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11 *Attorneys for Plaintiffs and the Class*

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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

16 JULIA BERNSTEIN, LISA MARIE SMITH,
and ESTHER GARCIA, on behalf of
17 themselves and all others similarly situated,

18 Plaintiffs,

19 v.

20 VIRGIN AMERICA, INC.; ALASKA
AIRLINES, INC. and Does 1-10, inclusive;

21 Defendants.
22

Case No. 15-cv-02277-JST

CLASS ACTION

**DECLARATION OF ALISON
KOSINSKI IN SUPPORT OF
PLAINTIFFS' MOTION TO APPROVE
THE PLAN OF ALLOCATION,
ATTORNEYS' FEES AND EXPENSES,
AND SERVICE AWARDS TO CLASS
REPRESENTATIVES**

Date: July 6, 2023
Time: 2:00 p.m.
Crtrm: Courtroom 6; 2nd Floor
Judge: Hon. Jon S. Tigar

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1 I, Alison Kosinski, declare as follows:

2 1. I am a member of the State Bar of California and admitted to practice law in all the
3 courts of the State of California and in the United States District Court for the Northern District of
4 California. I am in good standing with the Bar and with this Court. I am a partner in the law firm
5 Kosinski and Thiagaraj, LLP (“KTLaw”) and am counsel for Plaintiffs and the Class in this
6 action.

7 2. The facts contained in this declaration are within my personal knowledge, and I
8 could and would testify truthfully to these facts if called to do so under oath. I submit this
9 declaration in support of Plaintiffs’ Motion to Approve the Plan of Allocation, Attorneys’ Fees
10 and Expenses, and Service Awards to Class Representatives.

11 3. At the inception of this action more than eight years ago, KTLaw associated with
12 Monique Olivier, an exceptionally experienced class action litigator, of Olivier & Schreiber LLP
13 (“O&S”). From then on, KTLaw and Ms. Olivier have worked as co-counsel on behalf of the
14 Plaintiffs and the Class in this action. I have worked as the primary attorney at KTLaw on this
15 action and have been actively involved in each part of this action, from the initial client intake to
16 the appeal to this fee motion.

17 4. In 2017, when it became clear that there would be post-certification discovery,
18 motion, expert and pre-trial work, we associated with Miller Shah LLP (“MS”), as additional co-
19 counsel. The firms are collectively referred to below as Class counsel. In 2019, Class counsel
20 associated Cooper & Kirk, PLLC (“CK”), a highly regarded firm specializing in Circuit and
21 Supreme Court proceedings in light of Defendants’ appeal to the Ninth Circuit attempting to
22 overturn this Court’s judgment for the Class.

23 5. Below I provide a summary of the fees and costs sought by my firm and an
24 explanation of the documentation submitted in support thereof, a summary of my firm’s
25 experience, the hourly rates for the attorneys at my firm, a description of how my firm allocated
26 and billed work in this case, and the particular risks my firm undertook in this contingency
27 litigation.

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1 12. I have been practicing law since 2008. In addition to class action work, which I
2 describe in more detail below, I have represented individuals in wage and hour lawsuits,
3 discrimination lawsuits, and wrongful termination suits, before California administrative
4 agencies, California state courts, and federal district courts.

5 13. Every year from 2016 to 2018, I was recognized by Northern California Super
6 Lawyers as a Rising Star. Starting in 2019, every year Northern California Super Lawyers has
7 recognized me as a Super Lawyer.

8 14. I have presented to audiences of lawyers regarding California employment law,
9 including at the California Employment Lawyers Association's ("CELA") annual employment
10 law conference. I have also served on CELA's Wage and Hour Committee and have organized
11 employment law-related continuing education presentations for plaintiff-side employment
12 attorneys in Northern California.

13 15. Immediately following law school, I served as the judicial law clerk to the
14 Honorable R. Marc Kantrowitz of the Massachusetts Appeals Court from September 2008
15 through August 2009. Following my clerkship, I worked for the U.S. Department of Labor in San
16 Francisco and then for a mid-size employment defense firm, Liebert Cassidy Whitmore, where I
17 focused my practice on public sector wage and hour matters. I worked at Liebert Cassidy
18 Whitmore until 2014, when Ms. Thiagaraj and I launched our firm.

19 16. I received my J.D. (*summa cum laude*) from Suffolk University Law School in
20 Boston, Massachusetts. In law school I served as the Chief Managing Editor for the Suffolk
21 Transnational Law Review. I received my B.A. with distinction in all subjects from Cornell
22 University in Ithaca, New York.

23 17. Ms. Thiagaraj received her J.D. from University of San Francisco Law School, and
24 her B.A. from the University of California San Diego. During law school, Ms. Thiagaraj served
25 as the Business Editor for the USF Maritime Law Journal, externed at Duane Morris LLP, and
26 worked as a summer associate at Liebert Cassidy Whitmore.

27 18. Starting in law school and continuing through until the launch of KTLaw in 2014,
28 Ms. Thiagaraj practiced exclusively employment law at Liebert Cassidy Whitmore in San

1 Francisco. Ms. Thiagaraj has represented individuals in wage and hour lawsuits, discrimination
2 lawsuits, and wrongful termination lawsuits, before California state courts and in arbitrations.
3 Ms. Thiagaraj has organized and presented employment law-related continuing education
4 presentations for the AIDS Legal Referral Panel in San Francisco and the Alameda County Bar
5 Association Labor & Employment Symposium.

6 19. Ms. Thiagaraj has been named a Rising Star by the Northern California Super
7 Lawyers every year from 2017 onward.

8 20. KTLaw has recently resolved a class and collective action on behalf of security
9 guards who were misclassified as independent contractors (*Houston et al. v. Braavos, Inc. et al.*,
10 San Francisco Superior Court Case No. CGC-17-562019). KTLaw litigated this case for over
11 four years before reaching a favorable result for its clients. In both this matter before the Court
12 and in the *Houston* case, KTLaw has partnered with exceptionally experienced co-counsel to
13 litigate on behalf of the classes.

14 **CLASS COUNSEL'S HOURLY RATES**

15 21. Our lodestar for this case is based on the rates currently charged in all cases by the
16 timekeepers. For KTLaw, Ms. Thiagaraj and I have determined our hourly rates based on a
17 variety of factors, including years of practice, relevant experience, relative expertise, past and
18 current services contracts with clients, and rates of similarly experienced peers at other firms. We
19 set the billing rates for our firm to be consistent with the prevailing market rates in the private
20 sector for attorneys of comparable skill, qualifications and experience.

21 22. My 2022 rate is \$700 per hour and Ms. Thiagaraj's 2022 rate is \$650 per hour.
22 These are the usual and customary rates we charge our hourly clients. Based on my knowledge
23 and experience, the hourly rates charged by KTLaw are within the range of market rates charged
24 by attorneys of equivalent experience, skill, and expertise.

25 23. Our billing rates are commensurate with, and in fact often below, prevailing rates
26 in the San Francisco Bay Area for partners and associates with comparable skill and experience
27 litigating class actions. *See Hefler v. Wells Fargo & Co.*, No. 16-CV-05479-JST, 2018 WL
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1 6619983, at *14 (N.D. Cal. Dec. 18, 2018) (approving hourly rates from \$650 to \$1,250 for
2 partners or senior counsel and from \$400 to \$650 for associates); *Smith v. Am. Greetings Corp.*,
3 No. 14-CV-02577-JST, 2016 WL 2909429, at *9 (N.D. Cal. May 19, 2016) (approving rates in
4 the Northern District of California for partners from \$560 to \$800 and associates from \$285 to
5 \$510); *Steinfeld v. Discover Fin. Servs.*, No. C 12-01118 JSW, 2014 U.S. Dist. LEXIS 48540, at
6 *4 (N.D. Cal. Mar. 31, 2014) (approving rates of class action firms including \$550/hour for
7 partner in practice for 12 years).

8 24. Further, although the rates in the Bay Area market are typically higher than those
9 in the Washington D.C area, the hourly rates sought by Class counsel are also below the Adjusted
10 Laffey Matrix, the tool that sets forth reasonable rates in the Washington D.C. area that courts in
11 that area and elsewhere have considered (<http://www.laffeymatrix.com/see.html>). For example,
12 under the Matrix, the reasonable hourly rate (not adjusted for the Bay Area) for me and Ms.
13 Thiagaraj would be \$829, while we are seeking \$700 per hour for me and \$650 for Ms. Thiagaraj.
14 The accepted Laffey Matrix rates are considerably higher than the rates sought here.

15 **BILLING RECORDS AND ALLOCATION OF WORK**

16 25. At the beginning of this case, both Ms. Thiagaraj and I worked equally on this
17 case, and in collaboration with Ms. Olivier. Approximately one year into the litigation, I
18 transitioned to be the primary partner on this case, with Ms. Thiagaraj stepping in to handle
19 specific discovery matters, communications with class members and plaintiffs, and preparation of
20 lengthy motions. I have continued to be the primary attorney from our firm working on this case,
21 other than during my maternity leaves in 2017 and 2019 when Ms. Thiagaraj handled all matters
22 related to the case for our firm.

23 26. Accordingly, I have been intimately involved in all aspects of this litigation from
24 inception of this case. My work on this case has consisted of: performing extensive due
25 diligence prior to filing the complaint; coordinating assignments with our co-counsel and with
26 Ms. Thiagaraj; drafting the original and amended complaints; preparing for and participating in
27 early mediation; conducting extensive document review and discussing with co-counsel key
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1 documents; preparing written discovery; responding to written discovery; preparing for and
2 taking depositions; interviewing and communicating with class members; reviewing expert
3 materials; drafting and editing sections of motions including class certification, motion for
4 summary judgment, and oppositions to Defendants' motions for summary judgment and
5 decertification; preparing submissions to the Ninth Circuit Court of Appeal; supporting co-
6 counsel during Defendant's petition for certiorari to the U.S. Supreme Court. I have also served
7 as the primary point of contact for the over 2,000 Class Members, responding promptly to each of
8 their inquiries by email and phone, keeping the Class apprised on the status of the case, and
9 updating our website with updates accordingly.

10 27. Ms. Thiagaraj has primarily worked on the following aspects of this case:
11 communicating with and interviewing the named plaintiffs and class members; drafting
12 declarations in connection with the motion for class certification; reviewing document
13 productions; responding to written discovery requests; preparing for and defending class member
14 depositions; and corresponding with Class Members in my absence.

15 28. My firm does not employ associates or paralegal staff. Therefore, we outsourced
16 any necessary administrative work, such as printing, assembling, and delivering documents, to
17 local copying and courier services, so as to minimize attorney billing time.

18 29. KTLaw maintains contemporaneous time records reflecting the time spent on
19 cases, including the date and amount of time spent on a task to one-tenth of an hour and a
20 description of the work performed.

21 30. I have reviewed the records of all the time that Ms. Thiagaraj and I billed to this
22 matter. We work closely together on many litigation matters and are careful to minimize
23 duplication of efforts. We have worked hard to litigate this action in an efficient and cost-
24 effective manner. KTLaw is a two-person firm and we began litigating this matter when the firm
25 was less than one year old. At that time and throughout this litigation, we have, simply because
26 of the nature of contingency work and the financial realities for a nascent, small firm, been
27 particularly careful to work efficiently and not pour any unnecessary hours of work into a
28 protracted, class action matter.

1 burden of working on the majority of KTLaw’s individual cases, which for several of these years
2 was the firm’s sole source of income. Throughout this work arrangement allocating the work
3 between Ms. Thiagaraj and me, we were constantly aware that this case carried a risk of no
4 recovery at all and that all of my time spent on the case could result in no financial recovery.
5 Therefore, we are relying upon the recovery of our lodestar plus an appropriate multiplier in order
6 for our firm to again represent employees who have been denied wages in lengthy, time-
7 consuming, and complex cases such as this one.

8 **EXPENSES**

9 36. KTLaw maintained all of its records regarding costs and expenses in this action. I
10 have reviewed the records of costs expended in this matter. The expenses for which we seek
11 payment include copying costs, postage charges, delivery fees, deposition-related transportation
12 and travel expenses. These expenses were reasonably necessary for the continued prosecution of
13 this litigation. The expenses sought are included in Exhibits D and E to the Olivier Declaration.

14 37. Class counsel will continue to incur fees and expenses in this matter and reserve
15 the right to seek such additional fees and expenses at the appropriate time.

16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct.

18 Executed this 18th of May, 2023 in Oakland, California.

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20 /s/ Alison Kosinski
Alison Kosinski

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