

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are *not* confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	14-15874 (14-15757, 14-15892)		
District Court/Agency Case Number(s):	2:13-cv-00471-ROS		
District Court/Agency Location:	US District Court for the District of Arizona - Phoenix, AZ		
Case Name:	Don Addington, et al	v.	US Airline Pilots Association, et al
If District Court, docket entry number(s) of order(s) appealed from:	Docs. Nos. 298, 299, 304, and 305.		
Name of party/parties submitting this form:	US Airline Pilots Association		

Please briefly describe the dispute that gave rise to this lawsuit.

On August 2, 2013, plaintiffs-appellants filed an amended complaint alleging that defendant-appellant USAPA breached its duty of fair representation ("DFR") by failing to require implementation of the ALPA seniority proposal ("Nicolau Award") as part of a conditional Memorandum of Understanding ("MOU"). The MOU established a process for negotiating a joint collective bargaining agreement applicable to the merger pilot groups of US Airways and American Airlines in the event the merger of the two airlines was approved and provided that pilot seniority will be integrated through the process required by the McCaskill-Bond Amendment to the Federal Aviation Act. Plaintiffs-appellants sought a judgment that USAPA violated its DFR by entering into the MOU that did not require implementation of the Nicolau Award. Plaintiffs-appellants also sought a declaration that they had the right but not the obligation to participate as a party in the McCaskill-Bond seniority integration process.

Briefly describe the result below and the main issues on appeal.

In its January 10, 2014 Order, the District Court held that (1) USAPA did not breach its DFR to plaintiffs-appellants; and (2) plaintiffs-appellants were not entitled to participate in the McCaskill-Bond seniority integration process. The District Court made several other statements in the Order concerning the rights of USAPA and non-party APA (the bargaining representative for the pre-merger American pilots) if APA was certified as the representative for the merged pilot group. These statements were beyond the scope of the issues litigated, were not briefed by any of the parties, were not essential to the court's holdings, and were, in any event, erroneous. US Airways made a motion pursuant to Fed.R.Civ.P. Rules 52(b) and 59(e) requesting that the District Court modify its January 10, 2014 Order to delete footnote 15. USAPA did not oppose the requested relief, but did oppose the grounds for modification arguing that footnote 15 and several other statements should also be deleted. The District Court denied the motion. It is USAPA's position the District Court's holdings contained in the January 10, 2014

Order were correct and should be affirmed but that the District Court erred in failing to delete footnote 15 and the extraneous statements from said Order.

Describe any proceedings remaining below or any related proceedings in other tribunals.

There are no proceedings remaining in the District Court and no related proceedings in other tribunals.

Provide any other thoughts you would like to bring to the attention of the mediator.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached

(see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list

may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **To file this form electronically** in Appellate ECF, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into Appellate ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.

SERVICE LIST

9th Circuit Case Numbers: 14-15874, 14-15757, 14-15892

The parties to this action are as follows:

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 9, 2014.

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In addition, the following individuals was served by U.S. Mail:

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s/T. Mahabir