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and others similarly situated

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ALLEGIANT AIR, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PAMELA ROLLE, individually, and
on behalf of other members of the
general public similarly situated,

Plaintiff,

vs.

ALLEGIANT AIR, LLC, a Nevada
corporation; and DOES 1-100,
inclusive,

Defendants.

Case No.: 2:20-cv-10232-SSS-PDx

CLASS ACTION

Assigned For All Purposes To:
Honorable Sunshine Suzanne Sykes

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

Complaint Filed: September 25, 2020
Removed: November 6, 2020

1 **STIPULATION OF CLASS AND PAGA REPRESENTATIVE ACTION**
2 **SETTLEMENT AND RELEASE**

3 This Stipulation of Class and PAGA Representative Action Settlement and
4 Release (“Settlement” or “Settlement Agreement”) is made and entered into by and
5 between Plaintiff Pamela Rolle (“Plaintiff”) on behalf of herself and the putative
6 class and as a proxy/agent for the California Labor and Workforce Development
7 Agency (“LWDA”), and Defendant Allegiant Air, LLC (“Allegiant” or
8 “Defendant”) (collectively, the “Settling Parties”).

9 **DEFINITIONS**

10 The following definitions are applicable to this Settlement Agreement.
11 Definitions contained elsewhere in this Settlement Agreement will also be
12 effective:

13 1. “Action” means the above-captioned case titled *Pamela Rolle v.*
14 *Allegiant Air, LLC*, Case No. 2:20-cv-10232-SSS-PDx, filed on September 25,
15 2020, in the Los Angeles County Superior Court as Case No. 20STCV36871 and
16 removed to the United States District Court, Central District of California on
17 November 6, 2020.

18 2. “Allegiant’s Counsel” means Brendan Killeen and Andrew Frederick
19 of Morgan, Lewis & Bockius LLP.

20 3. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the
21 Settling Parties and approved by the Court for Class Counsel’s litigation and
22 resolution of the Action, and all costs incurred and to be incurred by Class Counsel
23 in the Action, including, but not limited to, costs associated with documenting the
24 Settlement, securing the Court’s approval of the Settlement, administering the
25 Settlement, obtaining entry of the Judgment terminating the Action, and expenses
26 for any experts.

27 4. “Class Counsel” means Matthew Bainer of The Bainer Law Firm.

1 5. “Class List” means a complete list of all Class Members that Allegiant
2 identifies from its records, including their names, last known address, social
3 security numbers, and dates based in California.

4 6. “Class Member(s)” or “Settlement Class” means: All persons
5 employed by Allegiant as California-based flight attendants at any point from
6 September 25, 2016 through the date of Preliminary Approval.

7 7. “Class Period” means the period from September 25, 2016, through
8 the date of Preliminary Approval.

9 8. “Class Representative” means Pamela Rolle.

10 9. “Contingency Fund” means Twenty-Five Thousand Dollars
11 (\$25,000.00) of the Net Settlement Amount that will be used to pay late claims,
12 disputed allocations, and the claims of any individuals who are not on the Class List
13 and who the Settling Parties agree may be added to the Class. The Settlement
14 Administrator will not pay out any remaining portion of the Contingency Fund
15 from the Qualified Settlement Fund and any remaining portion of the Contingency
16 Fund shall be provided to the University of California Berkeley’s Institute for
17 Research on Labor and Employment.

18 10. “Court” means the United States District Court, Central District of
19 California, or any other court taking jurisdiction of the Action.

20 11. “Effective Date” means the date on which a judgment becomes a Final
21 Judgment. “Final Judgment” means the latest of the following dates: (i) if no Class
22 Member files an objection to the Settlement, then the date the Court enters an order
23 granting Final Approval; (ii) if a Class Member files a timely objection to the
24 Settlement that is not withdrawn, then the date immediately after the applicable date
25 for seeking appellate review of the Court’s Final Approval Order has expired,
26 assuming no appeal or request for review is filed; and (iii) if a Class Member files
27 an appeal or petition for review following disposition of an objection, the date of
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1 the final resolution of that appeal or request for review (including any requests for
2 rehearing and/or petitions for writ of certiorari) resulting in the Final Approval of
3 the Settlement.

4 12. "Enhancement Payment" means the amount the Court approves to be
5 paid to the Class Representative, not to exceed Ten Thousand Dollars (\$10,000), in
6 recognition of the Class Representative's efforts in coming forward as Class
7 Representative and participating in the Action, including participating in a
8 deposition and responding to written discovery.

9 13. "Final Approval" or "Final Approval Order" means the Court order
10 granting final approval of the Settlement Agreement.

11 14. "Gross Settlement Amount" means the total settlement amount of One
12 Million Nine Hundred Fifty Thousand Dollars (\$1,950,000), inclusive of (a) Sixty-
13 Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$66,666.66)
14 allocated to penalties under the California Private Attorneys General Act, Cal.
15 Labor Code §§ 2698, et seq., of which Seventy-Five Percent (75%), or Fifty
16 Thousand Dollars (\$50,000), shall be paid to the LWDA and Twenty-Five Percent
17 (25%), or Sixteen Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents
18 (\$16,666.66), shall remain part of the Net Settlement Amount to be distributed to
19 the Class Members; (b) the attorneys' fees to be paid to Plaintiff's counsel not to
20 exceed one-third of the Gross Settlement Amount; (c) costs incurred by Plaintiff's
21 counsel in litigating this lawsuit; (d) Enhancement Payment of Ten Thousand
22 Dollars (\$10,000) for the Class Representative; (e) a Contingency Fund of Twenty-
23 Five Thousand Dollars (\$25,000), to be used to effectuate the purposes of the
24 settlement; and (f) any administrative costs associated with distribution of notice to
25 the Settlement Class, final distribution of the individual settlement amounts to the
26 Class Members, issuance of tax forms, and any other administration costs necessary
27 to effectuate the terms of the Settlement Agreement. The remainder of the Gross
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1 Settlement Amount shall be distributed to members of the Settlement Class. The
2 Gross Settlement Amount is non-reversionary, and no claim forms shall be required
3 from Settlement Class Members in order for Settlement Class Members to receive
4 payment. Allegiant's contribution to the Settlement shall not exceed the Gross
5 Settlement Amount.

6 15. "Individual Settlement Payment" means each Participating Class
7 Member's share of the Net Settlement Amount, to be distributed to Participating
8 Class Members.

9 16. "Individual PAGA Payment" means the individual amounts paid from
10 the PAGA Payment to Class Members for settlement of claims for civil penalties
11 under PAGA.

12 17. "Labor and Workforce Development Agency Payment" or "LWDA
13 Payment" means the amount that the Settling Parties have agreed to allocate from
14 the Gross Settlement Amount to the LWDA in connection with the claim brought
15 under the California Labor Code Private Attorneys General Act of 2004, Cal. Lab.
16 Code §§ 2698, *et seq.*, ("PAGA"). The Settling Parties have agreed that Sixty-Six
17 Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$66,666.66) of the
18 Gross Settlement Amount will be allocated to the resolution of any Participating
19 Class Members' claims arising under PAGA. Pursuant to PAGA, Seventy-Five
20 Percent (75%), or Fifty Thousand Dollars (\$50,000), of the PAGA Settlement
21 Amount will be paid to the LWDA; and Twenty-Five Percent (25%), or Sixteen
22 Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$16,666.66), of the
23 PAGA Settlement Amount will be included in the Net Settlement Amount.

24 18. "Net Settlement Amount" means the portion of the Gross Settlement
25 Amount remaining after deducting the: (a) LWDA Payment; (b) approved
26 Attorneys' Fees and Costs; (c) Enhancement Payment; (d) Contingency Fund; and
27 (e) Settlement Administration Costs (as defined in Paragraph 32). Individual
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1 Settlement Payments and Individual PAGA Payments will be distributed from the
2 Net Settlement Amount. Individual Settlement Payments will be treated fifty
3 percent (50%) as wage payments for which a Form W-2 will be issued and fifty
4 percent (50%) as interest and penalties.

5 19. "Notice of Objection" means a Class Member's valid and timely
6 written objection to the Settlement Agreement. For the Notice of Objection to be
7 valid, it must include: (a) the objector's full name, signature, address, and telephone
8 number; (b) the case name and number (*Rolle v. Allegiant Air, LLC*, Case No. 2:20-
9 cv-10232-SSS-PDx); (c) a written statement of all grounds for the objection; (d)
10 copies of any papers, briefs, or other documents upon which the objection is based;
11 and (e) a statement whether the objector intends to appear at the Final Approval
12 Hearing.

13 20. "Notice of Settlement" means the Notice of Class Action Settlement,
14 substantially in the form of **Exhibit A**.

15 21. "PAGA Payment" means the payment in settlement of all claims for
16 PAGA penalties, Seventy-Five Percent (75%) of which will be distributed as the
17 LWDA Payment to the LWDA and Twenty-Five Percent (25%) of which will be
18 distributed as Individual PAGA Payments.

19 22. "Participating Class Members" means all Class Members who do not
20 submit valid and timely requests for exclusion.

21 23. "Plaintiff's General Release of Claims and Rights" means Plaintiff
22 Pamela Rolle's additional release of rights and claims upon the Effective Date in
23 consideration of Allegiant's promises and agreements set forth in this Settlement
24 Agreement as follows: Plaintiff fully releases the Releasees (as defined in
25 Paragraph 28) from any and all Released Claims and also generally releases and
26 discharges the Releasees from all claims, actions, causes of action, lawsuits, debts,
27 dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants,
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1 contracts, bonuses, controversies, agreements, promises, claims, charges,
2 complaints and demands whatsoever, whether in law or equity, known or unknown,
3 which Plaintiff or her heirs, executors, administrators, successors, and assigns, may
4 now have or hereafter later determine that they have or had upon, or by reason of,
5 any cause or thing whatsoever relating to his employment or termination of
6 employment against Releasees, including, but not limited to, claims arising under
7 the Americans With Disabilities Act, the National Labor Relations Act, the Fair
8 Labor Standards Act ("FLSA"), the Equal Pay Act, the Employee Retirement
9 Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*, as amended, but not
10 limited to, breach of fiduciary duty and equitable claims to be brought under
11 § 1132(a)(3), the Worker Adjustment and Retraining Notification Act, as amended,
12 Title VII of the Civil Rights Act of 1964, the Vocational Rehabilitation Act of
13 1973, the Civil Rights Acts of 1866, 1871 and 1991, including Section 1981 of the
14 Civil Rights Act, the Family and Medical Leave Act (to the extent permitted by
15 law), the California Fair Employment and Housing Act, the California Family
16 Rights Act, PAGA, California Business and Professions Code §§ 17200, *et seq.*, the
17 California Labor Code, and/or any other federal, state or local human rights, civil
18 rights, wage-hour, pension or labor law, rule, statute, regulation, constitution or
19 ordinance and/or public policy, contract or tort law, or any claim of retaliation
20 under such laws, or any claim of breach of any contract (whether express, oral,
21 written or implied from any source), or any claim of intentional or negligent
22 infliction of emotional distress, tortious interference with contractual relations,
23 wrongful or abusive or constructive discharge, defamation, prima facie tort, fraud,
24 negligence, loss of consortium, malpractice, breach of duty of care, breach of
25 fiduciary duty, or any action similar thereto against the Releasees, including any
26 claim for attorneys' fees, expenses or costs based upon any conduct from the
27 beginning of the world up to and including the date of Preliminary Approval. This
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1 General Release specifically includes any and all claims, demands, obligations
2 and/or causes of action for damages, restitution, penalties, interest, and attorneys'
3 fees and costs (except provided by the Settlement Agreement) relating to or in any
4 way connected with the matters referred to herein, whether or not known or
5 suspected to exist, and whether or not specifically or particularly described herein.
6 Specifically, Plaintiff waives all rights and benefits afforded by California Civil
7 Code Section 1542, which provides:

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

15 Plaintiff does not waive any rights with respect to, or release the Releasees
16 from, any claims for California Workers' Compensation benefits (except that
17 Plaintiff hereby releases and waives any claims that, as a result of her separation,
18 she is entitled to additional benefits or payments); any claim for unemployment
19 compensation benefits; or any claim that cannot be released by private contract or
20 for breach of the Settlement Agreement's terms. Plaintiff's release of claims will
21 be valid upon the Effective Date.

22 24. "Preliminary Approval" or "Preliminary Approval Order" means the
23 Court order granting preliminary approval of the Settlement Agreement attached
24 here in draft form as **Exhibit B**.

25 25. "Qualified Settlement Fund" means a qualified settlement fund under
26 Section 468B of the Internal Revenue Code established by the Settlement
27 Administrator for the purpose of administering this Settlement.

28 26. "Released Claims" means all claims, rights, demands, liabilities and
causes of action of every nature and description pertaining to the claims litigated in

1 the Action against Releasees, as well as claims that could have been pled in this
2 Action based on the factual allegations contained in the operative Complaint or any
3 amendments thereto continuing through the date of Preliminary Approval,
4 including, without limitation, all claims for alleged violation of the California
5 Labor Code and IWC Wage Order No. 9 for failure to pay overtime, failure to pay
6 minimum wage, failure to provide meal periods and/or pay meal period premiums,
7 failure to provide rest periods and/or pay rest period premiums, failure to provide
8 accurate wage statements, failure to pay all wages timely, failure to pay all wages
9 due upon termination, as well as derivative claims under the California Labor Code,
10 California Unfair Competition Law, Bus. Prof. Code § 17200, *et seq.*, and civil
11 penalties under PAGA, including but not limited to civil penalties that are based on
12 or related to the alleged Labor Code and Business & Professions Code violations
13 referenced above, and all claims for interest, penalties, attorneys' fees, costs, any
14 other monetary relief, injunctive relief, declaratory relief, or accounting that are
15 based on or related to the alleged Labor Code and Business & Professions Code
16 violations referenced above.

17 27. "Release Period" means the period from September 25, 2016, through
18 the date of Preliminary Approval.

19 28. "Releasees" mean Defendant Allegiant Air, LLC and each of its past
20 or present direct and/or indirect, officers, directors, managers, employees, agents,
21 representatives, attorneys, insurers, partners, investors, shareholders, members,
22 administrators, parent companies, subsidiaries, affiliates, divisions, predecessors,
23 successors, benefit plans, beneficiaries, trustees, and/or assigns, in their personal,
24 individual, official, and/or corporate capacities.

25 29. "Request for Exclusion" means a timely letter submitted by a Class
26 Member requesting to be excluded from the Settlement Class. The Request for
27 Exclusion must: (a) be signed by the Class Member; (b) contain the name, address,
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1 telephone number and the last four digits of the Social Security Number of the
2 Class Member requesting exclusion; (c) clearly state that the Class Member does
3 not wish to be included in the Settlement; (d) be returned by fax or mail to the
4 Settlement Administrator at the specified mailing address and/or facsimile number;
5 and (e) be faxed or postmarked on or before the Response Deadline. The date of
6 the fax or postmark on the return mailing envelope will be the exclusive means to
7 determine whether a Request for Exclusion has been timely submitted. A Class
8 Member who does not timely request exclusion from the Settlement will be deemed
9 a Participating Class Member and will be bound by all terms of the Settlement
10 Agreement if the Court grants Final Approval of the Settlement, meaning that the
11 Class Member's Released Claims will be deemed released, barred, and
12 extinguished by the Court's Final Approval Order and by the operation of law.

13 30. "Response Deadline" means the deadline by which Class Members
14 must postmark or fax to the Settlement Administrator valid Requests for Exclusion
15 or postmark Notices of Objection to the Settlement. The Response Deadline will be
16 thirty (30) calendar days from the Settlement Administrator's initial mailing of the
17 Notice of Settlement, unless the 30th day falls on a Sunday or federal holiday, in
18 which case the Response Deadline will be extended to the next day on which the
19 U.S. Postal Service is open. The Response Deadline may be extended by express
20 agreement between Class Counsel and Allegiant's Counsel. Under no
21 circumstances, however, will the Settlement Administrator have the authority to
22 unilaterally extend the deadline for Class Members to submit a Request for
23 Exclusion or Notice of Objection to the Settlement.

24 31. "Settlement Administrator" means CPT Group, Inc. or any other third-
25 party class action settlement administrator that the Settling Parties jointly select.
26 The Settling Parties represent that they do not have any financial interest in the
27 Settlement Administrator or otherwise have a relationship with the Settlement
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1 Administrator that could create a conflict of interest.

2 32. "Settlement Administration Costs" means the costs payable from the
3 Gross Settlement Amount to the Settlement Administrator for administering this
4 Settlement, including, but not limited to, printing, distributing, and tracking
5 documents for this Settlement; calculating estimated Individual Settlement
6 Payments; tax reporting; distributing the Individual Settlement Payments, the
7 LWDA Payment, Enhancement Payment, and Attorneys' Fees and Costs; and
8 providing necessary reports and declarations, and other duties and responsibilities
9 set forth herein to process this Settlement, and as requested by the Settling Parties.
10 The Settlement Administration Costs will be paid from the Gross Settlement
11 Amount, including, if necessary and approved by the Court, any such costs in
12 excess of the amount represented by the Settlement Administrator as being the
13 maximum costs necessary to administer the Settlement.

14 **TERMS OF AGREEMENT**

15 Plaintiff, on behalf of herself and the Settlement Class and as proxy for the
16 LWDA, on the one hand, and Allegiant, on the other hand, in consideration of the
17 mutual covenants, promises, and undertakings set forth herein, agree, subject to the
18 Court's approval, as follows:

19 33. PAGA Notice. Prior to seeking settlement approval from the Court,
20 Plaintiff will submit a PAGA notice letter to the LWDA covering all alleged Labor
21 Code violations pled in the original complaint.

22 34. Amended Complaint. Prior to seeking settlement approval from the
23 Court, Plaintiff will file a First Amended Complaint that will add a claim for civil
24 penalties under PAGA covering all alleged Labor Code violations pled in the
25 original complaint. The First Amended Complaint shall be deemed the operative
26 Complaint for purposes of defining the scope of the Settlement Class and Released
27 Claims and for all other purposes. If the Settlement is not approved, Allegiant
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1 reserves the right to challenge the First Amended Complaint.

2 35. Stipulation to Class Certification for Settlement Purposes. The
3 Settling Parties agree that, for settlement purposes only, the Court shall certify the
4 Settlement Class consistent with this Settlement Agreement. The Settling Parties
5 agree that nothing in this Settlement Agreement, including the Settling Parties'
6 agreement regarding certification for settlement purposes, is in any way an
7 admission that class certification is proper and that evidence of this limited
8 stipulation for settlement purposes only will not be deemed admissible in this or
9 any other proceeding for any reason. If the Court does not approve the Settlement
10 or it otherwise does not become effective, this stipulation to certification will be
11 void and Allegiant reserves the right to contest any issues relating to class
12 certification, liability, and damages.

13 36. Gross Settlement Amount. Allegiant agrees to pay no more than the
14 Gross Settlement Amount, as provided for in this Settlement Agreement.

15 37. Funding of the Gross Settlement Amount. Within (15) business days
16 after the Court has granted Final Approval, Allegiant will deposit the Gross
17 Settlement Amount into a Qualified Settlement Fund established by the Settlement
18 Administrator for the purpose of administering the Settlement.

19 38. Attorneys' Fees and Costs. Within forty-five (45) calendar days of the
20 Effective Date, the Settlement Administrator shall pay the Court-approved
21 Attorneys' Fees and Costs to Class Counsel. In the event that the Court reduces or
22 does not approve the requested award to Class Counsel for attorneys' fees and
23 costs, Class Counsel shall not have the right to terminate or revoke this Settlement
24 Agreement, and it will remain binding. Plaintiff will have the right to appeal an
25 award of attorneys' fees and expenses that is less than the requested amount, but in
26 no event shall the Gross Settlement Amount be modified to exceed One Million
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1 Nine Hundred Fifty Thousand Dollars (\$1,950,000). Any amount not awarded in
2 attorneys' fees or expenses will be paid to the Class Members.

3 39. Enhancement Payment. In recognition of Plaintiff's effort and work in
4 prosecuting the Action on behalf of Class Members, and in exchange for a General
5 Release of all claims, the parties agree that Plaintiff will move for an Enhancement
6 Payment of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff/Class
7 Representative. The Enhancement Payment will be paid from the Gross Settlement
8 Amount within forty-five (45) calendar days of the Effective Date, provided that
9 such application or motion is consistent with this Settlement Agreement and
10 Plaintiff has not breached and is in compliance with this Settlement Agreement.
11 The Enhancement Payment will be characterized as a non-wage payment and
12 reported on a Form 1099. Plaintiff will be solely and legally responsible to pay any
13 and all applicable taxes on the payments made pursuant to this section and will
14 indemnify and hold Allegiant harmless from any claim or liability for taxes,
15 penalties, or interest arising as a result of the payment. If the Court awards less
16 than Ten Thousand Dollars (\$10,000) to Plaintiff, the difference will be allocated to
17 the Net Settlement Amount and paid to the Class Members. In the event that the
18 Court reduces or does not approve the requested Enhancement Award, Plaintiff
19 shall not have the right to terminate or revoke this Settlement Agreement, and it
20 will remain binding. Plaintiff will have the right to appeal an award of an
21 Enhancement Payment in less than the requested amount.

22 40. Settlement Administration Costs. The Settlement Administrator will
23 be paid for the reasonable costs of administration of the Settlement and distribution
24 of payments from the Gross Settlement Amount. These costs, which will be paid
25 from the Gross Settlement Amount, will include, *inter alia*, the required tax
26 reporting on the Individual Settlement Payments, the issuance of IRS Forms 1099
27 and W-2, distributing the Notice of Settlement, calculating and distributing the Net
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1 Settlement Amount and Individual Settlement Payments, administering the
2 Qualified Settlement Fund, and providing necessary reports and declarations.

3 41. Labor and Workforce Development Agency Payment. Subject to
4 Court approval, the Settling Parties agree that Sixty-Six Thousand Six Hundred
5 Sixty-Six Dollars and Sixty-Six Cents (\$66,666.66) from the Gross Settlement
6 Amount will be designated for satisfaction of Plaintiff's and Class Members'
7 PAGA claims for civil penalties. Pursuant to PAGA, Seventy-Five Percent (75%),
8 or Fifty Thousand Dollars (\$50,000), of the PAGA Settlement Amount will be paid
9 to the LWDA; and Twenty-Five Percent (25%), or Sixteen Thousand Six Hundred
10 Sixty-Six Dollars and Sixty-Six Cents (\$16,666.66), of the PAGA Settlement
11 Amount will be included in the Net Settlement Amount. In connection with
12 Settlement approval, Class Counsel shall timely notify the LWDA of the existence
13 of the Settlement. Class Counsel will provide a copy of this Stipulation for
14 Settlement and the Motion for Preliminary Approval to the LWDA pursuant to the
15 requirements specified in Labor Code §§ 2698-2699.5. If the LWDA objects to the
16 amount of its payment and the Court sustains the objection, or if the Court denies
17 approval of the Settlement Agreement based on the sufficiency of the PAGA
18 Settlement Amount or LWDA Payment, the Settling Parties will negotiate a
19 different portion of the Gross Settlement Amount to be allocated to the PAGA
20 Settlement Payment. In no event will any revised allocation result in an increase in
21 the Gross Settlement Amount.

22 42. Net Settlement Amount. The Net Settlement Amount will be used to
23 satisfy Individual Settlement Payments to Participating Class Members from the
24 Settlement Class in accordance with the terms of this Settlement. No portion of the
25 Net Settlement Amount will revert to or be retained by Allegiant.

26 43. Individual Settlement Payment Calculations. All of the Net Settlement
27 Amount will be allocated to Class Members as follows:

1 43(a) The portion of the PAGA Payment distributed as Individual
 2 PAGA Payments shall be divided among all Class Members
 3 on a pro rata basis, based on the ratio of the number of weeks
 4 worked by each Class Member while working as a
 5 California-based flight attendant from September 25, 2019
 6 through the date of preliminary approval of this settlement to
 7 the total number of weeks worked by all Class Members
 8 while working as California-based flight attendants during
 9 this same time period.

10 43(b) Participating Class Member distributions shall be divided
 11 among all Participating Class Members on a pro rata basis,
 12 based on the ratio of the number of weeks worked by each
 13 Participating Class Member while working as a California-
 14 based flight attendant from September 25, 2016 through the
 15 date of preliminary approval of this settlement to the total
 16 number of weeks worked by all Participating Class Members
 17 while working as California-based flight attendants during
 18 this same time period.

19 43(c) The payments set forth in 42(b) shall be allocated for tax
 20 purposes as fifty percent (50%) wages and fifty percent
 21 (50%) interest and penalties.

22 43(d) The Settlement Administrator shall issue Settlement
 23 Payments to Class Members in the form of a check within
 24 forty-five (45) calendar days after the Effective Date.

25 44. Administration Process. The Settling Parties mutually will agree on a
 26 Settlement Administrator and jointly will manage the Settlement Administrator's
 27 work. The Settling Parties agree to cooperate in the administration of the
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1 Settlement and to make all reasonable efforts to control and minimize the costs and
2 expenses incurred in the administration of the Settlement. The Settling Parties
3 agree that communications to and from the Settlement Administrator will include
4 both Class Counsel and Allegiant's Counsel, except for communications containing
5 sensitive information such as Allegiant's tax rate and related information, and the
6 Class Members' contact information and Social Security Numbers (which the
7 Settlement Administrator will redact).

8 45. Delivery of the Class List. Within thirty (30) calendar days of the
9 Court issuing the Preliminary Approval Order, Allegiant shall provide the Class
10 List to the Settlement Administrator. The Class List shall only be used by the
11 Settlement Administrator for the purpose of notifying the Class Members of the
12 Settlement and for mailing the Settlement Payments. Contact information,
13 including addresses for the Class Members, shall not be disclosed to Class Counsel,
14 Plaintiff, any Class Members or their counsel, or to any other third party.

15 46. Notice by First-Class U.S. Mail. Within fourteen (14) calendar days
16 after receiving the Class List from Allegiant, the Settlement Administrator will mail
17 the Notice of Settlement to all Class Members via regular First-Class U.S. Mail,
18 using the most recently known mailing addresses identified in the Class List.

19 47. Confirmation of Contact Information in the Class List. Prior to
20 mailing the Notice of Settlement, the Settlement Administrator will perform a
21 search based on the National Change of Address Database for information to update
22 and correct for any known or identifiable address changes. Any Notice of
23 Settlement returned to the Settlement Administrator as non-deliverable on or before
24 the Response Deadline will be sent promptly via regular First-Class U.S. Mail to
25 the forwarding address affixed thereto and the Settlement Administrator will
26 indicate the date of such re-mailing on the Notice of Settlement. If no forwarding
27 address is provided, the Settlement Administrator will promptly attempt to
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1 determine the correct address using a skip-trace, or other search using the name,
2 address and/or Social Security Number of the Class Member involved, and will
3 then perform a single re-mailing. Unless the Settlement Administrator receives a
4 Notice of Settlement returned from the United States Postal Service as non-
5 deliverable, the Class Notice shall be deemed mailed and received by the Class
6 Member to whom it was sent five (5) business days after mailing.

7 48. Notice of Settlement. All Class Members will be mailed a Notice of
8 Settlement. Each Notice of Settlement will provide: (a) information regarding the
9 nature of the Action; (b) a summary of the Settlement's principal terms; (c) the
10 Settlement Class definition; (d) each Class Member's estimated Individual
11 Settlement Payment and the general formula for calculating Individual Settlement
12 Payments; (e) the dates which comprise the applicable Class Period; (f) instructions
13 on how to submit Requests for Exclusion or Notices of Objection; (g) the deadlines
14 by which the Class Member must submit Requests for Exclusions or Notices of
15 Objection to the Settlement; (h) the claims to be released, as set forth herein; and (i)
16 the date for the Final Approval Hearing.

17 49. Disputed Claims. All disputes postmarked, emailed or faxed on or
18 before the Response Deadline will be resolved by the time of the Final Approval
19 Hearing. The postmark date on the return mailing envelope, email message date, or
20 fax receipt confirmation will be the exclusive means to determine whether a dispute
21 has been timely submitted. Allegiant's records, however, are presumed to be
22 correct unless a Participating Class Member proves otherwise with documentary
23 evidence. The Settlement Administrator will evaluate the evidence submitted by
24 the Class Member and Allegiant's Counsel will make the final decision as to the
25 dispute. The decision shall be binding on the Class Member and no additional
26 rights of appeal shall exist.

27 50. Request for Exclusion Procedures. Any Class Member wishing to opt
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1 out from the Settlement Agreement must sign and postmark or fax a written
2 Request for Exclusion to the Settlement Administrator on or before the Response
3 Deadline. Plaintiff may not opt out from the Settlement Agreement. The postmark
4 date on the return mailing envelope or fax receipt confirmation will be the exclusive
5 means to determine whether a Request for Exclusion has been timely submitted.
6 All Requests for Exclusion will be submitted to the Settlement Administrator, who
7 will certify jointly to Class Counsel and Allegiant's Counsel the Requests for
8 Exclusion that were timely submitted. All Class Members who do not submit a
9 valid and timely Request for Exclusion will be deemed Participating Class
10 Members and will be entitled to receive an Individual Settlement Payment.

11 51. Defective Submissions. If a Class Member's Request for Exclusion is
12 defective as to the requirements listed herein, that Class Member will be given an
13 opportunity to cure the defect(s). The Settlement Administrator will mail the Class
14 Member a cure letter within three (3) business days of receiving the defective
15 submission to advise the Class Member that their submission is defective, the
16 reason(s) why it is defective, and that the defect(s) must be cured to render the
17 Request for Exclusion valid. The Class Member will have until the later of: (a) the
18 Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter,
19 whichever date is later, to postmark or fax a corrected Request for Exclusion. If the
20 corrected Request for Exclusion is not postmarked or faxed within that period, it
21 will be deemed untimely.

22 52. Confidentiality and Publicity. Plaintiff and Class Counsel agree that,
23 prior to Preliminary Approval, they will keep the terms of the Settlement
24 Agreement confidential, except for purposes of communicating with Plaintiff only.
25 Neither Plaintiff nor Class Counsel, directly or indirectly, shall issue a press release
26 or hold a press conference, publish information about the Settlement on any
27 website, or otherwise publicize the Settlement. Plaintiff and Class Counsel agree
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1 not to respond to any press inquiries concerning the Settlement except to state, if
2 necessary, that the matter was resolved.

3 53. Revocation or Termination of Settlement Agreement. Only Allegiant
4 has the right to withdraw from, revoke, or terminate the Settlement Agreement, and
5 Allegiant shall only have the right and option to do so if, prior to the Final
6 Approval hearing, the following occurs: (a) five percent (5%) or more of all Class
7 Members submit valid and timely Requests for Exclusion; (b) the Settlement is
8 construed in such a fashion that Allegiant is required to pay more than the Gross
9 Settlement Amount as described herein; (c) the Court does not certify the
10 Settlement Class or does not certify a class releasing the claims set forth herein
11 (after all appeals are exhausted), or otherwise makes an order inconsistent with any
12 of the material terms of this Settlement Agreement; or (d) Plaintiff or Class Counsel
13 materially breach any term herein, or in the event of a material breach, have failed
14 to cure the breach following a reasonable opportunity to do so.

15 54. Settlement Terms Bind All Class Members Who Do Not Opt Out.
16 Any Class Member who does not affirmatively opt out of the Settlement Agreement
17 by submitting a timely and valid Request for Exclusion will be a Participating Class
18 Member and will be bound by all of the terms of the Settlement Agreement,
19 including those pertaining to the Released Claims, as well as any Judgment that
20 may be entered by the Court if it grants final approval to the Settlement. Any Class
21 Member who opts out of the Settlement will still be bound by the release of PAGA
22 claims.

23 55. Objection Procedures. To object to the Settlement Agreement, a Class
24 Member must postmark a valid Notice of Objection on or before the Response
25 Deadline to the Settlement Administrator or appear in person at the hearing on the
26 Motion for Final Approval of Class Action Settlement. If objecting in writing, the
27 Class Member must sign the Notice of Objection, and the Notice of Objection must
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1 contain all information this Settlement Agreement requires. The postmark date will
2 be deemed the exclusive means for determining that the Notice of Objection is
3 timely. The Settlement Administrator shall forward copies of any objections to
4 Class Counsel and to Defendant's Counsel within three days of receipt. Class
5 Counsel shall submit copies of any objections received to the Court in conjunction
6 with the filing of the motion for final approval of the Settlement. Class Members
7 who fail to object in the manner specified above will be deemed to have waived all
8 objections to the Settlement and will be foreclosed from making any objections and
9 seeking any adjudication or review, whether by appeal or otherwise, to the
10 Settlement Agreement. At no time will any of the Settling Parties or their counsel
11 seek to solicit or otherwise encourage Class Members to submit written objections
12 to the Settlement Agreement or appeal from the Final Approval Order. Class
13 Counsel will not represent any Class Members with respect to any such objections
14 to this Settlement. Plaintiff will neither submit a Request for Exclusion nor Notice
15 of Objection to the Settlement.

16 56. Certification Reports Regarding Individual Settlement Payment
17 Calculations. The Settlement Administrator will provide Allegiant's Counsel and
18 Class Counsel a weekly report which certifies the number of Class Members who
19 have submitted valid Requests for Exclusion or Notices of Objection and whether
20 any Class Member has submitted a challenge to any information contained in their
21 Notice of Settlement. Additionally, the Settlement Administrator will provide to
22 counsel for both Settling Parties any updated reports regarding the administration of
23 the Settlement Agreement as needed or requested.

24 57. Uncashed Settlement Checks. Any checks the Settlement
25 Administrator issues to Participating Class Members will be negotiable for one
26 hundred twenty (120) calendar days, after which they will become void. In such
27 event, the Settlement Class Member shall remain bound by the settlement. Those
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1 funds represented by settlement checks returned as undeliverable and those
2 settlement checks remaining un-cashed for more than one hundred twenty (120)
3 calendar days after issuance shall be used to fund a *cy pres* payment to the
4 University of California Berkeley's Institute for Research on Labor and
5 Employment.

6 58. Certification of Completion. Upon completion of administration of the
7 Settlement, the Settlement Administrator will provide a written declaration under
8 oath to certify such completion to the Court and counsel for all Settling Parties.

9 59. Tax Treatment of Individual Settlement Payments. All Individual
10 Settlement Payments will be allocated in accordance with the terms of Paragraph
11 43. Settlement payments to Participating Class Members will be distributed from
12 the Net Settlement Amount and will be treated as fifty percent (50%) wages and
13 fifty percent (50%) non-wage payments. Allegiant shall be responsible for the
14 employer's share of payroll taxes for the portion of the Individual Settlement
15 Payments treated as wage payments. In the event any portion of the Individual
16 Settlement Payments is ultimately construed by the IRS or any other taxing
17 authority to be taxable income from which taxes should have been withheld, each
18 of the Settling Parties shall pay any and all taxes, interest, and penalties determined
19 to be due and owed by them.

20 60. Administration of Taxes by the Settlement Administrator. The
21 Settlement Administrator will be responsible for issuing to Plaintiff, Participating
22 Class Members, and Class Counsel any Forms W-2, 1099, or other tax forms as
23 may be required by law for all amounts paid pursuant to this Settlement. The
24 Settlement Administrator will also be responsible for forwarding all payroll taxes
25 and penalties to the appropriate government authorities.

26 61. Tax Liability. Allegiant and Class Counsel make no representation as
27 to the tax treatment or legal effect of the payments called for in this Settlement
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1 Agreement, and Plaintiff and Participating Class Members are not relying on any
2 statement, representation, or calculation by Allegiant, Class Counsel, or the
3 Settlement Administrator in this regard. Plaintiff and Participating Class Members
4 understand and agree that except for the employer's portion of any payroll taxes,
5 they will be solely responsible for the payment of any taxes and penalties assessed
6 on the payments described herein.

7 62. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT
8 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" IS
9 EACH PARTY TO THIS AGREEMENT, AND AN "OTHER PARTY" IS ANY
10 PARTY OTHER THAN THE ACKNOWLEDGING PARTY)
11 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
12 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
13 BETWEEN OR AMONG THE SETTLING PARTIES OR THEIR ATTORNEYS
14 AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY
15 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE
16 CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
17 MEANING OF UNITED STATES TREASURY DEPARTMENT
18 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
19 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS,
20 HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR
21 ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
22 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED
23 UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
24 ATTORNEY TO ANY OTHER PARTY OR ANY ADVISOR TO ANY OTHER
25 PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
26 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER
27 TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
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1 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY
2 OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
3 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S
4 OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH
5 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
6 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
7 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
8 CONTEMPLATED BY THIS AGREEMENT.

9 63. No Prior Assignments. The Settling Parties and their counsel
10 represent, covenant, and warrant that they have not directly or indirectly assigned,
11 transferred, encumbered, or purported to assign, transfer, or encumber to any person
12 or entity any portion of any liability, claim, demand, action, cause of action or right
13 herein released and discharged.

14 64. Nullification of Settlement Agreement. In the event that: (a) the Court
15 does not finally approve the Settlement as provided herein; or (b) the Settlement
16 does not become final for any other reason, then this Settlement Agreement and all
17 the terms and agreements contained therein, and any documents generated to bring
18 it into effect, will be null and void, and all amounts deposited into the Qualified
19 Settlement Fund will be returned to Allegiant with the exception of the Settlement
20 Administrator's costs incurred. Any order or judgment the Court enters in
21 furtherance of this Settlement Agreement will likewise be treated as void from the
22 beginning.

23 65. Preliminary Approval Hearing. Plaintiff will obtain a hearing before
24 the Court to request Preliminary Approval of the Settlement Agreement, and the
25 entry of a Preliminary Approval Order that: (a) conditionally certifies the
26 Settlement Classes for settlement purposes only, (b) preliminarily approves the
27 Settlement Agreement, and (c) sets a date for a Final Approval Hearing. The
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1 Preliminary Approval Order will provide for the Notice of Settlement to be sent to
2 all Class Members as specified herein. In conjunction with the Preliminary
3 Approval Hearing, Plaintiff will submit this Settlement Agreement, which sets forth
4 the terms of this Settlement, and will include the proposed Notice of Settlement in
5 the form of the proposed Notice of Class Action Settlement document, attached as
6 Exhibit A. Class Counsel will prepare an initial draft of the motion for preliminary
7 approval of the class action settlement, and Allegiant agrees to review, comment
8 on, and include any information Class Counsel requests within seven (7) calendar
9 days of receiving the draft motion for preliminary approval. In accordance with
10 Labor Code section 2699.3, Class Counsel will provide a copy of the preliminary
11 approval motion to the LWDA simultaneously with the motion's filing with the
12 Court.

13 66. Final Approval Hearing and Entry of Judgment. Upon expiration of
14 the deadlines to postmark Requests for Exclusion or Notice of Objection to the
15 Settlement Agreement, and with the Court's permission, a Final Approval Hearing
16 will be conducted to determine whether to grant final approval of the Settlement
17 Agreement along with the amounts properly payable for: (a) Individual Settlement
18 Payments; (b) the LWDA Payment; (c) the Attorneys' Fees and Costs; (d) the
19 Enhancement Payment; (e) the Contingency Fund; and (f) all Settlement
20 Administration Costs. Class Counsel will be responsible for drafting all documents
21 necessary to obtain final approval, with review by and in consultation with
22 Allegiant's Counsel. Class Counsel also will be responsible for drafting the
23 attorneys' fees and costs and Enhancement Payment applications to be heard at the
24 Final Approval Hearing.

25 67. Judgment and Continued Jurisdiction. Upon the Court's final approval
26 of the Settlement or after the Final Approval Hearing, the Settling Parties will
27 present the Judgment to the Court for its approval. Plaintiff's and the Settlement
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1 Classes' claims will be dismissed with prejudice. After entry of the Judgment, the
2 Court will have continuing jurisdiction until all payments and obligations provided
3 for in the Settlement have been fully completed solely for purposes of addressing:
4 (a) the interpretation and enforcement of the Settlement's terms, (b) Settlement
5 administration matters, and (c) such post-Judgment matters as may be appropriate
6 under court rules or as set forth in this Settlement Agreement.

7 68. Stay on Appeal. In the event of a timely appeal from the Judgment
8 and dismissal, the Judgment shall be stayed, and none of the Gross Settlement
9 Amount shall be distributed to the Settlement Class Members, Plaintiff, or
10 Plaintiff's counsel, and the actions required by this Settlement Agreement shall not
11 take place until all appeal rights have been exhausted by operation of law.

12 69. Release by Plaintiff and Participating Class Members. Upon the
13 Effective Date, the Plaintiff's General Release of Claims and Rights shall take
14 effect, and the Participating Class Members will release and forever discharge the
15 Releasees of the Released Claims.

16 70. Exhibits Incorporated by Reference. The terms of this Settlement
17 include the terms set forth in any attached Exhibits, which are incorporated by this
18 reference as though fully set forth herein. Any Exhibits to this Settlement are an
19 integral part of the Settlement.

20 71. Entire Agreement. This Settlement Agreement and any attached
21 Exhibits constitute the entirety of the Settling Parties' settlement terms. No other
22 prior or contemporaneous written or oral agreements may be deemed binding on the
23 Settling Parties. Except as otherwise provided herein, each party shall bear its own
24 costs and attorneys' fees.

25 72. Amendment or Modification. This Settlement Agreement may be
26 amended or modified only by a written instrument, to be signed either by
27 authorized representatives of all Settling Parties or their respective successors-in-
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1 interest.

2 73. Authorization to Enter into Settlement Agreement. Counsel for all
3 Settling Parties warrant and represent they are expressly authorized by the Settling
4 Parties whom they represent to negotiate this Settlement Agreement and to take all
5 appropriate action required or permitted to be taken by such Settling Parties
6 pursuant to this Settlement Agreement to effectuate its terms and to execute any
7 other documents required to effectuate the terms of this Settlement Agreement.

8 74. Use of Best Efforts. The Settling Parties and their counsel will
9 cooperate with each other and use their best efforts to effect and implement all
10 terms and conditions of the Settlement and to exercise their best efforts to
11 accomplish the foregoing terms and conditions of the Settlement.

12 75. Binding on Successors and Assigns. This Settlement Agreement will
13 be binding upon, and inure to the benefit of, the successors or assigns of the
14 Settling Parties, as previously defined.

15 76. Governing Law. All substantive terms of this Settlement Agreement
16 and its Exhibits will be governed by and interpreted according to the laws of the
17 State of California. All procedural terms of this Settlement Agreement, including
18 the procedures by which the Parties will seek the Court's approval of the
19 Settlement, will be governed by the Federal Rules of Civil Procedure and applicable
20 federal case law.

21 77. Execution and Counterparts. The Settlement Agreement may be
22 executed in one or more counterparts. All executed counterparts and each of them,
23 including DocuSign or other electronic or scanned copies of the signature page, will
24 be deemed to be one and the same instrument provided that counsel for the Settling
25 Parties will exchange among themselves original signed counterparts upon request.

26 78. Acknowledgement that the Settlement Is Fair and Reasonable. The
27 Settling Parties believe this Settlement Agreement is a fair, adequate, and
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1 reasonable settlement of the Action and have arrived at this Settlement after
2 extensive arm's-length negotiations and in the context of adversarial litigation,
3 taking into account all relevant factors, present and potential. The Settling Parties
4 further acknowledge that they have had an opportunity to consult with their counsel
5 regarding the fairness and reasonableness of this Settlement.

6 79. No Admission of Liability. Allegiant and all the Releasees deny any
7 and all claims asserted or that could have been asserted on behalf of the Settlement
8 Class and deny all wrongdoing whatsoever. This Settlement Agreement is not a
9 concession or admission and will not be used against Allegiant or any of the
10 Releasees as an admission or indication with respect to any claim of any fault,
11 concession, or omission by Allegiant or any of the Releasees. Regardless of
12 whether the Settlement Agreement is finally approved, neither the Settlement
13 Agreement, nor any document, statement, proceeding, or conduct related to this
14 Settlement Agreement, nor any reports or accounts thereof, shall in any event be
15 construed as, offered or admitted in evidence as, received as, or deemed to be,
16 evidence of a presumption, concession, indication, or admission by Allegiant, or
17 any of the Releasees of any liability, fault, wrongdoing, omission, concession, or
18 damage. The Settling Parties agree that this is a settlement of disputed claims and
19 California Labor Code section 206.5 therefore is inapplicable.

20 80. Communications about Settlement. The Settling Parties and their
21 counsel will keep the settlement negotiations confidential and will not disclose that
22 information to any third party (including the press) except as set forth herein or
23 unless the Settling Parties otherwise agree in writing. For purposes of this section,
24 third parties shall not include other attorneys, if any, representing Plaintiff in this
25 matter. The Settling Parties additionally will keep the Settlement confidential until
26 Preliminary Approval. To the extent any Class Members inquire regarding the
27 status of the case, the Settling Parties and their counsel may indicate that a tentative
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1 settlement has been reached subject to preliminary approval by the Court (or that a
2 settlement has been preliminarily approved, if applicable) but may not disclose the
3 terms prior to Preliminary Approval. Notwithstanding the foregoing, Allegiant
4 shall have the right to disclose the terms of the Settlement for accounting, tax, or
5 public filing purposes. Plaintiff and her counsel agree that at no time will they,
6 verbally or in writing, defame or make disparaging remarks or encourage, solicit,
7 induce or entice others to make disparaging remarks about Allegiant unless the
8 Court denies approval of this Settlement and the Settling Parties are unable to
9 negotiate a different settlement.

10 81. Data and Documents Produced by Allegiant. Plaintiff and Class
11 Counsel agree to keep confidential all data and documents produced by Allegiant as
12 “confidential” during discovery or in connection with the mediation and/or
13 settlement of this matter. Unless otherwise ordered by a court or permitted in
14 writing by Allegiant, Plaintiff agrees to not disclose the confidential information or
15 documents, and Class Counsel agrees to not disclose the confidential information or
16 documents under any circumstances except as necessary if threatened with or
17 named in a lawsuit alleging malpractice and/or if their malpractice carrier requests
18 to see the file. Notwithstanding any other provision in this paragraph, Class
19 Counsel are allowed to use the information that they received regarding the class in
20 their motions for preliminary and final approval of the Settlement or if it is needed
21 to uphold the Settlement. Class Counsel also reserves the right to use any
22 information the Court requests in order to evaluate whether or not to grant approval
23 of the Settlement.

24 82. Full Payment of Attorneys’ Fees and Costs. Plaintiff and her counsel
25 understand and agree that any attorneys’ fees and cost payments made under this
26 Settlement will be the full, final, and complete payment of all attorneys’ fees and
27 costs related to the Action, including all attorneys’ fees and costs arising from or
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1 relating to the representation of Plaintiff, the Class Members, or any other
2 attorneys' fees and costs associated with the investigation, discovery, prosecution,
3 and/or appeal of the claims released under the Settlement Agreement. Plaintiff and
4 her counsel will release any claim they may have against Allegiant or Releasees for
5 attorneys' fees or costs arising from or relating to the representation of Plaintiff, the
6 Class Members, or any other attorneys' fees and costs associated with the
7 investigation, discovery, prosecution, and/or appeal of the claims released by the
8 Settlement Agreement and the Action. Allegiant's sole obligations to Class
9 Counsel and the Settlement Administrator are set forth in this Settlement
10 Agreement. Class Counsel shall not seek to recover any fees or costs awarded in
11 excess of the terms in this Settlement.

12 83. Wage Statement Approval. Class Counsel agrees that as part of the
13 Settlement, Allegiant may seek approval from the Court regarding implementation
14 of an updated wage statement and its compliance with Labor Code Section 226's
15 requirements. Class Counsel agrees not to oppose Allegiant's request to the Court.
16 Class Counsel further agrees to meet and confer with Allegiant regarding any
17 additional assistance it may seek from Class Counsel in this regard, including, if
18 necessary, submitting an affidavit regarding Allegiant's updates to the wage
19 statement.

20 84. Invalidity of Any Provision. Before declaring any provision of this
21 Settlement Agreement invalid, the Court will first attempt to construe the provision
22 as valid to the fullest extent possible consistent with applicable precedents so as to
23 define all provisions of this Settlement Agreement valid and enforceable.

24 85. Waiver of Certain Appeals. The Settling Parties agree to waive
25 appeals and to stipulate to class certification for purposes of this Settlement only;
26 except, however, that Plaintiff or Class Counsel may appeal any reduction in the
27 Attorneys' Fees and Costs and the Enhancement Payment below the amount they
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1 request from the Court consistent with the terms of this Settlement Agreement, but
2 any such appeal shall not affect the Court's Final Approval of the Settlement
3 Agreement, and either party may appeal any court order that materially alters the
4 Settlement Agreement's terms.

5 86. Captions. The captions and section numbers in this Settlement
6 Agreement are inserted for the reader's convenience, and in no way define, limit,
7 construe or describe the scope or intent of the provisions of this Settlement
8 Agreement.

9 87. Waiver. No waiver of any condition or covenant contained in this
10 Settlement Agreement or failure to exercise a right or remedy by any of the Settling
11 Parties will be considered to imply or constitute a further waiver by such party of
12 the same or any other condition, covenant, right or remedy.

13 88. Mutual Preparation. The Settling Parties have had a full opportunity to
14 negotiate the terms and conditions of this Settlement Agreement. Accordingly, this
15 Settlement Agreement will not be construed more strictly against one party than
16 another merely by virtue of the fact that it may have been prepared by counsel for
17 one of the Settling Parties, it being recognized that, because of the arms'-length
18 negotiations between the Settling Parties, all Settling Parties have contributed to the
19 preparation of this Settlement Agreement.

20 89. Representation by Counsel. The Settling Parties acknowledge that
21 they have been represented by counsel throughout all negotiations that preceded the
22 execution of this Settlement Agreement, and that this Settlement Agreement has
23 been executed with the consent and advice of counsel, and reviewed in full.
24 Further, Plaintiff and Class Counsel warrant and represent that there are no liens on
25 the Settlement Agreement or on any amounts to be paid to them under the
26 Settlement Agreement's terms.

27 90. All Terms Subject to Final Court Approval. All amounts and
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procedures described in this Settlement Agreement will be subject to final Court approval.

91. Cooperation and Execution of Necessary Documents. All Settling Parties will cooperate in good faith and sign all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

92. Binding Agreement. The Settling Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

93. Notice to Settling Parties. Whenever this Settlement Agreement requires or contemplates that one party, the Court, or the Settlement Administrator shall or may give notice to another, notice shall be provided by email facsimile and/or next-day (excluding Sundays and Court holidays) express delivery service as follows:

- If to Allegiant, then to both of:

Brendan T. Killeen
Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178
Tel: 212-309-6000
Fax: 212-309-6001
E-mail: brendan.killeen@morganlewis.com

Andrew P. Frederick
Morgan, Lewis & Bockius LLP
1400 Page Mill Road
Palo Alto, CA 94304
Tel: 650-843-4000
Fax: 650-843-4001
E-mail: andrew.frederick@morganlewis.com

- If to Plaintiff, then to:

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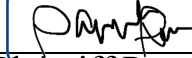
Matthew R. Bainer, Esq. (SBN 220972)
THE BAINER LAW FIRM
1901 Harrison St., Suite 1100
Oakland, California 94612
Telephone: (510) 922-1802
Facsimile: (510) 844-7701
E-mail: mbainer@bainerlawfirm.com

SIGNATURES

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

DocuSigned by:



Plaintiff Pamela Rolle

Dated: February 8, 2023

DEFENDANT

Dated: February __, 2023

Defendant Allegiant Air, LLC

APPROVED AS TO FORM

Dated: February 8, 2023

THE BAINER LAW FIRM

By 

Matthew R. Bainer

Attorney for Plaintiff
PAMELA ROLLE

Dated: February __, 2023

MORGAN, LEWIS & BOCKIUS LLP

By 
Brendan T. Killeen
Andrew P. Frederick

Attorneys for Defendant
ALLEGiant AIR, LLC

EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Rolle v. Allegiant Air, LLC
Case No. 2:20-cv-10232-SSS-PDx

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

***Please read this Notice carefully. It informs you about Your legal rights.
A court approved this notice. This is not an advertisement or solicitation.***

To: All flight attendants employed by Allegiant as California-based flight attendants at any point from September 25, 2016 through [THE DATE THE COURT PRELIMINARILY APPROVES THE SETTLEMENT].

1. What Is This Notice And Why Did I Get It?

This Notice was sent to inform you that the United States District Court for the Central District of California has preliminarily approved the terms of a class action and PAGA settlement in a lawsuit filed against Allegiant Air, LLC ("Allegiant") by former flight attendant Pamela Rolle.

This notice will (1) advise you of the Settlement that has been approved by the court; (2) advise you of how your rights maybe be affected by this lawsuit; and (3) instruct you on the procedure for participating, opting out of, or objecting to the Settlement.

You are receiving this Notice because you were identified as a current or former Allegiant flight attendant who was based at a California airport at some point between September 25, 2016 and [THE DATE THE COURT PRELIMINARILY APPROVES THE SETTLEMENT]. This means ***you are eligible to participate in the settlement of this lawsuit and receive payment under the Settlement.***

2. What Is The Lawsuit About?

Plaintiff Pamela Rolle filed a lawsuit against Allegiant Air, LLC entitled *Pamela Rolle v. Allegiant Air, LLC* in the Los Angeles County Superior Court as Case No. 20STCV36871, which was removed to the United States District Court for the Central District of California and now has Case No. 2:20-cv-10232-SSS-PDx (the "Lawsuit"). Plaintiff brought claims for alleged violations of California's overtime, minimum wage, meal period, rest period, wage statement, and final pay laws, as well as claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), alleging that Allegiant failed to pay her and other flight attendants as required by California law, failed to provide meal and rest periods as required by California law, and failed to provide wage statements with the information required by California law.

Allegiant denied all of, and asserted defenses to, Plaintiff's claims, including its good faith belief based on then-prevailing law that the California Labor Code did not apply to Allegiant's

California-based flight attendants and that Allegiant's practices nonetheless complied with California law.

Plaintiff and Allegiant (the "Parties") have agreed to a Settlement of the Lawsuit.

The Settlement will resolve all Class Members' Released Claims (described in Section 9, below) for time periods going back as far as September 25, 2016 and continuing to [preliminary approval date]. A preliminary approval hearing was held on [date] in the United States District Court for the Central District of California. On [date], the Court preliminarily approved the class action settlement reached by the Parties and directed that you and the other Class Members receive this Notice. The Court also preliminarily appointed Plaintiff as the representative of the Settlement Class ("Class Representative").

The Court will hold a Final Approval Hearing concerning the proposed Settlement on [date] at [time], in Courtroom 2 of the United States District Court for the Central District of California, the Hon. Sunshine Suzanne Sykes presiding, located at 3470 Twelfth Street, Riverside, California 92501.

3. Am I a Class Member?

You are a Class Member if you are a current or former flight attendant who worked for Allegiant while based in California ("California-based flight attendants") at any time from September 25, 2016 through [PRELIMINARY APPROVAL DATE].

4. How Does This Class Action Settlement Work?

In this lawsuit, Plaintiff sued on behalf of other California-based flight attendants who worked at any point since September 25, 2016. For purposes of this Settlement, Plaintiff and these other California-based flight attendants are deemed to comprise a "Settlement Class" and are "Class Members." The settlement of this lawsuit resolves all claims asserted in the Lawsuit against Releasees, as well as claims that could have been pled in the Lawsuit based on the factual allegations contained in the operative Complaint or any amendments thereto continuing through [PRELIMINARY APPROVAL DATE], on behalf of all Class Members, except for those who exclude themselves from the Settlement Class.

Settlement Payments: Class Members who do not exclude themselves will be eligible to receive an Individual Settlement Payment under the Settlement on a pro rata basis, based on the ratio of the number of weeks worked by each Class Member while working as a California-based flight attendant from September 25, 2016 through [PRELIMINARY APPROVAL DATE] to the total number of weeks worked by all Class Members while working as a California-based flight attendant during the same period.

PAGA Civil Penalty Payments: \$66,666.66 will be allocated to PAGA claims, with \$50,000 to be paid to the California Labor and Workforce Development Agency ("LWDA") as required by

California law and \$16,666.66 to be allocated to Class Members who worked since September 25, 2019. The allocation to Class Members shall be pro rata based on weeks worked since September 25, 2016 when working as a California-based flight attendant.

Persons who choose to exclude themselves from the Settlement Class will not receive payment from the class and will not be bound by the release of Class Members' Released Claims under this Settlement. However, they will still receive a payment related to the settlement of Plaintiff's PAGA claims and will be bound by the release with respect to the PAGA claims, for which they do not have the right to exclude themselves.

The Court file has the Stipulation of Class and PAGA Representative Action Settlement and Release ("Settlement Agreement") and other papers in this case, which are available for your review during the Court's normal hours of operation. You may go there in person to review the documents at the Office of the Clerk, United States District Court for the Central District of California, 3470 Twelfth Street, Riverside, California 92501. Please confirm the office is open before coming to the Court. You may also view the documents online at the website listed in Section 16 of this notice.

The Court must review the terms of the Settlement and make a final determination as to whether it is fair, adequate and reasonable. A hearing will be held ("Final Approval Hearing"), at which time the Court will decide these issues. See Section 15 below for more information.

5. What Are My Options?

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are explained below.

STAY IN THE CLASS: If you do not request to be excluded from the Settlement Class, you will remain a member of the Settlement Class, and if the Court grants final approval of the Settlement, you will receive an Individual Settlement Payment based on the formula described above. In exchange, you give up the right to sue Allegiant for the Class Member Released Claims, which are defined in Section 9, below. To ensure you receive your settlement payment, all you need to do is keep the Settlement Administrator informed of your current mailing address. If the Court grants final approval of the settlement, the Settlement Administrator will mail your payment to the address on file. You will have 120 days to cash or otherwise negotiate your check.

ASK TO BE EXCLUDED: Except as otherwise noted, if you ask to be excluded or “opt out” of the Settlement Class within 30 days of the date of this Notice, and if the Court grants final approval of the Settlement, you will not receive any payment under the Settlement (except for your share of the Settlement attributable to the PAGA claim), but you will retain any rights you might have to sue Allegiant for the non-PAGA Class Members’ Released Claims resolved through this Settlement. You will be bound by the release with respect to the PAGA claims, for which you do not have the right to exclude yourself.

OBJECT: You may object to the proposed Settlement. Only Class Members who do not request to be excluded from the settlement may object to the Settlement. You will have 30 days from the date of this Notice to object in writing, or you may object in person by appearing at the Final Approval Hearing. If your objection is overruled by the Court, you will still receive an Individual Settlement Payment, and you will be bound by the terms of this Settlement. While you can ask the Court to deny approval by filing an objection, you CANNOT ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

6. What Are The Terms Of The settlement?

Under the proposed Settlement, Allegiant will pay One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000.00) to fully and finally resolve all claims in the Action. The \$1,950,000.00 payment is referenced as the “Gross Settlement Amount.” Of that amount, the sum of \$66,666.66 will be allocated to the settlement of the PAGA claims (the “PAGA Civil Penalty Payment”). Three quarters of the PAGA Civil Penalty Payment (\$50,000) shall be paid to the State of California (the “LWDA Payment”), while one quarter of the PAGA Civil Penalty Payment (\$16,666.66) shall be available for distribution to eligible Class Members, including those who opt out of the Settlement.

The amount to be distributed to Class Members is called the “Net Settlement Amount.” The Net Settlement Amount is determined by taking the Gross Settlement Amount and deducting the following court-approved amounts: (a) the LWDA Payment of \$50,000; (b) the Class Counsel’s Attorneys’ Fees and Costs in the amount of up to one-third of the Gross Settlement Amount, or \$650,000.00 in fees, plus reimbursable costs; (c) payment to Plaintiff in the amount of up to \$10,000 in recognition of her efforts in serving as representative of the Settlement Class and participating in this lawsuit (“Enhancement Payment”); (d) the Contingency Fund in the amount of \$25,000 meant to address late or disputed claims; and (e) Administration Costs currently estimated to be in the amount of up to \$7,500. The LWDA Payment, Attorneys’ Fees

and Costs, Class Representative Enhancement Payment, and Settlement Administration Costs are all subject to Court approval.

7. How Much Will My Individual Settlement Payment Be?

According to Allegiant's records, you worked for Allegiant as a California-based flight attendant for __ workweeks between September 25, 2016 and [preliminary approval date]. Your estimated total Individual Settlement Payment is \$_____. Please note that this is just an estimate, and your final Individual Settlement Payment may be lower or higher.

If the settlement is approved, even if you submit a valid and timely request for exclusion, you will also receive an individual share of the PAGA Civil Penalty Payment, estimated to be \$_____.

Apart from the employer's share of payroll taxes, which is being paid separately by Allegiant and not from the Gross Settlement Amount, you are solely responsible for the tax consequences arising from your receipt of an Individual Settlement Payment or an individual share of the PAGA Civil Penalty Payment. No opinion regarding the tax consequences of this settlement to any individual Class Member is being given, or will be given, by Allegiant, counsel for Allegiant, any Releasee, or Class Counsel. Class Members should consult their own tax advisors regarding the tax consequences of this settlement, including but not limited to any payments provided or tax reporting obligations.

If you believe that the number of workweeks, is not correct, please see Section 8, below.

8. What If I Believe My Workweeks Are Inaccurate?

If you believe your number of workweeks is inaccurate, you may dispute it by emailing [name and address of Settlement Administrator] no later than 30 days after the Settlement Administrator mailed you this Notice. If there is a dispute, the Settlement Administrator shall consult with the Parties to determine whether an adjustment is warranted.

9. How Does This Settlement Affect My Rights?

If you do not exclude yourself from the Settlement and the Settlement is approved by the Court, you will release the claims resolved by the Settlement. This means you will not be able to sue, continue to sue, or be part of any other lawsuit against the Releasees that involves the same legal claims as those resolved through this Settlement. Specifically, you will be giving up or "releasing" the "Released Claims" described below:

All claims, rights, demands, liabilities and causes of action of every nature and description pertaining to the claims litigated in the Action against Releasees, as well as claims that could have been pled in this Action based on the factual allegations contained in the operative Complaint or any amendments thereto continuing through the date of Preliminary Approval, including, without limitation, all claims for alleged violation of the California Labor Code and IWC Wage Order No. 9 for failure to pay overtime, failure to pay minimum wage, failure to provide meal periods and/or pay meal period premiums, failure to provide rest periods and/or pay rest period

premiums, failure to provide accurate wage statements, failure to pay all wages timely, failure to pay all wages due upon termination, as well as derivative claims under the California Labor Code, California Unfair Competition Law, Bus. Prof. Code § 17200, *et seq.*, and civil penalties under PAGA, including but not limited to civil penalties that are based on or related to the alleged Labor Code and Business & Professions Code violations referenced above, and all claims for interest, penalties, attorneys' fees, costs, any other monetary relief, injunctive relief, declaratory relief, or accounting that are based on or related to the alleged Labor Code and Business & Professions Code violations referenced above.

The "Releasees," or entities and people against whom you are giving up claims, are described below:

Defendant Allegiant Air, LLC and each of its past or present direct and/or indirect, officers, directors, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, members, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, benefit plans, beneficiaries, trustees, and/or assigns.

If you exclude yourself from the Settlement and the Settlement is approved by the Court, you will only be deemed to release your claims for PAGA penalties, for which you will receive a share of the PAGA Payments allocated to all Class Members. However, you will not release any of the other Released Claims or receive any other settlement payments.

10. How Do I Request That The Court Exclude Me From This Settlement?

If you want the Court to exclude you from the Settlement, you must fax or mail to the Settlement Administrator a written request for exclusion no later than **[30 DAYS AFTER MAILING]**. To be valid, your written request for exclusion must include your name and address, a clear statement expressing that you do not wish to be included in the Settlement and your signature.

If you send a timely Request for Exclusion to the Settlement Administrator which complies with the above requirements, then: (a) you will not be a member of the Settlement Class; (b) you will not receive an Individual Settlement Payment, and (c) if the Court approves the Settlement, the only payment you receive will be your individual share of the PAGA Civil Penalty Payment. By excluding yourself from the Settlement, you will retain whatever rights or claims you may have against Allegiant and Releasees (with the exception of the release as to Plaintiff PAGA claim, which shall remain binding), and you will be free to pursue them, at your own cost, if you choose to do so.

11. How Do I Object To The Settlement?

If you are a Class Member who does not exclude yourself from the Settlement Class, you may object to the Settlement or any aspect of the Settlement. You can ask the Court to deny approval of the settlement by filing a valid Notice of Objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies

approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be either submitted in writing and signed or made in person at the Final Approval Hearing. If you file a timely written Notice of Objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. Your written Notice of Objection must (a) clearly identify the case name and number (*Rolle v. Allegiant Air, LLC*, Case No. 2:20-cv-10232-SSS-PDx); (b) include your full name, signature, address, and telephone number; (c) be submitted to the Settlement Administrator; (d) state the grounds for objection and whether you intend to appear at the Final Approval Hearing; and (e) be filed or postmarked no later than **[30 DAYS AFTER MAILING]**.

Objecting to the Settlement will not remove you from the Settlement Class. A Class Member who submits an objection remains bound by the Settlement if it is approved by the Court. To exclude yourself or opt out from the Settlement Class, you must submit a written Request for Exclusion by following the instructions above. If you exclude yourself or opt out of the Settlement, you may not object to the Settlement.

12. How Do I Make Sure I Receive My Individual Settlement Payment?

If the Settlement is approved and you have not excluded yourself from the Settlement Class, you will receive your Individual Settlement Payment via a check mailed to you at the address on file with the Settlement Administrator.

You may contact the Settlement Administrator via email **[EMAIL ADDRESS]** or through the Settlement Administrator's website **[WEBSITE ADDRESS WITH LINK]**. If emailing, be sure to provide the name of this case (*Rolle v. Allegiant Air, LLC*, Case No. 2:20-cv-10232-SSS-PDx), your full name, and the specifics of your request. The Settlement Administrator will require additional information from you in order to verify your identity.

Any request for changes to the payment method must be made no later than **[DATE thirty (30) after Settlement Administrator first mailed notice]**.

Your settlement check will be valid for 120 days from issuance. You must deposit, cash, or otherwise negotiate your check within 120 days OR IT WILL BECOME VOID, YOU WILL LOSE THE RIGHT TO RECEIVE YOUR INDIVIDUAL SETTLEMENT PAYMENT, AND YOU WILL REMAIN BOUND BY THE SETTLEMENT.

13. Who Are the Attorneys Representing the Class?

If you have any questions about this Notice, you can contact **[SETTLEMENT ADMINISTRATOR]**

The lawyers for Plaintiff and Settlement Class are:

BAINER LAW FIRM
Matthew Bainer

1999 Harrison St., Suite 1800
Oakland, CA 94612
Telephone: (510) 922-1802
Facsimile: (510) 844-7701
mbainer@bainerlawfirm.com

The Court has appointed the Bainer Law Firm to represent the Settlement Class. This law firm is referred to as "Class Counsel." You do not need to hire your own attorney because Class Counsel are working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

14. How Will Class Counsel Be Paid?

Class Counsel will be paid from the Gross Settlement Amount. Class Counsel will ask for up to one-third of the Gross Settlement Amount (or \$650,000) as attorneys' fees and for reimbursement of actual litigation costs and expenses. The actual amounts awarded shall be determined by the Court.

Class Counsel will also request that the Court approve an Enhancement Payment to Plaintiff of up to \$10,000 each to be paid from the Gross Settlement Amount for her service on behalf of the Settlement Class. Class Counsel will petition the Court for an award of attorneys' fees by motion to be filed with the Court within days after the mailing of this Notice and will be available at that time at the website listed in Section 16, below.

15. Notice of hearing on Final Approval and Objections to Class Action Settlement

You are hereby notified that a Final Approval Hearing will be held on _____ at _____.m., in the United States District Court for the Central District of California, the Hon. Sunshine Suzanne Sykes presiding, located at 3470 Twelfth Street, Riverside, California 92501, to determine whether the proposed Settlement is fair, reasonable, and adequate, and should be finally approved by the Court. The Court may change the date and time of the Final Approval Hearing without further notice to the Class Members. Class Members are advised to check the settlement website or the Court's Public Access to Court Electronic Records (PACER) site to confirm that the date has not been changed.

If final approval is granted by the Court, the Court will enter judgment pursuant to the Settlement, and all Class Members who have not requested exclusion from the Settlement Class will be deemed to have waived and released the Released Claims against the Releases, as defined in Section 9, above.

16. How Do I Get More Information?

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www._____.com, contact the Settlement Administrator, or access the Court docket in this case, for a fee, through the Court's PACER system at <https://ecf.cacd.uscourts.gov>, or visit the office of the Clerk of the Court for the United States District Court for the Central District of California, 350 W 1st Street, Suite 4311 Los Angeles, CA 90012-4565, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. Please confirm the Court is open before visiting.

If you have any additional questions about the Settlement, you may contact the Settlement Administrator:

Rolle v. Allegiant Air, LLC, Class Action Settlement

c/o [Settlement Administrator Name and Address]

Toll-Free Telephone Number: 1 (800) _____

Email: _____

PLEASE DO NOT TELEPHONE OR EMAIL THE COURT OR CLERK'S OFFICE FOR INFORMATION ABOUT THIS SETTLEMENT.

EXHIBIT B

1
2 **UNITED STATES DISTRICT COURT**
3 **CENTRAL DISTRICT OF CALIFORNIA**

4 PAMELA ROLLE, individually,
5 and on behalf of other members of
6 the general public similarly
7 situated,

8 Plaintiff,

9 vs.

10 ALLEGIANT AIR, LLC, a Nevada
11 corporation; and DOES 1-100,
12 inclusive,

13 Defendants.

CASE NO.: 2:20-cv-10232-SSS-PDx

**[PROPOSED] ORDER GRANTING
PLAINTIFF’S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE
ACTION SETTLEMENT**

Date:
Time:
Courtroom:

1 Plaintiff Pamela Rolle's ("Plaintiff") Motion for Preliminary Approval of
2 Class and Private Attorneys General Act ("PAGA") Representative Action
3 Settlement in the above-captioned action came on for hearing regularly at [TIME]
4 a.m. on [DATE], in the courtroom of the Honorable District Judge Sunshine
5 Suzanne Sykes, Courtroom 2 of the United States District Court for the Central
6 District of California, 3470 Twelfth Street, Riverside, California 92501. Allegiant
7 Air, LLC ("Allegiant" or "Defendant") does not oppose the motion.

8 Plaintiff brings a class and representative wage and hour action under
9 California state laws on behalf of herself and other California-based flight
10 attendants Allegiant employed. Plaintiff filed her Class Action Complaint in this
11 action on September 25, 2020 in the Los Angeles County Superior Court as Case
12 No. 20STCV36871 alleging seven claims: (1) Violation of California Labor Code
13 §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§
14 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (3) Violation of California
15 Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (4) Violation of
16 California Labor Code § 226.7 (Unpaid Rest Period Premiums); (5) Violation of
17 California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon
18 Termination); (6) Violation of California Labor Code § 226(a) (Non-Compliant
19 Wage Statements); and (7) Violation of California Business & Professions Code §§
20 17200, et seq. On November 6, 2020, Allegiant removed the claim to the United
21 States District Court for the Central District of California. Dkt. No. 1. On
22 December ___, 2022, Plaintiff filed a First Amended Complaint adding a claim
23 under PAGA for civil penalties based on the same allegations underlying the
24 original complaint.

25 On September 16, 2021, Plaintiff and Allegiant (collectively, the "Parties")
26 engaged in a productive mediation with Tripper Ortman, but did not reach a
27 settlement. The Parties agreed to hold the mediation open pending a ruling by the
28 U.S. Supreme Court on Virgin America and Alaska Airlines' request for certiorari

1 to address the preemption standard under the Airline Deregulation Act (“ADA”) as
2 applied to California’s meal and rest break laws in *Bernstein v. Virgin America,*
3 *Inc., et al.*, Case No. 21-260. On September 30, 2021, the Court stayed the case
4 pending a determination by the U.S. Supreme Court on whether to hear the petition
5 for writ of certiorari in *Bernstein* and ordered that the stay remain in effect until 30
6 days after the Supreme Court's ruling on the *Bernstein* petition, *see* ECF No. 24.
7 On June 30, 2022, the U.S. Supreme Court denied Virgin America and Alaska
8 Airlines' request for certiorari in *Bernstein*. Following additional settlement
9 negotiations, the Parties reached a settlement here.

10 The Court’s decision to approve or reject a settlement “is committed to the
11 sound discretion of the trial judge because he is exposed to the litigants, and their
12 strategies, positions, and proof.” *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454,
13 458 (9th Cir. 2000), *as amended* (June 19, 2000) (citation omitted). At the
14 preliminary approval stage, the Court’s role is to assess whether the settlement falls
15 within the range of possible approval. *de Cabrera v. Swift Beef Co.*, No.
16 EDCV182551PSGEX, 2020 WL 5356704, at *5 (C.D. Cal. June 25, 2020).
17 Having reviewed the papers and documents presented, and having heard the
18 statements of counsel, and having considered the matter, the Court FINDS,
19 CONCLUDES, and HEREBY ORDERS as follows:

20 1. The Court hereby GRANTS preliminary approval of the terms and
21 conditions contained in the Stipulation of Class and PAGA Action Settlement and
22 Release (the “Settlement”), attached hereto as **Exhibit 1**. The Court preliminarily
23 finds that the terms of the Settlement appear to be within the range of possible
24 approval, pursuant to Federal Rule of Civil Procedure 23 and applicable law.

25 2. The Court finds on a preliminary basis that: (1) the settlement amount
26 is fair and reasonable to the Class Members when balanced against the probable
27 outcome of further litigation relating to class certification, liability and damages
28 issues, and potential appeals; (2) sufficient discovery, investigation, research, and
litigation have been conducted such that counsel for the Parties at this time are able

1 to reasonably evaluate their respective positions; (3) settlement at this time will
2 avoid substantial costs, delay, and risks that would be presented by the further
3 prosecution of the litigation; and (4) the proposed Settlement has been reached as
4 the result of intensive, serious, and non-collusive negotiations between the Parties.
5 Accordingly, the Court preliminarily finds that the Settlement was entered into in
6 good faith.

7 3. The Court hereby GRANTS conditional certification of the Settlement
8 Class, in accordance with the terms of the Settlement, for the purposes of
9 settlement only. The Settlement Class is defined as “All persons employed by
10 Allegiant as California-based flight attendants at any point from September 25,
11 2016 through the date of preliminary approval of this settlement.”

12 4. The Court hereby authorizes the retention of CPT Group, Inc. as
13 Settlement Administrator for the purpose of the Settlement, with reasonable
14 administration costs estimated not to exceed \$7,500.

15 5. The Court hereby conditionally appoints The Bainer Law Firm as
16 Class Counsel.

17 6. The Court hereby conditionally appoints Plaintiff Pamela Rolle as
18 Class Representative.

19 7. The Court hereby APPROVES the Notice of Class Action and PAGA
20 Settlement to be sent to Class Members, attached to the Settlement as **Exhibit A**.
21 The Court finds that the Notice of Settlement, along with the related notification
22 procedure the Settlement contemplates, constitutes the best notice practicable
23 under the circumstances and is in full compliance with the applicable laws and the
24 requirements of due process. The Court further finds that the Notice of Settlement
25 appears to fully and accurately inform the Class Members of the proposed
26 Settlement, of their right to be excluded from the Settlement, and of their right and
27 opportunity to object to the Settlement.

28 8. The Court hereby authorizes dissemination of the Notice of
Settlement to Class Members. Subject to the Settlement’s terms, the Notice of

1 Class Action and PAGA Settlement shall be mailed via first-class mail to the most
2 recent known mailing address of each Class Member within the timeframe
3 specified in the Settlement. The Parties are authorized to make non-substantive
4 changes to the proposed Notice of Settlement that are consistent with the terms of
5 the Settlement and this Order.

6 9. The Court hereby APPROVES the proposed procedure for exclusion
7 from the Settlement, which is to postmark or fax a written statement requesting
8 exclusion to the Settlement Administrator by no later than 30 days following the
9 date on which the Settlement Administrator first mails the Notice of Settlement to
10 Class Members. Any Class Member who submits a written request for exclusion
11 shall be deemed a Non-Participating Class Member, shall not be a Member of the
12 Settlement Class, shall be barred from participating in the Settlement, and shall
13 receive no benefit from the Settlement, except that they will still receive a PAGA
14 allocation, and will release all claims for PAGA penalties included in the Released
15 Claims as defined in the Settlement.

16 10. The Court further PRELIMINARILY APPROVES Class Counsel's
17 request for attorneys' fees of one-third of the Gross Settlement Amount of
18 \$1,950,000, or \$650,000, plus their costs.

19 11. The Court further PRELIMINARILY APPROVES a service payment
20 or Enhancement Award of \$10,000 to the Class Representative, in recognition of
21 her role in initiating the lawsuit and performing substantial work in support of the
22 case, including sitting for her deposition and responding to discovery.

23 12. The Court further APPROVES the creation of a Contingency Fund of
24 \$25,000 that may be used to pay late claims, disputed allocations, and the claims of
25 any individuals who are not on the class list and whom the Parties agree may be
26 added to the Settlement Classes. Any remaining portion of the Contingency Fund
27 shall be provided to the *cy pres* recipient.
28

1 13. The Court further APPROVES the selection of the University of
2 California Berkeley's Institute for Research on Labor and Employment as the *cy*
3 *pres* recipient of unclaimed funds remaining after distribution.

4 14. The Court ORDERS that Class Counsel shall file a motion for
5 approval of the fee and cost award and of the Enhancement Payment to the Class
6 Representative, with the appropriate declarations and supporting evidence, by
7 [REDACTED], to be heard at the same time as the motion for
8 final approval of the Settlement.

9 15. The Court ORDERS that Class Counsel shall file a motion for final
10 approval of the Settlement, with the appropriate declarations and supporting
11 evidence, including a declaration setting forth the identity of any Class Members
12 who request exclusion from the Settlement, by [REDACTED].

13 16. The Court further ORDERS that each Class Member shall be given a
14 full opportunity to object to the proposed Settlement and request for attorneys'
15 fees, and to participate at a Final Approval Hearing, which the Court sets to
16 commence on [REDACTED] at [REDACTED] a.m. in Courtroom 2 of the
17 United States District Court for the Central District of California, 3470 Twelfth
18 Street, Riverside, California 92501. Any Class Member seeking to object to the
19 proposed Settlement may file such objection in writing with the Court by no later
20 than 30 days following the date on which the Settlement Administrator first mails
21 the Notice of Settlement to Class Members or appear in person at the Final
22 Approval Hearing. The written objection requirement may be excused upon a
23 showing of good cause.

24 17. Accordingly, GOOD CAUSE APPEARING, the Court hereby
25 APPROVES the proposed Notice of Settlement and adopts the following dates and
26 deadlines:

Date of preliminary approval of the Settlement	
Deadline for Allegiant to provide to CPT Group, Inc. a database containing	Within 30 calendar days after the Court's preliminary approval of the

1	Class Members' contact information	Settlement
2	Deadline for CPT Group, Inc. to mail the Notice of Settlement to Class Members	Within 14 calendar days after CPT Group, Inc. receives the Class Member database
3	Deadline for Class Counsel to file attorneys' fees motion and motion for Enhancement Payment	At least [REDACTED] calendar days before [REDACTED]
4	Deadline for Class Members to postmark or fax requests to be excluded from the Settlement or to file objections to the Settlement	30 calendar days after Notice of Settlement is mailed
5	Deadline for filing of Final Approval Motion	[REDACTED]
6	Final Approval Hearing	No earlier than 30 calendar days after the opt-out/objection deadline
7	Effective Date	(i) if no Class Member files an objection to the Settlement, then the date the Court enters an order granting Final Approval; (ii) if a Class Member files a timely objection to the Settlement that is not withdrawn, then the date immediately after the applicable date for seeking appellate review of the Court's Final Approval Order has expired, assuming no appeal or request for review is filed; or (iii) if a Class Member files an appeal or petition for review following disposition of an objection, the date of the final resolution of that appeal or request for review (including any requests for rehearing and/or petitions for writ of certiorari) resulting in the Final Approval of the Settlement.
8	Deadline for Allegiant to pay the Gross Settlement Amount into the Qualified Settlement Fund	15 business days after the Effective Date
9	Deadline for CPT Group, Inc. to make payments for attorneys' fees and costs, Enhancement Payments, Class Member	Within 14 calendar days after Allegiant pays the Gross Settlement Amount into the Qualified

1 settlement payments, and LWDA 2 Payment	Settlement Fund
3 Deadline to negotiate or cash payment 4 checks	120 calendar days after issuance of 5 checks

6 18. The Court further ORDERS that, pending further order of this Court,
7 all proceedings in this Action, except those contemplated herein and in the
8 Settlement, are stayed, and all deadlines are vacated.

9 19. If for any reason the Court does not execute and file a Final Approval
10 Order and Judgment, the proposed Settlement subject to this Order and all
11 evidence and proceedings had in connection with the Settlement shall be null and
12 void.

13 20. The Court may, for good cause, extend any of the deadlines set forth
14 in this Order or adjourn or continue the final approval hearing without further
15 notice to the Class Members.

16 **IT IS SO ORDERED.**

17 Dated: _____

18 HON. SUNSHINE SUZANNE
19 SYKES
20 United States District Judge,
21 Central District of California