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14
 15 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
 16 **SAN FRANCISCO DIVISION**

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

Civil Action No. 3:07-CV-05634-CRB

MDL No: 1913

19 **FINAL JUDGMENT OF DISMISSAL**
WITH PREJUDICE AS TO
 20 **DEFENDANT THAI AIRWAYS**
INTERNATIONAL PUBLIC CO., LTD.

21 **This Document Relates To:**

22 **All Actions**

1 This matter has come before the Court to determine whether there is any just reason for delay
2 of the entry of this final judgment with respect to the class action settlement with Defendant Thai
3 Airways International Public Co., Ltd. (sometimes referred to herein as “Defendant” or “TG”). The
4 Court, having reviewed the Motion for Final Approval of certain settlements (*see* ECF No. 999) and
5 Plaintiffs’ Fees Motion (*see* ECF No. 986), and having held argument on the motion on May 22,
6 2015 and having issued an Order Granting Motion For Final Approval And Granting Motion For
7 Fees (*see* ECF No. 1009), and finding no just reason for delay hereby directs entry of Judgment
8 which shall constitute a final adjudication of this case on the merits as to members of the TG
9 Settlement Class and Defendant Thai Airways International Public Co., Ltd. pursuant to the
10 Settlement Agreement Between Plaintiffs and Thai Airways International Public Co., Ltd. (the
11 “Settlement Agreement”) (*see* ECF No. 999-5):

12 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

13 1. The Court has jurisdiction over the subject matter of this litigation, and all actions
14 within this litigation (collectively, the “Action”) and over the parties to the Settlement Agreement,
15 including all members of the Settlement Class and Defendant.

16 2. The following class is certified for settlement purposes only, pursuant to Rule 23 of
17 the Federal Rules of Civil Procedure:

18 THAI AIRWAYS SETTLEMENT CLASS:

19 All persons and entities that purchased passenger air transportation
20 that included at least one flight segment between the United States and
21 Asia or Oceania from Defendants, or any predecessor, subsidiary or
22 affiliate thereof, at any time between January 1, 2000 and the Effective
23 Date. Excluded from the class are governmental entities, Defendants,
former Defendants in the Action, any parent, subsidiary or affiliate
thereof, and Defendants’ officers, directors, employees and immediate
families.

24 3. This settlement class shall be referred to herein as the Settlement Class.

25 4. For purposes of this order, the terms “Defendants,” “Effective Date,” “Released
26 Claims,” “Releasing Parties,” and “Released Parties” shall be defined as set forth in the Settlement
27 Agreement.

28 5. The Court finds the prerequisites to a class action under Federal Rule of Civil

1 Procedure 23(a) have been satisfied for settlement purposes by each of the Settlement Classes in
2 that:

- 3 a. there are hundreds of thousands of putative members of the Settlement Class,
4 making joinder of all members impracticable;
- 5 b. there are questions of fact and law that are common to all members of the
6 Settlement Class;
- 7 c. the claims of the Class Representatives are typical of those of the absent members
8 of the Settlement Class; and
- 9 d. Plaintiffs Meor Adlin, Franklin Ajaye, Andrew Barton, Rachel Diller, Scott
10 Fredrick, David Kuo, Dickson Leung, Brendan Maloof, Donald Wortman, Harley
11 Oda, Roy Onomura, Shinsuke Kobayashi, Patricia Lee, Nancy Kajiyama, Della
12 Ewing Chow and James Kawaguchi (the “Class Representatives”) have and will
13 fairly and adequately protect the interests of the absent members of the Settlement
14 Class and have retained counsel experienced in complex antitrust class action
15 litigation who have and will continue to adequately advance the interests of the
16 Settlement Class.

17 6. The Court finds that this Action may be maintained as a class action under Federal
18 Rule of Civil Procedure 23(b)(3) for settlement because: (i) questions of fact and law common to
19 the members of the Settlement Class predominate over any questions affecting only the claims of
20 individual members; and (ii) a class action is superior to other available methods for the fair and
21 efficient adjudication of this controversy.

22 7. Pursuant to Fed. R. Civ. P. 23(g), the Court hereby confirms that Cotchett, Pitre &
23 McCarthy, LLP and Hausfeld LLP are appointed as Settlement Class Counsel, and that Plaintiffs
24 Meor Adlin, Franklin Ajaye, Andrew Barton, Rachel Diller, Scott Fredrick, David Kuo, Dickson
25 Leung, Brendan Maloof, Donald Wortman, Harley Oda, Roy Onomura, Shinsuke Kobayashi,
26 Patricia Lee, Nancy Kajiyama, Della Ewing Chow and James Kawaguchi are appointed to serve as
27 Class Representatives on behalf of the Settlement Class.

28 8. The person identified on Exhibit B to the Declaration of Joel Botzet in support of

1 Plaintiffs' motion for final approval of the Class Settlements (*see* ECF No. 999-19) has timely and
2 validly requested exclusion from the Settlement Class and, therefore, is excluded. Such person is
3 not included in or bound by this final judgment.

4 9. Upon the Effective Date, all Releasing Parties shall be permanently barred and
5 enjoined from instituting, commencing, prosecuting or asserting any Released Claim against any of
6 the Released Parties.

7 10. The Court has finally approved a total of eight settlements between the Class
8 Representatives and Japan Airlines Company, Ltd., Société Air France, Vietnam Airlines Company
9 Limited, Thai Airways International Public Co., Ltd., Malaysian Airline System Berhad, Qantas
10 Airways Limited ("Qantas"), Cathay Pacific Airways, Ltd. ("Cathay Pacific"), and Singapore
11 Airlines Limited (collectively the "Settlement Agreements") in the total amount of \$39,502,000.00,
12 approved an award of attorneys' fees in the amount of \$9,000,000.00, approved reimbursement to
13 Class Counsel of expenses in the amount of \$2,807,699.73, approved a litigation fund of
14 \$3,000,000.00, and approved an award of \$7,500.00 for each of the Class Representatives
15 (collectively the "Approved Fees and Costs") (*see* ECF No. 1009).

16 11. There were no objections lodged with respect to the settlements between the Class
17 Representatives and Thai Airways International Public Co., Ltd. (*see* ECF No. 1001, Order
18 Granting Stipulation Regarding Partial Withdrawal of Objection of Amy Yang).

19 12. The Approved Fees and Costs shall be allocated pro-rata to each of the Settlement
20 Agreements.

21 13. This Court hereby dismisses on the merits and with prejudice the Action against
22 Defendant, with each party to bear its own costs and attorneys' fees.

23 14. Without affecting the finality of this final judgment in any way, this Court hereby
24 retains continuing jurisdiction over: (a) implementation of the terms of the Settlement Agreement
25 and any distribution to members of the Settlement Class pursuant to further orders of this Court; (b)
26 hearing and ruling on any matters relating to the plan of allocation of the settlement proceeds; and
27 (c) all parties to the Action and Releasing Parties, for the purpose of enforcing and administering
28 the Settlement Agreement and the mutual releases and other documents contemplated by, or

1 executed in connection with the Settlement Agreement.

2 **IT IS SO ORDERED.**

3 Dated June 11, 2015



4 HON. CHARLES R. BREYER
5 United States District Court Judge

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