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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)

**USAPA’S SEPARATE STATEMENT
REGARDING THE SCHEDULE FOR
THE 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. # 565) providing in part that, “If the parties are
3 unable to agree on part or all of a joint proposed schedule, the parties may submit
4 separate statements explaining each side's grounds for disagreement by noon on July 17,
5 2009.”

6 Grounds:

7 After conferring and exchanging proposed schedules, the parties were unable to
8 reach agreement. In short, despite the Court’s view that it is no longer optimistic “that
9 we can get this tried by January” (July 7 Tr. 38:6-7), Plaintiffs proposed a schedule
10 assuming trial in January, and to exceed the maximum number of depositions allowed
11 under the Federal Rules of Civil Procedure.¹ Plaintiffs’ proposal presents a time-frame
12 that is far too short, in Defendant’s view, to accommodate the vast expansion in scope
13 and scale of the Plaintiffs’ new causation theory, which the Court has allowed to date in
14 prior rulings over Defendant’s repeated and strong objections. Moreover, a shorter
15 period of litigation increases the cost and burden to the Association at a time when
16 collective bargaining has shifted to mediated talks (under the TA) and when,
17

18 ¹ Plaintiffs are required to comply with the Federal Rules of Civil Procedure and seek leave
19 before embarking on a 15 deposition fishing expedition. Federal Rule 30(a)(2)(A)(i) clearly
20 states that a “party *must* obtain leave of court . . . if the parties have not stipulated to the
21 deposition and the deposition would result in more than 10 depositions being taken under this
22 rule . . .” See *Dixon v. Certainteed Corp.*, 164 F.R.D. 685, 692 (D. Kan. 1996) (“One aim of
this [Rule] is to assure judicial review under the standards stated in *Rule 26(b)(2)* before any
side will be allowed to take more than ten depositions in a case without agreement of the other
parties.”).

1 presumably, both parties will shortly be before the Ninth Circuit Court of Appeals.

2 Schedule:

3 The schedule below is proposed by USAPA²:

- 4 1. Amended Pleadings shall be completed by: October 1, 2009
- 5 2. Further initial Rule 26 disclosures shall be completed by: November 1, 2009
- 6 3. Expert Witnesses:
 - 7 a) Plaintiffs shall disclose the identity and qualifications of any expert witness
 - 8 by December 1, 2009.
 - 9 b) Plaintiffs shall disclose the report of any expert witness by January 4, 2010.
 - 10 c) Defendant shall disclose the identity and qualifications of any expert
 - 11 witness by January 4, 2010.
 - 12 d) Defendant shall disclose the report of any expert witness by February 5,
 - 13 2010.
 - 14 e) All expert depositions shall be completed by February 26, 2010
- 15 4. Fact witnesses depositions shall be completed by: March 19, 2010
- 16 5. Each party shall be limited to nine (9) fact depositions:
- 17 6. All discovery shall be completed by: April 2, 2010
- 18 7. Motions for summary judgment shall be filed by: April 23, 2010
- 19 8. The parties shall be ready for trial by July 9, 2010.

20 _____
21 ² We assume that Plaintiffs will make their own submission, therefore we omit
22 Plaintiffs' proposed dates.

1 Respectfully Submitted,

2 Dated: July 16, 2009

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

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12 *Attorneys for Defendant*
13 *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 • USAPA’S SEPARATE STATEMENT REGARDING THE SCHEDULE FOR
5 THE 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:

Marty Harper	Don Stevens	Andrew S. Jacob
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Kelly J. Flood	Katie Brown	
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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 July 16, 2009, by:

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