

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

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|---|---|-------------------------------|
|   | ) | Case No.: CV-13-00471-PHX-ROS |
| Don Addington, <i>et. al.</i> ,                 | ) |                               |
|   | ) | <b>AMENDED SCHEDULING</b>     |
| <i>Plaintiffs,</i>                              | ) | <b>ORDER</b>                  |
|   | ) |                               |
| v.  | ) |                               |
|   | ) |                               |
| US Airline Pilots Association, <i>et. al.</i> , | ) |                               |
|   | ) |                               |
| <i>Defendant.</i>                               | ) |                               |

The parties shall comply with the following schedule.

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) were due 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 were due no later than August 5, 2013.

E. The Plaintiffs were required to 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 were required to 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 rebuttal purposes who will present evidence under Federal Rules of

1 Evidence (FRE) 701, 702, 703, 704 and 705, the disclosures provided for hereunder were  
2 required to be made not later than **August 30, 2013**. No deposition of any expert witness  
3 shall occur before the disclosures concerning expert witnesses mandated by this Order  
4 have been made. The disclosures of the identities of all persons who may be used at trial  
5 to present evidence under FRE 701, 702, 703, 704 or 705 shall also include all of the  
6 disclosures required by FRCP 26(a)(2)(B) if the witness is either (1) retained or  
7 specifically employed to provide expert testimony in the case, or (2) is an agent or  
8 employee of the party offering the testimony whose duties regularly involve giving expert  
9 testimony.<sup>1</sup>

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11 F. All discovery, including answers to interrogatories, production of  
12 documents, depositions, and requests to admit, shall be completed by **September 30,**  
13 **2013**. The parties agree that responses to written discovery requests shall be served not  
14 later than 15 days after service, except in the case of disputed discovery requests, in  
15 which case responses shall be served not later than 15 days after the dispute is resolved  
16 by the parties or the Court. The parties agree that they shall notify the requesting party of  
17 any dispute or objection to a discovery request not later than three (3) business days  
18 following receipt of the request. In the event the parties are unable to resolve any such  
19 dispute the objecting party shall invoke the process provided for in ¶J hereunder not more  
20 than three business days after first notification to the other party of the objection or  
21 dispute. The objecting party shall serve its response to such a discovery request to the  
22 extent provided by the Court's Order addressing the dispute within five (5) days of the  
23 filing of such Order. The parties shall serve all discovery requests by email on all counsel  
24 appearing herein.

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27 <sup>1</sup> The parties are on notice that this Order requires disclosure different than that  
28 required by FRCP 26(a)(2).

1 G. The parties shall finally supplement responses to all discovery including  
2 material changes in expert witness opinions and material disclosures relating to the  
3 witnesses on or before October 2, 2013. The parties agree that FRCP 26(a)(3) disclosures  
4 are not required in this matter given the current trial date of October 22-23, 2013.

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

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

11 J. Motions on discovery matters are prohibited. Should a discovery dispute  
12 arise Counsel shall consult and make a sincere effort to resolve the matter(s). If the  
13 parties cannot reach a resolution, they are directed to jointly file and fax (602) 322-7529,  
14 a joint statement of the issue(s), limited to one page per issue. Upon review of the  
15 statement an Order will issue regarding further action required by the parties. This  
16 procedure differs from the procedure set forth in Local Rule 7.2(j). The parties shall also  
17 consult the Court's Standing Order concerning discovery disputes to ensure full  
18 compliance with the Court's discovery dispute procedures, some of which are not  
19 included here. The Standing Order is available on the District of Arizona website:  
20 [http://www.azd.uscourts.gov/azd/contacts.nsf/125a095259a5393407256ec10063](http://www.azd.uscourts.gov/azd/contacts.nsf/125a095259a5393407256ec10063ad7d?OpenView)  
21 [ad7d?OpenView](http://www.azd.uscourts.gov/azd/contacts.nsf/125a095259a5393407256ec10063ad7d?OpenView)  
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23 K. This Order contemplates that each party will conduct discovery to permit  
24 completion within the deadline. Any discovery which results in insufficient time to  
25 undertake unnecessary additional discovery and which requires an extension of the  
26 discovery deadline will be met with disfavor, will only be granted for good cause or only  
27 to prevent manifest injustice pursuant to FRCP 16(b) and (e), and may result in denial of  
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1 an extension, exclusion of evidence, or the imposition of other serious sanctions pursuant  
2 to FRCP 37(b),(c),(d).

3 L. All dispositive motions shall be filed no later than **October 11, 2013**.  
4 Unless permitted by Order of the Court, only one dispositive motion is allowed to be filed  
5 by each party. *If dispositive motions have been filed neither party shall request that the*  
6 *Court make any change in date of trial or other dates provided for herein.*

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

14 N. A **Joint Statement of Undisputed Facts, Joint Statement of the Case,**  
15 **Independent Statements of Disputed Facts and the Joint Proposed Pretrial Order**  
16 shall be lodged and filed by **October 9, 2013**, with parties to exchange initial drafts on or  
17 before **October 1, 2013**. Any and all **Motions in Limine** shall be lodged and filed not  
18 later than **October 11, 2013**. Responses to such motions in limine shall be served within  
19 five (5) days of filing, and no replies are permitted unless specifically ordered by the  
20 Court. Because this is a bench trial, **only** those motions in limine that might result in a  
21 substantial saving of time or effort during trial should be filed. Motions in limine that do  
22 not qualify as such will be summarily denied. The content of the Joint Proposed Pretrial  
23 Order is that prescribed in the Court’s form of Joint Proposed Pretrial Order. [See Court’s  
24 website: [www.azd.uscourts.gov](http://www.azd.uscourts.gov) under “Judges and Courtrooms/Orders, Forms &  
25 Procedures”).

26 O. In addition to filing a Joint Proposed Pretrial Order, each party shall file  
27 Proposed Findings of Fact and Conclusions of Law no later than **October 14, 2013**.  
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1 P. The attorneys who will be trying the case for each of the parties shall  
2 appear at the **Final Pretrial Conference** that will be scheduled as promptly as possible  
3 after the filing of the Joint Proposed Pretrial Order. The attorneys appearing at the  
4 conference shall be prepared to address the merits of all issues raised in the Joint  
5 Proposed Pretrial Order.

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

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