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

14 Don ADDINGTON, *et al.*,
15 Plaintiffs,
16 vs.
17 US AIRLINE PILOTS ASSN., *et al.*,
18 Defendants.

CASE NOS.
2:08-CV-1633-PHX-NVW
2:08-CV-1728-PHX-NVW

(Consolidated)

19 Don ADDINGTON, *et al.*,
20 Plaintiffs,
21 vs.
22 Steven H. BRADFORD, *et al.*,
23 Defendants.

PLAINTIFFS'
MOTION FOR AWARD OF
ATTORNEYS' FEES

24 Plaintiffs Don ADDINGTON, John BOSTIC, Mark BURMAN, Afshin
25 IRANPOUR, Roger VELEZ, and Steve WARGOCKI, on behalf of the West
26 Pilot Class, move this Court for an Order awarding attorneys' fees in their
27 favor. This motion is brought pursuant to Local Rule 54.2(b) and results
28 from the Partial Judgment and Permanent Injunction in this matter dated
July 17, 2009. (Doc. 594.)

Plaintiffs are entitled to an award of attorneys' fees and other litigation
related expenses pursuant to common benefit doctrine and a combination of
intra-litigation and pre-litigation bad faith. *See, generally, Hall v. Cole*, 412
U.S. 1, 6 (1973) (applying common benefit doctrine to union); *Ass'n of Flight*

1 *Attendants, AFL-CIO, v. Horizon Air Industries, Inc.*, 976 F.2d 541, 550 (9th
2 Cir. 1992) (recognizing importance of bad faith element when applying
3 common benefit doctrine); *Int'l. Union of Petroleum & Indus. Workers v.*
4 *Western Indus. Maintenance, Inc.*, 707 F.2d 425, 428 (9th Cir. 1983)
5 (awarding fees for “defendant's obstinacy in granting a plaintiff his clear
6 legal rights necessitated resort to legal action with all the expense and delay
7 entailed in litigation”); *Int'l Ass'n of Machinists & Aerospace Workers, Dist.*
8 *776 v. Texas Steel Co.*, 538 F.2d 1116, 1122 (5th Cir. 1976) (awarding fees
9 where “refusal to abide by [an] arbitration award [creating a compromise
10 integration of seniority lists] was without justification”); *Williams v. Lane*,
11 96 F.R.D. 383 (N.D. Ill. 1982) (awarding fees based upon bad faith challenge
12 to class certification).

13 The estimated amount of attorneys' fees and other litigation related
14 expenses sought in connection with this motion is approximately
15 \$1.8 million, including fees expected to be incurred in connection with the
16 briefing of this motion and the preparation of the required memorandum,
17 which will be submitted under separate cover.

18 Dated this 30th day of July, 2009.

19 **POLSINELLI SHUGHART PC**

20 By: /s/
21 Andrew S. Jacob
22 Security Title Plaza
23 3636 N. Central Ave., Suite 1200
24 Phoenix, AZ 85012

25 **CERTIFICATE OF SERVICE**

26 I hereby certify that on July 30th, 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 to
CM/ECF registrants.

27 s/ Andrew S. Jacob
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