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Attorneys for Plaintiff YVETTE MOLINA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

YVETTE MOLINA, an individual, on behalf
of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

HAWAIIAN AIRLINES, INC., a
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 20STCV28079

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: November 17, 2021

Time: 9:30 a.m.

Judge: Hon. Maren Nelson

Dept.: 17

I, Jean-Claude Lapuyade, Esq., declare as follows:

1. I am over eighteen years of age and if called as a witness, I could and would competently testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am counsel of record for

Plaintiff YVETTE MOLINA, (hereafter “Plaintiff”) in this wage and hour class action filed against HAWAIIAN AIRLINES, INC. (hereinafter “Defendant”).

2. This declaration is being submitted in support of Plaintiff’s motion for Preliminary Approval of Class Action Settlement.

I. EXHIBITS

3. Attached hereto as **Exhibit “1”** is a true and correct copy of the fully executed Joint the Stipulation of Settlement of Class Action and Release of Claims (“Agreement” or “Settlement Agreement”). Attached as **Exhibit “A”** to the Agreement is a true and correct copy of the proposed Class Notice.

4. Attached hereto as **Exhibit “2”** is a true and correct copy of the proof of filing with the Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement and Motion for Preliminary Approval of Class Action and PAGA Action Settlement evidencing Class Counsel’s compliance with California Labor Code Section 2699(l)(2).

II. INTRODUCTION

5. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of the Settlement Class is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm’s length. The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being denied or of Defendants prevailing at trial. Given that there are approximately 335 Settlement Class Members, **the average gross recovery is approximately \$1,238.80** (Net Settlement Amount divided by Settlement Class Members).

6. As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval under California law and falls within the range of reasonableness. The average Individual Settlement Share to the Settlement Class meet or exceeds awards in similar wage and hour

class actions. Moreover, the proposed Settlement Class is appropriate for provisional certification. Accordingly, Plaintiff respectfully requests that this Court grant preliminary approval of the Settlement.

III. FACTS AND PROCEDURE

A. Overview of the Litigation

7. Defendant is a publicly traded, Delaware corporation, headquartered in Honolulu, Hawai'i. Defendant has grown from a fleet of three-aircraft servicing exclusively the Hawaiian Islands, to a fleet of more than 60 commercial airplanes connecting the Hawaiian Islands with 16 North American and 10 International destinations, including 8 gateway cities in California

8. Plaintiff has worked for Defendant since April 2016 as a customer service agent at the Los Angeles International Airport. Throughout her employment, Defendant classified Plaintiff as a non-exempt employee compensated on an hourly basis, eligible to earn certain non-discretionary compensation, and entitled to legally mandated meal and rest periods and minimum wage and overtime compensation. During her employment, Plaintiff's base hourly rate ranged between \$10.50 and \$20.59 per hour. Plaintiff is a member of the IAMC and during her employment was subject to the collective bargaining agreement between Defendant and the IAMC, the "Ka 'Ike Pono - Hawaiian Airlines Employee Handbook" and the "Hawaiian Airlines California Employee Handbook Supplement".

9. Generally, Plaintiff claims that Defendant (1) miscalculated the regular rate of pay for purposes of overtime compensation and redeemed sick leave, (2) maintained unlawful meal and rest period policies and practices that failed to provide duty free meal and rest periods; (3) failed to pay for time spent waiting for and undergoing mandatory security checks, (4) issued inaccurate itemized wage statements that failed to show, *inter alia*, the total hours worked, (5) failed to pay all wages when due.

10. On May 12, 2020, Plaintiff served Defendant and the Labor and Workforce Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA Notice set forth the facts and theories supporting Defendant's alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and of her intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 et seq ("PAGA").

11. On July 23, 2020, Plaintiff filed a class action complaint in the Los Angeles Superior Court for: 1) Unfair Competition in Violation of California Business and Professions Code §§ 17200; (2) Failure to Pay Overtime Wages in Violation of California Labor Code §§ 510 *et seq.*; (3) Failure to Pay Minimum Wages in Violation of California Labor Code §§ 1194, 1197 and 1197.1; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 and 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code §226; (7) Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802; and (8) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203.

12. Subsequently, on November 3, 2020, Plaintiff filed the operative First Amended Complaint alleging a ninth cause of action for violations of the California Labor Code Private Attorney General Act (“PAGA”). Thereafter, Defendant answered the First Amended Complaint.

13. Prior to conducting any formal discovery, the Parties agreed to mediate this action. In anticipation of mediation, the Parties agreed to stay formal discovery. To prepare for mediation, the Parties agreed to informally produce certain documents and data points subject to the mediation privilege. Pursuant to that agreement, Defendant produced roughly 100% of the Class Members’ time and payroll data along with relevant policies applicable to Class Members. As discussed *infra*, Plaintiff’s counsel retained Eric Lietzow Desmond, Marcello & Amster (“DMA”), to analyze Defendant’s time and payroll data.

14. On June 3, 2021, the Parties participated in a full day mediation with esteemed wage and hour class action and PAGA mediator, Mark Rudy, Esq. After arms-length negotiations and bargaining, the parties reached an agreement to settle and signed a Memorandum of Understanding. After reaching an agreement in principle, the parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion.

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B. Class Counsel Thoroughly Investigated the Factual and Legal Issues

15. In February 2020, Class Counsel began its pre-filing investigation into Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with Plaintiff. As part of the interview process, Plaintiff produced nearly 100 pages of documents related to her employment for Defendant, including portions of Defendant's handbook, the applicable collective bargaining agreement, compensation policies and time and payroll records. At the conclusion of the interviews, Class Counsel determined that Plaintiff's complaints justified further inquiry.

16. Next, in March 2020 Class Counsel requested Plaintiff's employee file from Defendant. In response, Defendant produced hundreds of pages of documents, including but not limited, copies of Plaintiff's hiring documents, payroll and time records and performance reviews. Class Counsel reviewed and analyzed the documents and determined the documents substantiated Plaintiff's claim that Defendant miscalculated the regular rate of pay for purposes of overtime compensation and redeemed sick pay, furnished inaccurate wage statements, maintained unlawful meal and rest period policies and practices that failed to provide duty free meal and rest periods, and failed to pay all wages when due. Shortly thereafter, Class Counsel summarized the known factual and legal issues in the PAGA Notice addressed to the LWDA. Several weeks later, Class Counsel filed this action.

17. Following the Initial Status Conference, Class Counsel prepared extensive written discovery. However, prior to issuing the written discovery, the Parties agreed to mediate the action. To prepare for mediation, Class Counsel requested a number of documents and data points to further evaluate Plaintiff's claims and Defendant's potential liability exposure to the Class Members. In response to Class Counsel's request, Defendant produced the time and payroll records for the entire Class, aggregate workweek and pay period data for 100% of the Class, full and complete copies of applicable handbooks containing, *inter alia*, compensation, timekeeping, meal and rest period policies, and the pertinent collective bargaining agreements ("CBA" or "CBAs") covering the Class Members. In total, Defendant produced approximately 4.5 million cells of unique time and payroll data in addition to approximately 1,000 pages of pertinent wage and hour policies, CBAs, handbooks and other employment related material for Class Counsel to analyze.

1 18. Class Counsel then retained the business valuation, asset appraisal and litigation
2 consultants at DMA to analyze Defendant's time and payroll data. DMA provides data analysis and
3 damage modeling consulting services specializing in wage and hour class actions. DMA's team of
4 financial and data analysts are credentialed and experienced experts in their fields and have provided
5 their expertise on thousands of cases. Stated differently, the DMA is uniquely qualified to analyze
6 Defendant's time and payroll data.

7 19. DMA analyzed Defendant's time and payroll data to assist in the development of various
8 damage models. Among other things, DMA determined the approximate number of work shift,
9 workweeks, pay periods, average rate of pay, average regular rate of pay, average length of shift and
10 average number of hours worked per week and pay period during the Class Period. Among other things,
11 DMA estimated the number of unpaid wages, missed, late or truncated meal and rest periods, the amount
12 meal period premiums paid during the Class Period, and the amount of off-the-clock work performed
13 by the Class Members during the Class Period.

14 20. In advance of mediation, Class Counsel created several damage models predicated on
15 DMA analysis. Class Counsel's models calculated Defendant's potential liability exposure while
16 accounting for the uncertainties of continued litigation. These damage models informed and guided
17 Class Counsel during the mediated settlement discussions.

18 21. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
19 determining Plaintiff's suitability as a putative class representative through interviews, background
20 investigations, and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims;
21 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,
22 and the type of employer; (4) analyzing the Settlement Class' time and payroll records; (5) analyzing
23 Defendant's labor policies and practices; (6) researching settlements in similar cases as well as
24 outstanding issues which could affect settlement approval; (7) estimating Defendant's liability for
25 purposes of settlement; (8) holding phone interviews with several putative class members; (9) drafting
26 the mediation brief and (10) participating in the mediation. This investigation allowed Class Counsel
27 to fully assess the nature and magnitude of the claims being settled, as well as the impediments to
28

recovery, such as to make an independent assessment of the reasonableness of the terms to which the parties have agreed. Class Counsel only agreed to enter the Settlement after comprehensively investigating and evaluating Plaintiff's claims. Based on Class Counsel's investigation of the facts, applicable law, and marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believes this Agreement to be in the best interests of Class Members. Because the Settlement's terms are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

C. The Parties Settled at Mediation

22. On June 3, 2021, the Parties agreed to conduct a full day of mediation with renowned wage and hour class action and PAGA mediator Mark Rudy, Esq. Mr. Rudy is renowned for managing the expectations of the parties and providing a useful, neutral analysis of the issues and risks to both sides. Prior to mediation, the parties exchanged information regarding their respective claims and defenses, including their respective evaluation of the damages. While the Parties attended the mediation voluntarily, it was always at arm's length and adversarial. Without revealing any confidential information about the mediation itself, the Parties believe that a settlement could not have been reached without the specific action of Mediator Rudy at the end of the mediation after approximately eight hours of negotiations. The complete and final terms of the Parties' settlement are now set forth in the Agreement. Class Counsel submits that the Settlement constitutes a fair, adequate, and reasonable compromise of the claims at issue.

IV. ARGUMENT

A. The Court Should Preliminarily Approve the Settlement

23. The Gross Settlement Amount of \$750,000 is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Prior to mediation, Class Counsel retained DMA to develop an economic damage model measuring Defendant's potential liability exposure for both the class claims and the PAGA claims. The damage model was informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Class Counsel projected Defendant's maxim *class* liability exposure was \$2,427,079.61

– comprised of \$1,390,840.61 for **damages** and \$1,036,239.00 for penalties, i.e., waiting time and wage statement, and interest. Additionally, DMA separately estimated Defendant’s PAGA exposure at \$2,533,700. Combined, DMA projected Defendant’s maxim liability exposure at the time of mediation at \$4,960,779.61 – before any discounts for, *inter alia*, CBA preemption and exemption. Thus, the Gross Settlement Amount of \$750,000 represents approximately 15% of Defendant’s maxim liability exposure but an impressive 54% of the projected class **damages**.

24. Plaintiff contended that Defendant miscalculated the regular rate of pay for purposes of overtime compensation and redeemed sick pay. Plaintiff alleged that Defendant failed to include certain nondiscretionary incentive compensation in the regular rate. Plaintiff estimated the value of this claim at \$111,562.64 based on Defendant’s records. Defendant, however, forcefully argued, that all incentive compensation was discretionary and, thus, properly exuded from the regular rate of pay for purposes of overtime compensation. Defendant also contended that governing law provided a complete exemption based on the collective bargaining agreement between Defendant and the IAMC and the Railway Labor Act, 45 U.S.C. Sections 151 *et seq.*, from Plaintiff’s “regular rate” miscalculation claim. If successful, Defendant advanced a complete bar to Plaintiff’s recovery for this claim. Notwithstanding, Plaintiff believed that the “regular rate” represented one of, if not the, strongest claim in the litigation.

25. Plaintiff also alleges that Defendant failed to provide compliant meal periods. Specifically, Plaintiff alleges that because of her rigorous work schedule, Plaintiff and the Class Members were not able to take timely and duty-free meal periods and/or were not permitted to leave Defendant’s premises for meal periods.

26. Defendant contended that it fully complied with California meal period laws and maintained compliant policies and practices. Courts have found that where an employer’s meal period policies are compliant, individualized issues exist as to the reasons for missed, late or truncated meal periods. *See e.g. Lampe v. Queen of the Valley Medical Center*, 19 Cal.App.5th 832, 851 (2018) (holding that although only 11.1% of the employees’ time punches for meal periods were within the first 5 hours, the claim was not certifiable because individualized issues existed as to the reasons for the late meal periods). If successful, Defendant possessed a complete defense of Plaintiff’s meal period

claim. Plaintiff estimated the range of outcomes for this claim ranged between \$0 and approximately \$334,993.

27. Plaintiff also alleged that Defendant failed to provide compliant rest periods. Specifically, Plaintiff alleged that because of their rigorous work schedule they were not able to take timely and duty-free rest periods and/or were not permitted to leave Defendant's premises during rest periods.

28. Again, Defendant denied liability and asserted that it maintained legally compliant rest period policies and practices throughout the Class Period. Plaintiff contended that this claim was potentially worth about \$334,993.77, but it would have mainly relied on Class Member testimony, making it a riskier claim at class certification and liability stages. Specifically, this claim assumed an unlikely 100% violation rate given. Defendant's contentions that it maintained compliant rest period policies and practices and scheduled Class Members to account for rest periods. Based on these contentions, Defendant likely would have argued that only a small number of Class Members missed their rest breaks on a few occasions, if any. Therefore, certification likely would have required depositions of Class Members, and Defendant surely would have obtained opposing declarations stating either rest breaks were taken, or rest breaks were voluntarily waived. Accordingly, the rest break claim was heavily discounted in Plaintiff's valuation of the case.

29. Plaintiff also alleged that Defendant failed to pay for all hours worked. Specifically, Plaintiff asserted that Defendant failed to pay for all time spent waiting for and undergoing mandatory airport security checks, and for a brief period, COVID-19 screening. Recently, the California Supreme Court in *Frlekin v. Apple, Inc.* 8 Cal.5th 1038 (2020) concluded that "[the] plaintiffs' time spent on [the defendant's] premises waiting for, and undergoing, mandatory exit searches ... is compensable as 'hours worked.'" (*Id.* at 1058.) Plaintiff contends that Defendant maintained a similar policy at its airport operations in California during the Class Period.

30. Defendant vigorously denied liability for claim. Defendant argued that employees were not subjected to any pre-shift survey and health screenings on a regular basis, and that any pre-shift survey and health screenings that did occur were completed while on-the-clock and/or took de minimis time. Defendant also argued this claim, even if successful, was limited to only a small portion of the

1 class period during the time Covid-19 began affecting Defendant's airport operations. Regarding the
2 security checks, Defendant argued that employees were not subjected to any security checks by
3 Defendant and that employees were not subject to any level of control by Defendant during any security
4 checks mandated by federal law and administered by the TSA. Consequently, any security checks
5 performed while off-the-clock failed to give rise to a claim for unpaid wages. Notwithstanding
6 Defendant's arguments, Plaintiff perceived the off-the-clock as the strongest claim in the Actions. DMA
7 estimated Defendant's exposure for this claim at \$442,215.39.

8 31. Plaintiff alleged that Defendant required the Settlement Class Members to use their
9 personal cell phone to obtain and view work schedules. Again, Defendant vigorously denies any
10 liability for this claim. Defendant argues that any cell phone use was voluntary, never mandatory, and
11 contrary to written policies. Defendant also offered evidence that work schedules were regularly posted
12 in the employee office where copies were made available to employees to take home. This claim was
13 also heavily discounted based on Defendant's defenses. Plaintiff estimated Defendant's exposure for
14 this claim ranged between \$0 and \$167,075.

15 32. Generally, Plaintiff alleges that Defendant's aforementioned violations resulted in
16 derivative violations of Labor Code sections 203 and 226(a). Class Counsel considered the arguable
17 presence of various penalties and weighed the potential recoveries against probable defenses.
18 Specifically, Defendant argued that Plaintiff could not prove the "willful" prong necessary to obtain
19 waiting time penalties under Cal. Lab. Code § 203. Additionally, Defendant argued that Plaintiff could
20 not show that Class Members suffered an "injury" as a result of wage statement violations, as required
21 by Cal. Lab. Code § 226. Defendant also argued that that meal and rest period violations do not entitled
22 employees like Plaintiff and the Class Members to pursue the derivative waiting time and itemized
23 wage statement penalties. Although the Settlement Class arguably could have seen a payout of
24 \$1,036,239.00 for these penalties if Plaintiff prevailed on every penalty claim, Plaintiff would not
25 recover any derivative penalties if they failed to prove the underlying claims. Moreover, Plaintiff would
26 have to overcome damaging precedent to prove the Class deserved the penalties. Plaintiff could not give
27

1 the penalty claims great weight given that they depended on proving the underlying claims, which had
2 their own risks.

3 33. At the time of mediation, Plaintiff estimated Defendant's PAGA exposure at
4 approximately \$2,533,700. In order to recover any PAGA penalties, Plaintiff would be required at trial
5 to prove each of the underlying Labor Code violations. Here, Plaintiff would need to prove that each
6 Aggrieved Employee suffered a violation for each pay period the employee worked. Again, Defendant
7 raised several defenses that presented serious threats to the claims of the Plaintiff and the Aggrieved
8 Employees. Defendant asserted that its employment policies and practices complied with all applicable
9 labor laws in the arguments discussed above. In all, Plaintiff's PAGA liability exposure is hotly
10 contested.

11 34. As a threshold issue, Defendant argued that Plaintiff's claims for overtime, meal and rest
12 period violations – all based on violations of the California Labor Code – were preempted and/or
13 exempted by the CBA between IAMC and Defendant and the Labor Management Relations Act
14 ("LMRA") at 29 U.S.C. §§ 141 *et seq.* and the Railway Labor Act, 45 U.S.C. Sections 151 *et seq.*
15 Consequently, Plaintiff confronted the risk that most Plaintiff's claims for damages and penalties were
16 preempted and/or exempted by the CBA.

17 35. Assuming Plaintiff successfully argued against preemption and exemption, Plaintiff then
18 faced the challenge of a contested class certification. The risks attendant to the certification of similar
19 wage and hour claims are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999
20 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded a \$110 million judgement against
21 an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement
22 in favor of the employer. (*See also O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087
23 (decertification of wage and hour misclassification action); *see also Duran v. U.S. Bank National*
24 *Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor plaintiffs in a wage and hour class
25 action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 ("[T]he reason, if any, that
26 employees might not take their breaks were predominantly individualized questions of fact not
27 susceptible to class treatment."); *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341 (affirming

1 denial of certification because employees' declarations attesting to having taken meal and rest breaks
2 demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores,*
3 *L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of
4 proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed*
5 *Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest
6 period claims based on the predominance of individual issues.) Collectively, the examples cited above
7 illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification
8 through a contested motion is a significant risk factor favoring settlement.

9 36. Finally, continuing to litigate this action would require continued and extensive resources
10 coupled with significant Court time to proceed through trial and post-trial motions; which can often
11 take years. Furthermore, wage and hour litigation are complex and expensive, as it often necessitates
12 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at
13 trial, Plaintiff is acutely aware that a judgment does not end the litigation and expects that Defendant
14 would appeal any unfavorable judgment.

15 **B. Proposed Notice Informs the Class About the Case and Settlement**

16 37. The Parties jointly drafted the Class Notice which fairly and neutrally informs the
17 Settlement Class of their rights and remedies in this action. The Settlement Administrator will first
18 verify addresses, then mail the proposed Class Notice to entire Settlement Class. The Notice will
19 include information regarding the nature of the lawsuit, a summary of the substance of the Settlement's
20 terms, the class definition, the procedure and time period within which to requests for exclusions or
21 objections to the Settlement, the date for the final approval hearing, the formula used to calculate
22 settlement payments, and the terms and scope of the Released Claims. Agreement at §III(L). This
23 method was negotiated by the Parties to ensure delivering the most reasonable method of notice to the
24 Settlement Class while ensuring cost effective administration of the Settlement.

25 38. As detailed in the Agreement, the method of disseminating the proposed Class Notice and
26 contents of the Proposed Class Notice satisfy due process and the California Rule of Court 3.766.

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C. The Court Should Preliminarily Approve the Enhancement Award

39. Approximately 335 Class Members will share in the estimated \$415,000 Net Settlement Amount due entirely to the effort and commitment of Plaintiff. Subject to Court approval, therefore, the Settlement provides for a Class Representative Service Award of \$10,000¹ for Plaintiff. The service award is fair and reasonable compensation for Plaintiff's efforts bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status of her case and the strategies for prosecuting the claims, reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class, and agreeing to provide Defendant a general release of all claims arising out of their employment.

40. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class Representative Service Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated Class Representative Service Award.

¹ The amount of the requested enhancement payment-\$10,000-is reasonable by reference to the amounts that California courts (both federal and state) have repeatedly found to be reasonable for wage and hour class action settlements: *See Baker v. LA. Fitness Int'l, LLC*, No. BC438654 (L.A. County Super. Ct. Dec. 12, 2012) (awarding \$10,000 enhancement payments to three of the named plaintiffs); *Blue v. Codwell Banker Residential Brokerage Co.*, No. BC417335 (L.A. County Super. Ct. Mar. 21, 2011) (awarding \$10,000 enhancement payment); *Buckmire v. Jo-Ann Stores, Inc.*, No. BC394795 (L.A. County Super. Ct. June 11, 2010) (awarding \$10,000 enhancement payments to the named plaintiff); *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (L.A. County Super. Ct. Oct. 3, 2013) (awarding \$10,000 enhancement payment); *Ethridge v. Universal Health Services, Inc.*, No. BC391958 (L.A. County Super. Ct. May 27, 2011) (awarding \$10,000 enhancement payment); *Hickson v. South Coast Auto Insurance Marketing, Inc.*, No. BC390395 (L.A. County Super. Ct. Mar. 27, 2012) (awarding \$10,000 enhancement payment); *Hill v. Sunglass Hut Int'l, Inc.*, No. BC422934 (L.A. County Super. Ct. July 2, 2012) (awarding \$10,000 enhancement payments to the named plaintiffs); *Kabamba v. Victoria's Secret Stores, LLC*, No. BC368528 (L.A. County Super. Ct. Aug. 19, 2011) (awarding enhancement payments of \$ 10,000 to the named plaintiffs along with additional compensation for their general release of claims); *Magee v. American Residential Services, LLC*, No. BC423798 (L.A. County Super. Ct. Apr. 21, 2011) (awarding \$15,000 enhancement payment); *Mares v. BFS Retail & Commercial Operations, LLC*, No. BC375967 (L.A. County Super. Ct. June 24, 2010) (awarding \$15,000 enhancement payments to the named plaintiffs); *Nevarez v. Trader Joe's Co.*, No. BC373910 (L.A. County Super. Ct. Jan. 29, 2010) (awarding \$10,000 enhancement payment); *Ordaz v. Rose Hills Mortuary, LP.*, No. BC386500 (L.A. County Super. Ct. Mar. 19, 2010) (awarding 10,000 enhancement payments to the named plaintiffs); *Sheldon v. AHMC Monterey Park Hospital LP*, No. BC440282 (L.A. County Super. Ct. Feb. 22, 2013) (awarding \$10,000 enhancement payment); *Silva v. Catholic Moray Services, Inc.*, No. BC408054 (L.A. County Super. Ct. Feb. 8, 2011) (awarding \$10,000 enhancement payments to the named plaintiffs); *Weisbarth v. Banc West Investment Services, Inc.*, No. BC422202 (L.A. County Super. Ct. May 24, 2013) (awarding \$10,000 enhancement payment); *Zamora v. Balboa Life & Casualty LLC*, No. BC360026 (L.A. County Super. Ct. Mar. 7, 2013) (awarding \$25,000 enhancement payments to the named plaintiffs); *Acheson v. Express, LLC*, No. 109CV135335 (Santa Clara County Super. Ct. Sep. 13, 2011) (awarding \$10,000 enhancement payment); *Aguilar v. Cingular Wireless, LLC*, No. CV 06-8197 DDP (AJWx) (C.D. Cal. Mar. 17, 2011) (awarding \$14,767 enhancement payment); *Bejarano v. Amerisave Mortgage Corp.*, No. EDCV 08-00599 SGL (Opx) (C.D. Cal. June 22, 2010) (awarding \$10,000 enhancement payment); *Carbajal v. Sally Beauty Supply LLC*, No. CIVVS 1004307 (San Bernardino Super. Ct. Aug. 6, 2012) (awarding \$10,000 enhancement payments to the named Plaintiffs); *Contreras v. Serco Inc.*, No. 10-cv-04526-CAS-JEMx (CD. Cal. Sep. 10, 2012) (awarding \$10,000 enhancement payment); *Guerrero v. R.R. Donnelley & Sons Co.*, No. RIC 10005196 (Riverside Super. Ct. July 16, 2013) (awarding \$10,000 enhancement payment); *Kisliuk v. ADT Security Services, Inc.*, No. CV08-0324 DSF (RZx) (C.D. Cal. Jan. 10, 2011) (awarding \$10,000 enhancement payment); *Morales v. BCBG Maxaria Int'l Holdings, Inc.*, No. JCCP 4582 (Orange County Super. Ct. Jan. 24, 2013) (awarding \$10,000 enhancement payment); and *Barrett v. Doyon Security Services, LLC*, Nos. BS900199, BS900517 (San Bernardino County Super. Ct. Apr. 23, 2010) (awarding \$10,000 enhancement payment).

D. The Court Should Preliminary Approve the Negotiated Class Counsel Award

41. Class Counsel took this matter on a contingency fee basis and invested significant time and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average Individual Settlement Payment illustrates the demonstrably positive outcome for the Class Members. The Agreement provides for a Class Counsel Award in the amount of up to one-third of the Gross Settlement Amount and litigation costs and expenses not to exceed \$25,000. Agreement at §III(M)(3). In light of the positive outcome for the Settlement Class, and in light of the supporting authority, the proposed Class Counsel award is fair and reasonable.

42. Plaintiff will file a formal motion for the negotiated Class Counsel Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated attorneys' fees.

E. The Court Should Provisionally Certify the Settlement Class

43. For the purpose of Settlement, Plaintiff contends, and Defendant does not dispute, that provisional certification of the Settlement Class is appropriate.

44. Generally, the proposed Class consists of all of Defendant's current and former non-exempt Clerical, Office, Stores, Fleet and Passenger Service Employees under the collective bargaining agreement between Defendant and the IAMC who worked in California during the Class Period. Defendant's records show that the Class consists of approximately 335 individuals, making joinder of all Settlement Class Members impracticable. Further, because all Settlement Class Members are Defendant's current and former employees, the class is readily ascertainable from Defendant's regular business records, i.e., payroll records.

45. The California statutes relating to each of Plaintiff's claims apply with equal force and effect to the entire Settlement Class. Factually, Defendant's policies and practices apply class-wide and Plaintiff contends that Defendant's liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Class Members.

46. Plaintiff's contends that her wage and hour claims are typical of the proposed Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Class. Plaintiff alleges that she was injured by the same company-wide practices to which the proposed Class was subject and seeks the same relief. Plaintiff has already demonstrated her ability to advocate for the interests of the Settlement Class by initiating this litigation, undertaking extensive class discovery, and evaluating the proposed settlement to assure that it is fair.

47. A class action is superior to a multitude of individual lawsuits. Given the size and amount of each individual Settlement Class Member's claim, Class Members likely have little incentive to litigate their claims on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case adjudication.

F. Class Counsel’s Experience

48. Plaintiff, the Settlement Class Members and the Aggrieved Employees are represented by competent and experienced counsel to pursue their claims. I established the JCL Law Firm, APC (“Firm”), in 2010. The Firm is a boutique plaintiff firm representing aggrieved employees and consumers throughout California in wage and hour class actions, PAGA Actions and complex multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade, Esq. (Partner/Owner), Tesla Stone (Paralegal), Leilani Edmunds (Legal Secretary), Amanda De Blouw (Legal Assistant).

49. I am qualified to represent the Plaintiff, the State of California and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. Additionally, I have extensive complex mass tort litigation experience and complex construction product liability experience. I can, will and have adequately represented the interests of the Plaintiff, the State of California and the Aggrieved Employees throughout this action.

1 50. I have represented consumers and employees in California class actions, and complex
2 multi-party product liability actions exclusively for more than 13 years. I have been in practice as a
3 plaintiffs' civil litigation attorney since April 2007.

4 51. I have significant class counsel and collective action counsel experience. I served as class
5 and/or collective (PAGA) counsel in the following matters:

6 a. *Nunes v. Home Depot U.S.A., Inc.* San Joaquin Superior Court Case No. Case
7 No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross appointed the
8 Jean-Claude Lapuyade, Esq. as Class Counsel and approved a \$1.5 million dollar wage
9 and hour class and PAGA action settlement for, among things, unpaid off-the-clock
10 work.

11 b. *Munoz v. AMTCR, Inc.,* San Bernardino Superior Court Case No.
12 CIVDS2001914 (August 24, 2021 – Hon. David Cohn approved a \$1.85 million dollar
13 wage and hour class and PAGA action for, among other things, inaccurate itemized wage
14 statements, and appointed the JCL Law Firm, APC as Class Counsel.)

15 c. *Rodriguez v. RSI Home Products, Inc.,* San Bernardino Superior Court Case No.
16 CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and
17 PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed
18 the JCL Law Firm, APC as Class Counsel)

19 d. *Jer Vang v. Bridge Property Management,* Alameda County Superior Court,
20 Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and
21 PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC
22 acted as class counsel for the settlement class and as representative PAGA counsel the
23 State of California and the Aggrieved Employees.)

24 e. *Johnson v. Volt Management Corp., Inc. et al.,* Los Angeles County Superior
25 Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a
26 PAGA Settlement negotiated on behalf of the State of California and the aggrieved
27 employees by the JCL Law Firm, APC.)
28

1 f. *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior
2 Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed
3 the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement
4 for, *inter alia*, missed meal and rest periods.)

5 g. *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court,
6 Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA
7 Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC
8 acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)

9 h. *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No.
10 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL
11 Law Firm as Class Counsel and granted final approval of wage and hour class action for,
12 *inter alia*, off-the-clock work.)

13 i. *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-
14 00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class
15 Counsel and granted final approval of wage and hour class action for off-the-clock
16 work.)

17 j. *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case
18 No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm
19 as class counsel and granted final approval of wage and hour class action for meal period
20 violations.)

21 k. *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No.
22 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of
23 PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC
24 acted as lead counsel.)

25 l. *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-
26 2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement
27

for, *inter alia*, missed meal and rest periods. JCL LAW Firm, APC, acted as lead counsel.)

m. *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)

n. *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)

o. *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)

p. *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No Case No. 37-2018-00043601 (May 31, 2019 – Hon, Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)

q. *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)

r. *Moschetto v. Pillow Global, Inc.* San Diego Superior Court, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm,

APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)

s. *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)

t. *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);

u. *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);

v. *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)

w. *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)

x. *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);

y. *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);

z. *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);

1 aa. *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-
2 CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices
3 arising out of Civil Code Section 1940.1);

4 52. Since 2010, my firm has successfully resolved more than sixty (65) cases and recovered
5 in excess of \$75 million on behalf of the Firm's clients.

6 53. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a
7 favorable verdict for the firm's clients.

8 54. Finally, I have published appellate experience in *William Blanchette et al., v. The*
9 *Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

10 55. Consequently, I was named to the prestigious Thomson Reuters, Super Lawyers, Rising
11 Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising
12 Star list recognizes the top 2.5% of eligible attorneys. (see
13 https://www.superlawyers.com/about/selection_process.html.)

14 I declare under the penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct. Executed this 25nd day of October 2021, at San Diego, California.

16
17 **JCL LAW FIRM, APC**

18 By: 
19 Jean-Claude Lapuyade
20 Attorneys for Plaintiff
21
22
23
24
25
26
27
28

EXHIBIT 1

1 JEAN-CLAUDE LAPUYADE, ESQ. (SBN 248676)
2 **JCL LAW FIRM, APC**
3 3990 OLD TOWN AVENUE, SUITE C204
4 SAN DIEGO, CA 92110
5 TEL: 619-599-8292
6 FAX: 619-599-8291

7 **ZAKAY LAW GROUP, APLC**
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9 3990 OLD TOWN AVENUE, SUITE C204
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21 865 South Figueroa Street, 24th Floor
22 Los Angeles, California 90017-2566
23 Telephone: (213) 633-6800
24 Fax: (213) 633-6899

25 Attorneys for Defendant Hawaiian Airlines, Inc.

26 **SUPERIOR COURT OF CALIFORNIA**

27 **COUNTY OF LOS ANGELES**

28 YVETTE MOLINA, an individual, on behalf
of herself and on behalf of all persons
similarly situated,

PLAINTIFF,

vs.

HAWAIIAN AIRLINES, INC., a
Corporation; and DOES 1 through 50,
Inclusive;

DEFENDANTS.

Case No. 20STCV28079

[Action Filed 07/23/2020]

**STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE OF
CLAIMS**

Judge: Hon. Maren E. Nelson
Dept.: 17

1 This Stipulation of Class Action Settlement and Release of Claims is entered into by and
2 between Plaintiff YVETTE MOLINA (hereinafter “Plaintiff”), individually and on behalf of others
3 similarly situated, and Defendant HAWAIIAN AIRLINES, INC. (hereinafter “Defendant”):

4 **I. DEFINITIONS**

- 5 A. “Action” shall mean the putative class action lawsuit designated *Molina v. Hawaiian*
6 *Airlines, Inc.*, Los Angeles County Superior Court, Case No. 20STCV28079, filed
7 July 23, 2020.
- 8
- 9 B. “Aggrieved Employees” shall mean all non-exempt Clerical, Office, Stores, Fleet and
10 Passenger Service Employees under the collective bargaining agreement between
11 Defendant and the International Association of Machinists and Aerospace Workers
12 (AFL-CIO) (“IAMC”), who are or previously were employed by Defendant in
13 California during the PAGA Period.
- 14
- 15 C. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
16 Class Action and Release of Claims.
- 17
- 18 D. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and
19 Shani Zakay of Zakay Law Group, APLC.
- 20
- 21 E. “Class Counsel Award” means the award of fees and expenses that the Court
22 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff
23 and the Class in the Action, consisting of attorneys’ fees not to exceed one-third of
24 the Gross Settlement Amount, currently estimated to be \$250,000 out of \$750,000
25 plus actual costs and expenses not to exceed \$25,000.00 subject to Court approval.
26 Class Counsel’s award for attorneys’ fees will be divided equally between Class
27 Counsel (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC).
- 28

- 1 F. "Class Data" means information regarding Class Members that Defendant will in
2 good faith compile from its records and provide to the Settlement Administrator. It
3 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
4 Member's full name; last known address; Social Security Number; and start dates and
5 end dates of employment.
6
- 7 G. "Class Members" or the "Class" means all non-exempt Clerical, Office, Stores, Fleet
8 and Passenger Service Employees under the collective bargaining agreement between
9 Defendant and the IAMC, who are or previously were employed by Defendant in
10 California during the period of April 6, 2016 through and including August 31, 2021
11 (the "Class Period").
12
- 13 H. "Class Period" means the period from April 6, 2016 through and including August
14 31, 2021.
15
- 16 I. "Class Representative Service Award" means the amount that the Court authorizes to
17 be paid to the Class Representative, in addition to her Individual Settlement Payment
18 and her pro-rata share of the PAGA Settlement Payment, in recognition of her efforts
19 and risks in assisting with the prosecution of the Action and in exchange for executing
20 a General Release of Defendant.
21
- 22 J. "Class Representative" shall mean plaintiff YVETTE MOLINA.
23
- 24 K. "Court" means the Superior Court for the State of California, County of Los Angeles
25 presiding over the Action.
26
- 27 L. "Defendant" shall mean HAWAIIAN AIRLINES, INC.
28

1 M. "Effective Date" means the earliest date, following entry by the Court of an order
2 and judgment finally approving this Settlement, upon which one of the following have
3 occurred: (i) if no objection is filed to the Settlement and no objector appears at the
4 hearing on final approval, the date of the Court's entry of the order granting final
5 approval of the Settlement and judgment thereon, (ii) if an objection is filed to the
6 Settlement and/or an objector appears at the hearing on final approval, then the earlier
7 of the following: (a) if objections are overruled, and no appeal is taken, then the
8 expiration of all potential appeal periods without a filing of a notice of appeal of the
9 final approval order or judgment; (b) 20 calendar days after final affirmance of the
10 final approval order and judgment by an appellate court as a result of any appeal(s),
11 or (c) final dismissal or denial of all such appeals (including any petition for review,
12 rehearing, certiorari, etc.) such that the final approval order and judgment is no longer
13 subject to further judicial review.
14

15
16 N. "Funding Date" shall mean sixty-five (65) calendar days after the Effective Date and
17 is the date Defendant transfers the Total Settlement Amount into the QSF in accord
18 with the terms of this Agreement.
19

20 O. "Gross Settlement Amount" means the total sum of Seven Hundred Fifty Thousand
21 Dollars (\$750,000.00) to be paid by Defendant in full satisfaction of all Released
22 Class Claims and Released PAGA Claims, which includes the sum of the Individual
23 Settlement Payments, the Class Representative Service Awards, the Class Counsel
24 Award, PAGA Settlement Payment, and the Settlement Administration Costs. The
25 employer's share of payroll taxes as to the portion of Individual Settlement Payments
26
27
28

1 constituting wages shall be paid by Defendant separate from the Gross Settlement
2 Amount.

3
4 P. "Individual Settlement Payment" means the amount payable from the Net Settlement
5 Amount to each Settlement Class Member and excludes any amounts distributed to
6 Aggrieved Employees pursuant to PAGA.

7
8 Q. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class
9 Counsel Award, Class Representative Service Award, PAGA Settlement Payment,
10 and Settlement Administration Costs.

11
12 R. "Notice Packet" means the Class Notice to be provided to the Class Members by the
13 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
14 than formatting changes to facilitate printing by the Settlement Administrator).

15 S. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
16 Labor Code § 2698 *et seq.*

17
18 T. "PAGA Payment Ratio" means the respective Workweeks during the PAGA Period
19 for each Aggrieved Employee divided by the sum total of the Workweeks for all
20 Aggrieved Employees during the PAGA Period.

21
22 U. "PAGA Period" means the period of April 6, 2019 through and including August 31,
23 2021.

24
25 V. "PAGA Settlement Payment" shall mean Forty Thousand Dollars (\$40,000.00) to be
26 allocated from the Gross Settlement Amount, with 25% of the payment going to the
27
28

1 Aggrieved Employees and 75% of the payment going to the Labor and Workforce
2 Development Agency (“LWDA”).

3
4 W. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either
5 Plaintiff or Defendant, individually.

6
7 X. “Payment Ratio” means the respective Workweeks for each Class Member divided
8 by the sum total Workweeks for all Class Members.

9
10 Y. “Plaintiff” shall mean YVETTE MOLINA.

11
12 Z. “QSF” means the Qualified Settlement Fund established, designated and maintained
13 by the Settlement Administrator to fund the Gross Settlement Amount.

14 AA. “Released Class Claims” means all class action claims arising out of or related to the
15 factual allegations pled in the Action, including the operative complaint, which
16 occurred during the Class Period. The Released Class Claims include but are not
17 limited to all claims arising out of or related to unpaid minimum wage and overtime
18 resulting from off-the-clock work during the Class Period. Upon entry of final
19 judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff
20 and the Settlement Class Members will release Defendant and the Released Parties
21 from all remedies that could be claimed in connection with the Released Claims
22 including, but not limited to, statutory, constitutional, contractual damages, unpaid
23 costs, penalties, punitive damages, interest, attorneys’ fees, litigation costs,
24 restitution, and equitable relief.

25
26
27 BB. “Released PAGA Claims” means any and all claims for civil penalties, fees and costs
28

1 arising under PAGA expressly alleged in the Action (including the operative
2 complaint) and Plaintiff's notice letter to the LWDA which occurred during the
3 PAGA Period.
4

5 CC. "Released Parties" shall mean Defendant and all affiliated predecessor and successor
6 entities, and each such entity's respective present and former subsidiaries, affiliates,
7 parents, agents, employees, members, investors, partners, owners, directors, officers,
8 attorneys, trustees, insurers, representatives, predecessors, successors, and assigns.
9

10 DD. "Response Deadline" means the date forty-five (45) days after the Settlement
11 Administrator mails Notice Packets to Class Members and the last date on which
12 Class Members may submit written requests for exclusion or objections to the
13 Settlement.
14

15 EE. "Settlement" means the disposition of the Action pursuant to this Agreement.
16

17 FF. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
18 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement
19 Administrator establishes, designates and maintains, as a QSF under Internal Revenue
20 Code section 468B and Treasury Regulation section 1.468B-1, into which the Gross
21 Settlement Amount is deposited for the purpose of resolving the claims of Settlement
22 Class Members and Aggrieved Employees. The Settlement Administrator shall
23 maintain the funds until distribution in an account(s) segregated from the assets of
24 Defendant and any person related to Defendant. ***Interest accrued on the Gross
25 Settlement Amount, if any, shall be paid and distributed to the Settlement Class
26 Members as part of their respective Individual Settlement Payment.***
27
28

1 GG. "Settlement Class Members" or "Settlement Class" means all Class Members who
2 have not submitted a timely and valid written request for exclusion as provided in this
3 Agreement.

4
5 HH. "Workweeks", for purposes of calculating the distribution of the Net Settlement
6 Amount, means the number of weeks of employment during the Class Period that
7 each Class Member worked in California. The Settlement Administrator will calculate
8 the number of Workweeks by calculating the number of days each Class Member was
9 employed during the Class Period, dividing by seven (7), and rounding up to the
10 nearest whole number. For purpose of determining the Individual Settlement
11 Payments and the Settlement Allocation, each Class Member who is a former
12 employee no longer working for Defendant will be assigned two (2) additional
13 Workweeks.
14

15
16 II. "PAGA Workweeks", for purposes of calculating the distribution of the Aggrieved
17 Employee Payment (as defined below in Section III.M.11), as defined herein, means
18 the number of weeks of employment during the PAGA Period that each Aggrieved
19 Employee worked in California. The Settlement Administrator will calculate the
20 number of Workweeks by calculating the number of days each Aggrieved Employee
21 was employed during the PAGA Period, dividing by seven (7), and rounding up to
22 the nearest whole number.
23

24 **II. RECITALS**

25 A. On May 12, 2020, Plaintiff Molina filed a Notice of Violations with the Labor and
26 Workforce Development Agency (LWDA) and served the same on Defendant.
27
28

1 B. On July 23, 2020, plaintiff Molina filed the Action for:

2
3 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;

4
5 2. Failure to pay minimum wages in violation of California Labor Code sections
6 1194, 1197 and 1197.1;

7
8 3. Failure to pay overtime wages in violation of California Labor Code sections
9 510 *et seq*;

10
11 4. Failure to provide required meal periods in violation of California Labor Code
12 sections 226.7 and 512 and the applicable IWC wage order;

13
14 5. Failure to provide required rest periods in violation of California Labor Code
15 sections 226.7 and 512 and the applicable IWC wage order;

16
17 6. Failure to provide accurate itemized wage statements in violation of California
18 Labor Code section 226;

19
20 7. Failure to reimburse employees for required expenses in violation of
21 California Labor Code section 2802; and

22
23 8. Failure to provide wages when due in violation of California Labor Code
24 sections 201, 202 and 203.

25 C. On November 3, 2020, Plaintiff Molina filed the First Amended Complaint (“FAC”)
26 against Defendant adding a ninth cause of action for violations of PAGA.

27 D. On June 3, 2021, the Parties participated in mediation presided over by Mark Rudy,
28 Esq., a well-respected wage and hour class action mediator. The mediation concluded

1 in an impasse. However, at the conclusion of the mediation, each side, represented
2 by its respective counsel, agreed to settle the Action based on a Mediator's proposal
3 which was memorialized in the form of a Memorandum of Understanding.
4

- 5 E. This Agreement replaces and supersedes the Memorandum of Understanding and any
6 other agreements, understandings, or representation between the Parties. This
7 Agreement represents a compromise and settlement of highly disputed claims.
8 Nothing in this Agreement is intended or will be construed as an admission by
9 Defendant that the claims in the Action of Plaintiff or the Class Members have merit
10 or that Defendant bears any liability to Plaintiff or the Class on those claims or any
11 other claims, or as an admission by Plaintiff that Defendant's defenses in the Action
12 have merit. The Parties agree to certification of the Class for purposes of this
13 Settlement only. If for any reason the Settlement does not become effective,
14 Defendant reserves the right to contest certification of any class for any reason and
15 reserves all available defenses to the claims in the Action.
16
17

18 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:
19

20 **III. TERMS OF AGREEMENT**

21 A. Settlement Consideration and Settlement Payments by Defendant.

- 22
23 1. Settlement Consideration. In full and complete settlement of the Action, and
24 in exchange for the releases set forth herein, Defendant will pay the Gross
25 Settlement Amount of Seven Hundred Fifty Hundred Thousand Dollars
26 (\$750,000.00), which will be used to pay the Individual Settlement Payment,
27 the Class Representative Service Award, the Class Counsel Award, PAGA
28

1 Settlement Payment, and the Settlement Administration Costs, as specified in
2 this Agreement. The Parties agree that this is a non-reversionary Settlement
3 and that no portion of the Gross Settlement Amount shall revert to Defendant.
4 Other than the Defendant's share of employer payroll taxes on the portion of
5 the Individual Settlement Payments constituting wages, Defendant shall not
6 be required to pay more or less than the Gross Settlement Amount, except as
7 provided for below in Section III.A.2.
8

- 9
- 10 2. Class Size. At the time of mediation, Defendant estimated that the Settlement
11 Class was comprised of 335 individuals who collectively worked
12 approximately 28,500 Workweeks ("Projected Workweeks"). In regard
13 hereto, Defendant will provide a declaration under penalty of perjury
14 confirming the number of Class Members and Workweeks during the Class
15 Period. If, at the time of Defendant's declaration, the actual number of
16 Workweeks exceeds the Projected Workweeks by more than 10% -- that is,
17 the actual number of Workweeks exceeds 31,350 Workweeks-- Defendant
18 shall have the option to increase the Gross Settlement Amount proportionally
19 with each added Workweek at a rate of \$23.92 per Workweek. In the event
20 this provision is triggered, the Gross Settlement Amount will automatically
21 increase accordingly, the Class Counsel Award requested will increase
22 proportionally, the Administration costs will increase as necessary, and all
23 such changes will be incorporated into the Notice Packet without the need for
24 further/additional approval of the Court.
25
26
27
28

1 3. Settlement Payment. Defendant shall pay, via wire transfer, the Gross
2 Settlement Amount to the Settlement Administrator on the Funding Date.

3
4 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
5 payroll taxes on the portion of the Individual Settlement Payments
6 constituting wages are in addition to the Gross Settlement Amount and shall
7 be paid together with the Gross Settlement Amount.

8
9 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
10 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
11 release the Released Parties from the Released Class Claims for the Class Period.

12 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
13 consideration set forth in this Agreement, the Plaintiff, the Aggrieved Employees, the
14 LWDA, and the State of California release the Released Parties from the Released
15 PAGA Claims for the PAGA Period.

16
17 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
18 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
19 Released Parties from any and all claims, whether known or unknown, which exist or
20 may exist on her behalf as of the date of this Agreement, including but not limited to
21 any and all tort claims, contract claims, wage claims, wrongful termination claims,
22 disability claims, benefit claims, public policy claims, retaliation claims, statutory
23 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
24 defamation claims, fraud claims, quantum meruit claims, and any and all claims
25 arising under any federal, state or other governmental statute, law, regulation or
26 ordinance, including, but not limited to claims for violation of the Fair Labor
27
28

1 Standards Act, the California Labor Code, the Wage Orders of California's Industrial
2 Welfare Commission, other state wage and hour laws, the Americans with
3 Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee
4 Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the
5 California Fair Employment and Housing Act, the California Family Rights Act, the
6 Family Medical Leave Act, California's Whistleblower Protection Act, California
7 Business & Professions Code Section 17200 et seq., and any and all claims arising
8 under any federal, state or other governmental statute, law, regulation or ordinance.
9 Plaintiff also waives and relinquishes any and all claims, rights or benefits that she
10 may have under California Civil Code § 1542, which provides as follows:
11

12
13 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
14 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
15 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
16 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
17 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE***
18 ***DEBTOR OR RELEASED PARTY.***
19

20 Thus, notwithstanding the provisions of California Civil Code section 1542, and to
21 implement a full and complete release and discharge of the Released Parties, Plaintiff
22 expressly acknowledges this Settlement Agreement is intended to include in its effect,
23 without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's
24 favor at the time of signing this Settlement Agreement, and that this Settlement
25 Agreement contemplates the extinguishment of any such claims. Plaintiff warrants
26 that Plaintiff has read this Settlement Agreement, including this waiver of California
27
28

Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Settlement Agreement and specifically about the waiver of California Civil Code section 1542, and that Plaintiff understands this Settlement Agreement and the California Civil Code section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement Agreement, and even so Plaintiff agrees that the releases and agreements contained in this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement Agreement or with regard to any facts now unknown to Plaintiff relating thereto.

E. Conditions Precedent: This Settlement will become final and effective only upon the occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;
2. The Court enters an order granting final approval of the Settlement and a Final Judgment;
3. If an objector appears at the final approval hearing, the time for appeal of the Order Granting Final Approval of Class Action Settlement and Final Judgment expires; or, if an appeal is timely filed, there is a final resolution of

1 any appeal from the Order Granting Final Approval of Class Action
2 Settlement and Final Judgment; and
3

4 4. Defendant fully funds the Gross Settlement Amount.

5
6 F. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
7 not preliminarily or finally approved by the Court, fails to become effective, or is
8 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
9 Defendant from obtaining a complete resolution of the Released Claims and Released
10 PAGA Claims, or if Defendant fails to fully fund the Gross Settlement Amount:
11

12 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
13 and shall not be admissible in any judicial, administrative or arbitral
14 proceeding for any purpose or with respect to any issue, substantive or
15 procedural;
16

17 2. The conditional class certification (obtained for any purpose) shall be void *ab*
18 *initio* and of no force or effect, and shall not be admissible in any judicial,
19 administrative or arbitral proceeding for any purpose or with respect to any
20 issue, substantive or procedural; and
21

22 3. None of the Parties to this Settlement will be deemed to have waived any
23 claims, objections, defenses or arguments in the Action, including with respect
24 to the issue of class certification.
25

26 G. Certification of the Settlement Class. The Parties stipulate to conditional class
27 certification of the Class for the Class Period for purposes of settlement only. In the
28

1 event that this Settlement is not approved by the Court, fails to become effective, or is
2 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
3 Defendant from obtaining a complete resolution of the Released Claims and Released
4 PAGA Claims, the conditional class certification (obtained for any purpose) shall be
5 void *ab initio* and of no force or effect, shall not be admissible in any judicial,
6 administrative or arbitral proceeding for any purpose or with respect to any issue,
7 substantive or procedural, and Defendant will not be prevented from later contesting
8 class certification.
9

10
11 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
12 effect of the payments called for, and Class Members and/or Aggrieved Employees are
13 not relying on any statement or representation by the Parties in this regard. Class
14 Members and/or Aggrieved Employees understand and agree that they will be
15 responsible for the payment of any taxes and penalties assessed on the Individual
16 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
17 Settlement Payment described and will be solely responsible for any penalties or other
18 obligations resulting from their personal tax reporting of Individual Settlement
19 Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement
20 Payment.
21

22
23 I. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES
24 OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO
25 THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
26 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT: (1) NO
27 PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION
28

1 OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
2 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
3 SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR
4 BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
5 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
6 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A)
7 HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT
8 LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
9 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
10 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER
11 PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C)
12 IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
13 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO
14 AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
15 ACKNOWLEDGING PARTY, AND (3) NO ATTORNEY OR ADVISER TO ANY
16 OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE
17 CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
18 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
19 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING
20 PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
21 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY
22 THIS AGREEMENT.
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1 J. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with
2 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
3 which shall include this Settlement Agreement.
4

5 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
6 establishing and administering the QSF; calculating, processing and mailing payments
7 to the Class Representatives, Class Counsel, LWDA and Class Members; printing and
8 mailing the Notice Packets to the Class Members as directed by the Court; receiving
9 and reporting the objections and requests for exclusion; calculating, deducting and
10 remitting all legally required taxes from Individual Settlement Payments and
11 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
12 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
13 Settlement Payment; processing and mailing tax payments to the appropriate state and
14 federal taxing authorities; providing declaration(s) as necessary in support of
15 preliminary and/or final approval of this Settlement; and other tasks as the Parties
16 mutually agree or the Court orders the Settlement Administrator to perform. The
17 Settlement Administrator shall keep the Parties timely apprised of the performance of
18 all Settlement Administrator responsibilities by among other things, sending a weekly
19 status report to the Parties' counsel stating the date of the mailing, the number of
20 written requests for exclusion it receives (including the numbers of valid and
21 deficient), and number of objections received.
22
23
24

25 L. Notice Procedure.
26

27 1. Class Data. No later than ten (10) business days after the Preliminary
28 Approval Date, Defendant shall provide the Settlement Administrator with the

1 Class Data for purposes of preparing and mailing Notice Packets to the Class
2 Members.

3
4 2. Notice Packets.

- 5
6 a) The Notice Packet shall contain the Notice of Class Action Settlement
7 in a form substantially similar to the form attached as Exhibit A. The
8 Notice of Class Action Settlement shall inform Class Members and
9 Aggrieved Employees that they need not do anything in order to
10 receive an Individual Settlement Payment and/or Aggrieved
11 Employees' individual shares of the PAGA Settlement Payment and
12 to keep the Settlement Administrator apprised of their current mailing
13 address, to which the Individual Settlement Payments and/or
14 Aggrieved Employees' individual shares of the PAGA Settlement
15 Payment will be mailed following the Funding Date. The Notice of
16 Class Action Settlement shall set forth the release to be given by all
17 members of the Class who do not request to be excluded from the
18 Settlement Class and/or Aggrieved Employees' in exchange for an
19 Individual Settlement Payment and/or Aggrieved Employees'
20 individual shares of the PAGA Settlement Payment, the number of
21 Workweeks worked by each Class Member during the Class Period
22 and PAGA Period, if any, and the estimated amount of their Individual
23 Settlement Payment if they do not request to be excluded from the
24 Settlement and each Aggrieved Employee's share of the PAGA
25 Settlement, if any. The Settlement Administrator shall use the Class
26
27
28

1 Data to determine Class Members' Workweeks and PAGA
2 Workweeks.

3
4 b) The Notice Packet's mailing envelope shall include the following
5 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
6 ENTITLED TO PARTICIPATE IN A CLASS ACTION
7 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
8 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
9 NOTICE."
10

11 3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
12 the Settlement Administrator will perform a search based on the National
13 Change of Address Database to update and correct any known or identifiable
14 address changes. No later than fourteen (14) calendar days after receiving the
15 Class Data from Defendant, the Settlement Administrator shall mail and email
16 copies of the Notice Packet to all Class Members via regular First-Class U.S.
17 Mail and electronic mail. The Settlement Administrator shall exercise its best
18 judgment to determine the current mailing address for each Class Member.
19 The address identified by the Settlement Administrator as the current mailing
20 address shall be presumed to be the best mailing address for each Class
21 Member.
22

23
24 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
25 Administrator as non-delivered on or before the Response Deadline shall be
26 re-mailed to any forwarding address provided. If no forwarding address is
27 provided, the Settlement Administrator shall promptly attempt to determine a
28

1 correct address by lawful use of skip-tracing, or other search using the name,
2 address and/or Social Security number of the Class Member involved, and
3 shall then perform a re-mailing, if another mailing address is identified by the
4 Settlement Administrator. In addition, if any Notice Packets, which are
5 addressed to Class Members who are currently employed by Defendant, are
6 returned to the Settlement Administrator as non-delivered and no forwarding
7 address is provided, the Settlement Administrator shall notify Defendant.
8 Defendant will request that the currently employed Class Member provide a
9 corrected address, and transmit to the Administrator any corrected address
10 provided by the Class Member. Class Members who received a re-mailed
11 Notice Packet shall have their Response Deadline extended fifteen (15) days
12 from the original Response Deadline.
13
14

- 15 5. Disputes Regarding Individual Settlement Payments. Class Members will
16 have the opportunity, should they disagree with Defendant's records regarding
17 the start and end dates of employment, to provide documentation and/or an
18 explanation to show contrary dates. If there is a dispute, the Settlement
19 Administrator will consult with the Parties to determine whether an
20 adjustment is warranted. The Settlement Administrator shall determine the
21 eligibility for, and the amounts of, any Individual Settlement Payments under
22 the terms of this Agreement. The Settlement Administrator's determination
23 of the eligibility for and amount of any Individual Settlement Payment shall
24 be binding upon the Class Member and the Parties.
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1 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
2 by the Settlement Administrator concerning the administration of the
3 Settlement will be resolved by the Court under the laws of the State of
4 California. Before any such involvement of the Court, counsel for the Parties
5 will confer in good faith to resolve the disputes without the necessity of
6 involving the Court.
7

8 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
9 Packet shall state that Class Members who wish to exclude themselves from
10 the Settlement must submit a written request for exclusion by the Response
11 Deadline. The written request for exclusion must state that the Class Member
12 wishes to exclude himself or herself from the Settlement and (1) must contain
13 the name, address, and the last four digits of the Social Security number of the
14 person requesting exclusion; (2) must be signed by the Class Member; (3)
15 must be postmarked or fax stamped by the Response Deadline and returned to
16 the Settlement Administrator at the specified address or fax telephone number;
17 and (4) contain a typewritten or handwritten notice stating in substance: "I
18 have read the Class Notice and I wish to opt out of the settlement of the class
19 action lawsuit entitled *Yvette Molina, et al. v. Hawaiian Airlines, Inc.*,
20 currently pending in the Superior Court for the County of Los Angeles, Case
21 No. 20STCV28079. I understand that by requesting to be excluded from the
22 settlement, I will receive no money from the Settlement described in this
23 Notice." The request for exclusion will not be valid if it is not timely
24 submitted, if it is not signed by the Class Member, or if it does not contain the
25 name and address and last four digits of the Social Security number of the
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1 Class Member. The date of the postmark on the mailing envelope or fax stamp
2 on the request for exclusion shall be the exclusive means used to determine
3 whether the request for exclusion was timely submitted. Any Class Member
4 who requests to be excluded from the Settlement Class will not be entitled to
5 an Individual Settlement Payment and will not be otherwise bound by the
6 terms of the Settlement or have any right to object, appeal or comment
7 thereon. However, any Class Member that submits a timely request for
8 exclusion that is also a member of the Aggrieved Employees will still receive
9 their pro rata share of the PAGA Settlement, as specified below, and in
10 consideration, will be bound by the Release by the Aggrieved Employees as
11 set forth herein. Settlement Class Members who fail to submit a valid and
12 timely written request for exclusion on or before the Response Deadline shall
13 be bound by all terms of the Settlement and any final judgment entered in this
14 Action if the Settlement is approved by the Court. No later than fourteen (14)
15 calendar days after the Response Deadline, the Settlement Administrator shall
16 provide counsel for the Parties with a final list of the Class Members who have
17 timely submitted written requests for exclusion. At no time shall any of the
18 Parties or their counsel seek to solicit or otherwise encourage members of the
19 Class to submit requests for exclusion from the Settlement.
20
21
22

- 23 8. Objections. The Notice of Class Action Settlement contained in the Notice
24 Packet shall state that Class Members who wish to object to the Settlement
25 may submit to the Settlement Administrator a written statement of objection
26 by the Response Deadline. The postmark date of mailing shall be deemed the
27 exclusive means for determining that a written objection was served timely.
28

1 The written objection must be signed by the Settlement Class Member and
2 state: (1) the case name and number; (2) the name of the Settlement Class
3 Member; (3) the address of the Settlement Class Member; (4) the last four
4 digits of the Settlement Class Member's Social Security number; (5) the basis
5 for the objection; and (6) if the Settlement Class Member intends to appear at
6 the Final Approval/Settlement Fairness Hearing. Class Members who fail to
7 make objections in writing in the manner specified above may still make their
8 objections orally at the Final Approval/Settlement Fairness Hearing with the
9 Court's permission. Settlement Class Members will have a right to appear at
10 the Final Approval/Settlement Fairness Hearing to have their objections heard
11 by the Court. At no time shall any of the Parties or their counsel seek to solicit
12 or otherwise encourage Class Members to file or serve written objections to
13 the Settlement or appeal from the Order Granting Final Approval of the
14 Settlement and Final Judgment. Class Members who submit a written request
15 for exclusion may not object to the Settlement. Class Members may not object
16 to the PAGA Settlement
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20 M. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
21 the Gross Settlement Amount on or before the Funding Date, plus any employer's
22 share of payroll taxes on the portion of the Individual Settlement Payments constituting
23 wages as mandated by law within the time specified herein.
24

25 1. Individual Settlement Payments. Individual Settlement Payments shall be
26 paid from the Net Settlement Amount and shall be paid pursuant to the
27 formula set forth herein. Using the Class Data, the Settlement Administrator
28

1 shall add up the total number of Workweeks for all Class Members. The
2 respective Workweeks for each Class Member will be divided by the total
3 Workweeks for all Class Members, resulting in the Payment Ratio for each
4 Class Member. Each Class Member's Payment Ratio will then be multiplied
5 by the Net Settlement Amount to calculate each Class Member's estimated
6 Individual Settlement Payment. Each Individual Settlement Payment will be
7 reduced by any legally mandated employee tax withholdings (e.g., employee
8 payroll taxes, etc.). Individual Settlement Payments allocated to Class
9 Members who submit valid and timely requests for exclusion will be
10 redistributed to Settlement Class Members who do not submit valid and timely
11 requests for exclusion on a pro rata basis based on their respective Payment
12 Ratios.
13
14

- 15 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
16 Class Data, the Settlement Administrator shall add up the total number of
17 PAGA Workweeks for all Aggrieved Employees during the PAGA Period.
18 The respective PAGA Workweeks for each Aggrieved Employee will be
19 divided by the total PAGA Workweeks for all Aggrieved Employees,
20 resulting in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
21 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
22 Aggrieved Employee Payment (as defined below in Section III.M.11) to
23 calculate each Aggrieved Employee's estimated share of the PAGA
24 Settlement Payment.
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1 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
2 Settlement Payments shall be allocated and treated as follows: 20% as wages
3 (“Wage Portion”); 80% as penalties and interest (“Non-Wage Portion”). The
4 Wage Portion is subject to payroll tax withholdings and shall be reported on
5 IRS Form W-2. The Non-Wage Portion shall not be subject to payroll tax
6 withholdings and shall be reported on IRS Form 1099.

8 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
9 Employee Payments (as defined below in Section III.M.11) shall be allocated
10 and treated as 100% penalties and shall be reported on IRS Form 1099.

12 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
13 individual shares of the PAGA Settlement Payment made to Settlement Class
14 Members and/or Aggrieved Employees under this Settlement Agreement, as
15 well as any other payments made pursuant to this Settlement Agreement, will
16 not be utilized to calculate any additional benefits under any benefit plans to
17 which any Class Members may be eligible, including, but not limited to profit-
18 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
19 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
20 Parties’ intention that this Settlement Agreement will not affect any rights,
21 contributions, or amounts to which any Class Members may be entitled under
22 any benefit plans.

25 6. All monies received by Settlement Class Members under the Settlement which
26 are attributable to wages shall constitute income to such Settlement Class
27 Members solely in the year in which such monies actually are received by the
28

1 Settlement Class Members. It is the intent of the Parties that Individual
2 Settlement Payments and individual shares of the PAGA Settlement Payment
3 provided for in this Settlement agreement are the sole payments to be made by
4 Defendant to Settlement Class Members and/or Aggrieved Employees in
5 connection with this Settlement Agreement, with the exception of Plaintiff, and
6 that the Settlement Class Members and/or Aggrieved Employees are not entitled
7 to any new or additional compensation or benefits as a result of having received
8 the Individual Settlement Payments and/or their shares of the PAGA Settlement
9 Payment.
10

11
12 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
13 (as defined below in Section III.M.11) shall be mailed by regular First-Class
14 U.S. Mail to Settlement Class Members' and/or Aggrieved Employees last
15 known mailing address no later than fifteen (15) calendar days after the
16 Funding Date.
17

18 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
19 Employees shall remain valid and negotiable for one hundred and eighty (180)
20 days from the date of their issuance. If a Settlement Class Member and/or
21 Aggrieved Employee does not cash his or her settlement check within 90 days,
22 the Settlement Administrator will send a letter to such persons, advising that
23 the check will expire after the 180th day, and invite that Settlement Class
24 Member and/or Aggrieved Employee to request reissuance in the event the
25 check was destroyed, lost or misplaced. In the event an Individual Settlement
26 Payment and/or Aggrieved Employee's individual share of the PAGA
27
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1 Settlement check has not been cashed within one hundred and eighty (180)
2 days, all funds represented by such uncashed checks, plus any interest accrued
3 thereon, shall be distributed consistent with California Code of Civil
4 Procedure Section 384 as follows: to The Children's Advocacy Institute
5 (CAI), founded at the nonprofit University of San Diego School of Law in
6 1989. Neither Class Counsel nor Defendant's counsel, nor any of the Parties,
7 has any interest, pecuniary or otherwise, in CAI. The court shall set a date
8 when the parties shall report to the court the total amount that was actually
9 paid to the Class Members. After the report is received, the court shall amend
10 the judgment to direct the Settlement Administrator to pay the sum of the
11 unpaid residue as a result of uncashed Class Member checks, plus interest that
12 has accrued thereon, to the CAI. Neither Class Counsel nor Defense Counsel
13 or the Parties have any interest, pecuniary or otherwise, in the CAI.

- 14
15
16 9. Class Representative Service Award. In addition to the Individual Settlement
17 Payment and her individual share of the PAGA Settlement Payment to be paid
18 to Plaintiff, Plaintiff will apply to the Court for an award of not more than
19 \$10,000, as the Class Representative Service Award. Defendant does not
20 presently intend to oppose a Class Representative Service Award of not more
21 than \$10,000 for Plaintiff. The Settlement Administrator shall pay the Class
22 Representative Service Award, either in the amount stated herein if approved
23 by the Court or some other amount as approved by the Court, to Plaintiff from
24 the Gross Settlement Amount no later than fifteen (15) calendar days after the
25 Funding Date. Any portion of the requested Class Representative Service
26 Awards that is not awarded to the Class Representative shall be part of the Net
27
28

1 Settlement Amount and shall be distributed to Settlement Class Members as
2 provided in this Agreement. The Settlement Administrator shall issue an IRS
3 Form 1099 — MISC to Plaintiff for her Class Representative Service Award.
4 Plaintiff shall be solely and legally responsible to pay any and all applicable
5 taxes on her Class Representative Service Award and shall hold harmless the
6 Released Parties from any claim or liability for taxes, penalties, or interest
7 arising as a result of the Class Representative Service Awards. The Class
8 Representative Service Award shall be in addition to Plaintiff's Individual
9 Settlement Payment as a Settlement Class Member. Approval of this
10 Settlement shall not be conditioned on Court approval of the requested amount
11 of the Class Representative Service Award. In the event that the Court reduces
12 or does not approve the requested Class Representative Service Award,
13 Plaintiff shall not have the right to revoke the Settlement, and it will remain
14 binding.
15
16

- 17
18 10. Class Counsel Award. Defendant understands a motion by Class Counsel for
19 attorneys' fees not to exceed one-third of the Gross Settlement Amount
20 currently estimated to be \$250,000.00 plus actual costs and expenses
21 supported by declaration not to exceed Twenty-Five Thousand Dollars
22 (\$25,000.00), from the Gross Settlement Amount will be filed. Any portion
23 of the requested Class Counsel Award that is not awarded to Class Counsel
24 shall be part of the Net Settlement Amount and shall be distributed to
25 Settlement Class Members as provided in this Agreement. The Settlement
26 Administrator shall allocate and pay the Class Counsel Award to Class
27 Counsel from the Gross Settlement Amount no later than fifteen (15) calendar
28

1 days after the Funding Date. Class Counsel shall be solely and legally
2 responsible to pay all applicable taxes on the payment made pursuant to this
3 paragraph. The Settlement Administrator shall issue an IRS Form 1099 —
4 MISC to Class Counsel for the payments made pursuant to this paragraph. In
5 the event that the Court reduces or does not approve the requested Class
6 Counsel Award, Plaintiff and Class Counsel shall not have the right to revoke
7 the Settlement, or to appeal such order, and the Settlement will remain
8 binding.
9

10
11 11. PAGA Settlement Payment. Forty Thousand Dollars (\$40,000) shall be
12 allocated from the Gross Settlement Amount for settlement of claims for civil
13 penalties under the Labor Code Private Attorneys General Act of 2004 (i.e.,
14 the “PAGA Settlement Payment”). The Settlement Administrator shall pay
15 seventy-five percent (75%) of the PAGA Settlement Payment (\$30,000) to the
16 California Labor and Workforce Development Agency no later than fifteen
17 (15) calendar days after the Funding Date (hereinafter “LWDA Payment”).
18 Twenty-five (25%) of the PAGA Settlement (\$10,000) will be distributed to
19 the Aggrieved Employees as described in this Agreement (the “Aggrieved
20 Employee Payment”). For purposes of distributing the PAGA Settlement to
21 the Aggrieved Employees, each Aggrieved Employee shall receive their pro-
22 rata share of the Aggrieved Employee Payment using the PAGA Payment
23 Ratio as defined above.
24

25
26 12. Settlement Administration Costs. The Settlement Administrator shall be paid
27 for the costs of administration of the Settlement from the Gross Settlement
28

Amount. The estimate of the Settlement Administration Costs is \$10,000. The Settlement Administrator shall be paid the Settlement Administration Costs no later than twenty-five (25) calendar days after the Funding Date.

N. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative Service Award, the Class Counsel Award, the PAGA Settlement Payment, and the Settlement Administration Costs.

1. Declaration by Settlement Administrator. No later than fourteen (14) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval. After entry of the Judgment, the Settlement

1 Administrator will provide notice of the final judgment to the Class Members
2 by posting the Judgment on the administrator's website.
3

4 N. Defendant's Option to Revoke Settlement. Defendant has the unilateral right to
5 revoke the Settlement and Defendant shall have, in its sole discretion, the option to
6 terminate this Settlement if, after the Response Deadline, the number of Settlement
7 Class Members who submitted timely and valid written requests for exclusion from
8 the Settlement is at least five percent (5%) of all Settlement Class Members. If
9 Defendant exercises the option to terminate this Settlement, Defendant shall: (a)
10 provide written notice to Class Counsel within five (5) calendar days after the
11 Settlement Administrator provides information regarding opt outs (which is to occur
12 no later than fourteen (14) calendar days after the Response Deadline, and (b) pay all
13 Settlement Administration Costs incurred up to the date or as a result of the
14 termination, but shall be relieved of any obligation to pay the Gross Settlement
15 Amount or any other obligations under this Agreement; and the Parties shall proceed
16 in all respects as if this Agreement had not been executed.
17
18

19 O. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
20 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
21 Final Approval, including the Order Granting Final Approval of Class Action
22 Settlement, and Judgment, at least five (5) court days before filing with the Court. The
23 Parties and their counsel will cooperate with each other and use their best efforts to
24 affect the Court's approval of the Motions for Preliminary and Final Approval of the
25 Settlement, and entry of Judgment.
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- 1 P. Cooperation. The Parties and their counsel will cooperate with each other and use
2 their best efforts to implement the Settlement.
3
- 4 Q. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Actions,
5 except such proceedings necessary to implement and complete the Settlement, pending
6 the Final Approval/Settlement Fairness Hearing to be conducted by the Court
7
- 8 R. Amendment or Modification. This Agreement may be amended or modified only by
9 a written instrument signed by counsel for all Parties or their successors-in-interest.
10
- 11 S. Entire Agreement. This Agreement and any attached Exhibits constitute the entire
12 Agreement among these Parties, and no oral or written representations, warranties or
13 inducements have been made to any Party concerning this Agreement or its Exhibits
14 other than the representations, warranties and covenants contained and memorialized
15 in this Agreement and its Exhibit.
16
- 17 T. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
18 represent they are expressly authorized by the Parties whom they represent to negotiate
19 this Agreement and to take all appropriate Action required or permitted to be taken by
20 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
21 documents required to effectuate the terms of this Agreement. The persons signing
22 this Agreement on behalf of Defendant represents and warrants that he/she is
23 authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and
24 warrants that she is authorized to sign this Agreement and that she has not assigned
25 any claim, or part of a claim, covered by this Settlement to a third-party.
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- 1 U. No Public Comment: The Parties and their counsel agree that they will not issue any
2 press releases, initiate any contact with the press, respond to any press inquiry, or have
3 any communication with the press about the fact, amount or terms of the Settlement
4 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
5 of its terms for any marketing or promotional purposes. Nothing herein will restrict
6 Class Counsel from including publicly available information regarding this settlement
7 in future judicial submissions regarding Class Counsel's qualifications and experience.
8 Further, Class Counsel will not include, reference or use the Settlement Agreement for
9 any marketing or promotional purposes, including publishing such information on any
10 website or social media forum (including through organizations that publicize verdicts
11 and settlements and on websites operated by or for Class Counsel), or for attempting
12 to influence business relationships at Defendant's locations, either before or after the
13 Motion for Preliminary Approval is filed.
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16 V. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
17 to the benefit of, the successors or assigns of the Parties, as previously defined.
18
19 W. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
20 shall be governed by and interpreted according to the laws of the State of California.
21
22 X. Counterparts. This Agreement may be executed in one or more counterparts. All
23 executed counterparts and each of them shall be deemed to be one and the same
24 instrument provided that counsel for the Parties to this Agreement shall exchange
25 among themselves copies or originals of the signed counterparts.
26
27
28

1 Y. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
2 is a fair, adequate and reasonable settlement of this Action and have arrived at this
3 Settlement after extensive arms-length negotiations, taking into account all relevant
4 factors, present and potential.
5

6 Z. Jurisdiction of the Court. The Parties agree that this Settlement Agreement shall be
7 enforceable by the Court pursuant to California Code of Civil Procedure Section 664.6.
8 The Parties agree that the Court shall retain jurisdiction with respect to the
9 interpretation, implementation and enforcement of the terms of this Agreement and all
10 orders and judgments entered in connection therewith, and the Parties and their counsel
11 submit to the jurisdiction of the Court for purposes of interpreting, implementing and
12 enforcing the settlement and all orders and judgments entered in connection with this
13 Agreement.
14
15

16 AA. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
17 the Court shall first attempt to construe the provisions valid to the fullest extent
18 possible consistent with applicable precedents so as to define all provisions of this
19 Agreement valid and enforceable.
20

21 BB. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
22 intend to pursue any claims against the Released Parties, including, but not limited to,
23 any and all claims relating to or arising from Plaintiff's employment with Defendant,
24 regardless of whether Class Counsel is currently aware of any facts or legal theories
25 upon which any claims or causes of action could be brought against Released Parties,
26 including those facts or legal theories alleged in the operative complaint in this Action.
27 The Parties further acknowledge, understand and agree that this representation is
28

essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

CC. Waiver of Certain Appeals. The Parties agree to stipulate to class certification for purposes of this Settlement only.

DD. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the Released Claims have merit and give rise to liability on the part of Defendant. Defendant claims that the Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendant or Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: 8/18/2021

YVETTE MOLINA

DocuSigned by:

Yvette Molina

D4444DEC432944D...

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: _____

HAWAIIAN AIRLINES, INC.

Printed Name

Title

1 essential to the Agreement and that this Agreement would not have been entered into
2 were it not for this representation.
3

4 CC. Waiver of Certain Appeals. The Parties agree to stipulate to class certification for
5 purposes of this Settlement only.
6

7 DD. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
8 Released Claims have merit and give rise to liability on the part of Defendant.
9 Defendant claims that the Released Claims have no merit and do not give rise to
10 liability. This Agreement is a compromise of disputed claims. Nothing contained in
11 this Agreement and no documents referred to and no action taken to carry out this
12 Agreement may be construed or used as an admission by or against the Defendant or
13 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
14 than as may be specifically set forth herein, each Party shall be responsible for and
15 shall bear its/his own attorney's fees and costs.
16

17
18 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

19 DATED: _____
20

21 YVETTE MOLINA

22 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

23 DATED: August 16, 2021
24

25 HAWAIIAN AIRLINES, INC.

Marguerite L.N. Fyfe
26 Printed Name

Assistant General Counsel
27 Title
28

1 IT IS SO AGREED AS TO FORM BY COUNSEL:
2

3 DATED: 8/18/2021

JCL LAW FIRM, A.P.C.

4 By:

DocuSigned by:
Jean-Claude Lapuyade
0EBC25D6B9CD469...

5 Attorneys for Plaintiff and the Settlement Class
6 Members
7

8
9 DATED: 8/18/2021

ZAKAY LAW GROUP, APLC

10 By:

DocuSigned by:
[Signature]
4ECDE73A91D4420...

11 Attorneys for Plaintiff and the Settlement Class
12 Members
13

14
15 DATED: _____

DAVIS WRIGHT TREMAINE LLP

16 By: _____

17 Attorneys for Defendant
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IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: _____

JCL LAW FIRM, A.P.C.

By: _____

Attorneys for Plaintiff and the Settlement Class
Members

DATED: _____

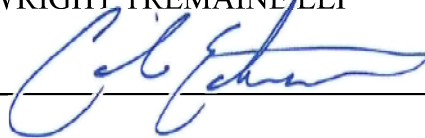
ZAKAY LAW GROUP, APLC

By: _____

Attorneys for Plaintiff and the Settlement Class
Members

DATED: August 17, 2021

DAVIS WRIGHT TREMAINE LLP

By:  _____

Attorneys for Defendant

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(Molina, et al., v. Hawaiian Airlines, Inc., Case No. 20STCV28079)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of Los Angeles (the “Court”) has been reached between Plaintiff Yvette Molina (“Plaintiff”) and Defendant Hawaiian Airlines, Inc. (“Defendant”) (the “Action”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All non-exempt Clerical, Office, Stores, Fleet and Passenger Service employees under the collective bargaining agreement between Defendant and the International Association of Machinists and Aerospace Workers (AFL-CIO) (“IAMC”), who are or previously were employed by Defendant in California during the period of April 6, 2016 through and including August 31, 2021.

The “Class Period” is the period of time running from April 6, 2016 to August 31, 2021.

This Class Notice explains the Action, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On July 23, 2020, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles. Plaintiff asserted claims against Defendant for: (a) Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq.*; (b) Failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1; (c) Failure to pay overtime wages in violation of California Labor Code sections 510 *et seq.*; (d) Failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order; (e) Failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order; (f) Failure to provide accurate itemized wage statements in violation of California Labor Code section 226; (g) Failure to reimburse employees for required expenses in violation of California Labor Code section 2802; (h) Failure to provide wages when due in violation of California Labor Code sections 201, 202 and 203. On November 3, 2020, Plaintiff filed a First Amended Complaint against Defendant adding an additional cause of action for violations of the Labor Code Private Attorneys General Act [Labor Code §§ 2698, *et seq.*](“PAGA”).

Defendant denies and disputes all claims asserted in the Action. Specifically, Defendant contended (and continues to contend) that the Action could not properly be maintained as a class action; that Defendant properly paid members of the class all wages and overtime that was due; that Defendant provided members of the class with all legally required meal breaks and rest breaks; that Defendants paid any members of the class all wages due to them at the time of their terminations; that Defendant reimbursed members of the class for all required business expenses; that Defendant provided accurate, itemized wage statements to members of the class; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; and that Defendant is not liable for any of the penalties claimed or that could be claimed in the Action.

On June 3, 2021, the Parties participated in an all-day mediation with Mark Rudy, Esq., a respected mediator of wage and hour class actions. The mediation concluded in an impasse. However, at the conclusion of the mediation, each side, represented by its respective counsel, agreed to settle the Action based on a mediator’s proposal. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of Zakay Law Group, APC and JCL Law Firm, APC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount is for payment of all claims, including the payment of all Settlement Shares to Settlement Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Costs, the PAGA Settlement Payment to the LWDA and to Aggrieved Employees, and the Class Representative Service Award payment to the Plaintiff.

After the Judgment becomes Final, Defendant will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid From the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Settlement Class Members, as follows:

- Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$ [REDACTED], for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Attorneys' Fees and Costs. Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than 1/3 of the Gross Settlement Amount (currently \$250,000) and a Class Counsel Litigation Expenses Payment of not more than \$25,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Award. Class Representative Service Award of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she undertook.
- PAGA Payment. A payment of \$40,000 relating to Plaintiff's claim under PAGA, \$30,000 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$10,000 will be distributed to PAGA Aggrieved Employees as part of the Net PAGA Amount.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Award payment, the PAGA Payment, and the Settlement Administration Costs are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to Class Members who do **not** request exclusion ("Settlement Class Members"). The Settlement Share to each Settlement Class Member will be calculated by calculating the number of days each Class Member was employed during the Class Period, dividing by seven (7), and rounding up to the nearest whole number. For purpose of determining the Individual Settlement Payments and the Settlement Allocation, each Class Member who is a former employee no longer working for Defendant will be assigned two (2) additional workweeks. "Workweeks" means the number of weeks of employment during the Class Period that each Class Member worked in California, according to Defendant's records.
- Calculation of PAGA Settlement Payments to PAGA Aggrieved Employees. The individual shares of the PAGA Settlement Payment distributed to Aggrieved Employees ("Aggrieved Employee Payment") shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The Settlement Administrator will calculate the number of PAGA Workweeks by calculating the number of days each Aggrieved Employee was employed during the PAGA Period, dividing by seven (7), and rounding up to the nearest whole number. "Aggrieved Employees" means all of Defendant's current and former non-exempt Clerical, Office, Stores, Fleet and Passenger Service Employees under the collective bargaining agreement between Defendant and the IAMC, who were employed in California during the period of April 6, 2019 through and including August 31, 2021.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. Twenty-Percent (20%) of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Eighty-Percent (80%) of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the individual shares of the

PAGA Settlement Payments paid to PAGA Aggrieved Employees, and each PAGA Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims are defined as all class action claims arising out of or related to the factual allegations plead in the Action which occurred during the Class Period. The Released Class Claims include but are not limited to all claims arising out of or related to unpaid minimum wage and overtime resulting from off-the-clock work during the Class Period. The Settlement Class Members will release Defendant and the Released Parties from all remedies that could be claimed in connection with the Released Class Claims including, but not limited to, statutory, constitutional, contractual damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief. The Released PAGA Claims shall be released as follows. As of the Settlement Effective Date and upon funding in full of the Gross Settlement Amount by Defendant, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" are defined as any and all claims for civil penalties, fees and costs arising under PAGA expressly alleged in the Action and Plaintiff's notice letter to the LWDA which occurred during the PAGA Period. By receiving payment from this Settlement, you will be bound by the Released Class Claims and cannot be part of another lawsuit against Defendant about the legal issues resolved by this Settlement, unless you timely exclude yourself from the Settlement (see Section 7).

5. How much will my payment be?

Defendant's records reflect that you have << [REDACTED] >> work-weeks worked during the Class Period (April 6, 2016 to August 31, 2021).

Based on this information, your estimated Settlement Share is << [REDACTED] >>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than [REDACTED] [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185.

The Court will hold a hearing on [REDACTED] to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at [www.\[REDACTED\].com](http://www.[REDACTED].com)

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or “opt out.” **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or “opt out,” you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the PAGA Settlement Payment.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is _____. The request for exclusion must state in substance: “I have read the Class Notice and I wish to opt out of the class action and settlement of the class action lawsuit *Yvette Molina, et al., v. Hawaiian Airlines, Inc.*, currently pending in the Superior Court for the County of Los Angeles, Case No. 20STCV28079.” The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, the last four digits of your Social Security Number, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All objections or other correspondence must also state the name and number of the case, which is *Molina, et al., v. Hawaiian Airlines, Inc., Case No. 20STCV28079*. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
3990 Old Town Ave., Suite C204
San Diego, CA 92110
Tel: (619) 255-9047
Email: shani@zakaylaw.com
Website: www.zakaylaw.com

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
3990 Old Town Ave., Suite C204
San Diego, CA 92110
Tel.: (619) 599-8292
Fax: (619) 599-8291
Email: jlapuyade@jcl-lawfirm.com
Website: www.jcl-lawfirm.com

Counsel for Defendant:

Camilo Echavarria, Esq.
Evelyn Wang, Esq.
Paul Rodriguez, Esq.
Davis Wright Tremaine LLP
865 South Figueroa Street, 24th Flr.
Los Angeles, CA 90017-2566
Tel: (213) 633-6800
Fax: (213) 633-6899
Email: camiloechavarria@dwt.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **00:00 AM/PM on _____**, at the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012 in Department 17 before Judge Maren Nelson. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

Under the General Order, 2020-GEN-25-00, public access to courthouses is limited at all times to judicial officers, court employees, co-lessees, Judicial Council staff, vendors, jurors, mediators, authorized persons (including news media representatives and news reporters), attorneys, litigants and witnesses with matters on calendar, and individuals with confirmed appointments. Members of the public, not otherwise referenced above, who wish to attend a court proceeding may do so upon advance request and at the discretion of the judicial officer presiding over the matter. Instructions on how to make such a request are available on the Court's website at the [Here for You | Safe for You](#) page.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-888-250-6810 or write to *Molina, et al., v. Hawaiian Airlines, Inc., Case No. 20STCV28079*, Settlement Administrator, c/o ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to Zakay Law Group, APLC, 3990 Old Town Ave., Suite C204, San Diego, CA 92110.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the Children Advocacy Institute in accordance with Code of Civil Procedure Section 384 in the name of the Settlement Class Member. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2