

1 ISMAIL J. RAMSEY (CABN 189820)  
United States Attorney  
2 PAMELA T. JOHANN (CABN 145558)  
Chief, Civil Division  
3 MICHAEL A. KEOUGH (NYRN 5199666)  
Assistant United States Attorney

4 1301 Clay Street, Suite 340S  
5 Oakland, California 94612-5217  
Telephone: (510) 637-3721  
6 Facsimile: (510) 637-3724  
7 michael.keough@usdoj.gov

8 *Attorneys for Plaintiffs*

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA and  
12 PETE BUTTIGIEG, in his official capacity as  
13 United States Secretary of Transportation,

14 Plaintiffs,

15 v.

16 Southwest Airlines Co.,

17 Defendant.

Case No.

**COMPLAINT**

18  
19 The United States of America and Pete Buttigieg, in his official capacity as the United States  
20 Secretary of Transportation, file this complaint against Southwest Airlines Co. (“Southwest”) and allege  
21 as follows:

22 **INTRODUCTION**

23 1. In today’s busy and fast-paced world of airline travel, it is critical that passengers have  
24 accurate information about the time that flights will arrive at their destinations. Passengers rely on this  
25 information to ensure sufficient time to transfer to connecting flights, to arrive punctually to important  
26 meetings or events, and to coordinate airport transportation. Delayed flights result in potential missed  
27 connections, disruption to travel plans or other plans, increased costs due to unexpected accommodation  
28 needs, and a negative impact on overall customer satisfaction.



1 the head of the United States Department of Transportation, an executive department of the United  
2 States that is headquartered at 1200 New Jersey Avenue SE, Washington, District of Columbia 20590.

3 9. Defendant Southwest is an air carrier, as defined by 49 U.S.C. § 40102(a)(2), that holds  
4 a certificate of public convenience and necessity and is a “reporting carrier” as defined in 14 C.F.R. Part  
5 234. Southwest is incorporated in Texas and has its principal place of business in Dallas, Texas.

### 6 **JURISDICTION, VENUE, AND DIVISIONAL ASSIGNMENT**

7 10. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C. § 1345, 49  
8 U.S.C. § 46106, 49 U.S.C. § 46107(b), and 49 U.S.C. § 46305.

9 11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), 28 U.S.C. § 1395, and 49  
10 U.S.C. § 46106, because Southwest does business in this District and violations giving rise to this action  
11 occurred in this District.

12 12. Pursuant to Civil Local Rule 3-2, assignment to either the San Francisco Division or the  
13 Oakland Division is appropriate because a substantial part of the events or omissions giving rise to the  
14 claim occurred in Alameda County.

### 15 **FACTS**

16 13. In October 2022, pursuant to 49 U.S.C. § 41712(a), the U.S. Department of  
17 Transportation’s Office of Aviation Consumer Protection (OACP) initiated an investigation to determine  
18 whether Southwest had been or was engaging in an unfair or deceptive practice and unfair method of  
19 competition by holding out chronically delayed flights for more than four consecutive months.

20 14. A “chronically delayed flight” means any domestic flight that is operated at least 10  
21 times a month and arrives more than 30 minutes late (including cancelled flights) more than 50 percent  
22 of the time during that month. 14 C.F.R. § 399.81(c)(2). For purposes of determining chronically  
23 delayed flights, the Department considers all of a carrier’s flights that are operated in a given city-pair  
24 market whose scheduled departure times are within 30 minutes of the most frequently occurring  
25 scheduled departure time to be one single flight. *Id.* § 399.81(c)(3).

26 15. The holding out (*i.e.*, offering to the public) of a chronically delayed flight for more than  
27 four consecutive one-month periods represents one form of unrealistic scheduling and is an unfair or  
28

1 deceptive practice and unfair method of competition within the meaning of 49 U.S.C. § 41712. 14  
2 C.F.R. § 399.81(d).

3 16. The Department of Transportation, Bureau of Transportation Statistics tracks the on-time  
4 performance of domestic flights operated by large air carriers, including Southwest.

5 17. After reviewing flight performance data submitted by Southwest to the Department's  
6 Bureau of Transportation Statistics, OACP determined that Southwest operated two chronically delayed  
7 flights in 2022 for four consecutive one-month periods from April 2022 through July 2022.

8 a. From April 2022 through July 2022, Southwest operated a chronically delayed  
9 flight between Chicago and Oakland, California (operated as Flight 1029 in April and May 2022  
10 and as Flight 1767 in June, July, and August 2022):

- 11 i. In April 2022, Flight 1029 was more than 30 minutes late 19 out of 25  
12 trips, by an average of 74 minutes.
- 13 ii. In May 2022, Flight 1029 was more than 30 minutes late 16 out of 27  
14 trips, by an average of 80 minutes.
- 15 iii. In June 2022, Flight 1767 was more than 30 minutes late 19 out of 26  
16 trips, by an average of 87 minutes.
- 17 iv. In July 2022, Flight 1767 was more than 30 minutes late 17 out of 26 trips,  
18 by an average of 69 minutes.

19 b. From April 2022 through July 2022, Southwest operated a chronically delayed  
20 flight between Baltimore, Maryland and Cleveland, Ohio (operated as Flight 1614 in April and  
21 May 2022 and as Flight 2556 in June, July, and August 2022):

- 22 i. In April 2022, Flight 1614 was more than 30 minutes late 22 out of 26  
23 trips, by an average of 66 minutes.
- 24 ii. In May 2022, Flight 1614 was more than 30 minutes late 19 out of 27  
25 trips, by an average of 70 minutes.
- 26 iii. In June 2022, Flight 2556 was more than 30 minutes late 19 out of 29  
27 trips, by an average of 96 minutes.



1 b. between Chicago, Illinois and Oakland, California each month between April  
2 2022 and August 2022.

3 24. In August 2022, after holding out two chronically delayed flights for at least four months,  
4 Southwest continued to hold out these chronically delayed flights to be operated 58 times. These flights  
5 continued to be chronically delayed in August 2022.

6 25. In holding out these chronically delayed flights for more than four consecutive one-  
7 month periods, Southwest engaged in unrealistic scheduling of flights, and engaged in unfair or  
8 deceptive practices and unfair methods of competition in air transportation. Southwest’s holding out of  
9 these two chronically delayed flights to be operated 58 times in August 2022 violated 49 U.S.C.  
10 § 41712(a), 14 C.F.R. § 399.81(a), and 14 C.F.R. § 399.81(c)(4).

11 26. Southwest is liable to the United States Government for a civil penalty of up to \$37,377  
12 for each violation of 49 U.S.C. § 41712(a) or DOT regulations. Pursuant to 49 U.S.C. § 46301(a)(2), a  
13 separate violation takes place for each day the violation continues or, if applicable, for each flight  
14 involving the violation.

15 **RELIEF REQUESTED**

16 WHEREFORE, the United States and Pete Buttigieg, in his official capacity as the United States  
17 Secretary of Transportation, respectfully request judgment in their favor and against Southwest:

18 a. Declaring that Southwest violated 49 U.S.C. § 41712(a), 14 C.F.R. § 399.81(a), and 14  
19 C.F.R. § 399.81(c)(4);

20 b. Awarding civil penalties to the United States up to the maximum amount allowed by law  
21 for each violation of 49 U.S.C. § 41712(a), 14 C.F.R. § 399.81(a), and 14 C.F.R. § 399.81(c)(4); and

22 c. Granting such other and further relief as the Court may deem just and proper.

23 DATED: January 15, 2025

Respectfully submitted,

24 ISMAIL J. RAMSEY  
25 United States Attorney

26 /s/ Michael A. Keough  
27 MICHAEL A. KEOUGH  
28 Assistant United States Attorney

1 SUBASH IYER  
Acting General Counsel  
2 BRIAN T. STANSBURY  
Deputy General Counsel  
3 CHARLES E. ENLOE  
Assistant General Counsel  
4 PETER J. PLOCKI  
Deputy Assistant General Counsel  
5 ERIN D. HENDRIXSON  
Senior Trial Attorney  
6 Office of Litigation and Enforcement  
  
7 BLANE A. WORKIE  
Assistant General Counsel  
8 KIMBERLY GRABER  
Deputy Assistant General Counsel  
9 STUART HINDMAN  
Senior Trial Attorney  
10 Office of Aviation Consumer Protection  
11 United States Department of Transportation

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