

**DUCKWORTH PETERS LEBOWITZ OLIVIER LLP**

Monique Olivier (SBN 190385)  
monique@dplolaw.com  
100 Bush Street, Suite 1800  
San Francisco, CA 94104  
Telephone: (415) 433-0333  
Facsimile: (415) 449-6556

**KOSINSKI + THIAGARAJ, LLP**

Alison Kosinski (SBN 261676)  
alison@ktlawssf.com  
Emily Thiagaraj (SBN 284634)  
emily@ktlawssf.com  
351 California Street, Suite 300  
San Francisco, California 94104  
Telephone: (415) 230-2860  
Facsimile: (415) 723-7099

Attorneys for Plaintiff and the Class

Additional counsel on following page

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JULIA BERNSTEIN, LISA MARIE SMITH,  
and ESTHER GARCIA, on behalf of themselves  
and all others similarly situated,

Plaintiff,

v.

VIRGIN AMERICA, INC.; and Does 1-10,  
inclusive;

Defendants.

**CASE NO.: 15-CV-02277-JST**

**JOINT STIPULATION TO CONTINUE  
CERTAIN DEADLINES PURSUANT TO  
LOCAL RULE 6-2; ~~PROPOSED~~  
ORDER**

1 ROBERT JON HENDRICKS, State Bar No. 179751  
2 MORGAN, LEWIS & BOCKIUS LLP  
3 One Market, Spear Street Tower  
4 San Francisco, CA 94105-1596  
5 Tel: +1.415.442.1000  
6 Fax: +1.415.442.1001  
7 Email: rhendricks@morganlewis.com

8 NANCY VILLARREAL, State Bar No. 273604  
9 MORGAN, LEWIS & BOCKIUS LLP  
10 1400 Page Mill Road  
11 Palo Alto, CA 94304  
12 Tel: +1.650.843.4000  
13 Fax: +1.650.843.4001  
14 Email: nancy.villarreal@morganlewis.com

15 Attorneys for Defendant  
16 VIRGIN AMERICA INC.

17 JAMES E. MILLER (SBN 262553)  
18 jmillers@sfmslaw.com  
19 SHEPHERD, FINKELMAN, MILLER AND SHAH, LLP  
20 65 Main Street  
21 Chester, CT 06412  
22 Telephone: (860) 526-1100  
23 Facsimile: (866) 300-7367

24 KOLIN C. TANG (SBN 279834)  
25 CHI HARU G. SEKINO (SBN 306589)  
26 SHEPHERD, FINKELMAN, MILLER  
27 AND SHAH, LLP  
28 401 West A Street, Suite 2550  
San Diego, CA 92101  
Telephone: (619) 235-2416  
Facsimile: (866) 300-7367

JAMES C. SHAH (SBN 260435)  
SHEPHERD, FINKELMAN, MILLER  
AND SHAH, LLP  
35 East State Street  
Media, PA 19063  
Telephone: (610) 891-9880  
Facsimile: (866) 300-7367

Attorneys for Plaintiff and the Class

1 **STIPULATION**

2 Plaintiffs Julia Bernstein, et al. (“Plaintiffs”) and Defendant Virgin America, Inc.  
3 (“Defendant”) (collectively, the “Parties”), through their counsel, hereby stipulate and agree that:

4 1. The current scheduling order sets the following deadlines:

5	September 22, 2017	Fact Discovery Cutoff
6	October 13, 2017	Expert Reports
7	November 3, 2017	Expert Rebuttal Reports
8	November 17, 2017	Expert Discovery Cutoff
9	December 8, 2017	Dispositive Motion Cutoff

10 2. On August 18, 2017, Plaintiffs served Virgin with document requests and  
11 interrogatories. On September 18, 2017, Virgin provided responses to the document  
12 requests stating that it “expects to complete its search within 30 days of this response.”  
13 In addition, several of Virgin’s interrogatory responses did not provide a response and  
14 instead stated that “a meet and confer between the parties is required.”

15 3. Virgin responded to Plaintiffs’ documents requests consistent with FRCP Rule  
16 34(b)(2)(B), which provides that a party’s production may be completed “no later than  
17 the time for inspection specified in the request or another reasonable time specified in  
18 the response.”

19 4. On August 21, 2017, Virgin served document requests, requests for admission, and  
20 interrogatories on Plaintiffs. On September 20, 2017, Plaintiffs largely served  
21 objections to Virgin’s discovery. The Parties intend to confer regarding Plaintiffs’  
22 responses. In addition, the Parties have been conferring regarding various outstanding  
23 issues with Plaintiffs’ responses and supplemental responses to various sets of  
24 document requests and interrogatories that Virgin previously propounded on Plaintiffs.

25 5. On August 28, 2017, Plaintiffs served Defendant with notices of deposition for Virgin  
26 employees Diane Chandra and Aladdin Nabulsi, and a notice of deposition under Rule  
27 30(b)(6) for certain topics for depositions to proceed on September 19 and 22, prior to  
28

1 the discovery cutoff date of September 22, 2017. On September 13, 2017, Virgin  
2 notified Plaintiffs that none of the proposed dates for the depositions worked, and that  
3 Virgin was working on obtaining dates and identifying the individual or individuals  
4 who would be designated under Rule 30(b)(6). Defendant has not yet provided  
5 Plaintiffs with the information necessary to renote the depositions.

6 6. It is Virgin's position that Plaintiffs unilaterally noticed the foregoing depositions and  
7 that most of the topics pertain to changes in policies, practices, and procedures since  
8 Alaska Air Group Inc. acquired Virgin. Virgin further states that it is in a state of  
9 transition with employees departing, employees changing job functions, and new  
10 employees assuming different responsibilities, which has complicated determining  
11 appropriate designees, that it is working through these issues, and that it is in the  
12 process of confirming appropriate designees and obtaining dates.

13 7. On September 19, 2017, the Magistrate Judge denied Virgin's request to conduct  
14 written discovery and depositions of 10% of the absent class members. Dkt. 189.  
15 Virgin intends to seek review of the Order pursuant to Local Rule 72-2, FRCP 72(a),  
16 and 28 U.S.C. Section 636(b)(1)(A) within the time set for review therein.

17 8. The Parties are also continuing to meet and confer regarding several outstanding  
18 discovery matters, including the production of electronic discovery necessary for  
19 Plaintiffs' expert to complete his analysis, and the discovery issues with Plaintiffs'  
20 discovery responses, as set forth above.

21 NOW, THEREFORE, the Parties, through their respective counsel, hereby stipulate,  
22 subject to the approval of the Court, to the following revised schedule:

23	September 29, 2017	Deadline for the Parties to finalize deposition schedule for
24		outstanding depositions of Defendant and its personnel
25	October 9, 2017	Fact discovery cutoff (extended only to resolve outstanding
26		meet and confer matters and provide any updated disclosures
27		and responses)



1  
2 **~~PROPOSED~~ ORDER**

3 Pursuant to the stipulation of the Parties, and good cause appearing, scheduling order is  
4 modified as follows:

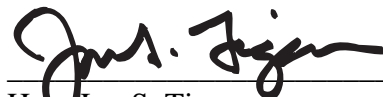
- 5 September 29, 2017 Deadline for parties to finalize deposition schedule for  
6 outstanding depositions of Defendant and its personnel  
7 October 9, 2017 Fact discovery cutoff (extended only to resolve outstanding  
8 meet and confer matters and provide any updated disclosures  
9 and responses)  
10 October 9, 2017 Deadline for Defendant to provide responsive documents to  
11 Plaintiffs' Request for Production of Documents, Set Six  
12 October 27, 2017 Deadline for completion of outstanding depositions of  
13 Defendant and its personnel  
14 November 10, 2017 Deadline for production of expert reports  
15 December 1, 2017 Deadline for production of rebuttal reports  
16 December 12, 2017 Deadline for completion expert discovery  
17 December 19, 2017 Deadline to file dispositive motions or motions to decertify

18 The deadline to file oppositions to dispositive motions or motions to decertify is thirty (30)  
19 days after the filing of same.

20 The deadline to file replies in support of dispositive motions or motions to decertify is  
21 fourteen (14) days after oppositions to same are filed.

22 IT IS SO ORDERED.

23  
24 DATED: September 27, 2017



25 Hon. Jon S. Tigar  
26 United States District Judge