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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 GRANTING FINAL
APPROVAL OF SETTLEMENT WITH
DEFENDANT ALL NIPPON AIRWAYS CO.,
LTD.**

1 This matter has come before the Court to determine whether there is any cause why this
2 Court should not grant final approval of the settlement with All Nippon Airways Co., Ltd.
3 (“ANA”). The Court, having reviewed the motion for final approval, the ANA Settlement
4 Agreement, the pleadings and other papers on file in this litigation, and the statements of counsel
5 and the parties, including at the October 18, 2019 final approval hearing, hereby finds that: (1)
6 the ANA settlement should be finally approved, and (2) that there is no just reason for delay of
7 the entry of the Final Judgment approving the ANA Settlement Agreement. Accordingly, the
8 Court directs entry of Judgment which shall constitute a final adjudication of this case on the
9 merits as to the parties to the Agreement. Good cause appearing therefore:

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

11 1. The Court has jurisdiction over the subject matter of this litigation, and all actions
12 within this litigation (collectively, “Action”), and over the parties to the Settlement Agreement,
13 including all members of the Settlement Classes and ANA.

14 2. The Court hereby finally approves and confirms the settlement set forth in the
15 Settlement Agreement between the Class Representatives and ANA, and finds that said settlement
16 is, in all respects, fair, reasonable and adequate to the Settlement Classes pursuant to Federal
17 Rules of Civil Procedure (“Rule”) 23.

18 3. The following classes are certified for settlement purposes, pursuant to Rule 23:

19 Settlement Class I (“Japan Settlement Class”): All persons and
20 entities that directly purchased tickets for passenger air
21 transportation from JAL or ANA, or any predecessor, subsidiary
22 or affiliate thereof, that originated in the United States and
23 included at least one flight segment from the United States to
24 Japan between the period beginning February 1, 2005 and ending
25 December 31, 2007. Excluded from the class are any tickets that
26 did not include a fuel surcharge. Excluded from the class are any
27 antitrust immunized fares agreed upon at IATA “Tariff
28 Coordinating Conferences.” Excluded from the class are tickets
exclusively acquired through award or reward travel or any
tickets acquired for infant travel with a 90% discount. Also
excluded from the class are purchases by government entities,
Defendants, any parent subsidiary or affiliate thereof, and

1 Defendants' or any other commercial airline's officers, directors,
2 employees, agents, and immediate families.

3 Settlement Class II ("Satogaeri Settlement Class"): All persons
4 and entities that directly purchased *Satogaeri* fares from JAL or
5 ANA or any predecessor, subsidiary or affiliate thereof that
6 originated in the United States and included at least one flight
7 segment to Japan and does not include travel to countries other
8 than the United States and Japan between the period beginning
9 January 1, 2000 and ending April 1, 2006. Excluded from the
10 class are purchases by government entities, Defendants, any
11 parent subsidiary or affiliate thereof, and Defendants' officers,
12 directors, employees and immediate families. Also excluded are
13 purchases of "Satogaeri Special" and maerui satogaeri fares.

14 Settlement Class III: All persons and entities that directly
15 purchased passenger air transportation originating in the United
16 States that included at least one flight segment to Asia or
17 Oceania, from or on any of the Defendants, or any predecessor,
18 subsidiary, or affiliate thereof, at any time between January 1,
19 2000 and December 1, 2016. Excluded from the class are
20 governmental entities, Defendants, former Defendants in the
21 Action, any parent, subsidiary or affiliate thereof, and
22 Defendants' officers, directors, employees and immediate
23 families.

24 4. These settlement classes shall be referred to herein as the Settlement Classes.

25 5. The Court finds the prerequisites to a class action under Rule 23(a) have been
26 satisfied for settlement purposes by each of the Settlement Classes in that:

- 27 a. There are thousands of putative members of the Settlement Classes,
28 making joinder of all members impracticable;
- b. There are questions of fact and law that are common to all members of the
Settlement Classes;
- c. The claims of the Class Representatives are typical of those of the absent
members of the Settlement Classes; and
- d. Plaintiffs Meor Adlin, Franklin Ajaye, Andrew Barton, Rachel Diller,
Scott Fredrick, David Kuo, Dickson Leung, Brendan Maloof, Donald
Wortman, Harley Oda, Roy Onomura, Shinsuke Kobayashi, Patricia Lee,

1 Nancy Kajiyama, Della Ewing Chow, James Kawaguchi, and Sharon
2 Christian (“Class Representatives”) have and will fairly and adequately
3 protect the interests of the absent members of the relevant Settlement Class
4 or Classes and have retained counsel experienced in complex antitrust class
5 action litigation who have and will continue to adequately advance the
6 interests of the Settlement Classes.

7 6. The Court finds that this Action may be maintained as a class action under Rule
8 23(b)(3) for settlement because: (i) questions of fact and law common to the members of the
9 Settlement Classes predominate over any questions affecting only the claims of individual
10 members; and (ii) a class action is superior to other available methods for the fair and efficient
11 adjudication of this controversy.

12 7. Pursuant to Rule 23(g), the Court hereby confirms that Cotchett, Pitre &
13 McCarthy, LLP and Hausfeld LLP are appointed as Settlement Class Counsel, and that Plaintiffs
14 Meor Adlin, Franklin Ajaye, Andrew Barton, Rachel Diller, Scott Fredrick, David Kuo, Dickson
15 Leung, Brendan Maloof, Donald Wortman, Harley Oda, Roy Onomura, Shinsuke Kobayashi,
16 Patricia Lee, Nancy Kajiyama, Della Ewing Chow, James Kawaguchi, and Sharon Christian are
17 appointed to serve as Class Representatives on behalf of the Settlement Classes.

18 8. No one has either excluded themselves from, or objected to, the settlement with
19 ANA, any of the Settlement Classes, or Class Counsel’s request for fees and reimbursement of
20 expenses.

21 9. This Court hereby dismisses on the merits and with prejudice the Actions against
22 ANA, with each party to bear their own costs and attorneys’ fees.

23 10. All persons and entities who are Releasing Parties under the terms of the
24 Settlement Agreement are hereby barred and enjoined from commencing, prosecuting or
25 continuing, either directly or indirectly, against ANA, in this or any other jurisdiction, any and all
26 claims, causes of action or lawsuits, which they had, have or in the future may have arising out of
27 or related to any of the settled claims as defined in the Settlement Agreement.
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1 11. The Released Parties as defined in the Settlement Agreement are hereby and
2 forever released and discharged with respect to any and all claims or causes of action which the
3 Releasing Parties had or have arising out of or related to any of the settled claims as defined in
4 the Settlement Agreement.

5 12. The notice given to the Settlement Classes of the settlement set forth in the
6 Settlement Agreement, and as approved by the Court at the time of preliminary approval, was the
7 best notice practicable under the circumstances, including a multi-part notice program through
8 paid media, earned media, press releases, online media and the establishment of a toll-free
9 number. Said notice provided due and adequate notice of those proceedings and of the matters set
10 forth therein, including the proposed settlement set forth in the Settlement Agreement, to persons
11 entitled to such notice, and said notice fully satisfied the requirements of Rules 23(c)(2) and
12 23(e)(1) and the requirements of due process.

13 13. Without affecting the finality of the Judgment in any way, this Court hereby retains
14 continuing jurisdiction over: (a) implementation of this settlement and any distribution to
15 members of the Settlement Classes pursuant to further orders of this Court; (b) disposition of the
16 Settlement Fund; (c) determining attorneys' fees, costs, expenses, and interest; (d) the Action
17 until the Final Judgment contemplated hereby has become effective and each and every act agreed
18 to be performed by the parties all have been performed pursuant to the ANA Settlement
19 Agreement; (e) hearing and ruling on any matters relating to distribution of settlement proceeds;
20 and (f) all parties to the Action and Releasing Parties, for the purpose of enforcing and
21 administering the Settlement Agreement and the mutual releases and other documents
22 contemplated by, or executed in connection with the Agreement.

23 **IT IS SO ORDERED.**

24
25 Dated: _____

26 **THE HONORABLE CHARLES R. BREYER**
27 **UNITED STATES DISTRICT JUDGE**