AFFIDAVIT OF RANDI FREYER IN FURTHER SUPPORT OF CHARGES FILED BY BRENDY BECK, SHANNON KIEDROWSKI, ERIN ZIELINSKI, AND RANDI FREYER

Date: May 15, 2017

Re:

Randi Freyer v. Frontier Airlines

EEOC Charge Nos. 541-2016-01709, 541-2016-01707, 541-2016-01708,

541-2016-01704

I, Randi Freyer, affirm as follows:

1. I am a charging party in the above-numbered Charge of Discrimination

filed on May 9, 2016, against Frontier Airlines Inc. ("Frontier").

2. I submit this Affidavit in further support of the underlying charges of

discrimination filed on May 9, 2016 by myself and those filed by Brandy Beck, Erin

Zielinski, and Shannon Kiedrowski, as well as in response to Frontier's Position

Statements dated July 15, 2016 and July 22, 2016.

A. Personal Information

3. I remain employed by Frontier as a First Officer.

4. I continue to live in Eagle, Colorado and to be based out of Denver

International Airport ("DIA"), where Frontier maintains a hub.

5. On May 9, 2016, I filed a Charge of Discrimination against Frontier, on

behalf of myself and others similarly situated, based on Frontier's discrimination against

pregnant pilots and its failure to accommodate the needs of its pregnant or breastfeeding

pilots.

6. I reaffirm and re-allege the sworn allegations contained in the affidavit

accompanying my May 9, 2016 Charge.

## B. Recent Failures by Frontier to Accommodate My Needs as a Breastfeeding Pilot

- 7. In anticipation of my return to work at the end of 2016, I reached out to the Frontier Leave of Absence ("LOA") Department on November 27, 2016 to notify Frontier that I was medically cleared to return to work, and that I was currently breastfeeding and planned to continue to do so for the next several months. (Exhibit A)1
- 8. I received a response from Cindi Ruff, Vice President, Human Resources at Frontier, on December 8, 2016. Ms. Ruff informed me that Frontier "cannot accommodate pumping in the lav[atory] while in flight given the safety sensitive nature of your position," and that I would be "permitted to pump in the lav[atory] before takeoff and after landing, when the plane is locked into its arrival/departure gate." Ms. Ruff further wrote that "[w]hile the aircraft is in motion / blocked out, physiological breaks are only allowed when they are consistent with Federal Aviation Regulations, FAA Guidance and Frontier's Flight Operations Manuals. As such, we need to better understand what you are requesting regarding breaks for pumping. FAR 117 further defines the FAA's expectations of crew members with regard to self-assessment of fitness for duty. I would suggest that you submit a specific request once you have bid on and have been awarded your first monthly flight schedule, including, for instance, the frequency and duration of breaks that you are requesting." (Exhibit A)
- 9. In response, I inquired whether I would be permitted to pump in the flight deck for longer flights where pumping would not otherwise be possible for periods as long as four to six hours. I knew from both my doctor's advice and my medical history that I would need to express breast milk approximately every three hours, and that I was susceptible to suffering from mastitis if I was unable to do so. I informed Ms. Ruff of this medical history and risk.

<sup>1</sup> The email exchanges summarized herein are attached as Exhibits A - G.

- 10. On December 23, 2016, Ms. Ruff responded by stating that I could not pump in the flight deck and repeating that I was "permitted to pump in the lav[atory] before takeoff and after landing, when the plane is blocked into its arrival/departure gate after [I had] completed [my] FO duties." As I had previously informed Ms. Ruff that I would need to pump for 15 minutes approximately every three to four hours, she responded by my asking for a doctor's certification of my need to pump, and stated that "[a]fter receiving your doctor's certification, each month, we will evaluate the request based on your monthly flight schedule and make reasonable efforts to assist you, so long as doing so would not impose an undue hardship on Frontier's business." (Exhibit B)
- 11. As I was concerned that Frontier would not accommodate my needs to breastfeed upon returning to work—particularly during flights of a longer duration—I also inquired about obtaining a reduced flying schedule. Ms. Ruff informed me on December 23, 2016 that "Frontier may allow nursing mothers the ability to only meet a minimum of 50 hours of Pay Credit and not having to get back up to 70 hours at the end of the month." (Exhibit B)
- 12. Ms. Ruff followed up on January 1 and again on January 9 to request further information from my doctor on the "duration and frequency of breaks medically necessary to pump." Ms. Ruff further stated that "[a]fter receiving this information from your doctor, we will evaluate the request based on your monthly flight schedule and make reasonable efforts to assist you, so long as doing so would not impose an undue hardship on Frontier's business." (Exhibit B)
- 13. On January 12, 2017, I sought further clarification via email and wrote: "Just to be clear you will evaluate my schedule every month in order to help accommodate breaks? I can't express how helpful that would be." (Exhibit B)

- 14. On January 18, 2017, Ms. Ruff responded that Frontier would "work with [me] monthly to determine if Frontier is able to accommodate [my] restrictions without imposing an undue hardship on the business." (Exhibit C)
- 15. In light of Ms. Ruff's representation that Frontier would "evaluate my flight schedule" and "make reasonable efforts to assist" me, I reached out to Ms. Ruff on March 13, 2017 to alert her that I had "some longer trips that are on my schedule that exceed 4-5 hours of flying," and asked "when you said that you would help address those issues to pump I am just wondering my options." I listed the two trips scheduled for March 19 and April 2, which were both over four hours long, and explained that since the block time was over four hours it would unlikely allow me the ability to pump for that duration of time, which would cause me discomfort, pain, and distress. (Exhibit D)
- 16. On March 15, 2017, Ms. Ruff told me to "work with Flica to adjust your schedule to accommodate your needs," and that I was permitted to drop to 50 hours.

  (Exhibit D)
- 17. However, changing my schedule in Flica did not resolve my need for an accommodation. Specifically, in order for me to attempt to change one problematic flight, I would have needed to drop the entire 19-hour trip. Doing so would have put me below the 50-hour monthly minimum, which Flica would not allow me to do.
- 18. On March 17, 2017, I described this issue in an email to Ms. Ruff. I further explained that unless I heard from her regarding other accommodations, I would assume that I was permitted to take a physiological needs break during flight to accommodate my lactation needs, and that if that assumption was incorrect, to please let me know as soon as possible. (Exhibit E)
- 19. Frontier once again failed to provide me with any accommodation. Ms. Ruff responded on March 22, 2017 as follows: "From what you have described below, it

sounds like you are requesting approval to pump in the lav[atory] while in flight.

Unfortunately, we cannot accommodate that request given the safety sensitive nature of your position. Of course, as I've mentioned to you previously, you are permitted to pump in the lav[atory] before takeoff and after landing, when the plane is locked into its arrival/departure gate (but not while in flight)." (Exhibit E)

- 20. I responded to Ms. Ruff via email on April 8, 2017. I made clear that for flights that are longer in duration and exceed four to five hours of flying, pumping before or after a flight would not work, and that I would need to take a physiological needs break during flight—for "the minimum amount of time necessary to take care of my health"—as I did not want to get mastitis again as I had the last time I returned to work after having my first baby. (Exhibit F)
- 21. I further explained that the only other option Frontier presented was that I adjust my flight schedule, which I had already done to the best of my ability. Yet, I was unable to adjust my schedule in Flica because dropping a trip with a long flight would require me to drop the entire multi-trip flight. Because that would put me below the 50-hour monthly minimum, the computer program would not allow me to make this adjustment to my schedule without assistance. (Exhibit F)
- 22. Finally, I pointed out that while Frontier stated that it could not accommodate my request to pump in the lavatory during flight as a standard physiological needs break, no one had responded to my prior requests for assistance in adjusting my schedule. I noted that I had to fly several long flights with no relief, which caused me pain and engorgement, and was contributing to a decrease in my breast milk supply.
- 23. On April 13, 2017, I received a response from Gerardo ("Jerry") Arellano, Senior Employee Relations Manager/Special Projects. He merely repeated that I could

not pump in the lavatory while in flight and only before takeoff and after landing.

(Exhibit G)

- 24. To date, Frontier has still failed to provide an accommodation that adequately meets my physiological need to express breast milk.
- 25. As a result of Frontier's failure to accommodate my medical need to express breast milk, I have suffered from pain and engorgement of the breasts during longer flights, as well as undue stress.

## C. Continued Inadequacy of Outstation Lactations Facilities

- 26. It is my understanding that Frontier's Position Statement responding to my Charge of Discrimination contends that Frontier has provided me and other breastfeeding pilots with adequate lactation facilities both at DIA and the other airports to which Frontier flies ("outstations").
- 27. Although Frontier has now provided me with a list of lactations facilities at outstations, this list was not given to me when I initially sought an accommodation for breast feeding upon my return to work after the birth of my second child on December 5, 2015, despite numerous requests from me and other pilots who were breastfeeding (Freyer Aff. ¶¶ 38-47). Nor was it provided to me at any point prior to the filing of my Charge of Discrimination on May 6, 2016.
- 28. In fact, Frontier never alerted me to the existence of this list, despite my outstanding request for information regarding what policies would be in place to assist me when I returned to work. I learned of its existence not from Frontier, but from news reports published after the initial Charges of Discrimination were filed in this matter.

  (See CP Master Exh. M)

- 29. After learning of the existence of this list by reading about it in the media, I myself requested an up-to-date copy of the list from Mr. Arellano on April 20, 2016, but did not receive a response.
- 30. I again requested a copy of the list in my November 27, 2016 email to the LOA Department. (Exhibit A)
- 31. I finally received a list of lactation locations in late 2016 from Ms. Ruff via email. She represented that the list had "recently been updated to ensure accuracy." (Exhibit A)
- 32. On March 13, 2017, I again reached out to Ms. Ruff to request an updated lactation room list. I explained that some of the entries on the then current list took too much time to access. In response, on March 15, 2017, Ms. Ruff provided me with "an updated Lactation Room list." (Exhibit D)
- 33. For reasons set forth below, the "updated" list still does not designate locations for pumping at all Frontier outstations, and even where it does identify locations, many of those designated facilities are inaccessible or otherwise inadequate to meet the needs of pilots who are breastfeeding.
- 34. Although I have not had the opportunity to visit all of the locations listed, I have visited a number of the outstation lactation sites designated by Frontier in the course of my duties. All of the locations I have visited are inadequate for breastfeeding pilots.
- 35. Frontier has not designated any lactation facilities at a number of airports to which it flies, including Los Angeles International Airport (LAX), Orlando International Airport (MCO), Pittsburg International Airport (PIT), San Antonio International Airport (SAT), Palm Beach International Airport (PBI), Ronald Reagan Washington National Airport (DCA), the Eastern Iowa Airport (CID), and Colorado

Springs Airport (COS). The same list of airports was identified as lacking identified facilities in September 2016.

- 36. Many of the designated sites are located far from the departure/arrival gates where the airplanes are located, and thus as a practical matter are not accessible in the time period typically available to pilots between flights.
- 37. Pilots typically have about 45 minutes between flights, and their pre- and post-flight duties leave only 15 minutes to attend to personal needs. This time may be compressed due to flight delays.
- 38. As a result, the distance to the designated locations from the gate may not permit sufficient time for a pilot to get to and from the location while leaving sufficient time to pump, which typically takes 15-20 minutes.
- 39. For example, the facilities designated for Charlotte Douglas International Airport (CLT), Cancun International Airport (CUN), Piedmont Triad International Airport (GSO), George Bush Intercontinental Airport (IAH), Memphis International Airport (MEM), Louis Armstrong New Orleans International Airport (MSY), Los Cabos International Airport (SJD), and McGhee Tyson Airport (TYS) are all located outside the security clearance zone, and therefore nursing pilots must exit and re-enter through security during the short breaks between flights. Clearing security and customs can be time consuming, and further eats into the time available for pumping and completing the necessary flight duties without causing a flight delay.
- 40. On March 10, 2017, I was in the John Wayne Airport (SNA). It took me approximately ten minutes to reach the designated lactation room that was outside of security, leaving me only ten minutes to pump and clean my equipment before I had to return to the gate. Moreover, the facilities at this location were completely inadequate—there were no electric outlets in the room. In addition, there is a large

window next to the door with no shades or curtains so anyone passing by could see into the room.

- 41. On other occasions, I and other female pilots have been unable to gain access to designated facilities because Frontier agents were unaware that the facilities had been designated as lactation rooms and/or were unavailable to provide access to them. For example, in Seattle, I inquired with ramp personnel and a gate agent, but no one I spoke with was aware of the existence of the office that was designated on the list. In the Northeast Florida Regional Airport (UST), none of the employees I spoke with were aware of the existence of any lactation room, or knew what room the "closet area in holding area" was referring to.
- 42. Overall, my own investigation into Frontier's outstation lactation facilities has revealed that the majority of these facilities I've been able to visit are inadequate to meet the needs of breastfeeding pilots having the urgent need to use them in a short amount of time, due to problems with distance from the gate, time constraints (including security line wait time), the need for escorts/key access, and/or uninformed staff. (Exhibit H)
- 43. As a result of these inadequate or nonexistent facilities, I have frequently had no choice but to pump in restrooms, which are unsanitary. In some instances, I have spent the majority of the time available to me attempting to reach and access the designated locations, sometimes without success, leaving me insufficient time to pump at all between flights. On those occasions, I have suffered from pain and engorgement, as well as stress and anxiety.
- 44. I informed Mr. Arellano about the inadequacies of these facilities on May 11, 2017. (Exhibit I)

## D. Problems Accessing Lactation Facility at DIA:

- In addition, since filing my charge, I have had difficulty accessing the 45. lactation room at DIA.
- 46. For example, on March 9, 2017, I attempted to access the room at DIA. However, when I finally found the conference room where the facility was located, I found that the door required the entry of a passcode in order to access the key.
- 47. As it was a weekend, I needed to call the "Duty" phone to find out where the room was located and how to gain access. This required me to wait for an assistant chief pilot to call back and explain how to access the room. This took a total of approximately 15 minutes of time—time that could not be spent pumping or performing my duties.

I declare under penalty of perjury that the statements made in the above affidavit are true and correct to the best of my knowledge, information, and belief.

Signature:

Date: 5 | 15 | 17

Sworn before me this 15 th day of May, 2017 in Denver, Colorado

Signature:

Ulssica Shericee Howard

JESSICA SHERICEE HOWARD