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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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

Plaintiffs,

vs.

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

Defendants.

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

**ORDER**

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

Plaintiffs,

vs.

Steven Bradford; Paul Diorio; Robert)  
Frear; Mark King; Douglas Mowery; John)  
Stephan, et al.,

Defendants.


CV08-1728-PHX-NVW

Before the Court is Plaintiffs' Motion for Order Compelling USAPA Officers to Appear at Trial. (Doc. # 345.) Nothing in the Federal Rules of Civil Procedure indicates that a court may compel a party not properly served with a subpoena to appear at trial. Of course, the Rules do not require service of a subpoena before taking the deposition of a party. See Fed. R. Civ. P. 37(d) (allowing sanctions against a party who fails to attend a deposition

1 properly noticed under Rule 30(b)). But there is no similar provision for trial. Proper service  
2 of a subpoena under Rule 45(b)(2) is necessary to compel a party to appear at trial. *See*  
3 *Johnson v. Big Lots Stores, Inc.*, 251 F.R.D. 213, 218–19 (E.D. La. 2008) (“[T]o compel a  
4 person to attend trial, the person must be served with a subpoena in one of the places listed  
5 in Rule 45(b)(2) and not be subject to the protection in Rule 45(c)(3)(A)(ii) . . . .”); *Dolezal*  
6 *v. Fritch*, 2009 WL 764542 (D. Ariz. 2009) (same); 9A CHARLES A. WRIGHT, ARTHUR R.  
7 MILLER & EDWARD H. COOPER, FEDERAL PRACTICE & PROCEDURE § 2454, at 407–08 (2008)  
8 (“The 100-mile limit [of Rule 45(b)(2)(B)] applies to a party as well as to an ordinary  
9 witness.”).

10 IT IS THEREFORE ORDERED that Plaintiffs’ Motion for Order Compelling  
11 USAPA Officers to Appear at Trial (doc. # 345) is denied.

12 Dated: April 23, 2009.

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16 Neil V. Wake  
17 United States District Judge  
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