

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: DELTA/AIRTRAN BAGGAGE
FEE ANTITRUST LITIGATION

Civil Action No.
1:09-md-2089-TCB

ALL CASES

DEFENDANT DELTA AIR LINES, INC.’S MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Delta Air Lines, Inc. (“Delta”), by and through its undersigned counsel of record, hereby moves to dismiss with prejudice Counts I and III in Plaintiffs’ Consolidated Amended Class Action Complaint. In support of this motion, Delta herewith submits its Memorandum of Law in Support of its Motion to Dismiss.¹

¹ Pursuant to Local Rule 7.1D, counsel for Delta certifies that this Motion was prepared with a font and point selection approved in Local Rule 5.1B.

Dated: March 8, 2010

Respectfully submitted,

s/ Randall L. Allen

s/ Gregory B. Mauldin

Randall L. Allen

Georgia Bar No. 011436

randall.allen@alston.com

Nowell D. Berreth

nowell.berreth@alston.com

Georgia Bar No. 055099

Gregory B. Mauldin

Georgia Bar. No. 478252

greg.mauldin@alston.com

ALSTON & BIRD LLP

One Atlantic Center

1201 West Peachtree Street

Atlanta, GA 30309-3424

Tel: 404-881-7196

Fax: 404-253-8473

James P. Denvir, III

jdenvir@bsflp.com

Scott E. Gant

sgant@bsflp.com

Michael S. Mitchell

mmitchell@bsflp.com

BOIES, SCHILLER & FLEXNER LLP

5301 Wisconsin Avenue, NW

Suite 800

Washington, DC 20015

Tel: 202-237-2727

Fax: 202-237-6131

Counsel for Defendant Delta Air Lines, Inc.

CERTIFICATE OF SERVICE

I certify that on March 8, 2010, I electronically filed the foregoing DEFENDANT DELTA AIR LINES, INC.'S MOTION TO DISMISS with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to counsel of record, and also served the foregoing via electronic mail to the following:

Interim Liaison Counsel for Plaintiffs:

David H. Flint
Elizabeth L. Fite
SCHREEDER, WHEELER & FLINT
1100 Peachtree Street, Suite 800
Atlanta, GA 30309
dflint@swfllp.com
efite@swfllp.com

Interim Co-Lead Counsel for Plaintiffs:

Daniel A. Kotchen
Daniel L. Low
KOTCHEN & LOW LLP
2300 M Street NW, Suite 800
Washington, D.C. 20037
dkotchen@kotchen.com
dlow@kotchen.com

Counsel for Defendant AirTran Airways, Inc.:

Roger W. Fones
MORRISON & FOERSTER LLP
2000 Pennsylvania Avenue, NW
Suite 6000
Washington, DC 20006
rfones@mofocom

Bert W. Rein
WILEY REIN LLP
1776 K Street. NW
Washington, DC 20006
brein@wileyrein.com

s/ Gregory B. Mauldin
Gregory B. Mauldin
Georgia Bar No. 478252
Email: gmauldin@alston.com