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

Don Addington, et. al.,	}	No. CV 08-1633-PHX- NVW
	}	
Plaintiff(s),	}	ORDER SETTING RULE 16 CASE MANAGEMENT CONFERENCE
	}	
vs.	}	
US Airline Pilots Association, et. al.,	}	
Defendant(s).	}	

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a Case Management Conference is set for **Monday, December 15, 2008, at 4:00 p.m.** in Courtroom 504, Sandra Day O'Connor U.S. Federal Courthouse, 401 W. Washington St., Phoenix, Arizona 85003-2151. In preparation for this Case Management Conference, it is hereby Ordered as follows:

Defendant USAPA is to file its Answer by no later than **December 1, 2008.**

INITIAL DISCLOSURES

The parties are ordered to provide initial disclosures by no later than December 5, 2008 in the form required by Federal Rule of Civil Procedure 26(a)(1). The parties shall file with the Clerk of Court a Notice of Initial Disclosure; copies of the actual disclosures need not be filed.

1 COMMENCEMENT OF DISCOVERY PERMITTED AND REQUIRED

2 The limitation on the commencement of formal discovery set forth in Federal Rule
3 of Civil Procedure 26(d) is waived. Formal discovery not only may commence at any
4 time after service of process, but the court expects discovery to commence prior to the
5 scheduling conference. The parties shall serve initial document discovery requests at
6 least 14 days before the Case Management Conference.

7 CORPORATE DISCLOSURE STATEMENT

8 Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, any nongovernmental
9 corporate party to an action or proceeding must file a Corporate Disclosure Statement. If
10 not previously filed, the Court directs any nongovernmental corporate party to file its
11 Corporate Disclosure Statement within 10 days of receipt of this Order. Forms are
12 available on the court's website.

13 ACCELERATED TRIAL ON PERMANENT INJUNCTION AND LIABILITY FOR
14 DAMAGES; BIFURCATION OF TRIAL ON AMOUNT OF DAMAGES.

15 Trial on the claim for permanent injunction and liability for damages is accelerated
16 and will be set **no later than February 17, 2009**. Trial on the amount of damages is
17 bifurcated and will be scheduled, if necessary, after ruling on the trial on permanent
18 injunction and liability for damages.

19 No dispositive motions will be allowed, as the parties have already engaged in
20 extensive pre-trial motion practice and the urgency of the case does not permit time for
21 another round of substantive motions before the claim for permanent injunction must be
22 decided.

23 TRIAL IN TANDEM OR CONSOLIDATION WITH *ADDINGTON* v. *BRADFORD*.

24 The trial on permanent injunction and liability for damages will be done
25 simultaneously and in tandem with the trial in *Addington v. Bradford*, No. CV 08-1728
26 PHX-NVW. The court will consider at the December 15, 2008, Case Management
27 Conference whether to formally consolidate the two cases.
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1 RULE 26(f) MEETING AND CASE MANAGEMENT REPORT

2 The parties are directed to meet and confer by no later than **December 10, 2008**.

3 At this Rule 26(f) Meeting the parties shall develop a joint Case Management Report
4 which contains the following information in separately numbered paragraphs:

5 1. The parties who attended the Rule 26(f) Meeting and assisted in developing
6 the Case Management Report;

7 2. A short statement of the nature of the case (**3 pages or less**), including a
8 description of each claim and defense;

9 3. A description of the principal factual and legal disputes in the case;

10 4. The jurisdictional basis for the case, citing specific jurisdictional statutes;¹

11 5. Any parties which have not been served and an explanation of why they
12 have not been served; and any parties which have been served but have not answered or
13 otherwise appeared;

14 6. A statement of whether any party expects to add additional parties to the
15 case or otherwise to amend pleadings;

16 7. A listing of contemplated motions and a statement of the issues to be
17 decided by these motions (including motions under Federal Rules of Evidence 702, 703,
18 704, and 705);

19 8. The status of related cases pending before other courts or other judges of
20 this Court;

21 10. A statement of when the parties exchanged Federal Rule of Procedure 26(a)
22 initial disclosures;

23 _____
24 ¹ If jurisdiction is based on diversity, the basis shall include a statement of the citizenship of
25 every party. See 28 U.S.C. §1332. The parties are reminded that (1) a corporation is a
26 citizen of the state where it is incorporated and the state of its principal place of business and
27 (2) partnerships and limited liability companies are citizens of every state of which one of
28 their members or partners is a citizen. See 28 U.S.C. §1332(c); *Indus. Tectonics v. Aero
Alloy*, 912 F.2d 1090, 1092 (9th Cir. 1990); *Belleville Catering Co. v. Champaign Market
Place, L.L.C.*, 350 F.3d 691, 692 (7th Cir. 2003).

- 1 11. A discussion of necessary discovery, including:
- 2 a. The extent, nature, and location of discovery anticipated by the
- 3 parties;
- 4 b. Suggested changes, if any, to the discovery limitations imposed by
- 5 the Federal Rules of Civil Procedure;
- 6 c. The number of hours permitted for each deposition, unless extended
- 7 by agreement of the parties.
- 8 12. Proposed specific dates for each of the following (deadlines should fall on a
- 9 Friday unless impracticable):
- 10 a. A deadline for the completion of fact discovery² and disclosure
- 11 pursuant to Rule 26(a)(3);
- 12 b. Dates for complete disclosures of expert testimony under Rule
- 13 26(a)(2)(C) of the Federal Rules of Civil Procedure;³
- 14 c. A deadline for completion of all expert depositions;
- 15 d. A date by which the parties shall have engaged in good faith
- 16 settlement talks and the prospects for settlement, including any
- 17 request of the court for assistance in settlement efforts.;
- 18 13. The estimated length of trial and any suggestions for shortening the trial;
- 19 14. Stipulation to undisputed facts and foundation of documents, without

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21 ² The discovery deadline is the date by which all discovery must be completed. Discovery

22 requests must be served and depositions noticed sufficiently in advance of this date to ensure

23 reasonable completion by this deadline, including time to resolve discovery disputes. Absent

24 extraordinary circumstances, the Court will not entertain discovery disputes after this

25 deadline.

26 ³ No expert witness not timely disclosed will be permitted to testify unless the party offering

27 such witness demonstrates: (a) that the necessity of such expert witness could not have been

28 reasonably anticipated at the time of the deadline for disclosing such expert witness; (b) the

 Court and opposing counsel or unrepresented party were promptly notified upon discovery

 of such expert witness; and (c) that such expert witness was promptly proffered for

 deposition. *See Wong v. Regents of the Univ. of Cal.*, 2004 WL 1837752, 379 F.3d 1097,

 1103 (9th Cir. August 18, 2004).

1 necessarily conceding the relevance of any fact or document;

2 15. Time for submission of a proposed joint final pretrial statement, time for a
3 joint final pretrial conference, and proposed trial dates if earlier than February 17, 2009.

4 16. Any other matters that will aid the court and parties in resolving this case in
5 a just, speedy, and inexpensive manner as required by Federal Rule of Civil Procedure 1.

6 The parties shall jointly file the Case Management Report with the Clerk by no
7 later than **December 12, 2008, at 5:00 p.m.** It is the responsibility of Plaintiffs to
8 initiate the Rule 26(f) Meeting and preparation of the joint Case Management Report.
9 Defendant shall promptly and cooperatively participate in the Rule 26(f) Meeting and
10 assist in preparation of the Case Management Report.

11 **CASE MANAGEMENT CONFERENCE AND ORDER**

12 The Court directs counsel to Rule 16 of the Federal Rules of Civil Procedure for
13 the objectives of the Case Management Conference. Counsel who will be responsible for
14 trial of the lawsuit for each party shall appear and participate in the Case Management
15 Conference and shall have authority to enter into stipulations regarding all matters that
16 may be discussed.

17 During or after the Case Management Conference the Court will enter a Case
18 Management Order. The form of the Court's standard Case Management Order can be
19 found on the Court's website at www.azd.uscourts.gov under Judges & Courtrooms;
20 Orders, Forms & Procedures; Judge Wake. The Court fully intends to enforce the
21 deadlines in the Case Management Order. The parties should plan their litigation
22 activities accordingly.

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1 OTHER MATTERS

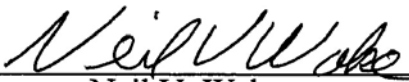
2 Counsel for all parties are expected to comply fully with the Federal Rules of Civil
3 Procedure and Local Rules and to minimize the expense of discovery.

4 Counsel should ensure that all pleadings comply with LRCiv 7.1 and LRCiv 7.2.

5 DATED this 21st day of November, 2008.

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Neil V. Wake
United States District Judge

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