



### JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction because Plaintiff has filed a federal claim under the Fair Labor Standards Act, a federal law. This Court has supplemental jurisdiction over Plaintiff's state law claim in that it arises out of the same nucleus of operative facts as the federal claim(s).

5. This Court may properly maintain personal jurisdiction over Defendants because Defendants' contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendants to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.

6. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this District, and Defendants operate a principle place of business in this District.

### PARTIES

7. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

8. Plaintiff is an adult individual with address as set forth above.

9. Defendant is a publicly traded airline company which is headquartered in Houston, Texas and incorporated in Delaware.

10. At all times relevant herein, Defendant acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

### **CLASS ACTION ALLEGATIONS**

11. All claims for actual damages under NJWHL (Second Cause of Action) are brought by the Plaintiff on behalf of herself and all other similarly situated persons.

12. Class claims for actual damages under the NJWHL are brought pursuant to Fed. RR. Civ. P. 23(a) and 23(b)(3). For the purpose of these claims, the class consists of all non-exempt flight attendants and flight crew personnel who worked out of Newark, New Jersey and who were paid under Defendant's unlawful policy of only paying its flight crew when the cabin door of the aircraft is closed.

13. The precise number of individuals in the class is known only to the Defendants. The class is believed to include many individuals as Defendant employs thousands of employees. Joinder of all class members is impracticable.

14. There are common questions of law and fact to the class.

15. The claims of the Plaintiff are typical of the claims of the class. The failure of Defendants to comply with the NJWHL served to deprive all class members of the protections of the NJWHL.

16. Plaintiff will fairly and adequately protect the interests of the class.

17. The common claims set forth in the Second Cause of Action predominate over any questions affecting only individual class members.

18. The Plaintiff's interests in the claims set forth in the Second Cause of Action are in no way antagonistic or adverse to those of other class members.

19. A class action under Fed. R. Civ. P. 23(b)(3) is superior to other available methods of adjudicating the claims set forth in Counts II because, inter alia:

a. Common issues of law and fact, as well as the relatively small claim of each class member, substantially diminish the interest of members of the class in individually controlling the prosecution of separate actions;

b. Many of the class members are unaware of their rights to prosecute these claims and lack the means or resources to secure legal assistance;

c. There has been no litigation already commenced by members of the class to determine the questions presented; and

d. A class action can be managed without undue difficulty since Defendants have regularly committed the violations complained of herein and were required to maintain detailed records concerning each member of the class.

#### **FACTUAL BACKGROUND**

20. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

21. Plaintiff has worked for Defendant for more than three (3) years.

22. Plaintiff's most recent position with Defendant is that of an "International Service Manager."

23. Despite the word "manager" appearing in her title, Plaintiff duties were primarily the same as other flight attendants, which includes mostly service, such as bringing customers food and drinks, helping passengers find their seats, and assisting customers who are in need.

24. Neither Plaintiff nor any similarly situated employee could hire, fire, or schedule employees.

25. Plaintiff and similarly situated employees do not have any significant discretion in the aspects of the jobs they perform.

26. Defendant maintains an unlawful policy wherein it only pays Plaintiff and other similarly situated employees for hours worked when the employee is on the aircraft and the aircraft door is closed.

27. Defendant requires that Plaintiff and other similarly situated employees report to work between thirty minutes and one hour before the boarding time for the flight, but does not pay employees for that time.

28. On occasion, Plaintiff and other similarly situated employees are required to remain at the airport without being permitted to leave because a flight has been delayed and are not compensated for this time.

29. Plaintiff and other similarly situated employees are not compensated for any time they spend at the airport, including for the time it takes them to go through security.

30. Before the cabin door is closed, Plaintiff and other similarly situated employees are required to prepare the aircraft, prepare food, and greet passengers as they enter the aircraft, but are not paid for that time or any other time until the cabin door is closed.

31. Upon arriving at a destination, Plaintiff and other similarly situated employees are required to stay on the aircraft beyond the time the cabin door opens, and are not paid for that time.

32. Plaintiff and other similarly situated employees are therefore forced to work for certain hours for which they do not receive any compensation.

**Count I**  
**Violations of the Fair Labor Standards Act**

33. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

34. At all times relevant herein, Defendant has and continues to be an employer within the meaning of the Fair Labor Standards Act, 29 U.S.C. §203 (“FLSA”).

35. At all times relevant herein, Plaintiff and other similarly situated employees were employed with Defendant as “employees” within the meaning of the FLSA.

36. Under the FLSA, an employer must pay employees for each and every hour worked.

37. Defendant’s violations of the FLSA include, but are not limited to: not paying Plaintiff and other similarly situated employees for each and every hour they worked.

38. As a direct, proximate, and actual cause of Defendant’s actions, Plaintiff and other similarly situated employees have suffered damages, including but not limited to past lost earnings and future lost earnings.

**Count II**  
**New Jersey Wage and Hour Law**

39. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

40. Defendants’ actions, as aforesaid, constitute violations of the NJWHL.

41. As a direct, proximate, and actual cause of Defendants’ actions, Plaintiff and other similarly situated employees have suffered damages.

**WHEREFORE**, Plaintiff prays that this Court enter an Order providing that:

Defendant is to be prohibited from continuing to maintain its illegal policy, practice or custom in violation of the FLSA.

Defendant is to be prohibited from continuing to maintain its illegal policy, practice or custom in violation of the NJWHL.

Defendant is to compensate, reimburse, and make Plaintiff and other similarly situated employees whole for any and all pay and benefits they would have received had it not been for Defendant's illegal actions, including but not limited to past lost earnings, future lost earnings, salary, pay increases, bonuses, medical and other benefits, training, promotions, pension, and seniority. Plaintiff and other similarly situated employees should be accorded those benefits illegally withheld (if determined that there are such benefits) from the November 20, 2005 until the date of the verdict.

Plaintiff and other similarly situated employees are to be awarded liquidated damages pursuant to FLSA and the NJWHL.

Plaintiff and other similarly situated employees are to be accorded any and all other equitable and legal relief as the Court deems just, proper and appropriate;

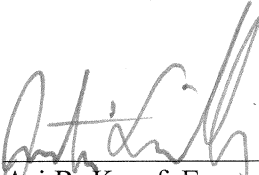
Plaintiff and other similarly situated employees are to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable federal and state law;

Any verdict in favor of Plaintiff and other similarly situated employees is to be molded by the Court to maximize the financial recovery available to Plaintiff in light of the caps on certain damages set forth in applicable federal law.

Respectfully submitted,

**KARPF, KARPF & VIRANT**

By:



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Dated: November 20, 2008