

1 Marty Harper (#003416)
2 mharper@polsinelli.com
3 Kelly J. Flood (#019772)
4 kflood@polsinelli.com
5 Andrew S. Jacob (#22516)
6 ajacob@polsinelli.com
7 Katherine V. Brown (#26546)
8 kvbrown@polsinelli.com
9 **POLSINELLI SHUGHART, P.C.**
10 CityScape
11 One East Washington St., Suite 1200
12 Phoenix, AZ 85004
13 Phone: (602) 650-2000
14 Fax: (602) 264-7033
15 *Attorneys for Addington Pilots*

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

10 US AIRWAYS, INC., a Delaware
11 corporation, *et al.*,

11 *Plaintiff,*

12 vs.

13 Don ADDINGTON; John BOSTIC;
14 Mark BURMAN; Afshin
15 IRANPOUR; Roger VELEZ; and
16 Steve WARGOCKI, on behalf of
17 themselves and all other
18 similarly-situated individuals,

16 and

17 US AIRLINE PILOTS ASS'N, an
18 unincorporated association,

18 *Defendants.*

CASE NO.

2:10-cv-01570-PHX-ROS

**DECLARATION OF MARTY HARPER
IN SUPPORT OF MOTION FOR
CLASS CERTIFICATION**

19 I, Marty Harper, HEREBY DECLARE:

20 1. I am an adult resident of the State of Arizona.

21 2. I began practicing law in 1973. During my 37 years in private
22 practice, I have worked on a number of class action cases. In this
23 declaration, I include some examples of my class action experience. A
24 copy of my firm biography is attached hereto.

25 3. I served as lead class and trial counsel for indirect purchasers
26 in an antitrust class action against Microsoft. A class was certified in
27 this action, and on the eve of trial after over six years of complex
28

1 litigation, including multiple appeals, the matter was settled with
2 Microsoft. Class members received a settlement with a face value of
3 \$104 million.

4 4. I was lead trial counsel in a mass action involving Continental
5 Airlines pilots who sued the Airlines Pilots Association (ALPA). *Airlines*
6 *Pilots Ass'n, Int'l v. O'Neill*, 499 US 65 (1991); *O'Neill v. Airlines Pilots*
7 *Ass'n, Int'l*, 939 F.2d 1199 (5th Cir. 1991).

8 5. I was lead counsel in a putative class action of pilots of Emery
9 Worldwide Airlines, Inc., alleging claims against the airline and the
10 union. *Rachford v. Air Line Pilots Ass'n., Intern.*, 2006 WL 927742 (N.D.
11 Cal. 2006) (Case No. C-03-3618-PJH).

12 6. I was lead trial counsel for a class of pilots alleging and
13 proving breach of the duty of fair representation against their union.
14 *Addington v. US Airline Pilots Ass'n*, 606 F.3d 1174 (9th Cir. 2010)
15 (vacating judgment on ripeness grounds).

16 7. I was lead trial counsel for a putative class in a state-wide
17 wage-and-hour class action against Wal-Mart.

18 7. I represented a national trucking firm in a large class action
19 consisting of approximately 600 drivers.

20 8. My partner, Kelly Flood, was counsel with me on the
21 *Mircosoft*, *Wal-Mart*, *Emery*, *Addington* and other cases, and has
22 performed substantial work on these and on four other class actions
23 while working at this firm for the last 10 ½ years. A copy of her firm
24 biography is attached hereto.

25 9. My partner, Andrew Jacob, was counsel with me on the *Wal-*
26 *Mart*, *Emery*, *Addington* and other cases, and has performed
27 substantial work on these class actions while working at this firm for
28 the last 6 ½ years. A copy of his firm biography is attached hereto.

1 10. My associate, Katherine V. Brown, was counsel with me on
2 *Addington* and other cases, and performed substantial work on that
3 class action while working at this firm for the last 3 ½ years. A copy of
4 her firm biography is attached hereto.

5 11. The firm of Polsinelli Shughart, P.C., has extensive class
6 action litigation experience. A copy of our current class action list is
7 attached hereto.

8 12. I declare under penalty of perjury under the laws of the State
9 of Arizona that the foregoing is true and correct.

10 Dated this 10th day of June, 2011.

11 **POLSINELLI SHUGHART, PC**

12 /s/ *Marty Harper*
13 By _____
14 Marty Harper
15 Kelly J. Flood
16 Andrew S. Jacob
17 Katherine V. Brown
18 CityScape
19 One East Washington St., Ste. 1200
20 Phoenix, AZ 85004
21 *Attorneys for Addington Pilots*

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on this 10th day of June 2011, I electronically
24 transmitted the foregoing document to the U.S. District Court Clerk's
25 Office by using the ECF System for filing and transmittal.

26 /s/ *Andrew S. Jacob*
27 By _____
28