

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

**ANDREA HIRST, MOLLY STOVER, and
EMILY STROBLE SZE,
on behalf of themselves and all others similarly
situated,**

Plaintiffs,

**v.
SKYWEST, INC. and
SKYWEST AIRLINES, INC.
Defendants.**

Case No.: 1:15-cv-02036

Honorable John J. Tharp Jr.

Jury Trial Demanded

AMENDED CLASS ACTION COMPLAINT

Andrea Hirst, Molly Stover, and Emily Stroble Sze, former flight attendants for SkyWest Airlines, Inc. (collectively “Plaintiffs”) bring this action on behalf of themselves and all other similarly situated flight attendants (“Class”) who are or were paid hourly wages by SkyWest, Inc. and SkyWest Airlines, Inc. (collectively “SkyWest”) within the past three years. By limiting flight attendants’ wage compensation to when the aircraft’s main cabin door is closed SkyWest fails to compensate its Flight Attendants (“FAs”) even as they perform integral and indispensable duties required by SkyWest and heavily regulated the Federal Aviation Administration (“FAA”).

INTRODUCTION

1. This case is simple: SkyWest FAs have the right to be paid for their labor. That right is guaranteed under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*, as well as under the Minimum Wage Law of the State of Illinois, 820 ILCS 105/1 *et seq.* For hourly employees like the Plaintiffs and the Class, the right to be compensated *for each hour worked* is not and cannot be bargained away, whether or not the employees work for an airline,

whether or not they are represented by a union. The right to proper compensation is not relinquished in any industry. As hourly employees, for each hour that SkyWest FAs perform duties that are integral and indispensable to their primary responsibilities, they are entitled to be compensated for their time at no less than the minimum hourly wage as required by applicable state and federal laws.

2. As further alleged and explained herein, SkyWest FAs are paid only for “block time,” which does not comply with federal and state wage laws. Paying a FA only “block time” is comparable to an agreement to pay an attorney \$10,000.00 per hour, but limiting compensable hours to those when the attorney is appearing in Court.

3. According to SkyWest, Inc.’s 2014 Annual Report,¹ of its 9,642 full-time equivalent employees (*e.g.*, FAs, pilots, customer service representatives, etc.), none are currently represented by a union. Ex. 1, p.17. ExpressJet (another airline owned by the same parent corporation, SkyWest, Inc.) is unionized.

4. Although SkyWest Airlines FAs are not represented by a union, they do have an association which negotiates certain aspects of their work responsibilities and benefits with management, the SkyWest InFlight Association (“SIA”). The Flight Attendant Policy Manual (“Policy Manual”) is attached as Exhibit 2.

5. Upon information and belief, SkyWest regularly characterizes their Flight Attendant Policy Manual as a “Collective Bargaining Agreement.” This Policy Manual does not include any compulsory mediation requirements, an arbitration clause, discussion of any “cooling off period” or “self-help” provisions or restrictions. Such provisions are included in most (if not all) airline collective bargaining agreements.

¹ <http://inc.skywest.com/invest/Annual%20Reports/10k-2014.pdf> (last viewed on May 26, 2015).

6. Upon information and belief, the SIA and the Policy Manual are not and have not been certified by the National Mediation Board.

7. Even though the Policy Manual is not a valid CBA, no interpretation of this document is required to determine the method and rates of FA pay, which FA duty hours are paid or unpaid, or the hours worked that any FA has worked on any given day. SkyWest's scheduling and pay records speak for themselves. Furthermore, a review of payroll records and schedule records ("SkedPlus+") alone show that all SkyWest flight attendants receive wages only for "block time" as explained fully *infra*.

AIRLINE TERMINOLOGY

8. Although many terms used by SkyWest are common travel terms (e.g., origin, destination, departure, and arrival), the meaning of other terms is specific within the airline industry (e.g., pairing, block, duty, and "TAFB"). Relevant airline terms are explained below using an actual (but also typical) work trip of Plaintiff Andrea Hirst.

9. As shown *infra*, Figure 1, Ms. Hirst's schedule is recorded in the SkedPlus+ system.

10. This particular four-day series of SkyWest flights was scheduled and flown from October 30, 2012 to November 2, 2012. It included three overnight layovers away from Ms. Hirst's Chicago base ("**domicile**"). A Chicago-based crew worked this entire trip that began and ended at Chicago O'Hare International Airport ("ORD"). There were no major flight delays. *See* Figure 1: **Typical Pairing** below (bold red notations have been added for explanation; an unaltered copy of this pairing is attached as Exhibit 3).

11. For every work trip (called a "**pairing**"), SkyWest Airlines creates a proposed minute-by-minute schedule (**Typical Pairing Details**, Fig. 1; *see also* Ex. 3).

Figure 1: Typical Pairing Details.

Pairing Details												
AWD E1599 CRJ - 038405 Annie Hirst - ORD CR7 FA												
Tuesday 10-30-2012 Report: 14:20 A												
Flight	Tail	A/C	Orig	Dest	Dep	Arr	Pax	Block	Credit	Miles	Burn	Av Turn
1.	DL4466	N460SW	CRJ	MSP	MOT	15:38	16:57	49	1:19	1:30	449	3515 0:22
2.	DL4466	N460SW	CRJ	MOT	MSP	17:19	18:37	40	1:18	1:28	449	3033 0:55
3.	DL4724	N460SW	CRJ	MSP	ATW	19:32	20:29	37	0:57	1:01	236	2010
Day Total:									3:34	3:59	Duty: 6:24 C	
Release: 20:44/30 B			Hotel: Holiday Inn Select (920)735-9955						Layover: 9:31			
Shuttle: SHUTTLE OPERATED BY HOTEL												
Wednesday 10-31-2012 Report: 06:15												
Flight	Tail	A/C	Orig	Dest	Dep	Arr	Pax	Block	Credit	Miles	Burn	Av Turn
4.	DL4846	N460SW	CRJ	ATW	MSP	06:45	07:44	40	0:59	1:06	236	2290 1:25
5.	DL4560	N659BR	CRJ	MSP	FAR	09:09	10:11	30	1:02	1:02	223	2078 1:04
6.	DL4560	N659BR	CRJ	FAR	MSP	11:15	12:17	46	1:02	1:03	223	2005 0:47
7.	DL4655	N659BR	CRJ	MSP	YWG	13:04	14:34	40	1:30	1:30	394	3242
Day Total:									4:33	4:41	Duty: 8:34 G	
Release: 14:49/31			Hotel: Radisson Hotel Downtown (204)956-0410						Layover: 15:41 F			
Shuttle: TRANSPORTATION PROVIDED BY THIRD PARTY VENDOR - Hollywood (2)												
Thursday 11-01-2012 Report: 06:30												
Flight	Tail	A/C	Orig	Dest	Dep	Arr	Pax	Block	Credit	Miles	Burn	Av Turn
8.	DL4736	N915EV	CRJ	YWG	MSP	07:23	08:46	47	1:23	1:29	394	2833 2:31
9.	DL4472	N460SW	CRJ	MSP	LNK	11:17	12:34	28	1:17	1:17	331	2497 0:24
10.	DL4472	N460SW	CRJ	LNK	MSP	12:58	14:15	47	1:17	1:19	331	2676 1:54
11.	DL4556	N453SW	CRJ	MSP	BNA	16:09	18:12	50	2:03	2:07	695	4509
Day Total:									6:00	6:12	Duty: 11:57	
Release: 18:27/01			Hotel: Wingate Nashville Airport (615)884-9777						Layover: 11:03			
Shuttle: SHUTTLE OPERATED BY HOTEL												
Friday 11-02-2012 Report: 05:30												
Flight	Tail	A/C	Orig	Dest	Dep	Arr	Pax	Block	Credit	Miles	Burn	Av Turn
12.	DL4811	N453SW	CRJ	BNA	CVG	06:13	08:18	30	1:05	1:06	230	2126 0:40
13.	DL4648	N453SW	CRJ	CVG	BNA	08:58	08:54	46	0:56	1:01	230	2069 0:59
14.	DL4791	N453SW	CRJ	BNA	MSP	09:53	12:04	50	2:11	2:11	695	5130
Day Total:									4:12	4:18	Duty: 6:49	
Release: 12:19/02												
Totals: Report 14:20/30 Release 12:19/02 Block 18:19 Credit 19:10 TAFB 69:59 I												
Key: Scheduled; Estimated ; Actual ; Overridden ;												
Trip Summary												
Crewmembers for Each Flight											* First Flight ✓ Checked In	
Captain			First Officer				Flight Attendant					

12. The information on the **Pairing Detail** is electronically updated during and immediately following the completion of the trip and reflects the actual circumstances of the **pairing** as flown. **Pairing Details** for every trip that SkyWest has flown in the past several years are readily available, including all details about each of the employees who worked a particular flight. **Pairing Details** are available for each pairing, flight, and FA employed by SkyWest for no less than the previous five years. This information is accessible only to employees of the airline. FAs are able to see their own past and future schedules on SkyWest's SkedPlus+ system.

13. The first substantive line of the **Pairing Details** shows information regarding the type of pairing ("AWD" means "Awarded"), the aircraft ("E1599 CRJ") and the flight attendant's employee number (038405) and name ("Annie Hirst"), the FA's **domicile** ("ORD" for Chicago O'Hare International Airport), and the employee's level of training and position ("CR7 FA"). For brevity, a description of details not related to hours and pay will not be fully defined.

14. At the top left of each day's schedule (Fig. 1: A), the crew members' **report time** is shown. **Report time** is the time at which a crew member must have arrived at the airport, in full uniform, with all necessary items for flight (discussed further below), cleared security, and "**checked in**" through the company computer or a smart phone or tablet. Thus, on October 30, 2012, Ms. Hirst reported for duty at or before 14:20 (or 2:20 p.m.).² If a FA **checks in** an hour before required, the required report time is shown rather than the actual **check in** time.

15. The aircraft automatically sends a signal to SkyWest when the main cabin door is opened upon arrival at each destination. The **release time** is created when the scheduling system

² Time of day designations are shown in local 24-hour military time, and all elapsed time is shown as hours: minutes. Note: generally the term **crew members** refers to both pilots and FAs, while **flight crew** refers only to pilots. This Complaint only addresses the circumstances of FAs.

automatically adds 15 minutes to the last flight of the day, whether or not all passengers have actually deplaned and whether or not all FA duties are complete. The Figure 1 pairing detail shows Ms. Hirst's **release time** (Fig. 1: **B**) as 20:44/30, which means the main cabin door opened at 8:29 p.m. on October 30, 2012, and the entire crew was automatically "released from duty" at 8:44 p.m.

16. Calculating the difference between **report time** and **release time** results in the number of hours of the FA's "**duty day**." From report time to release time is the FAs continuous workday during which they are not allowed to be out of uniform and are at all times under the direction of the company.

17. The length of the FAs **duty day** is important because many Federal Aviation Administration ("FAA") flight safety regulations are tied to the length of the crew members' **duty day**. For Ms. Hirst, on October 30, 2012, her duty day lasted for 6 hours and 24 minutes (Fig. 1: **C**). All crew members who work a particular pairing have the same **report times**, **release times**, and **duty day** hours.

18. Figure 1, notations **D**, **E**, **F**, and **G** are highlighted to explain the travel details for a single day, October 31, 2012. The first flight of this day originated at ATW (Outagamie County Regional Airport in Wisconsin) at 6:45 a.m. and arrived at MSP (Minneapolis St. Paul) at 7:44 a.m. (Fig. 1: **D**, line 4). The "**block time**" (sometimes called "**flight time**" although there are minor distinctions between the terms) for this trip is 59 minutes (Fig. 1: **E**). **Block** time indicates the actual length of time that it took to fly between these two airports on this specific day, from "**block out**" (closing the main cabin door and moving away from the jet bridge) to "**block in**" (arriving at the destination jet bridge and opening the main cabin door).

19. Further to the right on line 4, the “**turn time**” (or time between flights) is indicated in elapsed hours and minutes. As shown in Fig 1: F, line 4, the **turn time** between the flight on line 4 and the flight on line 5 was 1 hour and 25 minutes. Generally, if the **turn time** is less than 45 minutes, FAs *cannot* leave the airplane due to FAA and SkyWest required postliminary and preliminary responsibilities.

20. During **turn times** lasting over an hour, FAs may leave the plane, eat a meal, or use the airport’s restroom. However, regardless of the *scheduled* length of the **turn time** in a given **duty day**, FAs are required to remain in the airport and in full uniform. SkyWest can, and often does, rearrange FA schedules mid-**duty day** to reduce overall flight delays by replacing a delayed crew with one that is already in the airport. The ability of the airline to rearrange a FA’s schedule and destination without consultation with the FA is an integral and indispensable airline scheduling tool. Its ability to make near-instantaneous crew schedule changes enables SkyWest to reduce or avoid service delays for revenue passengers, thereby keeping the overall national transportation system more efficient and timely.

21. If SkyWest has scheduled an “**equipment change**” (change from one aircraft to another) or if there are mechanical problems with the original aircraft, the **turn time** is used by the FAs to gather all of their belongings, walk to the other gate, and perform a security and supply check on the new aircraft prior to boarding passengers. Any unanticipated delays (e.g., mechanical problems or weather delays) appear as **turn times** and are uncompensated for FAs unless the main cabin door is closed. FAs receive no compensation during either scheduled or unanticipated **turn times**.

22. **Turn time**, as scheduled by SkyWest, is closely related to another term, “**leg**.” If a flight attendant has four individual flights, called “**legs**” in a single day, the airline keeps a

record of the actual **turn time** between each flight, as shown in Fig. 1: **F**. A **pairing** with four **legs**, as compared to one **leg**, means that the FA will work a longer day with more uncompensated hours and will have more associated preliminary and postliminary duties. If both **pairings** in this example have the same **block** time, the continuous workday for the four **leg duty day** is much longer than the one **leg duty day**, yet they receive exactly the same wage compensation (“block time”).

23. Figure 1: **G** shows the “**layover**” or rest time. This number is calculated from the **release** time of day 1 to the **report** time of day 2, and so on. In Figure 1, beginning on October 31, 2012, Ms. Hirst was no longer on duty beginning 2:49 p.m. on October 31, 2012 and ending at 6:30 a.m. on November 1, 2012, a **layover** lasting 15 hours and 41 minutes. FAs are only permitted to leave the airport and to be out of uniform during **layovers**. FAs receive no wage compensation during a **layover**.

24. **Layover** times are heavily and strictly regulated by the FAA, including *inter alia* the numbers of hours required for rest, the use of alcohol during a **layover**, and the amount of rest time required based upon the length of the FA’s **duty days** both before and after the **layover**.

25. Figure 1: **H** highlights the “**credit**” (hours and minutes each specific flight is estimated to take) for the four flights scheduled for November 1, 2012 (1:29, 1:17, 1:19, and 2:07). When the actual **block out** to **block in** takes less time than the estimated **credit** time, FAs receive hourly pay based upon the estimated **credit** time. For example, comparing Figure 1: **H**, line 8 **block** time of 1:23 to line 8 **credit** time of 1:29. Ms. Hirst received pay for 1 hour and 29 minutes for this flight.

26. However, on a completed schedule, when the **credit** time appears in red as it does on Figure 1: **H**, line 9, the **credit** time has been “overridden” due to the flight requiring more

actual **block** time. To receive the additional credit time, the airline requires that each crew member of a flight submit a form for the increased compensation. The FA's compensation is based exclusively on the **credit time** for each day as highlighted in Figure 1: **H**. As illustrated in Fig. 1: **H**, Andrea Hirst was paid hourly for a total of 6 hours and 12 minutes on November 1, 2012.

27. The bottom row of Figure 1 (**Trip Summary**) shows cumulative **pairing** information. The first **report** time and last **release** time of the entire **pairing** is shown (here, 14:30/30 and 12:19/02) along with the cumulative **block** and **credit** times.

28. Finally, **TAFB** ("Time Away from Base") indicates that Ms. Hirst was away from her **domicile** (here, Chicago) for a total of 69 hours and 59 minutes. For those hours, she received a non-taxable per diem of \$1.80 per hour. Like a travel per diem in any occupation, the purpose of the FAs' per diem is to offset the extra expenses associated with eating out while traveling, transportation while away from home, etc. For each 24-hour period, this \$1.80 per hour per diem equals \$43.20. For this particular **pairing**, she received a non-taxable per diem of \$126.00 for the added expenses associated of being away from home for four days.

29. As shown in Figure 1, Ms. Hirst was compensated (indicated as **credit**) for a total of 19 hours and 10 minutes between October 30, 2012 and November 2, 2012. However, for the same period of time, she was *actually on duty and working* for a total of 33 hours and 44 minutes (adding together her four continuous workdays, shown as the daily **duty day** times of 6:24, 8:34, 11:57, and 6:49). Cumulatively during the **pairing** shown in Figure 1, Plaintiff Andrea Hirst was on duty, in uniform, interacting with the public, and working subject to the rules and directions of SkyWest for a total of 33 hours and 44 minutes but was only paid for 19 hours and 10 minutes. The compensation for every **pairing** for every SkyWest FA is calculated in this manner.

LEGAL BASES FOR COMPLAINT

30. Plaintiffs Andrea Hirst, Molly Stover, and Emily Stroble Sze bring this action as a Collective Action pursuant to Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), on behalf of themselves and a nationwide Class consisting of former and current FAs of SkyWest Airlines who are owed unpaid wages under the FLSA, 29 U.S.C. §201 *et. seq.* Plaintiffs bring this action to recover the compensation, liquidated damages, costs, and reasonable attorneys’ fees that they and members of the nationwide Class are entitled to under the FLSA.

31. Plaintiffs also bring this action as a Class Action on behalf of the Illinois Class pursuant to Fed. R. Civ. P. 23 on behalf of all similarly situated individuals who were employed by SkyWest Airlines as FAs, as a result of SkyWest’s failure to pay wages for actual hours worked as required by the Minimum Wage Law of the State of Illinois, § 820 ILCS 105/1 *et seq.* Plaintiffs bring this action to recover the compensation, damages, costs, and reasonable attorneys’ fees that they and members of the Illinois Class are entitled to under the Minimum Wage Law of the State of Illinois, § 820 ILCS 105/1 *et seq.*

JURISDICTION & VENUE

32. This Court has jurisdiction over this action pursuant to Section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b), which provides: “An action to recover the liability prescribed in either of the preceding sentences may be maintained against any employer . . . in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.” This Court also has jurisdiction over this action pursuant to 28 U.S.C. §1331 because this action arises under the laws of the United States, 29 U.S.C. § 201 *et seq.* This Court has jurisdiction, pursuant to the

principles of supplemental jurisdiction and 28 U.S.C. § 1367, over the Illinois Minimum Wage Law claims alleged herein.

33. This Court has personal jurisdiction over SkyWest because it: (1) operates a business within this District; (2) committed acts in violation of the FLSA as alleged herein within this District; (3) maintained continuous and systematic contacts with this District over a period of years; and (4) purposefully availed itself of the benefits of doing business within this District.

34. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because SkyWest conducts business within this District, has agents within this District, transacts its affairs in this District, and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

THE PARTIES

35. Plaintiff Andrea Hirst at the time the original Complaint was filed, was a resident of Chicago, Cook County, Illinois. She now resides in Knoxville, Knox County, Tennessee. She was formerly employed by SkyWest Airlines as a flight attendant. She was hired as a flight attendant on April 20, 2010 (after successfully completing FAA required training) and resigned from her position effective on May 10, 2015. She was based in Chicago at Chicago O'Hare International Airport for the majority of her tenure with SkyWest.

36. Plaintiff Molly Stover is a resident of Chicago, Cook County, Illinois. Plaintiff Molly Stover resides in this district and was formerly employed by SkyWest Airlines as a flight attendant. She was hired by SkyWest on August 9, 2012 and resigned from her position in November, 2014. She was based out of Chicago O'Hare International Airport for all of her tenure working for SkyWest.

37. Plaintiff Emily Stroble Sze is a resident of Chicago, Cook County, Illinois. Plaintiff Emily Sze resides in this district and was formerly employed by SkyWest Airlines as a flight attendant. She was hired by SkyWest in June 2010 and resigned from her position in September 2012. She was based out of Chicago O'Hare International Airport for most of her tenure working for SkyWest.

38. Defendant SkyWest, Inc. is a Utah corporation that is registered to do business in Illinois, and whose principal office is located at 444 South River Road, St. George, Utah 84790. Skywest, Inc.'s stock is traded on the NASDAQ market as SKYW.

39. Defendant SkyWest Airlines, Inc. is a Utah corporation that is registered to do business in Illinois, and whose principal office is located at 444 South River Road, St. George, Utah 84790. SkyWest Airlines is a wholly owned, non-unionized subsidiary of SkyWest, Inc.

40. SkyWest, Inc. and SkyWest Airlines, Inc. are, for the purposes of the FLSA and the Illinois Minimum Wage Law, a common or joint enterprise or partnership that is collectively, jointly and severally liable to Plaintiffs and members of the Class as described herein.

41. SkyWest is in the business of providing regional commercial air service to cities across the United States, Canada, Mexico and the Caribbean.

42. Defendant SkyWest, Inc. is the parent company to SkyWest Airlines, Inc. (a non-unionized airline) and ExpressJet Airlines, Inc. (a unionized airline that is not a party to this matter). Together these two airlines schedule approximately 4,000 flights per day and have a combined fleet of approximately 755 aircraft. SkyWest, Inc. employs approximately 20,000 people.

43. Defendant SkyWest Airlines, Inc. operates its fleet of airlines through partnerships with United Airlines, Delta Air Lines, US Airways, American Airlines and Alaska Airlines.

44. Upon information and belief, SkyWest currently employs approximately 2,663 FAs, of which 389 are domiciled at Chicago O'Hare International Airport. None of the FAs at SkyWest Airlines, Inc. are represented by a union.

45. The Flight Attendant Policy Manual (Ex. 2) delineates the policies which are in place and enforced for every Flight Attendant. The Policy Manual specifically states that "No policy within this manual shall remain in effect if it is discovered to be in violation of law." *See* Ex. 1, p. 2303.1(E). As discussed *supra*, the Policy Manual does not mention mediation of disputes by a neutral or arbitration between SkyWest and Flight Attendants.

46. Plaintiffs and members of the Class have been employed as FAs by SkyWest Airlines during the three years preceding this lawsuit. SkyWest pays or paid Plaintiffs and members of the Class hourly only per **block** hour although each continuous workday (i.e. **duty day**) includes uncompensated pre- and post-flight responsibilities that are integral and indispensable to the FAs' primary job duties.

47. Many hours of each FA's duty day are uncompensated. The Policy Manual (Ex. 2) does not include any language which indicates that FA wages are averaged across a duty day or across a given workweek. Furthermore, longer continuous workdays do not necessarily indicate that the FA will receive increased wage compensation.

48. Although individual FA's hourly rates of pay vary based upon seniority, the method for calculating the number of hours worked (**block time**) is identical for every SkyWest FA regardless of all other factors. Each minute of the FAs workday—including both

compensated and uncompensated time—is memorialized in the SkedPlus+ system and is easily retrievable for every FA who has been employed by SkyWest in the past three years.

49. Upon information and belief, during the three years preceding the filing of this Complaint, SkyWest Airlines has employed thousands of similarly situated FAs within the United States who have received hourly wages based only on the **block time**, even though they were required to perform integral and indispensable activities during the uncompensated part of their **duty day** each and every day that they work.

SUBSTANTIVE ALLEGATIONS

Flight Attendant Responsibilities

50. SkyWest employs FAs to ensure the safety of the passengers through required inspections of the aircraft prior to and after each flight, to assist passengers while the passengers are boarding or are onboard the aircraft, to provide customer service such as serving meals and drinks, and to assist passengers and the flight crew until all passengers have departed from the aircraft.

51. SkyWest, on its “Careers” website,³ describes the duties of a FA as:

- Ensure safety and comfort of customers onboard the aircraft
- Prepare/serve meals and beverages including alcohol
- Greet passengers, assist with carry-on baggage stowage, and deliver onboard announcements
- Provide leadership in emergency and non-emergency situations
- Calmly resolve passenger situations during flight, including disorderly passengers, and medical emergencies
- Ensure compliance with safety regulations
- Adhere to established procedures and performance standards.

³ https://rn21.ultipro.com/sky1000/jobboard/JobDetails.aspx?_ID=*899EC10BCA5CC4E1 (last viewed on May 26, 2015).

52. In addition to the specific duties listed on its Careers website, SkyWest FAs are required to be in full uniform and to **check in** for their **duty day** at a specific time prior to the departure of their initial flight of the day. Next, the FAs board the aircraft and perform specific FAA required safety checks prior to allowing passengers to board, assist passengers prior to departure and upon arrival at the flight's destination, clean and straighten the plane between flights, and prepare reports regarding on-board incidents following their flights, as described further herein.

53. All SkyWest FAs are uncompensated for many hours of each continuous workday (**duty day**), even though their uncompensated activities are integral and indispensable to their principal work activities and responsibilities. FAs are promised a minimum of 4 hours of **block time** (which was only recently increased from 3 hours and 57 minutes) for any given **duty day**, which may legally be as long as 16 hours long.⁴

Uncompensated Integral and Indispensable Preliminary Activities

See Exhibit 5: Phases of Flight Checklist

⁴ On March 20, 2015, all SkyWest FAs received a “clarification” related to how “reserve FAs” are paid. This document purports to explain the maximum “duty day” for a reserve FA. Reserves are generally newly-hired FAs who do not yet have a set schedule but are instead “on call.” See Exhibit 4, VP Update.

A reserve FA must be ready and available to be at the airport within 2 hours of a call from crew support (in full uniform, packed and ready for any trip). SkyWest does not indicate the block time wages for its three “clarification” examples.

In SkyWest's example 1, the reserve FA is scheduled to be on call from between 4:00 a.m. and 4:00 p.m. (“RAP”). She is contacted at 3:45 p.m. and must check in at the airport ready to work no later than 5:45 p.m. The flight attendant works from 5:45 p.m. until 11:30 p.m. In this example, her total **duty time** is five hours and 45 minutes; however, she is actually paid wages for “**block time**”—like all FAs for SkyWest. These hourly wages exclude all of the time required for integral and indispensable activities as described in ¶¶ 61 and 68.

Thus, the reserve FA in this example has been within 2 hours drive and ready to work or actually working continuously since 4:00 a.m. She is released from duty at 11:30 p.m. but will be paid significantly less than five hours and 45 minutes in wages. Reserves, like all FAs, are paid wages only for block time.

54. Prior to reporting for duty, each FA must have cleared airport security screening, met all uniform requirements, and have in his or her possession all mandatory items for duty, which include:

- Passport
- Badge
- Flight attendant certificate
- Flashlight
- SkyWest InFlight Operations Manual
- Uniform—all mandatory pieces
- Wings
- Liquor fund money

55. In addition, certain required emails from SkyWest (called: “**Must Know Before You Go**”) must be opened and confirmed as read prior to **check in**. *See, e.g.,* Ex. 4. These emails include training information and manual updates, some of which are hundreds of pages long. SkyWest Manual updates must be printed and physically in each FA’s Manual prior to flying.

56. Each FA is required to **check in** (also called **report for duty**) a minimum of 45 minutes prior to their first flight’s scheduled departure time. To do so, the FA must either **check in** on a company computer, or alternatively, **check in** through the company’s website using a smart phone or tablet. *See* Figure 2.

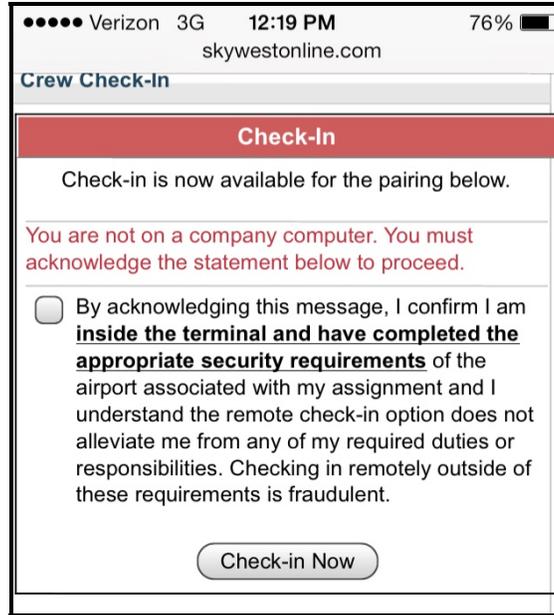


Figure 2: Smart Phone **Check-In** Screenshot

57. For international flights, FAs must report for duty 60 minutes prior to the scheduled departure time. For subsequent days of a **pairing**, the **report time** may be reduced to 30 minutes for smaller aircraft which are scheduled to travel to domestic destinations. These variations in **report for duty** time do not change the methodology for calculating wage hours for compensation or the FAs' compensation since the FAs are not paid at all until the main cabin door is closed. In addition, the time that an FA is required to report for duty is carefully recorded and preserved on the SkedPlus+ system.

58. Since January 2014, FAs have been required to **check in** a second time with the gate agent at specific lengths of time prior to the scheduled departure. Depending on the size and configuration of the departure airport, this additional **check in** requirement often necessitates an even earlier **report time** based upon the distance to the actual gate.

59. The gate **check in** times (based upon plane size) are:

- EMB120: 20 minutes prior (36 passengers)
- CRJ 200: 30 minutes prior (50 passengers)

- CRJ 700, CRJ 900, and ERJ 175: 35 minutes prior (66 passenger, 70 passengers, and 70 passengers respectively).

60. These plane size variations for gate **check in** times also do not change the methodology for calculating the FA's compensated hours or compensation since the flight attendants are paid no wages until the main cabin door of the aircraft is closed.

61. Once on the plane and prior to closing the main cabin door, FAs are required to perform the following duties, most of which are mandated by the FAA and all of which are specifically required by SkyWest:

- Conduct a preflight and pre-boarding safety check, including but not limited to verifying that all required safety, lighting, and emergency equipment is onboard, operable, and has no signs of tampering or vandalism;
- Participate in a pre-flight briefing with other crew members;
- Verify that commissary supply is sufficient, including but not limited to "extended delay food rations" for passengers as required by the FAA;
- Notifying pilots and gate agents that all preliminary safety duties have been completed, that the FAs are in their appointed positions, and that passenger boarding may begin;
- Assisting in the boarding and greeting of passengers while stationed in specific locations within the aircraft;
- Assessing potential threats to passengers, crew, and aircraft;
- Assisting passengers during the boarding process;
- Confirming that infants are seated on the correct side of aircraft, and that child safety seats are properly attached;
- Conducting unaccompanied minor individual briefings;
- Conducting flight introduction and required pre-taxi announcements as required by the FAA;
- Verifying passengers' seatbelts are fastened, that luggage is stowed in compliance with FAA, closing overhead bins, securing loose items for the safety of the passengers and crew, and instructing passengers if excessive carry-on luggage must be checked;
- Briefing exit row passengers about FAA exit row requirements, reseating exit row passengers if the Flight Attendant has concerns about the passenger's ability or willingness to understand and perform safety-related tasks;
- Providing first class passengers with drinks and hanging coats;
- Verifying that boarding passenger totals ("pin counts") match the passenger manifest by counting each adult, child, and infant passenger, then delivering the appropriate paperwork to the gate agent and pilots;
- Making passenger weight and balance adjustments for the stability of the aircraft;

- Reseating or removing passengers from the plane for safety issues including but not limited to the passenger's failure to abide by the FA's requests, the passenger's demeanor or behavior toward other passengers, or the passenger's lack of sobriety;
- Verifying that refueling has been completed prior to the closure of the main cabin door; and
- Requesting permission from pilots to close the main cabin door.

62. The performance of the above list of duties is wholly uncompensated since FAs are paid no wages until the main cabin door of the aircraft is closed.

63. If the flight is delayed after even just a single passenger has boarded, the FAs are strictly prohibited from stepping off of the aircraft. Delays may be related to events including but not limited to air traffic control instructions, weather delays, and maintenance needs related to the aircraft. The reason for delay does not affect the method of calculation of wages since SkyWest flight attendants are paid no wages until the main cabin door is closed.

64. Unlike Delta and other airlines, SkyWest FAs do not receive additional pay for a duty day which lasts significantly longer than scheduled. For example, if a FA is scheduled for a 12 hour duty day with 6 hours of "**block pay**," but weather delays cause the workday to last for 16 hours, the FA receives the same wages as originally scheduled. Unlike Delta and other airlines, SkyWest FAs receive no "**holding pay**" (*i.e.* additional pay when passengers are on-board but the plane is held at the gate). SkyWest is also distinguishable from Delta in that for every 3.5 hours that Delta FAs are away from their base (TAFB) domicile, they are paid at least one **block hour** (called "**trip credit**" by Delta) in addition to their per diem. SkyWest FAs receive no such guaranteed TAFB compensation above the non-taxed per diem (expense reimbursement).

Compensated Block Time Activities

65. Once the main cabin door is closed and the aircraft pulls away from the airport's jetbridge, i.e., **blocks out**, SkyWest FAs hourly wages begin accruing.

66. When the aircraft **blocks in** to the jetbridge at their destination, FAs' hourly wage compensation is terminated. Their "release time" is automatically set at 15 minutes after the plane blocks in, *regardless of the length of time that is required to deplane passengers or perform other post flight duties.*

Uncompensated Integral and Indispensable Postliminary Activities

67. After the aircraft **blocks in** and as the passengers begin to depart the aircraft, the FAs must monitor deplaning activities from specific duty stations as required by the FAA. FAs are strictly prohibited by the FAA from leaving the aircraft so long as a single passenger is still on board.

68. After all passengers have deplaned, the FAs must perform the following integral and indispensable activities prior to leaving the aircraft themselves, all of which are required by SkyWest and most of which are strictly regulated by the FAA:

- Search the aircraft to verify that no one is remaining;
- Check the aircraft for suspicious items which might have been left behind;
- Check all emergency and safety equipment to verify that none have been tampered with during the flight;
- Remove all trash, straighten and cross seatbelts, fold blankets, and clean the cabin (except on the final flight of the day);
- Verify that all safety brochures are in the seatback pockets and visible for subsequent passengers; and
- Verify that the aircraft is stocked and ready for subsequent flights, including but not limited to beverages, extended delay provisions, paper goods, and emergency supplies.

69. According to the SkyWest Airlines InFlight Operations Manual, "[t]ime spent conducting passenger boarding or deplaning duties is considered duty hours."

70. The FAs then either prepare for the next flight on the same aircraft, or leave that aircraft and continue their trip on a different aircraft.

71. If the **crew members** (including FAs) are continuing on the same aircraft, they must repeat the entire set of preliminary responsibilities, again without compensation until **block time** pay restarts. If their next departure time is within approximately 45 minutes, there is little possibility that the FAs will be able to leave the plane for any reason between their flights.

72. If the **crew members** (including FAs) must change aircraft, they must leave the plane, change gates, and repeat the entire set of preliminary responsibilities on the new aircraft, which generally increases the time of uncompensated preliminary duties. Many **pairings** include scheduled or unscheduled changes of aircraft.

73. At the very end of the **duty day** after the **crew members' release time**, they must await ground transportation to travel to a hotel for the night, or they return home at the end of the **pairing**.

74. During any given continuous workday (**duty day**), a SkyWest FA works between one and seven or more individual flights ("**legs**"), so long as the *scheduled duty day* does not exceed 14 hours in a 24-hour period. According to FAA regulations and SkyWest policies, a FAs' actual **duty day** can legally be as long as 16 hours, so long as the additional two hours are the result of delays rather than scheduling.

75. Since SkyWest is a commuter airline company, the lengths of the actual flight "**legs**" range from 19 minutes long to 4 hours and 13 minutes long according to the company's InFlight Manual.

COMPENSATION

76. SkyWest compensates all of its FAs on an hourly rate, yet those hours are only calculated from the time that the aircraft has **blocked out** to when the aircraft has **blocked in**.

77. Plaintiffs and Class Members are uncompensated for the majority of the hours in their **duty day**. They do not receive a guaranteed salary for all hours actually worked, per week or per month.

78. Plaintiffs and Class members do not receive compensation based upon the numbers of hours they work in a given **duty day**, but only on the number of **block time** hours that their aircraft is actually moving or in flight. Thus, Plaintiffs and Class Members are required to **check in**, be in full uniform, interact with and supervise passengers, and perform safety-related and other integral and indispensable tasks for several hours each **duty day**, for which they do not receive wage compensation as required by state and federal wage laws.

79. SkyWest has little motivation to minimize the length of the FAs' workday since the company's labor costs are not associated with the length of **duty days**.

80. According to SkyWest Airline's Flight Attendant Policy Manual, Standard Practice 2308, Paragraph 1, entitled "Compensation," the following is the compensation policy for flight attendants:

- A. Applicable pay rates are set forth in SP 2327 SkyWest Airlines Flight Attendant Compensation with flight attendants advancing from one longevity pay status to the next on the anniversary of their date of hire and advancing from one cost of living pay status to the next each January 1.⁵
- B. All flight attendants are credited and paid flight time flown, calculated by individual historic block-to-block times as outlined in SP 2328 Historical Block-to-Block Times or actual block-to-block time, whichever is greater. To receive actual block-to-block time when a flight exceeds the historic

⁵ SP 2327 provides the hourly rate of pay per block for flight attendants based upon the number of years they have been employed by SkyWest Airlines.

block-to-block time, a Payroll Correction Sheet (SP 2330 Payroll Correction Sheet) must be completed. After completion, each flight attendant must sign to verify its authenticity. The Company allows flight attendants to turn in a Payroll Correction Sheet with the approval of the Vice President InFlight Operations. The filing of a fraudulent claim is grounds for immediate termination. . . .

- C. Overtime is paid at a rate of 1½ times a flight attendant’s hourly rate whenever a flight attendant is junior manned by the Company.⁶

SKYWEST AIRLINES LACKS A COLLECTIVE BARGAINING AGREEMENT

81. SkyWest Airlines lacks a collective bargaining agreement, although it does have a “Flight Attendant Policy Manual” developed in part with input from Flight Attendant representatives. Specifically, in its “Nature of Employment” policy, attached as Exhibit 6, SkyWest states:

Policies set forth in the SkyWest Airlines Company Policy and the SkyWest Airlines Employee Handbook are not intended to create a contract, nor are they to be construed to constitute contractual obligations of any kind or a contract of employment between the employer and any of its employees. The provisions of the policy and handbook have been developed at the discretion of management and may be amended or cancelled at any time at the organization’s sole discretion.

On its employee website SkyWest Airlines includes a “Union Free Statement,” boasting that this airline “has been union free for more than 40 years; it is our intent to remain so. . . . [M]anagement vigorously opposes, by every legal means possible, any attempt by a union to organize company associates.” The statement goes on to say that SkyWest “update[s its] policies and procedures to ensure [employees] will be treated fairly and consistently” and that it strives

⁶ The InFlight Operations Manual defines **Junior Manned** as “An overtime pairing voluntarily accepted by a flight attendant. See also Junior Man (Overtime) Pay.” **Junior Man (Overtime) Pay** is defined as “Junior Man (overtime) is paid at the rate of 1½ times the flight attendant’s hourly rate.” This is the *only* time that SkyWest Flight Attendants are “paid at a rate of 1 ½ times the flight attendant’s hourly rate.” See Policy Manual, Exhibit 2.

“to provide each employee with open communication channels, good working conditions, competitive pay and benefits.” *See* Exhibit 6.

82. Although SkyWest FAs have communication access to management through SIA, according to SkyWest “[t]he purpose of employee committees is to provide avenues for employees to deal directly with management, provide input, and have [their] concerns addressed. *Better management decisions* are an important by-product of *input* from the committee members” (Emphasis added). *See* Ex. 6. No mention is made of these negotiations or the Policy Manuals being a “collective bargaining agreement.”

83. The SkyWest Flight Attendant Policy Manual, which SkyWest at times asserts is a collectively bargained agreement, does not include any provision for an arbitration board chosen by the parties, arbitration, or mediation of disputes. *See* Ex. 2. Unresolved employee-management grievances are decided by a senior member of SkyWest management who is employed by the airline. Individually or collectively, the FAs have no apparent collective recourse for disputes with management which are not ultimately decided by the management itself.

84. The SkyWest Employee Council (“SEC”), including SIA, provides input to SkyWest management regarding various policies and procedures, including certain aspects of employees’ compensation packages.

85. Upon information and belief, SkyWest management is and has been completely unwilling to discuss or listen to employee input through the SEC, SIA, or the comparable pilots’ association, SkyWest Airline Pilots’ Association (“SAPA”), about paying hourly compensation for any time other than **block time**. Thus, none of these internal “associations” including but not limited to the SEC, SAPA, and SIA, have any bargaining power (such as the ability to strike, file

grievances to be decided by a neutral mediator, arbitrate, or conduct a mediation where issues are decided by a neutral mediator) over the uncompensated preliminary and postliminary duties and which are directly related to the employees' primary responsibilities.

86. Significantly, "Letters of Agreement" signed between SkyWest and SIA explicitly state that "[n]o policy within [the InFlight Operations Manual] shall remain in effect if it is discovered to be in violation of law." *See* Ex. 2. Compensating flight attendants only for "block time" and not for all integral and indispensable work responsibilities is a violation of both the Illinois Minimum Wage Act and the Fair Labor Standards Act.

87. In the "Employee Matters" section of its 2014 Annual Report, the parent company SkyWest, Inc. discusses the Railway Labor Act and its collective bargaining agreements (*see* Exhibit 1, pp. 16-17). Notably absent is any indication that any labor group or association related to the non-unionized SkyWest Airlines has a collective bargaining agreement.⁷ SkyWest InFlight Association (SIA) is not listed in the 2013 Annual Report's chart indicating any collective bargaining agreement between management and SIA.

88. On page 17 of its 2014 Annual Report, the SkyWest, Inc. cautions investors that "[c]ollective bargaining group organization efforts among SkyWest Airlines' employees do, however, occur from time to time and we anticipate that such efforts will continue in the future." *See* Ex. 1, p. 17. The Airline makes it quite clear in its Annual Reports (as well as on employee websites that are not publically accessible) that it opposes the unionization of or entering

⁷ Every entity in the Annual Report's "Collective Bargaining" chart (Ex. 1, p. 16) is associated with the unionized sister airline, ExpressJet, which is not a party to this matter.

collective bargaining agreements with SkyWest Airline employee groups, including but not limited to FAs.⁸

89. In the matter before the Court, there is no Collective Bargaining Agreement between SkyWest flight attendants and SkyWest management to be applied or interpreted. More importantly, no such agreement (whether real or imputed) must be analyzed to support each of the allegations made herein.

**SKYWEST AIRLINES INTENTIONALLY
OBFUSCATES WAGE COMPENSATION**

90. Upon information and belief, SkyWest intentionally obfuscates its wage practices to FAs and courts in order to continue its current pay scheme.

91. Upon information and belief, SkyWest does not verify minimum wage compliance for every FA for every week. Importantly, their compensation plan does not “automatically” provide compliance since a great number of the duty hours are wholly uncompensated and virtually every work day includes a significant amount of uncompensated duty time.

92. Due to the variability of work schedules and the unnecessary complexity of SkyWest’s pay stubs, which include taxable and non-taxable items, imputed income, expense reimbursements, uniform allowances, and other credits and deductions marked only with short ambiguous labels, FAs are unlikely to be able to accurately determine their true hourly compensation if and when they have reason to believe they are being under compensated.

⁸ See <http://inc.skywest.com/invest/reports.php> for SkyWest, Inc. Annual Reports from 2002 to 2014.

93. Furthermore, FAs are misled by SkyWest's training explanations when they are told they are being paid per diem for all "time away from base" (TAFB) as if per diem is wage pay.

94. By blurring the lines between wage compensation, expense reimbursements, and imputed income (especially), making payroll stubs difficult to access, and using non-descriptive abbreviations to explain the payroll credits and debits, only with great difficulty is any SkyWest FA able to determine whether the company is in compliance with the applicable wage laws. The payroll abbreviations appear nowhere within the Flight Attendant's Policy Manual.

95. Once the abbreviations and schedules are clarified, however, SkyWest's scheduling records (SkedPlus+) and payroll records speak for themselves. They require no interpretation to ascertain that the FAs are intentionally systematically uncompensated for hours of each and every duty day.

PLAINTIFF-SPECIFIC FACTS

Plaintiff Andrea Hirst

96. Plaintiff Andrea Hirst worked as a FA for SkyWest for just over five years. In that time, she worked as many as seven **legs** in a single day. According to Ms. Hirst, the seven, eight, or even as many as nine flight days are the most difficult since each flight requires preliminary and postliminary duties, yet **block times** are of extremely short duration (e.g., 15-30 minutes). This sort of scheduling results in long and difficult **duty days** especially for the junior-most FAs, yet also results in even more uncompensated preliminary and postliminary duty hours than average.

97. Since seniority status affects how schedules are assigned, as she became more senior, Ms. Hirst received more favorable **pairings** based on her rank in the Chicago O'Hare

(ORD) **domicile**. Despite these more favorable **pairings**, SkyWest’s method of calculating compensation did not pay Ms. Hirst for all of the hours she was required to work.

98. As an example, on December 21, 2014, Ms. Hirst had an overnight layover in San Francisco (SFO). She had a scheduled **report time** of 09:55 (9:55 a.m.) on December 22, 2014, the second day of the **pairing**. The incoming aircraft was delayed so she was required to wait at the airport for its arrival, in full uniform and without wage compensation. *See* Figure 3: **Pairing Details** for December 21, 2014 to December 24, 2014.

Pairing Details													
AWD O5401 ER7 - 038405 Annie Hirst - ORD CR7 FA													
Sunday 12-21-2014 Report: 06:50													
Flight	Tail	A/C	Orig	Dest	Dep	Arr	Pax	Block	Credit	Miles	BurnAv	Dhd Turn	
1.	UA6472	N108SY	ER7	ORD	AUS	07:32	10:31	62	2:59	2:59	972	8960	0:38
2.	UA6476	N108SY	ER7	AUS	SFO	11:09	13:58	66	4:49	4:49	1504	13068	
							Day Total:	7:48	7:48	Duty: 9:23			
Release: 14:13/21			Hotel: Aloft (650)443-5500						Layover: 19:42				
Shuttle: SHUTTLE OPERATED BY HOTEL													
Monday 12-22-2014 Report: 09:55													
Flight	Tail	A/C	Orig	Dest	Dep	Arr	Pax	Block	Credit	Miles	BurnAv	Dhd Turn	
3.	UA6283	N118SY	ER7	SFO	MCI	16:27	21:49	77	3:22	3:43	1499	11039	0:35
4.	UA6221	N118SY	ER7	MCI	SFO	22:24	00:29	38	4:05	4:05	1499	12968	
							Day Total:	7:27	7:48	Duty: 14:49			
Release: 00:44/23			Hotel: Aloft (650)443-5500						Layover: 14:51				
Shuttle: SHUTTLE OPERATED BY HOTEL													
Tuesday 12-23-2014 Report: 15:35													
Flight	Tail	A/C	Orig	Dest	Dep	Arr	Pax	Block	Credit	Miles	BurnAv	Dhd Turn	
5.	UA4976	N121SY	ER7	SFO	STL	16:20	22:21	69	4:01	4:01	1736	12582	
							Day Total:	4:01	4:01	Duty: 5:01			
Release: 22:36/23			Hotel: Crowne Plaza (314)291-6700						Layover: 10:42				
Shuttle: SHUTTLE OPERATED BY HOTEL													
Wednesday 12-24-2014 Report: 09:18													
Flight	Tail	A/C	Orig	Dest	Dep	Arr	Pax	Block	Credit	Miles	BurnAv	Dhd Turn	
6.	UA3347			STL	ORD	10:03	11:15		0:00	1:12	258	0	F 2:07
7.	UA5263	N116SY	ER7	ORD	ATL	13:22	16:30	74	2:08	2:08	606	5918	0:24
8.	UA5644	N116SY	ER7	ATL	ORD	16:54	17:38	39	1:44	1:58	606	6573	
							Day Total:	3:52	5:18	Duty: 8:35			
Release: 17:53/24													
Totals: Report 06:50/21 Release 17:53/24 Block 23:08 Credit 24:55 TAFB 83:03													
Key: Scheduled; Estimated ; Actual ; Overridden ;													

Figure 3: Pairing Details.

99. Despite the 09:55 **report time** on December 22, 2014, due to an aircraft arrival delay Ms. Hirst was not able to board the aircraft until 15:45 PST, *almost 6 hours later*. Ms. Hirst and the other FA completed their preflight safety checks, restocked the aircraft with necessities, boarded and counted passengers, made preflight announcements, and completed required preliminary duties, all without being compensated. The flight finally **blocked out** at 16:27 PST, approximately 6½ hours after the **crew member's report time**. The plane **blocked in** at Kansas City (MCI) at 21:49 CST as shown on Fig. 3, line 3. For her workday to this point, Ms. Hirst received 3 hours and 43 minutes in **block time** compensation. (Fig. 3: line 3).

100. The **crew members** took no time to eat, rest or leave the plane, but instead immediately prepared for the return flight to SFO. As shown on the pairing detail (Fig. 3: line 3), the **turn time** was 35 minutes, all of which was uncompensated. The plane **blocked out** at 22:24 CST (Fig. 3: line 4). The aircraft **blocked in** at SFO at 00:29 PST on December 23, 2014. Ms. Hirst received 4 hours and 5 minutes in **block time** compensation for the second flight of this day (Fig. 3: line 4). After deplaning passengers and completing all postliminary duties, Ms. Hirst and the rest of the **crew members** waited for the airport shuttle to the hotel. According to contemporaneous notes that Ms. Hirst made, the shuttle picked them up at the airport at 01:15 to take them to a hotel.

101. On December 22, 2014, Ms. Hirst was compensated for a total of 7 hours and 48 minutes, although her **duty day** as recorded by SkyWest was 14 hours and 49 minutes long. Over 7 hours of Ms. Hirst's **duty day** *was completely uncompensated*. Furthermore, during the more than 16 hours that elapsed from the time she left her hotel until she returned to the hotel after her final flight, Ms. Hirst was in uniform and representing SkyWest in the eyes of the public, subject to its strict requirements while in uniform.

Plaintiff Molly Stover

102. Plaintiff Molly Stover began working for SkyWest Airlines in early August 2012. She worked as a SkyWest FA until November 2014.

103. In February or March 2014, Ms. Stover was scheduled to travel from Chicago to Charleston then back to Chicago. Her aircraft had mechanical problems in Charleston, and Ms. Stover was required to stay overnight. Although she (and the rest of the crew) unexpectedly had to work another day and stay away from home an extra overnight, she was not fully compensated for her time on duty.

104. During the summer of 2014, Ms. Stover was scheduled to leave Salt Lake City, but was delayed approximately five hours. She sat at the airport and ended up getting home from work five hours later than scheduled but did not receive additional wage compensation for her duty day.

105. Ms. Stover was required to cancel many of her personal and family plans when she was working as a FA because of flight delays or cancellations, yet she did not receive additional wage compensation for the non-scheduled hours she was required to work, nor was she ever fully compensated for her work hours even when flights were not delayed. Her family and friends jokingly chided her that she was “volunteering her time” to the company.

106. Ms. Stover quit working for SkyWest in part because she did not receive fair or reasonable compensation for all of the hours that she worked.

Plaintiff Emily Stroble Sze

107. Plaintiff Emily Stroble Sze began working for SkyWest Airlines in June 2010. She worked as a SkyWest FA until September 2012.

108. While she was a SkyWest FA, at training Ms. Sze was told that she received “block pay” while the aircraft door was closed and she received “per diem pay” while she was working with the aircraft door was open. She was not told or instructed that her block pay would be averaged across her entire continuous workday. Instead, she along with other FAs was told that her per diem expense reimbursement was how she got “paid” for everything but block time.

109. The only situation where Ms. Sze received one and one-half times her regular pay was when she was “junior manned” and asked to work on one of her scheduled days off.

110. Ms. Sze quit working for SkyWest in part because she did not receive wage compensation for all of the hours that she worked.

COLLECTIVE AND CLASS ACTION ALLEGATIONS

111. Plaintiffs bring this action as a collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), also commonly referred to as an “opt-in” class, on behalf of themselves and the following nationwide collective, as well as a nationwide class action seeking injunctive and declaratory relief pursuant to the Declaratory Relief Act, 28 U.S.C. § 2201:

All persons who were formerly or are currently employed as flight attendants for SkyWest Airlines and who were paid “block” pay for their duty day responsibilities during the 3 years prior to the filing of the complaint.

112. Plaintiffs also bring this action as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of themselves and the following Illinois Class:

All persons who were formerly or are currently employed as flight attendants for SkyWest Airlines based in Illinois and who were paid “block” pay for their duty day responsibilities during the 3 years prior to the filing of the complaint.

113. These Illinois Class claims are brought under the Minimum Wage Law of the State of Illinois, § 820 ILCS 105/1 *et seq.*

114. Excluded from the Class are the Defendants, their officers, directors, agents, trustees, parents, children, corporations, trusts, representatives, Defendants' employees other than SkyWest Flight Attendants, principals, servants, partners, joint venturers, or entities controlled by Defendants, and their heirs, successors, assigns, or other persons or entities related to or affiliated with Defendants and/or their officers and/or directors, or any of these persons; the Judge assigned to this action, any member of the Judge's immediate family; and counsel for the Plaintiffs. Additionally union-represented flight attendants who are employed by ExpressJet Airlines (also owned by SkyWest, Inc.) are excluded from the Class.

115. Certification of the Class is appropriate pursuant to Fed. R. Civ. P. 23, in that: (a) the Class is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to each Class member; (c) the claims or defenses of each Class member is typical of the claims or defenses of all Class members; (d) the representative party will fairly and adequately protect the interests of the Class.

116. **Numerosity**. Plaintiffs are informed and believe, and on that basis allege, that the proposed Class contains thousands of similarly situated persons who are either currently or formerly employed by SkyWest as FAs. The precise number of Class Members is currently unknown to Plaintiffs. The true number of Class Members is known by Defendants, however, and thus, may be notified of the pendency of this action by first class mail, electronic mail, and by published notice. The members of the Class are so numerous that joinder of all members would be impracticable.

117. **Existence and Predominance of Common Questions of Law and Fact**. Common questions of law and fact exist as to all members of the Class and predominate over

any questions affecting only individual Class Members. These common legal and factual questions include, but are not limited to, the following:

- a. Whether the SkyWest failed to pay wage compensation for all hours worked by the Class;
- b. Whether SkyWest improperly calculated the hourly pay of FAs by paying compensation only for **block time (block out to block in)** although the FAs were required to perform work which was integral and indispensable to their primary duties both before and after the **block times** on every day that they worked;
- c. Whether SkyWest can lawfully pay FA wages according to a weekly “averaging” scheme which is not guaranteed to compensate the FAs at no less than minimum wage for each and every hour of duty time;
- d. Whether SkyWest engaged in the unlawful employment practices alleged herein;
- e. Whether SkyWest is liable to Plaintiffs and members of the Class for damages for conduct actionable under U.S. federal and Illinois state laws; and;
- f. Whether Plaintiffs and members of the Class have sustained damages as a result of SkyWest’s conduct, and, if so, the appropriate measure of damages.

118. **Typicality**. Plaintiffs’ claims are typical of the claims of the Class Members in that Plaintiffs and each member of the Class have been injured by the same wrongful conduct of SkyWest. Plaintiffs’ claims arise from the same practices and course of conduct that gave rise to the Class Members’ claims and are based on the same legal theories. Plaintiffs, like all Class Members, have not been fully compensated SkyWest pursuant to state and federal labor laws, and thus Plaintiffs, like all Class Members, have been damaged by SkyWest’s unlawful conduct.

All SkyWest Flight Attendants, including Plaintiffs and Class Members, are compensated under an identical compensation scheme.

119. **Adequacy of Representation.** Plaintiffs will fairly and adequately protect the interests of the members of the Class. Plaintiffs have retained counsel experienced in complex class action litigation, and Plaintiffs intend to prosecute this action vigorously. Plaintiffs have no adverse or antagonistic interests to those of the Class.

120. **Superiority.** A class action is superior to all other available means for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by individual members of the Class is relatively small compared to the burden and expense that would be entailed by individual litigation of their claims against the Defendants. It would thus be virtually impossible for the members of the Class, on an individual basis, to obtain effective redress for the wrongs done to them. Furthermore, even if members of the Class could afford such individualized litigation, the court system could not. Individualized claims brought by members of the Class would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the court system from the issues raised by this action. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and comprehensive supervision by a single court, and presents no unusual management difficulties under the circumstances here.

COUNT I
FAIR LABOR STANDARDS ACT
Minimum Wages Required Under 29 U.S.C. § 206
(on behalf of all current and former SkyWest Flight Attendants)

121. Plaintiffs repeat and reallege the allegations set forth above as if fully contained herein.

122. SkyWest in the business of providing regional commercial air service to cities across the United States, Canada, Mexico and the Caribbean, and employs FAs such as Plaintiffs and members of the Class to provide passengers with safe and comfortable travel accommodations according the requirements of the FAA and SkyWest.

123. At all relevant times, as a provider of “transportation . . . among the several States or between any State and any place outside thereof,” SkyWest has been engaged in “commerce” as defined by FLSA, 29 U.S.C. § 203(b).

124. At all relevant times, SkyWest constituted an “employer” engaged in commerce as defined by Section 3(d) of the FLSA, 29 U.S.C. §§ 203(d).

125. At all relevant times, Plaintiffs and the Class were considered “employees” under Section 3(e) of the FLSA, 29 U.S.C. § 203(e), as well as “employees engaged in commerce” under Section 6(a) of the FLSA, 29 U.S.C. § 206(a).

126. Section 6 of the FLSA, 29 U.S.C. § 206, provides for a statutory minimum hourly wage for all employees “employed in an enterprise engaged in commerce.”

127. Although Section 13(b)(3) of the FSLA, 29 U.S.C. § 213(b)(3), specifically exempts employees of “carriers by air” from the “maximum hour” provisions of Section 7 of the FLSA, 29 U.S.C. § 207, Section 13(a) of the FSLA, 29 U.S.C. § 213(a), specifically does *not* provide a similar exemption for carriers of air from the comparable “minimum wage” provisions of Section 6 of the FLSA, 29 U.S.C. § 206.

128. Here, SkyWest violated Section 6 of the FLSA, 29 U.S.C. § 206, by failing to pay any wages at all to Plaintiffs and the Class during certain clearly defined and traceable portions of their **duty day**, including but not limited to performing preliminary and postliminary activities which are integral and indispensable to their principal activities as FAs, and which are required and controlled by both the Federal Aviation Administration (“FAA”) and SkyWest.

129. The clearly defined and traceable portions of the FAs’ duty day which are uncompensated occur in virtually every workday of every SkyWest FA and often include several hours of unpaid time per day. At no time is this mandatory unpaid preliminary and postliminary time *de minimus*.

130. No interpretation of an employment agreement, collective bargaining agreement, or policy manual is required to determine the rate of pay or to calculate number of uncompensated duty day hours for each SkyWest FA for the past 3 years. SkyWest’s SkedPlus+ records and payroll records provide all necessary information required to calculate the uncompensated wages.

131. The FAs’ required preliminary and postliminary activities as described fully herein are integral and indispensable to their principal activities, required by both the FAA and SkyWest Airlines, and therefore not exempt from minimum hourly wage requirements pursuant to the Portal-to-Portal Act, 29 U.S.C. § 254(a)(2). The continuous workday rule mandates that these activities are compensable under the FLSA.

132. Additionally, the Federal Aviation Administration’s strict regulation of the maximum allowable number of hours in the FAs’ **duty day** confirms that these duty hours are integral and indispensable to FAs’ principal activities.

133. Unlike other airlines, SkyWest's wage compensation plan does not sufficiently adapt to longer continuous workdays, weather delays, and other unexpected flight delays such that every hour of every FAs' workday is compensated at no less than the applicable minimum wage. Therefore, upon information and belief, the FAs are at risk of and do actually receive less than the Federal minimum wage on certain workdays, even if this Court were to adopt a weekly averaging of wage compensation (which Plaintiffs contend is an improper method for calculating hourly wages).

134. At all relevant times, SkyWest was aware that Plaintiffs and members of the Class were owed compensation for each hour of their workday pursuant to the FLSA.

135. SkyWest's violations of 29 U.S.C. § 206 were repeated, willful and intentional.

136. As a result of Defendants' willful and wrongful conduct, Plaintiffs and the Class have been deprived of wages and have suffered damages.

137. Plaintiffs, on behalf of themselves and all FLSA Class members who opt to join in this collective action, demand judgment against SkyWest for wages for each hour that they were uncompensated during their duty day for the three years preceding the filing of this complaint, plus an equal amount as liquidated damages, as well as reasonable attorneys' fees and reimbursement of all costs for the prosecution of this action, and such other and further relief as may be just and proper.

COUNT II
ILLINOIS MINIMUM WAGE LAW
§ 820 ILCS 105/1 *et seq.*
(on behalf of the Illinois Class)

138. Plaintiffs repeat and reallege the allegations set forth above as if fully contained herein.

139. SkyWest is in the business of providing regional commercial air service to cities across the United States, Canada, Mexico and the Caribbean, including into and out of the State of Illinois.

140. SkyWest employs approximately 400 full-time FAs who are based at its Chicago O'Hare International Airport **domicile**, who fly into and out of Illinois on a regular basis, and/or who reside in Illinois.

141. SkyWest employs FAs who are **domiciled** in Illinois, including Plaintiffs and members of the Illinois Class, to provide passengers with safe and comfortable travel accommodations according the requirements of the FAA and SkyWest.

142. At all relevant times, SkyWest was an "employer" as defined by § 820 ILCS 105/3(c).

143. At all relevant times, Plaintiffs and the Class were "employees" as defined by § 820 ILCS 105/3(d), and were not exempt based upon any of the subcategories included in that provision.

144. The Illinois Minimum Wage Law § 820 ILCS 105/4(a)(1) provides for a statutory minimum wage for all employees "in every occupation" of "not less than \$8.25 per hour" with certain exceptions, none of which apply to Plaintiffs and the Class.

145. SkyWest violated the Illinois Minimum Wage Law § 820 ILCS 105/4(a)(1) by failing to pay any wages at all to Plaintiffs and the Class during certain clearly defined and traceable portions of their **duty day**, including but not limited to performing preliminary and postliminary activities that are integral and indispensable to their principal activities as FAs and are required by both the FAA and SkyWest. These portions of the duty day occur in each and every continuous workday and are not *de minimus*.

146. Unlike other airlines, SkyWest's wage compensation plan does not sufficiently adapt to longer continuous workdays, weather delays, and other unexpected flight delays such that every hour of every FAs' workday is compensated at no less than the applicable Illinois minimum wage. Therefore, the FAs are at risk of and do receive less than the Illinois minimum wage on certain workdays.

147. Furthermore, pending legislation to raise the minimum wage rate in both Illinois and Chicago will exacerbate the problems with this airline's wage compensation plan as soon as July 1, 2015.

148. Additionally, Illinois Minimum Wage Law § 820 ILCS 105/4(a)(1) provides for a statutory limitation on hours of work week for all employees at 40 hours, unless the employer pays the employees for the hours in excess of 40 hours "at a rate not less than 1 ½ times the regular rate at which he is employed." SkyWest FAs are not paid at a higher rate of pay for hours worked over 40 per week. At most, flight attendants receive a \$3.00 per hour increase for working over 87 "block hours" in a month.

149. No interpretation of an employment agreement, collective bargaining agreement, or policy manual is required to determine the rate of pay or to calculate number of uncompensated duty day hours for each SkyWest FA for the past 3 years. SkyWest's SkedPlus+ records and payroll records provide all necessary information required to calculate the uncompensated wages.

150. SkyWest's violations of the Illinois Minimum Wage Law were repeated, willful, intentional, and with reckless disregard for the laws of the State of Illinois.

151. According to § 820 ILCS 105/2:

It is against public policy for an employer to pay to his employees an amount less than that fixed by this Act. Payment of any amount less than herein fixed is an

unreasonable and oppressive wage, and less than sufficient to meet the minimum cost of living necessary for health. Any contract, agreement or understanding for or in relation to such unreasonable and oppressive wage for any employment covered by this Act is void.

152. As a result of SkyWest's wrongful conduct, Plaintiffs and the Class have been deprived of wages, and have suffered damages.

153. Plaintiffs, on behalf of themselves and all Illinois Class members demand judgment against SkyWest for the unpaid wages, plus damages, as well as reasonable attorneys' fees and reimbursement of all costs for the prosecution of this action, and such other and further relief as may be just and proper, pursuant to § 820 ILCS 105/12(a).

COUNT III
INJUNCTIVE AND DECLARATORY RELIEF
28 U.S.C. § 2201 *et seq.*

(on behalf of all current and former SkyWest Flight Attendants nationwide)

154. Plaintiffs re-allege and incorporate the preceding paragraphs as if fully set forth herein.

155. There is an actual controversy between SkyWest and Plaintiffs concerning the company's failure to pay wage compensation for all duty day hours.

156. Pursuant to 28 U.S.C. § 2201, this Court may "declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought."

157. Accordingly, Plaintiffs and Class members seek a declaration that SkyWest must clearly inform all current FAs (and FAs who have been employed by SkyWest in the past three years) that per diem is intended as a reimbursement of expenses and is not considered wage income.

158. Plaintiffs seek an injunction against SkyWest from continuing to refer to per diem to FAs as “Per Diem Pay” or “Per Diem Wages” in training, on payroll stubs, or when asked about wage compensation, whether in writing or verbally.

159. Additionally, Plaintiffs and Class members seek a declaration that SkyWest must provide to FAs an explanation of their paycheck designations in ordinary language, prominently displayed in employee manuals and on the employee website. The explanation sought would clarify to FAs exactly which credits are considered hourly wages for the purposes of minimum wage calculations according to applicable state and federal wage laws.

160. Plaintiffs and Class members seek a declaration that SkyWest must provide to all current FAs (and all FAs who have been employed by SkyWest Airlines in the past three years) a complete explanation of paycheck abbreviations including but not limited to a clear designation of which items on the paycheck are wages, which items are reimbursements, and which are imputed income for IRS purposes (but not wages for the purposes of adhering to weekly minimum wage requirements).

161. Plaintiffs and Class members seek a declaration that SkyWest must provide notice to all current FAs (and all FAs who have been employed by SkyWest Airlines in the past three years) that they are entitled to have received no less than minimum wage for each duty hour that they have worked in the past three years, and that upon request, SkyWest will provide any FA with all SKEDPlus+ records and payroll stubs for three years preceding the FA’s request or since March 6, 2012, whichever is longer.

162. Plaintiffs and Class members seek a declaration that SkyWest must provide notice to all current FAs (and all FAs who have been employed by SkyWest Airlines in the past three years) through a 216(b) Opt-In Notice that this matter is currently pending before the Court; that

this Court will decide the manner in which each and every duty hour must be compensated; and that each FA who has worked for SkyWest in the past three years has the right to opt-in to the pending collective action in this Court.

163. Plaintiffs and Class members seek a declaration that current wage payment scheme of SkyWest Airlines does not automatically assure such compliance with state and federal wage laws and that SkyWest has taken no corrective action to assure compliance in the future.

164. Plaintiffs and Class members have suffered actual damages and lost wages. SkyWest should be required to take corrective action to prevent further lost wages, including: (a) providing its FAs with a compensation plan which guarantees hourly pay for each and every duty hour; (b) providing its FAs with a compensation plan which pays actual wages for time away from base (TAFB) in addition to per diem expense reimbursement; and (c) providing its FAs with a clear and unambiguous explanation of its paystubs and payroll practices.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for the following relief against SkyWest as follows:

- A. An order enjoining SkyWest from retaliatory actions against the Plaintiffs, against Class members who opt-in to the Fair Labor Standards Act collective action, or who are members of the nationwide and Illinois Classes;
- B. An order declaring that the action is a proper collective action pursuant to 29 U.S.C. § 216(b) as to the FLSA claims alleged herein; certifying an opt-in class; and directing SkyWest to provide a list of all persons it employs or has employed as FAs in the last

- three years prior to the filing of the complaint, including the last known address, email, and telephone numbers of current and former FAs;
- C. An order certifying the Illinois Class under Fed. R. Civ. P. 23 as to the Illinois Minimum Wage Law and national Class for wage and declaratory relief claims that are alleged herein; certifying Plaintiffs as class representatives; and appointing Plaintiffs' counsel as counsel for the national and Illinois Class;
 - D. An order determining that the conduct alleged herein is unlawful under the FLSA and the Minimum Wage Law of the State of Illinois;
 - E. An order granting the declaratory and injunctive relief requested by the Plaintiffs and Class;
 - F. An award of monetary damages to Plaintiffs and the Class in such amount as may be determined at trial;
 - G. An order enjoining SkyWest from continuing the unlawful practices alleged herein;
 - H. An award to Plaintiffs and the Class for reasonable attorneys' fees and costs, including but not limited to reimbursement of all costs related to the prosecution of this action; and
 - I. An award to Plaintiffs and the Class of any such other and further relief as may be just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury.

Respectfully submitted on this the 26th day of May, 2015.

GREG COLEMAN LAW, P.C.

/s Gregory F. Coleman

Gregory F. Coleman, TN Bar #014092

greg@gregcolemanlaw.com

Member of the General Bar

U.S. District Court for the

Northern District of Illinois

Adam Edwards (*pro hac vice*)

adam@gregcolemanlaw.com

Mark Silvey (*pro hac vice*)

mark@gregcolemanlaw.com

Lisa A. White (*pro hac vice*)

GREG COLEMAN LAW, PC

550 Main Ave., Suite 600

Knoxville, TN 37902

Telephone: (865) 247-0080

Facsimile: (865) 522-0049

Edward A. Wallace

Amy E. Keller

WEXLER WALLACE LLP

55 West Monroe Street, Suite 3300

Chicago, IL 60603

T: 312-346-2222

F: 312-346-0022

Attorney for Plaintiffs and Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2015, a copy of the foregoing **Amended Complaint** was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

James B. Hiller
Brian Roth
GORDON & REES LLP
One North Franklin Street
Suite 800
Chicago, Illinois 60606
T: (312) 565-1400
jhiller@gordonrees.com
broth@gordonrees.com

/s/ Gregory F. Coleman

Gregory F. Coleman
GREG COLEMAN LAW PC
Bank of America Center
550 Main Avenue, Suite 600
Knoxville, TN 37902
Telephone: (865) 247-0080
Facsimile: (865) 522-0049

Attorney for Plaintiffs and the Class