

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):	14-15757		
District Court/Agency Case Number(s):	2:13-cv-00471		
District Court/Agency Location:	Phoenix, AZ		
Case Name:	Don Addington, et al.	v.	US Airline Pilots Association and US Airways, In
If District Court, docket entry number(s) of order(s) appealed from:	2:13-cv-00471		
Name of party/parties submitting this form:	Plaintiffs - Appellants		

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

In 2007, an arbitrator determined how to integrate the seniority of the pilots from two merging airlines (America West and US Airways). The pilots from the larger airline (US Airways) refused to abide by a 2005 agreement to implement the arbitrated seniority list and formed a new union (defendant-appellee USAPA) that refused to use the 2007 arbitration as the basis for integrating seniority with the pilots from a third airline. As a consequence, the airline that resulted from the 2005 merger of America West and US Airways still has two separate pilot operations, nine years into the merger.

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

After a trial to the bench, the Court ruled that USAPA did not breach the duty of fair representation by making a contract (in the process of merger with American Airlines) that abrogated the 2005 agreement to use the 2007 seniority arbitration because it had a legitimate union purpose for doing so. The Court also ruled that the plaintiff class of former America West pilots from did not have the right to choose who would represent their interests in the process of integrating seniority with the American pilots.

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

No proceedings remain below and the plaintiff class is not a party to any other proceedings.

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

The dispute arises from one sides refusal to abide by what was agreed to be a binding settlement of the seniority integration dispute. After years of litigation it is clear that there is no possibility of compromise.

There is a prior appeal in earlier litigation on this subject by these parties. Addington v. US Airline Pilots Ass'n, 606 F.3d 1174 (9th Cir. 2010).

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

US Airways, Inc. v. Don Addington, et al.

9th Circuit Case No. 13-15000

The following attorneys represent Defendants/Appellees Don Addington, et al., individually and as representatives of the certified class in this action:

Marty Harper
Marty Harper, PLLC
12817 North 14th Drive
Phoenix, AZ 85029
mharperpllc@gmail.com

Andrew S. Jacob
Jennifer J. Axel
Polsinelli P.C.
CityScape
One E. Washington St., Suite 1200
Phoenix, AZ 85004
Telephone: (602-) 650-2000
Facsimile: (602) 264-7033
ajacob@polsinelli.com

The following attorneys represent Plaintiff/Appellant U.S. Airways, Inc., in the above-captioned action:

Robert A. Siegel (lead counsel)
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071-2899
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
rsiegel@omm.com

Chris A. Hollinger
O'Melveny & Myers L.L.P.
Two Embarcadero Center, 28th Floor
San Francisco, CA 94111-3823
Telephone: (415) 984-8700
Facsimile: (415) 984-8701
chollinger@omm.com

Karen Gillen
U.S. Airways, Inc.
111 W. Rio Salado Parkway
Tempe, AZ 85281
Telephone: (480) 693-0800
Facsimile: (480) 693-5932
karen.gillen@usairways.com

The following attorneys represent Defendant/Appellee U.S. Airline Pilots Association in the above-captioned action:

Patrick Szymanski (lead counsel)
Patrick Szymanski L.L.P.
1900 L Street, NW, Suite 900
Washington, DC 20036
Telephone: (202) 721-6035
Facsimile: N/A
szymanskip@msn.com

Susan Martin
Jennifer Kroll
Martin & Bonnett, P.L.L.C.
1850 N. Central Ave, Suite 2010
Phoenix, AZ 85004
Telephone: (602) 240-6900
Facsimile: (602) 240-2345
smartin@martinbonnett.com
jkroll@martinbonnett.com

Brian J. O'Dwyer
Gary Silverman
O'Dwyer & Bernstein, L.L.P.
42 Duane Street, 5th Floor
New York, NY 10007
Telephone: (212) 571-7100
Facsimile: (212) 571-7124
bodwyer@odblaw.com
gsilverman@odblaw.com

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2014, I electronically transmitted the attached document to the Clerk's Office using the Appellate ECF system for filing and transmittal.

In addition, the following persons were served by U.S. Mail, first class postage prepaid:

Brian J. O'Dwyer
Gary Silverman
O'Dwyer & Bernstien, LLP
52 Duane Street, 5th Floor
New York, NY 10007

/s/Karen Hagen