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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

8 Don Addington; John Bostic; Mark)
9 Burman; Afshin Iranpour; Roger Velez;)
Steve Wargoeki,

No. CV 08-1633-PHX-NVW
(consolidated)

10 Plaintiffs,

**ORDER SETTING FINAL PRETRIAL
CONFERENCE**

11 vs.

12 US Airline Pilots Association; US)
13 Airways, Inc.,

14 Defendants.

15 Don Addington; John Bostic; Mark)
16 Burman; Afshin Iranpour; Roger Velez;)
Steve Wargoeki, et al.,

CV08-1728-PHX-NVW

17 Plaintiffs,

18 vs.

19 Steven Bradford; Paul Diorio; Robert)
20 Frear; Mark King; Douglas Mowery; John)
21 Stephan, et al.,

22 Defendants.

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25 Pursuant to Rule 16(d) of the Federal Rules of Civil Procedure, a Final Pretrial
26 Conference shall be held at 2:00 p.m. on April 21, 2009 in Courtroom 504, Sandra Day
27 O'Connor U.S. Federal Courthouse, 401 W. Washington St., Phoenix, Arizona 85003. In
28 preparation for this Final Pretrial Conference, IT IS HEREBY ORDERED:

1 1. The attorneys who will be responsible for the trial of the case shall attend
2 the Final Pretrial Conference.

3 2. The parties jointly shall prepare two Proposed Final Pretrial Orders and
4 shall lodge them with the Court no later than **4:00 p.m.** on April 16, 2009. Preparation
5 and lodging of the Proposed Final Pretrial Orders in accordance with the requirements of
6 this Order shall be deemed to satisfy the disclosure requirements of Rule 26(a)(3) of the
7 Federal Rules of Civil Procedure. The parties shall submit a copy of each Proposed Final
8 Pretrial Order to the Court in WordPerfect® 9.0 or higher (or compatible) format by email
9 to Wake_Chambers@azd.uscourts.gov.

10 3. One Proposed Final Pretrial Order shall pertain to the jury trial regarding
11 Defendant USAPA's liability to commence April 28, 2009; the other Proposed Final
12 Pretrial Order shall pertain to the bench trial regarding the scope and nature of any
13 injunctive relief should liability be imposed on Defendant USAPA. The Proposed Final
14 Pretrial Orders shall include the information prescribed in the Joint Proposed Final
15 Pretrial Order forms found at www.azd.uscourts.gov under Judges & Courtrooms/Orders,
16 Forms and Procedures/Judge Wake, for jury trial and bench trials, respectively.
17 Information pertaining to both Proposed Final Pretrial Orders may be incorporated by
18 reference from one to the other. Information shall not be set forth in the form of a
19 question, but shall be presented in concise narrative statements.

20 4. Pursuant to Federal Rule of Civil Procedure 37(c), the Court will not allow
21 the parties to offer any exhibit, witness, or other evidence that was not disclosed in
22 accordance with the provisions of this Order and the Federal Rules of Civil Procedure and
23 listed in the relevant Proposed Final Pretrial Order, except to prevent manifest injustice.

24 5. The parties shall exchange drafts of the Proposed Final Pretrial Orders,
25 including disclosures of all witnesses and exhibits, no later than April 1, 2009. The
26 Plaintiff(s) shall have the burden of initiating communications concerning the Proposed
27 Final Pretrial Orders.

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1 6. The parties shall (a) meet in person and exchange copies of all exhibits to
2 be used at trial no later than April 1, 2009 for the Proposed Final Pretrial Orders (any
3 exhibit not exchanged at this meeting shall be precluded at trial); and (b) eliminate any
4 duplicate exhibits while meeting to exchange exhibits.

5 7. The parties shall file and serve all motions in limine no later than April 7,
6 2009. Responses to motions in limine shall be filed on or before April 14, 2009.
7 No replies will be permitted. Each motion in limine shall include proposed language for
8 the order in limine being sought from the Court, and the proposed language shall state
9 with precision the evidence that is subject to the proposed order and the limitation or
10 exclusion placed on the evidence. Counsel shall be prepared to argue the merits of such
11 motions at the Final Pretrial Conference.

12 8. For any matters being tried in the April 28, 2009 jury trial, the parties shall
13 complete the following tasks by April 16, 2009, unless another date is indicated:

14 (a) The parties shall file a stipulated description of the case to be read to the
15 jury.

16 (b) The parties shall jointly file a proposed set of voir dire questions. The voir
17 dire questions shall be drafted in a neutral manner. To the extent possible, the parties
18 shall stipulate to the proposed questions. If the parties have any disagreement about a
19 particular question, they shall state the reason for their objection below the question. The
20 parties shall also provide, for the purposes of voir dire, a joint master list of the names of
21 every witness who may be called at trial.

22 (c) The parties shall file proposed jury instructions in accordance with
23 "Guidelines for Jury Instructions in Civil Cases" found at www.azd.uscourts.gov under
24 Judges & Courtrooms/Orders, Forms and Procedures/Judge Wake. The parties shall
25 exchange proposed jury instructions with each other by April 8, 2009.

26 (d) Each party shall file a proposed form of verdict, including any proposed
27 special verdict forms or juror interrogatories.

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1 (e) The joint statement of the case, proposed voir dire questions, proposed jury
2 instructions, and forms of verdict shall be submitted in WordPerfect® 9.0 or higher (or
3 compatible) format by email to Wake_Chambers@azd.uscourts.gov.

4 9. For any matters to be tried to the Court regarding injunctive relief, each
5 party shall lodge proposed findings of fact and conclusions of law as a separate pleading
6 by April 24, 2009. The proposed findings of fact and conclusions of law shall also be
7 submitted in WordPerfect® 9.0 or higher (or compatible) format by email to
8 Wake_Chambers@azd.uscourts.gov.

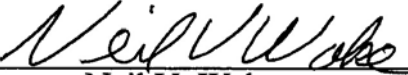
9 10. The parties shall be prepared to advise the Court at the Final Pretrial
10 Conference of the status of settlement discussions. Should settlement be reached at any
11 time, the parties promptly shall file a Notice of Settlement with the Clerk of the Court.

12 11. Counsel shall review Judge Wake's statement of Trial Conduct and
13 Decorum before the Final Pretrial Conference. A copy can be found on the Court's
14 website at www.azd.uscourts.gov under Judges & Courtrooms/Orders, Forms and
15 Procedures/Judge Wake.

16 12. Full and complete compliance with this Order shall be required by the
17 Court.

18 IT IS ORDERED setting trial to a jury on April 28, 2009, and trial to the bench as
19 necessary regarding injunctive relief as soon as the jury retires to deliberate. Estimated
20 length of jury trial: 10 days.

21 DATED this 13th day of March, 2009.

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Neil V. Wake
United States District Judge