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

10 Don ADDINGTON; John BOSTIC; Mark
11 BURMAN; Afshin IRANPOUR; Roger
12 VELEZ; and Steve WARGOCKI,

13 Plaintiffs,

14 vs.

15 US AIRLINE PILOTS ASSOCIATION,
16 US AIRWAYS, INC.,
Defendants,

Case No. 2:08-cv-1633-PHX-NVW
(Consolidated)

DECLARATION OF
JAMES K. BRENGLE, ESQ.

17 Don ADDINGTON; John BOSTIC; Mark
18 BURMAN; Afshin IRANPOUR; Roger
VELEZ; and Steve WARGOCKI,

19 Plaintiffs,

20 vs.

21 Steven H. BRADFORD, Paul J. DIORIO,
22 Robert., A. FREAR, Mark. W. KING,
Douglas L. MOWERY, and John A.
STEPHAN,

23 Defendants.

Case No. 2:08-cv-1728-PHX-NVW

1 I, James K. Brengle, Esq., declare as follows:

2 1. I am an attorney of record for defendant USAPA in this matter. I make this
3 Declaration of my own free will and based on my personal, first-hand knowledge, unless
4 otherwise specifically indicated.

5 2. As this Honorable court was advised on December 15, 2008, I have been
6 retained specifically to serve as lead counsel at the trial of this matter on behalf of Defendant.
7 Accordingly, my availability during March and April is essential to the ability of Defendant
8 to be ready to proceed to trial on or about April 28, 2009.

9 3. I am also scheduled presently to commence a trial in the Commonwealth of
10 Pennsylvania on June 1, 2009, on behalf of a defendant in a wrongful death case arising out
11 of an airplane crash, in which an entire family of four was killed. Damages are alleged in
12 that case in an amount exceeding \$28 Million Dollars.

13 4. Presently, we are in the midst of exchanging expert reports in the Pennsylvania
14 case, and although the trial itself does not begin until June 1, I must comply with strict
15 deadlines contained in the court's Amended Scheduling Order between now and May 1,
16 2009, as follows;

17 *Randall Miller, exec. v. Precision Airmotive, et al*, Court of Common Pleas,
18 Lancaster County, PA Civil Action – Law No.CI-05-07492;

- 19 1. All fact discovery shall be completed on or before January 30, 2009;
- 20 2. Plaintiffs' expert reports are due on or before February 27, 2009;
- 21 3. Defendants' expert reports are due on or before March 31, 2009;
- 22 4. All dispositive motions and motions *in limine* are due on or before May 1, 2009;
- 23 5. Trial will commence on June 1, 2009.

1 /s/ Judge David L. Ashworth

2 5. I am the only attorney in my firm working on the final trial preparation of that
3 case, including meeting with experts over the next three weeks on the subject of their expert
4 reports, and proposed testimony at trial. Meanwhile, I must research and write all of the
5 motions in limine, jury instructions, voir dire, and verdict sheet. I must issue subpoenas to
6 all necessary witnesses, and, essentially, complete a thorough document review in
7 preparation of questions for all experts, of whom there are at least five for plaintiffs, and four
8 for defendants.

9 6. My hands-on orchestration of the preparation and exchange of the motions,
10 voir dire, jury instructions, motions *in limine* and verdict sheet in both the Pennsylvania case
11 and the *Addington* case is essential to fulfilling my role as trial counsel, and the instructions
12 of my clients.

13 7. Until now, I have been made aware that there was no case management order
14 issued in *Addington*, and I understood and relied upon this Honorable court's advice to the
15 effect that the trial of the *Addington* lawsuit would not commence until July, 2009, at the
16 earliest. For this reason, I am now caught short in my ability to complete required pretrial
17 witness preparation and document production and exchange in the Pennsylvania case, and
18 the instant case simultaneously. I simply cannot do all the work that needs to be done in both
19 cases between now and May 1, as I suspect the *Addington* case would last at least 8 days—
20 until approximately May 6 or 7.

21 8. For these reasons, I respectfully ask the Court to please reconsider the April 28
22 trial date, and reschedule the *Addington* trial to a date in or after the month of July 2009.
23

 9. Further your Declarant sayeth naught.

1 Pursuant to 29 USC § 1746, I declare under penalty of perjury that the foregoing is
2 true and correct.

3 Executed on: March 5, 2009

4 /s/ James K. Brengle

1 **CERTIFICATE OF SERVICE**

2
3 This is to certify that on the date indicated herein below a true and accurate copy
4 of the foregoing pleading, *to wit*,

- 5 • Declaration of James K. Brengle, Esq.;
- 6 • Certificate of Service

7 were electronically filed with the Clerk of Court using the CM/ECF system, which will
8 send notification of such filing to the following:

9
10 Marty Harper Kelly J. Flood Andrew S. Jacob
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17 Who are admitted counsel for the Plaintiffs in this matter, and,

18 Robert A. Siegel Rachel S. Janger
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20 O'Melveny & Meyers LLP
21 400 S. Hope St.
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23 Los Angeles, CA 90071-2899, and,

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Who are admitted counsel for Defendant US Airways, Inc. in this matter.

And further that paper hard copies were provided to The Honorable Neil V. Wake,
District Court Judge, 401 W. Washington Street, SPC 52, Phoenix, AZ 85003.

1 On March 5, 2009, by:

2 /s/ Lucas K. Middlebrook

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Attorneys for Defendant: US Airline Pilots Association (“USAPA”)