal expertise, can lead others to do the right thing and to adhere to the company’s culture of treating each other with respect.

This is the environment I have searched for since leaving the NLRB, and even my father can agree that being an attorney at Southwest is preferable to bull fighting.

Carl Kuwitsky is President of the Southwest Airlines Pilots Association and a DAL-based Captain for Southwest Airlines. His remarks introduced the union side of the picture at Southwest as follows:

Southwest Airlines Pilots Association (SWAPA) is the collective bargaining agent that represents more than 5,600 pilots in the

employment of Southwest Airlines. My labor experience spans the last 24 years in a variety of elected and appointed roles in SWAPA. I am currently in my fifth term as a member of the Board of Directors and have served on numerous committees including Scheduling, Negotiating, Merger, and Air Safety. In my current position I also serve as the Chairman of our Board of Directors. This year completes my 25th year of employment with Southwest Airlines.

I graduated from Hardin University with a Bachelors degree in Biology. You are probably wondering what help a Biology degree has been in my labor work. The not-surprising short answer is, no help at all.

I began my career at Southwest in July 1983 after stints at two commuter airlines and working for a wealthy family flying a corporate jet. I was very fortunate to be hired at Southwest at a young age during a down time in the United States airline industry. Although my previous experience had prepared me very well to fly for Southwest, there was absolutely no training in my past experience or in my upbringing to prepare me for the ancillary duties I would undertake in labor representation.

So how did a young conservative with no background at all in labor end up doing union work? Well, it is a colorful story but probably not worth getting into in this setting. I began my SWAPA service one week after completing my probationary year at Southwest. I learned very early on in my union work with SWAPA that a cooperative spirit was the backbone of our relationship with the company. Both parties were kindred spirits that believed that in order for the pilot group to make advances in wages and benefits, the company must be strong and prosper. In fact, the SWAPA mission statement states that we will achieve prosperity and job security through collective bargaining. But that does not mean there has been a love fest going on for the last 30 years between SWAPA and Southwest. We have had difficult times over the years and have weathered many storms. Both parties have always vigorously advocated their positions in grievance discussions and contract negotiations.

It will probably surprise you that SWAPA currently has fewer than five active grievances pending and one SBOA. In the entire history of our union we have had only two arbitrations. Obviously, the low number of arbitrations is not good news for this audience of arbitrators. In contrast, most other independent unions with whom we work have a backlog of hundreds of grievances and arbitrations. What we do in our relationship between the company

and SWAPA works very well for us. We solve problems in a cooperative spirit.

Thom McDaniel is the President of Transport Workers Union Local 556, which represents the Flight Attendants. Mr. McDaniel concluded the panel presentation as follows:

A little more than 16 years ago I woke up one morning and realized that I hated my job. I was an insurance salesman, so that is not too hard to believe. I literally lay in bed and tried to think of the one thing I had always wanted to do. As crazy as it sounded then, I wanted to be a flight attendant for Southwest Airlines. Not a flight attendant at any airline—a flight attendant at Southwest Airlines, because they always seemed to be having fun. Here I am 16 years later just another “boy stewardess” and I am still having fun.

Granted, the union work is different and not nearly as much fun, but there is something incredibly satisfying about representing the best flight attendants in the industry at the best airline in history. When I started at Southwest, I did not know what a union was, much less think I needed one. After several years working on the plane, I started noticing that we were pretty far behind the rest of the industry in compensation and that some of our work rules needed to be changed. After watching another substandard contract barely pass, I decided it was time to get involved. With record profits every year, our flight attendants deserved a contract that recognized our contribution to the success of Southwest.

That was in the year 2000 when we had about 4,000 flight attendants and were 30 percent behind the industry. After a hard-fought battle that lasted more than two years, I am now proud to say that I am lucky enough to represent almost 10,000 flight attendants who work under an industry-leading contract.

I know this is an arbitrator’s conference and this session is about how arbitration works at Southwest Airlines, but our negotiations are a good example of what happens when the process becomes about winning at all costs as opposed to solving problems, even at Southwest. Our former CEO, Jim Parker, was the lead negotiator and it was clear from the very beginning that things were not going well as we fought over even the smallest issues. When we got to compensation, management would no longer meet with us after exchanging one offer and one counter-offer. Management filed for mediation, but things did not get any better.

After two years, Mr. Parker stepped aside as lead negotiator and Herb Kelleher stepped in, with Colleen Barrett to assist him. We immediately got to work and had a signed and ratified Agreement

within three months of our first meeting with Herb and Colleen. Did I mention that it was ratified by 92 percent of our members? The difference was that Herb and Colleen treated the employees and the union that represented them with respect and trust. There were no winners, no losers, and no egos—just a contract that allowed Southwest Airlines to run a successful and profitable operation and a contract that protected and paid flight attendants fairly. We were not the union trying to get as much as we could. With Herb and Colleen, we were employees trying to solve problems.

Tagging onto Vice President of Labor and Employee Relations Joe Harris's reference to Tom Kochan's new book, I sat on a panel for Jody Hofer Gittell, one of his co-authors on the book. During the discussion, there were several references to new, low-cost carriers in Canada, China, and Europe that were described as "just like Southwest, but they are not unionized." Jody corrected them, stating, "You can't be just like Southwest without unions"—a lesson she discovered when writing her book, *The Southwest Airlines Way* (McGraw Hill 2002). Herb and Colleen know this and live it.

We are at a turning point in our company. Four years ago our labor relations were at their lowest point because someone forgot that people are the key to the success of Southwest Airlines. It took Herb and Colleen to get the train back on the track. Herb retired this week and Colleen steps down in July. We officially open negotiations in one week, and whether at the bargaining table or in the arbitration room, the only fitting tribute to them is to carry on their legacy of treating employees with respect and trust. To take a play out of Herb and Colleen's playbook, arbitration should not be about winning at all costs, but rather about settling disagreements in such a way as to establish trust and respect.

