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No. 13-73215  
*In the*  
**UNITED STATES COURT OF APPEALS**  
*for the*  
**NINTH CIRCUIT**

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US AIRLINE PILOTS ASSOCIATION,

*Petitioner,*

vs.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

*Respondent,*

Don ADDINGTON, John BOSTIC, Mark BURMAN, Afshin IRANPOUR, Roger VELEZ, Steve WARGOCKI, Michael J. SOHA; Rodney Albert BRACKIN; and George MALIGA, individually and representing a class of persons similarly situated (the “West Pilots”),

*Real Parties in Interest.*

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On Petition from Orders of the United States District Court for the District of Arizona, No. 2:13-CV-00471-PHX-ROS, Honorable Roslyn O. Silver, United States District Judge

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**OPPOSITION TO MOTION FOR STAY**

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Real parties in interest Don Addington, John Bostic, Mark Burman, Afshin Iranpour, Roger Velez, Steve Wargocki, Michael J. Soha; Rodney Albert Brackin; and George Maliga, oppose the motion for stay of district court proceedings filed by US Airline Pilots Association (“USAPA”).

Quite simply, USAPA is making a vain effort to impede the efforts of Plaintiffs Addington, *et al.* from obtaining a judicial ruling that USAPA is illegally evading its duty to implement a five-year old arbitrated seniority list that all had agreed would be final and binding. USAPA knows it has no legitimate reason for its actions. Rather, it is acting solely to satisfy the demands of an oppressive majority.

In this latest effort to delay justice, USAPA moved for an “emergency” order to stay the District Court proceedings. USAPA did so on the eve of when its officers will have to explain their actions at deposition. If USAPA was sincere in its desire to conserve costs, it would not have delayed its motion, as it did, until after it subjected the class representatives to fifteen depositions that had little to no bearing on the merits of the claims. The timing of USAPA’s motion, therefore, is telling.

Contrary to FRCAP 8(2)(A)(ii), USAPA made its motion for a stay without first seeking a stay from the District Court. And it failed to explain why it did not first seek a stay from the District Court, as required by FRCAP 8(2)(A)(i). Indeed,

in its motion USAPA merely re-argued the flawed merits of its petition for mandamus.

Should the Court find, pursuant to FRCAP 21, that a response to USAPA's petition for a writ of mandamus is necessary, Plaintiffs are prepared to file a brief that will clearly demonstrate that USAPA is not entitled to mandamus relief. Consequently, this Court should not stay the proceedings in the District Court before Plaintiffs are afforded that opportunity.

DATED: September 13, 2013

Respectfully submitted,

*/s/ Andrew S Jacob*

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Marty Harper

Andrew S. Jacob

POLSINELLI PC

*Attorneys for Appellees West Pilots*

## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on September 13, 2013. I certify that the following participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system:

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DATED: September 13, 2013.

*s/ Andrew S. Jacob*

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