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10 and others similarly situated

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28 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

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

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

DEFINITIONS

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

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

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

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

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

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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1 procedures described in this Settlement Agreement will be subject to final Court
2 approval.

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

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

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

- 17 • If to Allegiant, then to both of:

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

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

- 26 • If to Plaintiff, then to:

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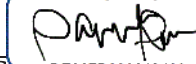
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SIGNATURES

READ CAREFULLY BEFORE SIGNING

Dated: February 8, 2023

PLAINTIFF

DocuSigned by:

DE007D300213499...

Pamela Rolle

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