

1 Marty Harper (#003416)
mharper@stklaw.com
2 Kelly J. Flood (#019772)
kflood@stklaw.com
3 Andrew S. Jacob (#22516)
ajacob@stklaw.com
4 **SHUGHART THOMSON & KILROY, P.C.**
Security Title Plaza
5 3636 N. Central Ave., Suite 1200
Phoenix, AZ 85012
6 Phone: (602) 650-2000
Fax: (602) 264-7033
7 *Attorneys for Plaintiffs*

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 DON ADDINGTON, *et al.*;

11 Plaintiffs,

12 vs.

13 US AIRLINE PILOTS ASSOCIATION,
14 and US AIRWAYS, INC.,

15 Defendants.

CASE NO. 2:08-CV-1633-NVW

**MOTION FOR LEAVE TO FILE
NOTICE OF SUPPLEMENTAL
AUTHORITY AND NOTICE
THEREOF**

16 Plaintiffs ADDINGTON, BOSTIC, BURMAN, IRANPOUR, VELEZ,
17 and WARGOCKI request leave to file this *Motion for Leave to File Notice of*
18 *Supplemental Authority and Notice Thereof* to bring two decisions to the
19 attention of the Court that were overlooked in the haste of this accelerated
20 briefing schedule.

21 In one decision, the D.C. Circuit recognized potential unfairness where
22 a System Board decides a dispute in which the union is “adverse to the
23 claims” of non-union members, the company is relatively “disinterested” in
24 the dispute, and “two of the four members [on the System Board] were union
25 representatives.” *Edwards v. Capital Airlines*, 176 F.2d 755, 762 (C.A.D.C.
26 1949).

1 In the other decision, the Fifth Circuit recognized potential unfairness
2 where “the union representatives on the Board have such personal interests
3 arising out of their union memberships or employment, ... as would justify an
4 inference of bias or partiality by reason of interest.” *Hornsby v. Dobard*, 291
5 F.2d 483, 487 (5th Cir. 1961).

6 Plaintiffs anticipate that they may refer to these authorities at oral
7 argument.

8 Dated this _22d day of October, 2008.

9 SHUGHART THOMSON & KILROY, P.C.

10
11 *s/ Andrew S Jacob*

12 *By:* _____

13 *Andrew S. Jacob*
14 *Security Title Plaza*
15 *3636 N. Central Ave., Suite 1200*
16 *Phoenix, AZ 85012*

17 **CERTIFICATE OF SERVICE**

18 I hereby certify that on October 22, 2008, I electronically transmitted
19 the foregoing document to the U.S. District Court Clerk’s Office by using the
20 CM/ECF System for filing and transmittal of a Notice of Electronic Filing .

21 *s/ Andrew S. Jacob*
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