

1 **WO**

2

3

4

5

6

IN THE UNITED STATES DISTRICT COURT

7

FOR THE DISTRICT OF ARIZONA

8

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

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

10

Plaintiffs,

SCHEDULING ORDER

11

vs.

12

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

13

Defendants.

14

15

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

21

Defendants.

22

23

24

25

On March 6, 2009, a Scheduling Conference was held pursuant to Rule 16(b) of
26 the Federal Rules of Civil Procedure. The parties met before the conference in accordance
27 with Rule 26(f) and prepared a Discovery Plan. On the basis of the Scheduling
28 Conference and the Discovery Plan,

1 IT IS HEREBY ORDERED:

2 1. Trial and Partial Bifurcation. As previously ordered, a bifurcated trial by
3 jury will commence April 28, 2009. This trial will be limited to the disputed liability
4 facts relating to USAPA's alleged breach of its duty of fair representation. This trial will
5 exclude quantification and proof of individual causation regarding monetary recovery for
6 lost wages, lost benefits, lost working conditions, and repayment of already-paid union
7 dues and fees for individual Plaintiffs or class members, assuming the jury finds liability.
8 These issues will be deferred for further bench or jury proceedings as appropriate. The
9 trial beginning April 28, 2009, will encompass all other facts which might support
10 liability, including, if relevant and without limitation, the history of the event, the
11 campaign to oust ALPA, the formation and conduct of USAPA, the obligation to pay
12 union dues and fees, and the nature of the injury to Plaintiffs, as well as evidence
13 concerning USAPA's pending seniority proposal and any other facts relevant to the
14 discharge of its duty. As soon as the jury retires to deliberate, the Court will hear any
15 additional appropriate evidence relating to the nature and appropriateness of the
16 injunctive relief sought; the Court does not anticipate significant issues on this front.

17 2. Deadline for Completion of Fact Discovery. The Court defers setting the
18 deadline for completing fact discovery, including all disclosure required under Rule
19 26(a)(3), pending further discussion of counsel and presentation of any agreement or
20 disagreement for the Court to resolve. Discovery on matters for which trial has been
21 deferred under the foregoing paragraph need not be done until after the April 28, 2009
22 trial.

23 3. Deadlines for Disclosure of Experts and Completion of Expert Discovery.
24 The Court defers setting the deadline for expert disclosures as required by Rule
25 26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure pending further discussion of
26 counsel and prompt presentation to the Court of any dispute relating to this issue.

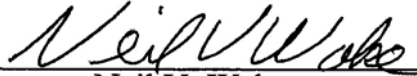
27 4. The Deadlines Are Real. The parties are advised that the Court intends to
28 enforce the deadlines set forth in this order, and they should plan their litigation activities

1 accordingly. The Court will not extend the case processing deadlines because the parties
2 wish to avoid litigation expense if and when they elect to pursue settlement efforts,
3 including a settlement conference before a magistrate judge.

4 5. Dismissal for Failure to Meet Deadlines of This Order or of the Rules. The
5 parties are warned that failure to meet any of the deadlines in this order or in the Federal
6 Rules of Civil Procedure without substantial justification may result in sanctions,
7 including dismissal of the action or entry of default.

8 6. Requirement for Paper Courtesy Copies. As the parties are already aware,
9 Pursuant to Section II.D.3 of the Electronic Case Filing Administrative Policies and
10 Procedures Manual, a paper courtesy copy of dispositive motions and responses and
11 replies thereto and any document exceeding 10 pages in length shall be either
12 post-marked and mailed directly to the judge or hand-delivered to the judge's mail box
13 located in the courthouse the next business day after the electronic filing. A copy of the
14 face page of the Notice of Electronic Filing shall be appended to the last page of the
15 courtesy copy. Courtesy copies of documents too large for stapling must be bound with a
16 metal prong fastener at the top center of the document or submitted in three-ring binders.
17 If courtesy copies are not delivered within three days of the file date, the court may strike
18 the pleading summarily for failure to follow court rules and this order.

19 DATED this 13th day of March, 2009.

20
21
22
23 
24 _____
Neil V. Wake
United States District Judge