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IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

REYNALDO LOPEZ et al.
Plaintiffs,
v.
DELTA AIRLINES, INC. et al.
Defendants.

No. 2:15-cv-07302-SVW-SS
[Assigned to Hon. Stephen V. Wilson;
Magistrate Judge: Hon. Suzanne H. Segal]
**ORDER GRANTING MOTION FOR
PRELIMINARY APPROVAL OF
SETTLEMENT**

1 Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement came
2 before this Court on July 13, 2017. The Court, having fully reviewed Plaintiffs’ Motion
3 for Preliminary Approval of Class Action Settlement, and the supporting Memorandum
4 of Points and Authorities and Declarations filed in support thereof, including the
5 Stipulation of Settlement (“Settlement Agreement”) and Notice of Settlement (“Notice”),
6 and for good cause appearing, **HEREBY MAKES THE FOLLOWING ORDERS:**

7 1. The Court grants preliminary approval of the settlement based upon the
8 terms set forth in the Settlement Agreement, which is attached as Exhibit 1 to the
9 Declaration of Matthew J. Matern, and is incorporated in full by this reference and made
10 a part of this Order. The Settlement appears to be fair, adequate, and reasonable to the
11 Class.

12 2. All capitalized terms defined in the Settlement Agreement shall have the
13 same meaning when used in this Order.

14 3. The Settlement falls within the range of reasonableness of a settlement which
15 could ultimately be given final approval by this Court, and appears to be presumptively
16 valid, subject only to any objections that may be raised at the Final Approval Hearing and
17 final approval by this Court. The Court notes that Defendant has agreed to create a
18 common fund of \$4,250,000.00 to cover (a) settlement payments to Class Members who
19 do not validly opt out; (b) a \$100,000.00 payment to the State of California, Labor &
20 Workforce Development Agency for its share of the settlement of claims for penalties
21 under the Private Attorneys General Act; (c) Class Representative service payments of up
22 to \$10,000.00 each for Class Representatives LaDona Narr and Karl Armstrong; (d) Class
23 Counsel’s attorneys’ fees, not to exceed 33-1/3% of the Gross Settlement Amount, and
24 actual litigation expenses incurred by Class Counsel; and (e) Settlement Administration
25 Costs of up to \$45,000.00. In the event that the total number of Class Members exceeds
26 3,800, then Defendant will supplement the settlement fund. For each Class Member over
27 the 3,800 total, Defendant will supplement the settlement fund by 20% of the settlement
28 payment that would be paid to a Class Member from the “Net Settlement Amount,”

1 assuming an equally apportioned distribution among all Class Members and a class size
2 of 3,800, although Class Counsel attorneys' fees shall not be increased beyond 33-1/3%
3 of the Gross Settlement Amount of \$4,250,000.00.

4 4. The Court finds and concludes that the Settlement is the result of arms-length
5 negotiations between the parties conducted after Class Counsel had adequately
6 investigated Plaintiffs' claims and become familiar with their strengths and weaknesses.
7 The assistance of an experienced mediator in the settlement process further confirms that
8 the Settlement is non-collusive. The Court further finds that the settlement of Plaintiffs'
9 representative claims under the California Private Attorneys General Act, Cal. Labor
10 Code §§2698 *et seq.*, is fair and reasonable and is approved.

11 5. In accordance with the Settlement Agreement, the Court hereby certifies the
12 following class for purposes of settlement: All current and former non-exempt employees
13 of Delta Air Lines, Inc., excluding flight attendants and pilots, who worked at any time
14 in California from July 1, 2011 through June 30, 2017, excluding persons who were
15 members of the settlement class in *Andrew Bell v. Delta Air Lines, Inc.*, Case No. 4:13-
16 cv-01199-YGR, USDC, Northern District of California, and who worked no shifts for
17 Defendant after November 20, 2014, the effective release date of claims for the *Bell*
18 settlement class. The Court hereby finds and concludes that the Class, which was
19 previously certified as to certain issues pursuant to Fed. R. Civ. P. 23(c)(4), *see* Dkt. 118,
20 satisfies all of the requirements for certification under Fed. R. Civ. P. 23(a) and 23(b)(3),
21 except manageability. Because certification of the Class is proposed in the context of a
22 settlement, the Court need not inquire whether the case, if tried as a class action, would
23 present intractable management problems.

24 6. With respect to the requirements of Fed. R. Civ. P. 23(a) and 23(b)(3), the
25 Court makes the following findings:

26 a. The Class, which has approximately 3,400 members, satisfies the
27 standard for numerosity in Fed. R. Civ. P. 23(a)(1).
28

- 1 b. There are many questions of fact and law that are common to the Class
2 regarding the policies and practices that applied to Class Members’
3 employment with Defendant, thereby satisfying the standard for
4 commonality in Fed. R. Civ. P. 23(a)(2).
- 5 c. Plaintiffs LaDona Narr and Karl Armstrong’s claims meet the
6 typicality requirement because they were non-exempt employees of
7 Defendant and their claims arise from the same alleged events and
8 course of conduct as those alleged on behalf of the Class, thereby
9 satisfying Fed. R. Civ. P. 23(a)(3).
- 10 d. The Court continues to find that Matern Law Group, PC, and Altshuler
11 Berzon LLP will fairly and adequately represent the Class, and
12 confirms their appointment in the Court’s December 16, 2016 Order
13 (Dkt. 118) as Class Counsel.
- 14 e. The Court continues to find that Plaintiffs LaDona Narr and Karl
15 Armstrong will fairly and adequately represent the Class, and
16 confirms their appointment in the Court’s December 16, 2016 Order
17 (Dkt. 118) as Class Representatives.
- 18 f. The Court finds that for purposes of settlement only, common
19 questions of law and fact predominate over individualized issues,
20 because the claims arise from Defendant’s policies and widespread
21 practices, and further finds that the superiority requirement is satisfied
22 because it is likely that recovery on an individual basis would be
23 dwarfed by the cost of litigating on an individual basis.

24 7. The Court approves KCC, LLC (“Settlement Administrator”) to perform the
25 duties of the Settlement Administrator as set forth in this Order and the Settlement
26 Agreement.

27 8. The Court finds that the Notice, which is attached as Exhibit A to the
28 Settlement Agreement, comports with Fed. R. Civ. P. 23 and all Constitutional

1 requirements including those of due process. The Court further finds that the Notice
2 adequately advises the Class about the class action; the terms of the proposed settlement,
3 the benefits available to each Class Member, and the proposed fees and costs to Class
4 Counsel; each Class Member's right to object or opt out of the settlement, and the timing
5 and procedures for doing so; preliminary Court approval of the proposed settlement; and
6 the date of the Final Approval hearing as well as the rights of Class Members to file
7 documentation in support of or in opposition to and appear in connection with said
8 hearing. The Court further finds that the mailing of the Notice to each Class Member's
9 last known address, with appropriate skip tracing and mail forwarding for Notices
10 returned as undeliverable, as specifically described in the Settlement Agreement,
11 constitutes reasonable notice to Class Members of their rights with respect to the class
12 action and proposed settlement.

13 9. Within thirty (30) days of the issuance of this Order, Defendant shall provide
14 the Settlement Administrator with the Class Member Database, as specified in the
15 Settlement Agreement.

16 10. Within 14 days after receipt of the Database, the Settlement Administrator
17 shall mail the Notice in the manner specified in the Settlement Agreement.

18 11. The Court orders that any request for exclusion from the Settlement must be
19 postmarked no later than 45 days after the Notice is initially mailed to Class Members,
20 and must be received by the Settlement Administrator to be valid.

21 12. If more than 5% of the total number of Class Members submit timely and
22 valid opt-out requests, Defendant shall have the option to void the settlement. To exercise
23 this option, Defendant's Counsel must send written notification to Class Counsel within
24 14 days of receiving a report from the Settlement Administrator of the total number of
25 timely and valid opt-out requests received from Class Members.

26 13. Any Class Member who does not timely and validly request exclusion from
27 the settlement may object to the Settlement Agreement. Any objection must be in writing,
28 and must be mailed to the Settlement Administrator. Such objection shall include the

1 name and address of the Class Member and the basis of the objection, and must be signed
 2 by the Class Member. To be timely, the objection must be postmarked no later than 45
 3 days after the Notice is initially mailed to the Class. Any Class Member who does not
 4 timely submit such a written objection will not be permitted to raise such objection, except
 5 for good cause shown, and any Class Member who fails to object in the manner prescribed
 6 by this Order will be deemed to have waived, and will be foreclosed from raising, any
 7 such objection.

8 14. The Final Approval Hearing shall be held before this Court on October 30,
 9 2017 at 1:30 p.m. in Courtroom 10A, to consider the fairness, adequacy, and
 10 reasonableness of the proposed settlement preliminarily approved by this Order, and to
 11 consider the motion of Class Counsel for an award of reasonable attorneys’ fees and costs
 12 and Class Representative service payments.

13 15. Any party to this case, including any Class Member, may be heard in person
 14 or by counsel, to the extent allowed by the Court, in support of, or in opposition to, the
 15 Court’s determination of the good faith, fairness, reasonableness, and adequacy of the
 16 proposed settlement, the requested attorneys’ fees and costs, the requested Class
 17 Representative service payments, and any order of final approval and Judgment regarding
 18 such settlement, fees, costs, and payments; provided however, that no person shall be
 19 heard in opposition to such matters unless such person has complied with the conditions
 20 set forth in the Notice.

21 16. Briefs regarding the settlement shall be served and filed in accordance with
 22 the following briefing schedule:

24 Plaintiffs’ motion for attorneys’ fees and costs	14 days before the deadline for Class Members to submit objections to the settlement
26 Plaintiffs’ motion for final approval of the settlement and for Class Representative service payments	28 days before the Final Approval Hearing

1 Defendant's Counsel shall file with the 2 Court a declaration attesting that CAFA 3 Notice has properly been served pursuant 4 to 28 U.S.C. §1715	14 days before the Final Approval hearing
5 Reply briefs, if any	14 days before the Final Approval Hearing

17. The Court orders that if for any reason the Court does not execute and file an order of final approval and judgment, or if such a final approval order is reversed, the Settlement Agreement and the proposed settlement which is the subject of this Order and all evidence and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the litigation as more specifically set forth in the Settlement Agreement.

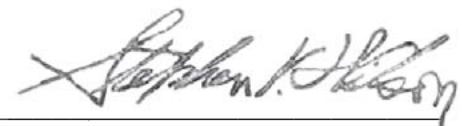
18. The Court orders that the Settlement Agreement shall not be construed as an admission or evidence of liability.

19. Pending further order of this Court, all proceedings in this matter except those contemplated herein and in the Settlement Agreement are stayed.

20. The Court expressly reserves the right to adjourn or continue the Final Approval Hearing without further notice to Class Members.

IT IS SO ORDERED.

Date: July 13, 2017



Hon. Stephen K. Wilson
United States District Judge