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

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

13 Plaintiffs,

14 vs.

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

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

**As PROPOSED to Plaintiffs**  
**March 16, 2009**

**JOINT WRITTEN**  
**SUMMARY OF**  
**DISCOVERY DISPUTE**

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

19 Plaintiffs,

20 vs.

21 Steven H. BRADFORD, Paul J. DIORIO,  
Robert., A. FREAR, Mark. W. KING,  
22 Douglas L. MOWERY, and John A.  
STEPHAN,  
23

Defendants.

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

1 **ISSUE:**

2 Whether Plaintiffs may refuse to produce certain class members for depositions  
3 based on objections to scope?

4 **MOVANT'S POSITION:**

5 Plaintiffs refuse to produce for deposition members of the class who have  
6 information regarding West pilots' concerted campaign of abstaining from membership  
7 or participation in USAPA, engaging in a dues boycott, and threatening or coercing  
8 fellow West pilots to discourage them from becoming members of, or participating in,  
9 USAPA. These depositions are relevant insofar as the plaintiffs are alleging that USAPA  
10 has failed to give due consideration to West pilot interests.

11 **RESPONDING PARTY'S POSITION:**

12 USAPA is unhappy that the Court refused to continue the trial. Immediately after  
13 the March 6 hearing, USAPA requested depositions of 9 witnesses, starting the  
14 following Monday. The witnesses were produced as requested. On Thursday March  
15 12, USAPA then demanded that Plaintiffs counsel accept service for 17 more  
16 witnesses who just happen to be defendants in a case filed by USAPA in North  
17 Carolina alleging a variety of criminal and civil conduct. That case was dismissed  
18 and is currently on appeal at the 4<sup>th</sup> Circuit. It is not appropriate for USAPA to  
19 demand depositions of absent class members in a case involving USAPA's DFR  
20 liability. When this was brought to USAPA's attention, USAPA suggested that  
21 Plaintiffs admit the allegations of USAPA's now-dismissed Complaint. These  
22 witnesses will not be called at trial. This is a request intended solely to harass the  
23 Plaintiffs, to cause additional delay and expense, and the Court should put an end  
to this. This was not what the Court or counsel agreed to when USAPA requested  
the "control group" depositions.

24 **Note: The pilots USAPA requested to depose are represented in that action by Lat**  
25 **J. Celmins, MARGRAVE CELMINS, P.C. 8171 East Indian Bend Road, Ste. 101**  
26 **Scottsdale, Arizona 85250 Telephone: (480) 994-2000, who asks leave to participate**  
27 **in the telephone conference on behalf of his clients.**

1 **JOINT CERTIFICATION**

2 Pursuant to LRCiv 7.29(j), the parties jointly agree and state that both have made  
3 sincere efforts through consultation to resolve this dispute and have now reached  
4 impasse.

5 Respectfully Submitted,

6 Dated: March 16, 2009

7 For Moving Party:

8 For Responding Party:

9 /s/ Stanley J. Silverstone

10 /s/ Don Stevens, Esq.

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ATTORNEYS FOR  
PLAINTIFFS

ATTORNEYS FOR  
DEFENDANT

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on March 16, 2009, I electronically transmitted the foregoing  
18 document to the U.S. District Court Clerk's Office by using the CM/ECF System for  
19 filing and transmittal of a Notice of Electronic Filing.

