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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,

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

13 Plaintiffs,

14 vs.

DECLARATION OF
NICHOLAS P. GRANATH, ESQ.

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

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

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

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.

1 I, Nicholas Paul Granath, Esq., declare as follows:

2 1. I am attorney of record for defendant USAPA in this matter as well as for
3 all named defendants in the matter of Addington *et al* v. Bradford *et al*, Case No. 2:08-
4 cv-01728-NVW. I make this Declaration of my own free will and based on my personal,
5 first-hand knowledge, unless otherwise specifically indicated.

6 2. This Declaration is submitted in support of USAPA's opposition to
7 Plaintiffs' motions in limine.

8 3. Attached, and marked and labeled **Exhibit 1**, is a true and correct copy of
9 and email dated March 27, 2009, that I received.

10 4. Attached, and marked and labeled **Exhibit 2**, is a true and correct copy of
11 and email dated March 24, 2009, that I sent.

12 5. Attached, and marked and labeled **Exhibit 3**, is a true and correct copy of
13 and email dated March 31, 2009, that I received.

14 Further your Declarant sayeth not.

15 Pursuant to 29 USC § 1746, I declare under penalty of perjury that the foregoing is
16 true and correct.
17

18 Executed on: April 14, 2009

19 /s/ NICHOLAS PAUL GRANATH

Exhibit 1

From: "Don Stevens" <DStevens@Polsinelli.com>
Subject: **Experts**
Date: March 27, 2009 2:10:35 PM CDT
To: <lmiddlebrook@ssmplaw.com>, <ngranath@ssmplaw.com>, "Stanley Silverstone"
<SSilverstone@ssmplaw.com>

Counsel,

It is our present intention to call Bob Mann and Dan Akins as part of our case in chief to testify in accordance with the testimony given by them at the Nicolau proceedings. We expect to have rebuttal experts depending on who you disclose as experts.

Please let us know by Monday who you intend to call as experts.

Don

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Exhibit 2

From: "Granath Nicholas P." <ngranath@visi.com>
Subject: Request For Names Of Plaintiff Experts
Date: March 24, 2009 1:13:27 PM CDT
To: Stevens Don <DStevens@Polsinelli.com>, Harper Marty
<MHarper@Polsinelli.com>
Cc: Brengle Jim <JKBrengle@duanemorris.com>, Seham Lee <SSMPLS@aol.com>,
Middlebrook Lucas <lmiddlebrook@ssmplaw.com>, Silverstone Stanley
<SSilverstone@ssmplaw.com>

Don, Marty

I am requesting that Plaintiffs voluntarily disclose today, or tomorrow at the very latest, the name(s) and subject matter of any experts (e.g. statistics) you have now retained or expect to retain to testify at trial. This is urgently needed so that Defendant can retain its experts including rebuttal.

As Jim Brengle has already stated on the record and to the Court, the determination of Defendant's experts is dependent on Plaintiffs determination and further delay in disclosure is prejudicial to Defendant's ability to meet the current trial deadline or to present a defense.

Note: we reserve the right to move to exclude by motion in limine or at trial any expert or proffered expert testimony that Plaintiffs have to date retained but failed to disclose, or now refuse to disclose in response to this timely request. Thanks,

Nick

Nicholas P. Granath, Esq.

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From: Don Stevens

Sent: Tuesday, March 31, 2009 6:38 PM

To: 'lmiddlebrook@ssmplaw.com'; 'ngranath@ssmplaw.com'; Stanley Silverstone

Subject: Tomorrow

Exhibit 3

Nick,

Thanks you for sending your drafts of the pretrial statements. I will not do anything to combine them at this point until we have a chance to discuss tomorrow.

Just a heads up that the universe of our potential trial exhibits is about 500, mostly USAPA documents. I am guessing that the final trial exhibits we "will" use will be in the range of 100 or less. We will not have paper copies for everyone, but we will have all of the documents on the list I gave you available for display on a screen so we can look at them together. My plan was to first review the likely trial exhibits for each side, then decide what to do with the rest of the documents to allow each side the flexibility to use something else if there is a development at trial.

I tried to identify the "will call" witnesses from the "may call" so I'd like to discuss your list in that light as well as well as understanding the proposed or expected testimony.

We'd like to propose that we all stipulate to foundation (true, correct, accurate, and valid copies) of all documents produced by either side with Bates numbers. We can agree to unrestricted admission of as many documents as possible, and reserve relevancy and hearsay objections for the rest.

→ We have not yet agreed on expert disclosures and reports, so let's not forget that as well. ←

I really need to discuss production of Bradford's flash drive. We seem to be at an impasse. I understand your position, but I want to ask the judge to force you to produce a complete copy, together with a simultaneous privilege log for those files that are not produced. The tech can simply copy over the unrestricted files, and you can provide the same kind of list for the Bradford flash drive as you did for Mowery and Davison.

The depositions next week in CLT are appreciated, but we are missing Javurek's availability.

Don