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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 **IN RE TRANSPACIFIC PASSENGER**
14 **AIR TRANSPORTATION**
15 **ANTITRUST LITIGATION**

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

MDL No. 1913

16 **This Document Relates To:**

~~PROPOSED~~ **FINAL JUDGMENT OF
DISMISSAL WITH PREJUDICE AS TO
DEFENDANT ALL NIPPON AIRWAYS CO.,
LTD.**

17 **ALL ACTIONS**
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1 This matter has come before the Court to determine whether there is any just reason for
 2 delay of the entry of this final judgment with respect to the class action settlement with Defendant
 3 All Nippon Airways Co., Ltd. (“ANA” or “Defendant”). The Court, having reviewed Plaintiffs’
 4 Motion for Final Approval of Settlement with Defendant ANA (“Final Approval Motion”) and
 5 Plaintiffs’ Motion for an Award of Attorneys’ Fees and Reimbursement of Expenses (ECF No.
 6 1307), having held argument on said motions on ~~October 18, 2019~~ November 15, 2019, and finding no just reason for
 7 delay, hereby directs entry of Judgment which shall constitute a final adjudication of this case on
 8 the merits as to members of the Settlement Classes and ANA pursuant to the Settlement
 9 Agreement Between Plaintiffs and ANA (“Settlement Agreement”) (*see* ECF No. 1297-2; Ex.
 10 A):

11 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

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

15 2. The following classes are certified for settlement purposes only, pursuant to
 16 Federal Rule of Civil Procedure (“Rule”) 23:

17 Settlement Class I (“Japan Settlement Class”): All persons and
 18 entities that directly purchased tickets for passenger air
 19 transportation from JAL or ANA, or any predecessor, subsidiary
 20 or affiliate thereof, that originated in the United States and
 21 included at least one flight segment from the United States to
 22 Japan between the period beginning February 1, 2005 and ending
 23 December 31, 2007. Excluded from the class are any tickets that
 24 did not include a fuel surcharge. Excluded from the class are any
 25 antitrust immunized fares agreed upon at IATA “Tariff
 26 Coordinating Conferences.” Excluded from the class are tickets
 27 exclusively acquired through award or reward travel or any
 28 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
 Defendants’ or any other commercial airline’s officers, directors,
 employees, agents, and immediate families.

Settlement Class II (“Satogaeri Settlement Class”): All persons
 and entities that directly purchased *Satogaeri* fares from JAL or

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

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

20 3. These settlement classes shall be referred to herein as the Settlement Classes.

21 4. For purposes of this Order, the terms "Defendants," "Effective Date," "Released
22 Claims," "Releasing Parties," and "Released Parties" shall be defined as set forth in the Settlement
23 Agreement.

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

- 26 a. There are thousands of putative members of the Settlement Classes,
27 making joinder of all members impracticable;
- 28 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. Upon the Effective Date, all Releasing Parties shall be permanently barred and
22 enjoined from instituting, commencing, prosecuting or asserting any Released Claim against any
23 of the Released Parties.

24 10. The Court has finally approved the settlement between the Class Representatives
25 and ANA in the total amount of \$58,000,000.

26 11. This Court hereby dismisses on the merits and with prejudice the Action against
27 Defendant, with each party to bear its own costs and attorneys’ fees.

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

11 **IT IS SO ORDERED.**

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13 Dated: December 3, 2019



14 **THE HONORABLE CHARLES R. BREYER**
15 **UNITED STATES DISTRICT JUDGE**
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