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

DON ADDINGTON, et al.  
Plaintiffs,  
vs.  
US AIRLINE PILOTS ASS'N, et al.  
Defendants.

No. CV-13-00471-PHX-ROS  
**JOINT PROPOSED RULE 16  
SCHEDULING ORDER**

Pursuant to the Court’s July 19, 2013 Order, the parties stipulate to the following:

- A. All proceedings concerning this case shall be in accordance with the Federal Rules of Civil Procedure.
- B. All Initial Disclosures as defined in FRCP 26(a)(1) shall be made no later than **August 6, 2013**.
- C. To satisfy the requirements of FRCP 26(a)(1), the parties shall file with the Clerk of the Court a Notice of Initial Disclosure, rather than copies of the actual disclosures.
- D. Procedural motions including Motions to Amend the Complaint or Answer, and Motions to Join Additional Parties shall be filed no later than **August 5, 2013**. All Motions to Amend shall attach a copy of the proposed complaint or answer.
- E. The Plaintiffs shall disclose the identity of all persons who may be used at trial to present evidence under Federal Rules of Evidence (FRE) 701, 702, 703, 704 and 705 no later than **August 16, 2013**. The Defendants shall disclose the identity of all persons who may be used at trial to present evidence under FRE 701, 702, 703, 704 or 705 no later than **August 23, 2013**. To the extent that either party intends to call any persons for

1 rebuttal purposes who will present evidence under Federal Rules of Evidence (FRE) 701,  
2 702, 703, 704 and 705, the disclosures provided for hereunder shall be made not later than  
3 **August 30, 2013.**

4 No deposition of any expert witness shall occur before the disclosures concerning  
5 expert witnesses mandated by this Order have been made. The disclosures of the identifies  
6 of all persons who may be used at trial to present evidence under FRE 701, 702, 703, 704 or  
7 705 shall also include all of the disclosures required by FRCP 26(a)(2)(B) if the witness is  
8 either (1) retained or specifically employed to provide expert testimony in the case, or (2) is  
9 an agent or employee of the party offering the testimony whose duties regularly involve  
10 giving expert testimony.<sup>1</sup>

11 F. All discovery, including answers to interrogatories, production of documents,  
12 depositions, and requests to admit shall be completed by **September 18, 2013.** The parties  
13 agree that responses to written discovery requests shall be served not later than 15 days  
14 after service, except in the case of disputed discovery requests, in which case responses  
15 shall be served not later than 15 days after the dispute is resolved by the parties or the  
16 Court. The parties agree that they shall notify the requesting party of any dispute or  
17 objection to a discovery request not later than three (3) business days following receipt of  
18 the request. In the event the parties are unable to resolve any such dispute the objecting  
19 party shall invoke the process provided for in ¶J hereunder not more three business days  
20 after first notification to the other party of the objection or dispute. The objecting party  
21 shall serve its response to such a discovery request to the extent provided by the Court's  
22 Order addressing the dispute within five (5) days of the filing of such Order. The parties  
23 shall serve all discovery requests by email on all counsel appearing herein.

24 G. The parties shall finally supplement all discovery, including material changes  
25 in expert witness opinions and material disclosures, pursuant to FRCP 26(a)(3), of all  
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28 <sup>1</sup> The parties are on notice that this Order requires disclosure different than that  
required by FRCP 26(a)(2).

1 exhibits to be used and all witnesses to be called at trial, on or before **September 20,**  
2 **2013.**<sup>2</sup>

3 H. Discovery by interrogatory shall be governed by the national uniform  
4 requirements set forth in FRCP 33, except as amended herein.

5 I. Depositions shall be limited by the national uniform requirements set forth in  
6 Rules 30, 31 and 32 of the FRCP, except as amended herein, except that USAPA's limit on  
7 the total number of depositions shall not include the depositions of the named Plaintiffs,  
8 which depositions shall not exceed 3 hours in length for each deposition.

9 J. Motions on discovery matters are prohibited. Should a discovery dispute  
10 arise Counsel shall consult and make a sincere effort to resolve the matter(s). If the parties  
11 cannot reach a resolution, they are directed to jointly file and fax (602) 322-7529, a joint  
12 statement of the issue(s), limited to one page per issue. Upon review of the statement an  
13 Order will issue regarding further action required by the parties. This procedure differs  
14 from the procedure set forth in Local Rule 7.2(j).

15 The parties shall also consult the Court's Standing Order concerning discovery  
16 disputes to ensure full compliance with the Court's discovery dispute procedures, some of  
17 which are not included here. The Standing Order is available on the District of Arizona  
18 website: [http://www.azd.uscourts.gov/azd/contacts.nsf/125a095259a5393407256ec10063](http://www.azd.uscourts.gov/azd/contacts.nsf/125a095259a5393407256ec10063ad7d?OpenView)  
19 [ad7d?OpenView](http://www.azd.uscourts.gov/azd/contacts.nsf/125a095259a5393407256ec10063ad7d?OpenView)

20 K. This Order contemplates that each party will conduct discovery to permit  
21 completion within the deadline. Any discovery which results in insufficient time to  
22 undertake unnecessary additional discovery and which requires an extension of the  
23 discovery deadline will be met with disfavor, will only be granted for good cause or only to

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25 <sup>2</sup> The parties are on notice that this order supercedes the "30 days before trial"  
26 disclosure deadline contained in FRCP 26(a)(3). Therefore, failure to timely supplement  
27 pursuant to Rule 26(e), including attempts to include witnesses and exhibits in the Proposed  
28 Final Pretrial Order or at trial that were not previously disclosed in a timely manner may  
result in the exclusion of such evidence at trial or the imposition of other sanctions  
including dismissal and the imposition of default pursuant to FRCP 37, the Local Rules of  
Civil Procedure of the District Court, and the inherent power of the Court.

1 prevent manifest injustice pursuant to FRCP 16(b) and (e), and may result in denial of an  
2 extension, exclusion of evidence, or the imposition of other serious sanctions pursuant to  
3 FRCP 37(b),(c),(d).

4 L. All dispositive motions shall be filed no later than **September 5, 2013**.  
5 Unless permitted by Order of the Court, only one dispositive motion is allowed to be filed  
6 by each party. *If dispositive motions have been filed neither party shall request that the*  
7 *Court make any change in date of trial or other dates provided for herein.*

8 M. All parties are specifically admonished that pursuant to LRCiv 7.2(i), “[i]f a  
9 motion does not conform in all substantial respects with the requirements of this Rule, or **if**  
10 **the opposing party does not serve and file the required answering memoranda, or if**  
11 **counsel for any party fails to appear the time and place for oral argument, such non-**  
12 **compliance may be deemed a consent to the denial or granting of the motion and the**  
13 **Court may dispose of the motion summarily.”**

14 N. In view of the accelerated schedule as provided for in the Court’s July 19,  
15 2013 Order and as reflected in this Order, in place of the discovery status letter provided for  
16 herein, the parties shall address all discovery related matters in the Interim Rule 16 Status  
17 Hearing scheduled for August 16, 2013 as provided for in paragraph “T” below.  
18 Notwithstanding the foregoing, the parties shall keep the Court apprised of settlement  
19 negotiations and joint letter to the Court concerning the status of settlement discussions  
20 (containing no specific settlement terms or offers) shall be filed by **August 14, 2013** and  
21 initially labeled “FIRST NOTICE OF SETTLEMENT,” and shall be subsequently filed  
22 every FOUR (4) months thereafter. If settlement is reached, the parties shall file a Notice of  
23 Settlement with the Clerk of the Court with a copy to Judge Silver’s Chambers.

24 O. A **Joint Statement of Undisputed Facts, Joint Statement of the Case,**  
25 **Independent Statements of Disputed Facts and the Joint Proposed Pretrial Order** shall  
26 be lodged and filed by **September 6, 2013**. Any and all **Motions in Limine** shall be lodged  
27 and filed not later than September 18, 2013. Responses to such motions in limine shall be  
28 served within five (5) days of filing, and no replies are permitted unless specifically ordered

1 by the Court.. The content of the Joint Proposed Pretrial Order is that prescribed in the  
2 Court's form of Joint Proposed Pretrial Order. [See Court's website:  
3 [www.azd.uscourts.gov](http://www.azd.uscourts.gov) under "Judges and Courtrooms/Orders, Forms & Procedures").

4 P. If the case will be tried to the Court, rather than to a jury, in addition to filing  
5 a Joint Proposed Pretrial Order, each party shall file Proposed Findings of Fact and  
6 Conclusions of Law not later than September 13, 2013.

7 Q. The attorneys who will be trying the case for each of the parties shall appear  
8 at the **Final Pretrial Conference**, that will be scheduled as promptly as possible after the  
9 filing of the Joint Proposed Pretrial Order. The attorneys appearing at the conference shall  
10 be prepared to address the merits of all issues raised in the Joint Proposed Pretrial Order.  
11 Unless one has already been established, the Court will set a firm trial date at the **Pretrial**  
12 **Conference**, and will sign the **Final Pretrial Order** with any additional instructions for  
13 trial preparation.

14 R. Any other final pretrial matters required pursuant to FRCP 26(a)(3) are due in  
15 accordance with this Order prior to the preparation and filing of the **Joint Proposed**  
16 **Pretrial Order**.

17 S. (inapplicable because this is a bench trial).

18 T. An Interim Rule 16 Status Hearing is scheduled for **August 16, 2013**. Prior  
19 to the Interim Hearing, counsel are to prepare and file a Joint Status Report on or before  
20 **August 14, 2013**.

21 This Court views compliance with the provisions of this Order as critical to its case  
22 management responsibilities and the responsibilities of the parties under FRCP 1.

23 DATED: \_\_\_\_\_

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Roslyn O. Silver  
United States District Judge