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

DON ADDINGTON, *et al.*,

Plaintiffs,

vs.

US AIRLINE PILOTS ASSOCIATION,
and US AIRWAYS, INC.,

Defendants.

CASE NO. 2:08-CV-1633-NVW

**PLAINTIFFS' PROPOSED
PRETRIAL SCHEDULE AND
OBJECTIONS TO USAPA
PROPOSALS**

USAPA has made no secret of its intention to seek a stay of all proceedings in this matter to allow it to take an appeal to the Ninth Circuit Court of Appeals. Plaintiffs oppose such a request. The parties cannot agree on a proposed schedule because Plaintiffs want to get this case to trial in a reasonable time frame and USAPA wants a twelve month delay in the proceedings to accomplish a virtual stay of all proceedings. USAPA's proposal is not reasonable because it ignores the fact that the Court imposed deadlines for these matters to be completed before the previously set August 11, 2009 trial date and Defendant does not need one additional year to prepare. The only date that Plaintiff requests that even remotely needs some additional time would be briefing on a substantive motion to dismiss. But in this unique situation USAPA does not need more time to file such a motion because it will

1 be doing nothing more than renewing its motion for summary judgment that
2 the Court just denied, on the grounds that Plaintiffs' additional discovery has
3 not created any triable issue of fact.

4 Plaintiffs therefore propose the following schedule, with a short
5 comment about why the proposed date is more reasonable than that proposed
6 by USAPA:

7
8 1. Amended Pleadings: Plaintiffs propose July 31, 2009; USAPA
9 proposed: October 1, 2009. The Court granted Plaintiffs permission to
10 file their Second Amended Complaint to include allegations regarding
11 joint liability. USAPA already has notice of this claim through prior
12 pleadings, and the amendment is a formality. USAPA should be given
13 thirty (30) days to answer or otherwise plead. USAPA should not be
14 permitted to re-file the same barrage of pleadings as it filed regarding
15 the First Amended Complaint except as to the new matters.

16
17 2. Further initial Rule 26 disclosures. Plaintiff proposes July 31, 2009.
18 Plaintiffs are awaiting payroll information from US Airways needed
19 for damage disclosure and expert testimony. US Airways is
20 cooperating and that documentations should be received in sufficient
21 time to meet the proposed deadline. USAPA proposes November 1,
22 2009 which does nothing more than extend USAPA's obligation to
23 respond. Plaintiffs were under a deadline of July 1, 2009 to provide
24 expert and damage disclosure and with the additional information
25 from US Airways, Plaintiffs will be able to meet this deadline.

26
27 3. Expert Witnesses:

28 a) Plaintiffs Expert Disclosure: Plaintiffs shall disclose the identity
and qualifications of any expert witness by, Plaintiff proposes
August 21, 2009, USAPA proposes December 1, 2009. Plaintiffs
have an economic expert whose report should be completed by
August 21, 2009 once all relevant information is received from the
Company. USAPA's proposal does nothing more than extend the
time that USAPA has to prepare for trial and is not needed by
Plaintiffs.

b) Plaintiffs' Expert Report Disclosure: Plaintiff proposes August 21,
2009. USAPA proposes January 4, 2010. Plaintiffs were prepared

1 to make their disclosure of the experts report on July 1, 2009, and
2 were only awaiting confirmation of the accuracy of some financial
3 information from the Company. Plaintiffs can meet this deadline.
4 USAPA's proposal only benefits USAPA by pushing off Plaintiffs'
5 disclosure to allow USAPA more time to delay this case.

6 c) USAPA disclosure of identity and qualifications of any of its expert
7 witnesses: USAPA proposes January 4, 2010. Plaintiffs object to
8 this additional delay. USAPA has already disclosed the areas of
9 expert testimony and was obviously prepared to make appropriate
10 expert disclosures under the prior deadlines. There is no reason
11 why USAPA cannot make its disclosures by September 18, 2009,
12 approximately thirty (30) days after the Plaintiffs' disclosures.
13 Under the USAPA proposal, expert discovery cannot even start
14 until February 2010, allowing USAPA the delay in discovery that it
15 is seeking.

16 d) USAPA disclosure of its expert witness reports: USAPA proposes
17 to disclose the report of its expert witnesses by February 5, 2010.
18 Plaintiffs object to this long delay. Plaintiffs experts on damages do
19 not need any of the information to be discovered during the
20 causation discovery that Plaintiffs need to prepare for trial. The
21 areas of expert testimony disclosed by USAPA are known to
22 USAPA and should be disclosed. There is no reason to stagger the
23 disclosure of the identity and the report of experts. Plaintiffs
24 therefore propose September 18, 2009.

25 e) Completion of expert depositions: Plaintiff proposes October 30,
26 2009. USAPA proposes February 26, 2010. After proposing a six
27 (6) month delay in disclosure, USAPA proposes to complete expert
28 depositions within three weeks of its report and earlier production
of that report will allow completion of expert depositions in a
timely fashion. Plaintiffs' proposal is sufficient time and can
overlap with other pretrial activities without prejudice to either
side.

4. Completion of Fact Witnesses Depositions: Plaintiff proposes October
16, 2009; USAPA proposes March 19, 2010. Plaintiffs had previously
scheduled much of the fact witness discovery needed to be completed
prior to the deadline for close of discovery previously set by the Court.
There is no reason to delay fact witness discovery any longer.
Plaintiffs hope to have this discovery completed by the early fall at the

1 latest. This discovery is needed to develop the factual record the
2 Court indicated was needed. By extending the deadline until March
3 2010, USAPA has every incentive to delay their availability and
discovery of relevant information until the last possible moment.

- 4 5. Number of Depositions: Plaintiff proposes fifteen (15) to allow
5 Plaintiffs to re-depose certain fact witnesses now relevant to
6 causation, and additional USAPA witnesses who will not be available
7 for trial; USAPA proposes a limit of ten (10) fact depositions. The
witnesses Plaintiffs intend to take are as follows:

8 Mike Cleary
9 Dave Ciabattoni
10 Eric Rowe
11 James Portale
12 Tracy Parella
13 Donn Butkovic
14 Jamie Javurek
15 Doug Mowery
16 Stephen Bradford
Mark King
(1-2) Current Board of Pilot Representative Members
ALPA 30(b)(6)
(2-3) Defendant's Expert(s)

- 17 6. Completion of Discovery: Plaintiff proposes October 16, 2009; USAPA
18 proposes April 2, 2010. As previously noted, the parties were on track
19 to complete most of the discovery by the prior discovery deadline. The
20 extension of time will allow the discovery to be completed in an
21 efficient fashion without forcing back-to-back depositions in several
different cities.

- 22 7. Deadlines for Motions for Summary Judgment: Plaintiff proposes
23 October 30, 2009. USAPA proposes April 23, 2010. Plaintiffs object to
24 this long delay. USAPA obviously intends to renew its summary
25 judgment on the same grounds as previously filed and to argue that
26 additional information developed by Plaintiffs during discovery does
27 not create a triable issue of fact for the jury to decide. If discovery is
complete by October 16, 2009, USAPA should be able to file any
renewed motion within two weeks of that deadline.

- 28 8. Proposed Trial Date: Plaintiff proposes January 19, 2010. USAPA

1 proposes July 9, 2010. Plaintiffs recognize that they have made an
2 ambitious trial date proposal, but submit that it is reasonable under
3 the circumstances. USAPA has already filed numerous motions and
4 the Court has ruled on them. The additional discovery requested by
5 Plaintiff on causation and damages will allow the Court to better
6 evaluate the claims to be tried but it will not change USAPA's position
7 on the claims to any degree. The July trial date proposed by USAPA
8 delays the resolution of the case without any corresponding benefit. If
9 the Court felt that some additional time for briefing and argument on
10 the motions filed by USAPA would be needed, a February trial date
11 would allow more than sufficient time for both sides to prepare.

12
13 For the foregoing reasons, Plaintiffs request that the Court enter its
14 Pretrial Order adopting Plaintiffs' proposed dates and imposing on both
15 sides the obligation to get this case prepared for an early trial date in 2010.

16 Dated this 16th day of July, 2009.

17 POLSINELLI SHUGHART, P.C.

18 By: Don Stevens
19 3636 N. Central Ave., Suite 1200
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21 Attorneys for Plaintiffs

22 I hereby certify that on this 16th day of July, 2009,
23 I electronically transmitted the foregoing document to the U.S. District
24 Court Clerk's Office by using the ECF System for filing and
25 transmittal.

26 . . . and a COPY of the foregoing was served
27 via email this same date to the following:

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