

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 CASE NO. 11-15463-sh1

4 - - - - - x

5 In re: Chapter 11

6 Case No. 11-15463

7 AMR CORPORATION, ET AL,

8

9 Debtors.

10 - - - - - x

11

12 United States Bankruptcy Court

13 One Bowling Green

14 New York, New York

15

16 B E F O R E:

17 HON. SEAN H. LANE

18 U.S. BANKRUPTCY JUDGE

19

20 Re Doc. #11941 (Modified Bench Ruling) Motion to Allow Late

21 Filed Claim to be entered as timely Filed by Gary Bryant

22

23 Re Doc. #11840 (Modified Bench Ruling) Objection of Debtors

24 Pursuant to 11 U.S.C. Section 502(b) and Fed. R. Bankr. P. 3007

25 to Proof of Claim Nos. 13478, 13788 and 13865 filed by Lawrence

1 M. Meadows

2

3 A P P E A R A N C E S :

4

5 WEIL, GOTHAL & MANGES LLP

6 Attorneys for AMR Corporation, et al, Reorganized Debtor

7 200 Crescent Court

8 Suite 300

9 Dallas, TX 75201

10 BY: STEPHEN A. YOUNGMAN, ESQ.

11 767 Fifth Avenue

12 New York, NY 10153

13 BY: KEVIN H. BOSTEL, ESQ.

14

15 GARY BRYANT, PRO SE

16

17 VANDERBERG & FELIU

18 Attorneys for Lawrence M. Meadows

19 60 East 42nd Street, 51st floor

20 New York, NY 10165

21 BY: VINCENT J. ROLDAN, VANDERBERG & FELIU

22

23

24 MODIFIED BENCH RULING AS TO BOTH (I) GARY BRYANT AND

25 (II) LAWRENCE M. MEADOWS

1 (I) GARY BRYANT

2 Before the Court is the motion of Gary Bryant for an
3 order deeming his proof of claim timely filed pursuant to Rule
4 9006(b)(1) of the Federal Rules of Bankruptcy Procedure and
5 Section 105(a) of the Bankruptcy Code. His motion is at ECF
6 No. 11941. He asserts that he did not receive adequate notice
7 of the bar date setting the deadline for filing claims in the
8 above Chapter 11 cases, and therefore, the Court should deem
9 his proof of claim timely filed.

10 In the alternative, he maintains that he meets the
11 excusable neglect standard to permit a late filed claim. For
12 the reasons that follow, the motion will be denied.

13 The background of this case is fairly simple.
14 Debtors filed the voluntary petition seeking relief under
15 Chapter 11 of the Bankruptcy Code on November 29, 2011. On
16 March 30, 2012, the debtors filed the motion seeking to
17 establish a deadline for filing proofs of claim. ECF No. 2086.

18 On May 4, 2012, the Court entered the bar date order,
19 which established July 16, 2012, as the bar date in the
20 debtors' cases. ECF No. 2609.

21 On May 18, 2012, the debtors' claims and noticing
22 agent served, by first class mail, the notice of deadlines for
23 filing proofs of claim, with an attached proof of claim dated
24 May 23, 2012. ECF 2888.

25 On May 18, 2012, the bar date notice was mailed to

1 Mr. Bryant at 17484 Southwest 34th Court, Miramar, Florida
2 33029-5588, and it was not returned as undeliverable. ECF No.
3 3215.

4 On May 31, 2012, the debtors also had the bar date
5 notice published in ten publications, including the Wall Street
6 Journal, the New York Times, USA Today, and the Miami Herald.
7 ECF No. 3215.

8 On October 21, 2013, the bankruptcy court entered the
9 confirmation order in these bankruptcy cases. The effective
10 date of the plan was December 9, 2013. See ECF 11402.

11 Almost ten months after the bar date on May 8, 2013,
12 Mr. Bryant filed suit against AMR in the Southern District of
13 Florida, alleging that he was forced to resign from his
14 employment with AMR on September 18, 2011, due to race
15 discrimination and based on retaliation in violation of Title
16 VII. *Bryant v. American Airlines*, 2013-cv-21667, Dkt. 30.
17 After being served with Mr. Bryant's complaint, AMR filed a
18 notice of suggestion of bankruptcy with the Florida court. *Id.*
19 Pursuant to 11 U.S.C. Section 362(a), the Florida court stayed
20 those proceedings.

21 Mr. Bryant moved to reopen the case in early January
22 2014. 2013-cv-2166, Dkt. 13. In March of 2014, the Florida
23 court entered AMR's motion to dismiss, agreeing with AMR that
24 Mr. Bryant's claims were discharged and enjoined by the plan
25 and confirmation order, pursuant to Section 1141(d) of the

1 Bankruptcy Code. Id. at Dkt. 30. On April 8, 2014, the
2 Florida court denied Mr. Bryant's motion to reopen the case and
3 set aside the dismissal. Id. at Dkt. 32.

4 Mr. Bryant maintains again that he did not receive
5 adequate notice because he was not listed as an unsecured
6 creditor. He also relies on the fact that he was engaged in
7 mediation with AMR as an excuse for filing a late claim.

8 The standard of review has been well plowed by the
9 courts. A bar date order is an integral part in the
10 reorganization process. See *In re Best Products Corp.*, 140
11 B.R. 353, 353-57 (Bankr. S.D.N.Y. 1992). It enables the
12 parties in interest to ascertain with reasonable promptness the
13 identity of those making claims against the estate, and the
14 general amount of the claims, which is a necessary step toward
15 achieving the goal of a successful reorganization. See *id.*

16 If individual creditors were permitted to postpone
17 indefinitely the effect of the bar date order, the
18 institutional means for ensuring the sound administration of
19 the bankruptcy estate would be undermined. See *First Fidelity
20 Bank, N.A., v. Hooker Inv., Inc.*, 937 F.2d 833, 840 (2d Cir.
21 1991).

22 So the Court turns first to the issue of whether Mr.
23 Bryant was provided with adequate notice. The constitutional
24 standard for due process requires that known creditors in a
25 bankruptcy case receive actual notice of the bar date. See *New*

1 York v. N.Y., N.H. & H.R. CO., 344 U.S. 293, 296-97 (1953)
2 (finding that known creditors must be afforded notice
3 reasonably calculated under all the circumstances to apprise
4 them of the pendency of the bar date.). In re R.H. Macy & Co.,
5 161 B.R. 355, 359 (Bankr. S.D.N.Y.) (citing Mullane v. Cent.
6 Hanover Bank & Trust Co., 339 U.S. 306 (1950)).

7 Unless a creditor is given reasonable notice of the
8 bankruptcy proceeding and relevant bar dates, its claim cannot
9 be constitutional discharged. See Grant v. U.S. Home Corp.,
10 223 B.R. 654, 658 (Bankr. S.D.N.Y. 1998).

11 In Chapter 11, therefore, a known creditor must
12 receive adequate notice before its claim is barred forever.
13 See In re Best Products Corp., 140 B.R. at 357. A bar date is
14 strictly enforced except when a known creditor is not listed on
15 the schedules and fails to receive actual notice of the bar
16 date. Id. at 358.

17 It is also well settled law that proof that a letter
18 was properly addressed and placed in the mail system creates a
19 presumption that the letter was received in the usual time by
20 the addressee. See Hagner v. U.S., 285 U.S. 427, 430 (1932)
21 (demonstrating how old this so-called "mail box rule" is).
22 Thus, upon proof of mailing of a properly addressed letter, a
23 rebuttable presumption of receipt arises. See In re R.H. Macy
24 & Co., 161 B.R. at 359.

25 Federal courts in New York have held "quite

1 uniformly" that an affidavit of non-receipt is insufficient to
2 rebut the presumption of receipt created by proof of mailing.
3 See *Cablevision Systems Corp. v. Malandra (In re Malandra)*, 206
4 B.R. 667, 673 (Bankr. E.D.N.Y. 1997); *In re R.H. Macy & Co.*, 161
5 B.R. at 360 (opining that movant's respective self-serving
6 submissions asserting non-receipt are insufficient to rebut the
7 presumption of receipt); see also *In re Horton*, 149 B.R. 49, 58
8 (Bankr. S.D.N.Y. 1992), (noting that affidavits of creditor's
9 employees are merely general denials that a creditor received
10 the notice, and therefore insufficient to rebut the
11 presumption).

12 It is possible under certain circumstances to rebut
13 the presumption of mailing. It does require, however, that
14 testimony denying receipt be accompanied by detailed evidence
15 to rebut the presumption, and that evidence includes things
16 like tracking procedures to catalog the receipt of mail. See
17 *Hogarth v. N.Y. City Health & Hospice Corp.*, No. 97-CV-0625,
18 2000 WL 375242 (S.D.N.Y. Apr. 12, 2000). In *Hogarth*, the
19 defense successfully rebutted the presumption that the letter
20 was delivered by clearly establishing the use of detailed logs
21 of incoming and outgoing mail that contained no record of the
22 letter in question. See also *In re Robinson*, 228 B.R. 75, 82
23 (Bankr. E.D.N.Y. 1998), (ruling that "although the mere denial
24 of receipt does not rebut the presumption, testimony denying
25 receipt in combination with evidence of a standardized

1 procedure for processing mail can be sufficient to rebut the
2 presumption.").

3 Courts in the Second Circuit do not take this issue
4 lightly, given the important functions served by the bar date
5 in bankruptcy cases. This heightened burden recognizes that if
6 a party was permitted to defeat the presumption of receipt of
7 notice resulting from the certificate of mailing simply by
8 giving an affidavit to the contrary, the scheme of deadlines
9 and bar dates under the Bankruptcy Code would come unraveled.
10 See *In re R.H. Macy & Co.*, 161 B.R. at 360 (quoting *In re Trump*
11 *Taj Mahal Assoc.*, 156 B.R. 928, 939 (Bankr. D.N.J. 1993)).

12 Applying these principles here, the debtors have
13 submitted evidence that establishes actual notice was provided
14 to Mr. Bryant. More specifically, the debtors provided
15 evidence that the bar notice was mailed to Mr. Bryant and was
16 not returned as undeliverable. Moreover, the address where Mr.
17 Bryant was served is the same address that Mr. Bryant provided
18 in his motion.

19 Mr. Bryant has not provided sufficient evidence to
20 overcome the mailbox presumption here, including any evidence
21 regarding the tracking of his mail. Therefore, the Court deems
22 that the debtors have met their burden of providing Mr. Bryant
23 with actual notice of the bar date.

24 It is not entirely clear why the debtors considered
25 Mr. Bryant to be a known creditor that should receive actual

1 notice of the bar date. I suspect it is likely because the
2 events that formed the basis of a Florida lawsuit in the
3 proposed claim here, took place before the bankruptcy filing,
4 and were likely the subject of some administrative proceeding.
5 But in the unlikely event that one considered Mr. Bryant an
6 unknown creditor, the notice standard would be even lower, and
7 would be satisfied here as well.

8 More specifically, the debtors would have provided
9 Mr. Bryant with adequate notice as an unknown creditor by
10 publishing the bar date, as they did, in ten local and national
11 publications. See *In re BIG, Inc.*, 476 B.R. 812, 824 (Bankr.
12 S.D.N.Y. 2012) (holding that publication in the New York Times
13 provided adequate notice to unknown creditors).

14 Moving on to the excusable neglect issue, the Court
15 notes that even assuming that actual notice of the bar date had
16 been provided, a late filed claim is permissible if the
17 creditor can establish excusable neglect. The standard for
18 excusable neglect is found in Bankruptcy Rule 9006(b)(1), which
19 provides that the Court may, for cause shown at any time in its
20 discretion, on motion made after the expiration of a specific
21 period, permit the late act to be done where the failure to act
22 was the result of excusable neglect. F.R.B.P. 9006(b)(1).
23 Under the standard, the Court cannot find, however, that the
24 movant's late filed claim is permissible.

25 The Supreme Court has observed that the term

1 excusable neglect, in its ordinary sense, means to give little
2 attention to or respect to a matter, or to leave undone or
3 unattended to, especially through carelessness. *Pioneer Inv.*
4 *Servs. v. Brunswick Assocs.*, 507 U.S. 380, 388 (1993). *Pioneer*
5 is the case that is cited as the alpha and the omega on the
6 excusable neglect standard. Neglect encompasses both simple
7 faultless omissions to act, and more commonly, omissions caused
8 by carelessness. *Id.* at 388. Whether claimant's neglect of a
9 deadline is excusable, however, is an equitable determination.
10 *Id.* at 395.

11 The Court should consider all the relevant
12 circumstances, including the dangers of prejudice to the
13 debtor, the length of the delay, and the delay's potential
14 impact on the judicial proceedings. *Id.* at 395. In addition,
15 the Court should consider the reason for the delay, including
16 whether it was in the reasonable control of the movant, and
17 whether the movant acted in good faith. *Id.* at 395.

18 The Second Circuit has adopted a strict standard on
19 excusable neglect. See *Asbestos Personal Injury Pl.'s v.*
20 *Travelers Indemnity (In re John Manville Corp.)*, at 476 F.3d
21 118, 120-24 (2d Cir. 2007); *Midland Cogeneration Venture LP v.*
22 *Enron Corp. (In re Enron Corp.)*, 419 F.3d 115, 122 (2d Cir.
23 2005) (stating that the Second Circuit has taken "a hard line"
24 in applying the Pioneer test).

25 As the Court in *Enron* noted, the equities rarely, if

1 ever, favor a party who fails to file within the clear dictates
2 of a court rule, and where the rule is entirely clear, we
3 continue to expect that a party claiming excusable neglect
4 will, in the ordinary sense, lose under the Pioneer test. See
5 in re Enron, 419 F.3d at 123.

6 Although courts consider all of the Pioneer factors,
7 the hard-line approach focuses mainly on the reason for the
8 delay and whether it was within the reasonable control of the
9 claimant. Id. at 122. This is usually because the other
10 Pioneer factors ordinarily weigh in favor of the parties
11 seeking an extension. Id.

12 Focusing on the central Pioneer factor here, Mr.
13 Bryant contends that he did not receive adequate notice because
14 he was not listed in the Chapter 11 schedule of liabilities and
15 was not personally notified of the bar date order. As
16 discussed above, however, the Court has concluded that he did
17 receive adequate notice of the bar date, based on the evidence
18 I have before me and the mailbox presumption.

19 Moreover, he offers no other explanation for the
20 delay other than the mediation in which he was involved. But
21 as to the mediation, he points to no facts about that mediation
22 that would excuse his failure to file a claim. And given all
23 these facts, the reasons for delay weigh against the movant.

24 The Court next considers the length of the delay and
25 its potential impact on the judicial proceedings. There is no

1 bright line governing when the lateness of a claim is
2 substantial. *Id.* at 128. Instead courts consider the degree
3 to which the delay might disrupt the judicial administration of
4 a particular case. *Id.* Thus, the length of the delay,
5 the complexity of the case, and the progress made in a case are
6 all relevant considerations, but none are dispositive on their
7 own. *Id.* at 128-29.

8 Here, the length of the delay is significant. This
9 motion was filed more than a year-and-a-half after the Court
10 entered the bar date order. Courts have recognized such delays
11 as substantial. See *In Re AMR Corp.*, 429 B.R. 660, 667 (Bankr.
12 S.D.N.Y. 2013) (finding a three-month delay to be substantial).

13 Furthermore, the claim here would be disruptive to
14 the administration of the case because the debtors are well
15 advanced in these Chapter 11 cases, having confirmed the plan
16 and already begun to make distributions to holders of allowed
17 claims and equity interests.

18 Lastly, the Court considers the danger of prejudice
19 to the debtors if the Court allows the late filed claim.
20 Courts have often recognized the danger of opening the
21 floodgates to potential claimants, particularly in large cases
22 such as these. See, e.g., *In re Enron Corp.*, 419 F.3d at 132,
23 n.2 (noting that courts in this and other circuits regularly
24 cite the potential flood of similar claims as the basis for
25 rejecting late filed claims); see also *In re Dana Corp.*, 2007

1 Bankr. LEXIS 1934, at *19 (Bankr. S.D.N.Y. May 30, 2007).

2 Permitting this late filed claim here could help to
3 open the floodgates to other creditors who failed to timely
4 file their claims. That would result in disruption of the
5 administration of these Chapter 11 cases, particularly given
6 that the debtors have begun to make distributions.

7 Finally, while not raised by Mr. Bryant, the Court
8 considers if any documents that he filed might be considered an
9 informal proof of claim. An informal proof of claim is an
10 equitable remedy available where a creditor fails to comply
11 with the technical procedures for filing a proof of claim, but
12 still took some action to preserve its interest, and put the
13 debtors on notice of a claim. See *In re M.J. Waterman &*
14 *Assocs.*, 227 F.3d 604, 608-09 (6th Cir. 2000); see also *In re*
15 *Residential Capital LLC*, 12-12020, 2014 WL 3057111 (Bankr.
16 S.D.N.Y. July 7, 2014) (finding a creditor's initiation of an
17 adversary proceeding before the bar date sufficient to qualify
18 as an informal proof of claim); see also *In re Dana Corp.*, 06-
19 10354, 2008 WL 2885901, at *3 (Bankr. S.D.N.Y. July 23, 2008)
20 (applying an informal proof of claim concept in a Chapter 11
21 case).

22 An informal proof of claim must meet certain
23 requirements. First, it must have been timely filed with the
24 bankruptcy court and become part of the judicial record;
25 second, it must state the existence and nature of the debt;

1 third, it must state the amount of the claim against the
2 estate; and fourth, it must evidence the creditor's intent to
3 hold the debtors liable for the debt. See *In re Enron*
4 *Creditors Recovery Corp.*, 370 B.R. 90, 99 (Bankr. S.D.N.Y.
5 2007).

6 Courts may grant relief to a creditor that provides
7 the requisite claim information in a non-standard form, but
8 that relief is limited to documents filed before the expiration
9 of the applicable bar date. See *In re Lehman Bros. Holding*,
10 433 B.R. 113, 121-22 (Bankr. S.D.N.Y. 2010), *aff'd* 445 B.R. 130
11 (Bankr. S.D.N.Y. 2011).

12 Applying these standards here, there is nothing
13 Mr. Bryant has done that would qualify as an informal proof of
14 claim. While he states in his motion that he was engaged in
15 mediation with the debtors, nothing related to that process
16 resulted in a bankruptcy filing that would have given the
17 debtors notice of the claim. Therefore, the Court finds that
18 the movant has not filed an informal proof of claim.

19 For all these reasons, the Court finds that
20 Mr. Bryant received adequate notice of the bar date and has
21 failed to demonstrate that his late filed claim was a product
22 of excusable neglect. Accordingly, the Court denies the
23 motion. The Court sympathizes with Mr. Bryant's circumstances
24 and appreciates his efforts at representing himself, and I will
25 note again that I thought he did a fine job of representing

1 himself. But as a Judge, I am required to apply the law even
2 if it means that I must often be the bearer of bad news. I
3 will enter an order that is consistent with this bench ruling.

4 (II) LAWRENCE M. MEADOWS

5 Moving on to the other matter, before the Court is the
6 objection of the debtors to proofs of claim numbered 13478,
7 13788 and 13865, which were filed by Lawrence M. Meadows, as
8 well as the response of Mr. Meadows to that objection. See ECF
9 Nos. 11840 and 11919.

10 The debtors' objection has essentially two parts.
11 The debtors first object to Mr. Meadows's original proof of
12 claim for long-term disability benefits, arguing that they have
13 prevailed on these issues in federal court proceedings in
14 Florida, and the United States Court of Appeals for the
15 Eleventh Circuit.

16 Second, the debtors object to Mr. Meadows's amended
17 proofs of claim. Debtors argue that these amended proofs of
18 claim are untimely because they were filed months after the bar
19 date order in these bankruptcy cases, and that the additional
20 relief sought in these amended proofs of claim does not relate
21 back to the one timely filed claim or to anything else.

22 For the reasons that I will explain, the debtors'
23 objection is granted.

24 The background to this present dispute is
25 complicated. Mr. Meadows is a former American Airlines pilot

1 and received long-term disability benefits from 2004 through
2 December of 2007 when those benefits were terminated. See
3 Objection, ¶ 11; Meadows's Response, ¶ 1. That termination was
4 upheld in an administrative appeals process with American's
5 Pension Benefits Administrative Committee on June 10, 2008.
6 See Objection ¶ 12. Later, Mr. Meadows was placed on unpaid
7 sick leave status, and was ultimately terminated from his
8 employment at AMR on October 24th, 2011. See Meadows' Response
9 ¶ 3; Objection ¶ 15.

10 Mr. Meadows commenced various proceedings and
11 lawsuits in connection with both the termination of his long-
12 term disability benefits and the termination of his employment
13 with American Airlines. A brief description of some of these
14 cases is necessary to understand the objection now before the
15 Court.

16 The first and most relevant of these proceedings
17 relates to the termination of Mr. Meadows's long-term
18 disability benefits. In 2008, Mr. Meadows sought a review of
19 the termination of his disability benefits via the
20 administrative appeals process with the Pension Benefit
21 Administration Committee (the "PBAC"). The PBAC issued a final
22 denial of disability benefits in June of 2008. See Objection
23 ¶ 12.

24 In July of 2010, Mr. Meadows filed a lawsuit against
25 the debtors, the PBAC, and American's Pilot Retirement Benefit

1 Program. That lawsuit was filed in the United States District
2 Court for the District of Florida, seeking recovery of long-
3 term disability benefits. That case was Case No. 1:10-cv-22175
4 and I will refer to that generally as the "ERISA action" as it
5 was a complaint for disability benefits.

6 In 2011, the Florida court granted summary judgment
7 in favor of American concluding that "based on the facts, the
8 language of the plan, and the relevant medical records, the
9 Court finds that even if Mr. Meadows's termination of benefits
10 could be regarded as a de novo wrong, the decision was not
11 arbitrary and capricious and thus, must be affirmed." See
12 *Meadows v. American Airlines*, 2011 U.S. Dist. LEXIS 30839 at
13 *67 (S.D. Fla., Mar. 24, 2011).

14 Mr. Meadows appealed that ruling to the Eleventh
15 Circuit, which affirmed the Florida court's ruling. See
16 *Meadows v. American Airlines, Inc.*, 520 F. App'x 787 (11th Cir.
17 2013).

18 In March of 2014, Mr. Meadows filed a motion with the
19 Florida District Court to reconsider its March 2011 decision
20 under Rule 60(b) of the Federal Rules of Civil Procedure. See
21 10-CV-22175, Dkt. 89. That motion was denied by the Florida
22 District Court on May 14, 2014. See *id.* at Dkt. 94.

23 That information described Mr. Meadows's first
24 relevant proceeding. The second relevant proceeding of
25 Mr. Meadows is the so-called SOX action, with the term SOX

1 referring to the Sarbanes-Oxley Act. That action began
2 September 12, 2011, when Mr. Meadows filed a complaint with the
3 Occupational Safety and Health Administration of the United
4 States Department of Labor ("OSHA"). That complaint alleged
5 that the debtors retaliated against him for reporting corporate
6 fraud by threatening to terminate his employment.

7 As the Department of Labor's investigation of such
8 matters is not covered by the automatic stay, the matter moved
9 forward. See 11 U.S.C. § 362(b)(4).

10 In December of 2012, the Secretary of the Department
11 of Labor found that there was no reasonable cause to believe
12 that the debtors violated the statute. See Debtor's Reply,
13 ¶ 7. Then in February of 2013, Mr. Meadows administratively
14 appealed the Department of Labor's decision and the matter was
15 then assigned to an administrative law judge. That matter is
16 currently pending.

17 Mr. Meadows's third relevant proceeding is so-called
18 Grievance 12-011. In that grievance, Mr. Meadows sought to
19 grieve the "improper assertions and actions" with respect to
20 his employment status, seniority and discharge. Obj. Ex. B,
21 Grievance 12-011. Mr. Meadows' request for grievance was made
22 pursuant to Section 21 of the relevant collective bargaining
23 agreement that he was employed under between the pilots and the
24 debtors.

25 The crux of Mr. Meadows's complaint appears to be

1 that he was never contacted by nor received a formal notice
2 from any supervisor with respect to his employment status,
3 seniority, or discharge. In addition, the grievance referenced
4 the Americans with Disabilities Act, as well as his status as a
5 federal whistleblower under the Sarbanes-Oxley regulations.

6 On July 13, 2012, the Allied Pilots Association (the
7 "APA"), which is the collective bargaining representative of
8 Mr. Meadows, filed its own proof of claim, and that proof of
9 claim is number 8331. That proof of claim included Mr.
10 Meadows's Grievance 12-011, as well as many other grievances by
11 many other employees.

12 The APA subsequently entered into a settlement
13 agreement with the debtors that extinguished all claims,
14 including APA Claim 8331, with the exception of very specific
15 grievances. See Obj. ¶ 26, citing ECF No. 5800.

16 Mr. Meadows's Grievance 12-011 was one such grievance
17 that was excluded from the APA settlement. See ECF No. 5626 at
18 516. In March of 2014, the APA filed an amended claim that
19 excluded Grievance 12-011 from the list of grievances that were
20 carved out of the settlement. See Obj. ¶ 27; Claim 13866. In
21 sum, the APA amended claim operated to extinguish Grievance 12-
22 011 by including it in the settlement, or at least that is how
23 it appears.

24 At the hearing on this matter, counsel for the APA
25 summed up the matter as follows: "The APA included Grievance

1 12-011 among the list of 37 that were excepted from the overall
2 settlement on the equity side. The grievance then moved
3 through the process up to the pre-arbitration conference, in
4 which the parties made one final attempt to resolve grievances
5 and decide which go to arbitration and which don't.
6 Unfortunately, no resolution was possible at which point the
7 APA decided, and in August of 2013, when it was decided, it
8 informed Mr. Meadows that it would not be taking this grievance
9 to arbitration because it did not allege a violation that the
10 arbitrator would have any jurisdiction over. At that point,
11 the process ended." Hr'g. Trans. 70:16-71:2.

12 The debtors characterize Mr. Meadows's Grievance 12-
13 011 as addressing whether the company acted properly in
14 terminating Mr. Meadows's employment under the terms of the
15 collective bargaining agreement. Hr'g. Trans., Apr. 17, 34:20-
16 24. The debtors note that Mr. Meadows now has a pending
17 lawsuit to compel arbitration of that same grievance. Id. at
18 36:17-18.

19 Counsel for AMR confirmed that the process of fully
20 litigating Grievance 12-011, including this mediation
21 arbitration, is unaffected by the debtors' objection. In other
22 words, Grievance 12-011 is on a "separate track, and the
23 debtors are not asking for any relief as to Mr. Meadows's
24 ability to continue with that grievance, including dealing with
25 the union regarding the grievance." Hr'g. Trans. 37:3-12.

1 Instead, the Grievance will run its process under the union and
2 the CBA process outside this Court. Id. at 37:13-19.

3 Before moving on to the events of the bankruptcy
4 case, I just wanted to note that Mr. Meadows has also filed
5 other actions that were not included in the original or amended
6 claims. Those include an SEC whistleblower complaint, alleging
7 security fraud, and a third grievance based on a right of
8 special assignment to a non-flying position. Those proceedings
9 are not relevant for purposes of this ruling, but the Court
10 mentions them only to flush out the extensive litigation that
11 has occurred and is still occurring involving these parties.

12 Turning to the relevant events in these bankruptcy
13 cases, the debtors filed for relief under the Bankruptcy Code
14 in November of 2011. As I explained in the other bench ruling
15 this morning, the Court entered a bar date order establishing
16 July 16, 2012, as the bar date in these bankruptcy cases. See
17 ECF 2609. The bar date order clearly states that failure to
18 file a timely proof of claim will forever bar a party from
19 asserting such a claim against the debtors and their Chapter 11
20 estates. See ECF No. 2609, Annex I.

21 On March 20, 2012, Mr. Meadows filed his original
22 proof of claim for \$470,340, with \$338,000 listed as priority
23 and the balance as an unsecured claim. See Claim No. 1916.
24 This original claim was for "pilot long-term disability
25 payments." No supporting documentation was submitted. See

1 Obj. Ex. A at 1.

2 This was the only claim filed by Mr. Meadows before
3 the bar date. After the bar date, Mr. Meadows filed three
4 additional proofs of claim (collectively, the "Amended
5 Claims"). The first Amended Claim was filed approximately
6 eight months after the bar date in March of 2013. See Claim
7 13478. Claim 13478 sought "at least \$500,000" for long-term
8 pilot disability, and "EEOC charges including, but not limited
9 to wrongful termination and discrimination, SOX claim, et
10 cetera." Id. Attached to the claim was a list of the
11 proceedings and various lawsuits of Mr. Meadows, including
12 various EEOC charges, the SOX action, the appeal of the
13 determination by the PBAC and Grievance 12-011. See Meadows's
14 Resp. ¶ 11. Of the \$5 million sought, \$338,900 requested
15 priority treatment, leaving the balance of \$161,100 as an
16 unsecured claim.

17 On January 24, 2014, approximately eighteen months
18 after the bar date, Mr. Meadows filed the second Amended Claim,
19 number 13788, which was identical to Claim 13478, except for
20 adding one additional proceeding, Grievance 13-064, which is
21 based on Mr. Meadows's removal from American's seniority list.
22 That grievance was filed in October of 2013, heard in February
23 of 2014, and denied on March 26, 2014. See Meadows's Resp. ¶¶
24 45-48. Mr. Meadows has indicated that the APA refuses to
25 appeal Grievance 13-064. He will seek to compel arbitration.

1 Two months later, Mr. Meadows filed the third Amended
2 Claim, number 13865, which corrected the amount of the claim
3 seeking priority status. The idea was that Claim Number 13788
4 was filed as a wholly unsecured claim.

5 Subsequent to these events, on October 21, 2013, the
6 Court entered an order confirming the Debtors' Fourth Amended
7 Joint Chapter 11 plan. ECF 10367. The plan went effective
8 December 9, 2013, with the legal effect of discharging any and
9 all prepetition claims that arose against the Debtors, except
10 for those preserved by a properly filed proof of claim. See
11 *id.*

12 The legal standard here is straightforward. A
13 correctly filed proof of claim constitutes prima facie evidence
14 of its validity and the amount of the claim. To overcome this
15 presumption, the objecting party must provide evidence which it
16 believes would refute at least one of the allegations essential
17 to the claim. See *In re Riley*, 245 B.R. 768, 773 (2d Cir. BAP
18 2000). Upon such objection, the burden then shifts back to the
19 claimant to produce additional evidence to prove the validity
20 of the claim by a preponderance of the evidence. See *In re*
21 *Rescap*, 507 B.R. 477, 490 (Bankr. S.D.N.Y. 2014) (collecting
22 cases).

23 Bankruptcy Code Section 502(b)(1) provides that
24 claims may not be allowed to the extent that such claims are
25 unenforceable against the debtor and the property of the debtor

1 under any agreement or applicable law. See *id.*

2 The Debtors argue that the long-term disability claim
3 asserted has been fully adjudicated and that it has been
4 determined that the debtors have no liability with respect to
5 those claims. See Obj. ¶ 30.

6 In his papers and at the hearing on the objection,
7 Mr. Meadows argued that the Eleventh Circuit's affirmation of
8 the summary judgment ruling in favor of American Airlines was
9 "not finally adjudicated" within the meaning of the Bankruptcy
10 Code, given his then pending motion for reconsideration under
11 Rule 60(b) of the Federal Rules of Civil Procedure. The Rule
12 60(b) motion for reconsideration was then pending in front of
13 the Florida District Court. The parties at the hearing agreed
14 to wait for the final decision on the Rule 60(b) motion before
15 having the court rule on the long term disability component of
16 Mr. Meadows's claim.

17 On May 14, 2014, the Florida Court entered its ruling
18 denying the motion for reconsideration. ECF No. 12017, Ex. A.
19 Given this latest ruling and other prior rulings of the Florida
20 District Court and the Eleventh Circuit, it is clear that the
21 issue of the termination of long-term disability insurance has
22 been fully litigated and resolved by the Florida District Court
23 and the United States Court of Appeals for the Eleventh
24 Circuit. In those proceedings, the Florida District Court and
25 the Eleventh Circuit ruled in favor of the Debtors on that

1 issue. Given that undisputed fact, the Court agrees with the
2 debtors' objection and finds it should be granted with respect
3 to the long-term disability issue, which is the subject of the
4 original proof of claim, but which is also mentioned in the
5 Amended Claims.

6 The Court turns now to the second issue: whether
7 additional matters in the Amended Claims filed in March of
8 2013, and January and March of 2014, should be barred as
9 untimely. These Amended Claims were filed eight, eighteen and
10 twenty months after the bar date respectively.

11 Courts in the Second Circuit apply a two-prong test
12 to determine whether to permit a post-bar-date amendment to a
13 timely filed proof of claim. See *In re Barquet Group, Inc.*,
14 477 B.R. 454, 464 (Bankr. S.D.N.Y. 2012).

15 The first prong, known as the relation-back
16 requirement, asks whether there was an assertion of a similar
17 claim or demand evidencing an intention to hold the estate
18 liable. *Id.* (quoting *In re Enron Corp.*, 419 F.3d at 133).
19 This prong will be satisfied if the amendment: 1) corrects a
20 defect of form in the original claim; 2) describes the original
21 claim with greater particularity; or 3) pleads a new theory of
22 recovery based on the facts set forth in the original claim.
23 See *In re Univo*, 2012 Bankr. LEXIS 1089, at *7 (Bankr. S.D.N.Y.
24 Mar. 14, 2012) (citing *In re Enron Corp.*, 419 F.3d at 133).

25 Keeping in mind the standards applicable under Rule

1 15 of the Federal Rules of Civil Procedure for amendment, "the
2 central inquiry is whether adequate notice of the matters
3 raised in the amended pleading has been given to the opposing
4 party within the statute of limitations by the general fact
5 situation alleged in the original pleading." See *Slayton v.*
6 *Am. Express Corp.*, 460 F.3d 215, 228 (2d Cir. 2006). In
7 *Slayton*, the Second Circuit applied that principle and
8 considered whether the amendments were a "natural off shoot" of
9 the original pleadings. *Id.* at 228-29.

10 "Courts must subject post-bar-date amendments to
11 careful scrutiny to assure that there [is] no attempt to file a
12 new claim under the guise of an amendment." *Midland Cogen.'l*
13 *Venture Ltd. P'ship v. Enron Corp. (In re Enron Corp.)*, 419
14 F.3d 115, 124 (2d Cir. 2005) (quoting *Integrated Res., Inc.*,
15 157 B.R. 66, 70 (S.D.N.Y. 1993) (internal citations omitted).

16 Only if the amendment relates back, meaning the first
17 prong is satisfied, will the Court then apply the second prong,
18 which is to examine whether permitting the amendment would be
19 equitable. See *In re Enron*, 419 F.3d at 133. Under the
20 equitable prong, three factors must be considered. First,
21 whether the debtor or its creditors would be unduly prejudiced
22 by the amendment; second, whether the creditors would receive a
23 windfall from the disallowance; and third, whether the claimant
24 acted in good faith and can justify the delay. *Id.*

25 Turning to the relation-back to the original claim,

1 the debtors argue that the Amended Claims do not satisfy the
2 requirements for relation-back. They also claim that
3 permitting the amendments would not be equitable. The debtors
4 note that the original claim does not arise from the same set
5 of facts as the Amended Claims. Specifically, the debtors
6 point out that the allegations pertinent to the SOX and the
7 EEOC actions occurred subsequent to the facts that give rise to
8 the ERISA claim, and therefore, cannot relate back.

9 As counsel for AMR correctly observed at the hearing,
10 "The original claim was based on a denial of long-term
11 disability claims that happened in 2007. The new claims and
12 late-filed amendments relate to actions that occurred in 2011
13 and forward." Hr'g. Trans. 32:12-15. Moreover, the new claims
14 seek an amount that is more than ten times what was asserted in
15 the original claim: \$500,000 versus \$5 million. And, the
16 original claim failed to include any details of supporting
17 documentation that would put the debtors on notice that claims
18 beyond the simple long-term disability benefits were being
19 asserted. More specifically, the original claims specify the
20 basis for the \$470,000 claim only as "long-term disability
21 benefits." The parties agree that the reference to long-term
22 disability benefits in that claim refers to the ERISA action
23 that was pending in the Florida District Court, and eventually
24 in front of the Eleventh Circuit.

25 Mr. Meadows disagrees with this conclusion,

1 contending that the original claim and new claims were all
2 based on the same set of facts: the denial of disability
3 benefits, the subsequent termination and the removal from the
4 pilot seniority lists.

5 But the mere framing of the issue that way explains
6 why the Court disagrees. Namely, the original claim dealt only
7 with the denial of the disability of benefits, and nowhere
8 mentioned termination or removal from the pilot seniority list.
9 Mr. Meadows's assertions are also undercut by his concession
10 that the original claim did not preserve his EEOC or his SOX
11 claim. Hr'g. Trans. 59-60; Obj. ¶ 39. (noting Mr. Meadows's
12 concession in a letter that "his SOX and EEOC claims were not
13 preserved in his original proof of claim."). In fact, in a
14 letter to the APA, Mr. Meadows stated, "My federal SOX and EEOC
15 claims are not preserved by original proof of claim." He went
16 on to say that his "SOX and EEOC claims were only preserved
17 with the bankruptcy court, as part of my preserved APA
18 Grievance 12-011." Hr'g. Trans. 59-60.

19 At the hearing on this objection, the Court asked
20 counsel for Mr. Meadows to confirm that the admission was a
21 limited admission and preserved Mr. Meadows's right that the
22 APA grievance relates back. But, it does seem to concede that
23 it was not pled or covered by the first claim. Counsel for Mr.
24 Meadows responded "that's correct." Id.

25 Now, the Court turns to Mr. Meadows's reliance upon

1 the rights preserved under Grievance 12-011 as a basis for
2 permitting his Amended Claims to go forward. The debtors do
3 not challenge the ability of Mr. Meadows to continue pursuing
4 his potential remedies under Grievance 12-011, and the debtors
5 include a provision to that effect in their proposed order on
6 this objection. See ECF No. 11840, Ex. F. ("Notwithstanding
7 the foregoing, Mr. Meadows shall be permitted to arbitrate
8 Grievance 12-011 before the System Board to the extent that
9 such arbitration is limited in scope to claims involving
10 interpretation of the [collective bargaining agreement] and
11 provides remedies, if any, and if appropriate that are
12 customary in the grievance procedures created by the Railway
13 Labor Act."); see also Obj. ¶ 40 ("Furthermore, the AP claim
14 only preserves one of Mr. Meadows's claims, i.e., Grievance 12-
15 011.").

16 However, the debtors argue that the limited scope of
17 the grievance under the relevant collective bargaining
18 agreement does not provide a springboard for Mr. Meadows to sue
19 in this Court with respect to claims that were not presented in
20 his original proofs of claim. See Hr'g. Trans. 37:21-25.

21 The Court agrees with the debtors on this issue for
22 at least two independent reasons. First, the grievance process
23 covers only matters that are so-called "minor disputes"
24 regarding interpretation of the operative collective bargaining
25 agreement. This fact was confirmed by Mr. Meadows's union

1 representative, the APA at the hearing on this objection, and
2 by case law under the Railway Labor Act, which governs the
3 collective bargaining agreement involving Mr. Meadows, and
4 therefore, this grievance process. See Hr'g. Trans. 70:8-9
5 (APA's counsel stated, "The purpose of a grievance is to
6 challenge an alleged violation of the contract."); see also
7 Allied Pilots Ass'n v. AMR Corp., (In re AMR Corp.), 471 B.R.
8 51, 58 (Bankr. S.D.N.Y. 2012) (discussing the Railway Labor
9 Act, as well as the concept of "minor disputes").

10 Given the limited scope of the grievance to the
11 collective bargaining agreement matter, it follows that
12 Grievance 12-011 cannot somehow preserve Mr. Meadows's right to
13 pursue the far more wide-ranging statutory claims set forth in
14 the Amended Claims. See generally Hawaiian Airlines v. Norris,
15 512 U.S. 246, 256 to 58, 1991 and Whitaker versus American
16 Airlines, Inc., at 285 F.3d 9940 at 946, an Eleventh Circuit
17 case from 2012 (both discussing "minor disputes" and what can
18 be grieved under the Railway Labor Act, along with the relevant
19 processes for such grievances).

20 As I said, there is also a second independent reason
21 to agree with the debtors. The decision-maker for Grievance
22 12-011 will ultimately decide what is appropriately within the
23 scope of that grievance. Whatever the decision-maker in that
24 grievance permits to go forward in the grievance process thus
25 is properly part of the grievance. What the decision-maker

1 decides should not be part of the grievance is not. This, of
2 course, is all subject to whatever appellate rights the parties
3 have arising out of the grievance process. But the Court is
4 well aware that the decision-maker in this grievance process is
5 in a far better position than this Court to determine the
6 permissible scope of the grievance procedures.

7 At the end of the day, therefore, Mr. Meadows will
8 end up with whatever rights in the grievance process he should
9 have by virtue of Grievance 12-011, which is all that was
10 preserved by virtue of the APA settlement and reservation of
11 rights.

12 Finally, the Court rejects Mr. Meadows' argument that
13 these Amended Claims should be permitted as late filed, based
14 on the concept of excusable neglect, which is encompassed in
15 Federal Bankruptcy Rule 9006(b)(1), which empowers a Court to
16 permit a late filing based on excusable neglect. See
17 generally, *Pioneer Inv. Servs. v. Brunswick Assocs.*, 507 U.S.
18 380, 382 (1993). The claimant bears the burden of proving
19 excusable neglect. See *In re Enron Corp.*, 419 F.3d at 121.

20 Again, although excusable neglect is not defined in
21 the Bankruptcy Code, the Supreme Court in the Pioneer case
22 recognized that the analysis parallels the equitable test for
23 amendments. See *In re Calpine Corp.*, 2007 U.S. Dist. LEXIS
24 86514, at *14 (S.D.N.Y. 2007). As set forth in more detail in
25 today's prior ruling regarding Mr. Bryant, a bankruptcy court

1 should consider the danger of prejudice to the debtor, the
2 length of delay, the potential impact on judicial proceedings,
3 the reason for the delay, including whether it was in the
4 reasonable control of the movant, and whether the movant acted
5 in good faith. See *Pioneer*, 507 U.S. at 395-96.

6 The justification for delay is weighted most heavily.
7 See *In re Enron Corp.*, 419 F.3d at 122-23. As noted earlier,
8 the Second Circuit takes a "hardline in applying the *Pioneer*
9 test." See *In re Enron Corp.*, 419 F.3d at 122.

10 Mr. Meadows points to his prior counsel to justify
11 the delay in filing the new claims. While the Court
12 sympathizes with Mr. Meadows's frustration with his former
13 counsel, the Court rejects Mr. Meadows's argument.

14 As Mr. Meadows's papers concede, the case law is
15 clear that an attorney's mistake does not ordinarily or even
16 necessarily constitute excusable neglect. See *Pioneer*, 507
17 U.S. at 396-97 (noting that claimants are responsible for the
18 acts and omissions of their counsel, and that inadvertence,
19 ignorance of the rules, and mistakes concerning the rules do
20 not usually constitute excusable neglect. See also *In re North*
21 *New England Tel. Op's. LLC*, 540 B.R. 372, 381-82 (Bankr.
22 S.D.N.Y. 2014) *aff'd sub nom In re N. New England Tel. Op's.*
23 *LLC*, 09-16365, 2014 WL 3952925.

24 Where, as here, the filing deadline is entirely
25 clear, a party claiming excusable neglect will, in the ordinary

1 course, lose under the Pioneer test. See CVI GVF (LUX) MASTER
2 S.A.R.L. v. Lehman Bros. Holdings Inc., 445 B.R. 137, 141
3 (S.D.N.Y. 2011). Mr. Meadows has presented nothing to justify
4 a departure from this ordinary rule. Indeed the additional
5 Pioneer factors in this case only further support this result.
6 There has been a significant delay in filing the Amended
7 Claims. That delay was eight months, eighteen months, and
8 twenty months respectively, after the bar date. See In re AMR
9 Corp., 492 B.R. 660, 667 (Bankr. S.D.N.Y. 2013) (finding three
10 months to be a substantial delay).

11 In evaluating delay under Pioneer and its progeny,
12 courts also consider whether the plan of reorganization has
13 been filed or confirmed, and consider the delay in the context
14 of the proceeding as a whole. See In re Global Aviation
15 Holdings, Inc., 495 B.R. 60, 66 (Bankr. E.D.N.Y. 2013).

16 Here, we are approaching the one-year anniversary of
17 the confirmation of the plan. The case law recognizes that
18 there is a danger in opening the floodgates to potential
19 claimants at such a late juncture. See In re Enron Corp., 419
20 F.3d at 132, n.2 (2d Cir. 2005).

21 Moreover, the debtors set forth an additional basis
22 for prejudice here; namely, the settlement between the debtors
23 and the APA concerning a variety of matters, including
24 grievances such as Mr. Meadows's. The debtors note that the
25 settlement at issue in this case would be partially undone by

1 permitting the late-filed claims here. That is an additional
2 basis for prejudice, but is an independent basis, and my ruling
3 would be the same without it.

4 By considering all the Pioneer factors, the Court
5 concludes that there is not a sufficient basis to allow the
6 Amended Claims under the excusable neglect standard. For all
7 those reasons, the Court will grant the objection of the
8 debtors to proofs of claims 13478, 13788 and 13865, as set
9 forth in the debtors' objection.

10 I will sign the order consistent with this bench ruling.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25