

1 DUCKWORTH PETERS LEBOWITZ OLIVIER LLP
 2 Monique Olivier (SBN 190385)
 3 (monique@dplolaw.com)
 4 100 Bush Street, Suite 1800
 5 San Francisco, CA 94104
 6 Telephone: (415) 433-0333
 7 Facsimile: (415) 449-6556

8 KOSINSKI + THIAGARAJ, LLP
 9 Alison Kosinski (SBN 261676)
 10 (alison@ktlawssf.com)
 11 Emily Thiagaraj (SBN 284634)
 12 (emily@ktlawssf.com)
 13 351 California Street, Suite 300
 14 San Francisco, California 94104
 15 Telephone: (415) 230-2860
 16 Facsimile: (415) 723-7099

17 *Attorneys for Plaintiff and the Class*

18 *Additional Counsel on Following Page*

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA

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

24 Plaintiffs,

25 vs.

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

28 Defendants.

Case No. 15-cv-02277-JST

**JOINT STIPULATION; ~~PROPOSED~~
ORDER THEREON**

Trial Date: May 14, 2018

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

5 NANCY VILLARREAL, State Bar No. 273604
MORGAN, LEWIS & BOCKIUS LLP
6 1400 Page Mill Road
Palo Alto, CA 94304
7 Tel: +1.650.843.4000
Fax: +1.650.843.4001
8 E-Mail: nancy.villarreal@morganlewis.com

9 *Attorneys for Defendant*
VIRGIN AMERICA INC.

10 JAMES E. MILLER (SBN 262553)
11 (jmiller@sfmsslw.com)
SHEPHERD, FINKELMAN, MILLER AND SHAH, LLP
12 65 Main Street
Chester, CT 06412
13 Telephone: (860) 526-1100
14 Facsimile: (866) 300-7367

15 KOLIN C. TANG (SBN 279834)
CHIHARU G. SEKINO (SBN 306589)
SHEPHERD, FINKELMAN, MILLER
16 AND SHAH, LLP
401 West A Street, Suite 2550
17 San Diego, CA 92101
Telephone: (619) 235-2416
18 Facsimile: (866) 300-7367

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

23 *Attorneys for Plaintiffs and the Class*
24
25
26
27
28

1 **STIPULATION**

2 Plaintiffs Julia Bernstein, Lisa Marie Smith and Esther Garcia (collectively, “Plaintiffs”)
3 and Defendant Virgin America Inc. (“Defendant”) (collectively, the “Parties”), through their
4 counsel, hereby stipulate and agree that:

5 WHEREAS, on August 29, 2017, Plaintiffs served Notices of Deposition of: (a)
6 Defendant Virgin America Inc., pursuant to Fed. R. Civ. P. 30(b)(6) (“30(b)(6) Notice”)
7 requesting that Defendant provided deponent(s) knowledgeable and prepared to answer questions
8 regarding eight topics; (b) Diane Chandra pursuant to Fed. R. Civ. P. 30; and (c) Aladdin Nabulsi
9 pursuant to Fed. R. Civ. P. 30.

10 WHEREAS, on September 18, 2017, Defendant served its objections to Plaintiffs’ Notices
11 of Depositions of Diane Chandra and Aladdin Nabulsi.

12 WHEREAS, on September 19, 2017, Defendant served its objections to Plaintiffs’
13 30(b)(6) Notice.

14 WHEREAS the parties subsequently met and conferred regarding Plaintiffs’ requested
15 depositions.

16 WHEREAS Defendant agreed that it would not call Ms. Chandra or Mr. Nabulsi as
17 witnesses at trial or submit evidence from them in support of any dispositive motions.

18 WHEREAS the parties reserved their rights to call Ms. Chandra or Mr. Nabulsi as
19 witnesses at trial or submit evidence from them in support of any dispositive motions for purposes
20 of rebuttal or impeachment.

21 WHEREAS the parties agreed that, in order to streamline matters for dispositive motions
22 and trial and to avoid the unnecessary expenditure of resources, the parties would enter into a
23 stipulation that would eliminate the need for Plaintiffs’ requested depositions.

24 NOW, THEREFORE, based on the foregoing, the parties hereby stipulate and agree that:

- 25 A. Defendant stipulates to the authenticity and the admissibility of the following
26 documents and data produced by Defendant in this action: (1) the Class
27 Member’s flight schedules, earning data and/or payroll records, and wage
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

statements; and (2) Virgin’s Work Rules, Inflight Manuals, Playbooks, and Rainmaker User Guide in existence from 2011 to the present. By agreeing to the foregoing, neither party concedes the materiality of the documents, and both parties reserve all rights, including arguments regarding the weight, relevance or import, or lack thereof, of the documents.

B. As of the date of this stipulation, there have been no material class-wide changes in the policies, practices and procedures as to: (a) the provision of meal periods or rest breaks to Inflight Team Members (“ITMs”); (b) the provision of wage statements under California Labor Code § 226 to ITMs; (c) Virgin’s Work Rules with respect to compensation to ITMs for the time from report time to block-out, turn time, or block-in time to release; or (d) the compensation to ITMs for preparation of incident reports.

C. If and when the merger/acquisition of Virgin America, Inc. by Alaska Air Group, Inc. becomes effective and final (and Virgin America, Inc. ceases to have an independent corporate existence) and/or a Single Operating Certificate is issued by the Federal Aviation Administration, Plaintiffs may seek to amend the operative Complaint to add Alaska Air Group, Inc. as a defendant in the capacity of an alleged successor in interest to Virgin America, Inc. and that Defendant will not oppose any such motion to amend. Nothing in the foregoing shall prejudice the rights of Alaska Air Group, Inc. in connection with any response that it may make to any such motion.

D. The depositions that Plaintiffs noticed on August 29, 2017 are no longer required in light of this Stipulation.

Dated: October 16, 2017

DUCKWORTH PETERS LEBOWITZ OLIVIER LLP

By: /s/ Monique Olivier
Monique Olivier
Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: October 16, 2017

MORGAN LEWIS & BOCKIUS

By: /s/RJ Hendricks
Robert Jon Hendricks
Nancy Villarreal
Attorneys for Defendant

*I, Robert Jon Hendricks, attest that Monique Olivier has concurred in the filing of this document. (L.R. 5-1(i).)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROPOSED ORDER

Pursuant to the Stipulation of the Parties, and good cause appearing, it is hereby ordered that the Parties' Joint Stipulation is hereby adopted and entered as an Order of this Court.

IT IS SO ORDERED.

DATED: October 19, 2017



Jon S. Tigar
United States District Judge