

1 UNITED STATES DISTRICT COURT

2 Northern District of California

3 ROSEMARY RUSSELL,

4 Plaintiff,

No. C 10-0450 MEJ

5 v.

6 SKYWEST AIRLINES INC, *et al.*,**ORDER RE DEFENDANTS'
SUPPLEMENTAL BRIEF (DKT. #28)**7 Defendants.
_____ /

8 Before the Court is Defendants' motion for judgment on the pleadings. (Dkt. #24.) The
9 Court held a hearing on the matter on May 13, 2010, during which there was extensive argument on
10 an issue raised for the first time in Defendants' Reply - federal preemption of Plaintiff's state law
11 negligence claims under the Air Carrier Access Act of 1986 ("ACAA"), 29 U.S.C. § 41705, and its
12 implementing regulations, which are codified in Title 14 of the Code of Federal Regulations as Part
13 382. (Defs.' Reply 9:9-11, Dkt. #24.) The Court ordered Defendants to submit a supplemental
14 filing listing the sections of the Air Carrier Access Act which they claim preempt Plaintiff's claim
15 for negligence. On May 13, 2010, Defendants submitted a supplemental brief which not only listed
16 sections of the Code of Federal Regulations but also interpreted them and offered argument and
17 citations to case law. (Dkt. #28.) On May 14, 2010, Plaintiff filed an objection to Defendants' brief,
18 arguing that Defendants mis-characterize the Court's order and argue additional case law,
19 constituting an untimely reply in violation of Civil Local Rule 7-4(d). (Dkt. #29.)

20 Considering that the crux of Defendants' argument in support of its motion for judgment on
21 the pleadings was raised for the first time in their reply and further that Defendants filed an
22 additional brief in support of their position, the Court ORDERS Plaintiff to file a surreply within
23 seven days following issuance of this Order. The surreply must be limited to five pages in length,
24 and Plaintiff is advised to memorialize the arguments advanced on her behalf at the May 13, 2010
25 hearing. Defendants will not be granted leave to file a response.

26 **IT IS SO ORDERED.**

27 Dated: June 23, 2010

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Maria-Elena James
Chief United States Magistrate Judge