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7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 Don ADDINGTON, John BOSTIC, Mark
BURMAN, Afshin IRANPOUR, Roger
11 VELEZ; and Steve WARGOCKI, *et al.*

12 Plaintiffs,

13 vs.

14 Steven BRADFORD, Paul DIORIO, Robert
FREAR, Mark KING, Douglas MOWERY,
15 and John STEPHAN, *et al.*,

16 Defendants.

CASE NO. CV-08-1728-PHX-NVW

**DECLARATION OF MARTY
HARPER IN SUPPORT OF
MOTION FOR CLASS
CERTIFICATION**

17 I, Marty Harper, HEREBY DECLARE:

18 1. I am an adult resident of the State of Arizona.

19 2. I began practicing law in 1973. During my 35 years in private practice, I
20 have worked on a number of class action cases. In this declaration, I include some
21 examples of my class action experience. A copy of my firm biography is attached hereto
22 as Exhibit A.
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24 3. I served as lead class and trial counsel for indirect purchasers in an
25 antitrust class action against Microsoft. A class was certified in this action, and on the
26 eve of trial after over six years of complex litigation, including multiple appeals, the
27
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1 matter was settled with Microsoft. Class members received a settlement with a face
2 value of \$104 million.

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4 4. I was lead trial counsel in a mass action involving Continental Airlines
5 pilots who sued the Airlines Pilots Association (ALPA). *Airlines Pilots Association,*
6 *International v. O'Neill*, 499 US 65, 111 S.Ct. 1127, 113 L.Ed.2d 51 (1991); *O'Neill v.*
7 *Airlines Pilots Association, International*, 939 F.2d 1199 (5th Cir. 1991).

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9 5. I was lead counsel in a putative class action of pilots of Emery Worldwide
10 Airlines, Inc., alleging claims against the airline and the union.

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12 6. I was lead trial counsel for a putative class of employees in a state-wide
13 wage-and-hour class action against Wal-Mart.

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15 7. I represented a national trucking firm in a large class action consisting of
16 approximately 600 drivers.

17
18 8. My partner, Kelly Flood, was counsel with me on the Microsoft, Wal-
19 Mart, Emery and other cases, and has performed substantial work on these and on four
20 other class actions while working at this firm for the last 8 ½ years. A copy of her firm
21 biography is attached hereto as Exhibit B.

22
23 9. My associate, Andrew Jacob, was counsel with me on the Wal-Mart,
24 Emery, and other cases, and has performed substantial work on these class actions while
25 working at this firm for the last 4 ½ years. A copy of his firm biography is attached
26 hereto as Exhibit C.

1 10. Don Stevens, who is of counsel to the firm, has more than 32 years of
2 litigation experience, in a variety of substantial matters. A copy of his firm biography is
3 attached hereto as Exhibit D.
4

5 11. The firm of Shughart Thomson & Kilroy has extensive class action
6 litigation experience. A copy of our current class action list is attached hereto as Exhibit
7 E.
8

9 12. I declare under penalty of perjury under the laws of the State of Arizona
10 that the foregoing is true and correct.

11 Dated this 29th day of December, 2008.

12 SHUGHART THOMSON & KILROY, P.C.

13 */s/ Marty Harper*

14 By: _____
15 Marty Harper
16 3636 N. Central Ave., Suite 1200
17 Phoenix, AZ 85012

18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on December 29, 2008, I electronically transmitted the
20 foregoing document to the U.S. District Court Clerk's Office by using the CM/ECF
21 System for filing and transmittal of a Notice of Electronic Filing.
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23 *s/ Kelly J. Flood* _____
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