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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE TRANSPACIFIC PASSENGER
AIR TRANSPORTATION
ANTITRUST LITIGATION**

Civil Case No. 3:07-cv-05634-CRB

MDL No. 1913

**This Document Relates To:
ALL ACTIONS**

~~**PROPOSED**~~ **ORDER APPROVING
PLAINTIFFS' LITIGATION CLASS
NOTICE PROGRAM**

1 WHEREAS, on August 24, 2018, Plaintiffs filed a motion for approval of the proposed
2 litigation class notice program (“Motion”) (ECF Nos. 1231, 1231-1, 1231-2);

3 WHEREAS, on August 28, 2018, Defendant All Nippon Airways Co., Ltd. (“ANA”) filed
4 an opposition to Plaintiffs’ Motion (ECF Nos. 1232, 1232-1);

5 WHEREAS, on September 4, 2018, Plaintiffs filed a motion for leave to file a reply in
6 support of the Motion (“Reply”) and the Reply itself (ECF Nos. 1239, 1239-1, 1239-2);

7 WHEREAS, on September 6, 2018, the Court granted Plaintiffs’ motion for leave to file
8 the Reply and ANA’s request for a hearing on the Motion (ECF No. 1240);

9 WHEREAS, on September 14, 2018, the Court held a hearing on Plaintiffs’ Motion,
10 during which the Court ordered several changes to the proposed litigation notice program. The
11 changes the Court ordered are, as follows:

12 1. Plaintiffs shall send e-mail notice to all class members who filed claims to previous
13 settlements in this litigation, as opposed to only class members who purchased ANA or
14 Japan Airlines’ tickets and filed claims to previous settlements. To the extent class
15 members filing claims did not provide an e-mail address, Plaintiffs shall send mailed
16 notice to class members who submitted claims to previous settlements;

17 3. Plaintiffs shall send e-mail notices to frequent flyer travelers with Asian ethnicity,
18 as opposed to only frequent flyer travelers with Japanese ethnicity;

19 4. Plaintiffs shall provide an explanation in the short form notice that exclusion from
20 the class means maintaining the right to sue ANA in an individual capacity apart from this
21 class action;

22 5. Plaintiffs shall provide an explanation in the short form notice about how potential
23 class members can access the long form notice;

24 6. Plaintiffs shall clarify that travel agents are not class members; and

25 7. Plaintiffs shall request travel agents to forward the litigation notice to their
26 customers to the extent travel agents have their customers’ contact information.

27 WHEREAS, on October 5, 2018, this Court heard ANA’s motion in limine regarding
28 ANA’s guilty plea. This Court rejected ANA’s argument and found that the guilty plea could be

1 referenced in the class notice because the plea covers *Satogaeri* fares. Additionally, the Court
2 tentatively ruled that both counts of the guilty plea, including the cargo count, would come in as
3 evidence against ANA at trial but deferred a final ruling on that issue until a later date. *See, e.g.*,
4 ECF No. 1264 (Text Order).

5 WHEREAS, Plaintiffs have resubmitted their proposed class notice program and the
6 proposed forms of notice, and the program and forms of notice are in compliance with this Court's
7 directions at the September 14, 2018 Hearing.

8 NOW THEREFORE, in light of the foregoing, the Court hereby **APPROVES** Plaintiffs'
9 proposed litigation class notice program with the aforementioned changes implemented and the
10 class notice forms. The following deadlines shall apply:

- 11 1. The notice program shall be completed by January 10, 2019.
- 12 2. The opt-out deadline shall be February 10, 2019.

13
14 **IT IS SO ORDERED.**

15
16 Dated: October 26, 2018

17 
18 **THE HONORABLE CHARLES R. BREYER**
19 **UNITED STATES DISTRICT JUDGE**