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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 USAPA’S MOTION TO
STRIKE PLAINTIFFS’
“SUPPLEMENTAL AUTHORITY”
BRIEF (Doc. # 515), OR IN THE
ALTERNATIVE, ALLOW DEFENDANT
A SUR-REPLY**

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 TO : Plaintiffs, all parties, and their attorneys of record.

2 **NOTICE.**

3 PLEASE TAKE NOTICE that Defendant US Airline Pilots Association
4 (“USAPA”) will move this Court, to be heard without oral argument, for an order
5 striking Doc. # 515 or in the alternative allowing Defendant a Sur-Reply brief.

6 **MOTION.**

7 COMES NOW Defendant to move this Court for an order striking Doc. # 515 or
8 in the alternative an order allowing Defendant to file a Sur-Reply brief. For its grounds
9 Defendant states:

10 First, after Plaintiffs filed a memorandum (Doc. # 507) in response to Defendant’s
11 motion for summary judgment (Doc. # 487), and after Defendants filed a Reply (Doc. #
12 512), Plaintiffs filed a second brief (Doc. # 515).

13 Second, Plaintiffs’ filing, entitled “Plaintiffs’ Notice Of Supplemental Authority
14 On Requirement To Plead Joint And Several Liability,” purports to make legal
15 argument and plainly constitutes a brief.

16 Third, Plaintiff’s filing exceeds LRCiv. 7.2(c) and LRCiv. 56.1(b).

17 Fourth, Plaintiffs did not seek leave of the Court before filing.

18 To uphold equal application of the Rules and to be fair, this Court should either
19 strike Plaintiffs’ unauthorized brief, or allow Defendant the opportunity to file a sur-
20 reply brief.

21 Defendant requests such and order.
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Dated: June 11, 2009

/s/ Nicholas P. Granath, Esq.

By: _____

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*Attorneys for Defendant
US Airline Pilots Association*

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 USAPA’S MOTION TO STRIKE PLAINTIFFS’
“SUPPLEMENTAL AUTHORITY” BRIEF (Doc. # 515), OR IN THE
ALTERNATIVE, ALLOW DEFENDANT A SUR-REPLY
- 5 • Certificate of Service

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

| | | |
|------------------------|-------------------------|-----------------------|
| 8 Marty Harper | Don Stevens | Andrew S. Jacob |
| MHarper@Polsinelli.com | DStevens@Polsinelli.com | AJacob@Polsinelli.com |
| 9 Kelly J. Flood | Katie Brown | |
| 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 June 11, 2009, by:

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

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