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6 **ATTORNEYS FOR** Defendant
 US AIRWAYS, INC.

7
 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

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 11 ROBERT B. ST. CLAIR,

No. C-09-5871 JSW

12 Plaintiff,

13 vs.

STIPULATION AND [~~PROPOSED~~]
 ORDER FOR PHYSICAL AND MENTAL
 EXAMINATION [FRCP 35]

14 U.S. AIRWAYS, INC., a Delaware
 Corporation, et al.,

15 Defendants.
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17 _____ /
 18 IT IS HEREBY STIPULATED, by and between the parties, through their respective counsel,
 19 that the Court be asked to issue an order requiring that plaintiff ROBERT B. ST. CLAIR appear for
 20 and participate in a psychiatric, neurologic and neuropsychologic examination and evaluation to be
 21 conducted by Mark H. Strassberg, M.D. and Ronald H. Roberts, Ph.D., on May 17, 2010, or on
 22 another date to be mutually agreed upon by the parties. The examination is to begin at 9:00 a.m and
 23 is scheduled to last a full day. It will take place at Dr. Strassberg's office, located at 2000 Van Ness
 24 Avenue, Suite 610, San Francisco, California 94109, tel. (415) 749-6820 and Dr. Roberts' office,
 25 located at 2000 Van Ness Avenue, Suite 512, San Francisco, California 94109, tel. (415) 776-2000.

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1 Dr. Strassberg is Board Certified in Neurology and Psychiatry by the American Board of
2 Psychiatry and Neurology, and Dr. Roberts is Board Certified by, *inter alia*, in Forensic Psychology
3 by the American Board of Professional Psychology and the American College of Law and
4 Psychology. Dr. Strassberg will perform a neurologic and psychiatric evaluation of the plaintiff
5 which will include a mental status examination. Dr. Roberts will perform neuropsychological
6 testing and will serve as a psychological consultant to Dr. Strassberg in the administration of these
7 tests.

8 The examination will follow a common and accepted format for a standard psychiatry
9 evaluation with psychological tests. It will involve no invasive, dangerous or painful physical
10 procedures. The sole source of pain is usually only that level of distress ordinarily associated with
11 the recall of psychologically and/or emotionally upsetting events and situations in the plaintiff's life.

12 The first part of the examination will be personally conducted by Dr. Strassberg in his office.
13 It may consist of the following: the taking of the individual's personal and family history; a medical
14 and psychiatric history; an educational and work history; a social, marital, relational, and
15 recreational history, a medication and substance-use history; a history of the incident(s) resulting
16 in the claims of psychological and/or emotional injuries and/or distress; a history of the changes over
17 time in the claimant's psychological and/or emotional signs or symptoms since the onset of any
18 psychological or emotional distress reportedly connected with the incident(s); the extent to which
19 any psychological and/or emotional signs or symptoms interfere with the claimant's daily
20 functioning; the history of any such interference over time; the psychological and/or emotional
21 condition of the claimant as of the date of the evaluation; the relationship, if any, between the nature
22 and intensity of any psychological and/or emotional signs or symptoms related to the claimed
23 incident(s); any prior, contemporaneous, or subsequent experience of any psychological and/or
24 emotional predisposing and/or distressing events in the individual's life; the claimant's usual daily
25 schedule as of the time of the evaluation; whether the claimant evidences then-currently a need for
26 psychiatric and/or psychological counseling or psychotropic medication for the alleviation or relief
27 of any psychological or emotional signs or symptoms or any interference in daily functioning that
28 might be connected with the incident(s); and the claimant's prognosis for the future. This will be

1 followed by a mental status examination and a physical exam to include examination of the patient's
2 cranial nerves, strength, sensation, reflexes, balance and spine.

3 This first part of the examination is expected to last approximately three hours from 9:00 a.m.
4 to noon. These three hours will be punctuated by at least two brief rest breaks.

5 With respect to the evaluation of the plaintiff's level of intellectual functioning, the WAIS-III
6 may be administered. In the assessment of the plaintiff's neurocognitive status, portions of the
7 following tests may be administered: WMS-III, COWA, VOT, TMT, WCST, WMT, TOMM and
8 Stroop. With respect to an assessment of emotional functions and the plaintiff's personality, his
9 personality status and attitude towards illness will be examined through the administration of the
10 MMPI-2.

11 The persons allowed to be present for this examination will be limited to plaintiff and the
12 examiners. Plaintiff will be allowed to tape record any interview portion of the examinations.

13 This stipulation is deemed to incorporate all of the provisions of Rule 35 of the Federal Rules
14 of Civil Procedure. Defendant will make all documents associated with the examinations, which
15 they receive, available to the plaintiff in a timely manner.

16 IT IS FURTHER STIPULATED that:

17 1. in connection with the examination, the plaintiff will not be required to fill out any
18 questionnaires, except that the MMPI-2, a psychological test which is in the format of a
19 "questionnaire," may be administered as described above;

20 2. the defendant will not rely upon the examiners' recitation or interpretation of statements
21 made to them by the plaintiff concerning the mechanics of plaintiff's fall, for purposes of
22 establishing that plaintiff was not injured as a result an "accident" as that term is construed for
23 purposes of Article 17 of the treaty commonly known as the Montreal Convention;

24 3. there be no invasive or painful tests or studies including, but not limited to, those that
25 require injection or dyes;

26 4. plaintiff will not be required to submit to any unnecessary imaging studies;

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1 5. plaintiff's counsel will receive in a prompt manner a copy of the written report or
2 reports provided by Drs. Strassberg and Roberts and any test results generated by either of them;
3 such items will be provided before the mediation on June 10, 2010; and

4 6. this examination will be the one and only mental and psychological examination of
5 plaintiff in the absence of good cause shown for any additional examination of the same type and
6 nature.

7 IT IS SO STIPULATED.

8 Dated: May 12, 2010

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By: /s/ John F. DeMeo

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John F. DeMeo
Attorneys for Plaintiff
Robert B. St. Clair

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Dated: May 12, 2010

CODDINGTON, HICKS & DANFORTH

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By: /s/ Richard G. Grotch

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Richard G. Grotch (*)
Attorneys for Defendant
US Airways, Inc.

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(*) I hereby attest that I have on file all holograph signatures
20 for any signatures indicated by a "conformed" signature (/s/)
within this e-filed document.

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ORDER

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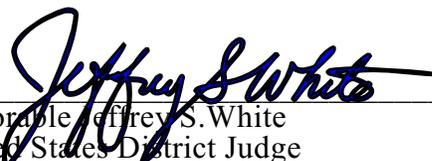
PURSUANT TO STIPULATION, IT IS SO ORDERED.

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Dated: May 12, 2010

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Honorable Jeffrey S. White
United States District Judge

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