

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

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

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

Plaintiffs,

vs.

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

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

**DECLARATION OF
GEORGE DIAMANTOPOULOS**

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

Plaintiffs,

vs.

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

Defendants.

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

I, GEORGE DIAMANTOPOULOS, declare that the following is true and correct:

1. I am an attorney duly admitted to practice law in the State of New York since 1991. I am associated with the law firm of Seham, Seham, Meltz & Petersen, LLP, counsel for the Defendant, US Airline Pilots Association (“USAPA”) and am fully familiar with the facts and circumstances set forth herein.

1 2. On Saturday, March 21, 2009, I was asked by my firm to call and ask Ted
2 Phipps if he would agree to be a witness at trial to confirm that he had been an applicant to be a
3 USAPA representative, to authenticate an e-mail for trial, and to conduct a general interview.

4 3. On Saturday, March 21, 2009 at about 5:24 p.m., I called Ted Phipps from the
5 firm's White Plains office and identified myself as an attorney at Seham, Seham, Meltz &
6 Petersen (I said the entire name of the firm slowly and clearly). I told Mr. Phipps that we
7 represent USAPA, and that we would like to use him as a witness at trial regarding his
8 application to be a USAPA representative, to have him authenticate an e-mail at trial and I
9 asked him whether he would agree to a general interview over the phone. He agreed to be
10 interviewed and asked me to call him the next afternoon, Sunday, March 22. I was not asked to
11 repeat anything by Mr. Phipps during this initial conversation. During this initial conversation,
12 there was no indication to me from Mr. Phipps that he was under any misconception as to who
13 my firm was and who I represented.

14 4. I next called Mr. Phipps from my home in New Jersey on Sunday, March 22,
15 2009 from about 1:24 p.m. until 1:39 p.m. during which time I interviewed Mr. Phipps until he
16 asked me to call him back in 5-10 minutes because he was driving and going into a parking
17 garage where he would not be able to hear me on the phone. During this call, Mr. Phipps
18 recognized me as the person who had spoken to him on Saturday after I identified myself again
19 to him and asked him if this was a convenient time for him to speak with me. He said it was, so
20 I commenced interviewing him. I was not asked to repeat anything by Mr. Phipps during this
21 second conversation. During this second conversation, there was no indication to me from Mr.
22 Phipps that he was under any misconception as to who my firm was and who I represented.
23

1 5. I waited 10 minutes and called Mr. Phipps again and asked him again if he could
2 still speak with me and he said he could and we continued my interview of him. This telephone
3 call lasted from about 1:49 p.m. to about 2:59 p.m. I was not asked to repeat anything by Mr.
4 Phipps during this third conversation.

5 6. Approximately 15 minutes before the end of the call, Mr. Phipps asked me
6 which law firm I was with again, and I again told him, Seham, Seham, Meltz & Petersen, and
7 that we represent USAPA. We continued to talk for approximately another 15 minutes after
8 that. If Mr. Phipps had a misconception before this point in time, he did not make it known to
9 me until this point in our conversations.

10 7. At no time during any of my three conversations with Mr. Phipps did I say I
11 represented the plaintiffs in the lawsuit. At the time I spoke to Mr. Phipps, I did not even know
12 the name of the plaintiffs' law firm.

13 8. At no time during any of my three conversations with Mr. Phipps did I represent
14 myself to be anything other than what I am, an attorney with Seham, Seham, Meltz & Petersen
15 representing USAPA. Anything to the contrary is not true.

16 9. At no time during any of my three conversations with Mr. Phipps did I refer to
17 Scott Petersen except to say his surname as part of the firm's name.

18 10. At no time during any of my three conversations with Mr. Phipps did I state that
19 I was "contracted out" to work for Mr. Petersen of the Seham law firm.

20 11. At no time during any of my three conversations with Mr. Phipps did I state or
21 restate that I was "contracted" to do witness interviews.

22 12. At no time during any of my three conversations did Mr. Phipps ask me "Did the
23 Seham firm hire you?"

1 13. At no time during any of my three conversations with Mr. Phipps did he say to
2 me that I did anything inappropriate. All three conversations were very cordial.

3 14. At no time during any of my three conversations with Mr. Phipps did I say after
4 identifying myself that I “just wanted to talk about the case.”

5 15. Mr. Phipps mentioned that he had provided an Affidavit that was filed in the
6 case. I was not aware of any Phipps’ Affidavit until Mr. Phipps mentioned it to me.

7 16. I did ask Mr. Phipps whether he wanted us to serve him with a subpoena in the
8 event he needed one to be excused from his flying schedule. Mr. Phipps told me he did not
9 need a subpoena.

10 17. At no time during any of my three conversations with Mr. Phipps did I say the
11 name of our firm “quickly.”

12 18. At no time during any of my three conversations with Mr. Phipps did he say
13 “So you’re working with the firm I did the affidavit with.”

14 19. I did tell Mr. Phipps that I had been asked to interview witnesses, which is what
15 I was doing with him.

16 20. Although Mr. Phipps said I could call him back, at no time during any of my
17 three conversations with Mr. Phipps did he say in response “Sure, I guess it doesn’t matter
18 now.”

19 21. If Mr. Phipps called me back at my home number on Sunday, he did not leave a
20 phone message on my answering machine.

21 22. I take extreme umbrage at the extensive level of falsity and character
22 assassination alleged against both my professional integrity and against me personally by both
23

1 plaintiffs' counsel and Mr. Phipps, whose allegations (and those of plaintiffs' counsel) are not
2 made under the penalty of perjury, unlike my statements in this declaration.

3 23. I am both an honorable man and attorney, and did not engage in any misconduct
4 alleged by plaintiffs' counsel in my conversations with Mr. Phipps.

5 Further your Declarant sayeth not.

6 Pursuant to 29 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
7 true and correct.

8 Executed on: March 24, 2009

9
10 /s/ George Diamantopoulos
George Diamantopoulos