

**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 MARIUS SCHWARTZ**

Plaintiffs hereby file this Motion to Exclude the Opinions and Testimony of Marius Schwartz. Dr. Schwartz has been proffered as an expert by Defendant AirTran and has filed three 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.

First, Dr. Schwartz improperly offers an opinion regarding the relevant legal standard. Second, Dr. Schwartz's testimony on theoretical offsets is irrelevant as a matter of law, which does not consider offsets to antitrust overcharges in determining impact or damages. Third, Dr. Schwartz's opinion on potential base fare reductions does not fit the facts of this case.

For these reasons and as further set forth in Plaintiffs' supporting memorandum, Plaintiffs respectfully request that the Court strike the testimony of Defendant AirTran's proffered expert, Marius Schwartz.

Respectfully submitted,

Dated: October 23, 2015

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that on this day he filed the foregoing, under seal, 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 23rd day of October, 2015.

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