James Hochberg
Hawaii Bar No. 3686
JAMES HOCHBERG AAL, LLLC
700 Bishop Street, Suite 2100
Honolulu, HI 96813
Telephone: (808) 256-7382
jim@jameshochberglaw.com

John C. Sullivan*
Texas Bar No. 24083920
S|L LAW PLLC
610 Uptown Boulevard, Suite 2000
Cedar Hill, TX 75104
Telephone: (469) 523-1351
Facsimile: (469) 613-0891
john.sullivan@the-sl-lawfirm.com

Counsel for Plaintiffs
* *Pro hac vice* motion forthcoming

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RIKI O'HAILPIN, NINA ARIZUMI, ROBERT ESPINOSA, ERWIN YOUNG, PUANANI BADIANG, SABRINA FRANKS, and RONALD LUM on their own behalf and on behalf of all others similarly situated, *Plaintiffs,* v. HAWAIIAN AIRLINES, INC., and HAWAIIAN HOLDINGS, INC. *Defendant.*	Civil No.: _____ DECLARATION OF SABRINA FRANKS;

I, Sabrina Leialohalani Franks, declare as follows:

1. I am 44 years old and live in Mililani, Hawai'i.

2. I am an employee of Hawaiian Airlines ("Hawaiian") and work as a Customer Service Agent where my goal is to help customers have a good travel experience. This can include aiding them throughout the check-in process and answering questions about baggage. I previously worked in the Hawaiian lounges at the airport, checking in guests and verifying their credentials. I have been with Hawaiian Airlines since May of 2016. Prior to that, I served in full time ministry at my church, Grace Redemption Christian Church.

3. My guest service agent duties are performed at the Daniel K. Inouye International Airport in Honolulu, Hawai'i.

4. At the beginning of the COVID-19 pandemic, Hawaiian asked for unpaid leave volunteers, and I volunteered to assist the company in preserving jobs by taking a leave of absence. After two extensions, which the company requested, I returned to work July 15, 2020.

5. Working in-person during the pandemic, Hawaiian has implemented various ways to help keep the staff and guests safe. I have worn a mask and followed the social distancing guidelines. We also use plexiglass barriers, and there is plenty of hand sanitizer available. I have even worn a face shield and gloves in addition to my mask. Much of my time during the pandemic was spent working in the Hawaiian

lounges where I would swipe membership cards for guests, taking the card through an opening in the plexiglass, without having direct contact with any customers or other employees. I was able to work without incident under these conditions.

6. The pandemic has taken a personal toll on me, though. My parents and fiancé all contracted COVID-19 during July of 2021 and were hospitalized. While my mother and fiancé recovered, my father did not. He passed away on July 30, 2021.

7. In August of 2021, Hawaiian implemented a COVID-19 vaccine mandate. The original version of the mandate, issued in September of 2021, indicated that employees should be vaccinated by November 1, 2021, or enter a testing program developed by Hawaiian at that time. The testing program was originally set to run until January 30, 2022. However, subsequent changes in federal regulations and then litigation over those regulations caused Hawaiian to first move the end of the testing program up to December 8, 2021, and then back to January 4, 2022.

8. At all times, the testing program was only meant to be a temporary measure to provide unvaccinated employees time to consider whether they would take the vaccine or be put out of work. The company also chose to deploy onerous terms for its testing program, forcing employees to pick up specific test kits from

Hawaiian at specific locations and having employees test even when they would not be coming into work during that week.

9. The current version of the mandate states that all employees must be vaccinated by January 4, 2022, or face termination. Most employees also have the option to take a "12-Month Unpaid Leave of Absence" and then become "subject to termination" at the end of that leave.

10. On October 1, 2021, I submitted a request for reasonable accommodation based on my sincerely held religious beliefs. For me, God has the final word in everything I do. And when it comes to what enters my body—which Holy Spirit indwells—I pray and seek counsel from God. I requested a religious accommodation because when I prayed about the COVID-19 vaccine, God did not give me any peace about it, nor did He instruct me to take it. My decision to not take the vaccine is to honor God and what He has asked of me in this matter. Taking the vaccine is something that cannot be undone and would be an unrecoverable violation of my faith in the Lord.

11. Although I may have received vaccines as a child, I have not had one in my adult life. When I have asked the Lord about other vaccines, He has said that I was healthy and there was no need.

12. In mid- October, I received an email from Hawaiian asking to discuss my request for an exemption. A meeting was arranged for October 20th. During

my meeting, I was asked if I had previously taken vaccines, to which I answered no. Additionally, I was asked what the company could do, or if any information could be provided about the COVID-19 vaccine that would cause me to change my mind or "reconsider" taking the vaccine. Possible reasonable accommodations were not discussed during the meeting.

13. On December 13, 2021, I received an email informing me that my request had been denied. I was told:

> Although you have a sincere religious belief, [Hawaiian] cannot reasonably accommodate you because it would cause an undue hardship that will result in significant disruption to our operation. Based on our assessment of your position and duties in this current environment, we cannot safely accommodate you because your role does not allow for maintaining baseline COVID-19 safety protocols, specifically maintaining physical distance and mandatory masking.

14. The letter went on to explain that the company has "also determined that we cannot accommodate you through testing [because] the complexity, expense, and administrative burden of managing the testing program is unsustainable. This is particularly true because of the degree of non-compliance by a number of participants in the testing program . . ."

15. I found this disingenuous since I have been able to adhere to Hawaiian's COVID-19 policies during my entire time working in-person during the pandemic without incident. Moreover, I was safely able to assist customers from behind plexiglass, wearing a mask, face shield, and gloves with no incident whatsoever.

16. Additionally, I am willing to pay for my own COVID-19 tests and impose absolutely no burden on the company whatsoever if allowed to continue working. Hawaiian should have engaged in an interactive process to determine these things before denying my request.

17. If I am terminated because of the vaccine mandate, I will not only lose my sole income source but my insurance and flight benefits, as well.

18. Receiving the accommodation request denial has filled my life with uncertainty and has taken a toll on my body. The stress is causing me physical difficulties as the daily pressure to weigh my convictions against my livelihood mounts.

19. I have worked for and loved Hawaiian Airlines for nearly six years and wish to continue working as I have been throughout the pandemic. Since the beginning of the COVID-19 pandemic, I have followed the mitigation measures put in place for my position and worked safely the entire time. Hawaiian has not offered any accommodation to allow me to continue working under the same or similar conditions, though. Instead, the company has essentially pitted my faith against my job. Moreover, Hawaiian is destroying the aloha that the company has been known for over the past 90-plus years by causing employees to turn on each other over the vaccine.

20. I submitted an inquiry with the EEOC on December 20, 2021, regarding Hawaiian Airlines' discriminatory actions. That charge remains pending.

I declare under penalty of perjury that the forgoing is true and correct.

1/5/2022	DocuSigned by: Sabrina Franks 76FD9A24174D4F4...
Date	Signature