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7  
8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 Don ADDINGTON, *et al.*,  
11 Plaintiffs,  
12 vs.  
13 US AIRLINE PILOTS ASSN., *et al.*,  
14 Defendants.

CASE NO. 2:08-CV-1633-PHX-NVW  
(Consolidated)

**MOTION FOR ORDER COMPELLING  
USAPA OFFICERS TO APPEAR FOR  
TRIAL**

15 Don ADDINGTON, *et al.*,  
16 Plaintiffs,  
17 vs.  
18 Steven H. BRADFORD, *et al.*,  
19 Defendants.

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

20 Plaintiffs file this motion for an order compelling certain USAPA  
21 officers to appear and testify in Plaintiffs' case in chief for the trial  
22 scheduled for April 28, 2009 in the United States District Court, District of  
23 Arizona. The Plaintiffs make this request pursuant to *Fausto v. Credigy*  
24 *Services Corp*, 2009 WL 701012 (N.D.Cal. 2009) and the Federal Rules of  
25 Civil Procedure, Rule 45. Plaintiffs seek to compel the testimony of the  
26 following officers of USAPA, all officers that USAPA has designated as the  
27 Rule 615(2) officer designees of USAPA in Defendant USAPA's Combined  
28 Motions in Limine [Doc 316]:

1 Stephen Bradford;  
2 Mark King;  
3 Mike Cleary;  
4 Scott Theuer  
5 Robert Davison;  
6 Randy Mowrey; and  
7  
8 Doug Mowery.  
9

10 The court in *Fausto* determined that an officer of the corporation and  
11 who was also one of the Fed.R.Civ.P. 30(b)(6) corporate representatives for  
12 one of the company’s depositions, was a party to the litigation and may be  
13 compelled to testify on behalf of the plaintiffs. *Id.* at 1. The court in *Fausto*  
14 held that since the witness was going to “appear in court to testify on behalf  
15 of Defendants, it will not be unduly burdensome” for the witness “to be  
16 called as a live witness for the Plaintiffs.” *Id.* This law can be applied in this  
17 case as the Defendants have named all of the above USAPA officers as  
18 individuals who “shall be called at trial” in their draft of the Joint Pretrial  
19 Order, and therefore it would not be unduly burdensome for them to be  
20 called in Plaintiffs’ case in chief.

21 The Court’s Pretrial Order indicated that the mere fact that a witness  
22 was listed on the opponent’s witness list did not relieve the party of making  
23 suitable arrangements to have that witness appear for trial. It should not be  
24 necessary to have Plaintiffs go to the time and expense of issuing subpoenas  
25 to USAPA witnesses. This request will not cause any undue expense or  
26 burden to USAPA. As a precaution, Plaintiffs have had trial subpoenas  
27 issued for these witnesses.  
28

1 Plaintiffs respectfully request that the Court order that the officers  
2 discussed herein be compelled to appear and testify in Plaintiffs' case in  
3 chief for the trial beginning April 28, 2009.

4  
5 Dated this 14<sup>th</sup> day of April, 2009

6 POLSINELLI SHUGHART PC

7 By: Katherine V. Brown  
8 Security Title Plaza  
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11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on April 13, 2009, I electronically transmitted the  
13 foregoing document to the U.S. District Court Clerk's Office by using the  
14 CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

15 I further certify that on April 13, 2009, I caused a paper courtesy copy  
16 of the foregoing document and the Notice of Electronic Filing to be delivered  
17 to the assigned Judge:

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*s/ Katherine V. Brown*  
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