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

13 US AIRWAYS, INC., a Delaware
 14 corporation, *et al.*,

15 *Plaintiff,*

16 vs.

16 Don ADDINGTON; John BOSTIC;
 17 Mark BURMAN; Afshin IRANPOUR;
 18 Roger VELEZ; Steve WARGOCKI;
 19 Michael J. SOHA; Rodney Albert
 20 BRACKIN; and George MALIGA, on
 21 behalf of themselves and the certified
 22 WEST PILOT CLASS,

20 and

21 US AIRLINE PILOTS ASS'N, an
 22 unincorporated association,

23 *Defendants.*

Case No. 2:10-CV-01570-PHX-ROS

**WEST PILOTS' NOTICE OF ORDER
 IN RELATED CASE.**

24 Notice is hereby provided that, on April 11, 2012, the United States
 25 District Court for the Eastern District of New York, in *Naugler v. Air Line Pilots*
 26 *Ass'n, Int'l*, Case No. 05-CV-4751, granted summary judgment to the Air Line
 27 Pilots Association ("ALPA") on a claim arising from the Nicolau Arbitration
 28 (Copy of order is attached as Exhibit "A.") The West Pilots bring this order to

1 the attention of the Court because USAPA argued here that the *Naugler*
2 plaintiffs were necessary parties to this litigation. Doc. 49 at 31:10 to 31:17.¹

3 At the hearing held on February 9, 2011, USAPA explained its view of
4 *Naugler*, in part, as follows:

5 One of the lawsuits we're going to have if this court imposes the
6 Nicolau award is the *Naugler* case that we've referenced in our
7 papers. ALPA is accused of having deliberately committed a falsified
8 seniority list because part of Nicolau's decision was to say pilots on
furlough back in 2005, even with 16 years of seniority, get zero.

* * *

9 ALPA's argument in that litigation is, Your Honor, this case is not
10 ripe because Nicolau may not be implemented; but if Nicolau is
11 implemented, then the company is just in another lawsuit about
12 whether the Nicolau award was corrupted by ALPA's forged seniority
list.

13 RT 42:11 to 43:4 (copy attached as Exhibit "B"). But, as explained in the order
14 dismissing the East Pilots' claims in *Naugler*, USAPA is just wrong:

15 Since the List correctly identified the relevant employment data and
16 the status of each pilot, the List submitted by ALPA to the Arbitration
17 Board was factually accurate. No breach of the DFR could occur from
18 submitting the accurate List. ALPA's actions in submitting the
factually accurate List were not arbitrary because it was reasonable
and rational to submit the accurate List.

19 Ex. "A" at 18.

20 In sum, *Naugler* found that the dispute there was ripe, without regard to
21 the outcome of this case. *Id.* at 15. And, having found that dispute ripe,
22 *Naugler* found that there was no merit to the East Pilots' claim against ALPA.

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¹ All citations to the docket refer to the page numbers in the Court's electronic filing system, and not the documents' internal pagination.

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Dated this 12th day of April, 2012.

POLSINELLI SHUGHART, PC

By /s/ Andrew S. Jacob

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of April 2012, I electronically transmitted the foregoing document to the U.S. District Court Clerk's Office by using the ECF System for filing and transmittal.

By /s/ Andrew S. Jacob