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**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

**ORDER GRANTING PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE
ACTION SETTLEMENT [DKT. 48]**

Date: April 28, 2023

Time: 2:00 p.m.

Judge: Sunshine S. Sykes

1 Before the Court is Plaintiff Pamela Rolle’s (“Plaintiff”) Motion for
2 Preliminary Approval of Class and Private Attorneys General Act (“PAGA”)
3 Representative Action Settlement. Allegiant Air, LLC (“Allegiant” or
4 “Defendant”) does not oppose the motion.

5 Plaintiff brings a class and representative wage and hour action under
6 California state laws on behalf of herself and other California-based flight
7 attendants Allegiant employed. Plaintiff filed her Class Action Complaint in this
8 action on September 25, 2020 in the Los Angeles County Superior Court as Case
9 No. 20STCV36871 alleging seven claims: (1) Violation of California Labor Code
10 §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§
11 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (3) Violation of California
12 Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (4) Violation of
13 California Labor Code § 226.7 (Unpaid Rest Period Premiums); (5) Violation of
14 California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon
15 Termination); (6) Violation of California Labor Code § 226(a) (Non-Compliant
16 Wage Statements); and (7) Violation of California Business & Professions Code §§
17 17200, et seq. On November 6, 2020, Allegiant removed the claim to the United
18 States District Court for the Central District of California. Dkt. No. 1. On
19 February 14, 2023, Plaintiff filed a First Amended Complaint adding a claim under
20 PAGA for civil penalties based on the same allegations underlying the original
21 complaint.

22 On September 16, 2021, Plaintiff and Allegiant (collectively, the “Parties”)
23 engaged in a productive mediation with Tripper Ortman, but did not reach a
24 settlement. The Parties agreed to hold the mediation open pending a ruling by the
25 U.S. Supreme Court on Virgin America and Alaska Airlines’ request for certiorari
26 to address the preemption standard under the Airline Deregulation Act (“ADA”) as
27 applied to California’s meal and rest break laws in *Bernstein v. Virgin America,*
28 *Inc., et al.*, Case No. 21-260. On September 30, 2021, the Court stayed the case

1 pending a determination by the U.S. Supreme Court on whether to hear the petition
2 for writ of certiorari in *Bernstein* and ordered that the stay remain in effect until 30
3 days after the Supreme Court's ruling on the *Bernstein* petition, *see* ECF No. 24.
4 On June 30, 2022, the U.S. Supreme Court denied Virgin America and Alaska
5 Airlines' request for certiorari in *Bernstein*. Following additional settlement
6 negotiations, the Parties reached a settlement here.

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

17 1. The Court hereby GRANTS preliminary approval of the terms and
18 conditions contained in the Stipulation of Class and PAGA Action Settlement and
19 Release, as amended by the First Addendum to Stipulation of Class and PAGA
20 Action Settlement and Release (together, the "Settlement"), attached to the
21 Declaration of Matthew R. Bainer as **Exhibit "A."** The Court preliminarily finds
22 that the terms of the Settlement appear to be within the range of possible approval,
23 pursuant to Federal Rule of Civil Procedure 23 and applicable law.

24 2. The Court finds on a preliminary basis that: (1) the settlement amount
25 is fair and reasonable to the Class Members when balanced against the probable
26 outcome of further litigation relating to class certification, liability and damages
27 issues, and potential appeals; (2) sufficient discovery, investigation, research, and
28 litigation have been conducted such that counsel for the Parties at this time are able
to reasonably evaluate their respective positions; (3) settlement at this time will

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

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

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

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

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

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

27 8. The Court hereby authorizes dissemination of the Notice of
28 Settlement to Class Members. Subject to the Settlement’s terms, the Notice of
Class Action and PAGA Settlement shall be mailed via first-class mail to the most

1 recent known mailing address of each Class Member within the timeframe
2 specified in the Settlement. The Parties are authorized to make non-substantive
3 changes to the proposed Notice of Settlement that are consistent with the terms of
4 the Settlement and this Order.

5 9. The Court hereby APPROVES the proposed Request for Exclusion
6 Form to be mailed with the Class Notice. Any Class Member who submits a
7 Request for Exclusion Form shall be deemed a Non-Participating Class Member,
8 shall not be a Member of the Settlement Class, shall be barred from participating in
9 the Settlement, and shall receive no benefit from the Settlement, except that they
10 will still receive a PAGA allocation, and will release all claims for PAGA penalties
11 included in the Released Claims as defined in the Settlement.

12 10. The Court further PRELIMINARILY APPROVES Class Counsel's
13 request for attorneys' fees of one-third of the Gross Settlement Amount of
14 \$1,950,000, or \$650,000, plus their costs.

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

19 12. The Court further APPROVES the creation of a Contingency Fund of
20 \$25,000 that may be used to pay late claims, disputed allocations, and the claims of
21 any individuals who are not on the class list and whom the Parties agree may be
22 added to the Settlement Classes. Any remaining portion of the Contingency Fund
23 shall be provided to the *cy pres* recipient.

24 13. The Court further APPROVES the selection of the University of
25 California Berkeley's Institute for Research on Labor and Employment as the *cy*
26 *pres* recipient of unclaimed funds remaining after distribution, the Parties having
27 demonstrated they do not have any connection with or interest in the *cy pres*
28 recipient.

1 14. The Court ORDERS that Class Counsel shall file a motion for
 2 approval of the fee and cost award and of the Enhancement Payment to the Class
 3 Representative, with the appropriate declarations and supporting evidence, by July
 4 21, 2023, to be heard at the same time as the motion for final approval of the
 5 Settlement.

6 15. The Court ORDERS that Class Counsel shall file a motion for final
 7 approval of the Settlement, with the appropriate declarations and supporting
 8 evidence, including a declaration setting forth the identity of any Class Members
 9 who request exclusion from the Settlement, by July 21, 2023.

10 16. The Court further ORDERS that each Class Member shall be given a
 11 full opportunity to object to the proposed Settlement and request for attorneys’
 12 fees, and to participate at a Final Approval Hearing, which the Court sets to
 13 commence on August 11, 2023 at 2:00 p.m. in Courtroom 2 of the United States
 14 District Court for the Central District of California, 3470 Twelfth Street, Riverside,
 15 California 92501. The Court hereby APPROVES the Notice of Objection Form to
 16 be mailed with the Class Notice. The written objection requirement may be
 17 excused upon a showing of good cause. Any Class Member who submits a Notice
 18 of Objection Form will still be able to participate in the Settlement, will remain
 19 bound by the Settlement if it is approved by the Court, and will receive an
 Individual Settlement Payment.

20 17. Accordingly, GOOD CAUSE APPEARING, the Court hereby
 21 APPROVES the proposed Notice of Settlement and adopts the following dates and
 22 deadlines:

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

1 2 3	Deadline for Class Members to postmark or fax Requests for Exclusion Forms or to file Notice of Objection Forms	30 calendar days after Notice of Settlement is mailed
4	Deadline for filing of Final Approval Motion	July 21, 2023
5	Final Approval Hearing	August 11, 2023 at 2:00 p.m.
6 7 8 9 10 11 12 13 14 15 16 17 18 19	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.
20 21	Deadline for Allegiant to pay the Gross Settlement Amount into the Qualified Settlement Fund	15 business days after the Effective Date
22 23 24	Deadline for CPT Group, Inc. to make payments for attorneys' fees and costs, Enhancement Payments, Class Member settlement payments, and LWDA Payment	Within 14 calendar days after Allegiant pays the Gross Settlement Amount into the Qualified Settlement Fund
25 26	Deadline to negotiate or cash payment checks	120 calendar days after issuance of checks

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

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

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

IT IS SO ORDERED.

Dated: April 25, 2023



HON. SUNSHINE SUZANNE SYKES
United States District Judge,
Central District of California