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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., and  
14 US AIRWAYS, INC.,  
15 *Defendants.*

16 Don ADDINGTON, *et al.*,  
17 *Plaintiffs,*

18 vs.

19 Steven H. BRADFORD, *et al.*,  
20 *Defendants.*

CONSOLIDATED CASES NO.  
2:08-CV-1633-PHX-NVW;  
2:08-CV-1728-PHX-NVW

**PLAINTIFFS' MOTION TO MODIFY  
RULE 16 ORDERS TO CONTINUE  
TRIAL DATE AND EXTEND  
DISCOVERY DEADLINE  
(FOR JULY 1, 2009 STATUS HEARING)**

21 Plaintiffs submit the following requests to the Court for its  
22 consideration at the July 1, 2009 status conference. Plaintiffs seek a  
23 continuance of the trial and an extension of current discovery deadlines for  
24 the damages trial in this case. The basis for this motion includes the  
25 following:

26 1. The jury trial on Plaintiffs' damages is currently set for four (4)  
27 days, starting August 11, 2009. Plaintiffs do not believe that the damages  
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1 claims of the six (6) named Plaintiffs can be completed in the four days  
2 allotted for the trial, after allowing time for opening statements, closing  
3 arguments and jury instructions. Plaintiffs therefore request that the Court  
4 set this matter for trial for at least six (6) trial days to allow a full  
5 presentation of the case to the jury.

6 2. Plaintiffs also request that the Court continue the August 11,  
7 2009 trial date to the first trial date on the Court's calendar available after  
8 October 15, 2009. This request is supported by the fact that USAPA's Motion  
9 for Summary Judgment on the issue of causation and damages is pending.  
10 The Court's minute entry, received today, set oral argument on the motion for  
11 July 7, 2009. Plaintiffs respectfully submit that there is now insufficient  
12 time to complete discovery following the Court's ruling on that motion, and to  
13 properly prepare for trial in time for an August 11 trial date.

14 3. In compliance with the Court's discovery deadline of July 17,  
15 2009, each party has scheduled depositions of numerous fact witnesses before  
16 the discovery deadline to prepare for the damages trial. These depositions,  
17 when taken, will require travel to various parts of the United States,  
18 entailing substantial time and expenses for both parties. This discovery will  
19 also be impacted by the Court's rulings on the pending motion and related  
20 discovery issues. An extension of the deadlines will avoid unnecessary  
21 expense for each side if there is any restriction imposed on such discovery.

22 4. USAPA has just filed five (5) discovery disputes for the Court to  
23 resolve, all concerning the scope of discovery Plaintiffs will be permitted to  
24 take on causation and damages. The Court's ruling on USAPA's current  
25 Motion for Summary Judgment and the Court's determination of these  
26 discovery disputes will also impact the disclosure and discovery schedule  
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1 originally set by the Court. Plaintiffs therefore request an extension of the  
2 July 17, 2009 discovery cutoff date to September 15, 2009 to allow time to  
3 take these fact depositions after the Court has ruled on USAPA's motion and  
4 on the separate discovery disputes.

5         5. The parties have each retained experts to prepare for the  
6 damages phase. Under the current discovery and disclosure schedule,  
7 Plaintiffs' expert disclosure and report is due July 1, 2009, and USAPA's  
8 disclosure is due later in July. The Plaintiffs and their expert have been  
9 delayed in completing their final disclosure of the damage formula and  
10 amounts claimed by each Plaintiff because confirming information from US  
11 Airways regarding flight hours and rates was needed and has been delayed.  
12 The Court's ruling on damages may also impact the testimony or opinions of  
13 these experts.

14         6. Plaintiffs therefore request that the Court enter an amended  
15 Rule 16 Scheduling Order that includes the following provisions:

16             A. Continue the August 11, 2009 trial date to a date after  
17 October 15, 2009;

18             B.. Set the jury trial for at least six (6) trial days;

19             C. Extend the current discovery cutoff date of July 17, 2009 to  
20 September 15, 2009.

21             D. Extend disclosure deadlines due on and after July 1, 2009  
22 for a period of thirty (30) additional days to August 3, 2009.

23             E. Set such additional Rule 16 deadlines as needed to allow  
24 for adequate trial preparation.

25         Dated this 30<sup>th</sup> day of June, 2009.  
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**Polsinelli Shughart, P.C.**

*/s/ Don Stevens*

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that on June\_30, 2009, I electronically transmitted the foregoing document to the U.S. District Court Clerk's Office by using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing. I also emailed a copy of the pleading to counsel of record.

s/ Don Stevens