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

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

12 Plaintiffs,

13 vs.

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

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

**DEFENDANT’S STATEMENT
REGARDING POTENTIAL EXPERT
WITNESSES FOR DAMAGES PHASE**

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

18 Plaintiffs,

19 vs.

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

22 Defendants.

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

1 Defendant US Airline Pilots Association (“USAPA”) submits this statement
2 pursuant to the Court’s order (Doc. # 494) to separately file brief statements describing
3 the anticipated work regarding experts and explaining the reasons for the contrasting
4 schedules proposed.

5 Defendant anticipates that expert witnesses may be helpful in the following
6 areas:

- 7 1. An **accountant, economist, or actuary** to give learned opinion on any financial
8 calculations or elements of damages claimed by Plaintiffs.
- 9 2. A **statistician or economist** to give learned opinion on any statistical evidence
10 offered by Plaintiffs. This appears necessary because Plaintiffs now seek
11 polling data from third parties notwithstanding their stipulation that “... the East
12 MEC determined that the East pilots would never ratify a single collective
13 bargaining agreement that incorporated the Nicolau List” because “a majority
14 of East Pilots strenuously objected to the Nicolau Award ...” (Doc. # 417 at ¶ 16,
15 17);
- 16 3. An **airline employment expert** to give learned opinion on pilot employment
17 opportunities in the airline industry;
- 18 4. An **airline scheduling and/or bidding expert** to give learned opinion on pilot
19 scheduling and bidding opportunities;
- 20 5. An **airline labor expert** to testify on the duration and process of collective
21 bargaining under the Railway Labor Act, and related topics.

22 Defendants propose that Plaintiffs identify experts before Defendants do
(rather than simultaneously as Plaintiffs have proposed) because:

First, Plaintiffs have the burden and typically are required to disclose first;

1 Second, if simultaneous disclosure is ordered the practical effect will be that
2 both sides will err on the side of retaining experts. On the other hand, if Plaintiffs do
3 not retain experts then Defendant may safely choose to avoid that expense as well.

4 Finally, we take the opportunity to bring to the Court's attention that the
5 current schedule for ongoing collective bargaining will be disrupted by the pending
6 damages trial, as it now appears necessary to call witnesses involved in that
7 bargaining (based on Plaintiffs' attempt to reopen the delay issue contrary to their
8 previous stipulation). We therefore alert the Court that a trial the week of the August
9 18th will present a conflict so that the Defendant may need to bring a motion to set the
10 trial for the week of August 10th, unless the Court sets that now, or if that is not
11 possible, for different time.
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1 Respectfully Submitted,

2 Dated: May 28, 2009

By: /s/ Nicholas P. Granath, Esq.

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20 *Attorneys for Defendant*
21 *US Airline Pilots Association*
22

1 **CERTIFICATE OF SERVICE**

2 This is to certify that on the date indicated herein below true and accurate copies
3 of the foregoing documents and their attachments, *to wit*,

- 4 • DEFENDANT’S STATEMENT REGARDING POTENTIAL EXPERT
5 WITNESSES FOR DAMAGES PHASE
6 • Certificate of Service

7 were electronically filed with the Clerk of Court using the CM/ECF system, which
8 will send notification of such filing to all admitted counsel who have registered with
9 the ECF system, including but not limited, to:

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KFlood@Polsinelli.com	KVBrown@Polsinelli.com	

10 Further, I certify that paper hard copies shall be provided to The Honorable Neil
11 V. Wake, District Court Judge, 401 W. Washington Street, SPC 52, Phoenix, AZ 85003.

12 On May 28, 2009, by:

13 */s/ Nicholas Paul Granath, Esq.*