

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

IN RE: DELTA/AIRTRAN BAGGAGE
FEE ANTITRUST LITIGATION

CIVIL ACTION FILE NUMBER
1:09-md-2089-TCB

ALL CASES

**PLAINTIFFS' DAUBERT MOTION TO EXCLUDE THE OPINIONS AND
TESTIMONY OF DARIN N. LEE**

Plaintiffs hereby file this Motion to Exclude the Opinions and Testimony of Darin N. Lee. Dr. Lee has been proffered as an expert by Defendant Delta Air Lines, Inc. ("Delta") and has filed two reports related to class certification issues in this litigation. Because the opinions offered therein are neither relevant nor reliable, the Court should exclude and decline to consider them, particularly here at the class certification stage of this litigation.

As discussed further in Plaintiffs' supporting memorandum, Dr. Lee's opinions are not relevant or reliable for at least four reasons. First, Dr. Lee's opinions on the relevant legal standard are outside his competence as an economist and should be excluded. Second, Dr. Lee's opinions on base fare offsets and reimbursements are irrelevant as a matter of law. Third, Dr. Lee's analysis of base fare offsets fails to control for relevant variables, and relates to the airline industry as a whole rather than being limited to Delta and AirTran. His opinion on offsets

does not fit the facts of this case, which involves an anticompetitive conspiracy by Delta and AirTran to impose first bag fees, and contemporaneous documents and testimony reflect that there were no base fare reductions by Defendants caused by first bag fees. Fourth, Dr. Lee's opinions on second bag fees and reimbursements rely on unsubstantiated assumptions, are not based on any economic analysis, and are unreliable.

For these reasons and the reasons set forth in Plaintiffs' supporting memorandum, Plaintiffs respectfully request that the Court strike the testimony of Defendant Delta's proffered expert, Darin Lee.

Respectfully submitted,

Dated: November 6, 2015

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CERTIFICATION UNDER L.R. 7.1D

Pursuant to Northern District of Georgia Local Rule 7.1D, the undersigned counsel hereby certifies that the above and foregoing is a computer document prepared in Times New Roman (14 point) font in accordance with Local Rule 5.1B.

So certified, this 6th day of November, 2015.

/s/Daniel L. Low

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that on this day he filed the foregoing with the Clerk of Court and caused the same to be delivered via e-mail to the following attorneys of record:

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So certified, this 6th day of November, 2015.

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